

European Muslims and Liberal Citizenship

Reconciliation through Public Reason: The Case of Tariq Ramadan's Citizenship Theory

Ph.D. Thesis

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To Bruna and Tizza, in memory.

To my parents, with love.

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God does not burden any soul with more than it can bear.
(Qur'an, 2: 286)[∞]

[∞] The edition of *The Qur'an* used here is translated by M. A. S. Abdel Haleem, reprinted with corrections (Oxford: Oxford University Press, 2010).

Introduction

What is politically at stake when citizens of Muslim faith are publicly presented as permanent aliens in contemporary European societies? On what grounds is such exclusion or ‘externalisation’¹ based? What requirements can European citizens be reasonably expected to meet? These are among the most theoretically pressing questions in the inflamed and often confusing discourse about Muslims’ citizenship in contemporary Western European societies. To be clear, such questions are part of one of the most controversial, intricate, passionate, entangled, and multifarious debates in academic fields as diverse as political theory, sociology, law, religious studies and so on, not to mention in everyday political discussions. To begin with, the nature of the questions that should be raised is not altogether clear. Moreover, which approach to follow in dealing with them is a highly contentious issue. What is more, these two problems are intertwined: the chosen approach influences the nature of the questions under consideration and vice versa. Thus, choosing one of them is never an entirely innocent act. Such a choice always has important consequences in terms of one’s underlying assumptions, theoretical goals, as well as the scope of the research and its associated implications.

¹ Jocelyne Cesari, *Why the West Fears Islam: An Exploration of Muslims in Liberal Democracies* (New York: Palgrave Macmillan, 2013), 140.

In this study, I analyse the subject of Muslims' citizenship in contemporary European societies from the perspective of normative political theory,² and more precisely from the viewpoint of John Rawls's political liberalism, in particular in light of the 'idea of public reason.'³ As I have just underlined, this choice is not without consequences. Approaching this issue from the angle of political liberalism means considering the questions mentioned above in a particular way, which is at the same time more general and more specific than one would probably think at first sight. In fact, as I will explain, by its very nature political liberalism does not prescribe a single model for being Muslim in contemporary Europe. Thus, one may wonder if it is too vague as a point of departure for the analysis. On the other hand, however, political liberalism specifies a peculiar *evaluative framework* that allows citizens to answer the above-mentioned questions in a distinctively *political* way and, ideally, to solve the political and social problems from which those questions spring. This is in a nutshell the main thesis of my research. I do not provide here a full description of how I have formulated the research problem or of how it can be solved, because I devote chapters one and five respectively to these issues, while I refer the reader to the general conclusions for an exhaustive overview of the main arguments of this study and their connections. In anticipating concisely the conclusions of my research, I can say that in what follows I will argue that public reason provides a *common discursive platform* that establishes the ground for a *public political identity* and for *shared standards for social and political criticism*. Together, these two elements solve the two dimensions of the problem of stability in contemporary European societies, because they secure *both* the political *inclusion* of Muslims on an equal footing as citizens *and* civic *assurance* that they will remain committed to fair terms of social cooperation (*infra*). After

² In this work, I use "political philosophy" and "political theory" interchangeably. In doing so, I obviously focus on normative thinking in political theory. See the introduction by Robert E. Goodin and Philip Pettit to *A Companion to Contemporary Political Philosophy*, edited by them (Oxford and Malden, Mass.: Blackwell, 1993), 1-2. Andrew F. March ["What is Comparative Political Theory?," *The Review of Politics* 71, no. 4 (2009), 533-534] has pointed out the 'fruitful, fortunate, and productive absence of a settled consensus on the meaning and purpose of political theory,' and he emphasises that 'there is no single such thing as political theory. "Political theory" is the name given within the academy to a number of different types of intellectual activities, some of them mutually hostile, which have in common only the fact that they do not aim at empirical explanation or prediction and instead deal with the realms of ideas, concepts, texts, values, and norms.' One such activity is normative political philosophy. There would be no reason to discuss here the status of political theory within political science or the relation of the former to the latter. See, *inter alia*, David Leopold and Marc Stears, eds., *Political Theory: Methods and Approaches* (Oxford: Oxford University Press, 2008); John S. Dryzek, Bonnie Honig and Anne Phillips, eds., *The Oxford Handbook of Political Theory* (Oxford and New York: Oxford University Press, 2006), introduction by the editors; Ross J. Corbett, "Political Theory within Political Science," *PS: Political Science & Politics* 44, no. 03 (2011), 565-570.

³ John Rawls, *Political Liberalism*, expanded edition (New York: Columbia University Press, 2005). Hereafter: *Political Liberalism*; different editions will be specified each time.

having compared public reason citizenship with two prominent normative alternatives, I will then conclude that the former is an adequate ideal conception of citizenship for European societies. Finally, I will apply the justificatory evaluative methodological framework developed in chapter two (whose requirements I will specify starting from the idea of public reason) to a conception of citizenship elaborated by one of the most renowned Muslim intellectuals in Europe: Tariq Ramadan. I will justify the choice of this author in sections 2.3 and 6.1, but I will also return to this point later in this introduction. The purpose of such evaluative work is two-fold. Firstly, it aims at examining whether and how the idea of public reason accounts for a version of European citizenship for Muslims coming from Muslims themselves. Secondly, it aims at disclosing whether what such a Muslim conception of citizenship in Europe says about the two dimensions of ‘stability for the right reason’ of the system of social cooperation (namely, inclusion and ‘mutual assurance’) is consistent with the provisions of public reason citizenship.

This also makes clear two significant assumptions underlying this work. First, since I adopt the perspective of normative political philosophy, here I consider only ideal conceptions of citizenship and not the different national models of citizenship historically realised in European countries (for instance, the contemporary or past approaches to the issue of citizenship actually implemented in France, Germany, or the United Kingdom). In other words, the discussion developed here is situated on a high level of philosophical abstraction, because the kind of questions that I will address are related to how things *should* be, and not to how things *are* or *have been* up until now. Therefore, I will deal with theoretical models of ideal citizenship: for example, public reason citizenship, ‘liberal multicultural’ citizenship, ‘critical republican’ citizenship (*infra*), and so on. Second, the evaluation carried out in this research will be mainly concerned with (a specific version of) Sunni Islam in Europe. This is simply because the only case to which I will apply the justificatory evaluative framework comes from the “Sunni world.” I am aware that considering other cases would have been extremely interesting and probably very helpful, but, as an accurate reading of chapter six can easily show, it would have exceeded by far the structural possibilities of this study. Nonetheless, this does not imply that other Islamic doctrines or views (different interpretations of Sunni Islam, Shi’a, Sufism and so on) are less important or less likely to achieve an ‘overlapping consensus’ (*infra*). Nor does this infer that such different doctrines and views find it more difficult to comply with the requirements of public reason citizenship. Simply, they are beyond the material reach of this

research: the latter does not take them into consideration, thus it cannot take a position on them. It is completely possible that they –or at least some of them– may pass the evaluative test laid out here. The objective of my work is to demonstrate that public reason citizenship can be understood as expressing a justificatory evaluative framework and that through the latter it can help solve the problem considered in chapter one, not to exhaust all the possible applications of such a framework. I repeat again that this is not to say that Islam in Europe is a monolithic, unchanging, and undifferentiated entity, nor that alternative Muslim conceptions of citizenship in Europe are less reasonable from the perspective of public reason. Quite the contrary (I will return at length to this aspect in chapter one). However, as it will become clear, evaluating a conception of citizenship in the light of public reason's evaluative requirements is not an easy task: it requires a deep knowledge of both the roots and the content of the requirements themselves and, above all, of the overall theory to which they must be applied (in this case, Tariq Ramadan's theory). Thus, once more one has to make a choice. The plausibility principle presented in chapter two seems to me a reasonable criterion for choosing which Muslim conception of citizenship should be primarily analysed (see 2.3 and 6.1).

The last observation brings me to a further methodological point. I do believe that any endeavour in political philosophy should start from a careful exegetical consideration of the texts on which it is based. This explains the extensive use of quotations and textual comments in this study. This also partially explains why this research is much longer than I initially intended. As far as possible, I tried to avoid repetition and to focus on the essential. I also provided many cross-references within the text and several summarising figures and tables. Finally, I made the effort of recapitulating the crucial aspects of my view more often as the argument proceeds and becomes deeper, so that the reader does not get lost. This work has been conceived as a unitary block with a linear structure from chapter one to chapter six. The three parts of which it is composed support each other. The first methodological part illustrates the overall approach and the grounds of the second reconstructive part and the third evaluative part of the research. The two chapters of each part are fairly autonomous because they deal with different topics (with the partial exception of chapters three and four), but they are also tightly connected because each of them is necessary to achieve the goal of the part in which they are placed. As I have just asserted, I tried to design the structural elements of this research in a straightforward and linear manner (I justify the structure adopted in 1.2.b). The first chapter deals with the research problem and questions and presents different kinds of litera-

ture about the question of Muslims' citizenship in Europe, while also trying to provide clarity by putting them in some sort of order. The second chapter outlines my methodological approach: justificatory evaluative political theory. In the second part, chapters three and four reconstruct the idea of public reason and specify from this standpoint the fundamental requirements of the justificatory evaluative approach. In chapter four I also explain my interpretation of the 'wide view' of public reason: I will present an extensive interpretation of the 'proviso' and a bifurcate model of the 'duty of civility' (*infra*). In doing this, however, these two chapters also present a broad overview of the existing literature about public reason and the main objections raised against it. In the third part, chapter five bridges the reconstructive and the evaluative tasks of the research and compares public reason citizenship with alternative ideal conceptions. Its goal is to demonstrate that public reason not only *could*, but also *should* be adopted as a regulative ideal of citizenship in European societies. Finally, in chapter six the evaluative framework is applied to the conception of citizenship elaborated by Tariq Ramadan, in order to assess the congruence of the latter with the requirements of public reason citizenship. This is briefly the general structure of the research. However, I divided the text in many specific sections so that a partial reading is also possible. In particular, those who are interested in the philosophical arguments can get the main ideas by focusing directly on sections 1.1.a.1, 1.2.a, 1.2.b, 2.1, 2.2.b, 2.3, 3.2, 4.2, and chapters five and six in their entirety. Those more interested in my reading of Ramadan's citizenship theory may find it useful to centre their attention on 1.1, 1.2.a, 2.3, 5.1, and obviously chapter six in its entirety. Notwithstanding those facilitating efforts, as I have said, the reader should be aware that the line of argument presented here is developed throughout the whole text as it is structured.

In chapter one, I will begin from some empirical observations about the role of perceptions and identities in relation to the issue of Muslims' citizenship in contemporary Europe. I will claim that from this point of view Islam seems to "make problem" in a very specific sense. This does not mean that Islam *is* a problem, but that Islam is frequently *publicly presented and perceived* as a problem. This is the background problem from which my work starts. I will explore some dimensions of such a problem. This is not yet a satisfactory formulation of the research problem and questions, but I will postpone the latter to a more advanced stage (see 1.2.a and 1.2.b). Now, with reference to the background problem (which is also related to the so-called 'backlash against multiculturalism,' *infra*) one may immediately wonder whether a normative philosophical approach –which, as I have mentioned, is located on a high level

of abstraction— is able to tackle very real social problems such as economic, political, and even urban exclusion and discrimination or the legacy of colonial domination. I will analyse such question in more detail in 1.1.b and I will refer to it as objection O1.3. In this introduction I shall limit myself to some concise remarks. Whilst I acknowledge the importance of a closer analysis of the empirical dimensions and cases of the subject considered here, I also think that philosophically the solution of such political problems must be sought at a higher and more general (and, unfortunately, more complex) level that concerns the conception of citizenship itself. The single issues that are today so divisive and about which so much has been said (e.g., wearing the veil in public schools, public funding to religious schools, and so on) would probably be less controversial (even though not uncontroversial, given the fact of ‘reasonable pluralism,’ *infra*), if there were not a wider predicament about the status of Muslims as citizens. Whilst I do not deal directly with the first kind of questions (i.e., the place of the veil in public schools and so on), I focus on the second higher-order problem: the political status of Muslims as citizens. Notice that the above-mentioned predicament can go both ways: not only are prejudices often reciprocated, but many times criticism of traditional discriminatory social arrangements should also work in both directions. What I argue here is that the priority must be to adopt a conception of citizenship that can secure the two dimensions of ‘stability for the right reasons’ (*infra*) in European societies :political inclusion of citizens on an equal standing and the solution of the ‘mutual assurance problem’ (*infra*). I will claim that public reason citizenship can effectively secure both of them because it provides the bases for citizens’ public political identity and shared standards for political criticism. I will maintain that the availability of a common political identity and of shared standards for social and political criticism is a criterion for evaluating normative theories of citizenship. This is so because they are necessary to achieve both mutual assurance about other citizens’ loyalty to fair terms of social cooperation and political inclusion on equal footing. If, as it seems plausible to assume, something like Rawls’s ‘stability for the right reasons’ is an important social good, then I will try to show that a conception that provides both the ground for a public political identity and shared standards for social and political criticism protects and enhances that social good. This is in the interest of citizens as such, Muslim and non-Muslim alike. However, I will also argue that the availability of shared standards for denouncing unjust discriminatory treatment is particularly in the interest of those whose voices are usually less likely to be heard in public debates, like Muslims and members of other minority groups. In light of this criterion I will try to show that public reason citizenship performs better in terms of stability

for the right reasons than liberal multiculturalism (as some leading liberal multicultural theorists admit) and critical republicanism.

What is the meaning of the expression public reason citizenship? As I will explain in the introduction of chapter four, on my interpretation public reason expresses both a regulative moral political ideal of citizenship (which works also in non-ideal conditions, see 5.2.a) and a justificatory standard for a civic practice of public justification. Taken together, these two elements shape a normative model of citizenship (public reason citizenship), from which one can derive the evaluative requirements enunciated in chapters three and four. As I have anticipated, in chapter four I will provide my own interpretation of the wide view of public reason. Such an interpretation tries to combine and render consistent two positions usually thought to be in contrast: namely, a strong commitment to the moral foundation of public reason (what I call “reciprocity of the reasonable”)⁴ and a more inclusive stance toward the role of religious convictions in politics. In line with this reading of public reason, in chapter five, as I have said, I will emphasise the role of public reason both (1) in (re)constructing the public political identity of citizens and (2) in providing shared standards for social and political criticism. This makes a *decompression of the public space* possible: public reason frees the public space from those forces that would prevent citizens from the possibility of exercising effectively their two moral powers (the ‘capacity for a sense of justice and for a conception of the good’)⁵ as free equals. In this sense, public reason tries to reconcile ideal political consensus and the fact of reasonable pluralism on a public political ground. I believe that this is the deepest meaning of what Rawls calls ‘*reconciliation through public reason*’ (*infra*): its aspiration is to *reabsorb reasonable pluralism politically without annihilating it*.

Now I would like to say something more about the aim and the theoretical relevance of the analysis carried out here. Public reason is about coherence. It is about coherence not only with regard to certain justificatory requirements and procedures, but also with regard to a certain conception of society and the person and, then, certain political values. In one word, public reason is about coherence with a certain ideal of citizenship. More precisely, a liberal political ideal of citizenship. Therefore, an inquiry into the relations between European Muslims and

⁴ The criterion of reciprocity of the reasonable expresses the reciprocal recognition between reasonable free and equal cooperating fellow citizens who possess the capacity for a sense of justice and a capacity for a conception of the good.

⁵ John Rawls, *Political Liberalism*, 19.

the idea of public reason can be best understood as an inquiry about the coherence between European Muslims' public political claims and those justificatory requirements and political conceptions and values. Undoubtedly, such an inquiry is needed. It addresses some compelling theoretical questions that are not exhaustively developed in the predominant literature. Indeed, the topic "Islam and liberalism" is so enormous that there is no scarcity of literature. On the contrary, the latter is so broad that one might even wonder if, strictly speaking, "Islam and liberalism" represents a "topic." No doubt, the first task is to narrow the focus: the referent and the approach must be defined more appropriately. Thus, any researcher in this "area" should consider at least the following questions. What does "Islam" mean for my research? Is it the proper subject of my study or am I studying something else? Why do I assume that it is problematic from a liberal perspective? To which "liberal perspective" am I referring? How can I analyse the relation between those two concepts? Is there a common element? Where, when, and how do they meet each other? What element of one of the two may I use to "grasp" the other? The theoretical importance of these questions is self-evident, but answering them is not so clear-cut. Above all, one should acknowledge that one's own answer is nothing but *an* answer. Nevertheless, some answer is necessary. Moreover, one should be conscious that such a "topic" has inescapably a political dimension. This is not to say that a rigorous analysis is not possible, or that its political exploitation is nearly unavoidable. This only means that one should begin her research without "strong" demonstrative expectations or pretensions: arrogance and naïveté are not promising starting points. Nonetheless, a political theorist is not an ostrich: one should not bury her head in the sand. To be fair, apparently –I am not an expert– even ostriches themselves do not do that. A researcher should be aware of the possible political implications of her work: personally, I think that she cannot be held completely unaccountable for them. These considerations are even more relevant in normative political theory than in other fields of research, for obvious and good reasons. To be sure, this may be true if and only if we assume that the researcher is able to understand such implications fully and in advance, that her work is not misunderstood, distorted, exploited against her will or intentions, and so on. Probably, the most we can ask (and hope) for is awareness and self-criticism. Still, even this modest request is not a matter of little or no importance. I have personally gained experience of that in working on this study. As the reader will realise, I have openly tried to take into account and to reply to most of the objections raised against this study during its numerous public presentations or simply imagined –or foreseen– by its author. Nonetheless, I am aware that more needs to be said on several counts that here I could only hint at

(in 5.2.a I provide a tentative list of some of them that I would like to develop in the future). Furthermore, other points that have not been explicitly identified so far will certainly emerge. Having said this, while this research is conscious of its own limitations and constraints, its theoretical and political aspirations are not excessively humble. Drawing on Rawls, it can be argued that public reason as an ideal of citizenship is ‘realistically utopian.’⁶ An account of citizenship is realistically utopian if, on the one hand, it is worked out from something that citizens can share and, on the other, it can remove the ‘gravest forms of [actual, real] political injustice [...] by following just (or at least decent) social policies and establishing just (or at least decent) basic institutions,’⁷ while at the same time it establishes solid and reasonably just bases for social stability and civic friendship. Indeed, such an ambition is far from being self-deflating: ‘political philosophy is realistically utopian when it extends what are ordinarily thought to be the limits of practicable political possibility and, in so doing, reconciles us to our political and social condition. Our hope for the future of our society rests on the belief that the social world allows a reasonably just constitutional democracy [to exist ...].’⁸

What is the specific importance of this research then? Firstly, it is an attempt to fill a *vacuum* in the existing literature. It is an effort to tackle openly and thoroughly the issue of Muslims’ citizenship in Europe today from the perspective of political liberalism. As I will explain, it differs from both a liberal conjecture and a Muslim justification of a possible Islamic endorsement of a liberal political conception of justice. It tries to develop an ideal of liberal citizenship and its requirements through the reconstruction of the idea of public reason and it evaluates from this standpoint the coherence and the nature of the political demands and claims plausibly coming from a European Muslim perspective. To my knowledge this is the first attempt to systematically read the production of a Muslim scholar in the light of Rawls’s idea of public reason (a notable but only partial exception is the work of Andrew F. March; however, as I will explain at length in chapter two, his analysis is more concerned with the ideas of an overlapping consensus and reasoning from conjecture than with the idea of an evaluative analysis from the viewpoint of public reason: the two approaches –justificatory comparative political theory and justificatory evaluative political theory– are complementary

⁶ John Rawls, *The Law of Peoples* (Cambridge, Mass.: Harvard University Press, 1999), in particular 5-9 and 11-23.

⁷ Ibid. 7.

⁸ Ibid. 6 and 11.

but nonetheless different). In my opinion, this is the main methodological contribution of my research to the existing literature. Secondly, and in continuity with the first point, whilst the two main sources on which this study is grounded (that is, John Rawls's political liberalism and Tariq Ramadan's conception of citizenship) are classics of contemporary political philosophy and of the debate about Islam in Europe respectively, what is new here is the way in which they are put together and the manner in which they may reciprocally contribute to shed a new light on each other. Thirdly, while this study is rooted in the wide range of literature in political philosophy about the idea of public reason, due to the specific nature of this research, I also turned to many contributions from other fields: just to give an example, in the first chapter it is possible to find references to a piece of sociological literature concerning Islam and Muslims in Europe, one that deals with Islamic and Arab philosophy and political thought, another from the field of immigration and security studies and so on. Far from being a weakness, taking into account different kinds of contributions is a necessity that mirrors the complexity and multi-faceted reality of the issue under investigation here. Fourthly, contrary to a longstanding stereotype according to which Rawls's idea of public reason is too tightly connected to its American origins to be appealing in the European context, this research shows that –when rightly understood– an ideal of citizenship rooted in public reason can also be normatively appealing on the Old Continent. Basically, there are two orders of reasons for the normative significance of this ideal model of citizenship in Europe. From a point of view which is external to the theory, this model demonstrates itself cable of resolving questions that are widely perceived as problematic in contemporary European societies better than rival ideal models of citizenship. On the other side, from a perspective which is internal to the theory itself, this model is centred on an ideal conception, but it aims at functioning as a regulative ideal also in existing (non-ideal) European societies. Thus, it would not be necessary to wait for European societies to achieve an ideal state of full justice in some indefinite future (if ever) to comply with the political ideal of public reason. This –I believe– makes such a conception of citizenship all the more attractive from a political standpoint. Fifthly, contrary to another generalisation, the analysis developed here shows that civic unity and friendship do not need to rest on homogeneity or uniqueness in reasoning. Within certain limits (specified by what I will call the criterion of reciprocity of the reasonable, embedded in the two levels of the duty of civility) one may also foster civic friendship by speaking different “moral languages” or by articulating her reasoning differently according to the context. This is made clear in practice thanks to the evaluative investigation of Tariq Ramadan's discourse about

citizenship in Europe: in particular, I will consider his call for a moratorium on *hudūd* punishments as a paradigmatic example of double discourse which fosters the ideal of public reason. Accordingly, a sixth and final point is that, as I mentioned above, the careful reconstruction of the idea of public reason is here followed by an interpretation of the latter that tries to reconcile two views that are sometimes presented as antithetical: a deep commitment to the political moral foundation of the idea of public reason (political reciprocity) *and* a position more open to religious contributions in public discussions about fundamental political questions. On such an interpretation, those contributions may have a lot to say and there is an ample margin for bringing them into the public forum. On this point, I would like to add that many of these pages have been written during the days of the terrorist attacks to the satirical magazine Charlie Hebdo (January 7, 2015) and revised during the attacks to the theatre Bataclan, the Stade de France, and in the streets of Paris (November 13, 2015). Needless to say I was profoundly shocked by those events, as were millions of people around the world without distinction of religion. Moreover, it may be redundant to say that Islam and terrorism are two different things, but *repetita iuvant*, for they are too often conflated and confused. Precisely for this reason, however, we need a theory of citizenship which is strong enough to disqualify or ban political unreasonableness (both in its extreme forms –like in this case– and in its minor manifestations) without at the same time stifling religious doctrines that politically are peacefully and more or less reasonably practiced by millions of women and men.

A concluding remark is in order.⁹ In some respects, this work is the completion of a long journey that began eight years ago with my bachelor thesis. At that time, I was dealing with a broad research question: is there room for an Islamic Enlightenment? Even though this first step was crucial because it deepened my knowledge of contemporary Arab and Muslim political thought and I started to sketch out my method, I was aware that a satisfying account of the notion of Islamic Enlightenment would have required focusing the attention on more than a single philosophical perspective, even if I had tried to assess it critically from different viewpoints. Thus, in my master thesis I analysed the concept of Islamic Enlightenment by means of both diachronic and synchronic comparison. In few words and simplifying a lot, there I argued that we should understand the notion of *lumières* of Islam as a continuum going

⁹ The following reflections are a development of some considerations originally presented during the 2014 GEM Annual Meeting in Rome and my 2014 GEM-ULB seminar in Brussels. I would like to thank all the participants for their observations and comments.

from the most universalist claims to viewpoints which present themselves in continuity with the Islamic tradition, rather than as a single notion. Yet, another important question arose: was my work in line with my aims? Was I looking for a “universal” model or a solution for a narrower –political– question? I realised that I should have clarified several points. Thus, my work has shifted in three important dimensions:

- 1) First, the *scope* of its normative claims has been limited: now it plainly focuses on the conception of citizenship *within* European societies.
- 2) Second, its *object* has been revised: now it focuses on the *political* demands and claims about *citizenship* of Muslims, rather than on their conceptions of Islam as a religion or tradition.
- 3) Third, with reference to its *approach*, now it is mainly concerned with working out a theoretical framework for *evaluating politically* those claims and demands.

These three shifts represented a major change of direction and it was challenging to find a perspective allowing me to follow this path. The two main questions were how to frame the notion of citizenship and, consequently, how to conceive an evaluative standard. I ended up by framing citizenship in terms of a Rawlsian ideal political conception of citizenship and by elaborating an evaluative method in line with that conception. This study originated from these initial considerations and my hope is that now the reader will find a solid and persuasive ground on which to begin the exploration.

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PART I

JUSTIFICATORY EVALUATIVE POLITICAL THEORY

[W]e are all swimming in [the waters of tradition and modernity], Westerners and Muslims and others alike. And since [these] waters are part of the ocean of history, trying to plow or divide them with barriers is futile. These are tense times, but it is better to think in terms of powerful and powerless communities, the secular politics of reason and ignorance, and universal principles of justice and injustice, than to wander off in search of vast abstractions that may give momentary satisfaction but little self-knowledge or informed analysis. "The Clash of Civilizations" thesis is a gimmick like "The War of the Worlds," better for reinforcing defensive self-pride than for critical understanding of the bewildering interdependence of our time.[†]

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*According to the culturalists, Muslims live hermeneutically sealed within their homogeneous culture, their lives entirely determined by it, whereas Westerners exist outside any specific culture in the universal space of modernity. In the West, people make culture; in Islam, culture makes people. [...] In doing so, culturalists displace what are essentially political conflicts onto a more comfortable cultural plane. The problem is their culture not our politics.*<sup>∞</sup>

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<sup>†</sup> Edward Said, "The Clash of Ignorance," *The Nation*, October 22, 2001, available on *The Nation* website URL = <http://www.thenation.com/article/clash-ignorance>, 9 (page number refers to the printable version of the article).

<sup>∞</sup> Arun Kundnani, *The Muslims are Coming! Islamophobia, Extremism, and the Domestic War on Terror* (London and New York: Verso, 2014), 58-59.



# Chapter One

## *General Framework*

*Il mare brucia le maschere  
le incendia il fuoco del sale.  
Uomini pieni di maschere  
avvampano sul litorale.*

*Tu sola potrai resistere  
nel rogo del Carnevale.  
Tu sola che senza maschere  
nascondi l'arte d'esistere.<sup>∞</sup>*

In this introductory chapter, I firstly present the problem which is in the background of my study. Furthermore, I clarify some fundamental concepts and assumptions. Moreover, I formulate my research problem and questions. The overall purpose of this chapter is to explain why I frame my theoretical concern as I do, and to prepare the ground for showing why I have chosen the standpoint of public reason in order to deal with the issue of Muslims' citizenship in European liberal societies. In this first chapter, I necessarily just hint at several important concepts and their mutual connections. They will become clearer in the following chapters.

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<sup>∞</sup> Giorgio Caproni, "Il mare brucia le maschere" (*Cronistoria*, 1943): in Pier Vincenzo Mengaldo, *Poeti italiani del Novecento* (Milan: Mondadori, 1983), 706.

## 1.1 Preliminary Insights.

### 1.1.A The Background Problem. Phenomena and Theoretical Viewpoints.

The first three lustra of the twenty-first century have made it clear that political theory cannot just ignore questions concerning perceptions and identity. Perceptions are related to the ‘extraction and use of information about one’s environment, [...] one’s body,’ and the self.<sup>10</sup> Obviously, such extraction and use are variously affected by several factors, which are related not only to the environment itself, but also to our interpretative framework of reference, whose formation is in turn highly complex and articulate. In this study, I use the term perception as a layman’s term and not in a technical sense, to mean *our sense of how things are*. On the other hand, identity can be simply defined as ‘*our sense of who we are*.’<sup>11</sup> Elsewhere,<sup>12</sup> I have also defined identity as the set (or combination) of the features –in part innate, in part inherited, in part resulting from adaptation to one’s environment, and in part resulting from the dialogic exchange with others<sup>13</sup>– which expresses the specificity and continuity of the self over time and which makes self-understanding possible. Perceptions and identities are relevant for a normative political theory that aspires to be a ‘realistic utopia.’<sup>14</sup> This is because perceptions and identities significantly shape reality: as the Thomas theorem suggests, ‘if men

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<sup>10</sup> See the entry “perception” by Fred Dretske in *The Cambridge Dictionary of Philosophy*, ed. Robert Audi, second edition (Cambridge: Cambridge University Press, 1999).

<sup>11</sup> For this definition: Robert D. Putnam, “*E Pluribus Unum: Diversity and Community in the Twenty-first Century*,” *Scandinavian Political Studies* **30**, no. 2 (2007), 159.

<sup>12</sup> See my “Oltre un illuminismo islamico. Due prospettive sulla storia e sulla tradizione,” master’s thesis (LUISS Guido Carli – Dipartimento di Scienze Politiche, Rome, 2011), 264.

<sup>13</sup> For the dialogical nature of the self, see Charles Taylor, “The Politics of Recognition,” in *Multiculturalism: Examining the Politics of Recognition*, edited and introduced by Amy Gutmann (Princeton: Princeton University Press, 1994), especially 32-37.

<sup>14</sup> John Rawls, *The Law of Peoples*, in particular 5-9 and 11-23.



define situations as real, they are real in their consequences.’<sup>15</sup> Thus, no normativity can be realistic if it does not take into account the importance of perceptions and identities.<sup>16</sup> As it will become clear, in my understanding, normativity and its context are not reciprocally independent.<sup>17</sup>

Therefore, I begin this research in normative political theory by acknowledging that in contemporary Western Europe a major tension does exist with regard to questions of identity and perceptions. This tension concerns Islam and its place and role in European societies. In contemporary Europe, one could say, Islam “makes problem.”<sup>18</sup> No doubt, in such a concise form this affirmation is highly troublesome. It could even appear *tranchant* in the wrong way.

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<sup>15</sup> This principle is known as the Thomas Theorem and was formulated by the American sociologist William Isaac Thomas in his and Dorothy Swaine Thomas’s book *The Child in America: Behavior Problems and Programs* [(New York: Knopf, 1928), 572], quoted in Robert K. Merton, “The Thomas Theorem and the Matthew Effect,” *Social Forces* **74**, no. 2 (1995), 380. See also Merton’s article “The Self-Fulfilling Prophecy,” *The Antioch Review* **8**, no. 2 (1948), 193-210 for an analysis of the implications (and some examples) of the Thomas Theorem. In Merton’s words, ‘[t]he first part of the theorem provides an unceasing reminder that men respond not only to the objective features of a situation, but also, and at times primarily, to the meaning this situation has for them. And once they have assigned some meaning to the situation, their consequent behaviour and some of the consequences of that behaviour are determined by the ascribed meaning’ (“The Self-Fulfilling Prophecy,” 194).

<sup>16</sup> I am grateful to Tatiana Alekseeva for having discussed this issue with me.

<sup>17</sup> I am indebted to Sebastiano Maffettone for this point.

<sup>18</sup> I use the admittedly inelegant expression “Islam *makes* problem” contrasting it with the expression “Islam *is* a problem.” The difference between “l’Islam *fa* problema” and “l’Islam *è* un problema” is altogether clear in Italian. I tried to express this opposition in English by translating the first with the expression “makes problem.” Enzo Pace similarly maintains that ‘Islam in Europe seems to represent a problem.’ See his *L’islam in Europa: modelli di integrazione* (Rome: Carocci, 2004), 7, my translation [but see also *ibid.* 117: ‘Muslims are perceived as a danger’ (my translation)]. Similarly, Stefano Allievi [“Islam italiano e società nazionale,” in *Islam in Europa / Islam in Italia tra diritto e società*, ed. Alessandro Ferrari (Bologna: Il Mulino, 2008), 43-75] maintains that in Europe there is a ‘cognitive problem’ with reference to Islam (65), because ‘a process of substantial integration [...] goes nonetheless with a strongly conflictual perception, firstly linked to the transnational activities of Islamic terrorism [...], but also to a rigorously selective attention to conflictual aspects of Islamic presence’ (67). See also Marjorie Moya’s article “Islam e laicità –il caso della Francia. Tra discorsi e realtà una «laicità interrogata» dall’islam,” *Quaderni Laici* **8**, issue “L’islam in Occidente” (2013), 88, 92-93 and 93-99; Arun Kundnani, *The Muslims are Coming! Islamophobia, Extremism, and the Domestic War on Terror*, for instance 58. Finally, see Tariq Ramadan, *To Be a European Muslim: A Study of Islamic Sources in the European Context* (Leicester, UK: The Islamic Foundation, 1999), 9, 113, 234, 250. Ramadan interestingly adds that ‘the European perception of this new presence –often considered as a *problem*– has been assimilated into Muslim minds’ (*ibid.* 113, italics in the original) and that the ‘question of Islam is above all a problem of presentation and mentality’ (*ibid.* 234). His diagnosis is concise but open and exhaustive: ‘[f]rom the Rushdie affair to the excess of the Taliban, from the violence and killings in the Middle East to the daily horrors in Algeria, all this has engendered a climate of fear. This has become more pronounced in the context of the social crisis sweeping Europe as a result of unemployment, exclusion, and urban violence. It is what makes the debate on the Islamic presence so difficult –some would say impossible. Particularly when, under the pressure of crisis, it becomes confused with the problem of immigration. One can actually speak of a kind of “Islamophobia”,’ *ibid.* 250. Elsewhere [*What I Believe* (New York: Oxford University Press, 2010), 76], Ramadan argues that ‘throughout Europe [...] Islam and Muslims do not symbolize settled citizens but eternal immigrants who are to be integrated or stigmatized.’ I address the points raised by Ramadan in what follows.

However, let me clarify this assertion. I am not obviously claiming that Islam *is* (quasi- or pseudo-ontologically) a problem in itself. Nor does this mean that every single Muslim in Europe experiences the reality of being a Muslim as a problem. The quasi-metaphysical and theological dimension of the first statement and the intimately personal dimension of the second are not discussed here. To be fair, the only thing I could say about these two dimensions concerns the second one and is based on –and strictly limited to– my own experience: to my knowledge, among my Muslim neighbours, acquaintances, colleagues, and friends, many (probably most) of them do not experience or think of their faith as a problem at all. At least no more than other people I know who define themselves in religious terms (e.g. as Catholics, Waldenses, Jews, Hindus, Buddhists and so on) do. However, this is not an argument and I leave this question immediately. My claim is substantially different and narrower. The phrase “Islam in Europe makes problem” refers to the theoretical question deriving from the fact that today Islam is often (but in no way exclusively) *publicly presented, treated, and perceived* as a problem. As the very famous Muslim scholar and public intellectual Tariq Ramadan (see chapter six for a detailed analysis of his thought) points out, ‘*the general feeling about the Muslim question is that it represents a threat [... Such a] perception is an enormous challenge, it must be changed,*’<sup>19</sup> and ‘*Europe will begin to change its perception about Islam only when it realises that Islam represents a resource and not only a problem: thus, a radical change of perspective is needed.*’<sup>20</sup> Others have emphasised that this perception of Islam as a threat and of Muslim residents and citizens as a potential “enemy within” who ‘threaten the notion of Europeanness itself’<sup>21</sup> has been connected both with counter-terrorist measures and security policies<sup>22</sup> and with ‘moves to roll back multiculturalism and promote monocultural homogeneity through assimilation.’<sup>23</sup> According to this perception of Islam as a threat or as a problem, ‘*[a]ll Muslims who practise their faith [...] are guilty by association until proved*

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<sup>19</sup> See Tariq Ramadan’s contribution (the transcript of his speech to the Faculty of Law at Università degli Studi dell’Insubria, May 27, 2006) in *Islam in Europa / Islam in Italia tra diritto e società*, 330-331, my translation. Emphasis added.

<sup>20</sup> Ibid. 326. My translation. Emphasis added. In the text I translated ‘ricchezza’ as resource, but literally it means ‘wealth,’ ‘richness,’ ‘asset.’

<sup>21</sup> Liz Fekete, “Anti-Muslim Racism and the European Security State,” *Race and Class* **46**, no. 1 (2004), 4.

<sup>22</sup> See the literature on the securitisation of Islam cited below.

<sup>23</sup> Liz Fekete, “Anti-Muslim Racism and the European Security State,” 3. These two kinds of policies characterise what Fekete calls the ‘European security state.’

*innocent –except that the proof is never enough; their allegiance is, at best, irredeemably split and, at worst, cover for something far more sinister.*<sup>24</sup> However, note that for the moment I use the word “problem” in an extensive way. In such a broad characterisation, it does not necessarily imply hostility and conflict. Rather, it may simply point out a dynamic tension, an open, sometimes public debate –more often internal among individuals or within organisations– about one’s own identity (or identities), beliefs, and social, economic, and political relationships. Thus, “problems” here firstly mean “open questions.” The aim of this research is not, obviously, to analyse such problematic open questions in their entirety. Personally, I doubt that a final word is possible or even desirable concerning these questions.<sup>25</sup> Nevertheless, as I have said, the “problems” in question usually entail not only tacit or open debate, but also some forms of essentialism, stigmatisation, discrimination, and rejection. These phenomena are often public. And, as it has correctly been argued, the fact that “Islam makes problem” is a problem for Muslims and non-Muslims alike.<sup>26</sup> My purpose is to focus on a specific part of the theoretical implications of such “problems.” As I will explain at length in what follows, the fundamental aim of this research is *not* to solve an alleged “Islamic problem,” that is a problem supposedly concerning Islam *per se*.

Rather, my general aim is twofold. First, in this chapter I take into consideration the roots of the perception according to which “Islam makes problem” and, starting from the tentative formulation “the problem is that Islam is perceived as a problem in Europe,” in the last sections I will restate my research problem (which, as I will explain, I conceive as a relational-

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<sup>24</sup> Ibid. 23.

<sup>25</sup> And, if possible, these would probably be questions that Muslims themselves must decide. In a very debated and criticised article, Bernard Lewis, after having predicted a ‘clash of civilizations’ between Islam and the West conceived as two quite homogeneous antagonistic entities (a theme that inspired Samuel Huntington’s theses), nonetheless recognises that the ‘movement nowadays called fundamentalism is not the only Islamic tradition. There are others, more tolerant, more open, that helped to inspire the great achievements of Islamic civilization in the past, and we may hope that these other traditions will in time prevail. But before this issue is decided there will be a hard struggle, in which we of the West can do little or nothing. Even the attempt might do harm, for these are issues that Muslims must decide among themselves.’ Bernard Lewis, “The Roots of Muslim Rage: Why so Many Muslims Deeply Resent the West, and Why their Bitterness will not Easily be Mollified,” *The Atlantic Monthly*, September 1990, available online at URL = <http://www.theatlantic.com/magazine/archive/1990/09/the-roots-of-muslim-rage/304643/>, page 21 of the printable version. The final remark does not change the main thesis of the article, namely that ‘[a]t times [Muslims’] hatred goes beyond hostility to specific [Western] interests or actions or policies or even countries and becomes a rejection of Western civilization as such, not only what it does but what it is.’ Ibid. 3. Such a thesis has been persuasively criticised by Edward Said (“The Clash of Ignorance”), among others.

<sup>26</sup> Sebastiano Maffettone, *Un mondo migliore: giustizia globale tra Leviatano e Cosmopoli* (Rome: Luiss University Press, 2013), 152.

discursive problem) more properly and with a greater degree of specificity. Second, in the rest of this study I propose a solution for *this more specific* question. In few words, the problem is not Islam or Muslims. Rather, considering why and how Islam and Muslims *are perceived* as a problem is the starting background or general problem of this research. It is not, however, its proper object of inquiry, which can be formulated only at a later stage. Therefore, to be more precise and give some substance to the claim that “Islam makes problem in Europe” because it is “perceived as a problem,” let me analyse the empirical background on which these affirmations are grounded (1.1.a.1 and 1.1.a.2). Only after having introduced such preliminary considerations can I formulate my research problem and questions more precisely (see 1.2).

#### 1.1.A.1 Representations and Perceptions of Muslims in Europe.

It would probably be enough to be familiar with European media and popular political discourses to realise that Islam and Muslims are often perceived and depicted as a problem in contemporary Europe. Empirical evidence supports such a perception. First, a recent PEW survey (2014) confirms this intuition, showing that 63% of Italians, 53% of Greeks, and 50% of Poles have negative views of Muslims. Even in those countries in which the percentages of unfavourable views are not so high (Germany, France, and the UK), they are still quite relevant (33%, 27%, and 26% respectively).<sup>27</sup> In addition, in 2006, the European Monitoring Centre on Racism and Xenophobia (EUMC)<sup>28</sup> published the report “Muslims in the European Union: Discrimination and Islamophobia.”<sup>29</sup> After having pointed out that ‘European Muslims are a highly diverse mix of ethnicities, religious affiliation, philosophical beliefs, political persuasion, secular tendencies, languages, and cultural traditions, constituting the second largest religious group of Europe’s multi-faith society’ and that ‘Muslim communities are not different from other communities in their complexity,’<sup>30</sup> the report analyses the demographic

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<sup>27</sup> See chapter four of the 2014 PEW Research Centre’s report “A Fragile Rebound for EU Image on Eve of European Parliament Elections,” available at URL = [http://www.pewglobal.org/files/2014/05/2014-05-12\\_Pew-Global-Attitudes-European-Union.pdf](http://www.pewglobal.org/files/2014/05/2014-05-12_Pew-Global-Attitudes-European-Union.pdf).

<sup>28</sup> Established by the European Union in 1997 as an independent body based in Vienna (Regulation EC 1035/97). In 2007, it was replaced by the European Union Agency for Fundamental Rights (FRA, Regulation EC 168/2007). See the FRA’s website, URL = <http://fra.europa.eu/en/about-fra/who-we-are>.

<sup>29</sup> Available on the FRA’s website, URL = <http://fra.europa.eu/en/publication/2012/muslims-european-union-discrimination-and-islamophobia>.

<sup>30</sup> “Muslims in the European Union: Discrimination and Islamophobia,” 3.

situation of Muslims in the European Union, their social conditions with reference to employment, housing, and education, data concerning manifestations of Islamophobia, and presents an overview of ‘government and civil society activities targeting Muslims.’ The report underscores that:

‘The disadvantaged position of Muslim minorities, evidence of a rise in Islamophobia and concern over the processes of alienation and radicalisation have triggered an intense debate in the European Union regarding the need for re-examining community cohesion and integration policies. A series of events such as the September 11 terrorist attacks against the US, the murder of Theo van Gogh in the Netherlands, the Madrid and London bombings and the debate on the Prophet Mohammed cartoons have given further prominence to the situation of Muslim communities. *The central question is how to avoid stereotypical generalisations, how to reduce fear and how to strengthen cohesion in our diverse European societies while countering marginalisation and discrimination on the basis of race, ethnicity, religion or belief.*’<sup>31</sup>

Incidentally, I might say that my research is largely grounded in this substantive ‘central question,’ as will become clear in this chapter. However, the report goes on and points out that in European countries:

‘Muslims are often victims of negative stereotyping, at times reinforced through negative or selective reporting in the media. In addition, they are vulnerable to manifestations of prejudice and hatred in the form of anything from verbal threats through to physical attacks on people and property. Many Muslims, particularly young people, face limited opportunities for social advancement, social exclusion and discrimination which could give rise to hopelessness and alienation.’<sup>32</sup>

Furthermore, it adds that:

‘Muslims in the Member States of the European Union experience various levels of discrimination and marginalisation in employment, education and housing

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<sup>31</sup> Ibid. Emphasis added.

<sup>32</sup> Ibid. 8.

[...] Discrimination against Muslims can be attributed to Islamophobic attitudes, as much as to racist and xenophobic resentment, as these elements are in many cases inextricably intertwined. Racism, xenophobia and Islamophobia become mutually reinforcing phenomena and hostility against Muslims should also be seen in the context of a more general climate of hostility towards migrants and minorities.’<sup>33</sup>

It concludes by stating that ‘the EUMC believes that measures and practices which tackle discrimination, address social marginalisation and promote inclusiveness should be integrated policy priority.’<sup>34</sup> These considerations represent a first order of reasons for arguing that in Europe today “Islam makes problem” (in the sense I have specified). These things considered, it should be clear now why I have said that the fact that Islam is presented, displayed, and perceived as problematic “is a problem for all”. But these remarks do not paint the entire picture.

On a more theoretical level, another correlated element is worthy of consideration. In 2010, Angela Merkel claimed that ‘the approach [to build] a multicultural [society] and to live side-by-side and to enjoy each other has failed, utterly failed.’<sup>35</sup> Her position was endorsed in 2011 by David Cameron, who affirmed that, while ‘Islamist extremism and Islam are not the same thing,’ a ‘doctrine of state multiculturalism’ encourages ghettoization and alienation. Thus, he argued that ‘we need [...] a much more active, muscular liberalism [...] that] believes in certain values and actively promotes them. [...] Freedom of speech. Freedom of worship. Democracy. Equal rights, regardless of race, sex or sexuality. [A liberal country] says to its citizens: This is what defines us as a society. To belong here is to believe these things.’<sup>36</sup> After having been considered a viable solution for the question of citizenship in societies characterised by sharp and irreconcilable divisions to such an extent that one may have thought that

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<sup>33</sup> Ibid. 19.

<sup>34</sup> Ibid.

<sup>35</sup> Angela Merkel’s declaration in Potsdam, October 17, 2010. See “Merkel Says German Multicultural Society Has Failed,” BBC News website, URL = <http://bbc.co.uk/news/world-europe-11559451>.

<sup>36</sup> See David Cameron’s speech in Munich, February 5, 2011. See “State Multiculturalism Has Failed, Says David Cameron,” BBC News website, URL = [www.bbc.co.uk/news/uk-politics-12371994](http://www.bbc.co.uk/news/uk-politics-12371994).

‘we are all multiculturalists now’,<sup>37</sup> multiculturalism is today under increasing criticism.<sup>38</sup> Multiculturalism is mainly criticised with reference to immigrants and citizens with immigrant origins (including second and third generations), rather than with reference to sub-state minorities (e.g. South Tyrol in Italy, or Basque in Spain) or indigenous people (e.g. American Indians): ‘[i]n the last years there have been no particular problems in connection with sub-state minorities and indigenous people. Words like retreat, backlash, and crisis apply to multiculturalism only if we have in mind [...] the case of migrants. For sub-state minorities and indigenous people there has been nothing similar.’<sup>39</sup> In a similar vein, it has been observed that ‘[t]he greatest challenge to multiculturalism may not be philosophical but political. At the start of the twenty-first century, there is talk of a retreat from multiculturalism as a normative ideal and as a set of policies in the West. There is little retreat from recognizing the rights of minority nations and indigenous peoples; the retreat is restricted to immigrant multiculturalism.’<sup>40</sup> This observation has a double importance. On the one hand, it confirms the idea that contemporary attacks on multiculturalism mainly concern a specific group: immigrants. On the other hand, it emphasises the fact that contemporary debates on multiculturalism are mainly focused on factual considerations and political departures from multicultural policies and institutions. In other words, today both defenders and critics of multiculturalism seem to focus more on actual shifts in policies and institutions than on philosophical arguments in favour of or against multiculturalism. Here I follow a similar line of reasoning rather than proposing a

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<sup>37</sup> As Nathan Glazer points out in the title of his work *We Are All Multiculturalists Now* (Cambridge, Mass.: Harvard University Press, 1997). Note, however, that Glazer does not uncritically embrace multiculturalism. On the contrary, he openly says that the expression “‘we are all multiculturalists now” [...] harks back to others that have been pronounced wryly by persons who recognized that something unpleasant was nevertheless unavoidable; it is not employed to indicate a wholehearted embrace’ (ibid. 160). Glazer thinks that multiculturalism in U.S.A. is a necessary but temporary strategy for including groups (in particular African Americans) that previous assimilationist approaches were unable to incorporate. See in particular ibid. 20-21 and 147-149.

<sup>38</sup> See for instance Sebastiano Maffettone, “From Liberal Multiculturalism to Multicultural Liberalism,” proceedings of the international symposium *Les minorités: un défi pour les États* (Brussels: Académie Royale de Belgique, May 22 and 23, 2011) [a revised Italian version is now included in his book *Un mondo migliore*, 147-173], 127-131. Jocelyne Cesari, “The Securitisation of Islam in Europe,” CEPS (Centre for European Policy Studies) CHALLENGE programme (Changing Landscape of European Liberty and Security) research paper no. 15 (April 2009), available on the CEPS’s website URL = <http://ceps.eu/book/securitisation-islam-europe>, 5-6, 11. Olivier Roy, *Secularism Confronts Islam* (New York: Columbia University Press, 2007), xi, xiii, and 33-34. Other critical theoretical positions can be found in what follows.

<sup>39</sup> Sebastiano Maffettone, “From Liberal Multiculturalism to Multicultural Liberalism,” 130.

<sup>40</sup> Sarah Song, “Multiculturalism,” *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta (Spring 2014), URL = <http://plato.stanford.edu/entries/multiculturalism/>, 7 (page number refers to the printable pdf version).

philosophical analysis of multiculturalism. That is, I am more concerned with the fact that – with reference to the specific case of Muslims in contemporary Western Europe– such criticisms against multiculturalism do exist and that they are paralleled by very real phenomena of discrimination and exclusion (*supra* and *infra*), rather than with the overall soundness of the philosophical foundations of multiculturalism as a political doctrine.<sup>41</sup> [Note that, however, in chapter five I will provide a philosophical argument that seems to undermine liberal multiculturalism as a theory of citizenship for Muslims in contemporary Western Europe: I will argue that liberal multiculturalism seems unable to secure stability for the right reasons (*infra*) because it does not solve the ‘mutual assurance problem’ (*infra*). Nonetheless, it must be underscored that this claim is not intended as a confutation of liberal multiculturalism as a philosophical view in general. Rather, it only means that, for a political theory to be plausible, it should seriously consider the question of social stability for the right reasons, and that liberal multiculturalism fails to provide a suitable political account of social stability, even if –as far as I am concerned– it may be so *only* with reference to the case of Muslim citizens in contemporary Western Europe. This would be enough to argue that, with reference to this particular case, political theorists should look for better alternatives. As one can see, my philosophical objection to liberal multiculturalism is very narrow in scope and rests mainly on political considerations that are known to multicultural philosophers like Kymlicka (*infra*)]. Indeed, some authors doubt that the rhetorical and politically oriented criticism of multicultural-

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<sup>41</sup> For philosophical defences of multiculturalism, see Will Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Oxford University Press, 1995) and Tariq Modood, *Multiculturalism: A Civic Idea*, second revised edition (Cambridge, UK and Malden, Mass.: Polity, 2013). For an egalitarian critique of multiculturalism, see Brian Barry, *Culture and Equality: An Egalitarian Critique of Multiculturalism* (Cambridge, Mass.: Harvard University Press, 2001). For two different critical approaches from a liberal feminist perspective, see Susan Moller Okin, “Is Multiculturalism Bad for Women?” in *Is Multiculturalism Bad for Women?* ed. Joshua Cohen, Matthew Howard, and Martha C. Nussbaum, 7-24 (Princeton: Princeton University Press, 1999) and Anne Phillips, *Multiculturalism Without Culture* (Princeton: Princeton University Press, 2007).



ism is associated with a real retreat from multicultural policies and institutions.<sup>42</sup> Moreover, others claim that such a criticism represents a strategy for passing over in silence situations of real exclusion, discrimination, and alienation. For instance, Charles Taylor affirms that ‘the European attack on “multiculturalism” often seems [...] a classic case of false consciousness, blaming certain phenomena of ghettoization and alienation of immigrants on a foreign ideology, instead of recognizing the home-grown failures to promote integration and combat discrimination.’<sup>43</sup> Thus, this kind of criticism would harm its victims twice: after having failed to include Muslims of immigrant origin (or second or third generation of Muslims with an immigrant background) and to provide adequate levels of social, political, and economic integration, European societies *de facto* shift the blame to them for their own failures.<sup>44</sup> However, other authors maintain that the theoretical and political criticism of multiculturalism is associated with actual changes at the level of policies and institutional settings (e.g., the *hijab* and *burqa* bans in France, respectively in 2004 and 2010,<sup>45</sup> the success of anti-immigrant parties across Europe, and so on),<sup>46</sup> although the causal relations between these two levels remains

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<sup>42</sup> See, for instance, Will Kymlicka, “Multiculturalism: Success, Failure, and the Future,” Migration Policy Institute (2012), available on the website URL = <http://www.migrationpolicy.org/research/TCM-multiculturalism-success-failure> (here Kymlicka maintains that ‘reports of the death of multiculturalism are exaggerated’ and that ‘the retreat [of multiculturalism] may indeed be more a matter of talk than of actual policies,’ 14) and “The Rise and Fall of Multiculturalism? New Debates on Inclusion and Accommodation in Diverse Societies,” in *The Multiculturalism Backlash: European Discourses, Policies and Practices*, ed. Steven Vertovec and Susanne Wessendorf (London and New York: Routledge, 2010), 40-43. See also Steven Vertovec and Susanne Wessendorf, “Introduction: Assessing the Backlash against Multiculturalism in Europe,” in *The Multiculturalism Backlash: European Discourses, Policies and Practices*, in particular 13-21. Also Tariq Modood is deeply sceptical and speaks of the ‘strange non-death of multiculturalism’ (see chapter seven of *Multiculturalism: A Civic Idea*). He reaffirms his support for the idea of ‘civic multiculturalism’ saying that ‘[c]ontrary to all those who think that the time to speak of multiculturalism is over, I think it is most timely and necessary, and that we need more not less.’ Ibid. 13.

<sup>43</sup> Charles Taylor, “Interculturalism or Multiculturalism?” *Philosophy and Social Criticism* **38**, no. 4-5 (2012), 414.

<sup>44</sup> This point was reaffirmed by Taylor during the conference “La piazza e il tempio” (Il Cortile dei Gentili-Centro Studi Americani-Institut Français Centre Saint Louis, Rome, March 6, 2015).

<sup>45</sup> See Joan Wallach Scott, *The Politics of Veil* (Princeton: Princeton University Press, 2007) and Anne Fornerod’s essay “The Burqa Affair in France,” in *The Burqa Affair Across Europe: Between Public and Private Space*, ed. Alessandro Ferrari and Sabrina Pastorelli (Farnham: Ashgate, 2013), 59-76. For an analysis of the plural meanings of the veil, see Renata Pepicelli, *Il velo nell’Islam: storia, politica, estetica* (Rome: Carocci, 2012).

<sup>46</sup> For example, see Christian Joppke, “The Retreat of Multiculturalism in the Liberal State: Theory and Policy,” *The British Journal of Sociology* **55**, no. 2 (2004), in particular 247-254, and Rogers Brubaker, “The Return of Assimilation? Changing Perspectives on Immigration and Its Sequels in France, Germany, and the United States,” *Ethnic and Racial Studies* **24**, no. 4 (2001), especially 532-533, 535-539, and 542-544. See also Joowon Yuk’s review of the volume edited by Vertovec and Wessendorf [“Book Review: The Multiculturalism Backlash: European Discourses, Policies and Practices,” *Cultural Trends* **20**, no. 3-4 (2011)], 338-339.

unclear.<sup>47</sup> Some of these authors even talk of a ‘wholesale *retreat* from multiculturalism in Europe.’<sup>48</sup> However, it is interesting to note that even those who criticise the idea of the death of multiculturalism and the reality and/or the extent of the retreat from multicultural policies must ‘acknowledge that there are major obstacles to the multiculturalist project,’ and that ‘certain conditions must be in place for [multicultural citizenship] to have its intended effects.’<sup>49</sup> In particular, Will Kymlicka maintains that multicultural citizenship and its related multicultural policies are not likely to work when one or more of the following conditions are in effect:

1. When there is a securitisation of ‘minorities that [are seen] as potential collaborators with neighbouring enemies.’<sup>50</sup> Kymlicka acknowledges that this condition is present in the case of Muslims in Europe, who are frequently perceived as a ‘security threat’<sup>51</sup> (see also *infra*).
2. When there are concerns about minorities’ commitment to the protection of human rights. Again, Kymlicka says that such concerns are present with reference to Muslims in Europe (e.g. about gender equality, freedom of conscience and so on). Then, he concludes that ‘states are unlikely to accept minority autonomy if they fear it will lead to islands of local tyranny within a broader democratic state.’<sup>52</sup>

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<sup>47</sup> Christian Joppke, “The Retreat of Multiculturalism in the Liberal State: Theory and Policy,” 239.

<sup>48</sup> Ibid. 244. Joppke concludes that ‘[w]ith this new stress on civic integration [...] the liberal state is becoming more assertive about its liberal principles, and shows itself less willing to see them violated under the cloak of “multicultural” toleration. [...] One can interpret the new assertiveness as a shift of emphasis from diversity to autonomy, in whose optic liberalism itself appears as a distinct way of life that clashes with other, non-liberal ways of life. The reasons for the new assertiveness of the liberal state in Britain and beyond are complex. One reason, which predominated before the most recent concern about terrorism and security, is preparation for envisaged new large-scale immigration. Public consent for this is sought through the scaling-back of multiculturalism, both as social fact and political programme’ (ibid. 252).

<sup>49</sup> Will Kymlicka, “Multiculturalism: Success, Failure, and the Future,” 21.

<sup>50</sup> Ibid.

<sup>51</sup> Ibid. 22.

<sup>52</sup> Ibid.

3. When ‘citizens fear that they lack control over their borders.’<sup>53</sup> This fear too is often invoked with reference to new Muslim comers (see for instance the heated debates about Turkey’s admission to the EU).
4. When there is high cultural homogeneity among immigrants, since only in ‘a situation where immigrants are divided into many different groups originating in distant countries, [is there no] feasible prospect for any particular immigrant group to challenge the hegemony of the national language and institutions.’<sup>54</sup> However, this is not always the case with regard to Muslims in Europe. While one can undoubtedly observe a wide diversity in terms of their regional, national, traditional (and even religious or spiritual) backgrounds, one should also acknowledge that in specific national contexts (also due to their colonial past) some immigrant groups seem homogeneous or predominant (e.g. North Africans in France and Spain, Pakistanis in the UK).
5. When the perception that ‘immigrants are holding up their end of the bargain and making a good-faith effort to contribute to society’<sup>55</sup> is absent. This point is also often raised in European debates about Muslims’ presence in Europe, in particular by stressing the fact that certain groups (e.g. refugees) rely too much on the welfare state. Usually, however, such distinctions are not made and the argument is presented in general terms, as it would concern *all* Muslims with an immigrant background.

Therefore, all the five circumstances that Kymlicka takes into account as potentially negative factors with regard to the implementation and correct functioning of multicultural policies *prima facie* are present with reference to the case of Muslims with immigrant background in Europe. As Kymlicka –the scholar who gave the most important contribution to the development of contemporary theories of liberal multiculturalism– acknowledges:

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<sup>53</sup> Ibid.

<sup>54</sup> Ibid. 23.

<sup>55</sup> Ibid.

‘[I]mmigrant multiculturalism has run into difficulties where it is perceived as carrying particularly high risks. Where immigrants are seen as predominantly illegal, as potential carriers of illiberal practices or movements, and/or as net burdens on the welfare state, *then multiculturalism poses perceived risks to both prudential self-interest and moral principles, and this perception can override the forces that support multiculturalism.*’<sup>56</sup>

Unfortunately, as I have just demonstrated, it seems that these perceptions are widespread in contemporary Europe with reference to Muslims with an immigrant background. Thus, as Kymlicka himself concedes, multiculturalism and its related policies appear particularly hard to uphold in those circumstances and with reference to that specific group.<sup>57</sup> Whilst in Canada, ‘multiculturalism serves as a source of shared national identity and pride for native-born citizens and immigrants alike,’<sup>58</sup> in the case of Muslims with an immigrant background it seems unlikely that multiculturalism can represent such a common shared identity in contemporary Europe. Also Tariq Modood and Nasar Meer acknowledge that questions related to social unity and common political identities are more and more relevant in European countries with a longstanding tradition of multicultural policies, such as the UK.<sup>59</sup> If this is so, however, how to fill this shared-identity gap? Kymlicka (rightly) fears that ‘in the absence of multiculturalism, national identity is more likely to lead to intolerance and xenophobia.’<sup>60</sup> I think that the problem of defining a common shared identity is crucial and I return to this point below and in 1.2. In 5.2.b I will demonstrate that liberal multiculturalism leaves this question open (in fact, as I will explain in chapter five, the italicised sentence in the preceding long quota-

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<sup>56</sup> Will Kymlicka, “The Rise and Fall of Multiculturalism? New Debates on Inclusion and Accommodation in Diverse Societies,” 46. Emphasis added.

<sup>57</sup> Against the view that I am advocating, see Patti Tamara Lenard, “What Can Multicultural Theory Tell Us about Integrating Muslims in Europe?” *Political Studies Review* 8, no. 3 (2010), 314-317. However, from a substantive perspective I do not see any radical opposition between the liberal multicultural principles she invokes and the position I defend. For instance, public reason citizenship fully agrees with the claim that non-discriminatory inclusion involves ‘abandoning the implicit and explicit privileges extended to Christianity, and the adoption of a genuine commitment to equal treatment of all religions. Doing so will require accepting newcomers –of whatever cultural and religious background– on equal terms in the political sphere.’ Ibid. 317.

<sup>58</sup> Will Kymlicka, “Multiculturalism: Success, Failure, and the Future,” 11.

<sup>59</sup> Nasar Meer and Tariq Modood, “The Multicultural States We’re In,” in *European Multiculturalisms: Cultural, Religious and Ethnic Challenges*, eds. Anna Triandafyllidou, Tariq Modood, and Nasar Meer (Edinburgh: Edinburgh University Press, 2012), 65 and 84-85.

<sup>60</sup> Will Kymlicka, “Multiculturalism: Success, Failure, and the Future,” 11-12.

tion is related to the ‘mutual assurance problem’), whilst in 5.2.c I will show that this problem is overcome by public reason citizenship.

Notice that my claim here is limited in scope. As I said, I am not trying to suggest that (liberal) multiculturalism is an inadequate political philosophy: properly speaking, I am not presenting any normative argument in favour of or against multiculturalism in general. Moreover, I am not concerned with providing quantitative evidence of its retreat in terms of national policies and institutional settings. Whether the backlash against multiculturalism in Europe corresponds to a change in actual policies and the orientation of public opinion or whether it is just a ‘crisis of perception,’<sup>61</sup> in either case the crucial point is that –as I said at the beginning– perceptions do matter. Even critics of the reality of the retreat of multiculturalism must concede that ‘relentless attacks on multiculturalism [...] might not have changed the basis of policies radically, but *they have certainly fomented a negative atmosphere surrounding immigrants, ethnic minorities, and particularly Muslims.*’<sup>62</sup> In other words, what is important is that worries about the implications of multicultural policies specifically refer –in negative terms– to immigrants *as Muslims* [as Ralph Grillo and Prakash Shah have noted, ‘concern about the “failure” of Muslims (in general) to integrate is at the heart of the current backlash against multiculturalism’<sup>63</sup>] and that *the negative political atmosphere created by such perceptions has very real consequences in terms of exclusion and discrimination*, as the previously mentioned EUMC’s report shows. Thus, in Europe the backlash against multicultural-

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<sup>61</sup> Vertovec and Wessendorf quoting the report of the Consultation Commission on Accommodation Practices Related to Cultural Differences led by Gérard Bouchard and Charles Taylor, in Steven Vertovec and Susanne Wessendorf, “Introduction: Assessing the Backlash against Multiculturalism in Europe,” 22.

<sup>62</sup> Ibid. 27. Emphasis added.

<sup>63</sup> Ralph Grillo and Prakash Shah, “The Anti-Burqa Movement in Western Europe,” in *The Burqa Affair Across Europe: Between Public and Private Space*, 200. For a similar claim, see also John R. Bowen, “Europeans Against Multiculturalism,” *Boston Review*, July/August 2011, available on the *Boston Review* website, URL = <http://bostonreview.net/john-r-bowen-european-multiculturalism-islam>, in particular 1-2 of the online printable version.

ism seems to concern mainly Muslims with an immigrant background,<sup>64</sup> who are defined as (or identified with) “the other” by definition.

In fact, it has been observed that in Europe ‘the immigrant has become Muslim’ and that this European phenomenon of ‘Islamisation of immigration’<sup>65</sup> marks an important difference with reference to the United States. In fact, ‘categories of “immigrant” and “Muslim” overlap in Western Europe, unlike in the United States, where immigration debates centre on economic and social concerns such as wages, assimilation and language,’ so that ‘in the U.S. the prototypical immigrant is a low-skilled Mexican or Central American worker rather than a conservative Muslim’<sup>66</sup> as in Western Europe.<sup>67</sup> This is because American Muslims (in contrast to European Muslims) show an overall similarity –or even a better positioning in comparison– with the rest of the population in terms of education, employment, income and so on.<sup>68</sup> Robert Putnam argues that in the United States ‘survey evidence suggests that for most Americans their religious identity is actually more important than their ethnic identity, but the salience of religious differences as lines of social identity has sharply diminished.’<sup>69</sup> Along these lines, Richard Alba has persuasively demonstrated in his comparative study of social boundaries in the U.S., France, and Germany that in Western Europe religion constitutes a ‘bright boundary’ between immigrant minorities (including second and third generations) and native

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<sup>64</sup> ‘Attacks on multiculturalism have become indirect attacks on Islam and Muslims.’ Ibrahim Kalin, “Islamophobia and the Limits of Multiculturalism,” in *Islamophobia: The Challenge of Pluralism in the 21<sup>st</sup> Century*, ed. John L. Esposito and Ibrahim Kalin (New York: Oxford University Press, 2011), 4. See also Tariq Modood, *Multiculturalism: A Civic Idea*, 4 (‘Muslims have become central to the merits and demerits of multiculturalism as a public policy in western Europe’) and 12 (‘disillusionment with and anxiety about multiculturalism [...] is however strongly associated with the presence and activities of Muslims’).

<sup>65</sup> Stefano Allievi, “How the Immigrant has Become Muslim: Public Debates on Islam in Europe,” *Revue Européenne des Migrations Internationales* 21, no. 2 (2005), 135-163, available on the REMI’s website URL = <http://remi.revues.org/2497> (subsequent quotations refer to the online printable version), 3.

<sup>66</sup> Jocelyne Cesari, “The Securitisation of Islam in Europe,” 2-3 and footnote 5 on page 3.

<sup>67</sup> For the analogy between Muslims in Europe and Spanish language speakers in U.S.A., see also Aristide R. Zolberg and Long Litt Woon, “Why Islam is Like Spanish: Cultural Incorporation in Europe and the United States,” *Politics and Society* 27, no. 1 (1999), in which they claim that ‘Islam and Spanish are metonyms for the dangers that those most opposed to immigration perceive as looming ahead: loss of cultural identity, accompanied by disintegrative separatism or communal conflict,’ 5.

<sup>68</sup> See PEW Research Centre’s report “Muslim Americans: No Signs of Growth in Alienation or Support for Extremism,” available at URL = <http://www.people-press.org/2011/08/30/muslim-americans-no-signs-of-growth-in-alienation-or-support-for-extremism/>.

<sup>69</sup> Robert D. Putnam, “*E Pluribus Unum*: Diversity and Community in the Twenty-first Century,” 160.

populations, whilst in the case of the U.S. race –not religion– is the crucial element on which a ‘bright’ demarcation is built.<sup>70</sup> According to Alba, a social boundary is bright when ‘the distinction involved is unambiguous, so that individuals know at all times which side of the boundary they are on.’<sup>71</sup> On the other hand, in the case of ‘blurry boundaries’ (that is, boundaries ‘involving zones of self-presentation and social representation that allow for ambiguous locations’)<sup>72</sup> a member of the immigrant group (or of the majority group) has several options for redefining his or her position in order to overcome a sharp demarcation and separation from the other group. On the contrary, when the boundary between immigrant groups and majority society is ‘bright’ –as it is in the case of Muslim immigrants (or, more precisely, immigrants coming from Muslim majority countries) in the two European countries considered by Alba– one can do nothing but ‘cross’ the boundary.<sup>73</sup> This entails a considerable cost and a great risk for individuals, who have to “choose” –if and when they have the possibility– on which side they want to stand and in doing so break many interpersonal relationships.<sup>74</sup> In case of bright boundaries, then, boundary crossing implies that assimilation in other groups ‘is unlikely to be undertaken by large numbers, even in the second generation,’ and it is largely a matter of an ‘individualistic pattern.’<sup>75</sup> Thus, while in the United States the category of “otherness” is mainly built on racial grounds, in Europe the “other” is primarily perceived on religious terms as “the Muslim.” If one brings these points together, it seems reasonable to say that in Europe worries mainly concern the fact that multiculturalism seems to be conducive to an exacerbation of differences and a lack of a shared public political ground, especially with reference to Muslim immigrants.<sup>76</sup> As I explain in 1.2, in my view this is the crucial question

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<sup>70</sup> Richard Alba, “Bright vs. Blurred Boundaries: Second-Generation Assimilation and Exclusion in France, Germany, and the United States,” *Ethnic and Racial Studies* **28**, no. 1 (2005), 30-35, 37-39, and 39-40.

<sup>71</sup> Ibid. 22.

<sup>72</sup> Ibid. An example of a blurry boundary is religion in the U.S., according to Putnam (see the quotation above) and Alba (30-31).

<sup>73</sup> Ibid. 23-24.

<sup>74</sup> Ibid. 26.

<sup>75</sup> Ibid.

<sup>76</sup> See, for instance, what Jeffrey C. Alexander calls the ‘conservative critique,’ in his “Theorizing the “Modes of Incorporation”: Assimilation, Hyphenation, and Multiculturalism as Varieties of Civil Participation,” *Sociological Theory* **19**, no. 3 (2001), 237-238.

at stake, and it represents the theoretical problem of my research. Let me anticipate an important question. The reader could ask which implications derive from the claim that today multiculturalism is under attack because it seems inadequate –sometimes from the perspective of Muslims themselves<sup>77</sup>– to take on the new challenge represented by an expanded pluralism (*infra*). Do these observations mean that one should promote an assimilationist monocultural model of citizenship, as some authors fear?<sup>78</sup> I do not think so. One of the main purposes of this study is to show that there is a plausible way to take the diversity and specificity of our attachments and identities seriously and let them flourishing without compromising the possibility of a shared platform for discussing the most fundamental political questions and for shaping our public institutions.

Coming back to the point, I was saying that “the Muslim” is often perceived and represented as the paradigmatic “other” in contemporary Europe. As I have said, the “immigrant,” the “enemy within,” the “threat” to the very essence of “Europeanness” become just as many transpositions of “being a Muslim.”<sup>79</sup> Some authors then maintain that both in public discourses and in common perception Muslims are ‘externalized.’<sup>80</sup> In other words, even though Muslims live within the physical and political boundaries of European societies and even when they share the legal status of citizenship, they are often perceived and publicly represented as citizens outside or even against the citizenry. It has been recently suggested that ‘[f]raming Islam as a set of values intrinsically incompatible with Europe implies that Mus-

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<sup>77</sup> For instance, see Tariq Ramadan in Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?* (Paris: L’Archipel, 2005), 155-157. Moreover, concerning the U.S.A., see the PEW’s report “Muslim Americans: No Signs of Growth in Alienation or Support for Extremism,” in which it is shown that the majority (56%) of American Muslims says that they want to ‘adopt American customs and ways of life’ rather than ‘be distinct from the larger American Society.’ Note, however, that only 33% of the general public thinks that American Muslims want to adopt American life-style, while 51% believe that they want to live separately or distinctively. This inverted proportion could perhaps be explained by making reference to the lack of a shared political discursive platform and be linked with the criticism of multiculturalism I mentioned before: people do not know what kind of “public life” (here, I use this expression in a very general way, meaning how one desires to live with regard to the rest of society: to assimilate, to live separately, to integrate while preserving one’s distinct cultural, religious, linguistic features and so on) others want and this fact is a source of misunderstanding, generalisation, prejudice, and fear.

<sup>78</sup> Liz Fekete, “Anti-Muslim Racism and the European Security State,” 18 and 22. See also her article “Where Monoculturalism Leads,” published on the Institute of Race Relations’ website (2015), URL = <http://www.irr.org.uk/news/where-monoculturalism-leads/>, which begins by commenting on the Paris attacks of January 2015 with these words: ‘[i]t may seem counter-intuitive, but far from suffering from an excess of multiculturalism, European thought and culture are suffering from too much monoculturalism.’

<sup>79</sup> See also Olivier Roy, *Secularism Confronts Islam*, for instance 1 and 34.

<sup>80</sup> Jocelyne Cesari, *Why the West Fears Islam*, xvii.



lims must choose between abandoning their religion and remaining outside the boundaries of the true European citizenry.<sup>81</sup> As I said with reference to the EUMC's 2006 report, this perception has not only a symbolic dimension but also material consequences in terms of discrimination and Islamophobia ('the fear of or prejudiced viewpoint towards Islam, Muslims and matters pertaining to them').<sup>82</sup> As Chris Allen puts it, 'Islamophobia has a very real im-

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<sup>81</sup> John R. Bowen, Christophe Bertossi, Jan Willem Duyvendak, and Mona Lena Krook, "An Institutional Approach to Framing Muslims in Europe," in *European States and Their Muslim Citizens: The Impact of Institutions on Perceptions and Boundaries*, ed. John R. Bowen, Christophe Bertossi, Jan Willem Duyvendak, and Mona Lena Krook (Cambridge and New York: Cambridge University Press, 2014), 1.

<sup>82</sup> For this definition, see the Council of Europe's 2004 publication "Islamophobia and its Consequences on Young people" ([https://www.coe.int/t/dg4/youth/Source/Resources/Publications/Islamophobia\\_consequences\\_young\\_people\\_en.pdf](https://www.coe.int/t/dg4/youth/Source/Resources/Publications/Islamophobia_consequences_young_people_en.pdf)), 6. The report continues by saying that 'Islamophobia is not a new phenomenon but we know that today many Muslim communities in Europe are experiencing an increasingly hostile environment towards them characterised by suspicion, deep-rooted prejudice, ignorance, and, in some cases, physical and verbal harassment. Whether it takes the shape of daily forms of racism and discrimination or more violent forms, Islamophobia is a violation of human rights and a threat to social cohesion,' 6. This document rightly raises the following questions: 'Is it useful to use the expression Islamophobia? Shouldn't we simply talk of "discrimination" or "intolerance"? Is it true that the usage of the term Islamophobia can provoke more Islamophobia and hence further victimise Muslims in Europe?' (5). Here I do not need to explore these questions. I do not want to reduce the issue to a mere linguistic matter: words are important. However, in this initial stage of my work I am concerned with the core of the problem. Thus, corroborated by the literature presented in this section, I fundamentally take for granted that, while one may prefer terms like "racism" or "intolerance" (which, I equally take for granted, are repudiated by any minimally decent democratic society), it is also true that it 'is practically undisputed that they have [...] recently taken a particular religious and "civilizational" connotation' (ibid.). Therefore, for the sake of simplicity, here I use the term Islamophobia. The report "Muslims in the European Union: Discrimination and Islamophobia" also quotes (p. 61) the very influential 1997 report by the think tank Runnymede "Islamophobia: a Challenge for Us All," available online at URL = <http://www.runnymedetrust.org/publications/17/32.html>, in which (p. 5) the following features of Islamophobia are listed: Islam is seen as (1) 'monolithic and static,' (2) 'separate and "other",' (3) 'barbaric, irrational, sexist,' (4) 'violent, aggressive, threatening,' (5) 'manipulative' and insincere. Moreover (6) 'criticisms made by Islam of the "West" are rejected out of hand,' (7) 'hostility towards Islam is used to justify discriminatory practices towards Muslims and exclusion of Muslims from mainstream society,' and (8) 'anti-Muslim hostility is accepted as natural and "normal".' For an introduction to the concept, see, among others, Abdellali Hajjat and Marwan Mohammed, *Islamophobie: Comment les élites françaises fabriquent le «problème musulman»* (Paris: La Découverte, 2013), in particular chapter four for a history of the concept; Ayhan Kaya, *Islam, Migration and Integration: The Age of Securitization* (Houndmills and New York: Palgrave Macmillan, 2009), 201-218; and Marc Helbling, "Islamophobia in the West: An Introduction," in his edited work *Islamophobia in the West: Measuring and Explaining Individual Attitudes* (London and New York: Routledge, 2012), 1-18. For a critical genealogy of the Islamophobic 'ideology,' see Mehdi Semati, "Islamophobia, Culture and Race in the Age of Empire," *Cultural Studies* 24, no. 2 (2010), in particular 265-267. For a comparison between anti-Semitism and Islamophobia (with a specific focus on Germany), see Sabine Schiffer and Constantin Wagner, "Anti-Semitism and Islamophobia: New Enemies, Old Patterns," *Race and Class* 52, no. 3 (2011), 78-79 and 80-82. For a study of Islamophobia in Italy, see Alfredo Alietti and Dario Padovan, "Il razzismo come legame sociale nella società dell'eccezione giuridica. Note su antisemitismo e anti-islamismo in Italia," in *Antisemitismo, islamofobia e razzismo: Rappresentazioni, immaginari e pratiche nella società italiana*, ed. Alfredo Alietti, Dario Padovan, and Claudio Vercelli (Milan: Franco Angeli, 2014), 69-88, and, from a historical perspective, Anna Curcio, "Genealogia e metamorfosi del razzismo in Italia," in *Antisemitismo, islamofobia e razzismo*, 91-106.

pact on the daily experience of many European citizens.’<sup>83</sup> In the same vein, Ibrahim Kalin affirms that:

‘Islamophobic acts manifest themselves in numerous ways. Some are explicit and obvious, some subtle and implicit. They take various forms and display varying degrees of aggression. Sometimes they come in the form of verbal and physical attacks on Muslim individuals. In some cases, mosques, Islamic centres, and Muslim properties are attacked and desecrated. In the workplace, health services, schools, and housing, Islamophobia takes the form of suspicion, staring, hazing, mockery, rejection, stigmatizing, and outright discrimination. In other public places, it may take the form of indirect discrimination, hate speech, or denial of access to goods and services.’<sup>84</sup>

In other words, such perceptions and public representations of Muslims as the irreducible and threatening other of an alleged “European self” play a functional role in justifying varying degrees and forms of Islamophobia.<sup>85</sup> However, it is noteworthy that the term Islamophobia can be misleading if we understand it too narrowly: it may absorb and overshadow different discriminatory patterns. As Jocelyne Cesari rightly emphasises, this term ‘presupposes the preeminence of religious discrimination when other forms of discrimination (such as racial or class) may be more relevant.’<sup>86</sup> In fact, she points out that two important features of European Muslims are that they ‘are mostly immigrants’ (as I have said) and that they are too often ‘socially marginalized.’<sup>87</sup> Thus, she argues that ‘[b]ecause European Muslims tend to be socio-economically marginalized, much of the discrimination against them may be due to their class

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<sup>83</sup> Chris Allen, “‘Tutte le differenti forme di discorsi, parole e atti:’ il problema della comprensione e definizione dell’Islamofobia,” in *Antisemitismo, islamofobia e razzismo*, 34. My translation.

<sup>84</sup> Ibrahim Kalin, “Islamophobia and the Limits of Multiculturalism,” 9.

<sup>85</sup> ‘Insulting, intimidating, and threatening Muslim individuals and communities and in some cases committing violence against them is presented as a reaction to what is described as the existential threat of Islamic extremism and terrorism. Such justifications give the impression that violent acts perpetrated against Muslims have a reason and thus can be excused. Islamophobia is used to construct, justify, and sustain racist and exclusivist political discourses [...] Islam is presented as an enemy and as an “other” to construct purist and exclusivist national identities, as well as to justify religious exclusivism.’ Ibid. 16.

<sup>86</sup> Jocelyne Cesari, “Islamophobia in the West: A Comparison between Europe and the United States,” in *Islamophobia: The Challenge of Pluralism in the 21<sup>st</sup> Century*, 24.

<sup>87</sup> Ibid. She adds that those two features of European Muslims ‘stand in sharp contrast to the features of Muslims in the United States.’

situation rather than religion.’<sup>88</sup> I agree with Cesari’s claim that Islamophobia should be considered in its open meaning, as a ‘starting point for analyzing the different dimensions that define the political situation of Muslim minorities in Europe,’<sup>89</sup> and that many different factors (not only religion, but also immigrant background, social class, racial and national stereotypes, and so on) play a decisive role in such a discriminatory trend. As I mentioned in the opening quotation above, we should avoid culturalist approaches, which ‘displace what are essentially political conflicts onto a more comfortable cultural plane [, so that t]he problem is [Muslim] culture not our politics,’<sup>90</sup> as Arun Kundnani appropriately warns. Also Olivier Roy underlines this point, noting that ‘if the *banlieue* is primarily a problem of Islam, then there is no social problem. [...] The problems of society are transformed into a debate about ideas.’<sup>91</sup> However, as I have just mentioned, Cesari also claims that public discourses in Europe tend to present specifically Islam and Muslims as both an internal and an external threat. She argues that, both at the level of European politicians’ public discourses and at the level of citizens’ general feelings and perceptions, ‘Islam and Muslims [are put] outside the civilized space of the West.’<sup>92</sup> Thus, as I have shown so far, it seems that those discourses specifically address (at least formally) Islam and Muslims on religious grounds: in those perceptions and public representations, they are singled out *as Muslims*. Then Cesari is right when she maintains that:

‘Due to the complexity of the situation of Muslims in Europe, it is difficult and perhaps impossible to untangle the threads of motivation behind [European reactions, policies and discourses about Muslims’ presence in Europe]. Although an anti-immigrant sentiment is clearly growing in Western Europe, one wonders to what degree this is a result of the fact that so many of the immigrants are Muslims and whether a different group of immigrants would have provoked such a strong reaction. [...] Anti-immigrant sentiment is common in many countries [...] How-

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<sup>88</sup> Ibid. 25.

<sup>89</sup> Ibid. 24.

<sup>90</sup> Arun Kundnani, *The Muslims are Coming! Islamophobia, Extremism, and the Domestic War on Terror*, 58-59.

<sup>91</sup> Olivier Roy, *Secularism Confronts Islam*, 31.

<sup>92</sup> Jocelyne Cesari, *Why the West Fears Islam*, xvii.

ever, in European countries, this predicament can slide into what can more accurately be termed as Islamophobia. [...] It seems clear that [anti-immigrant rhetoric] has become more anti-Muslim.’<sup>93</sup>

Several studies based on recent literature and surveys<sup>94</sup> support Cesari’s conclusions and uphold the idea that in European public discourses ‘an essentialized West and an essentialized Islam are fighting each other and in so doing reinforce one another.’<sup>95</sup> On a practical level, this way of framing the relationships between Western European societies and their Muslim citizens and communities have two very important consequences, as Ibrahim Kalin highlights:

1. Muslims are prevented from actively and ‘fully participating in the political, social, cultural, and economic life of the societies in which they live.’<sup>96</sup>
2. Self-criticism becomes more costly for Muslims due to surrounding social pressure, hostility, and suspicion.<sup>97</sup>

Finally, such an opposition also underlies a phenomenon that in the literature has been called ‘securitisation of Islam.’<sup>98</sup> For instance, Stuart Croft has analysed how the oppositions and the interplays between the three categories of the ‘British self,’ the ‘Radical other,’ and the ‘Orientalized other’<sup>99</sup> are functional to bringing about the ‘ontological security’ of the

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<sup>93</sup> Jocelyne Cesari, “Islamophobia in the West,” 30-31.

<sup>94</sup> See, for instance, Jocelyne Cesari, *Why the West Fears Islam*, in particular chapter one. Jytte Klausen, *The Islamic Challenge: Politics and Religion in Western Europe*, paperback edition with new foreword (Oxford: Oxford University Press, 2007), 6-7. Jonathan Laurence, *The Emancipation of Europe’s Muslims: The State’s Role in Minority Integration* (Princeton: Princeton University Press, 2012), for instance 6-7.

<sup>95</sup> Jocelyne Cesari, *Why the West Fears Islam*, xiv.

<sup>96</sup> Ibrahim Kalin, “Islamophobia and the Limits of Multiculturalism,” 16.

<sup>97</sup> ‘Confronted with frontal attacks driven by racist and Islamophobic attitudes, Muslims of various religious and political bents shy away from openly criticizing fellow Muslims and end up defending some of the most extreme and illogical ideas and actions, which would under normal circumstances be rejected as contrary to an Islamic ethos. The fear is that they will be betraying their Muslim brothers and sisters in the midst of a war launched against them.’ Ibid.

<sup>98</sup> Stuart Croft, *Securitizing Islam: Identity and the Search for Security* (Cambridge and New York: Cambridge University Press, 2012), in particular 1-16 and chapter five, Jocelyne Cesari, “The Securitisation of Islam in Europe,” 10-12, and Ayhan Kaya, *Islam, Migration and Integration: The Age of Securitization*, for instance 7-8. See also Liz Fekete, “Anti-Muslim Racism and the European Security State,” in particular 5-14 and Arun Kundnani, *The Muslims are Coming! Islamophobia, Extremism, and the Domestic War on Terror*, *passim*.

<sup>99</sup> Stuart Croft, *Securitizing Islam*, for the two categories of the ‘Orientalized’ and the ‘radical other’, see, 86-90.

(British) self, a condition in which ‘humans are able to trust that they can bracket off all sorts of possibilities; that they can therefore rely on a social normality, a predictability, which then structures their practical everyday interactions as natural, normal and commonsensical.’<sup>100</sup> Thus, ontological security is ensured through a multiplicity of ‘everyday routines’<sup>101</sup> which must protect the self from events perceived as crises.<sup>102</sup> When the securitisation process is completed, Croft argues, British Muslims must face the choice between two alternative identities that are defined in relation to the British self: in other words, Muslims must choose between being a ‘Radical other’ or an ‘Orientalized other.’<sup>103</sup> That is, between personifying the “other” ‘that threatens the very existence of the self,’<sup>104</sup> or representing the “other” that accepts ‘to be led, governed, moulded, and taught.’<sup>105</sup> Needless to say, whatever the result of such a “choice,” in this perspective Muslims’ inclusion as free equals is irremediably jeopardised.

#### 1.1.A.2 Theoretical Viewpoints.

How could one conceptualise those phenomena and perceptions from a theoretical viewpoint? I believe there are at least five ways to do this. Not only are they profoundly different, but it would also be difficult to appraise some of them from the standpoint that I have chosen, namely, the philosophical standpoint of John Rawls’s political liberalism. Notwithstanding this, I will present some examples for each position. However, in no way can I offer a complete or even a satisfactory overview of the immense and varied literature concerning Islam and Muslims in Europe. Such a generalising categorisation is obviously subject to several caveats. Still, I do think that such an attempt is not worthless: it can shine a light on the multifaceted approaches to the background problem of my research. I consider now five view-

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<sup>100</sup> Ibid. 21.

<sup>101</sup> Ibid. for instance 23.

<sup>102</sup> Ibid. 249: ‘[s]ecuritizations, of course, do not occur from nothing. They emerge from particular incidents that are socially constructed as crises.’

<sup>103</sup> Ibid. 259.

<sup>104</sup> Ibid. 86.

<sup>105</sup> Ibid. 90.

points, which are openly concerned with the ongoing debate about Islam and Muslims in Europe:

1- According to the first perspective, the problem is the incompatibility between democracy and Islam “as such.” These two concepts cannot be conciliated: they are mutually exclusive.<sup>106</sup> Frequently, those who endorse this position add that their criticism is oriented toward Islamism or Islam (the shift between the two is usually very easy and subtle in these writings), not toward individual Muslims. Another common theme is the censure for Europe’s incapacity to understand and counter the “Islamic threat.” For instance, in his recent book *While Europe Slept: How Radical Islam is Destroying the West from Within*, Bruce Bawer discusses at length the causes of the alleged ‘European integration crisis.’<sup>107</sup> To make a long story short, Bawer’s thesis is that European societies are going through potentially fatal changes, due to their inability to recognise, assess, and tackle the most dangerous of present threats. The problem, as made explicit by the title, is Islam’s presence in Europe. Not Islam in general, of course, but only radical Islam. Reading the book, however, one can wonder if, at the end, at least a substantial majority of Muslims are to be held responsible for that deficit of integration. In fact, in Bawer’s perspective, while radical Islamists play an active role in attacking European democracies, mainstream Muslims keep silent and their willingness to integrate seems vacillating.<sup>108</sup> In his view, moderate Muslims’ silence is partially caused by the weakness of European reactions against assaults by Islamists: since they are unable to distinguish between different attitudes among Muslims, European societies fail to gain the support of those Muslims who would be able and willing to integrate. Therefore, both sides are under scrutiny in Bawer’s work: Europe for its blindness, Muslims for their ambivalences. Having lived in Amsterdam for some time, Bawer gives his first-hand account of ‘the division between the native Dutch and their country’s rapidly growing Muslim minority.’<sup>109</sup> According

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<sup>106</sup> Concerning this account, I would just like to mention the recent book by Hamid Zanaz, *Islamisme. Comment l’Occident creuse sa tombe* (Paris: Éditions de Paris, 2013). Notwithstanding the reference to Islamism in the title, Zanaz’s effective target is patently Islam *tout court*: ‘who claims that there is a fundamental difference between Islamism and Islam is quite cunning.’ Ibid. 10, my translation.

<sup>107</sup> Bruce Bawer, *While Europe Slept: How Radical Islam is Destroying the West from Within*, paperback edition with a new afterword (New York: Anchor Books, 2007), 2.

<sup>108</sup> See, for instance, *ibid.* 3-4.

<sup>109</sup> *Ibid.* 2.

to him, '[t]hat division was stark: the Dutch had the world's most tolerant, open-minded society, with full sexual equality, same-sex marriage, and libertarian policies on soft drugs and prostitution. Yet many Dutch Muslims kept that society at arm's length, despising its freedoms and clinging to a range of undemocratic traditions and prejudices.'<sup>110</sup> Simultaneously, as I said before, Bawer plainly condemns European inability to judge things as they actually are, and the stubborn absence of any effective countermeasure. What is the source of this (alleged) European passiveness? Why is Europe unable to recognise and contrast this threat? Bawer's answer is unambiguous: Europe lacks critical and effective means because of a kind of taboo expressed by the notion of the 'politically correct'.<sup>111</sup> Political correctness is both empty rhetoric and risky blindness:

'Diversity, respect, dialogue; this, of course, was the mantra of political correctness, a habit of thought that in America is an annoyance but in Europe is a veritable religion –its tenets instilled by teachers and professors, preached by politicians and journalists, and put into practice by armies of government paper pushers. It was political correctness that had gotten Europe into its current mess, and only by repudiating political correctness did Europe stand a chance of averting what seemed, increasingly, to be its fate.'<sup>112</sup>

It is in the light of these considerations that one can understand the existential value that Bawer ascribes not only to tragic events such as the Madrid and London bombings (2004 and 2005 respectively) and the murder of Theo van Gogh (2004), but also to less violent (even if, in the long run, more enduring) phenomena –such as the increasing ghettoization of European suburbs and the simultaneous expansion of those ghettos, due to family reunification policies in the past.<sup>113</sup> Leaving aside other kinds of evaluation, this discourse is not particularly prom-

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<sup>110</sup> Ibid. 2-3.

<sup>111</sup> Ibid. for instance 6, 35, 65, and 66.

<sup>112</sup> Ibid. 6.

<sup>113</sup> See, for instance, *ibid.* 20.

ising from a theoretical perspective. Even if a more or less similar discourse is widespread,<sup>114</sup> it shows two unsolvable impasses. On the one hand, it does not provide any meaningful definition of the concept of “democracy” that it would defend and, consequently, it is deprived of any effective strategy concerning how to structure its defence. On the other hand, the “Islam-as-such”-assumption seems to refer to nothing else but an empty rhetorical (and essentialist) entity. Often, as I have underscored, this conceptual emptiness is functional, because it facilitates a double shift: firstly, from reality to fiction (or nightmare), and, secondly, from the particular to the general and vice versa. This position, however, is unlikely to be assessable through the lens of political liberalism. The only feasible political liberal evaluation would consist of considering which claims are openly unreasonable (because of the refusal of the freedom and equality of fellow citizens), and ‘containing’ them (*infra*). However, I doubt that a political liberal theorist would accept to undertake such a project with the spirit that characterises this first viewpoint. The fundamental purpose of political liberalism is the reconciliation between the need for a form of public justification and the fact of (reasonable) pluralism (*infra*), while the viewpoint that I am considering now starts by overtly or covertly denying the reasonableness of Islam and seems to end up with dismissing any possibility of public justification involving Muslims, precisely because of the fact that they are Muslim. I call this perspective *Islam-as-an-unsolvable-problem view*. According to this view, ‘the notion of “Muslim citizens” appears as an oxymoron: their presence as citizens would challenge the essential values constitutive of European civilization.’<sup>115</sup> Of course, the main –open or tacit– reference of this position is Huntington’s thesis of a ‘clash of civilizations.’<sup>116</sup> To be sure,

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<sup>114</sup> For instance, Ayhan Kaya (*Islam, Migration and Integration: The Age of Securitization*, 205-211) argues that ‘Islamophobia has become the mainstream’ in the West. See also the European Monitoring Centre on Racism and Xenophobia’s 2006 report “Muslims in the European Union: Discrimination and Islamophobia,” for instance 108. For a contribution focusing especially on France, see Vincent Geisser, *La nouvelle islamophobie* (Paris: La Découverte, 2003), in particular see chapter 1 (about anti-Islamic arguments in the media) and chapter 2 (about the professionalisation of “fear-experts”). See also 13-15 and 15-17 for, respectively, employment discrimination against Muslims and the political use of anti-Islamic arguments.

<sup>115</sup> John R. Bowen, Christophe Bertossi, Jan Willem Duyvendak, and Mona Lena Krook, “An Institutional Approach to Framing Muslims in Europe,” 2.

<sup>116</sup> Samuel Phillips Huntington, “The Clash of Civilizations?,” *Foreign Affairs* 72, no. 3 (1993), 22-49, “If not Civilizations, What? Paradigms of the Post-Cold War World,” *Foreign Affairs* 72, no. 5 (1993), 186-194, and *The Clash of Civilizations and the Remaking of the World Order* (New York: Simon and Schuster, 1996).



while Huntington's arguments are quite articulate (this is not the same as saying convincing),<sup>117</sup> several contemporary authors simply assume that the clash is there.

2- Within the second view, I bring together approaches and positions that are so different and varied that one might even wonder whether there is any consistency between them. In particular, within the second view I gather together multicultural theories and political discourses,<sup>118</sup> broadly speaking democratic critical and recognition theories,<sup>119</sup> and –among others– sociological and historical analyses concerning Muslims' presence in Europe.<sup>120</sup> In spite of the obvious differences, these approaches share a fundamental common feature. They are

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<sup>117</sup> I have discussed several critical points of Huntington's theses in my previous works "L'Islam dei Lumi: ragione, religione e responsabilità nel XXI secolo. La prospettiva di Sadik Al-Azm," bachelor's thesis (LUISS Guido Carli – Facoltà di Scienze Politiche, Rome, 2009), 73-78, and "Oltre un illuminismo islamico," 282-294.

<sup>118</sup> See above.

<sup>119</sup> For some examples specifically addressing the question of Muslims' presence in Europe, see Cécile Laborde's critical republican perspective as formulated in her *Critical Republicanism: The Hijab Controversy and Political Philosophy* (Oxford: Oxford University Press, 2008). I place her work here because, as I understand it, her critical republicanism seems to put together the Anglo-American republican tradition [see for instance Philip Pettit, *Republicanism: A Theory of Freedom and Government* (Oxford: Oxford University Press, 1997) and his "The Republican Ideal of Freedom," in *The Liberty Reader*, ed. David Miller, 223-242 (Boulder: Paradigm Publishers, 2006), and Quentin Skinner, "A Third Concept of Liberty," in *The Liberty Reader*, 243-254] with a more deliberative and critical approach. In her *Critical Republicanism* she conceptualises critical *laïcité* as follows: *égalité* as secular impartiality; *liberté* as non-domination and right to voice; and *fraternité* as trans-ethnic solidarity (ibid. 9, 85-89, 152-161 and 230-253). I will analyse her work in chapter five. See also her "Secular Philosophy and Muslim Headscarves in Schools," *The Journal of Political Philosophy* 13, no. 3 (2005), 305-329, and the "Review Symposium: The Danish Cartoon Controversy and the Challenges of Multicultural Politics: A Discussion of *The Cartoons That Shook the World*," *Perspective on Politics* 9, no. 3 (2011), in particular 604-605 [in this article she discusses Jytte Klausen's book *The Cartoons that Shook the World* (New Haven: Yale University Press, 2009)]. For a more recent and different formulation of her conception of secularism, see her "Justificatory Secularism," in *Religion in a Liberal State*, ed. Gavin D'Costa, Malcolm Evans, Tariq Modood, and Julian Rivers, 164-186 (Cambridge: Cambridge University Press, 2013). Note, however, that her last version of secularism comes closer to Rawls's idea of public reason which I analyse in the next chapters. With reference to the approach I have in mind, see also Joseph H. Carens and Melissa S. Williams, "Muslim Minorities in Liberal Democracies: The Politics of Misrecognition," in *Secularism and its Critics*, ed. Rajeev Bhargava, 137-173 (New Delhi: Oxford University Press, 1998), and "Islam, Immigration, and Group Recognition," *Citizenship Studies* 2, no. 3 (1998), 475-500. For the interplay between redistribution and recognition within critical theory, see Nancy Fraser and Axel Honneth, *Redistribution or Recognition? A Political-Philosophical Exchange* (London and New York: Verso, 2003), especially 81-82 for a specific reference to the veil question.

<sup>120</sup> Contributions are countless in this field. I will just mention some recent works that are illustrative of the view I am discussing for the way in which they frame the question of Muslims' citizenship in Europe. Stefano Allievi "Conflicts over Mosques in Europe: Policy Issues and Trends," published by Alliance Publishing Trust for the NEF's (Network of European Foundations) Initiative Religion and Democracy in Europe (2009), available on the NEF's website URL = [http://www.nef-europe.org/wp-content/uploads/2013/03/Conflicts-over-mosques\\_NEF-RelDem-RELIGION-MOSQUES-Final-1.pdf](http://www.nef-europe.org/wp-content/uploads/2013/03/Conflicts-over-mosques_NEF-RelDem-RELIGION-MOSQUES-Final-1.pdf). See also his "How the Immigrant has Become Muslim: Public Debates on Islam in Europe," and his *Musulmani d'occidente: Tendenze dell'islam europeo* (Rome: Carocci, 2002). Felice Dassetto, "Discours, sociétés et individus dans l'islam européen," in *Paroles d'islam: Individus, sociétés et discours dans l'islam européen contemporain / Islamic Words: Individuals, Societies and Discourses in Contemporary European Islam*, ed. Felice Dassetto, 13-34 (Paris: Maisonneuve & Larose, 2000). Jytte Klausen, *The Islamic Challenge*. Jonathan Laurence, *The Emancipation of Europe's Muslims*. Jocelyne Cesari, *Why the West Fears Islam*.

all primarily concerned with the cultural, historical (colonial), social, economic, and political conditions that characterise the relationships between Muslim minorities and Western European societies. Since I have no better definition, I call this perspective *Muslims-as-a-minority view*. However, the focus here is on *Muslims as actors who bear a specific set of cultural, economic, and socio-political claims*.

3- A third view affirms that the problem consists of Muslims' attitude toward their own tradition. Here a remark is in order: taking Muslim reformism seriously means avoiding a hodgepodge of profoundly different perspectives. However, for the sake of simplicity and clarity, here it is enough to say that if one had to categorise the full range of discourses, she could observe a continuum going from the most openly modernist discourses,<sup>121</sup> to writers more committed to preserving an internal relation and continuity with the tradition.<sup>122</sup> Finally,

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<sup>121</sup> See, among others, Sadik Al-Azm, "A Criticism of Religious Thought," in *Islam in Transition: Muslim Perspectives*, second edition, ed. John J. Donohue and John L. Esposito (New York: Oxford University Press, 2007), 93-99 [a new and complete English translation (by George Stergios and Mansour Ajami) of *Naqd al-Fikr al-Dīnī* is now available with the title *Critique of Religious Thought* (Berlin: Gerlach Press, 2015)], "A view from the East: Sadik Al-Azm," *Global Knowledge*, no. 1 (2006), <http://siu.no/eng/Front-Page/Global-knowledge/Issues/No-1-2006/A-View-from-the-East-Sadik-al-Azm>, "Islam, terrorismo e occidente oggi," in *Il Mediterraneo: Ancora Mare Nostrum?*, eds. Maurice Aymard, Giovanni Barberini and Sebastiano Maffettone, 79-98 (Rome: LUISS University Press, 2004), *L'illuminismo islamico: il disagio della civiltà*, second expanded edition (Rome: di Renzo, 2002), "Science and Religion, an Uneasy Relationship in the History of Judeo-Christian-Muslim Heritage," in Ludo Abicht, Nasr Hamid Abu Zayd, Sadik Al-Azm, Tariq Ali, John Bowen, Roger Dilemmans, Mark Eyskens et al., *Islam & Europe, Challenges and Opportunities*, 127-158 (Leuven: Leuven University Press, 2008). Mohammed Arkoun, *Rethinking Islam: Common Questions, Uncommon Answers*, ed. Robert D. Lee (Boulder: Westview Press, 1994), in particular chapters 3, 4, 12 and 16, and "Rethinking Islam Today," in *Liberal Islam: A Sourcebook*, ed. Charles Kurzman (New York: Oxford University Press, 1998), in particular, 206, 208-213, 214-215, 217-219. Abdou Filali-Ansary, *Islam e laicità: Il punto di vista dei musulmani progressisti*, ed. Lorenzo Declich (Rome: Cooper & Castelveccchi, 2003), for instance 75, 84, 86-90, 92-109, 111-115. Bassam Tibi, *Euro-Islam: L'integrazione mancata* (Venice: Marsilio, 2003), "Islam and Europe in the Age of Intercivilizational Conflict. Diversity and the Challenges," in *Islam & Europe, Challenges and Opportunities*, 63-83, "Muslim Migrants in Europe: Between Euro-Islam and Ghettoization," in *Muslim Europe or Euro-Islam: Politics, Culture, and Citizenship in the Age of Globalization*, ed. Nezar AlSayyad and Manuel Castells (Lanham, Md.: Lexington Books, 2002), see 37-43 and 45-49.

<sup>122</sup> See, for instance, Mohammed Abed Al-Jabri, *Arab-Islamic Philosophy: A Contemporary Critique* (Austin: Center for Middle Eastern Studies, University of Texas at Austin, 1999), *Democracy, Human Rights and Law in Islamic Thought* (London and New York: I. B. Tauris, 2009), *The Formation of Arab Reason: Text, Tradition and the Construction of Modernity in the Arab World* (London and New York: I. B. Tauris, 2011). Abdullahi Ahmed An-Na'im, *Islam and the Secular State: Negotiating the Future of Shari'a* (Cambridge, Mass.: Harvard University Press, 2008), for instance, 1-7, 97-101, 101-104, 106-109, 125-136, "Toward a Cross Cultural Approach to Defining International Standards of Human Rights: The Meaning of Cruel, Inhuman, or Degrading Treatment or Punishment," in *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus*, ed. Abdullahi Ahmed An-Na'im, (Philadelphia: University of Pennsylvania Press, 1992), in particular 22-26, 26-29, and 32-36, and *Toward an Islamic Reformation: Civil Liberties, Human Rights, and International Law* (Syracuse, New York: Syracuse University Press, 1990), in particular chapter 7. Mohamed Talbi, *Plaidoyer pour un Islam moderne* (Tunis: Cérès Éditions, 1998), notably 100-128. Abdolkarim Soroush, *Reason, Freedom, and Democracy in Islam: The Essential Writings of Abdolkarim Soroush*, ed. Mahmoud Sadri and Ahmad Sadri (New York: Oxford University Press, 2000), in particular chapters 6, 8, and 9. Nasr Hamid Abu Zayd, *Testo sacro e libertà: Per una lettura critica del Corano*, ed. Federica Fedeli (Venice: Marsilio, 2012).

within this view there is a line of thought that tries to work out an account of citizenship for Muslims in Europe.<sup>123</sup> I call this perspective *Muslims-as-interpreters view*.

4- A fourth view argues that the main problem is moral disagreement between Islam – understood as a ‘tradition of [moral] argumentation’<sup>124</sup> – and a conception of political values of citizenship for European societies. Here we are very close to the core of political liberalism: such a view can be formulated in a specific way within political liberalism. In Rawlsian terms, we could try to consider if within Islam (so conceived) there are adequate resources for achieving a full justification (*infra*) of the political conception that incorporates such political values. This is the method of reasoning from conjecture, which I analyse at length in the next chapter. If such resources are available in the Islamic tradition of argumentation, then a full justification is possible, and, consequently, a public justification can be obtained.<sup>125</sup> For this reason, I call this perspective *Islam-as-a-source-of-justification view*.

5- However, there could also be a fifth view. Such a view is usually overlooked in the literature concerning the issue of Muslims’ citizenship in liberal democracies. This is the point where I hope that my research can improve existing understanding of the issue analysed in this study. This perspective argues that we should focus our analysis on European Muslims’ modalities of participation in the process of public justification and on their attitude toward the ideal of public reason. Therefore, the problem could be conceived as follows. Politically

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<sup>123</sup> For example, Sadik Al-Azm, *L’illuminismo islamico*, 54. Bassam Tibi, *Euro-Islam*, notably 103, and Tariq Ramadan *Western Muslims and the Future of Islam* (New York: Oxford University Press, 2004), for instance 97.

<sup>124</sup> For this concept, see Andrew F. March, *Islam and Liberal Citizenship: The Search for an Overlapping Consensus* (New York: Oxford University Press: 2009), 8-9.

<sup>125</sup> For examples of this approach, see Joshua Cohen, “Minimalism About Human Rights: The Most We Can Hope For?” *Journal of Political Philosophy* **12**, no. 2 (2004), in particular 202-210, and Andrew F. March, *Islam and Liberal Citizenship*. Since a great part of the next chapter is devoted to conjecture, I do not analyse it further here.

speaking, the problem is neither Muslims citizens' socio-economic-historical conditions,<sup>126</sup> nor –directly– their relationships with their own tradition (even though, as I will explain in the next chapter, with regard to this dimension, political liberals may reason from conjecture, and Andrew F. March's work is a prominent example of this strategy). Rather, *the problem is that public discourses about the common terms of citizenship are largely mutually incomprehensible or even highly suspect, because so far the reconciling role that the idea of public reason can and should play in European societies* (for this, see 1.2 and 5.2.c) *has not been fully understood, theorised, and deployed*. In few words, *the problem concerns the idea of public reason in both its two fundamental and interrelated dimensions: as a common basis for public justification and as expressing common political values* (for this point, see in particular the introduction of the fourth chapter). Therefore, an unexplored problem concerns the relation between European Muslims and the idea of public reason.<sup>127</sup> In this research, I develop this fifth perspective, which I call *Muslims-as-citizens-participating-in-public-justification view*. Thus, *my main aim is to show and theorise the reconciling role that public reason can and should play in contemporary Western European societies*.

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<sup>126</sup> This point should be clear, since it is very important. As I have remarked, I am not saying that blatant injustices are acceptable or that the colonial past is morally irrelevant. Quite the contrary. Simply, I argue that these concerns are not the appropriate considerations for working out a political conception (which specifies the content of the idea of public reason) that should govern the basic structure of a democratic society. The ideal of citizenship should be worked out free from the constraints of such particular conditions. Only in this way could it serve as a *political* ideal. However, since such an ideal is part of a broader conception of justice, unjust conditions should be remediated according to the principles of justice embedded in the political conception. Moreover, in addition to those principles and the related 'values of political justice,' such as equality of opportunity, social equality and economic reciprocity (John Rawls, *Political Liberalism*, for instance 224), since the ideal of liberal citizenship expresses a duty of civility and an ideal civic friendship (ibid. for instance il, 217, 224, 253) which are based on the criterion of reciprocity and since such a criterion 'is normally violated whenever basic liberties are denied' (ibid. il), I think that such an ideal of citizenship has within itself powerful resources for acting against blatant injustices. After all, this is the overall purpose of all Rawls's work.

<sup>127</sup> I want to make it clear that this problem is *not* completely unexplored. Sebastiano Maffettone has prefigured a similar approach in his paper "From Liberal Multiculturalism to Multicultural Liberalism." Moreover, we discussed it countless times together. I am profoundly indebted to him for this idea, and I build on his arguments. Yet, my aim is to develop and examine in depth several important points that he just sketched out in that paper. In particular, I would like to consider some possible objections (in chapters one, two, three, and four) and draw –as far as possible– a complete account of the notion of public reason in the matter of Muslims' citizenship in European liberal democracies (chapters three, four, and five). Even more importantly, I would like to consider this idea from a methodological perspective (chapter two) and try to see how it may work (chapter six). In addition, note that I do not consider the question of whether it is possible to frame the idea of public reason within (some) Muslim majority societies. For this, see Raja Bahlul's attempt to define an 'Islam-based public reason, in analogy to Rawls's liberalism-based public reason' in "Toward an Islamic Conception of Democracy: Islam and the Notion of Public Reason," *Critique: Critical Middle Eastern Studies* 12, no.1 (2003), especially 46-49, 51, 56-59. See also Fevzi Bilgin's book *Political Liberalism in Muslim Societies* (Abingdon, Oxon and New York: Routledge, 2011), where he addresses the difficult question '[p]olitical liberalism offers a moral framework for divided societies [, b]ut to what extent could it apply to contexts other than the democratic West?', 46. For his answer, see chapters 4-6.

It should now be clear that I do not ask: Is Islam as such consistent with European liberal democracy?<sup>128</sup> Even if we assume (as I do) from the very beginning that something like an ideal-typical form of “European liberal democracy” could be normatively defined and we try (as I do) to frame this idea within the Rawlsian idea of a well-ordered society in which social unity is grounded in the public acceptance of a liberal political conception of justice,<sup>129</sup> such a question, I think, is misleading. I have already considered this point when I analysed the *Islam-as-an-unsolvable-problem view*. What does “Islam as such” actually mean? Moreover, political liberalism, the philosophical perspective that I adopt here, does not horn in on the

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<sup>128</sup> I take Nicholas Wolterstorff’s formulation as an initial and general definition of liberal democracy: liberal democracy is ‘that mode of governance that grants to all people within the territory of its governance *equal protection under law*, that grants to its citizens *equal freedom in law* to live out their lives as they see fit, and that requires of the state that it be *neutral* as among all the religious and comprehensive perspectives represented in society.’ Nicholas Wolterstorff, “The Role of Religion in Decision and Discussion of Political Issues,” in *Religion in the Public Square: The Place of Religious Convictions in Political Debate*, eds. Robert Audi and Nicholas Wolterstorff (Lanham, Md.: Rowman & Littlefield, 1997), 70, emphases added. Obviously this initial definition will be characterised in a specific way, on the basis of the Rawlsian interpretation of liberal democracy developed in this study.

<sup>129</sup> A well-ordered society is a society 1) ‘in which everyone accepts, and knows that everyone else accepts, the very same principle of justice,’ 2) its basic structure ‘is publicly known, or with good reason believed, to satisfy these principles,’ and 3) ‘its citizens have a normally effective sense of justice and so they generally comply with society’s basic institutions, which they regard as just.’ John Rawls, *Political Liberalism*, 35. The idea of a well-ordered society (35-43), along with the ‘conception of society as a fair system of cooperation over time’ (15-22), and the ‘political conception of the person as free and equal’ (29-35) are the three fundamental ideas of justice as fairness as a liberal political conception of justice. The latter is defined by two orders of features. It is a *liberal* conception if 1) it provides ‘a specification of certain rights, liberties and opportunities (of a kind familiar from democratic regimes),’ 2) it grants ‘a special priority for these freedoms,’ and 3) it adopts ‘measures assuring all citizens, whatever their social position, adequate all-purpose means to make intelligent and effective use of their liberties and opportunities.’ Ibid. xlv. It is a *political* liberal conception since 1) ‘[w]hile such a conception is, of course, a moral conception, it is a moral conception worked out for a specific kind of subject, namely, for political, social, and economic institutions. In particular, it applies to [...] the basic structure of society. [...] By the basic structure, I mean a society’s main political, social, and economic institutions, and how they fit together into one unified system of social cooperation from one generation to the next,’ 2) it is ‘presented as a freestanding view,’ that is ‘expounded apart from, or without reference to, any [wider comprehensive] background,’ and 3) ‘its content is expressed in terms of certain fundamental ideas seen as implicit in the public political culture of a democratic society.’ Ibid. 11-13. Then, as Joshua Cohen points out [“A More Democratic Liberalism,” *Michigan Law Review* 92, no. 6 (1994), 1522], Rawls defines a political conception as ‘autonomous from comprehensive conceptions of the good with respect to *scope*, *content*, and *justification*’ (emphases added). For the definition of comprehensive doctrines, see section 2.1. Finally, social unity is based on the following points. 1) ‘The basic structure of society is effectively regulated by one of a family of reasonable liberal conceptions of justice [...]’ 2) ‘All reasonable comprehensive doctrines in society endorse some member of this family of reasonable conceptions, and citizens affirming these doctrines are in an enduring majority with respect to those rejecting each of that family.’ And, 3) ‘[p]ublic political discussion, when constitutional essentials and matters of basic justice are at stake, are always, or nearly always, reasonably decidable on the basis of reasons specified by one of a family of reasonable liberal conceptions of justice’. John Rawls, *Political Liberalism*, xlvii-xlviii. As it will become clear (see in particular section 2.1 below), for Rawls ‘social unity is given by a stable overlapping consensus of reasonable comprehensive doctrines,’ ibid. 43, emphasis added.

debate surrounding comprehensive doctrines judging them true or false.<sup>130</sup> At most, one could say, political liberals can argue ‘from conjecture,’ that is, they can present good reasons from within a given comprehensive view for its members to endorse a liberal political conception of justice.<sup>131</sup> However, even in this case, the problem is not evaluating Islam *as such*. In reasoning from conjecture, one should openly state that she does not ‘assert the premises from which [she argues].’<sup>132</sup> Rather, the problem is evaluating *what logically follows* from those premises. Therefore, even in conjecture, political liberals do not deal with Islam “as such,” but with *Islamic arguments*.

Nevertheless, my purpose is not reasoning from conjecture. My central methodological claim is that, *along with conjecture, political liberalism may encompass another way to approach comprehensive doctrines without violating the boundaries of the ‘domain of the political.’*<sup>133</sup> In the following chapter, I will explain in detail the method that I adopt in my work. For the moment, let me define my study as an *inquiry into the relationships between European Muslims and the idea of public reason, where the latter is primarily understood as a normatively salient element of European democratic societies’ public political culture*<sup>134</sup> *and as an idea upon which we can structure a normative theory of European liberal citizenship*. The ideas of public reason and public political culture are expounded in chapter three. Here, I would like to point out that such an inquiry should be concerned with the problem of *how to conceive –from a philosophical and normative point of view– European Muslims as full members of European (political) liberal citizenries, committed to an ideal of public reason*

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<sup>130</sup> Ibid. for instance xix-xx and 94. I define comprehensive doctrines later.

<sup>131</sup> See section 2.2.b.

<sup>132</sup> John Rawls, “The Idea of Public Reason Revisited,” in *Political Liberalism*, 466. See *infra*.

<sup>133</sup> John Rawls, *Political Liberalism*, for instance, xviii, xxxviii, 11, and 38.

<sup>134</sup> Rawls assumes that the public political culture of a democratic society is characterised by three facts. 1) The fact of reasonable pluralism as ‘a permanent feature of the public culture of a democracy [since u]nder the political and social conditions secured by the basic rights and liberties of free institutions, a diversity of conflicting and irreconcilable –and, what’s more, reasonable– comprehensive doctrines will come about and persist.’ 2) The fact that ‘a continuing shared understanding on one comprehensive religious, philosophical, or moral doctrine can be maintained only by the oppressive use of state power.’ 3) The fact that ‘an enduring and secure democratic regime [...] must be willingly and freely supported by at least a substantial majority of its active citizens.’ Ibid. 36-38. Public political culture is a ‘shared fund of implicitly recognized basic ideas and principles.’ Ibid. 8. It ‘comprises the *political institutions of a democratic regime* and the *public traditions of their interpretation* [...], as well as historic texts and documents that are *common knowledge*.’ Ibid. 13-14, emphases added. See also 14, 25, 43, 175.

*that is rooted in European public political culture and specified by a Rawlsian political conception of citizenship, the core of which I assume to be composed of 1- the acceptance of (and respect for) the need for a public justification for the use of coercive political power so that the latter can be regarded as politically legitimate, and 2- a kernel of political values and virtues which derive from 1. (For this double dimension of public reason, see the introduction of chapter four).*

Consequently, *European Muslims* –and not “Islam as such”– are my referent. Below, just before concluding section 1.1.a.2, I will explain why I prefer talking about European Muslims rather than about a “European Islam.” Here, I must clarify how I use the expression “European Muslims.” I consider the latter in its twofold meaning, that is, both descriptively and normatively. Descriptively, then, European Muslims are, simply, “those Muslims who are citizens of European democratic societies,” regardless of their social and economic conditions, the duration of their stay in Europe, level of political participation, gender, age, and ethnic group (but with one qualification that I will explain later). All the subsequent cautions against essentialism apply here (see 1.1.b), but I would like to assert once again that I am not taking into consideration the case of Muslim citizens because I am persuaded that they are somehow *intrinsically* more problematic than “the others” (if this opposition makes any sense at all). In no way do I use the expression “European Muslims and liberal citizenship” to suggest that there is a tension or incompatibility between European citizenship and the fact of being Muslim. However, the aforementioned remarks support the idea that we should seriously consider the fact that the “compatibility” between being a Muslim and being a European citizen is often questioned and presented as problematic in public discourses (see 1.1.a.1). Coming back to the point, I wish to emphasise the fact that, since political liberalism mainly deals with ‘an idea of the politically reasonable addressed to *citizens as citizens*,’<sup>135</sup> and since the relevant relationship between members of society for elaborating the political conception of justice is the ‘political relation of citizenship,’<sup>136</sup> here I consider only Muslims as *citizens*. I do not consider other possible and more specific status (e.g., Muslims as legal/illegal immigrants, non-

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<sup>135</sup> John Rawls, “The Idea of Public Reason Revisited,” 441. Emphasis added.

<sup>136</sup> Ibid. 445.

citizen residents, members of a minority group,<sup>137</sup> and so on). Neither do I consider the question of European converts to Islam, nor the case of Muslim indigenous populations in Europe, for instance in Greece. Thus, when I refer to European Muslims, here I have in mind the case of *European citizens of Muslim faith* (I should also specify that I have mainly in mind Sunni Muslims, but only because the case study that I will consider in chapter six comes from the Sunni world) *and with an immigrant background* (I include in this definition not only first, but also second and third generations). The last specification is justified by the kind of considerations that I mentioned earlier: the critique of multiculturalism and the securitisation and externalisation of Islam in Europe apparently concerns mainly the “immigrant-who-became-Muslim,” to refer to Allievi’s definition. Indeed, these are great simplifications. However, since I am concerned with a (politically speaking) liberal theory of citizenship, such a simplification seems reasonable and consistent with the aim of this research, which, drawing on Rawls, focuses on the political relationship between cooperating members of society. Political liberalism –for its own purposes– *politically* defines the *person as* ‘someone who can be a *citizen*, that is, a normal and fully cooperating member of society over a complete life.’<sup>138</sup> The political relationship of citizenship is central for Rawls because it is on the basis of such a relationship that the ‘fundamental organizing idea of justice as fairness’ can be structured. Such an idea, as I have said, is that of ‘society as a fair system of cooperation over time, from one

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<sup>137</sup> For an interesting, pre-September 11<sup>th</sup> 2001 account of the rights of Muslims as an immigrant minority in Europe, see Joseph H. Carens and Melissa S. Williams, “Muslim Minorities in Liberal Democracies: The Politics of Misrecognition;” see in particular 163ff.

<sup>138</sup> John Rawls, *Political Liberalism*, 18, emphasis added. Rawls’s political liberalism openly tries to work out a political conception of justice for the basic structure of a ‘closed society,’ which is ‘self-contained’ and has ‘no relations with other societies. Its members enter it only by birth and leave it only by death. This allows us to speak of them as born into a society where they will lead a complete life.’ He is aware that this is ‘a considerable abstraction, justified only because it enables us to focus on certain main questions.’ Ibid. 12. However, he tried to broaden (with some adjustment) the scope of his theory by considering the relations between (liberal and non-liberal, with several distinctions) peoples in his 1993 essay “The Law of Peoples,” in John Rawls, *Collected Papers*, ed. Samuel Freeman (London – Cambridge, Mass.: Harvard University Press, 1999), 529-564, and in *The Law of Peoples*. Rawls’s assumption of a closed society and his conception of a ‘law of peoples’ have been criticised in different ways. I do not discuss this point here. For both, I just mention Bruce Ackerman’s critique in “Political Liberalisms,” in *Political Liberalism: Variations on a Theme*, ed. Shaun P. Young (Albany, NY: State University of New York Press, 2004), see 94-97. Also Onora O’Neill (“Political Liberalism and Public Reason: A Critical Notice of John Rawls, *Political Liberalism*,” *The Philosophical Review* **106**, no. 3 (1997), 419ff) criticises –from a Kantian perspective– Rawls’s abstraction (or, as O’Neill puts it, Rawls’s inadequate ‘idealization’) of a closed society. O’Neill maintains that Kant’s practical reasoning ‘does not assume that those who reason must share a political identity,’ and thus ‘differs from Rawls’s more Rousseauian conception, in which public reason is identified with citizens’ reason.’ Ibid. 423. She concludes that in ‘Kant’s eyes, a Rawlsian conception of public reason would not be fully public, nor therefore fully reasoned.’ Ibid. 424. For Kant’s account of public reasoning, see chapter two.



generation to the next.’<sup>139</sup> Notice that the possible objection that this descriptive use of the expression is very general and actually is not an adequate description is partially well-grounded. In fact, here I do not describe European Muslims in terms of their actual legal status, economic and social conditions, sex/gender/age profiles, or their actual participation in social institutions and political activities. Nor do I describe their actual individual religious identification(s), for I do not consider their different forms and degrees of religiosity and religious practice. How much do they effectively pray, go to the mosque, and fast? Are they Sunni or Shi‘is? Generally, the account provided in this study does not ask such questions and, thus, it cannot assist in answering them. However, the qualification that I mentioned before comes now to the fore. While I take for granted the idea that a more detailed description of European Muslims’ legal, social, economic, and political conditions is necessary for knowing who Muslims in Europe are today, I also think that the *ideal of citizenship* worked out in this research would not be affected too much by the introduction of those additional elements. Since such an ideal of citizenship embraces all the citizenry (Muslims and non-Muslims alike) as it *should* be, I believe that one may simply assume that an ideal of citizenship for European societies can include Muslim citizens even in the absence of a full sociological description of their present actual status. To be sure, I am perfectly aware that this assumption may be a “strong” one,<sup>140</sup> still I do not think that it jeopardises the results of a research that adopts Rawls’s political liberalism as its main reference. I must be clear on this point: I am not saying that these facts are not morally, socially, and politically important. Quite the contrary: they may represent the kind of political injustices that Rawls’s conception of justice strives to eliminate (or at least to reduce robustly). I will explain why public reason may equip citizens with standards for social criticism that allow them to cope with unjust economic or social inequalities or exclusion (see 1.2 and 5.2.c). Moreover, I do think that, by its very nature, any

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<sup>139</sup> John Rawls, *Political Liberalism*, 15.

<sup>140</sup> It may be a strong assumption because *in practice* there might be a (quite obvious) positive relation between one’s longstanding possession of the legal status of citizenship and one’s participation in the “European public political culture.” Above all, one might argue that if we neglect important socio-economic and historical factors, we risk perpetuating the ‘relationships of domination which tend to impose a reference framework’ on the ‘formation of identities of European Muslims’ [Jocelyne Cesari, “Muslim Identities in Europe: The Snare of Exceptionalism,” in *Islam in Europe: Diversity, Identity and Influence*, eds. Aziz Al-Azmeh and Effie Fokas (Cambridge: Cambridge University Press, 2007), 49]. This is a serious concern. However, it does not affect *per se* the normative arguments developed in this study. The fact that some Muslims *are more likely to share or actually share* European public political culture does not affect the problem of *why and how they should* share it, that is, the problem of justification. Moreover, in what follows, I explain that one of the main motivations of my work is precisely the need for a normative framework allowing citizens to problematise –and eventually overthrow– those ‘relationships of domination.’

conception of citizenship grounded in reciprocity and civic friendship (*infra*) is inclined to recognise the importance of knowing who one's fellow citizens are and how they live. And, by my interpretation, public reason citizenship is rooted precisely in political reciprocity. Along these lines, my work starts by denouncing actual discrimination and arbitrary inequalities and aims at drawing a normative ideal picture of citizenship in Europe in which there is no room for those arbitrary inequalities. However, the process through which we can reach a normative ideal of citizenship should not be concerned only with existing conditions. This is what distinguishes a 'critical' liberal perspective grounded in ideal consensus from a 'realist' liberal account centred on actual consensus, institutions, and preferences.<sup>141</sup> Following Rawls's critical liberalism, the idea is that theoretical priority should be granted to reasonably fair considerations (through a fair procedure of political construction) that everyone – independently from her contingent actual position in society – could accept, so that we can work out principles of justice whose “embodiment” in society's basic structure can eliminate (or at least reduce) political injustice. A general idea of justice as fairness is that, for an account of justice to be fair, it should not be grounded in contingent and (from the viewpoint of political justice) morally arbitrary features, endowments, and positions of a specific person.<sup>142</sup> A defining feature of Rawls's liberalism is the idea that, for an ideal of political justice to be justifiable to every citizen in society and to work toward removing political injustices, it should not be shaped by embedding existing injustices in the political conception of justice itself. What is important is the fact that each person can have the right kind of reasons for endorsing that account. Accordingly, as we shall see, the content of public reason is specified by a family of reasonable liberal conceptions of justice.<sup>143</sup> Among them, Rawls's conception is worked out in an original position in which nobody knows '[f]eatures relating to social position, native endowment, and historical accident,' since they are 'irrelevant, politically speaking, and hence placed behind the veil of ignorance.'<sup>144</sup> Thus, the political moral ideal of liber-

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<sup>141</sup> For the distinction between 'critical liberalism' and 'realist liberalism,' see Sebastiano Maffettone, "Liberalismo filosofico contemporaneo," in *Manuale di filosofia politica*, eds. Sebastiano Maffettone and Salvatore Veca (Rome: Donzelli, 1996), in particular 71-80.

<sup>142</sup> See, John Rawls, *A Theory of Justice*, original edition (Cambridge, Mass.: Harvard University Press, 1971) and revised edition (Cambridge, Mass.: Harvard University Press, 1999) [references to *A Theory of Justice* will be made in the following form: original edition/revised edition page numbers], for instance 100-108/86-93, 310-315/273-277.

<sup>143</sup> John Rawls, *Political Liberalism*, for example 213, 223-227.

<sup>144</sup> *Ibid.* 79.

al democratic citizenship specified by public reason is *not* worked out *on the basis of* such considerations. Therefore, my previous assumption (“an ideal of citizenship for European societies can include Muslim citizens even in the absence of a full sociological description of their present actual status”) is not *too* strong. Later on (see 1.1.b), I will take into consideration two possible objections (that I will call respectively O1.3 and O1.2): the first concerning the empirical-normative dimension of the problem that I am analysing, and the second related to the (alleged) lack of an exhaustive account of power.

These remarks lead me to the second –normative– use of the expression European Muslims. In this sense, the expression expresses “how a Muslim *should* conceive her *political* rights, obligations, and values and be committed to an ideal of democratic citizenship *as a European citizen*.” In this work, such an ideal is specified by public reason, which expresses a ‘criterion of reciprocity.’ The latter, in turn, specifies ‘the nature of the political relation in a constitutional democratic regime as one of civic friendship.’<sup>145</sup> Thus, on a normative level, the question is to see how a citizen who sincerely professes her Muslim faith can endorse this common political ideal. Again, I am not assuming that Muslims’ endorsement of such an ideal is (by definition) peculiarly difficult or problematic. I am just assuming that, since the issue of Muslims’ loyalty to liberal terms of citizenship has been raised and questioned from different perspectives, a normative reflection about how this endorsement should be understood is part of the tasks of contemporary political philosophy. Again, finally, the normative horizon of this research is one of political reconciliation in democracies in which citizens recognise

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<sup>145</sup> John Rawls, “The Idea of Public Reason Revisited,” 447.

that the ‘fact of reasonable pluralism limits what is practicably possible under the conditions of our social world.’<sup>146</sup>

In this work, therefore, I do not use the term citizenship in a legal sense. In this study, citizenship is defined as the political relation specifying the mutual rights and obligations of persons who share that relation in a democratic society. Since ‘citizenship is a social role,’<sup>147</sup> it imposes on persons ‘role-specific’<sup>148</sup> (or ‘role-mediated’)<sup>149</sup> obligations: we have certain mutual obligations precisely because we share the political relation of citizenship. Some of these obligations have a specifically moral and political character. Each conception of citizenship qualifies the nature of the political relation. The former, in turn, is specified starting from several assumptions concerning the characterisation of society and persons and it is justified in a specific way. I consider some of those assumptions and the procedure of justification peculiar to *Political Liberalism* in chapter two. In this work, then, I am exclusively concerned with a

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<sup>146</sup> John Rawls, *Justice as Fairness: A Restatement*, edited by Erin Kelly (Cambridge, Mass.: Harvard University Press, 2001), 4. In this sense, political philosophy is ‘realistically utopian,’ since it ‘prob[es] the limits of practicable political possibility.’ The crucial question is ‘[w]hat would a just democratic society be like under *reasonably favourable but still historical conditions* [...]?’ What ideals and principles would such a society try to realize *given the circumstances of justice in a democratic culture as we know them?*’ Among those circumstances of justice that we can find in our democratic public political culture, there is the ‘fact of reasonable pluralism,’ a circumstance that arises when reason is exercised under free institutions (for all this, see *infra*). This circumstance imposes limits on what is politically practicable in a democratic society. With reference to the ‘role of reconciliation’ of political philosophy (ibid. 3-4), Rawls specifies that, because of the fact of reasonable pluralism, ‘a democratic society is not and cannot be a community, where by a community I mean a body of persons united in affirming the same comprehensive [...] doctrine.’ Nor, as we will see, for the specific kind of reason (namely, public reason) that characterises it, a political society can be understood as an association (ibid. 94). Associations (e.g. churches, universities, clubs, and so on), in fact, are characterised by non-public reasons, and their authority is freely accepted. Rawls specifies: ‘I do not claim that we [recognise a non-public authority] by an act of free choice, as it were, apart from all prior loyalty and commitments, attachments and affections. I mean that, as free and equal citizens, whether we affirm [a comprehensive view] is regarded as within our political competence as specified by the basic constitutional rights and liberties’ (93). On the contrary, since emigration is the only way to “back out” of a political society and since it is usually a very expensive step in terms of one’s own identity, attachments, and historical, social, linguistic and cultural references, Rawls’s concludes that ‘the right of emigration [...] does not suffice to make accepting [public] authority free, politically speaking, in the way that liberty of conscience suffices to make accepting ecclesiastical authority free, politically speaking’ (94). Finally he concludes the distinction between society, associations, and communities by saying that, within a political society, associations ‘can be communities united on a shared final ends; indeed this is essential: *were it not the case social life would lose its point*’ (94, emphasis added). On the idea that a ‘well-ordered society is neither a community nor, more generally, an association,’ see also *Political Liberalism*, 40-43. Here he importantly adds: ‘a zeal for the whole truth tempts us to a broader and deeper unity that cannot be justified by public reason,’ and, later, that in a well-ordered society the ‘nature of social unity is given by a stable overlapping consensus,’ 42-43.

<sup>147</sup> Paul J. Weithman, *Religion and the Obligations of Citizenship* (Cambridge and New York: Cambridge University Press, 2002), 13.

<sup>148</sup> Ibid.

<sup>149</sup> James W. Boettcher, “The Moral Status of Public Reason,” *The Journal of Political Philosophy* **20**, no. 2 (2012), 166.

*liberal normative conception of citizenship*, that is, how a (conscientious) liberal citizen should conceive of her political relation with fellow citizens. In *Political Liberalism* (and in “The Idea of Public Reason Revisited”), conscientious citizens try to behave in accordance with *a member of the family of* liberal political conceptions of justice (see chapter three). Together, the members of the family of liberal political conceptions specify the content of public reason. The latter, in turn, represents ‘an ideal conception of citizenship for a constitutional democratic regime, it presents how things might be, taking people as a just and well-ordered society would encourage them to be.’<sup>150</sup> Thus, public reason (as a conception of citizenship) qualifies the political relation of citizenship in a specific liberal political way. Thus, the requirements of public reason can be understood as expressing the obligations that are appropriate for conscientious liberal citizens. That is, as appropriate requirements for persons who jointly affirm a liberal conception of citizenship grounded in public reason and in political reciprocity.<sup>151</sup> In my work, then, *liberal citizenship* can be read as *public reason citizenship*. Therefore, here liberal citizenship is defined as the political relation specifying the mutual rights and obligations of citizens of a democratic society who affirm the ideal of public reason as the normative standard in their public political lives. Indeed, in this definition many elements must be further developed (e.g. the scope of the expression “public political lives”). Chapters two, three, and four will secure what is needed to this end.

A final remark that connects my descriptive and normative use of the expression “European Muslims” [and may anticipate my reply to the objections concerning the notion of power and the normative emphasis in this research (1.1.b, O1.2 and O1.3)] refers to the fact that Rawls himself is aware of the risk of bypassing the struggle against existing injustices using as an excuse one’s exclusive concern with the elaboration of a normative ideal. He unambiguously asserts that a normative approach cannot ignore –and be insensitive to– an unjust status quo. Political philosophy cannot justify social, political, and economic injustices by silently taking them for granted and building over them an ideological apparatus that ends up – overtly or implicitly– making them more or less acceptable. Such blindness would amount to

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<sup>150</sup> John Rawls, *Political Liberalism*, 213. For the relevance of such an ideal in societies which are not well-ordered, see chapter five.

<sup>151</sup> For a thorough investigation of the moral character of the requirements of public reason, see James W. Boettcher, “The Moral Status of Public Reason.” According to Boettcher, ‘requirements of public reason are *role*-mediated obligations [...] based on the moral duty of mutual respect.’ Ibid. 166. Here, it is not possible to explore this question in further details.

guilty connivance, because it would understand the role of reconciliation of political philosophy in the wrong way. In fact, Rawls writes:

‘The idea of political philosophy as reconciliation must be invoked with care. For political philosophy is always in danger of being used corruptly as a defense of an unjust and unworthy status quo, and thus of being ideological in Marx’s sense. From time to time we must ask whether justice as fairness, or any other view, is ideological in this way; and if not, why not? Are the very basic ideas it uses ideological? How can we show they are not?’<sup>152</sup>

Still, he does not dismiss his project, being persuaded of its worthiness:

‘We must start with the assumption that a reasonably just political society is possible, and for it to be possible, human beings must have a moral nature, not of course a perfect such nature, yet one that can understand, act on, and be sufficiently moved by a reasonable political conception of right and justice to support a society guided by its ideals and principles. [...] The focus on these questions no doubt explains in part what seems to many readers the abstract and unworldly character of [*A Theory of Justice and Political Liberalism*]. I do not apologize for that.’<sup>153</sup>

This is the core of Rawls’s political ‘critical liberalism’ (*supra*) which, as we will see, tries to reconcile ideal political consensus and reasonable pluralism through the ideas of an overlapping consensus and of wide public reason (see chapters two, three, and four). Elsewhere, with an unusual but sincere emphatic tone, Rawls adds:

‘We try to show that the well-ordered society of justice as fairness is indeed possible according to our nature and [the requirements of workable political institutions]. This endeavor belongs to political philosophy as reconciliation; for seeing that the conditions of a social world at least allow for that possibility affects our view of the world itself and our attitude toward it. No longer need it seem hopelessly hostile, a world in which the will to dominate and oppressive cruelties,

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<sup>152</sup> John Rawls, *Justice as Fairness: A Restatement*, 4 note 4.

<sup>153</sup> John Rawls, *Political Liberalism*, lx.

abetted by prejudice and folly, must inevitably prevail. None of this may ease our loss, situated as we may be in a corrupt society. But we may reflect that the world is not in itself inhospitable to political justice and its good. Our social world might have been different and there is hope for those at another time and place.’<sup>154</sup>

I will return to these points later. In particular, in 2.1 I will show how Rawls tries to reconcile justificatory consensus and reasonable pluralism through the idea of an overlapping consensus, whilst in 5.2.c I will explain how wide public reason works toward political reconciliation.

Always with reference to the normative dimension of my investigation, an important clarification is in order. If I have said the scope of my analysis is limited to Western European societies, I must also emphasise the fact that my approach is not comparative. Rather, as I have just mentioned, it is normative and situated at a high level of theoretical abstraction. I do not consider the question of citizenship in the European Union: my only remarks on this topic are admittedly provisional and concise, and they can be found in chapter five. Nor do I consider specific models of citizenship as they have been historically experienced in different countries in Western Europe such as France, Germany or the UK. In other words, this study does not present a comparative analysis of national models of citizenship in Europe<sup>155</sup> or of the ways in which they deal with Muslims.<sup>156</sup> Instead, I adopt the perspective of normative political philosophy. From this viewpoint, I consider some *ideal* models of citizenship. In particular, I try to demonstrate that the model that I defend (public reason citizenship) is normatively more appealing and adequate to the resolution of the question that I am analysing if compared with alternative philosophical conceptions of citizenship. (For reasons that I will explain further on, I will take into account liberal multiculturalism and critical republicanism, see 1.2.a and 5.2.b).

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<sup>154</sup> John Rawls, *Justice as Fairness: A Restatement*, 37-38.

<sup>155</sup> For an outstanding example of this kind of analysis, see Rogers Brubaker, *Citizenship and Nationhood in France and Germany* (Cambridge, Mass.: Harvard University Press, 1992).

<sup>156</sup> See for instance Joel S. Fetzer and J. Christopher Soper, *Muslims and the State in Britain, France, and Germany* (Cambridge and New York: Cambridge University Press, 2005). For a comprehensive overview of the different and changing realities concerning Muslim citizens, groups, and communities around Europe, see *The Oxford Handbook of European Islam* (Oxford: Oxford University Press, 2015), edited by Jocelyne Cesari.

I am aware that my project may engender several objections even at this introductory stage. I want now to consider a powerful general objection (GO) to my research. Moreover, in the next section (1.1.b) I will consider three other possible arguments against the proposed way of framing the question that I am analysing (objections O1.1, O1.2, and O1.3). Finally, in the next chapter, after having explained my method by means of comparison with an alternative method of reasoning within the framework of political liberalism which deals with a similar but different issue (namely, “what resources does Islam provide for the full justification<sup>157</sup> of a liberal conception?”), my hope is that my approach will be clear enough to counter other and more detailed objections (see 2.3 for objections O2.1, O2.2, O2.3, O2.4, and O2.5).

(GO) Let me consider a very serious argument against my research project. It asks why we should assume that Muslims are intrinsically more problematic than other religious groups from the perspective of liberal democracy. Since there is no evidence that Muslim citizens’ attitude toward common terms of liberal citizenship is more challenging than for other religious citizens (in fact, some empirical research shows the opposite trend),<sup>158</sup> this study would tacitly stand on the artificial construction of its own problem. The latter would be the alleged particularly difficult relation between Muslims and European democratic systems. I call this claim the *artificially-constructed-problem* objection. I think that this concern is important and worthy of consideration. The only way to expel it lies in explaining why and how I take into account the case of Muslim citizens in European democratic societies. The “how” will be explained in the next chapter. Concerning the “why,” I do *not* assume that Muslims are intrinsically *more* problematic than citizens of faith belonging to other religious traditions. Nor do I assume that Islam is more inconsistent with liberal democracy than other religions. As I said at the beginning, this research is not concerned with such quasi-ontological considerations (“Islam in itself is...,” “by definition, Muslims are...”). Rather, the relevant problem is on a different level: the political level. Politics always involves some form of relationship. Then, by saying that the problem is political, I mean that we should consider its relational dimension. Put differently, there are two possible replies to the previous objection. Firstly, I do not need to suppose that European Muslims *are* effectively *more* problematic than other religious groups. The literature considered at the beginning of this chapter shows that a problem does

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<sup>157</sup> *Infra*.

<sup>158</sup> For example, some surveys found that Muslims in Paris, Berlin, and London are more supportive of democratic institutions (e.g. elections and the judicial system) than non-Muslims. See Jytte Klausen, *The Islamic Challenge*, viii.



exist in European societies' public perceptions, speeches, and real life. These latter (and not Islam or Muslims *per se*) constitute the background problem of my work. Starting from this background problem, I specify my research problem (1.2.a) and questions (1.2.b). Thus, such a problem could simply be considered as my case study and it would not be any more "constructed" than other political phenomena that political scientists, political philosophers, historians, and sociologists usually investigate (this is a broad question that I do not address here). I believe that this is a legitimate answer. Nonetheless, a second and more illuminating reply to GO is possible. It refers to the meaning and purpose of my analysis. The latter aims to disclose the dimension that is actually at stake when we *talk about* Muslims in Europe *as a problem*. As I have just said, these perceptions and discourses concern the political dimension. In few words, this research could help to understand where the problem lies (to state on which sphere –the political one– our perceptions, experiences, thoughts, discourses, and claims about the so-called "Muslim problem" impact) and how to deal with it (through procedures of public justification and a shared commitment to common political values). To avoid any misunderstanding, let me repeat very clearly that I am *not* saying that Muslims *are* a problem. I am not claiming that we should look at them as *essentially* problematic (implying that we should assume that differences between them would be less important than their common problematic "*Muslim essence*"), nor am I propose a single solution for that alleged quasi-ontological "Muslim problem." For the moment, in this section 1.1.a, I am just saying that Islam is often *presented* as a problem in European public discourses. Therefore, my theoretical concern is with answering to these perceptions and to their practical consequences from a normative perspective. Only in 1.2.a will I analyse the roots of such perceptions and extract a detailed account of my research problem from this background problem. Moreover, as I will explain in the second chapter, my approach openly denies the possibility of a theoretical analysis of *the* European Muslim approach to the issue of citizenship. Doing so would amount to an essentialist and simplistic understanding of the varied reality of Muslims (as individuals, associations, groups, communities, as well as their religious, political, and philosophical trends) in contemporary Europe. For this reason, I introduce a methodological principle according to which, without dismissing the analytically useful concept of a "European Muslim perspective," the best we can hope for is to consider *a plausible* European Muslim approach. That is, *a* Muslim approach among others in Europe, which we can plausibly define as a European Muslim approach because it is widely accepted by Muslims citizens in Europe. In these terms, I think, the objection GO is much less paralysing. Finally, if one does not assume

that Muslims are *more* problematic than other religious citizens, then it becomes possible to shift the burden of proof. The latter falls on those who affirm that with Muslim citizens there is no problem at all in Europe, and that they are not only fully “integrated” within the political system, but also publicly recognised, presented, and perceived as fully integrated and cooperating members of society. Not does only the analysis in 1.1.a.1 show that such recognition, presentation, and perception is absent, but a similar expectation of “natural” consistency between citizens’ religious beliefs and their political status as citizens (in terms of their political liberties, rights and duties) would starkly contrast with the historical experience concerning citizens of faith belonging to other religious groups. In fact, the Rawlsian perspective adopted in this research treats citizens of different religions fairly because ‘it does not single out Islam for special treatment. Rawls presumes *all* reasonable citizens undertake the task of reconciling their comprehensive views with those of public reason.’<sup>159</sup> If one can investigate the level of political reconciliation attained with and through the idea of public reason by *every* citizen (of whatever religion or philosophical conviction), then there is no point in targeting Islam and Muslims as particularly problematic. In themselves, *they are not* more problematic than any other religion or group of religious citizens from the angle of democratic citizenship. However, the point is that in contemporary Europe *they are* too often publicly presented and represented as particularly problematic. This work –adopting the viewpoint of public reason– tries to show that they are not.

Moreover, as I will explain in 1.1.b, I am aware that there is a thin red line between the kind of considerations developed here, and the kind of arguments derived from an essentialist approach that establishes an opposition between “European liberal democratic citizens” and “Muslims,” perhaps with a tacit underlying “we” vs. “you” logic, in which the essence of the two subjects is homogeneously pre-established. *I consider the respect of that red line of capital importance.* The essentialist approach is precisely what the argument developed here tries to eradicate –or at least to contain significantly, in order to establish more reciprocally respectful relationships. In 1.1.b I explain the fundamentally different motivations which distinguish my approach from an essentialist account of the “Europeans” vs. “Muslims” kind, which I find simply nonsense. Moreover, as I have mentioned, in the second chapter I adopt a

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<sup>159</sup> Mohammad Fadel, “The True, the Good, and the Reasonable: The Theological and Ethical Roots of Public Reason in Islamic Law,” *Canadian Journal of Law and Jurisprudence* 21, no. 1 (2008), 5-69. Available at URL [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1085347##](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1085347##). References are to the version available online: the previous quotation is from page 9. Emphasis added.

methodological principle whose main purpose is to avoid essentialism without dismissing the possibility of analysing *a plausible* (not *the*) European Muslim perspective on the issue of citizenship. In the text, I have tried to avoid any possible cause of misinterpretation. However, for editorial reasons, in more advanced stages of the work I have used shorter expressions (such as “European Muslim approach” *tout court*). So, let me state from the very beginning a general principle for interpreting this research: *nothing in this study aims to reduce the rich, complex, and diverse reality of Muslims’ presence in Europe to a single, unified and perennial “essence,” nor to reduce the relationships between Muslims (in their diversities) and non-Muslims (in their diversities) to a mere theoretical and problematic core. Moreover, there is no binary opposition: I am persuaded that no theory can exhaustively account for the richness and complexity of human life, interactions, and relationships in their varied and changing manifestations.* I hope that this initial remark will clarify and amend possible ambiguities.

As I previously mentioned, now I must return to the five perspectives mentioned above (see the beginning of this section), in order to clarify a question that I have not yet touched upon. One should notice that those perspectives deal with Islam, Muslims, or both. It is noteworthy that the choice and use of these concepts seems to be particularly relevant in the first view, for the shift from a criticism of Islam to a criticism of Muslims in general is grounded in the (*con*)fusion of these two terms. Moreover, as I have remarked, the fourth view is mainly concerned with Islam as a tradition of moral argumentation and as a source of justification. The third view tries to critically assess the relationship between Islam as a tradition in a broader cultural sense and Muslims as believers and historically situated interpreters of that tradition. The second view principally focuses on Muslims as a minority, as individuals, and as social and political actors, but I have also observed that, so constructed, this category is too extensive to draw meaningful conclusions beyond what I said at the preliminary stage of this study. However, one can observe that the fifth perspective refers to *European Muslims* and not to *European Islam*. I do not want to over-emphasise such a distinction: this would be neither useful nor in line with my aims. Notwithstanding this, I did after all begin by saying that “Islam makes problem:” therefore, apparently the first empirical insight of my research referred to Islam and no preference for the expression European Islam or European Muslims was invoked there. So, one might ask why I refer now to European Muslims rather than to Eu-

ropean Islam. All things considered, is it not true that ‘Islam is what Muslims do with it’<sup>160</sup>? Moreover, sociology does use the expression ‘European Islam,’<sup>161</sup> so why does this study opt for the expression European Muslims? While the use of the former may be justified in sociological analyses as referring to the phenomenon of Islam as being in, belonging to, and/or adapting to Europe,<sup>162</sup> when we shift to a *normative* level I think that the latter is the most appropriate.<sup>163</sup> Firstly, one can observe that some references to a ‘Euro-Islam’ in a normative

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<sup>160</sup> Bassam Tibi, *Euro-Islam*, 103. My translation.

<sup>161</sup> See, for instance, Stefano Allievi “How the Immigrant has Become Muslim: Public Debates on Islam in Europe,” 8-9 and “Conflicts over Mosques in Europe: Policy Issues and Trends,” 11. See also Felice Dassetto, “Discours, sociétés et individus dans l’islam européen,” *passim*.

<sup>162</sup> In this sense, Islam may be considered European since: 1) Islam ‘has become the second religious presence in Europe [...] a presence that can be considered *definitive and irreversible*,’ 2) European converts and second and third generation of Muslims ‘can call themselves European to all effects, and represent [...] the first real autochthonous European Islam (often [...] also “citizen” to all effects, and so endowed with full rights).’ Stefano Allievi “How the Immigrant has Become Muslim: Public Debates on Islam in Europe,” 8-9. These considerations seemingly justify the reference to a new sociological “kind” of the phenomenon “Islam.” Allievi (“Conflicts over Mosques in Europe: Policy Issues and Trends,” 10-11) draws a five-stage history of the ‘approximation’ between Europe and Islam. The first stage (‘Islam and Europe’) was marked by conflict and it was also the longest-lasting (‘lasting for at least the first ten centuries of Islam’). The second phase (‘Europe in Islam’) was characterised by European colonial power. The third stage (‘Islam in Europe’) began with the arrival of the first Muslim immigrants, mainly between the aftermath of the Second World War and the 1960s-1970s. In the fourth phase (‘Islam of Europe’), we observe ‘a gradual process of insertion, manifested in the processes of integration –initially in the workplace, then in a social and sometimes political context– and of generational transition. Together, these contribute to the formation of a middle class and an intelligentsia of Islamic origin: one that still has relations with the countries of origin, but which does not come from outside, and is born and socialized in Europe.’ The fifth phase would produce a ‘genuine European Islam, with its own pronounced identity,’ resulting from ‘a gradual and substantial process of “citizenization” of Muslims residing in Europe.’ However, Allievi recognises that ‘most Europeans countries find themselves somewhere between the third and fourth phases.’

<sup>163</sup> Interestingly enough, we can observe that, when the focus shifts from sociology to religious studies and history of religions, the terminology shifts as well. So, for instance, in the book edited by Felice Dassetto *Paroles d’islam: Individus, sociétés et discours dans l’islam européen contemporain / Islamic Words: Individuals, Societies and Discourses in Contemporary European Islam*, the contribution about the normative aspect of Islam deals with *Islam in Europe*, not with European Islam. For this contribution: Jacques Waardenburg, “Normative Islam in Europe,” 49-68. The reason can be understood in the light of the first argument I mention below.

sense have been persuasively criticised.<sup>164</sup> Secondly, I would like to add four arguments that justify the preference for the expression “European Muslims.”

1) *Religious internal coherence and unity argument.* From the viewpoint of a pious Muslim believer, Islam is a single, unitary religion. Despite the obvious existence of different religious practices and identities (related to the above-mentioned differences in social, political, and historical contexts and traditions), each believer understands Islam –as her own religion– as a single and unique one. Islam is a strictly monotheistic religion and the principle of *tawhīd* (the oneness and uniqueness of God, affirmed in the *shahāda*, the testimony of faith) profoundly shapes it, not only in the sense that it professes that there is only one God, but also in the sense that such uniqueness permeates every aspect of the religious.<sup>165</sup> Again, this is not to say that such a principle has not been debated or that Islam has been historically immutable or en-

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<sup>164</sup> See, for instance, Jocelyne Cesari, “Islamophobia in the West,” 35: ‘Bassam Tibi [...] launched the term *Euro-Islam* [...] to express an understanding of Islam in a “European culture of reference” (Leitkultur). Although Tibi does not himself promote essentialist visions of Islam, his ideas about the incompatibility of Islam and Europe contribute to an understanding of Islam as foreign and dangerous.’ See also Jørgen Nielsen’s criticism of Tibi’s notion of Euro-Islam, in “The Question of Euro-Islam: Restriction or Opportunity?” in *Islam in Europe: Diversity, Identity and Influence*, eds. Aziz Al-Azmeh and Effie Fokas, 34-48 (Cambridge: Cambridge University Press, 2007). Nielsen argues that Tibi’s approach is deeply problematic, firstly because, ‘[d]espite the assertion that both sides [Europeans and Muslims] need to move, there is precious little discussion of how Europe is supposed to move, other than by encouraging change in the right direction by Muslims.’ Moreover, Muslims are expected to ‘meet European standards which Europeans themselves have often not met. The expectation of religious tolerance is one which is blind to the continuing national and ethnic intolerance which remains endemic in European culture and continues to find expression in national legislation and policies.’ Finally, ‘the implication that the European religious scene is one which acknowledges the equality of esteem of all religions in the public space is also open to question, especially in countries where some churches hold privileged positions in relation to the state and the taxpayer.’ Ibid. 36. Nielsen comes to the conclusion that, since ‘[t]here is more than one way of being a European when it comes to cultural and religious practice and identity,’ then there ‘are necessarily more ways than one for Muslims to become Europeans.’ He argues that such a notion of Euro-Islam ‘becomes restrictive [, since t]oo quickly and easily it shifts subtly from being a description of the complicated process of integration which Muslims of immigrant origin are passing through, to becoming a prescription which implies a dichotomy between “good” and “bad” Muslims, a dichotomy which is particularly dangerous at a time when Islam in the public space is too facily viewed from the perspective of public security.’ Ibid. 37. At the end of his essay, Nielsen argues in favour of other conceptions of the ways in which Muslims can rethink their being Muslim in Europe. Among those promising approaches, he mentions Tariq Ramadan (ibid. 45). However, for the sake of argument, here I just retain his points against Tibi’s Euro-Islam. Note, however, that Nielsen’s arguments may be equally directed against some uses of the label “European Muslims.” So, this cannot be the ground for my normative preference for the latter. However, I do think that the considerations I will develop in this chapter and in the following one would mitigate Nielsen’s concerns about the possibility that my use of the expression “European Muslims” may hide ‘a prescription which implies a dichotomy between “good” and “bad” Muslims.’

<sup>165</sup> See, for instance, Alessandro Bausani, *L’Islam: Una religione, un’etica, una prassi politica* (Milan: Garzanti, 1999), 19 and 43. Massimo Campanini, *Islam e politica*, new edition (Bologna: Il Mulino, 2003), 50-51. Sabrina Mervin, *L’Islam: Fondamenti e dottrine*, edited by Bruna Soravia (Milan: Bruno Mondadori, 2004) [Original edition: *Histoire de l’islam. Fondaments et doctrines*. Paris: Flammarion, 2000], 5 and 55. Alberto Ventura, “L’islām sunnita nel periodo classico (VII-XVI secolo),” in *Islam*, ed. Giovanni Filoramo, Economica Laterza edition (Rome and Bari: Laterza, 2007), 120-121.

tirely coherent.<sup>166</sup> However, the oneness and uniqueness of God and, consequently, of His religion is a fundamental pillar of Islam. Therefore, normative political theory should seriously take into account the fact that it is very likely that a believer would perceive her faith as a commitment to Islam *tout court*, and not to a Europe-based “tailored” Islam. For instance, Tariq Ramadan claims that his reformism must be understood as an effort to revitalise the original dynamism of the universal message of Islam, which must always be put in its context, and not to create a new “branch” of Islam: he argues that ‘[t]he point is not to create a new Islam but to reconnect Islam with its original dynamism, creativity, and confidence, which enabled the faithful to observe and integrate positively all that was good and positive in the cultures they encountered.’<sup>167</sup> Thus, *pace* Tibi, normatively speaking the presumption should be that, while many (how many is a question that normative political theory alone is unable to answer) Muslims could accept to define themselves “European Muslims,” very few would a priori define their faith as a “European Islam.” We should not assume that Muslims in Europe are currently revising (or should revise) the fundamentals of their religion in order to work out a new or different Islam.<sup>168</sup> By choosing the expression “European Muslims,” then, my first aim is to avoid the risk of “forcing” Muslims to redefine their own faith (by means of an adjective) as a necessary condition for honouring the normative terms of citizenship.

2) *Political liberalism coherence argument.* As I have said and I will explain later, political liberalism does not horn in on the issue of comprehensive doctrines, since ‘it is constrained by

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<sup>166</sup> For example, for some considerations about Mu’tazila’s doctrinal formulation of the *internal* unity and singleness of God, see my previous work “Oltre un illuminismo islamico,” 70 and 74-76 and Ida Zilio-Grandi, “Temî e figure dell’apologia musulmana (*‘ilm al kalam*) in relazione al sorgere e allo sviluppo della *falsafa*,” in *Storia della filosofia nell’Islam medievale* 1, ed. Cristina D’Ancona (Turin: Einaudi, 2005), in particular 145. For additional bibliography on this subject, see the contributions mentioned in my work.

<sup>167</sup> The full passage reads as follows: ‘[w]e are witnessing the birth of a Western Islamic culture within which Muslims remain faithful to fundamental religious principles while owning up to their Western cultures. They are both fully Muslim as to religion and fully Western as to culture, and that is no problem at all. The point is not to create a new Islam but to reconnect Islam with its original dynamism, creativity, and confidence, which enabled the faithful to observe and integrate positively all that was good and positive in the cultures they encountered while remaining critical and selective when those cultures could result in insularity, in questionable behavior and usage, or in systematic discrimination.’ *What I Believe*, 42-43.

<sup>168</sup> As Bhikhu Parekh puts it (and Andrew March appropriately reminds in *Islam and Liberal Citizenship*, 76): ‘[m]any of these cultural communities are not averse to self-criticism and change, but they do so in a spirit of humility rather than self-creation, and in terms of the central values and principles of their culture rather than some allegedly transcultural norms autonomously derived by an unanchored and self-sufficient reason.’ Bhikhu Parekh, *Rethinking Multiculturalism: Cultural Diversity and Political Theory*, 2<sup>nd</sup> ed. (Basingstoke and New York: Palgrave Macmillan, 2006), 107.

its own agnosticism about the nature and truth of comprehensive doctrines.’<sup>169</sup> In Rawls’s view, since a political conception of justice must be ‘freestanding,’<sup>170</sup> ‘[i]t does not provide a specific religious, metaphysical, or epistemological doctrine beyond what is implied by the political conception.’<sup>171</sup> However, as Larmore states it, ‘[a]lthough the moral basis of liberalism must be minimal, it cannot be trivial.’<sup>172</sup> Political liberalism is a ‘minimal moral conception;’<sup>173</sup> that is, a moral conception limited to the domain of the political. Let me add—in a provisional form—an important point, which I will explore in chapters two and three. In this study, I provide an interpretation of (wide) public reason which mainly focuses on its ideal and moral (rather than strictly epistemological, formalistic, or institutional) dimension. This interpretation seems the most fitting with Rawls’s ideas of reasonableness and public reason. For example, in *Political Liberalism* Rawls says: ‘[o]bserve that here being reasonable is not an epistemological idea (though it has epistemological elements). Rather, it is part of a *political ideal of democratic citizenship that includes the idea of public reason. The content of this ideal includes what free and equal citizens as reasonable can require of each other* with re-

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<sup>169</sup> Micah Schwartzman, “The Ethics of Reasoning from Conjecture,” *Journal of Moral Philosophy* **9**, no. 4 (2012), 523.

<sup>170</sup> John Rawls, *Political Liberalism*, see, for example, 10, 12, 24-25 note 27, 133, and 144.

<sup>171</sup> Ibid. 144 (see also 10). For an influential critique see Joseph Raz, “Facing Diversity: The Case of Epistemic Abstinence,” *Philosophy and Public Affairs* **19**, no. 1 (1990), in particular 14-15, 18-20, and 22-24.

<sup>172</sup> Charles Larmore, “Political Liberalism,” in *Political Liberalism: Variations on a Theme*, 63.

<sup>173</sup> Ibid. 57. While I do not discuss the moral foundations of political liberalism here, one clarification is in order. Larmore argues that ‘political liberalism is to be understood as a correct moral conception and not just as an object of consensus.’ Ibid. 70. The correctness of political liberalism as a moral conception stems, according to Larmore, from its moral justification, which is based on the two moral norms of rational dialogue and equal respect (ibid. 58, 63-65). In Larmore’s understanding, the idea of an overlapping consensus is morally grounded in something like his ‘norm of equal respect.’ In fact, Rawls affirms that ‘*justification* is addressed to others who disagree with us, and therefore it *must always proceed from some consensus*, that is, from premises that we and others publicly recognize as true; or better, publicly recognize as acceptable to us for the purpose of establishing a working agreement on the fundamental questions of political justice. It goes without saying that *this agreement must be informed and uncoerced, and reached by citizens in ways consistent with their being viewed as free and equal persons.*’ John Rawls, “Justice as Fairness: Political not Metaphysical,” in John Rawls, *Collected Papers*, 394, emphases added. Thus, Larmore contends that the norm of equal respect ‘serves to define the sort of consensus that, for [Rawls] counts as a legitimate basis for political principles. This norm is therefore assumed to be correct and not merely agreed on,’ and he concludes that Rawls should make clear this moral foundation of political liberalism more resolutely (‘Rawls should be more explicit about the role that the norm of equal respect plays in his political theory’). Charles Larmore, “Political Liberalism,” 72. For a similar point, see also his “The Moral Basis of Political Liberalism,” *The Journal of Philosophy* **96**, no. 12 (1999), in particular 605-611.

spect to their reasonable comprehensive views.’<sup>174</sup> In this sense, justice as fairness is not procedurally neutral: the reasonable orients the rational choice toward certain substantive principles of justice.<sup>175</sup> Justice as fairness openly appeals to certain moral values and virtues, namely, *political* moral values and virtues: ‘the virtues of civility and toleration, of reasonableness and the sense of justice.’<sup>176</sup> Nor justice as fairness claims to be neutral concerning its influence or effect: since ‘it may [...] affirm the superiority of certain forms of moral character and encourage certain [political] moral virtues,’<sup>177</sup> ‘it is surely impossible for the basic structure of a just democratic regime not to have important effects and influences as to which comprehensive doctrines endure and gain adherents over time.’<sup>178</sup> Since it is legitimate for a constitutional democratic regime to admit ‘these [political] virtues into a political conception [, because this] does not lead to the perfectionist state of a comprehensive doctrine,’<sup>179</sup> it is likely that some comprehensive doctrines will gain while others will lose adherents, depending on

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<sup>174</sup> John Rawls, *Political Liberalism*, 62. Emphasis added. With reference to the status of the idea of reasonableness, this point has been restated –for critical purposes– by Stephen Mulhall and Adam Swift [“Rawls and Communitarianism,” in *The Cambridge Companion to Rawls*, ed. Samuel Freeman (Cambridge: Cambridge University Press, 2003), 482–483] in these terms: ‘[t]he notion of “the reasonable” does not mark out a set of epistemological constraints that must be respected on pain of irrationality or ignorance of uncontroversial fact; rather, it contributes to the specification of the moral constraints that partly determine what it is to live up to the duties and obligations imposed by participation in a fair system of social cooperation based upon mutual respect.’

<sup>175</sup> ‘Justice as fairness is not procedurally neutral. Clearly its principles of justice are substantive and express far more than procedural values.’ John Rawls, *Political Liberalism*, 192. Procedural neutrality is defined as ‘a procedure that can be legitimated, or justified, without appealing to any moral values at all.’ Ibid. 191. Rawls specifies that these substantive principles of justice are *political* principles. Thus, his conception can be considered procedurally neutral only after having specified that nonetheless it expresses substantive political values and a political conception of person and society. As he states in “The Priority of Right and Ideas of the Good” (in John Rawls, *Collected Papers*, in particular 459), the consequence is that if ‘we do apply to it the idea of procedural neutrality, we must do so in virtue of its being a political conception that aims to be the focus of an overlapping consensus. That is, the view as a whole hopes to articulate a public basis of justification for the basic structure of a *constitutional regime working from fundamental intuitive ideas implicit in the public political culture* and abstracting from comprehensive religious, philosophical, and moral doctrines. It seeks common ground –or if one prefers, neutral ground– given the fact of pluralism. This common or neutral ground is the political conception itself as the focus of an overlapping consensus.’ The (added) emphasis points out the obvious fact that the idea of neutrality in question concerns a constitutional democracy (and not some other kind of regime) and works within its public political culture. Therefore, it embeds the political values derived from the public political culture of such a regime. Only in this sense can one say that the political conception is procedurally neutral, making an appeal to “neutral” (better, *political*) values (see the next chapters).

<sup>176</sup> John Rawls, *Political Liberalism*, 194.

<sup>177</sup> Ibid.

<sup>178</sup> Ibid. 193.

<sup>179</sup> Ibid. 194.



their “ability to accommodate” political and comprehensive values.<sup>180</sup> Still, justice as fairness is neutral in aim: the state ‘is to secure equal opportunity to advance any *permissible* conception [of the good],’ since ‘so long as the basic structure is regulated by [a political conception expressing the priority of right over the good], its institutions are not intended to favor any comprehensive doctrine.’<sup>181</sup> In line with these considerations, a political liberal theory should not a priori favour a comprehensive understanding of “European Islam” over any other kind of Islam. It cannot assess the comprehensive premises of Islam as a doctrine and try to “adjust” them. Two remarks are in order. First, this is not to say that political liberals cannot enter at all within the comprehensive doctrine. As we will see, they can reason from conjecture. In this case, however, they enter only in the *argumentation* that stems from those premises, not in the premises themselves. Moreover, as I will explain, political liberals can *politically evaluate* the reasonableness (that is, a *political* moral feature) of a comprehensive doctrine. Second, this is not to say that a comprehensive doctrine cannot change, develop, or evolve. Simply, politically speaking, as long as social cooperation and the justification of the political conception are not called into question, this fact is irrelevant for political liberalism.

3) Closely related to the second argument, I introduce a *methodological argument*, which I develop in the next chapter. As I have outlined, if we take into account the problem of the full justification of the political conception and we try to reason from conjecture, then we are dealing with the Islamic ‘tradition of argumentation.’<sup>182</sup> Within this tradition, it could be possible to consider a specific trend or pattern of argumentation (among many others) that we might call European Islam.<sup>183</sup> However, since my horizon is the *public justification* (which concerns the *political relationship between citizens*), my referent is not Islam as a tradition –

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<sup>180</sup> Therefore, clearly, it may be that in the long run liberal institutions have some effects on the way in which Muslim believers approach their religion. However, it is both difficult and unnecessary to say *which effects* from the beginning. Hence, I think that we can use the expression European Islam only in an *ex post* and descriptive meaning.

<sup>181</sup> John Rawls, *Political Liberalism*, 193. Emphasis added: according to Rawls, a conception of the good is permissible if it respects the principles of justice (ibid. and “The Priority of Right and Ideas of the Good,” 457).

<sup>182</sup> Andrew F. March, *Islam and Liberal Citizenship*, 9.

<sup>183</sup> See for instance Andrew F. March, who says that, in looking at Islam as a tradition of moral argumentation, we should expect that a pious Muslim believer might regard (e.g.) Tariq Ramadan’s arguments as Islamic doctrine. Nonetheless, ‘it is never the case that these sources (or indeed any single nonrevelatory source) are invoked as authoritative in their own right. Rather, they are invoked as representative positions of a certain pattern or trend in Islamic discourses.’ Ibid. 83.

with its different trends and branches— but citizens and, among them, citizens of Muslim faith. That is, European Muslims.

4) Finally, I would like to discuss what I call the “*What come first, the chicken or the egg?*” argument. It claims that we should avoid using the expression “European Islam” (in its normative meaning), at least at the beginning of the research, because it is not clear whether it is a solution or a part of the problem that we are analysing. It could be that part of the confusion about ‘Islam as an identity’ and ‘Islam as a set of beliefs’<sup>184</sup> is due exactly to a reciprocal misconception of the idea of public reason. One might guess that the more stringent and peremptory are Europeans’ demands about the “Europeanisation” of Muslims’ Islamic beliefs, the more Islam will become an identity, and that the more Muslims’ identity is expected to become “European,” the less they will be willing to reconsider their beliefs. This phenomenon is called “reactive identity.”<sup>185</sup> As David Hollenbach rightly underscores, ‘the pressure to treat religion as a purely private affair may thus be a source rather than cure for the emergence of fundamentalist religion as a political force. If fundamentalism is normatively objectionable, as I hold it to be, normative recommendations that religion be kept private will be counterpro-

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<sup>184</sup> Ibid. 8-9.

<sup>185</sup> Political theory should be more aware of the sociological contributions regarding reactive identities. See, for instance, the already mentioned work by Stefano Allievi “How the Immigrant has Become Muslim: Public Debates on Islam in Europe,” 11-12. See also Tariq Ramadan, *To Be a European Muslim*, 1 and 9 (‘Perceived as a problem in secularised societies, Muslim men and women are expected to find solutions in order to adapt their religion and practices. Muslims are forced, almost automatically, to adopt a reactive attitude, just as they are quickly tempted to justify their beliefs and practices’). See also Akeel Bilgrami, “What is a Muslim? Fundamental Commitment and Cultural Identity,” *Critical Inquiry* 18, no. 4 (1992), 821-842.

ductive.’<sup>186</sup> Thus, it may be the case that the more one insists on such “Europeanisation,” the more one weakens a shared commitment to the idea of public reason. However, the solution is not to relinquish any serious normative attempt. Rather, we should avoid imposing any ready-made European way of believing in Islam and focus on how Muslims in Europe try –in their own terms– to participate in a common ideal of citizenship. If they prefer to call those terms “Islamic” rather than “European Islamic,” a political theorist should respect their preference. The mutual respect that citizens owe to each other also includes this.

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<sup>186</sup> David Hollenbach, S.J., “Politically Active Churches: Some Empirical Prolegomena to a Normative Approach,” in *Religion and Contemporary Liberalism*, ed. Paul J. Weithman (Notre Dame: University of Notre Dame Press, 1997), 301. For a similar point, see also Paul J. Weithman, “Introduction: Religion and the Liberalism of Reasoned Respect,” in *Religion and Contemporary Liberalism*, 21: ‘[t]he incivility of American politics is a reaction, fuelled by the resentment of religious citizens who rightly think they have been ignored.’ A note on terminology is in order here, because the debate is usually characterised by a confusing proliferation of labels often used interchangeably. While I will not delve into too many technical considerations, let me make clear that, with reference to the phenomenon of Islam in politics, I prefer the expression “*political Islam*” (or “*Islamism*”) to designate what is often called “Islamic fundamentalism,” namely, the political appeal to the ‘Islamic tradition for sources of innovation, renewal, and change.’ See Mahmood Mamdani, *Good Muslims, Bad Muslims: America, the Cold War, and the Roots of Terror* (New York: Pantheon Books, 2004), 46. I agree with Mamdani that ‘it makes more sense to speak of political Islam [...] than of Islamic fundamentalism,’ because ‘[w]hereas the development of a political Christianity in the United States was mainly the work of a “fundamentalist” religious clergy –such as Jerry Falwell, Pat Robertson, and others– the development of political Islam has been more the work of *nonclerical political intellectuals* such as Muhammad Iqbal and Mohammed Ali Jinnah in colonial India, and Abul A’la Mawdudi, Sayyid Qutb, and Ali Shariati in postcolonial Pakistan, Egypt, and Iran respectively. The glaring exception was Ayatollah Khomeini.’ Ibid. 47, emphasis added. For the thesis that we can transfer the label “fundamentalism” to the Muslim context(s) see Sadik Al-Azm, *L’Illuminismo Islamico*, 25-30. For a detailed analysis of the latter, see my master thesis “Oltre un illuminismo islamico,” 297-301. I assume that political Islam, *per se*, can be either *forward-looking* or *conservative*. Moreover, forward-looking political Islam can be either *reformist* or *radical*. (For these distinctions, see Mahmood Mamdani, *Good Muslims, Bad Muslims*, 46). For the sake of simplicity, here I use the expression “radical Islam” just to designate one rough end of this ideal continuum, that is, a peculiarly and overtly aggressive form of political Islam. This position can be defined as a ‘highly militant mobilizing ideology selectively developed out of Islam’s scriptures, texts, legends, historical precedents, organizational experiences, and present-day grievances all as a defensive reaction against the long-term erosion of Islam’s primacy over the public, institutional, economic, social, and cultural life’ of contemporary societies [Sadik Al-Azm, “What Is Islamism?” *Costruire la democrazia: un progetto mediterraneo*, proceedings of the international symposium (Venice: Fondazione Cini, June 29 and 30, 2006), 6. Note that Al-Azm is describing what he calls Islamism and what I call radical Islam; the difference is mainly terminological]. According to Al-Azm, such an aggressive form of Islamism is characterised (not necessarily at the same time) by a plurality of different phenomena: not only an attempt to re-Islamise society (which is not, *per se*, a distinctive feature of the most aggressive forms of Islamism), but also an overt conflict with both ‘apostate regimes’ in Muslim majority countries and unbelievers. Ibid. Clearly, among the *strategic options* of such an extreme interpretation of Islamism, there is violence and *terrorism*. Here I define the latter as the activity intended to hit one’s enemy ‘where it hurts most’ (Ibid. 7) and to terrorise its population as a whole by using unconventional aggressive means (e.g. a civil airplane or a farm tractor used as a projectile) or conventional aggressive means in unconventional attacks against innocent civilians (e.g. bombs and machine guns to kidnap and kill students in a school or people in a market, examples sadly taken from reality). Typical features of a terrorist attack are its suddenness, violence, destructiveness, and its deliberate spectacular nature (see *ibid.*). For further bibliographical references on these subjects (and on the concept of *jihād*, which I do not analyse here), see my master thesis “Oltre un illuminismo islamico.” Part of this radical view (which, as I have said, I consider only in its most extreme form) is an integralist attitude toward reality. Integralism is the view that ‘stresses the *unity* of religion, politics, the sciences, the economy, and the whole gamut of human endeavour.’ See David Hollenbach, S.J., “Politically Active Churches: Some Empirical Prolegomena to a Normative Approach,” 304.

### 1.1.B Motivations: Against Essentialism.

In this section, I consider three different but conceptually interrelated objections. Since they are of crucial importance, they deserve careful examination.

(O1.1) The first objection is that my research presupposes an orientalist approach to European Muslims. The objection might be formulated in these terms: “your inquiry disguises itself, because it pretends to be academic neutral knowledge, but, in fact, it tries to impose a liberal framework on Muslims in Europe.” Such a concern is genuine and not groundless. My research openly and frankly deals with European Muslims from a non-Muslim perspective. What is more, it tries to frame the problem of Muslims’ citizenship in Europe from the point of view of –political– liberal theory. Having said this, however, I do not think that the best we can hope for is a collection of self-centred discourses in which Muslims speak for Muslims and only for them, liberals speak for liberals and only for them, and so on. ‘[I]s a lack of commitment to a culture (or comprehensive doctrine) a reason to refrain from arguing from within it’<sup>187</sup> (as one does in conjecture), from evaluating it from a political liberal point of view (as I do in this work), or even from talking about it? An affirmative answer would be paralysing as well as implausible. Indeed, however, Edward W. Said’s criticism of orientalism goes much beyond these trivial points. It mainly deals with the processes through which ‘a created body of theory and practice’<sup>188</sup> about the Orient stems from a ‘flexible *positional* superiority’<sup>189</sup> of the West. In those processes, Western power is the enabling condition for the *dis-covering* of the Oriental: ‘[k]nowledge means rising above immediacy, beyond self, into the foreign and distant. The object of such knowledge is inherently vulnerable to scrutiny; this object is a “fact” which [...] is fundamentally, even ontologically stable. [...] To have such knowledge of such a thing is to dominate it, to have authority over it. And authority here means for “us” to deny autonomy to “it”.’<sup>190</sup> Western authority means, among other things,

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<sup>187</sup> Micah Schwartzman, “The Ethics of Reasoning from Conjecture,” 535. Schwartzman argues (535-540) that this lack of commitment is not a reason for refraining from reasoning from conjecture. Other possible objections against conjecture are considered in the next chapter.

<sup>188</sup> Edward W. Said *Orientalism*, 25<sup>th</sup> anniversary edition with a new preface by the author (New York: Vintage Books, 2003), 6.

<sup>189</sup> Ibid. 7.

<sup>190</sup> Ibid. 32.

the *auctoritas* of the paternalistic and “civilised” educator, scientist, officer, and so on. The very essence of the Oriental descends from such Western authority: ‘[k]nowledge of the Orient, because generated out of strength, *creates* the Orient, the Oriental, and his world. [...] The Oriental is *contained* and *represented* by dominating frameworks.’<sup>191</sup> The Oriental, then, is disciplined, contained, enclosed within (and, thus, pre-defined and re-created by) the representation produced by the West.

Said’s famous and compelling analysis is particularly valuable with reference to the question of Muslims in Europe. For example, Jocelyne Cesari warns us against the ‘snare of exceptionalism.’<sup>192</sup> She contends that ‘[a]lthough often considered an “exceptional case” (i.e., operating according to rules of exceptionalism), Muslims are not always such an exception.’<sup>193</sup> She rightly emphasises the importance of dynamic processes in the formation of European Muslims’ individual identities.<sup>194</sup> Since several and diverse elements influence such processes on different dimensions and in different ways,<sup>195</sup> there is a *multiplicity of European Muslim identities*. Thus, one should avoid any kind of essentialist predetermination of a single European Muslim identity. One cannot monopolise the meaning of the reality of being a Muslim in Europe, or impose her own view about a hypothetically true European or Muslim essence. Furthermore, one should not aspire to contain the rich diversity of meanings encompassed by the concept “European Muslim” in a flat and univocal picture. As I anticipated in 1.1.a and I will explain in the second chapter, my method openly tries to avoid such an essentialist snare. These considerations are crucially important and I refer to them here because they represent the very background upon which I will articulate my thesis. However, the political liberal evaluation I am beginning to sketch cannot be conceived as an orientalist or imperialist project. It is worked out in order to consider the public political attitude of Muslim and

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<sup>191</sup> Ibid. 40.

<sup>192</sup> Jocelyne Cesari, “Muslim Identities in Europe: The Snare of Exceptionalism.”

<sup>193</sup> Ibid. 50.

<sup>194</sup> Ibid. 49. Cesari uses the term ‘identification’ to underscore such dynamism.

<sup>195</sup> She maintains that ‘[t]he multiplicity of identities follows from the fact that these identities are distributed according to age, gender, and socio-economic level. In the case of Muslim minorities, it is also useful to underline the following particular dimensions of identity construction: the meta-discourse on Islam; the influence of dominant cultural and political frameworks; the complex interaction between religion and ethnicity; the influence of global Islam; the state of collusion between religion, ethnicity and social marginality; and the challenge of a theological revival.’ Ibid. 52. For her analysis of such elements, see 52-65.

non-Muslim citizens toward a shared political ideal of citizenship *within European liberal societies*. It would be hard to maintain that European societies cannot legitimately set up a standards and criteria valid for all citizens and governing their fundamental institutions. However, I am not saying that Islam and Muslims' religious commitments are worthy of consideration just because of the justificatory political problem I am considering. Nor that the Islamic political thought and Muslims' cultural contributions to European history are relevant and worthy of being studied only as far as political liberalism goes. I do not insist on these points because I take them for granted. Nothing in this work is intended to flatten out or reduce Islam and Muslims' religious, spiritual, historical, and cultural richness. Moreover, in no way should this study be read as an attempt to marginalise or stigmatise Muslims.<sup>196</sup> First of all, I hope to demonstrate that the theoretical framework that I develop in this research can be recognised as reasonable by all citizens as citizens. Secondly, and crucially, my justificatory evaluative method should not be read as a European evaluation about (against?) Muslim citizens or about their willingness to integrate and be "loyal to the West." Again, as fellow citizens I think they deserve much more respect than that. Rather, I am trying to work out a method that any citizen as citizen could apply in participating to the public justification. *The final goal is to foster civic trust and friendship*, not to encourage stereotypes, suspicion, or distrust. Maybe, the best way to answer this objection is to refer to the motivations of my research. In few words (and without any claim of argumentative cogency, at least for the moment), I am deeply persuaded that both European societies and their Muslim citizens perceive that in contemporary Europe there is a problem of civic trust and social unity. The literature cited above represents evidence of the existence of such a problem (1.1.a). Plausibly, it can also be argued that Muslims are the most disadvantaged in this situation. On the other hand, European societies do not know exactly what they should ask for and expect from Muslim citizens. In such a deadlock, mutual accusations trigger a vicious cycle in which civic trust and friendship become weaker and weaker (for more details, see the formulation of my research problem in 1.2.a). I prefer not to overstate the alarmist tone of these remarks (we are not lacking alarmist discourses): indeed, *not* all European societies and not all Muslim citizens are in the same situation. However, the normative problem deserves very careful consideration. Therefore, my research stems from the desire to reconstruct a common ground for public discourses on fundamental issues and, above all, a common ideal of citizenship in European

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<sup>196</sup> For a similar point, see Andrew F. March, *Islam and Liberal Citizenship*, 62-64.

democratic societies. This is in the interest of all,<sup>197</sup> especially in the interest of those who have lacked a voice so far. This intention is not paternalistic: all can participate –if they wish– to this effort. Indeed some proposals have already been formulated by Muslim authors (I consider one of them in chapter six). Thus, the problem consists of sharpening the appropriate theoretical tools to be able to understand (and answer to) those proposals and demands, since they concern the recognition of Muslims as equal citizens and not merely as potentially dangerous aliens settled more or less durably within the physical European space. The issue at stake is not to read Muslims’ discourses and arguments as a liberal judge could, but to read them as another reasonable and rational free and equal person who shares a political relationship of citizenship based on reciprocal social cooperation could. Finally, note that essentialism is an insidious “snare” in both directions: even Said was criticised for his “essentialist drifts” in *Orientalism*.<sup>198</sup> Thus, one may also wonder if I am trying to impose a single unifying model of public reason citizenship on the rich diversities of European societies and traditions. In this case, the essentialist view would concern European societies and not Muslims. I can only reply that, as I said above, I am considering a *normative ideal* and its *normative* alternatives, not the models of citizenship that have been historically experimented with in different European societies. To a greater or lesser extent, normative ideals always claim (or should claim) to be abstract and general/universal. I will consider this point in chapter five.

(O1.2) A second kind of criticism that could be raised is that here I do not provide an account of power. Is my work blind to the issue of power relationships? If with the expression “account of power” the critic means the question of how the exercise of power should be kept within the limits of political legitimacy, then the critique is pointless, because this is exactly one of the fundamental concerns of political liberalism. However, if with this expression the critic means a theory of how ‘arbitrary interference’ or ‘domination’<sup>199</sup> works in our societies, then the criticism is out of place. In line with Rawls’s view, my research does not assume relationships of arbitrary interference and domination as a fixed or unchangeable. From the standpoint of a normative theory, such relationships should be excluded for the future, as long

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<sup>197</sup> Sebastiano Maffettone, *Un mondo migliore*, 152.

<sup>198</sup> This is Sadik Al-Azm’s criticism to Said in his article “Orientalism and Orientalism in Reverse,” reprinted in *Orientalism: A Reader*, ed. Alexander Lyon Macfie (New York: New York University Press, 2000), 217-238.

<sup>199</sup> ‘One agent dominates another if and only if they have a certain power over that other, in particular a power of interference on an arbitrary basis’, see Philip Pettit, *Republicanism: A Theory of Freedom and Government*, 52.

as the principles that it specifies are appropriately satisfied (that is, in the ideal case). Such a theory aims at a peaceful social and political life based on some kind (specified by the theory itself) of just grounds, civic trust and friendship. Its normative horizon does not end by subsuming the perpetuation of domination and mistrust. This does not mean being naïve, but making normative political philosophy. Saying this, however, does not exclude citizens' vigilance (on the contrary, the latter is crucial for maintaining and supporting just social institutions). Nonetheless, being vigilant does not entail perpetual mistrust. A political liberal ideal of citizenship as a 'realistic utopia' requires that citizens are able both to comply with the principles of justice and to eliminate unjust relationships of domination and to politically trust one another on the basis of that political conception of justice and the common political ideal it specifies. This makes it possible that, if some injustices occur in what Rawls calls a nearly just society (that is, in a society in which the gravest forms of social and political injustice are excluded and whose political institutions generally comply with the principles of justice, see *infra*), they do not radically undermine citizens' mutual trust, because the latter know that they have appropriate means –principles of justice, along with public guidelines and values specified by the ideal of public reason– to solve them. In this sense, a theory of domination may help *but it is neither sufficient nor necessary to remedy them*. The purpose of a family doctor is to provide an effective treatment for her patients, not to provide a description of the morphology of the virus affecting them. This is a task for the microbiologist, not for the family doctor. To be sure, all the better if the family doctor knows microbiology, but this is not strictly necessary for her primary task. What is important is to recognise the disease and to treat the patient with appropriate drugs. The description of the virus and the history of its diffusion may be important, but logically they are neither a sufficient nor a necessary condition in order to find a treatment for the disease. Similarly, if the task of political liberal theory is to provide an account of how citizens *should* live together in a fair system of cooperation and how they *ought to* deal with disagreement, it does not need to include a description of how (and/or a genealogy of why) things go wrong today. Reasonable disagreement will not fade away. The problem, then, is to assure fair terms of social cooperation in conditions of reasonable disagreement. Moreover, the problem is to know what to do when disagreement is not reasonable.

(O1.3) Let me conclude this section by taking into account another possible criticism. It affirms that this study has little hope of success, because I am trying to solve problems which



have an important empirical dimension merely by theoretical, normative, and abstract means. Let me interpret the expression “empirical dimension” in the sense of those material socio-economic-political conditions that characterise Muslims’ real lives in European countries at different levels –individual, domestic, associational, local, national, and supranational. As I have repeatedly said, empirical reality provided the motivation and the background for my theoretical effort. Additionally, as I have made clear several times, I am perfectly aware that nowadays there is an inclination to subsume every issue to a cultural dimension, producing a ‘culturalization of political, social, and economic conflicts.’<sup>200</sup> My work, however, is normative rather than descriptive: its object is a normative ideal. For such a research, then, the empirical dimension is a fundamental requisite in the preparatory diagnostic stage and a necessary component of the solution (that is, in the implementation of the ideal). Still, it does not monopolise the latter. Here there is room for a normative ideal theory that should orientate the process of resolution. The obvious caveat is that a normative proposal cannot claim to be the immediate *panacea*. Otherwise, it would amount to a more or less sophisticated form of intellectual *divertissement*. Rather, it aspires to direct reforms and policies that impact on the empirical level. However, as I mentioned a few lines above, the leading idea is that, once –if ever– the normative ideal were achieved, the empirical dimension of the problem would be solved. This is a common assumption in normative ideal theory. The latter moves from the assumption that we are not fatally bound to existing injustice. Concerning the issue that I am discussing, I do think that a normative reflection is not only legitimate, but also necessary: as Tariq Ramadan aptly emphasises, ‘recognizing that there are victims is one thing; maintaining a victim mind-set is another. [...] Because there are actual victims, people must resist the temptation to feel victimized and take it upon themselves to demand their rights.’<sup>201</sup> Let me conclude with this remark. By “empirical dimension,” the critic could also mean a concrete referent on which the research is grounded. Then the criticism could sound more like a question: *to which* European Muslims are you referring precisely? I devote the entire sixth chapter

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<sup>200</sup> ‘The supremacy of cultural-religious discourse in the West is likely to frame many of the social, political, and economic conflicts within the range of religious differences. Many of the ills of migrants and their descendants such as poverty, exclusion, unemployment, illiteracy, lack of political participation and lack of will to integrate are reduced to their Islamic background, which is stereotypically believed to be in clash with Western secular norms and values. Culturalization of political, social, and economic conflicts has become a popular sport in a way that reduces all sorts of structural problems to cultural and religious factors.’ Ayhan Kaya, *Islam, Migration and Integration: The Age of Securitization*, 217.

<sup>201</sup> Tariq Ramadan, *What I Believe*, 75.

to the analysis of such a referent (Tariq Ramadan), while in the next chapter I justify my choice, firstly explaining the *rationale* of my method, then adopting a precise methodological principle.

In the rest of the chapter, I will try to extract and detail my research problem and questions starting from the background problem analysed in 1.1.a.

## 1.2 Specifying the Problem and the Object of the Research.

### 1.2.A The Research Problem.

To understand the core problem of this research, we should go back to the phenomena that I described at the beginning of this chapter (1.1.a). Drawing on those remarks, one could argue that contemporary Western European societies are characterised by the following features:

1. Islam has become highly visible, and, more generally, the religious dimension plays an important and divisive role in public debates. For instance, Randall Hansen writes that:

‘The Europe of today is in one sense surprisingly similar to its sixteenth- and seventeenth-century predecessor: religion is a foundation of social conflict. It might even be the most important foundation of that conflict. [...] The major cultural clashes over the last 20 years –the Rushdie affair in Britain, the *hijab* debates in France, the question of Sikhs wearing crash helmets, the Danish cartoon controversy– have all been about religion. And most of them have been about one religion in particular.’<sup>202</sup>

Note, however, that saying that major political and social conflicts in contemporary European public debates seem to turn on religion *does not imply* a quasi-eschatological perspective *à la* Huntington, according to which European societies

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<sup>202</sup> Randall Hansen, “The Two Faces of Liberalism: Islam in Contemporary Europe,” *Journal of Ethnic and Migration Studies* 37, no. 6 (2011), 891.

must necessarily pass through a destructive clash-of-civilisation phase. On the contrary, as we will see, political and social conflicts are not only compatible with, but are also a fundamental component of life under free and democratic institutions. In fact, Hansen himself continues:

‘The fact of conflict is itself not an indicator of a lack of cultural integration among Muslims. [...] Liberal societies are perfectly consistent with a high degree of conflict. Indeed, the great strength of liberal institutions is that conflict in an important sense sustains them; they derive their legitimacy in part from the routinised and institutionalised debate [...] that liberal institutions make uniquely possible.’<sup>203</sup>

This is precisely the horizon beneath which this research is developed: the preservation of (reasonable) disagreement within the common framework of liberal institutions.

2. Additionally, in contemporary European societies there is a sort of equation between Islam and religion when the latter is publicly portrayed as irreducibly “other,” “problematic,” and “threatening” (as suggested by Hansen’s phrase ‘most of [the major cultural clashes in Europe] have been about one religion in particular’). In public discourses, there is a tendency to describe Islam as a problem. Exclusion, securitisation, and very real acts of discrimination are apparently the “natural” consequences of such a predicament with Islam and Muslims.
3. These discourses focus on the anxiety that moral disagreement with this “irreducible other” could undermine the fundamental terms of social and political cooperation in European democracies.<sup>204</sup> Again in Hansen’s words, ‘[w]hat is more worrying is that there is emerging evidence that some Muslim communities in Europe are deeply mistrustful of the other participants in those debates –their fellow citizens,’ and vice versa.<sup>205</sup> Then, European societies seem to be concerned with some form

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<sup>203</sup> Ibid.

<sup>204</sup> For some references concerning these perspectives, see what I call “Islam-as-an-unsolvable-problem” view in section 1.1.a.2.

<sup>205</sup> Randall Hansen, “The Two Faces of Liberalism: Islam in Contemporary Europe,” 891.

of a ‘mutual assurance problem’<sup>206</sup> about citizens’ continued commitment to honouring the common fair terms of social cooperation: ‘if citizens are to act from their sense of justice consistently, each must have some assurance that others will consistently act justly as well.’<sup>207</sup> Without this kind of assurance, they fear not only a potentially destructive instability, but, more importantly, that stability cannot occur *for the right reasons* (for a full description of the ‘mutual assurance problem,’ and its implications and solution, see *infra*, 4.2, and 5.2.c).

4. Multiculturalism is criticised precisely because it seems unable to answer this problem (see 1.1.a.1 and 5.2.b).

If I am right, then one can certainly say that the problem that Western European societies and their Muslim citizens are facing ‘is more than a breakdown of communication,’ and that the ‘existing conceptual frameworks at work in Muslim-West relations [...] have so far failed *to establish a common ground and inspired a shared horizon*.’<sup>208</sup> This could represent a first general formulation of my research problem. However, I can now specify the nature of the latter in greater detail. Before explaining my research problem, I try to summarise it in Figure 1.

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<sup>206</sup> See in particular Paul Weithman’s book *Why Political Liberalism? On John Rawls’s Political Turn* (Oxford and New York: Oxford University Press, 2010) and his recent article “Inclusivism, Stability, and Assurance,” in *Rawls and Religion*, ed. Tom Bailey and Valentina Gentile (New York: Columbia University Press, 2015), *passim*. For Rawls’s formulation of the assurance problem, see John Rawls, *A Theory of Justice*, 269-270/237-238, 336/295-296 (see also 496-497/434-435).

<sup>207</sup> Paul Weithman, *Why Political Liberalism?*, 46-47.

<sup>208</sup> Ibrahim Kalin, “Islamophobia and the Limits of Multiculturalism,” 4. Emphasis added.

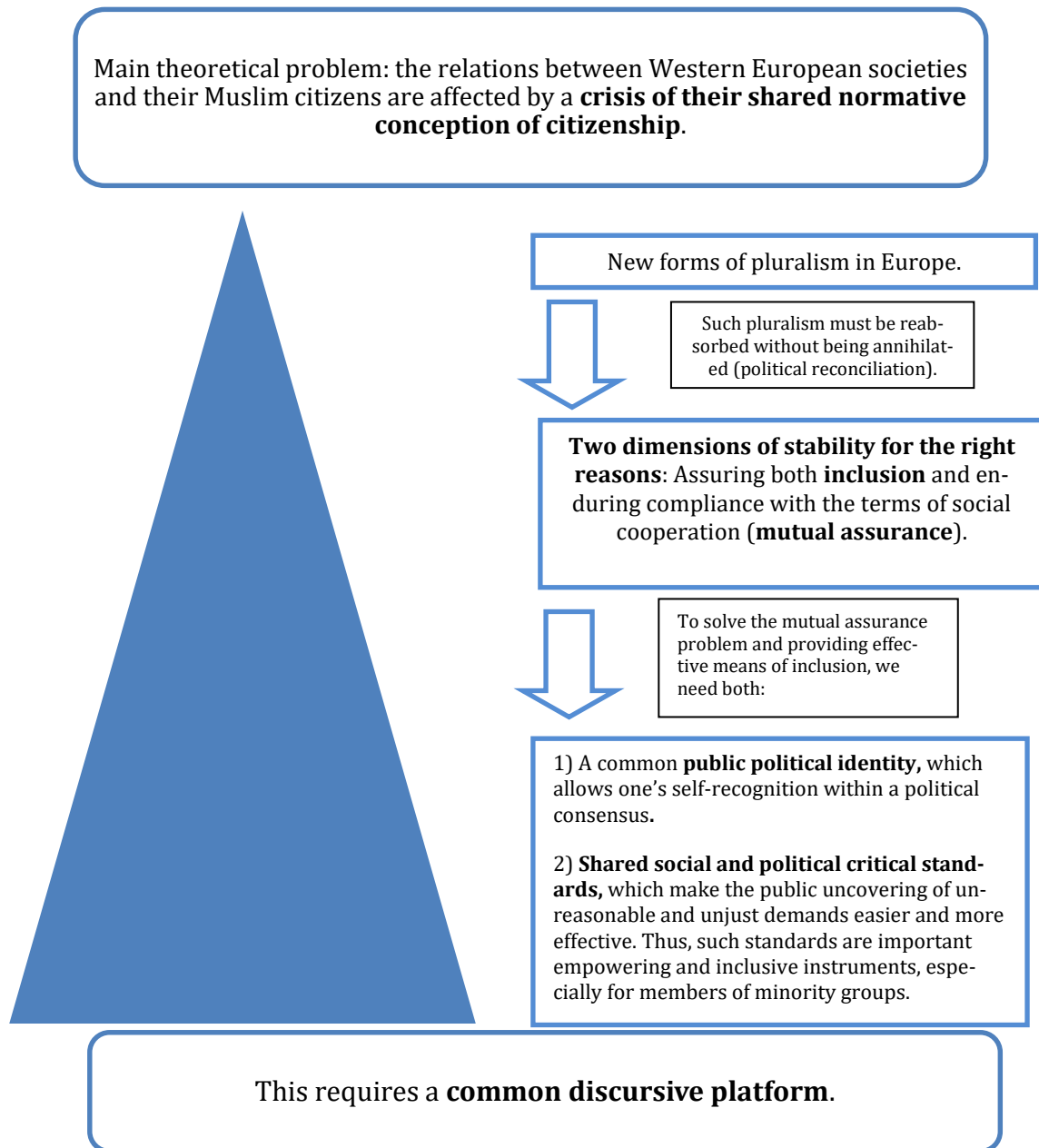


Figure 1 The theoretical problem.

It seems that Western European societies are facing a serious political problem. Certainly, it is not a matter of a clash of cultures,<sup>209</sup> but the risk is the emersion of a culture of clash. My thesis is that, from a political standpoint, the problem is represented by a *citizenship crisis*. As I mentioned above, Muslims are often represented as outside or even against the liberal democratic citizenry. The very possibility that they genuinely become European citizens is frequently presented as deeply problematic or even unlikely: apparently, there is no room for Muslims in the existing normative models of citizenship in European societies. This crisis of the normative models of citizenship<sup>210</sup> is rooted in the fact that Western European societies in the last two to four decades (depending on the national contexts) are going through a *new form of pluralism*.<sup>211</sup> Obviously, this is not to say that European societies have never experienced Muslims' presence before. This would simply be false. However, this kind of pluralism is new for Europe because it combines three features *at the same time*: (1) the *character* of this pluralism, which: a) is not confined within Christianity, b) concerns (to different extents) the entire continent, and c) is likely to endure for the foreseeable future, (2) the *numbers* concerned, and (3) the *high visibility* of the debates provoked by such pluralism (the "Muslim question" debate).<sup>212</sup> To my knowledge, in European modern history there is no previous example of pluralism combining these features at the very same time. Therefore, it is not surprising that European societies are still uncertain and vacillating about what is the most adequate approach to face this new situation. Nonetheless, it seems safe to say that, once we take seriously the fact that reasonable pluralism is 'the work of free practical reason within the framework of free institutions'<sup>213</sup> (see chapter two), the only way for facing such new plural-

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<sup>209</sup> Bruna Soravia, "Lo scontro che non c'è stato. Guerre di civiltà, guerre di parole e il Medio Oriente, 1979-2001," in *Il nuovo disordine internazionale. Conflitti politici, cambiamenti tecnologici ed evoluzioni strategiche* (Rome: Fondazione Magna Carta, 2015), 171-190. I am grateful to the author for having provided me with an advanced draft of the article.

<sup>210</sup> Remember that I am concerned with a normative account of citizenship from the perspective of political philosophy. I am not concerned with an analysis of the models of citizenship historically experimented in the single national contexts.

<sup>211</sup> See for instance Tariq Ramadan, *What I Believe*, 80 and "They Live in a Bleak, Devastated Universe," interview with Erich Follath and Romain Leick published in the *Der Spiegel* issue 46/2005 November, 2005 and available at URL = <http://www.spiegel.de/international/spiegel/spiegel-interview-with-tariq-ramadan-they-live-in-a-bleak-devastated-universe-a-384900.html>, page 2 of the printable version.

<sup>212</sup> For some of these points about the new kind of pluralism caused by the contemporary Muslim presence in Western Europe, see Enzo Pace, *L'islam in Europa: modelli di integrazione*, 58, 64, 118, and 121-122.

<sup>213</sup> John Rawls, *Political Liberalism*, 37.

ism compatible with liberal democratic principles and institutions is a political effort to reabsorb without annihilating it. This means that all parties must undertake an effort of *political reconciliation* (see 3.2.b.1). Such an effort involves the capacity of providing at the same time a full *inclusion* of Muslim citizens based on the equal status of citizenship and the *assurance* that the social cooperative system is stable for the right reasons, and not only based on contingent circumstances or compromise (for what Rawls calls ‘stability for the right reasons,’ see in particular chapter two). European Muslim citizens’ allegiance to a shared ideal of citizenship is continuously called into question: mutual confidence seems lacking.<sup>214</sup> To solve this problem means solving a ‘*mutual assurance problem*:’<sup>215</sup> each citizen must know that every other citizen is sufficiently motivated to respect the same fair terms of social cooperation (see chapter four). The problem of citizens’ fair inclusion and the problem of mutual assurance are thus the two crucial dimensions of ‘stability for the right reasons.’ However, they cannot be solved unless we first answer two compelling demands. The first demand concerns the *lack of a public political identity* (in what follows, I use the expressions “public political identity,” “common political identity,” “shared political identity,” “public identity,” and “institutional identity” as synonyms; I do the same with the expressions “public political morality,” “public morality,” and “institutional morality;”<sup>216</sup> for all these notions, see below). I have already mentioned this element in 1.1.a.1. There I said that even liberal multicultural theorists

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<sup>214</sup> See, for instance, Tariq Ramadan, *The Quest For Meaning: Developing a Philosophy of Pluralism* (London: Allen Lane, 2010), ix, where he suggests that lack of mutual knowledge leads to a ‘conflict of perceptions,’ which in turn explains the lack of confidence. See also Jocelyne Cesari, *Why the West Fears Islam*, in particular 6-20 and Ibrahim Kalin, “Islamophobia and the Limits of Multiculturalism,” especially 16. Mutual lack of confidence is also revealed by the fact that, according to the FRA’s 2009 “Data in Focus Report: Muslims” (available at URL = <http://fra.europa.eu/en/publication/2010/eu-midis-data-focus-report-2-muslims>), 59% of Muslims who did not report their experiences of discrimination (and note that ‘one in four Muslims experienced discrimination and did not report their experiences anywhere’) explained their silence by saying that ‘nothing would happen or change by reporting’ (8-9).

<sup>215</sup> Here I follow Paul J. Weithman (*Why Political Liberalism?* and “Inclusivism, Stability, and Assurance”). In order to solve the problem of defection from terms of social cooperation and to stabilise them, ‘individual conceptions of the good must support’ them (“Inclusivism, Stability, and Assurance,” 83). In Rawls’s theory, this is the role of the idea of an overlapping consensus (see chapter two of this research). However, as Weithman rightly emphasises, ‘the *individual rationality of compliance is not enough*. If preemptive defection is to be avoided, the fact that each citizen recognizes the individual rationality of compliance must itself be *a matter of public knowledge*. In sum, *each must have some assurance that others accept the terms of cooperation and will not defect*’ (“Inclusivism, Stability, and Assurance,” 83, emphases added). For a more detailed account of Weithman’s theoretical position, see his book *Why Political Liberalism?* Rawls’s solution for this second part of the problem of stability for the right reasons is his wide view of public reason (see chapter four of this research). I will return to the mutual assurance problem in chapter four. For how wide public reason solves this problem, see chapter five.

<sup>216</sup> Sebastiano Maffettone, “Political Liberalism: Reasonableness and Democratic Practice,” *Philosophy and Social Criticism* 30, no. 5-6 (2004), 555.

are aware of the fact that social unity and cohesion and the right kind of stability are crucial social goods. For instance, Kymlicka is deeply concerned with the social unity of his ‘multination states,’ and agrees that what really matters is ‘the idea of a shared identity.’<sup>217</sup> He also acknowledges that the most relevant critical points about multiculturalism concern Muslims with an immigrant background in Europe (see 1.1.a.1, below in this section, and 5.2.b). In the same vein, it has been argued that ‘the fundamental question raised by post-immigration diversity for a variety of nation-states [is]: what is the identity of citizenship itself and what does it imply for other identities that citizens may have or want to have?’<sup>218</sup> However, Kymlicka does not provide a comprehensive answer to the question of social unity and stability. What he says is just that ‘[t]he great variance in historical, cultural, and political situations in multination states suggests that any generalized answer to this question will probably be overstated,’<sup>219</sup> and that ‘it is not clear how [...] multination states could try to create [...] a level of solidarity where it did not already exist.’<sup>220</sup> I claim that from a normative standpoint political philosophy can and should aspire to something more than this hesitant answer. In fact, with reference to the issue of Muslim citizens in Western Europe, a more resolute answer is needed if one wants to solve the mutual assurance problem and foster better relations of mutual trust, a communal sense of political belonging, social cooperation, and joint civic participation. For instance, one may venture to guess that it is precisely from this lack of a shared political identity that suspicious questions such as “are you loyal to your country or to the Islamic *umma* (Islamic community)?” originate. Understandably, this is a question that many Muslims (and many non-Muslims as well) find offensive.<sup>221</sup> The second demand concerns the *lack of a shared evaluative standard* for critically assessing other citizens’ political views,

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<sup>217</sup> Will Kymlicka, *Multicultural Citizenship*, 188. Emphasis omitted.

<sup>218</sup> Anna Triandafyllidou, Tariq Modood, and Nasar Meer, “Introduction: Diversity, Integration, Secularism and Multiculturalism,” in *European Multiculturalisms: Cultural, Religious and Ethnic Challenges*, 11.

<sup>219</sup> Will Kymlicka, *Multicultural Citizenship*, 189.

<sup>220</sup> *Ibid.* 191.

<sup>221</sup> See, for example, Tariq Ramadan, *Noi musulmani europei* (Rome: Datanews, 2008), 22; *To Be a European Muslim*, 162-163; *What I Believe*, 36. In the latter, Ramadan says that, when Muslims are questioned about whether they are first “Muslim” or “Italian,” “French,” “American,” and so on, ‘[t]he question explicitly addresses [Muslims’] definition of their identity whereas implicitly, and more seriously, it has to do with loyalty. Since one can only have one identity, one can only have one loyalty. A clear, unqualified, unambiguous answer must be given! Yet the question itself is meaningless.’



claims, contributions, and proposals. For instance, in a passage that I have already quoted in 1.1.a, Tariq Ramadan maintains that he does not

‘speak of integration anymore. Integration of Islam, of Muslims as European citizens has already been accomplished: Islam is nowadays a European religion. Instead, *the actual problem is to know what their contribution is*, not only for themselves, but for Europe. Europe will begin to change its perception about Islam only when it realises that Islam represents a resource and not only a problem: thus, a radical change of perspective is needed.’<sup>222</sup>

Hence, if one takes seriously this kind of request coming from leading Muslim intellectuals themselves, citizens need shared standards for social and political criticism, so that in public discussions they can more easily and effectively recognise positive contributions, reject unreasonable demands, and reform unjust laws, policies, and institutions. Indeed, only if such standards are publicly available is it possible to uphold with some reasonable hope of success the claim that ‘because there are actual victims, people must resist any temptation to feel victimized and take it upon themselves to demand their rights.’<sup>223</sup>

I have just demonstrated that (according to Muslims themselves) *the availability of a common political identity and of shared standards for social and political criticism is an important social good for citizens, because it is necessary to achieve both mutual assurance about other citizens’ loyalty to fair terms of social cooperation and political inclusion in the terms set by reasonable Muslim citizens themselves*. Therefore, one can legitimately claim that the availability of such political identity and shared standards is a salient criterion for assessing political theories with reference to those two dimensions: the stability for the right reasons of European societies and their capacity for political inclusion toward Muslim citizens. Other things being equal, a political theory that provides both a common political identity and shared standards for social and political criticism is better placed with regard to social stability (for the right reasons) and inclusion of Muslim citizens than theories that provide only one of them or both but at a lesser extent.

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<sup>222</sup> In *Islam in Europa / Islam in Italia tra diritto e società*, 326, my translation and emphasis added.

<sup>223</sup> Tariq Ramadan, *What I Believe*, 75.

The problem illustrated in Figure 1 is thus a multifaceted and complex one. How to solve it? As I will explain in 5.2.b, from the perspective of political philosophy two prominent families of theories of citizenship seem today unable to answer these demands.

- 1) *Multicultural citizenship* (which I consider only in its liberal version) is under attack. As observed in 1.1.a.1, notwithstanding the uncertain causal relations between theoretical critiques and effective downscaling in terms of policies and institutional settings, it seems that (at least with specific reference to the case of immigrants and in particular of Muslims with an immigrant background in contemporary Western European countries) temptations to commit such downscaling are real, as Kymlicka himself acknowledges. The reason for this is that apparently multiculturalism has underestimated the extent to which the unsolved problem of mutual assurance puts political identities and institutions under pressure. Political speeches against multiculturalism may also be populist, but they capture perceptions and feelings that are widespread in European streets. Political theory should critically address, scrutinise, deconstruct, and –possibly– rectify such perceptions and feelings. But in the case of European Muslims multiculturalism alone seems unable to do that, because it does not address the problem of mutual assurance, in terms of a common political identity and shared standards for social and political criticism.<sup>224</sup>
- 2) *Republican citizenship* (which I consider in the version theorised by Cécile Laborde, since it openly and systematically addresses the question of Muslims' citizenship in contemporary Western European societies, see 1.1.a.2 and 5.2.b) seems more capable of solving the problem of stability, but actually this is not the case, because it neglects the second perspective that should characterise political reconciliation, namely, fair inclusion of citizens of faith. I do not go into details here since I devote 5.2.b to the analysis of Laborde's arguments. However, to put it simply, one can wonder why Muslim citizens should accept her critical republican perspective *qua* Muslims, since Laborde's theory does not presuppose any properly Islamic (or, in general, any religious or philosophically non-republican) ground for its endorsement. In other words, at the end of the day, it seems that either Muslims

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<sup>224</sup> Note that I am not saying that, *once one has solved* the problem of mutual assurance liberal multiculturalism is a philosophically inadequate view. In this research I do not analyse the question of the consistency between Kymlicka's multicultural citizenship and Rawls's public reason citizenship.

are born critical republican citizens (that is, either they end up by endorsing critical republicanism only as citizens but not also as Muslims, and this would be problematic in terms of guaranteeing both reasonable pluralism and social stability), or they must find some strategic reasons to abide by her conception in a *modus vivendi* (but also in this case critical republicanism would not be able to provide an account of social stability for the right reasons).

Then, I argue that we need a theoretical model able to do what in present circumstances liberal multiculturalism and critical republicanism seem unable to do, that is, both to *include Muslims' voices and perspectives* and to solve the *problem of mutual assurance*. Liberal multiculturalism overlooks the latter in favour of the former. On the other hand, critical republicanism does not adequately recognise the question of including Muslims' voices *as Muslim* voices, because it neglects the role of an overlapping consensus and so it does not solve the 'generalised prisoner's dilemma,' because it does not show that it would be individually rational for Muslims to comply<sup>225</sup> with its normative principles (for these points, see 4.2, 5.2.b, and 5.2.c). Therefore, neither liberal multiculturalism nor critical republicanism can secure stability for the right reasons. Then, in the context of contemporary Western European societies, both critical republicanism and liberal citizenship are unstable normative conceptions of citizenship.

Thus, I argue that we should adopt a third normative conception of citizenship, which is capable of reconciling inclusion and assurance within the framework of a society that is stable for the right reasons. I propose to adopt an ideal of citizenship based on the idea of public reason. The main claim of this research is that public reason citizenship is able to resolve the complex problem outlined before. This is because it is able to accommodate within its normative horizon both dimensions of political reconciliation: inclusion and mutual assurance. This is possible because public reason represents a *common discursive platform* which provides shared standards for social criticism and which is the basis on which a common political identity can be structured. By combining these two elements, public reason citizenship secures society's stability for the right reasons. Such political reconciliation guarantees that in Europe the new form of pluralism is politically reabsorbed without being annihilated, because it is in-

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<sup>225</sup> As I will repeat in the next chapters, for this point I draw on Paul J. Weithman's use of the expression 'individual rationality of compliance' in "Inclusivism, Stability, and Assurance," 83.

cluded within a common normative conception of citizenship. The argument supporting this central claim can be found in chapter five.

It should be clear, then, that the problem at stake here is a political one. The general problem I am interested in is the political relationship between citizens and how this relationship is affected by the fact that Muslim citizens are often perceived and presented as outside such a relationship.<sup>226</sup> Here, *I take into consideration the normative issue at stake when Muslims are publicly portrayed as citizens outside the citizenry and potentially against a shared normative conception of citizenship.* This study tries to take seriously into consideration from the perspective of political philosophy what is needed to overcome the present widespread and uncritical attitude of portraying Islam and Muslims as “a problem.” This study focuses on the normative grounds of such ‘externalising’ public discourse (for the latter, see 1.1.a.1). In this sense, it does not aim at analysing political (in a non-normative meaning), social, economic, and historical reasons of such ‘externalisation.’<sup>227</sup> Rather, it is a work in political theory that focuses on the normative requirements for *Muslims’ inclusion* as free equal citizens *in a reasonably just and stable democratic society*. Note that it is surely true that ‘a striking gap exists between the image of Islam as it is constructed in binary public discourses and the multifaceted reality of Muslims across countries and localities,’ and it may be true that, while being ‘in plain sight and highly scrutinized,’ ‘the “Muslim” has become the invisible man (and woman) of western societies, [... due to] people[’s] incapacity to see the reality of Muslims of flesh and blood.’<sup>228</sup> However, the perception of Islam and Muslims as a normative problem or as a threat for European societies’ normative horizon is an important question largely unanswered. It represents the general concern of this work. Moreover, the two questions are related. In fact, the main aim of this research is to address the question of what normative theory is the

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<sup>226</sup> For an account of the politicisation of the issues around immigration and citizenship (understood as ‘the set of rights, duties, and identities linking citizens to the nation state’), with a specific focus on Muslim groups, see Ruud Koopmans, Paul Statham, Marco Giugni, and Florence Passy, *Contested Citizenship: Immigration and Cultural Diversity in Europe* (Minneapolis: University of Minnesota Press, 2005), 2-7 and chapter four.

<sup>227</sup> Those reasons are numerous and different. For example, Cesari argues that the main causes of the ‘externalisation’ of Islam and Muslims in European public discourse are not all ascribable to the West (*Why the West Fears Islam*, 140: ‘the putative opposition of Islam and the West is not just a construct of the West. It is also the outcome of a specific theology [–Salafism–] in which Islam is cast into a narrative defined, point-by-point, in opposition to the Western narrative’). In particular, Cesari pinpoints three ‘structural conditions that shape and solidify the symbolic boundaries between the West and Islam: the international context of war on terror, the crisis of secularism, and the global visibility of Salafism.’ *Ibid.* xvii. See xvii–xviii, and, respectively, chapters five, six, and seven.

<sup>228</sup> *Ibid.* xiv.

most reasonable in order to achieve a shared and stable notion of citizenship in European liberal democracies. Only once such a notion (and its normative requirements) is fully developed can Muslim presence in Europe be conceived not just in terms of a mere expectation of integration, but in terms of a loyal, cooperating, and trustworthy membership into the citizenry. Pinpointing such a normative theory crucially means defining the conditions of possibility of citizenship for Muslims (like for any other citizen, since citizens are conceived –by assumption– as free and equal persons) in reasonably just and stable European societies. As I have said, this requires a common discursive platform that can function both as the ground for a common political identity and as a shared standard for political criticism. Thus, public reason is a very important empowering instrument, especially for members of minority groups. Sometimes Muslims’ discourses about citizenship in Europe seem difficult to assess from a public perspective. Even if Muslim thinkers, reformers, scholars, and public intellectuals try to elaborate some notion of citizenship consistent with both Islam and European citizenship, often such attempts are not framed within a shared public perspective. Thus, a gap originates from this omission: frequently their demands, proposals, and discourses fail to be persuasive for European societies at large, or they look off-centred and difficult to evaluate in a language familiar to the European public political culture (the existence –but not necessarily the absolute internal coherence and continuity– of which I take for granted). As Tariq Ramadan observes, it is often difficult to assess the merits of such Muslim contributions from a public perspective.<sup>229</sup> He repeats that ‘no doubt, the most serious difficulty for Muslims living today in the West [...] is to translate their aspirations and their hopes into a language that is understandable, clear, “audible”’.<sup>230</sup> Moreover, if the standards provided by public reason for publicly exposing discrimination and exclusion are shared, then the majority cannot turn a blind eye to such phenomena. Public reason clearly distinguishes between questions that concern religious pluralism and reasonable comprehensive convictions and questions of political justice. Therefore, political injustices cannot be justified anymore by appealing to arguments that

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<sup>229</sup> Tariq Ramadan in *Islam in Europa / Islam in Italia tra diritto e società*, 326.

<sup>230</sup> Tariq Ramadan, *De l’islam et des musulmans: réflexions sur l’Homme, la réforme, la guerre et l’Occident* (Paris: Presses du Châtelet, 2014), 61, my translation.

confusedly melt reasonable disagreement, unreasonable views, and political oppression.<sup>231</sup> Thus, I think that developing a common discursive platform is in the interest of all, in particular of those whose voices are less likely to be heard in public debates.

Two concluding remarks are in order. Firstly, as I will explain in chapter three and four, a public reason conception of citizenship crucially involves both on the one hand the acknowledgment of the need for (and the participation in) a public justification of the use of coercive political power so that the latter can be regarded as legitimate, and on the other hand a kernel of common political values. The idea of public reason incorporates both elements. It includes both ‘guidelines of inquiry that specify ways of reasoning and criteria for the kinds of information relevant for political questions’<sup>232</sup> (that is, what is relevant to publicly justify a fundamental political decision), and ‘values of public reason [which] fall under the guidelines for public inquiry, which make that inquiry free and public [, ... such] political virtues as reasonableness, and a readiness to honor the (moral) duty of civility, which as virtues of citizens help to make possible reasoned public discussion of political questions.’<sup>233</sup> In this sense, the pivotal concern of my study is the relation between European Muslims and public reason both as a *regulative moral ideal of citizenship* and as a *standard for a civic practice of public justification* (see chapter four).

Secondly, however, Rawls says that ‘the idea of public reason [...] *belongs to a conception of a well-ordered constitutional democratic society*.’<sup>234</sup> Now, so far my argument has implicitly assumed that the idea of public reason should be recognised as normatively binding in *existing* European democracies. However, it would be hard to maintain that existing European societies are well-ordered democracies. In fact, those constitutional democracies do not fully

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<sup>231</sup> I have already quoted these remarks by Ibrahim Kalin: ‘[i]nsulting, intimidating, and threatening Muslim individuals and communities and in some cases committing violence against them is presented as a reaction to what is described as the existential threat of Islamic extremism and terrorism. Such justifications give the impression that violent acts perpetrated against Muslims have a reason and thus can be excused.’ See his “Islamophobia and the Limits of Multiculturalism,” 16.

<sup>232</sup> John Rawls, *Political Liberalism*, 223.

<sup>233</sup> *Ibid.*, 224.

<sup>234</sup> John Rawls, “The Idea of Public Reason Revisited,” 440. Emphasis added.

display the features of a Rawlsian well-ordered society.<sup>235</sup> Moreover, it would be difficult to maintain that one of those democracies exemplifies the European model of well-ordered society. Indeed, those societies show a plurality of different models and forms concerning the organisation of the state and of sub-state entities, citizenship acquisition, recognition of minorities, welfare provisions, and so on. A choice of any of them would be arbitrary and unsatisfying in some respects. I will try to demonstrate that, while they are not well-ordered, European societies are “well-ordered enough” to enter in a dynamic normative tension toward the realisation of the ideal of public reason. Thus, I will argue, the ideal of public reason is normatively relevant as a regulative ideal not only for fully well-ordered societies, but also for existing European democracies. More precisely, as I will show in 5.2.a, contemporary European constitutional democracies do satisfy the threshold for public reason’s normative salience. In other words, these constitutional democracies do possess the minimum required to be governed by the regulative ideal of public reason, even if they are not fully just. Thus, public reason can work as an ideal conception of citizenship also in the European non-ideal context.

### 1.2.B Research Questions and Structure.

Bearing in mind the formulation of the research problem developed in 1.2.a, I can state the main research question as follows:

(Q) Which ideal conception of citizenship should provide the common normative perspective in contemporary Western European societies, which are characterised by both (1) demands of *inclusion* of Muslims and (2) the need for solving the problem of *mutual assurance* concerning citizens’ commitment to the fair terms of social cooperation specified by a political conception of justice, so that those societies can be *stable for the right reasons*?

In 1.2.a, I argued that a joint solution of these two apparently conflicting demands requires an effort in political reconciliation. Only such political reconciliation can secure stability for the right reasons by combining inclusion of Muslims and citizens’ mutual assurance. Moreover, I argued that such reconciliation must be based on a common discursive platform, which serves both as a ground for a common political identity and as a shared standard for political

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<sup>235</sup> See John Rawls, *Political Liberalism*, 35 and *supra*.

and social criticism. In this research, my purpose is to show that public reason can provide such a common discursive platform and perform this role of political reconciliation. To demonstrate this, I must firstly develop a normative model of citizenship based on public reason. Thus, after a methodological chapter (chapter two), the second part of this work (chapters three and four) is devoted to a reconstructive task, which aims at answering the question:

*(Q1) How can we reconstruct the idea of public reason so that we can identify its most salient normative requirements?*

Subsequently, I must explain why my normative conception of citizenship is appealing for contemporary Western European democracies. This is done in chapter five, which aims at answering the question:

*(Q2) How can we put together the requirements identified in the reconstructive part into a coherent ideal of citizenship, so that it can effectively represent a 'normative yardstick of evaluation'<sup>236</sup> for considering the issue of Muslims' citizenship in Europe from a public perspective?*

Finally, I must demonstrate that this normative conception of citizenship effectively works. Therefore, chapter six is concerned with the practical application of the model of citizenship based on public reason. In particular, in that chapter I will apply the approach that I call justificatory evaluative political theory to a political perspective concerning citizenship that can be plausibly defined as a European Muslim perspective (for justificatory evaluative political theory and the plausibility principle, see 2.3). Then, chapter six will deal with the question:

*(Q3) What if we evaluate European Muslims' claims concerning citizenship in Europe from the public standpoint specified by public reason?*

Here, the pronoun “we” refers to political theorists, but also ideally to any citizen who is willing to undertake such a theoretical effort. Obviously, answering these questions presupposes a method. As I have said, in the next chapter I will develop my *justificatory evaluative method*. For the moment, I just underline that answering Q3 involves an evaluation of Mus-

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<sup>236</sup> I borrow this expression from Cécile Laborde, *Critical Republicanism*, 156.



lims' political views and claims along three strongly interrelated –but conceptually different– dimensions (see 2.3 and 5.1):

- 1) The acknowledgment of the need for a public justification in public discussions about fundamental political questions (what I call the reciprocity requirement, RR).
- 2) The consistent participation in public justification, that is the consistency between the standards of public reasoning that Muslims present as “fully justified” (*infra*) from an Islamic perspective and the conception of public reason required for political or *pro tanto* (*infra*) justification (what I call the consistency requirement, CR).
- 3) The modalities in which public reason is concretely honoured in those discourses (what I call the civility requirement, CiR).

Again, “evaluation” here does not mean a judgment based on distrust or “presumption of guilt.” On the contrary, such an evaluation should work as a kind of reciprocal disclosure of discourses about citizenship, and should enhance mutual trust and friendship. Moreover, as I will explain in a short while, evaluation is a means, not an end: the final aim of my research is not evaluation *per se*. Instead, such an evaluation is functional in solving the complex problem of inclusion and assurance that I mentioned in 1.2.a. Through this kind of evaluation, I can show that public reason can both effectively represent the ground for a common political identity and provide shared standards for political and social criticism, which equally empower Muslim and non-Muslim citizens. *The aim of justificatory evaluative political theory, then, is to show that public reason may represent the common discursive platform that is apparently lacking in European democracies today.*

### 1.2.C Aims.

What are the tasks involved in answering my three questions? While in the next chapter I discuss my method, answering Q1 means undertaking a *reconstructive task*. I devote the second part of my study to this. Then, in chapters three and four I will try to reconstruct the idea of public reason and to point out the most relevant critiques.

In order to answer Q2 I must *bridge the reconstructive and the evaluative tasks*. Thus, in chapter five (the first chapter of the third part) I will try to specify a conception of liberal citizenship grounded in public reason for Western European democracies. Such a conception identifies the requirements that liberal citizens should satisfy in order to comply with the normative model of public reason citizenship (5.1). This chapter will also show that public reason is the most reasonable candidate among alternative conceptions of citizenship which are nonetheless close to it, because it solves the problem described in 1.2.a and secures stability for the right reasons, while the other conceptions fail in this respect. For this reason, I will argue that public reason citizenship should be considered as the normative ideal of citizenship for Western European societies (5.2).

Finally, answering Q3 means undertaking an *evaluative task*. In chapter six, I will consider a European Muslim proposal concerning citizenship in Europe from the standpoint of public reason. If the result of this evaluative analysis turns out to be that there is a certain level of consistency between those views and proposals and the ideal of citizenship underpinned by public reason, then there will be strong evidence for maintaining that those who advance them should be *prima facie* considered as belonging (politically speaking) to the European normative conception of citizenship. If this is true, then I will be able to maintain that public reason *effectively* represents the *common discursive platform* required for *solving the problem* outlined in 1.2.a.

What are the aims of this research? I summarise them according to their level of depth:

- 1) On the first and most obvious level, I would like to provide a precise account of what public reason is and defend it as the most reasonable theoretical approach for understanding the issue at stake.
- 2) On the second level, I would like to make clear what normative demands European societies can legitimately make toward Muslims citizens when they ask them to abide by a common ideal of citizenship specified by the idea of public reason.
- 3) On the third and deeper level, I would like to fill a gap in the existing literature concerning political liberalism. I do that by introducing the idea of a political liberal evaluation as a tool for strengthening civic trust and the social stability of democratic societies. Its core is a

consistency-evaluation between the claims of particular groups and a common liberal ideal of citizenship grounded in the need for a public justification of the use of coercive power.

4a) On the fourth level, and in continuity with the third point, I would like to demonstrate that public reason could represent a persuasive common perspective from which one can approach and try to understand the political value of Muslim contemporary reformism. Through public reason, the public dimension of Muslim reformist proposals may be disclosed to outsiders (that is, to non-Muslim citizens). Thus, I believe that public reason can fill the gap that I mentioned in 1.2.a. Citizens' respective normativities cease to be egotistic or simply unable to enter into dialogue and they can interact within a public space where pluralism is "decompressed," that is, politically reabsorbed without being dismissed or degraded.

4b) Remaining on the fourth level, I would like to argue that, politically speaking, we should distinguish European fears of Muslims' alleged 'doublespeak'<sup>237</sup> from the possibility that they resort to a "double discourse," since the latter *per se* is not politically problematic. Doublespeak 'consists in saying one thing in front of an audience to flatter or mislead them, and something else, different in content, elsewhere, to a different audience or in a different language.'<sup>238</sup> Indeed, as we will see in chapters three and four, public reason allows (and phil-

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<sup>237</sup> Caroline Fourest, *Frère Tariq. Le double discours de Tariq Ramadan*, second revised edition (Paris: Grasset, 2010). Sometimes, Muslim intellectuals are criticised for their discourses (or mere silences) also through the allegation of *taqiyya*: for instance see Lionel Favrot, *Tariq Ramadan dévoilé* (Lyon: Lyon Mag' hors série, 2004), 94 and Paul Landau, *Le Sabre et le Coran. Tariq Ramadan et les Frères musulmans à la conquête de l'Europe* (Monaco: Rocher, 2005), 138. According to the entry "dissimulation" by Devin J. Stewart in *The Princeton Encyclopedia of Islamic Political Thought*, edited by Gerhard Bowering (Princeton: Princeton University Press, 2013), *taqiyya* is 'the technical term for dissimulation, is an Islamic legal dispensation that allows the believer to commit an act that would ordinarily be forbidden or to omit an act that would ordinarily be required in cases of danger from a hostile or potentially hostile audience. [...] Throughout Islamic history *taqiyya* has been most strongly associated with the Twelver Shi'i tradition, which has the most developed literature on this topic [...]. The social use of *taqiyya* by persecuted groups such as the Moriscos of 16<sup>th</sup>-century Spain or Shi'is under the rule of the Ghaznavids, Seljuqs, Mamluks, Ottomans and other oppressive Sunni regimes may be linked to a dramaturgical discipline that guided members of a minority group to manage their identities and adjust their behaviour not only in cases of severe duress, such as at heresy trials, but also in their everyday encounters with the majority.' The latter is precisely the core of the argument advanced by critics when they invoke an enlarged (and de-historicised) concept of *taqiyya*: while not being persecuted or threatened in Europe, some European Muslim intellectuals resort to "dissimulation" so that they can conceal their real aims and intentions to the non-Muslim majority for strategic reasons. For example, Landau claims that, while Tariq Ramadan pretends to disapprove of *jihād* (literally "struggle"), he actually endorses an expansionist and aggressive notion of it (see *Le Sabre et le Coran*, 138).

<sup>238</sup> This definition is formulated by Tariq Ramadan (often himself accused of doublespeak, as I will explain in chapter six) in *What I Believe*, 2. The same definition can be found in an interview conducted by Aziz Zemouri, a *Figaro Magazine* and *Le Point* journalist: see Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 65.

osophically argues for) a particular form of “double discourse.”<sup>239</sup> One could even say that this idea is based on the need for a double discourse. The arguments we use with other persons as fellow members of associations in the ‘background culture’ are politically irrelevant.<sup>240</sup> What is important for political liberalism is the way in which we address our fellow citizens when we publicly discuss fundamental political questions. Therefore, a double discourse is not (*per se*) something that public reason abhors. The problem with ‘doublespeak’ is obviously different and concerns the sincerity of the arguments publicly expressed. My evaluative method cannot answer the question of personal sincerity in public discourses. It can just require it. We are forced to assume that what we read or hear corresponds to the sincere intentions of the writer or speaker; otherwise, any evaluation (or conjecture) would be impossible. But this is a perfectly normal assumption that we often make in our daily lives. As a matter of fact, deception and disguise cannot be neutralised by normative theory. The latter should equip citizens with critical tools for evaluating public political discourses. Nonetheless, if deception occurs and they are able to detect it, this is possible *not only* thanks to the internal resources of the theory.

5) On the fifth level, I would like to argue that an analysis of the arguments publicly made by European Muslims concerning citizenship enables us to examine: (a) if they acknowledge the need for a public justification of fundamental political decisions involving the use of coercive political power, (b) if they actually take part in this public justification consistently, and (c) how they honour the ideal of public reason [what is the nature of their claims within the boundaries of public reason? Are they purely public arguments, or are there also some arguments that follow the logic and the structure of ‘declaration’ or ‘witnessing’ in the Rawlsian sense (*infra*)? What is their prevailing attitude?].

6) Finally, at the most fundamental level, I would like to show that through public reason European societies could achieve *stability for the right reasons*, not merely by requiring a strict integration or assimilation to a (not so well defined) European model of secular or neu-

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<sup>239</sup> Maffettone suggests that the ‘concept [of public reason] imposes a sort of double standard.’ See Sebastiano Maffettone “Religion and Liberalism: Public Reason, Public Sphere and Cultural Pluralism,” in *From Political Theory to Political Theology: Religious Challenges and the Prospects of Democracy*, ed. Péter Losonczi and Aakash Singh (London and New York: Continuum, 2010), 9.

<sup>240</sup> This is not to say that members of associations in the background culture can trample on fundamental basic rights and liberties, as we will see.

tral citizenship, but through *inclusion* in a common political identity and through a *shared political commitment to public reason*. In this way, we can outline a normative theory of European citizenship able to secure civic trust and friendship, stability for the right reasons, and mutual respect for others' political claims, expectations, and demands. The idea is that this kind of analysis can serve both Muslim believers and (political) liberals: here there is a political convergence of interests. As Mohammed Fadel rightly points out:

'The fate of Islam in Western democracies [...] has not been the only casualty of the "war on terror" : liberalism has found itself under increasing attack as irrelevant to a world in which, we are told, terrorists can threaten death and destruction on the scale of Hiroshima or Nagasaki. Ironically, political realities created by the "war on terrorism" have created conditions [...] in which both liberals and Muslims have a mutual interest in effecting a meaningful rapprochement.'<sup>241</sup>

On the one hand, this work shows that Muslim believers can be good citizens in European liberal democracies. On the other, it demonstrates that political liberalism is a powerful and appealing<sup>242</sup> framework for political reconciliation of citizens as citizens.

I think that a more defined and stable conception of public reason is in the interest of every citizen, but in particular in the interest of citizens belonging to a minority group. First, the boundaries within which the requirements of public reason apply are limited and clear. This means that the call (sometimes one could say the obsession) for integration can be confined to the political sphere (for its Rawlsian definition, see the next chapters): if a citizen honours the ideal of public reason, she is integrated politically speaking,<sup>243</sup> and society should not continuously ask for additional proof of her civic loyalty outside the boundaries of the political. Moreover, Muslims and non-Muslims are bound in the same way by the idea of public reason.

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<sup>241</sup> Mohammad Fadel, "The True, the Good, and the Reasonable: The Theological and Ethical Roots of Public Reason in Islamic Law," 6.

<sup>242</sup> 'It is precisely Rawls's recognition that individuals with incommensurate moral theories may nevertheless agree on fundamental political questions while each retains her moral conception of the good that should make political liberalism categorically more appealing to committed Muslims than thicker conceptions of liberalism which would require Muslims to revise their moral and theological commitments in so many cases that it would strain credulity to accept the sincerity either of those revisions or their continued adherence to Islam as a comprehensive doctrine of the good,' *ibid.* 65.

<sup>243</sup> Here I do not directly tackle the problems related to present socio-economic or deeper individual integration, although, as I have said, I think that general compliance with the idea of public reason may help to mitigate those problems.

This entails Muslims being equally and reciprocally able to evaluate non-Muslims' political demands on the same bases and without fear. Once again, I wish to reinforce the fact that here the perspective is political and normative. I acknowledge that social and economic disadvantage may be a ground for asymmetries in citizens' capacity for public argumentation and evaluation. Nonetheless, as I have said, on the one hand we need simplifying assumptions, and on the other I think that part of these asymmetries –namely, those asymmetries that are bluntly unjustifiable– can be removed through a shared commitment to public reason thanks to citizens' ability to disclose political demands that conflict with public reason. Let me conclude this chapter by quoting a passage from Tariq Ramadan's book *What I Believe*:

‘It is now clear that so long as the two basic rights (freedom of conscience and freedom of worship) are recognized and protected, as they are in all Western societies, Muslims have to respect the law, which is binding on them as it is on all other citizens and residents, *Muslim Westerners have understood that when secularism and religious neutrality are not instrumentalized by ideologues or intellectuals or political trends opposed to any presence of religion, they guarantee religious pluralism in Western societies and protect their legitimate rights.*’<sup>244</sup>

This quotation clearly illustrates the perspective centred on equal rights from which I have claimed that a more robust and stable conception of public reason is in the interest of all and of Muslim citizens in particular.

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<sup>244</sup> Tariq Ramadan, *What I Believe*, 52, emphases added.

## Chapter Two:

# *Toward a Justificatory Evaluative Political Theory*

*Ceux qui sont dans le dérèglement disent à ceux qui sont dans l'ordre que ce sont eux qui s'éloignent de la nature, et ils croient la suivre: comme ceux qui sont dans un vaisseau croient que ceux qui sont au bord fuient. Le langage est pareil de tous côtés. Il faut avoir un point fixe pour en juger. Le port juge ceux qui sont dans le vaisseau; mais où prendrons-nous un port dans la morale ?<sup>∞</sup>*

When applied to the study of the possibilities of and requirements for Muslims' citizenship in European societies, the idea of public reason could be understood from the standpoint of what I call justificatory evaluative political theory. From this perspective, public reason discloses its full potential in terms of reciprocity, political legitimacy, social unity, and stability. In this chapter I explain the justificatory evaluative method that I adopt. In order to pinpoint the main features of such a method, I have to:

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<sup>∞</sup> Blaise Pascal, *Pensées* (Paris: Rombaldi, 1935), n. 383 on page 138.

- a) Clarify what justification and *justificatory approach* exactly mean. I do that through a reconstruction of the preeminent features of John Rawls's justificatory political liberalism (2.1).
- b) Specify the kind of evaluation that I intend to conduct. To do that, I define it by means of comparison with the *comparative approach* exemplified in Andrew F. March's "reasoning from conjecture" or "comparative ethics" (2.2).<sup>245</sup>
- c) Put the justificatory purposes and the *evaluative strategy* together, and explain my own methodological perspective, that is, justificatory evaluative political theory (2.3).

Concerning the first point (a), let me make some preliminary clarifications. Here I cannot provide a satisfying (even less a full) account of the notion of justification in contemporary political theory. Such an attempt would go far beyond the scope of this study. For what follows, it would be enough to give some general definitions in order to prepare the ground for the reconstructive and evaluative tasks that are the aims of this research. First, justification can be defined in these terms: 'a belief is justified when it is permissibly affirmed. Someone who justifiably believes P makes no normative error by believing P.'<sup>246</sup> As we will see, the central concern of Rawls's political liberalism (and of many political theorists alongside him) is how to provide a basis for the public justification of political institutions, policies, and actions which involve or are backed by the exercise of state coercive power. As Fred D'Agostino and Kevin Vallier put it, '[c]oercion is taken to be the object of public justification because it is the characteristic feature of political life.'<sup>247</sup> The underlying idea is expressed by Charles Larmore in these terms:

'The democratic ideal consists in placing a certain constraint on [the] use of coercion. It requires that political principles be such that those whom they bind must also be able to find reason to accept them. Only on this condition do they

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<sup>245</sup> Andrew F. March, *Islam and Liberal Citizenship* and "What is Comparative Political Theory?"

<sup>246</sup> Kevin Vallier, "Against Public Reason Liberalism's Accessibility Requirement," *Journal of Moral Philosophy* 8, no. 3 (2011), 370.

<sup>247</sup> Kevin Vallier and Fred D'Agostino, "Public Justification," *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta (Fall 2013), URL = <http://plato.stanford.edu/archives/fall2013/entries/justification-public/>, 1 (page number refers to the printable pdf version).



become politically legitimate [... This idea has to do] with the sort of respect we owe one another in the political realm –that is, in relationships where the possibility of coercion is involved.’<sup>248</sup>

*Justificatory liberalism* is a variegated family of liberal conceptions of public justification. John Rawls is not the only prominent political theorist who can be included within this family: Charles Larmore, Bruce Ackerman, Gerald Gaus, Robert Audi, Thomas Nagel, Lawrence Solum, Kevin Vallier, Fred D’Agostino, and Micah Schwartzman are just some of the theorists keeping him company. The term was coined by Gerald Gaus: he openly says that ‘public justification is the core of liberalism.’<sup>249</sup> However, while he distinguishes his “justificatory liberalism” from Rawls’s “political liberalism,”<sup>250</sup> I use this term in a broader sense, which includes Rawls’s political liberalism.<sup>251</sup> Although different elements (such as the value of respect in the case of Larmore’s liberalism quoted above) can be emphasised depending on the specific conception of public justification, this is the fundamental idea of justificatory liberalism: to be legitimate, coercive power must be publicly justified. As Cristopher Eberle argues, at the most basic level, justificatory liberals share a

‘[C]ommitment to the following claim: because each citizen ought to *respect* her compatriots, each citizen ought to pursue *public justification* for her favoured coercive laws. [...] The claim that respect requires public justification provides a basis for the central component of the justificatory liberal’s ethic of citizenship: *the norm of respect imposes on each citizen an obligation to discipline herself in such a way that she resolutely refrains from supporting any coercive law for which she cannot provide the requisite public justification.*’<sup>252</sup>

To be sure, the problem is precisely what kind of *public justification* is required. Anew, generally speaking, one may say that ‘a public justification is achieved when members of the

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<sup>248</sup> Charles Larmore, *The Autonomy of Morality* (Cambridge and New York: Cambridge University Press, 2008), 86.

<sup>249</sup> Gerald F. Gaus, *Justificatory Liberalism: An Essay on Epistemology and Political Theory* (New York: Oxford University Press, 1996), 4.

<sup>250</sup> *Ibid.*

<sup>251</sup> On this I agree with Cristopher J. Eberle, *Religious Conviction in Liberal Politics* (Cambridge: Cambridge University Press, 2002), 11 note 34.

<sup>252</sup> *Ibid.* 11-12. Italics in the original.

relevant public have adequate or sufficient reason to endorse a particular coercive proposal, law, or policy.’<sup>253</sup> A *reason* for something can be simply defined as ‘a consideration that counts in favour of it.’<sup>254</sup> For brevity (and since it does not affect the substance of my work in a crucial way), in this study I use the terms “reason” and “argument” for something in this broad sense and almost interchangeably (strictly speaking, however, a reason is not an argument).<sup>255</sup> The *general definition of public justification* has the advantage that it already allows the connection between public justification and political legitimacy to be seen. As Kevin Vallier points out, public reason liberalism<sup>256</sup> ‘combines traditional liberal commitments to individual liberty and political democracy with a demand that coercion be justified to citizens in terms they can reasonably be expected to endorse.’<sup>257</sup> I will return to such a connection in what follows. However, the qualification of a reason as an ‘adequate or sufficient’ reason (that is, what makes a reason a justificatory reason) is problematic, and it is the point about which differences among public reason liberals are more acute. What counts as an adequate reason? In what follows, a reason is considered as adequate for public justification if it is a conclusive reason. To understand why reasons must be conclusive in order to provide a solid ground to public justification, let me quote Gaus’s explanation at length:

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<sup>253</sup> Kevin Vallier and Fred D’Agostino, “Public Justification,” 1.

<sup>254</sup> Thomas M. Scanlon, *What we Owe to Each Other* (Cambridge, Mass.: Harvard University Press, 1998), 17.

<sup>255</sup> In fact, an argument can be defined as ‘a sequence of statements such that some of them (the *premises*) purport to give reason to accept another of them, the *conclusion*.’ Thus, based on some assumptions, an argument presents one or more reasons supporting a conclusion. See the entry “argument” by Richard Purtill in *The Cambridge Dictionary of Philosophy*. Similarly, I use the terms “premise” and “belief” in a broad and roughly equivalent sense, simply meaning a proposition that we accept. A fuller definition of belief could be the following: ‘a dispositional psychological state in virtue of which a person will assent to a proposition under certain conditions.’ See the entry “belief” by Paul K. Moser in *The Cambridge Dictionary of Philosophy*.

<sup>256</sup> Given the approach followed here, in this work I use the expressions “justificatory liberalism” and “public reason liberalism” indifferently. However, as Vallier and D’Agostino point out, ‘[n]otwithstanding the characteristic association between public reason liberalism and the requirement of public justification, public justification is the genus and public reason is the species. The idea of public *justification* is, at its root, an idea about what justifies coercion. Although we can arrive at a state in which some social arrangement is publicly justified by an explicit course of reasoning leading to the legitimation of the state, this is not intrinsic to the more general idea of public justification [...] In particular, we can arrive at a state in which some arrangement is publicly justified by non-deliberative, indeed non-discursive means, and it is for this reason that public reason is a narrower notion than public justification.’ See their “Public Justification,” 1. I will focus on a Rawlsian interpretation of public reason liberalism, without claiming to analyse all the possible variants of the latter.

<sup>257</sup> Kevin Vallier, “Liberalism, Religion and Integrity,” *Australasian Journal of Philosophy* 90, no. 1 (2012), 150.

‘[A]ssume that Alf and Betty are both members of *P*, and Alf proposes law *L<sub>A</sub>*. Suppose that Alf can advance a reason *R<sub>1</sub>* for Betty to endorse *L<sub>A</sub>*, but Betty’s system of beliefs and values is such that while as a member of *P* she acknowledges that *R<sub>1</sub>* is a reason for endorsing *L<sub>A</sub>*, she also holds that she has reason *R<sub>2</sub>*, which is a reason to endorse *L<sub>B</sub>* over *L<sub>A</sub>* (where *L<sub>A</sub>* and *L<sub>B</sub>* are incompatible alternatives). Suppose that, exercising her reason as a free and equal member of the public, Betty concludes that *R<sub>2</sub>* outweighs (or defeats) *R<sub>1</sub>*, and thus she concludes that *L<sub>B</sub>* is better than *L<sub>A</sub>*. Now some insist that, nevertheless, Alf has provided a justification of *L<sub>A</sub>* insofar as he has offered a nonsectarian reason *R<sub>1</sub>* in support of *L<sub>A</sub>*—a reason that, as a free and equal member of the public, Betty can appreciate. Yet, exercising her capacities as a free and equal person, Betty has concluded that, when compared to *L<sub>B</sub>*, *L<sub>A</sub>* is inadequately justified in the sense that it is not choice-worthy; as she understands it, she has more reason to endorse *L<sub>B</sub>*. For Alf (even if Alf is the head of state) to *simply* impose *L<sub>A</sub>* on Betty is inconsistent with treating her as a free and equal member of the public. The critical question is not whether Betty has *some* reason to endorse *L<sub>A</sub>*, but whether, all things considered, she has reason to endorse *L<sub>A</sub>* over the alternatives, or even over no law at all. If she has some reason to endorse *L<sub>A</sub>*, but more reason to endorse an alternative, then what economists call the “opportunity costs” of choosing *L<sub>A</sub>* exceed the benefits: she would be opting for a law that achieves less of what she values over one that achieves more. Therefore, only a justification that showed she had conclusive reasons—the benefits outweighed the opportunity costs—would show that she has reason to endorse the law.’<sup>258</sup>

Thus, we arrive at the *special definition of public justification* (that I borrow from Kevin Vallier) from which I begin the analysis: ‘a coercive action *C* is justified if and only if every member of the public *P* has a conclusive reason *R* to endorse *C*.’<sup>259</sup>

Note that this definition is “special” only in the sense that it qualifies the requirement that justificatory reasons must be “adequate.” However, it leaves many crucial questions unan-

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<sup>258</sup> Gerald F. Gaus, “Coercion, Ownership, and the Redistributive State: Justificatory Liberalism’s Classical Tilt,” *Social Philosophy and Policy* 27, no. 1 (2010), 245-246.

<sup>259</sup> Kevin Vallier, “Liberalism, Religion and Integrity,” 151.

swered. For instance, it does not say what is the scope of the required justification; how to identify the relevant public P; if the expression “every member has a conclusive reason to endorse” must be interpreted in the sense of reaching a consensus on the same reason R (so that the same conclusive reason R is shared by every member of P) or in the sense of a convergence of different reasons ( $R_1$ ,  $R_2$ ,  $R_3$  and so on, so that in an extreme case every member of P has a different conclusive reason) that justify the same political output C;<sup>260</sup> which doctrine of restraint is associated to the convergence/consensus view adopted (that is, which reasons – shared or not – can be presented in public discussions and deliberations) and what to do if we are unable to solve the problem linked to C by recurring to shared public reasons; whether or not sincerity is required in presenting those reasons, and so on. These considerations are what distinguish every particular conception of public justification: those conceptions may be understood as specifications of the special definition of public justification. Since it is impossible to provide a detailed overview of different accounts of public justification here, in the next section I focus on Rawls’s justificatory liberalism.<sup>261</sup>

## 2.1 Rawls’s Political Liberalism and the Problem of Justification.

Indeed, the question of public justification is central to *Political Liberalism*:

‘The aim of political liberalism is to uncover the conditions of the possibility of a reasonable public basis of justification on fundamental political questions. [...] In doing this, it has to distinguish the public point of view from the many nonpublic (not private) points of view. Or, alternatively, it has to characterize the distinction between public reason and the many nonpublic reasons and to explain why

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<sup>260</sup> For the distinction between convergence and consensus modes of justification, see notes to chapters two and three.

<sup>261</sup> However, several other contributions will be presented throughout the discussion. For a general but thorough analysis of the concept of public justification, its constitutive elements, different interpretations, and the major objections to it, see Kevin Vallier and Fred D’Agostino, “Public Justification,” Fred D’Agostino, “Some Modes of Public Justification,” *Australasian Journal of Philosophy* **69**, no. 04 (1991), 390-414, Jonathan Quong, *Liberalism without Perfection* (Oxford: Oxford University Press, 2011), in particular 256-289 (a list of objections to the idea of public reason can be found on 259-260) and, by the same author “Public Reason,” *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta (Summer 2013), URL = <http://plato.stanford.edu/archives/sum2013/entries/public-reason/>, 12-18 (page numbers refer to the printable pdf version).

public reason takes the form it does. Moreover, it has to be impartial [...] between the points of view of reasonable comprehensive doctrines. This impartiality [entails that, f]or one thing, political liberalism does not attack or criticize any reasonable view. [...] It does not criticize, much less reject, any particular theory of the truth of moral judgements. [...] Which moral judgments are true, all things considered, is not a matter for political liberalism, as it approaches all questions from within its own limited point of view. [...] Further, political liberalism, rather than referring to its political conception of justice as true, refers to it as reasonable instead. This [...] indicates the more limited point of view of the political conception as articulating political and not all values, while providing at the same time a public basis of justification.’<sup>262</sup>

To begin with, let me introduce Rawls’s crucial distinction between political (or *pro tanto*) justification, full justification, and public justification.<sup>263</sup> I think that the best way to do this is presenting the relation between the three kinds of justification, the idea of public reason and its values,<sup>264</sup> the conception of citizens as free and equal, rational and reasonable persons and the ideas of social unity and stability for the right reasons. I consider the integration of such a

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<sup>262</sup> John Rawls, *Political Liberalism*, xix-xx.

<sup>263</sup> For a critique of Rawls’s justificatory strategy, see, among others, Fabian Freyenhagen, “Taking Reasonable Pluralism Seriously: An Internal Critique of Political Liberalism,” *Politics, Philosophy, and Economics* 10, no. 3 (2011), 325-327. Freyenhagen proposes an alternative realist approach leading to a ‘liberalism of fear’ (for his criticism of Rawls see 327-334, and for his proposal see in particular 335-337). For the notion of ‘liberalism of fear,’ see Judith Shklar, “The Liberalism of Fear,” in *Political Liberalism: Variations on a Theme*, 149-166.

<sup>264</sup> I analyse these concepts in the following chapter, entirely devoted to the idea of public reason. Here, it will be sufficient to say that the structure of the idea of public reason as defined by Rawls consists of five features: ‘1) the fundamental political questions to which it applies, 2) the persons to which it applies [...], 3) its content as given by a family of reasonable political conceptions of justice, 4) the application of these conceptions in discussions of coercive norms to be enacted in the form of legitimate law for a democratic people [that is, the idea of political legitimacy], and 5) citizens’ checking that the principles derived from their conceptions of justice satisfy the criterion of reciprocity.’ See John Rawls, “The Idea of Public Reason Revisited,” 442. Moreover, concerning values of public reason, Rawls says that ‘the idea of public reason specifies at the deepest level the basic political values and specifies how the political relation is to be understood.’ Ibid. 447. It is enough to say that together with ‘values of political justice’ (values related to: equal political and civil liberty, equality of opportunity, social equality and economic reciprocity), ‘values of public reason’ express the ‘liberal political values.’ Values of public reason are expressed in: a) guidelines of public inquiry (free, public, well informed and reasonable) and b) political virtues [i.e. virtues of political cooperation, such as ‘reasonableness and a readiness to honour the (moral) duty of civility’, fair-mindedness, the virtue of toleration, and a ‘spirit of compromise’]. For political values, see in particular: John Rawls, *Political Liberalism*, xlviii, 139, 146, 156-157, 163, 190-195, 223-224, 236; “The Idea of Public Reason Revisited,” 447, 453-454, 474-476; “The Idea of an Overlapping Consensus,” in John Rawls, *Collected Papers*, 439-440; and “The Domain of the Political and Overlapping Consensus,” in John Rawls, *Collected Papers*, 484-485. See also Samuel Freeman, *Rawls* (London and New York: Routledge, 2007), 371-372 and 388. For the political virtues sustaining those values, see in particular: John Rawls, *Political Liberalism*, 139, 157, 163, 171, 194-195, 199, 224; “The Idea of an Overlapping Consensus,” 439, 443-444.

(necessarily concise) overview of paramount importance to this introductory part. However, I deliberately do not focus on the evolution of the concept of justification in Rawls's philosophy here.<sup>265</sup> I centre my account on *Political Liberalism*, "Reply to Habermas," and "The Idea of Public Reason Revisited."

Rawls develops his political conception<sup>266</sup> of justice in two stages.<sup>267</sup> First, he presents justice as fairness as a freestanding political conception.<sup>268</sup> In the second stage, however, he

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<sup>265</sup> For this, and in particular for the notions of reflective equilibrium, original position, and public reason as three ideas related to justification in Rawls's work, see Thomas M. Scanlon, "Rawls on Justification," in *The Cambridge Companion to Rawls*, 139-167. See also Charles Larmore, "Public Reason," in *The Cambridge Companion to Rawls*, 368-393.

<sup>266</sup> A short account of the idea of a "political conception" is in order here. First of all, as Rawls openly states, a political conception of justice applies to the 'basic structure' of society, that is, to 'a society's main political, social, and economic institutions, and how they fit together into one unified system of social cooperation from one generation to the next.' John Rawls, *Political Liberalism*, 11. Moreover, a political conception has three features. First, as I said, it applies to a society's basic structure. Second, it is presented as a 'freestanding view', that is, while 'we want a political conception to have a justification by reference to one or more comprehensive doctrines, it is neither presented as, nor as derived from, such a doctrine applied to the basic structure of society, as if this structure were simply another subject to which that doctrine applied. [...] I assume all citizens to affirm a comprehensive doctrine to which the political conception they accept is in some way related. But a distinguishing feature of a political conception is that it is presented as freestanding and expounded apart from, or without reference to, any such wider background [...] [T]he political conception is a module, an essential constituent part, that fits into and can be supported by various reasonable comprehensive doctrines that endure in the society regulated by it. This means that it can be presented without saying, or knowing, or hazarding a conjecture about, what such doctrines it may belong to, or be supported by.' Ibid. 12-13. Finally, a political conception of justice has a content that is 'expressed in terms of certain fundamental ideas seen as implicit in the public political culture of a democratic society.' This hint brings us to the notion of 'background culture' (*infra*): while this latter represents the context which comprehensive doctrines belong to, the public political culture 'comprises the political institutions of a constitutional regime and the public traditions of their interpretation (including those of the judiciary), as well as historic texts and documents that are common knowledge.' Ibid. 13-14. Public political culture is a 'shared fund of implicitly recognized basic [political] ideas and principles', it expresses 'a tradition of democratic thought, the content of which is at least familiar and intelligible to the educated common sense of citizens generally', *ibid.* 8, 14 (see also 43, 175 and 220). To my ends, a final and important remark is in order here. According to Rawls, a moral conception can be political, general, or (partially or fully) comprehensive. As I said, a moral conception is political if it (i) applies to a society's basic structure, (ii) is presented as a freestanding view, and (iii) its content is expressed in terms of fundamental ideas of a democratic society's public political culture. A moral conception is general 'if it applies to a wide range of subjects, and in the limit to all subjects universally.' A moral conception is comprehensive if it includes 'conceptions of what is of value in human life, and ideals of personal character, as well as ideals of friendship and of familial and associational relationships, and much else that is to inform our conduct, and in the limit to our life as a whole'; it is fully comprehensive if it 'covers all recognized values and virtues within one rather articulated system.' It is only partially comprehensive if it covers a lot of (but not all) non-political values and virtues. Ibid. 13. According to this interpretation, Islam seems to be a general and more or less fully comprehensive religious doctrine.

<sup>267</sup> Ibid. 133-134.

<sup>268</sup> For the definition of a 'freestanding view', see above. Moreover, he specifies that: '[p]olitical liberalism [...] aims for a political conception of justice as a freestanding view. It offers no specific metaphysical or epistemological doctrine beyond what is implied by the political conception itself. As an account of political values, a freestanding political conception does not deny there being other values that apply, say, to the personal, the familial, and the associational; nor does it say that political values are separate from, or discontinuous with, other values. One aim, as I have said, is to specify the political domain and its conception of justice in such way that its institutions can gain the support of an overlapping consensus.' Ibid. 10-11.

takes into account the question of reasonable pluralism of comprehensive (moral, religious, and philosophical) doctrines.<sup>269</sup> In a liberal and reasonably plural society, many non-public reasons are present in the ‘background culture.’<sup>270</sup> In a society where pluralism is a fact and ‘a reasonable comprehensive doctrine cannot secure the basis of social unity, nor can it provide the content of public reason on fundamental political questions,’<sup>271</sup> we must address the question of how it is possible to preserve unity and stability. Since the main question of political liberalism is ‘how is it possible for there to exist over time a just and stable society of free and equal citizens, who remain profoundly divided by reasonable religious, philosophical, and moral doctrines?’,<sup>272</sup> solving the problem of reasonable pluralism means answering the question “how is political liberalism possible?” Up to now, I have mentioned the ‘fact of reasona-

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<sup>269</sup> A reasonable comprehensive doctrine: 1) ‘is an exercise of theoretical reason: it covers the major religious, philosophical, and moral aspects of human life in a more or less consistent and coherent manner. It organizes and characterizes recognized values so that they are compatible with one another and express an intelligible view of the world;’ 2) each doctrine is characterised by the way in which it chooses which values have the primacy and establishes how to balance conflicting values: so, it is also an exercise of practical reason; 3) ‘it normally belongs to, or draws upon, a tradition of thought and doctrine.’ Ibid. 59. Persons who are reasonable (see the definition below) affirm *only* reasonable comprehensive doctrines. Ibid.

<sup>270</sup> I can now introduce two important distinctions that Rawls makes, namely, the distinction between public political culture and background culture on the one hand, and between public and non-public reasons on the other. As we will see, Rawls’s political liberalism, being focused on the conditions of public justification of political power on fundamental political questions, is concerned mainly with public reasons. Nonetheless, non-public reasons play a crucial role in attaining stability and may also be appealed to in public political forums, once we adopt a ‘wide view’ of public reason (see chapters three and four). Non-public reasons ‘comprise the many reasons of civil society’ and belong to what he calls the ‘background culture’ (ibid. 220). The background culture is ‘the culture of the social, not of the political. It is the culture of daily life, of its many associations: churches and universities, learned and scientific societies, and clubs and teams, to mention a few.’ Ibid. 14. Non-public reasons may be divided into: (a) social reasons, ‘the many reasons of associations in society which make up the background culture’ (such as churches), and (b) domestic reasons, ‘the reason of families as small groups in society’. So, non-public reasons are not private reasons (ibid. 220). We could say that public reasons : public political culture = non-public reasons : background culture. Importantly, Rawls argues that ‘[a]s citizens, we participate in all these kinds of reason and we have the rights of equal citizens when we do so.’ Ibid. 220.

<sup>271</sup> Ibid. 134.

<sup>272</sup> Ibid. 4.

ble pluralism' without defining it.<sup>273</sup> Like in the rest of the section, here I closely follow Rawls's arguments.<sup>274</sup> It is quite easy to observe that many different religious, philosophical,

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<sup>273</sup> As Rawls acknowledges (*Political Liberalism*, 36 note 37), the distinction between the 'fact of pluralism' and the 'fact of reasonable pluralism' is drawn from Joshua Cohen's article "Moral Pluralism and Political Consensus" [in Joshua Cohen, *Philosophy, Politics, Democracy: Selected Essays* (Cambridge, Mass.: Harvard University Press, 2009), 38-60], see in particular 52-53. Here, Cohen defines reasonable pluralism as the idea 'that there are distinct understandings of value, each of which is fully reasonable. An understanding of value is fully reasonable just in case its adherents are stably disposed to affirm it as they acquire new information and subject it to critical reflection.' The lack of agreement on a single understanding of value entails pluralism of understandings of value. Furthermore, as I have said, Cohen distinguishes between the simple fact of pluralism, in which 'the protection of the deliberative liberties will result in moral pluralism,' and the fact of reasonable pluralism, in which pluralism is qualified by the fact that 'some of the moral conceptions will fall within the set of fully reasonable conceptions.' Ibid. 53. After having shown that holding a reasonable comprehensive doctrine is not incompatible with believing it true as a matter of faith [since if we acknowledge the fact of reasonable pluralism, even if 'we embrace (not unreasonably) the sectarian view that our moral views are true [...] our sectarianism does not require that we condemn as unreasonable everyone who believes what we take to be false'], Cohen anticipates Rawls's differentiation between an 'overlapping consensus' and a mere '*modus vivendi*' (53-55). As he puts it in "A More Democratic Liberalism" (1505), '[i]n a world full of cruelty, depravity, and grief, we ought not to dismiss the virtues of a politics of group bargaining within a framework of rules that win general compliance – "a mere *modus vivendi*." Still, [*Political*] *Liberalism* defends the possibility of doing better: of achieving a consensus on political justice under conditions of fundamental moral, religious, and philosophical disagreement. The key to that possibility is that political values [...] are extremely important values and can be acknowledged as such by conflicting moral conceptions, by views that disagree with one another about ultimate values and about the best way to live.'



and moral doctrines (some of which are ‘not only irrational, but mad and aggressive’)<sup>275</sup> coexist in contemporary democratic societies. This is what Rawls calls the ‘fact of pluralism as such.’<sup>276</sup> However, the notion of ‘reasonable pluralism’ is more specific and qualified. First,

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<sup>274</sup> This remark means that here I do not distinguish between ‘pluralism’ and ‘reasonable disagreement’ as Larmore does [see his “Pluralism and Reasonable Disagreement,” *Social Philosophy and Policy* 11, no. 1 (1994), 62-63, 63-70, and 74-79]. In particular, he affirms that ‘pluralism is a doctrine about the nature of value. It asserts that the forms of moral concern, as well as the forms of self-realization, are in the end not one, but many. It stands, therefore, in opposition to religious and metaphysical conceptions of a single source of value [that is, monism]. *Liberalism, however, does not arise from an acceptance of pluralism.* Instead, it seeks to found the principles of political association upon a core morality that reasonable people can accept, despite their natural *tendency to disagree* about comprehensive visions of the nature of value, and so in particular *about the merits of pluralism and monism.* This expectation of reasonable disagreement lies at a different, more reflective level than pluralism. It responds to the religious and metaphysical disenchantment of the world, not by affirming it, as pluralism seems to do, but rather by recognizing that like other deep conceptions of value this disenchantment is an idea about which reasonable people are likely to disagree,’ 74, emphases added. Now these considerations are not troublesome from a Rawlsian perspective. Obviously, when Rawls talks about reasonable pluralism, he has in mind something like what Larmore calls reasonable disagreement (Larmore himself acknowledges this, *ibid.* 62). What Larmore seeks to do, is to distinguish the two different notions of value pluralism and reasonable disagreement (pluralism) *à la* Rawls. So, the fact that Rawls uses both the expression reasonable disagreement and the expression reasonable pluralism (e.g., *Political Liberalism*, 55) does not contradict Larmore’s distinction. I could say that, once we have accepted –even partially– the distinction between comprehensive views (and, among them, value pluralism in this form) and the political conception (to which the idea of reasonable pluralism belongs as a founding ground) the question is mainly a matter of linguistic preference. So, bearing in mind these points, I will follow Rawls and use both terms in Rawls’s sense. With reference to this issue, see also Robert Talisse, *Pluralism and Liberal Politics* (New York: Routledge, 2012). On pages 23-24, he distinguishes between: 1) *metaphysical pluralism* (which has two varieties having in common the fact that they explain the irreducible plurality of goods in virtue of ‘the nature of the goods themselves’: 1a) Berlin’s value pluralism, according to which ‘goods are viewed as a kind of object, and irreducible plurality is understood by means of spatial metaphors –not all goods can co-exist;’ and 1b) what he calls psychological pluralism according to which ‘goods are ultimately distinctive kinds of psychological [italicised in the original] states’), and 2) *epistemological pluralism* (which has two varieties having in common the idea that ‘goods are irreducibly plural due to some fact about moral epistemology that results in our inability to reduce them:’ 2a) strong epistemological pluralism ends up in some form of scepticism, since it maintains that ‘epistemic obstacles to value commensuration are in principle insurmountable;’ and 2b) weak epistemological pluralism which acknowledge that ‘obstacles to value commensuration are indeed significant and at least at present insurmountable, *but makes no claim about the permanency of this condition*’ emphasis added). Talisse argues that Rawls’s political liberalism holds a kind of weak epistemological pluralism (*ibid.* 25). I fundamentally agree on the fact that an epistemological element is involved in the Rawlsian idea of the burdens of judgment (*infra*), but, as I will explain in the following lines, the moral political dimension of Rawls’s conception of reasonableness (and, hence, of reasonable pluralism) is at least equally important (for more details on this point, see 4.2, where I explain why the idea of the burdens of judgment is a fundamental component of the concept of reasonableness). Again, this is not to bring back the discourse to some comprehensive view of pluralism, but to strive for grounding the acceptance of pluralism in a core political morality centred on political reciprocity and grounded in democratic public culture.

<sup>275</sup> John Rawls, *Political Liberalism*, 144.

<sup>276</sup> Without claiming to establish a rigorous parallel, it seems instructive to point out that something similar to the distinction between the fact of pluralism as such and the fact of reasonable pluralism can be implicitly found in Walter Bryce Gallie’s discussion about the consequences of the recognition of the existence of what he calls ‘essentially contested concepts.’ He says that ‘it is important to distinguish clearly such recognition –a somewhat sophisticated “higher order” intellectual feat– from the everyday “lower order” recognition that one is using a given concept both aggressively and defensively. The difference is between recognizing that one has, and presumably will continue to have, opponents, and *recognizing that this is an essential feature of the activity one is pursuing.*’ W. B. Gallie, “Essentially Contested Concepts,” *Proceedings of the Aristotelian Society*, New Series 56 (1955-1956), 192, emphasis added. For the link between ‘essential contestability,’ pluralism, reasonableness, and public justification, see Fred D’Agostino, *Free Public Reason: Making It Up As We Go* (New York: Oxford University Press, 1996), 17-21 and 23-26.

reasonable pluralism deals with the diversity of *reasonable* comprehensive doctrines, that is, ‘doctrines that reasonable citizens affirm and that political liberalism must address.’<sup>277</sup> Second, the fact of reasonable pluralism is not ‘an unfortunate condition of human life’, but ‘the inevitable outcome of free human reason’<sup>278</sup> and ‘a permanent feature of the public culture of democracy.’<sup>279</sup> Reasonable persons accept the fact of pluralism *so qualified (infra)*. This is the central point. In conceiving the relation between the ‘domain of the political’<sup>280</sup> and the diversity of reasonable comprehensive doctrines, as reasonable persons we should consider these latter as ‘in part the work of free practical reason within the framework of free institutions.’<sup>281</sup> Therefore, when we address the problem of stability by making reference to the support of reasonable comprehensive doctrines through an overlapping consensus, we should remember that reasonable disagreement is the product of ‘free human reason under conditions of liberty.’<sup>282</sup> Why do free institutions lead to reasonable pluralism? What are its sources? Is this pluralism due to narrow personal interests or irrationality? According to Rawls, the sources of reasonable disagreement are elsewhere. He observes that ‘reasonable disagreement is disagreement between reasonable persons.’<sup>283</sup> But what are the features of such reasonable persons? For the moment, it will be enough to say that, according to Rawls, a crucial feature of persons is their possessing two moral powers (namely, a ‘capacity for a sense of justice’ and ‘a capacity for a conception of the good’) and ‘the powers of reason’ (the intellectual powers

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<sup>277</sup> John Rawls, *Political Liberalism*, 36. I define the notion of reasonableness below.

<sup>278</sup> Ibid. 37. See also 144.

<sup>279</sup> Ibid. 36.

<sup>280</sup> Rawls identifies the domain of the political in a constitutional regime by pointing out the two special features of the ‘political relationship in a constitutional regime.’ First, such a relationship ‘is a relationship of persons within the basic structure of society’ (*supra*). Second, in this political relationship ‘political power is ultimately the power of the public, that is, the power of free and equal citizens as a collective body. This power is regularly imposed on citizens as individuals and as members of associations, some of whom may not accept the reasons widely said to justify the general structure of political authority –the constitution– or when they do accept that structure, they may not regard as justified many of the statutes enacted by the legislature to which they are subject.’ Ibid. 135-137.

<sup>281</sup> Ibid. 37.

<sup>282</sup> Ibid. 144.

<sup>283</sup> Ibid. 55.

of judgment, thought, and inference).<sup>284</sup> Let me add here that persons are politically conceived as free because they have these two moral powers (thus, they are free moral beings in this sense) and as equal because they have these powers to the minimum degree required to be fully cooperating members of society.<sup>285</sup> Rawls continues by saying that ‘citizens are conceived as thinking of themselves as free in three respects:’ first, as having the moral capacity for a conception of the good, second, as ‘self-authenticating sources of valid claims’ (that is, they perceive themselves as being entitled to make valid claims), and third as ‘capable of taking responsibility for their ends [...] and adjusting their aims and aspirations in the light of what they can reasonably expect to provide for.’<sup>286</sup> The last point means that citizens are to acknowledge ‘that the weight of their claims is not given by the strength and psychological intensity of their wants and desires, [...] but that] they can adjust their ends so that those ends can be pursued by the means they can reasonably expect to acquire in return for what they can reasonably expect to contribute’<sup>287</sup> in a system of cooperation. For the purposes of chapter three, it is important to note here the fact that he adds that ‘[t]he idea of responsibility for ends is implicit in the public political culture and discernible in its practices.’<sup>288</sup>

Reasonable disagreement should be conceived as disagreement between persons endowed with common human reason, powers of inference, judgement, and thought.<sup>289</sup> Why do reasonable persons disagree, then? Rawls specifies six sources of reasonable disagreement, that he calls ‘the burdens of judgement,’ that is, ‘the many hazards involved in the correct (and conscientious) exercise of our powers of reason and judgement in the ordinary course of polit-

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<sup>284</sup> Ibid. 19. ‘A capacity for a sense of justice is the capacity to understand, to apply, and to act from the public conception of justice which characterizes the fair terms of social cooperation. [...] It also expresses a willingness, if not the desire, to act in relation to others on terms that they also can publicly endorse. The capacity for a conception of the good is the capacity to form, to revise, and rationally to pursue a conception of one’s rational advantage or good.’ In addition to these moral powers, citizens also have ‘at any given time a determinate conception of the good that they try to achieve.’

<sup>285</sup> Ibid.

<sup>286</sup> See *ibid.* 29-34.

<sup>287</sup> Ibid. 34.

<sup>288</sup> Ibid.

<sup>289</sup> Ibid. 55.

ical life.’<sup>290</sup> Persons can disagree (and usually disagree) even when their judgements are fully reasonable, because of those sources of reasonable disagreement in judgment.<sup>291</sup> Only the oppressive use of state coercive power could suppress such disagreement, and establish and preserve unanimity about one comprehensive doctrine.<sup>292</sup> Therefore, reasonable persons should recognise that reasonable disagreement is a normal consequence of the free use of human reason within a democratic institutional framework and not a regrettable accident. They should allow reasonable disagreement and the diversity of reasonable comprehensive doctrines, because it is not unreasonable to affirm one of them, but it would be unreasonable to use political power to repress others’ reasonable comprehensive doctrines.<sup>293</sup> Thus, the burdens of judgement represent a reason for endorsing the principles of toleration, freedom of conscience, and freedom of thought.<sup>294</sup> Consequently, reasonable people should recognise the burdens of judgement and ‘accept their consequences for the use of public reason in directing the legitimate exercise of political power in a constitutional regime.’<sup>295</sup> This last remark is important for what I will say about public reason. Now I am able to define reasonable persons and reasonable comprehensive doctrines more exhaustively.<sup>296</sup> With reference to reasonable persons, note that: (i) according to the general political conception of persons as free and equal, they possess the two moral powers (a sense of justice and a capacity for a conception of the good) and the powers of reason,<sup>297</sup> and (ii) more specifically they are both (iia) willing to recognise the burdens of judgment and their consequences,<sup>298</sup> and (iib) ‘ready to propose principles and standards as fair terms of cooperation and to abide by them willingly, given the

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<sup>290</sup> Ibid. 55-56. The burdens of judgements are listed in ibid. 56-57.

<sup>291</sup> Ibid. 58.

<sup>292</sup> Ibid. 37.

<sup>293</sup> Ibid. 60.

<sup>294</sup> Ibid. 59, 60 and 61-62. See also Sebastiano Maffettone, *Introduzione a Rawls* (Rome and Bari: Laterza, 2010), 104.

<sup>295</sup> John Rawls, *Political Liberalism*, 54.

<sup>296</sup> For a detailed account of Rawls’s notion of reasonableness and some main objections, see, among others, Sebastiano Maffettone, “Political Liberalism: Reasonableness and Democratic Practice,” 542 and 557-573. See also his *Rawls: An Introduction* (Cambridge: Polity, 2010), 237-249.

<sup>297</sup> John Rawls, *Political Liberalism*, 19.

<sup>298</sup> Ibid. 54.

assurance that others will likewise do so. Those norms they view as reasonable for everyone to accept and therefore as justifiable to them; and they are ready to discuss the fair terms that other propose.’<sup>299</sup> Accordingly, we can define reasonable comprehensive doctrines<sup>300</sup> as the doctrines affirmed by reasonable persons: as such, they recognise the burdens of judgement and the reasonable pluralism, abide by the principle of toleration, and support the idea of public reason.<sup>301</sup> A reasonable comprehensive doctrine respects the existence of different reasonable doctrines and finds it unreasonable to repress doctrines that are not unreasonable.<sup>302</sup> So far, the principle of toleration has been presented as being grounded in the recognition of the burdens of judgement and of reasonable pluralism. Understandably, Rawls also wants to establish a less epistemological and more moral-political foundation for toleration: the criterion of reciprocity (for a deeper analysis of this crucial notion, see 3.2.b.1 and 4.2). This latter states that ‘our exercise of political power is proper only when we sincerely believe that the reasons we offer for our political action may reasonably be accepted by other citizens as a *justification* of those actions.’<sup>303</sup> Therefore, if we abide by the criterion of reciprocity, we cannot (unreasonably) repress others’ reasonable comprehensive doctrines: this action would not satisfy the reciprocity between reasonable persons. Undeniably, reasonableness and the criterion of reciprocity tightly relate to another concept I have already mentioned: the liberal principle

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<sup>299</sup> Ibid. 49. This definition of the features of reasonable persons is a sufficient to my aims. However, other properties can be singled out. Leif Wenar observes that five main attributes of reasonable persons are specified in *Political Liberalism* (for Rawls’s summary of these attributes, see John Rawls, *Political Liberalism*, 81-82). 1) a- The possession of the two moral powers; b- the possession of the powers of judgement, thought, and inference; c- the possession of a determinate conception of the good at any given time (ibid. 19); d- the capacity for being normal, fully cooperating members of society over a complete life (ibid. in particular 15-22, 34, and 55). 2) The readiness to propose and the willingness to abide by fair terms of cooperation (ibid. 49). 3) The recognition of the burdens of judgement (ibid. 48-54; 54-58). 4) The possession of a reasonable moral psychology (ibid. 81-86). 5) The recognition of five essential elements of a conception of objectivity (ibid. 110-112). See Leif Wenar, “Political Liberalism: An Internal Critique,” *Ethics* **106**, no. 1 (1995), 36-37.

<sup>300</sup> For the definition of reasonable comprehensive doctrines, see above.

<sup>301</sup> John Rawls, *Political Liberalism*, 59. See also 61: ‘reasonable persons see that the burdens of judgement set limits on what can be reasonably justified to others, and so they endorse some form of liberty of conscience and freedom of thought.’

<sup>302</sup> Ibid. 60-61.

<sup>303</sup> Ibid. xlv, emphasis added. See also 16-17: ‘the idea of reciprocity lies between the idea of impartiality, which is altruistic (being moved by the general good), and the idea of mutual advantage understood as everyone’s being advantaged with respect to each person’s present or expected future situation as things are. As understood in justice as fairness, reciprocity is a relation between citizens expressed by principles of justice that regulate a social world in which everyone benefits judged with respect to an appropriate benchmark of equality defined with respect to that world. [...] [R]eciprocity is a relation between citizens in a well-ordered society expressed by its public political conception of justice’. For a similar formulation, see also page 50.

of political legitimacy. It says that ‘our exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason.’<sup>304</sup> In my view, as I will explain in chapters three and four, reasonableness, reciprocity, the principle of legitimacy and public reason all share a fundamental element: they all shape the public political dimension of citizens’ social life. Reasonableness does not only represent a political descriptive assumption about the person (along with rationality and society as a fair system of cooperation), while the criterion of reciprocity is the very political-moral foundation of political liberalism on which liberal legitimacy is grounded (all these elements arise from shared ideas, values, and ideals found within democratic public political culture, see the next two chapters).<sup>305</sup> Those elements are also specified by the political conception and deeply rooted in citizens’ comprehensive views through the idea of an overlapping consensus. Finally, public reason embeds those elements in its account of political values and virtues, adding its “operational” justificatory guidelines to them. What matters here is that, since the duty to respect the criterion of reciprocity arises from the account of reasonableness of persons,<sup>306</sup> and since the principle of legitimacy arises from that duty,<sup>307</sup> then ‘[r]easonableness is the ground for achieving a consensus upon a “liberal principle of legitimacy”’.<sup>308</sup> Thus, to summarise the previous remarks about the reasonable and to prepare the ground for moving forward, it can be maintained that reasonableness ‘has both an epistemological and an ethical political aspect, and the latter prevails over the former. Being reasonable means that the agreement on a political conception takes into account what other people think. The reasonable acceptance of pluralism solves the problem of stability.’<sup>309</sup>

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<sup>304</sup> Ibid. 137. See also xliv, 224.

<sup>305</sup> Ibid. xliv n. 14: ‘there is, strictly speaking, no argument here. The preceding paragraph in the text *simply describes* an institutional context in which citizens stand in certain relations and consider certain questions, and so on. It is then said that *from that context a duty arises* on those citizens *to follow the criterion of reciprocity*. This is a duty arising from the idea of reasonableness of persons [...]’ Emphases added.

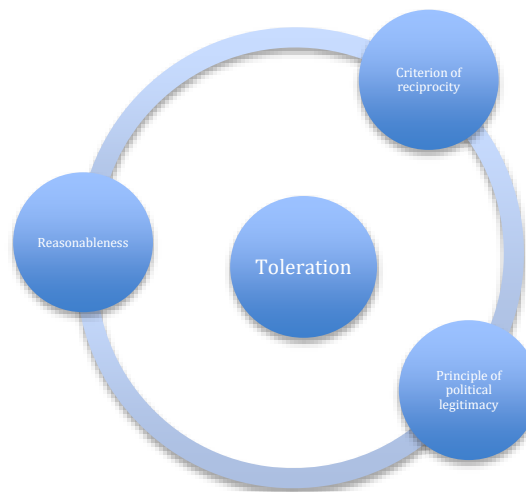
<sup>306</sup> See the preceding note. See chapter four for the “criterion of reciprocity of the reasonable.”

<sup>307</sup> John Rawls, *Political Liberalism*, for instance, xliv.

<sup>308</sup> Sebastiano Maffettone, *Introduzione a Rawls*, 107, my translation.

<sup>309</sup> Sebastiano Maffettone, *Rawls: An Introduction*, 230.

On this account, then, *reasonableness* entails the respect of the criterion of *reciprocity* which, in turn, allows reasonable citizens to recognise the need for a public justification of political decisions and actions, and, by means of such a justification, they can *legitimately* exercise political power over each other. As has been observed, in this perspective ‘reasonableness presupposes reciprocity (and vice versa).’<sup>310</sup> In fact, ‘[p]olitical conceptions to be reasonable must justify only constitutions that satisfy this principle [of reciprocity].’<sup>311</sup> In a democratic constitutional regime, the constitution and the statutes enacted under it cannot, for example, unreasonably ban all but one reasonable comprehensive doctrine. Then, the requirement of a political justification reasonably acceptable to all fellow citizens entails a commitment to the principle of *toleration* of reasonable comprehensive doctrines. We can thus understand the internal relation between reasonableness, reciprocity, political legitimacy, and toleration (Figure 2). As will become clear, public reason frames this relation.



**Figure 2: Reasonableness, criterion of reciprocity, principle of political legitimacy, and toleration.**

Reasonable citizens, then, must take one another into consideration as reasonable persons who are members of a society as a fair system of cooperation<sup>312</sup> in a regime of reciprocity and abide by a principle of political legitimacy. Reasonable persons ‘desire for its own sake a so-

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<sup>310</sup> Ibid. 238.

<sup>311</sup> John Rawls, *Political Liberalism*, xlv. See also p. 217.

<sup>312</sup> Ibid. mainly 15-22.

cial world in which they, as free and equal, can cooperate with others on terms all can accept. They insist that reciprocity should hold within that world so that each benefits along with others.<sup>313</sup> Hence, the idea of reasonableness is the ground for a fundamental political agreement between free and equal citizens. This idea is essentially public.<sup>314</sup> Yet, citizens are not only reasonable persons, but also rational agents. The rational (defined in opposition to the reasonable)<sup>315</sup> is not public in itself: it applies to individuals as such or as members of associations.<sup>316</sup> The rational agent can be conceived as the agent who uses her ‘powers of judgement and deliberation in seeking ends and interests peculiarly [her] own.’<sup>317</sup> The rational applies to how agents: 1) choose and adopt their ends and interests and rank them, 2) develop a means-ends reasoning (e.g., choosing the most effective means or the most probable alternative for achieving their *desiderata*), 3) balance their final ends by assessing their importance and coherence with reference to their plan of life as a whole.<sup>318</sup> Furthermore, a rational agent is not always self-interested: ‘rational agents may have all kinds of affections for persons and attachment to communities and places’ (including one’s own religious community) and they could use their rationality in order to benefit those persons and communities. In this case, the agent is “interested in the interest” of someone/something else: she uses her rationality to pursue her interest in satisfying the interest of someone/something that is important for her.<sup>319</sup> Nevertheless, the rational is always oriented toward the pursuit of the interest of a single and unified agent:<sup>320</sup> me, my family, my church, my football club, and so on. Thus, rational agents

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<sup>313</sup> Ibid. 50.

<sup>314</sup> For this point, see Sebastiano Maffettone, *Introduzione a Rawls*, 104.

<sup>315</sup> For an earlier and conceptually broader distinction between rationality and reasonableness, irrationality and unreasonableness, see W. M. Sibley, “The Rational Versus the Reasonable,” *The Philosophical Review* 62, no. 4 (1953), in particular 555-558. Unlike Rawls, Sibley defines reasonableness in a broader moral sense (that is, not only as political reasonableness). Yet, the link between reasonableness and something like the notion of reciprocity and the requirement of a justification to others of one’s actions is already present: ‘I must justify my conduct in terms of some principle capable of being appealed to by all parties concerned, some principle from which we can reason in common,’ 557. Moreover, Sibley –like Rawls– maintains that the reasonable cannot be derived from the rational (558).

<sup>316</sup> John Rawls, *Political Liberalism*, 50; Sebastiano Maffettone, *Introduzione a Rawls*, 103.

<sup>317</sup> John Rawls, *Political Liberalism*, 50.

<sup>318</sup> Ibid. 50-51.

<sup>319</sup> Ibid. 51.

<sup>320</sup> Ibid. 50.



lack ‘the particular form of moral sensibility that underlies the desire to engage in fair terms of cooperation as such, and to do so on terms others as equals might reasonably be expected to endorse.’<sup>321</sup> This moral sensibility oriented toward others as free and equal cooperating members of society is the kernel of the idea of reasonableness. For this reason, ‘the reasonable is public in a way the rational is not.’<sup>322</sup> Fair social cooperation is possible thanks to this reasonable moral sensibility. On the contrary, Rawls even affirms, purely self-oriented rational agents ‘approach being psychopathic.’<sup>323</sup> Therefore, as I have already mentioned, ‘reasonableness [...] is an ethical-political virtue and, for this reason, it is an aspect of democratic citizenship.’<sup>324</sup> However, ‘the reasonable and the rational are complementary ideas ... [and] neither the reasonable nor the rational can stand without the other.’<sup>325</sup> In fact, social and political agents must be both rational and reasonable so that fair social cooperation can be possible: ‘[m]erely reasonable agents would have no ends of their own they wanted to advance by social cooperation; merely rational agents lack a sense of justice and fail to recognize the independent validity of the claims of others.’<sup>326</sup> This connection between the rational and the reasonable within the person as free and equal member of the society is reaffirmed by their correlation with the above-mentioned two moral powers: reasonableness is related to the capacity for a sense of justice, whilst rationality refers to the capacity for a conception of the good. This point should be clear. Rationality relates to the determination and pursuit of one’s good (the good of the rational agent, of the society or community in which she lives, and so on), while reasonableness relates to the capacity for (morally) taking into account fellow citizens as free and equal members of a political system of cooperation in a regime of reciprocity. ‘[T]he reasonable, in contrast with the rational, addresses the public world of others.’<sup>327</sup>

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<sup>321</sup> Ibid. 51.

<sup>322</sup> Ibid. 53.

<sup>323</sup> Ibid. 51.

<sup>324</sup> Sebastiano Maffettone, *Introduzione a Rawls*, 105, my translation.

<sup>325</sup> John Rawls, *Political Liberalism*, 52.

<sup>326</sup> Ibid. Samuel Freeman says: ‘reasonable and rational agents are the basic units of responsibility in social and political life. A person who is rational but wholly unreasonable is not fit for social life, and a person who is reasonable but wholly irrational is incapable of concerted action.’ Samuel Freeman, *Rawls*, 345.

<sup>327</sup> John Rawls, *Political Liberalism*, 62.

Thus, we are in a situation in which ‘citizens have fundamental differences in their conceptions of the good, including their reasonable comprehensive doctrines, still they all have an interest in social cooperation.’<sup>328</sup> As reasonable and rational persons, citizens both aspire to reach an agreement on a public political conception of justice and disagree on their moral, philosophical, and religious beliefs. A public political conception of justice is freestanding because it does not depend on such religious, philosophical, and moral beliefs. But how can a conception be freestanding? It can be freestanding because it is *politically* justified: ‘[w]hat makes a political conception of justice freestanding is that it has a political justification, one that is framed *in terms of democratic values and ideals that are part of public culture* and that are independent of the values and reasons peculiar to any comprehensive moral, religious, or philosophical doctrine.’<sup>329</sup> Therefore, a public political conception is not grounded in moral, philosophical, or religious comprehensive reasons, but on shared political values and ideas: this is the source of its capacity for being freestanding. Consequently, according to Rawls’s conception of justice as fairness, in political justification (that Rawls also calls ‘*pro tanto* justification’)<sup>330</sup> comprehensive beliefs are put behind a ‘veil of ignorance.’<sup>331</sup> In working out the political conception that must govern their society, free and equal, rational and reasonable citizens are not allowed to consider (not even to know) their moral, philosophical, and religious beliefs (nor their social position, ‘race and ethnic group, sex and gender, and their various native endowments such as strength and intelligence’). Accordingly, in the first stage, the content of the political conception arises only from ‘the various fundamental ideas drawn from the public political culture of a democratic society.’<sup>332</sup> In this sense, the justification of such a conception is properly political and freestanding. This is also the “original realm” of public reason, where only political values and principles are considered. For the moment, we can just observe that public reason governs the domain of the political: its content is given by the po-

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<sup>328</sup> Samuel Freeman, *Rawls*, 343.

<sup>329</sup> Ibid. 329, emphasis added. For a definition of public political culture, see *supra*. For the differences between public political culture and background culture and between public and non-public reasons, see *supra*.

<sup>330</sup> John Rawls, “Reply to Habermas,” in *Political Liberalism*, 386.

<sup>331</sup> John Rawls, *Political Liberalism*, 24-25.

<sup>332</sup> Ibid. 25.

litical conception (better, by a ‘family of political conceptions’)<sup>333</sup> publicly justified –even though we cannot already say how a real and complete *public* justification can be achieved– and it makes reference to political values and principles of public political culture alone in order to justify that political conception politically.<sup>334</sup> In this way, public reason expresses an ‘ideal of democratic citizenship.’<sup>335</sup> I define it as a *justificatory ideal of citizenship*, in which reasonable and rational citizens ‘should be ready to explain the basis of their actions to one another in terms each could reasonably expect that others might endorse as consistent with their freedom and equality.’<sup>336</sup> So far, however, we have considered just the first part of Rawls’s exposition, in which freestanding principles are worked out: ‘[t]he first stage gives the principles of justice that specify the fair terms of cooperation among citizens and specify when a society’s basic institutions are just.’<sup>337</sup> Such principles do not depend upon comprehensive beliefs, but they are politically justified by making reference to political values and ideas of public political culture, such as the political conception of society as a fair system of cooperation and of persons as reasonable and rational free equal citizens, a political-moral criterion of reciprocity, a political principle of legitimacy, and (according to justice as fairness) the ‘device of representation’ of the original position.<sup>338</sup> Nonetheless, since reasonable and rational citizens –who affirm reasonable comprehensive doctrines– are able and willing to agree upon and endorse a public political conception, their reasonable comprehensive doctrines must be able to endorse the conception politically justified. This shared endorsement is the basis of social unity and stability (*infra*). This last does not rest on a common comprehensive belief, but on the fact that the political conception is publicly endorsed through an ‘overlapping consensus’.<sup>339</sup> Shortly, the idea of an overlapping consensus aims to solve the following problem: as reasonable and rational citizens, ‘we suppose a constitutional democratic regime

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<sup>333</sup> John Rawls, “The Idea of Public Reason Revisited,” 450. See chapter three of this study.

<sup>334</sup> John Rawls, “Reply to Habermas,” 386.

<sup>335</sup> John Rawls, *Political Liberalism*, 216-220.

<sup>336</sup> *Ibid.* 218.

<sup>337</sup> *Ibid.* 133.

<sup>338</sup> For the original position as a device of representation, see *ibid.* 22-28 and 304-324.

<sup>339</sup> ‘A constitutional regime does not require an agreement on a comprehensive doctrine: the basis of its social unity lies elsewhere.’ *Ibid.* 63. See also *ibid.* 134, quoted below.

to be reasonably just and workable, and worth defending. Yet given the fact of reasonable pluralism, how can we frame our defence of it so that it can win sufficiently wide support to achieve stability?’<sup>340</sup> Here, two cornerstones of reasonableness seem reciprocally irreconcilable: the pursuit of a consensus about the public justification of the political conception of justice on the one hand, and the respect of reasonable pluralism on the other. This dilemma can be solved thanks to the idea of an overlapping consensus, through which we can shift from a political *pro tanto* justification to a public justification.<sup>341</sup> Through an overlapping consensus, reasonable comprehensive doctrines –each of them starting from within its own sources– endorse the political conception that has been presented firstly as freestanding (note that for the sake of simplicity in this research I discuss the idea of an overlapping consensus as it would simply imply a consensus on a *single* political conception of justice, but it must be noted that Rawls –when he discusses the degree of specificity of an overlapping consensus– says that a ‘more realistic and more likely to be realized’ possibility is that ‘the focus of an overlapping consensus is *a class of liberal conceptions that vary within a certain more or less narrow range*. The more restricted the range, the more specific the consensus.’<sup>342</sup> Such a simplification does not affect the theoretical structure that I will present in the second and in the third parts, except with regard to a clarification that I will make concerning the specification of the content of the idea of public reason, which –as I will explain in chapter three– is derived from a family of reasonable political conceptions rather than by a single political conception). Rawls presents his liberal conception as political and not comprehensive, so that all reasonable religious, philosophical, and moral non-liberal doctrines might be able to endorse it.<sup>343</sup> Reasonable but opposing comprehensive doctrines can overlap in a consensus concerning the political conception: they all endorse this conception ‘as giving the content of their political judgements on basic institutions.’<sup>344</sup> In Rawls’s view, all reasonable moral, philosophical, and religious doctrines ‘likely to persist over generations and to gain a sizable body of adherents’

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<sup>340</sup> Ibid. 39.

<sup>341</sup> John Rawls, “Reply to Habermas,” 386–387. See *infra*.

<sup>342</sup> John Rawls, *Political Liberalism*, 164, emphasis added. For recent literature about this point, see the article by Paul Weithman “Legitimacy and the Project of Political Liberalism,” in *Rawls’s Political Liberalism*, eds. Thom Brooks and Martha C. Nussbaum (New York: Columbia University Press, 2015), 81–88.

<sup>343</sup> John Rawls, *Political Liberalism*, xlv.

<sup>344</sup> Ibid. 39.

(Islam among others) take part in such a consensus concerning a reasonable political conception of justice that should govern a constitutional regime.<sup>345</sup> As I have just said, each reasonable comprehensive doctrine specifies its own reasons for endorsing that political conception:

‘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. The fact that people affirm the same political conception on those grounds does not make their affirming it any less religious, philosophical, or moral, as the case may be, since the grounds sincerely held determine the nature of their affirmation.’<sup>346</sup>

And: ‘each comprehensive view is related to the political conception in a different way.’<sup>347</sup> Thus, for instance, if Muslims can find sufficient reasons within Islam to support the political conception, they can endorse it *from an Islamic point of view*. Each citizen affirms both the political conception and a reasonable comprehensive doctrine and tries to justify the political conception from within her own religious, philosophical, or moral doctrine. At this stage, however, an overlapping consensus has not yet been reached. Instead, each ‘individual citizen as a member of civil society’<sup>348</sup> and of its various associations –such as religious groups, churches, and so on– tries to embed (or root) the political conception in her own religious, moral, or philosophical doctrine, in order to justify it in the light of her doctrine’s sources and reasons. If this operation is carried out successfully, the political conception is fully justified in her eyes. This is what Rawls calls ‘full justification.’<sup>349</sup> The political conception does not say anything about how it should or could be embedded in whatever comprehensive doctrine. Actually, it does not say anything beyond the limited domain of the political. It is up to each and every citizen to justify the political conception from within her reasonable doctrine. If she

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<sup>345</sup> Ibid. 15.

<sup>346</sup> Ibid. 147-148.

<sup>347</sup> Ibid. 171.

<sup>348</sup> John Rawls, “Reply to Habermas,” 386.

<sup>349</sup> Ibid. 386-387.

is able to reach a full justification, this is so because her comprehensive doctrine makes available sufficient moral motivations for endorsing that political conception.<sup>350</sup>

However, full justification is a “one-by-one” justification. Citizens do not take one another into account: each one tries to justify the political conception on her own. If the political conception is fully justified, this is so only in her eyes: simply, she does not consider the fact that other people might not accept her justification. Then, a further step is needed. An overlapping consensus takes place only when ‘all free and equal citizens endorsing reasonable comprehensive doctrines agree on the political conception of justice, on the basis of their *own* particular comprehensive reasons and views.’<sup>351</sup> From different comprehensive and reasonable points of view and for different comprehensive reasons (thus maintaining their own differences and specificity), citizens can reach an agreement on a single political conception. Hence, at the end, the political conception is not only politically (*pro tanto*), but also publicly justified through an overlapping consensus. The freestanding political conception previously ‘fully justified’ by each citizen from within her own view (each for her own reasons) is now ‘publicly justified’ through an overlapping consensus in which citizens realise that they all endorse a reasonable political conception of justice while they still have different and yet politically reasonable comprehensive views. In this way, justificatory consensus and reasonable pluralism are both secured. The main difference between full and public justification is precisely that the latter comes after the achievement of an overlapping consensus and entails a mutual recognition of other citizens’ endorsement of the same political conception. Accordingly, the proper domain of public justification presupposes some shared form of public reasoning:

‘Public reasoning aims for public justification. We appeal to political conceptions of justice, and to ascertainable evidence and facts open to public view, in order to reach conclusions about what we think are the most reasonable political institutions and policies. Public justification is not simply valid reasoning, but argument addressed to others: it proceeds correctly from premises we accept and

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<sup>350</sup> See Sebastiano Maffettone, *Introduzione a Rawls*, 99-100.

<sup>351</sup> Samuel Freeman, *Rawls*, 329.

think others could reasonably accept to conclusions we think they could also reasonably accept. This meets the duty of civility [...].'<sup>352</sup>

Therefore, it is important to underscore that this justification is public because all citizens take one another into consideration and, consequently, they acknowledge 1) the existence of an overlapping consensus<sup>353</sup> and 2) the need for public justification through (wide, *infra*) public reason. Moreover, in public justification political values (values of justice and values of public reason)<sup>354</sup> rooted in the public political culture of a democratic society and specified by its political conception of justice can be publicly endorsed by the whole citizenry, both politically (ideally all in the same way) and comprehensively (each on different grounds) by each and every citizen. In addition, the political conception publicly justified is not less “political” because of the justificatory role of reasonable comprehensive doctrines. In fact, the contents of these doctrines have no normative power in public justification (this power they only have in the process of full justification) and nobody looks into the contents of others’ comprehensive views. Therefore, in public justification it is not relevant why every single reasonable comprehensive doctrine endorses the political conception of justice. What matters is only that all comprehensive doctrines agree –for whatever reason– on a single political conception. Thus, public justification depends on reasonable comprehensive doctrines only indirectly.<sup>355</sup> Moreover, public justification both derives from and shapes the public political culture of a democratic society. It somehow derives from public political culture because, as I have said, the political conception of justice –the object of public justification– is worked out by drawing on this culture and by appealing exclusively to political values and ideas found within

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<sup>352</sup> John Rawls, “The Idea of Public Reason Revisited,” 465.

<sup>353</sup> John Rawls, “Reply to Habermas,” 387: ‘[p]ublic justification happens when all the reasonable members of political society carry out a justification of the shared political conception by embedding it in their several reasonable comprehensive views. In this case, reasonable citizens take one another into account as having reasonable comprehensive doctrines that endorse that political conception, and this mutual accounting shapes the moral quality of the public culture of political society.’

<sup>354</sup> *Supra* and chapter three.

<sup>355</sup> John Rawls, “Reply to Habermas,” 387: ‘while the public justification of the political conception for political society depends on reasonable comprehensive doctrines, this justification does so only in an indirect way. That is, the express contents of these doctrines have no normative role in public justification; citizens do not look into the content of others’ doctrines, and so remain within the bounds of the political. Rather, they take into account and give some weight to only the fact –the existence– of the reasonable overlapping consensus itself.’

it.<sup>356</sup> On the other hand, public justification shapes public political culture because citizens realise that free and equal persons affirming different reasonable comprehensive doctrines are nonetheless able to justify publicly a single political conception.<sup>357</sup> Thus, citizens recognise one another as reasonable free and equal cooperating fellow citizens. To conclude, even though citizens are divided by their irreconcilable (but reasonable) comprehensive doctrines, they are nonetheless able to endorse a common political conception of justice, to cooperate on the basis of the principles expressed by it, and to rely upon it in order to formulate their political judgements. Importantly, such endorsement does not neglect, disregard, or obscure the point of view of their religious, philosophical, or moral beliefs. On the contrary, reasonable comprehensive doctrines cannot be excluded or overlooked in the process of public justification because they are essential for achieving it through the stages of full justification and overlapping consensus.

So defined, the idea of an overlapping consensus is different from a mere *modus vivendi*.<sup>358</sup> Effectively, in an overlapping consensus there is much more than a provisional acceptance imposed by circumstances. An overlapping consensus between reasonable comprehensive doctrines differs from a mere *modus vivendi* for three reasons.<sup>359</sup> First, its object is a moral conception – a political conception of justice, not simple acceptance of an existing equilibrium of power between conflicting parties, like in Europe in the aftermath of the Reformation. Second, it is affirmed on moral grounds, because ‘it includes conceptions of society and of citizens as persons, as well as principles of justice, and an account of political virtues through which those principles are embodied in human character and expressed in public life.’ Accordingly, it is not an “armed peace” between (not only irreconcilable, but also) mutually dis-

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<sup>356</sup> In the political *pro tanto* justification.

<sup>357</sup> John Rawls, “Reply to Habermas,” 387.

<sup>358</sup> *Supra* (in particular Joshua Cohen’s considerations about this point). Rawls defines a *modus vivendi* as follows: a ‘social consensus founded on self- or group interests, or on the outcome of political bargaining: social unity is only apparent, as its stability is contingent on circumstances remaining such as not to upset the fortunate convergence of interests.’ John Rawls, *Political Liberalism*, 147. Rawls mentions the “stability” between Catholics and Protestants in the aftermath of the Reformation as an example of *modus vivendi*: there was a temporary and contingent (depending on circumstances and on the balance of power) acceptance of the principle of toleration but not a moral consensus on or endorsement of it. ‘In such a case the acceptance of the principle of toleration would indeed be a mere *modus vivendi*, because if either faith becomes dominant, the principle of toleration would no longer be followed. Stability with respect to the distribution of power is lacking.’ Ibid. 148. See also *ibid.* xxxviii-xxxix.

<sup>359</sup> Ibid. 147-148.



trustful and closed comprehensive doctrines. Third, an overlapping consensus aims at and underpins social unity and stability: ‘*to see how a well-ordered society can be unified and stable*, we introduce another basic idea of political liberalism to go with that of the political conception, namely, the idea of an overlapping consensus of reasonable comprehensive doctrines. In such a consensus, the reasonable doctrines endorse the political conception, each from its own point of view.’<sup>360</sup> In this way, ‘those who affirm the various views supporting the political conception will not withdraw their support of it should the relative strength of their view in society increase and eventually become dominant.’<sup>361</sup> Shortly, an overlapping consensus between reasonable comprehensive doctrines is a moral consensus on a political (moral) conception and makes it possible to achieve social unity and ‘stability for the right reasons’.<sup>362</sup> As such, the idea of an overlapping consensus reconciles –for instance– Muslim citizens’ endorsement of the public political conception *qua* Muslims (that is, as members of a comprehensive doctrine in background culture) and *qua* free and equal, rational and reasonable citizens. In so doing, it radically transforms the nature of such an endorsement: it is not just a mediation between the specific views affirmed by different comprehensive doctrines.<sup>363</sup> Rather, it is moral consensus: as a result of it, despite all differences in their religious, philosophical, and moral doctrines, citizens’ general ‘political values and commitments, as part of their [...] moral identity, are roughly the same.’<sup>364</sup> This is because citizens reasonably ‘judge from within their reasonable comprehensive doctrines that political values are very great values,’ and that they normally outweigh ‘whatever nonpolitical values may conflict with them.’<sup>365</sup>

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<sup>360</sup> Ibid. 134. Emphasis added.

<sup>361</sup> Ibid. 148.

<sup>362</sup> ‘[T]he idea of an overlapping consensus is moral in its object and motivation, rendering the consensus stable over the distribution of doctrines. This gives stability for the right reasons, and distinguishes the idea of such a consensus from a *modus vivendi*.’ Ibid. xli.

<sup>363</sup> ‘[T]he overlapping consensus [...] is not a compromise between those holding different views, but rests on the totality of reasons specified within the comprehensive doctrine affirmed by each citizen.’ Ibid. 170-171.

<sup>364</sup> Ibid. 32.

<sup>365</sup> John Rawls, “Reply to Habermas,” 392-393. See also *Political Liberalism*, 139-140.

Hence, only when an overlapping consensus is present can the political conception be publicly justified.<sup>366</sup> A public justification of the political conception of justice, then, relies upon an overlapping consensus. Accordingly, because of its role in the public justification of the political conception, an overlapping consensus makes it possible to achieve social unity and stability for the right reasons and to satisfy the liberal principle of legitimacy. Therefore, social unity and stability are based on an overlapping consensus<sup>367</sup> rather than on the affirmation of a single comprehensive doctrine,<sup>368</sup> which would require the oppressive use of state power. Such a foundation for social unity is very deep, ‘because the fundamental ideas of the political conception are endorsed by the reasonable comprehensive doctrines, and these doctrines represent what citizens regard as their deepest convictions –religious, philosophical, and moral.’<sup>369</sup> Social unity is a precondition for stability for the right reasons. Stability for the right reasons is achieved when reasonable citizens honour the same standards of public reasoning,<sup>370</sup> and the endorsement of the political conception is secured through overlapping consensus of their reasonable doctrines.<sup>371</sup> Such stability occurs when:<sup>372</sup> 1) society’s basic structure is effectively regulated by the most reasonable political conception of justice, 2) such a political conception is endorsed through an overlapping consensus of all reasonable compre-

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<sup>366</sup> John Rawls, “Reply to Habermas,” 388.

<sup>367</sup> John Rawls, *Political Liberalism*, 134, quoted *supra*.

<sup>368</sup> Therefore, Rawls’s political liberalism rejects the idea of political society as a community: *ibid.* 37, 40, 146, and 201.

<sup>369</sup> John Rawls, “Reply to Habermas,” 391-392.

<sup>370</sup> John Rawls, *Political Liberalism*, 143.

<sup>371</sup> *Ibid.*, for instance xli and 141. Here Rawls says that stability involves two questions: ‘whether people who grow up under just institutions (as the political conception defines them) acquire a normally sufficient sense of justice so that they generally comply with those institutions,’ and, second, whether the political conception can be secured by an overlapping consensus. The question of the sense of justice involves ‘setting out the moral psychology in accordance with which citizens in a well-ordered society acquire a normally sufficient sense of justice’ (echoing the considerations developed in the eighth chapter of *A Theory of Justice*), the basis of which in *Political Liberalism* are sketched out on 81-88. See in particular 86: According to Rawls: ‘i) besides a capacity for a conception of the good, citizens have a capacity to acquire conceptions of justice and fairness and a desire to act as these conceptions require; ii) when they believe that institutions or social practices are just [...] they are ready and willing to do their part in those arrangements provided they have reasonable assurance that others will also do their part; iii) if other persons with evident intention strive to do their part [...] citizens tend to develop trust and confidence; iv) this trust and confidence becomes stronger and more complete as success of cooperative arrangements is sustained over a longer time; and v) the same is true as the basic institutions framed to secure our fundamental interests (basic rights and liberties) are more firmly and willingly recognized.’

<sup>372</sup> John Rawls, *Political Liberalism*, xlvii and “Reply to Habermas,” 391.

hensive doctrines, and 3) public political discussions about fundamental political questions are nearly always decided on the basis of public reasons, that is, reasons specified by the political conception. If these conditions are present, then social unity and stability for the right reasons can be preserved. On the contrary, if public reason is too weak (3 is not fulfilled), or an overlapping consensus does not hold (2 is not fulfilled), then stability is in danger, for the latter is possible only ‘when the doctrines making up the consensus are affirmed by society’s politically active citizens and the requirements of justice are not too much in conflict with citizens’ essential interests as formed and encouraged by their social arrangements.’<sup>373</sup> Consequently, it is also important that unreasonable comprehensive doctrines do not ‘gain enough currency to undermine society’s essential justice.’<sup>374</sup> Thirdly, an overlapping consensus makes it possible to uphold the liberal principle of political legitimacy. When an overlapping consensus is present, diverse reasonable persons may have *adequate* reasons for *jointly* affirming the same political conception of justice as the most reasonable one for governing their political society.<sup>375</sup> Hence, they can consider coercive political power legitimately exercised when its exercise is consistent with the political conception publicly justified, and with the constitution that it shapes. In few words, political power is legitimate only when exercised in accordance with a political conception (embedded in the constitution) that all free and equal reasonable citizens might reasonably be expected to endorse.<sup>376</sup> Therefore, ‘[d]espite the fact of reasonable pluralism, the conditions for democratic legitimacy are fulfilled’<sup>377</sup> through an overlapping consensus.

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<sup>373</sup> John Rawls, *Political Liberalism*, 134.

<sup>374</sup> Ibid. 39. For this reason, Rawls theorises the notion of ‘containment’ for unreasonable doctrines ‘so that they do not overturn political justice.’ Ibid. 64 note 19. See section 4.2 below.

<sup>375</sup> John Rawls, “Reply to Habermas,” 390: ‘[i]f we can make the case that there are adequate reasons for diverse reasonable people jointly to affirm justice as fairness as their working political conception, then the conditions for their legitimately exercising coercive political power over one another –something we inevitably do as citizens by voting, if in no other way– are satisfied. [...] We can reasonably affirm and appeal to a political conception of justice as citizens’ shared basis of reasons, all the while supposing that others no less reasonable than we may also affirm and recognize that same basis.’

<sup>376</sup> Ibid. 393.

<sup>377</sup> Ibid. 390.

To sum up so far, a society has to meet three conditions to be a ‘fair and stable system of cooperation between free and equal citizens, who are deeply divided by the reasonable comprehensive doctrines they affirm.’<sup>378</sup>

1. Its basic structure must be regulated by a political conception of justice (arising from the idea of society as a fair system of cooperation, the conception of citizens as free and equal, reasonable and rational persons, the criterion of reciprocity, the principle of political legitimacy, the fact of reasonable pluralism, and –for justice as fairness– the original position as a device of representation). Such a political conception of justice specifies the principles of justice and the content of public reason (see chapter three: we will see that actually the content of public reason is specified by a family of reasonable political conceptions of justice).
2. An overlapping consensus between reasonable philosophical, religious, and moral doctrines must exist, making it possible to achieve a public justification of the political conception. It is the basis for social unity and stability for the right reasons.
3. Citizens must affirm and abide by the ideal of public reason, as the application of that political conception in society’s daily public political life.<sup>379</sup>

From the preceding remarks, we can observe that public reason embeds the idea of stability in two ways. (I) First, if ‘public reasoning [...] proceeds entirely within a political conception of justice’<sup>380</sup> and reasonable and rational citizens endorse that conception in an overlapping consensus, then they also endorse that kind of public reasoning. Consequently, ‘[c]itizens affirm the ideal of public reason, not as a result of political compromise, as in a *modus vivendi*, but from within their own reasonable doctrines.’<sup>381</sup> Therefore, the idea and content of public reason are publicly justified and durably endorsed by reasonable citizens via an overlapping consensus: sta-

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<sup>378</sup> John Rawls, *Political Liberalism*, 44.

<sup>379</sup> See next chapter.

<sup>380</sup> John Rawls, “The Idea of Public Reason Revisited,” 453.

<sup>381</sup> John Rawls, *Political Liberalism*, 218.

bility for the right reasons is possible in this way.<sup>382</sup> Hence, reasonableness and public reason are closely tied, because they are both part of the same political ideal of democratic citizenship.<sup>383</sup> (II) Second, public reason is a source of stability in itself, because it presides over the application of the political conception of justice.<sup>384</sup> It establishes a publicly justified standard for settling political discussions about fundamental political questions. Such questions should be decided on the basis of political values and the resulting political actions should be justifiable in terms of public reason. The idea of public reason specifies both the guidelines of public inquiry (principles of public reasoning and rules of evidence) ‘in the light of which citizens are to decide whether substantive principles properly apply and to identify laws and policies that best satisfy them’, and the public virtues (reasonableness and readiness to honour a duty of civility) that should ‘make possible reasoned public discussion of political questions.’<sup>385</sup> Such an account of political values and rules of public reasoning is a public endowment, a shared standard. Accordingly, since it is publicly recognised as binding, it preserves social stability for the right reasons. In chapters four and five I will explain how an ideal of citizenship grounded in public reason can secure stability for the right reasons in a sophisticated way that refers to both its crucial dimensions. *First*, public reason citizenship secures the inclusion of citizens on an equal footing, because it *both* equips them with shared standards for social and political criticism *and* involves them in the process of justification of the conception of citizenship not only as citizens but also as believers, thanks to the idea of an overlapping consensus. *Second*, public reason citizenship solves the problem of mutual assurance, because, in virtue of the common public respect of the requirements of public reason (the duty of civility), it establishes the ground on which citizens can become aware of others’ commitment to a reasonable political conception of justice, and thus it makes publicly known the fact that citizens are stably loyal to the fair terms of social cooperation. Moreover, public reason citizenship averts the mutual assurance problem *also* in a second way, that is, by establishing a basis for a public political identity in which citizens recognise one another as free equals cooperating on fair terms. In conclusion, I will argue that in this way public reason citizenship answers the problem that I have considered in the first chapter.

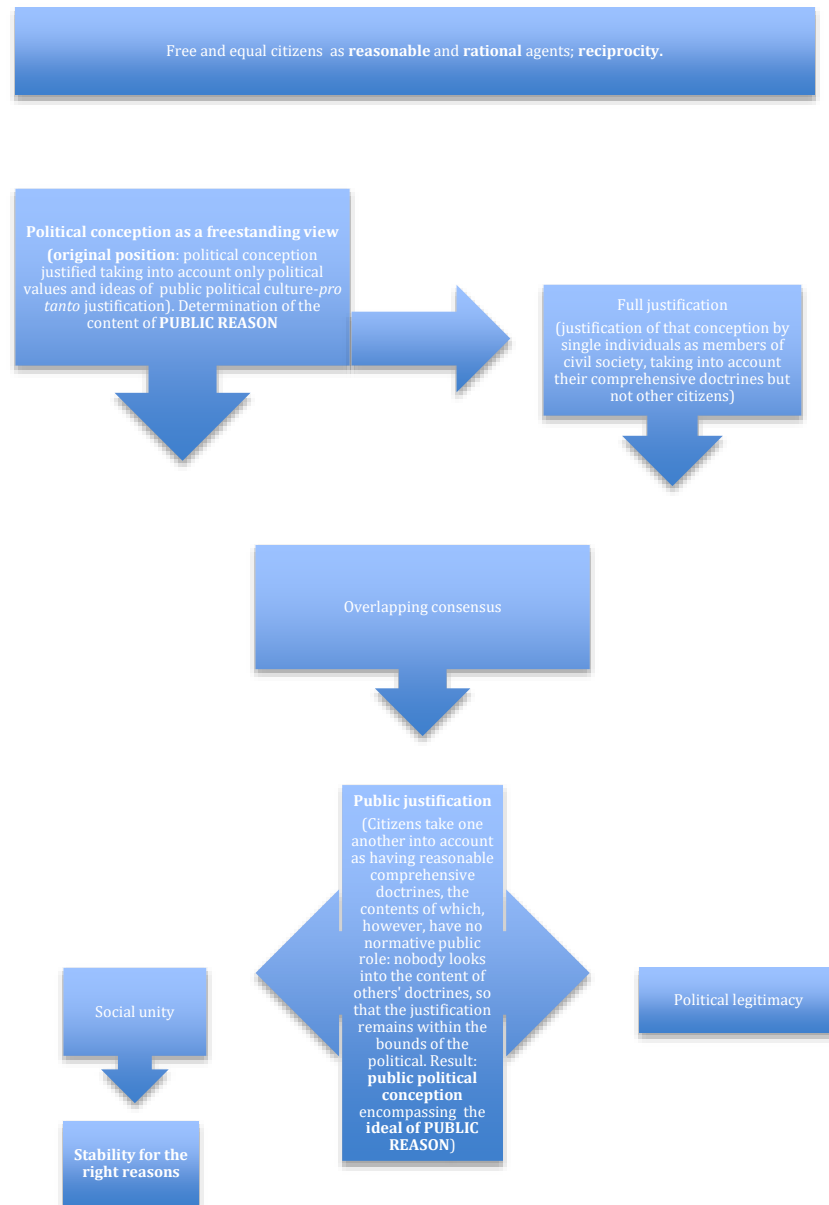
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<sup>382</sup> See, for instance, *ibid.* 143.

<sup>383</sup> *Ibid.* 62 and 218.

<sup>384</sup> Samuel Freeman, *Rawls*, 329.

<sup>385</sup> John Rawls, *Political Liberalism*, 224.



**Figure 3: Rawls's account of the relations between public reason, overlapping consensus, public justification, stability, and legitimacy.**

## 2.2 The Place of Comparative Ethics. What after Conjecture?

Having clarified the justificatory structure of Rawls's political liberalism, I can move to the second constitutive aspect of my method, i.e. the evaluative approach. This approach deliberately abstains from calling itself "comparative ethics" or "conjecture." I do not refer to conjecture because:

(i) My object is different from the object of conjecture (i.e., arguments derived from the premises of a *comprehensive doctrine*, that is, for instance, arguments derived from *Islamic tradition*).

(ii) My aims are not the aims of reasoning from conjecture (i.e., presenting arguments from within a particular comprehensive doctrine *d* –which is not one's own comprehensive doctrine– to *d*'s members, in order to show them that they can have principled grounds for achieving a *full justification* of the political conception).<sup>386</sup>

(iii) Consequently, the limits and rules of my method are not the same of reasoning from conjecture.

In what follows, I analyse Andrew F. March's comparative ethics in order to define my own method by means of comparison. I do not argue that March is wrong or that my method is better than conjecture. I simply maintain that the formal objects (but not always the "material" objects<sup>387</sup>) and the demonstrative purposes of the two methods are different. However, as I said, I consider them not only as compatible, but even as complementary: they focus on different levels of analysis from within the same theoretical framework, that is, a Rawlsian account of political liberalism.

As I have just said, I would like to define my evaluative approach (2.3) through a comparison with March's conjecture. However, before answering the question "what does March's

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<sup>386</sup> *Infra*.

<sup>387</sup> For the conceptual distinction between formal and material object in comparative philosophy, see Kwee Swan Liat, *Methods of Comparative Philosophy* (Leiden: Universitaire Pers Leiden, 1953), 25-26.

conjecture (or ‘justificatory comparative political theory’ or ‘comparative ethics’)<sup>388</sup> consist of?” I have to consider comparative ethics as a part of comparative philosophy. Therefore, the presentation of my evaluative approach requires a previous discussion of:

1. Comparative philosophy: its definitions, aims, limits, and difficulties (2.2.a).
2. Conjecture as a particular kind of comparative ethics (2.2.b).
3. March’s reasoning from conjecture with reference to Islam (2.2.c).

## **2.2.A Methods and Aims of Comparative Philosophy.**

Comparative ethics is a branch of comparative philosophy. A wide definition of this latter could be the following: comparative philosophy ‘is a subfield of philosophy in which philosophers work on problems by intentionally setting into dialogue sources from across cultural, linguistic, and philosophical streams.’<sup>389</sup> Alternatively, ‘comparative philosophy brings together philosophical traditions that have developed in relative isolation from one another and that are defined quite broadly along cultural and regional lines.’<sup>390</sup> Or, comparative philosophy is ‘the philosophical study of one or some problems in the light of more than one tradition.’<sup>391</sup> Alternatively, and even more broadly, ‘comparative philosophy is a multiple and integral approach to the common issues of philosophy.’<sup>392</sup> The previous quotations show that comparative philosophy is primarily defined by what it does. However, there is little agreement on its nature, methods, and aims. First, let me consider the nature of comparative phi-

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<sup>388</sup> Andrew F. March, *Islam and Liberal Citizenship*, 3, 13, and part I (see, for instance, 19, 28, and in particular 65-96).

<sup>389</sup> Ronnie Littlejohn, “Comparative Philosophy,” *Internet Encyclopedia of Philosophy* (2005), URL = <http://www.iep.utm.edu/comparat/>, 1.

<sup>390</sup> David Wong, “Comparative Philosophy: Chinese and Western,” *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta (Fall 2011), URL = <http://plato.stanford.edu/archives/fall2011/entries/comparphil-chiwes>, 1 (page number refers to the printable pdf version).

<sup>391</sup> Raimundo Panikkar, “What is Comparative Philosophy Comparing?” in *Interpreting Across Boundaries: New Essays in Comparative Philosophy*, eds. Gerald James Larson and Eliot Deutsch (Princeton: Princeton University Press, 1988), 122.

<sup>392</sup> Kwee Swan Liat, “Methods of Comparative Philosophy,” *Philosophy East and West* 1, no. 1 (1951), 12.



losophy. For some thinkers, comparative philosophy is simply an impossible discipline.<sup>393</sup> We cannot, they argue, properly compare philosophies: we lack a neutral philosophical *comparans* to which we can refer our *comparanda* (that is, other philosophies).<sup>394</sup> Interestingly, however, even sceptics try to define comparative philosophy through its possible methodological patterns. Therefore, for example, Panikkar analyses –and ultimately rejects– different kinds of philosophical approaches on which comparative philosophy could be grounded.<sup>395</sup> Similarly, Liat (an advocate of comparative philosophy) claims that the formal object of comparative philosophy ‘must be the *phenomenon of philosophy*’ and that ‘the systematic study of comparative philosophy should proceed through a comprehensive *phenomenology of philoso-*

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<sup>393</sup> For instance, Raimundo Panikkar suggests replacing comparative philosophy with an ‘imparative philosophy’: that is, with an ‘open philosophical attitude ready to learn from whatever philosophical corner of the world, but without claiming to compare philosophies from an objective, neutral, and transcendent vantage point.’ See his “What is Comparative Philosophy Comparing?” 127. See also his “Religion, Philosophy and Culture.” Originally published with the title “Religión, Filosofía y Cultura,” in *Ilu. Revista de Ciencias de las Religiones* 1 (1996), 125-148. Published online by *Polylog* URL = <http://them.polylog.org/1/fpr-en.htm>. Here (page 22 of the printable English version of the article) we read: ‘comparative philosophy is a pure impossibility. [...] For an authentically comparative philosophy, we would need a fulcrum that is neutral, impartial and hence external to philosophy. Now, by definition, such does not exist. Philosophy as we would like to define it, is characterized by the claim of not admitting a superior authority which orders or dominates it. That authority would then be the authentic philosophy.’

<sup>394</sup> Panikkar defines the comparative effort as an ‘activity of the human mind that takes a stance neutral to the things to be compared. Any comparison has somehow to transcend its subject matter. For any comparison, three things are required: at least two *comparanda*, and the *comparans*, which is a third element that has to be equally distant from and outside the *comparanda*, the things to be compared. And here already looms unambiguously the idea of *transcendence*, which some philosophies would like to avoid. If philosophy is an ultimately human affair, comparative philosophy could only be handled from a superhuman standpoint. It would need an Archimedean fulcrum outside the contending parties.’ Raimundo Panikkar, “What is Comparative Philosophy Comparing?” 122.

<sup>395</sup> He considers the following four implicit understandings of comparative philosophy: transcendental philosophy, structural or formal philosophy, linguistic philosophy, and phenomenological philosophy. Ibid. 121-130. I do not analyse them here. The above-mentioned criticism of “transcendental” comparison is obviously related to the first position. I have quoted that passage because Panikkar judges it as the most inappropriate way for understanding what he calls elsewhere ‘intercultural philosophy’ (Raimundo Panikkar, “Religion, Philosophy and Culture,” *passim*).

phy.’<sup>396</sup> The phenomenon-philosophy might be taken into consideration from different perspectives.<sup>397</sup> Thus, one could say that comparative philosophy (and, consequently, comparative ethics) is firstly defined by its methods. Nevertheless, since there is nothing approaching a single comparative philosophical method, there is not a single comparative philosophy.

Comparative philosophy is plural under another important viewpoint. Indeed, there is no agreement on the aims of such a philosophical exercise. We can observe different trends, from the most humble to the most ambitious. I shall identify two extremes of a continuum. *Ça va sans dire*, such extremes are merely conceptual, and nuances are more common than sharp divisions. At one extreme, as I said, there are thinkers like Panikkar who claim that “comparative” philosophy is possible only if we understand it as an ‘imparative’<sup>398</sup> or ‘intercultural phi-

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<sup>396</sup> Kwee Swan Liat, *Methods of Comparative Philosophy*, 62. On pp. 26-27 he defines the object of comparative philosophy by contrasting this latter with a purely theoretical approach and a purely historical approach to philosophy. I quote this passage at length: ‘the material object in the historical and the comparative [philosophical] approaches is the same, namely, the philosophical systems and patterns as they are revealed in the history of human thought, each with its own set of problems, themes and methods, and with its basic assumptions and categories. But the formal standpoint, from which the material object is viewed, is different in the two approaches. The historiographer of philosophy attempts [...] to ascertain by his methods of historical critique the authenticity of texts and documents [...] and to reconstruct, according to standards of the greatest possible historical objectivity and accuracy, the actual history of human thought. The student of comparative philosophy is not satisfied when he knows the historic [...] relationships between philosophical systems. [...] His task begins there, where, in a certain sense, the historiographer of philosophy has concluded his work. [...] P]hilosophy, to be philosophy, is concerned with *ultimate* problems, with some transcendental *apriori*. Theoretical speculations try to grasp this ultimate ground, this apriori, by pure reasoning. Comparative philosophy searches for a “positive” starting-point in history. While the pure theoretical speculation lacks the verification of “positive” historical data, and pure historical criticism neglects the character of ultimacy in philosophic issues, the combination of the two in comparative philosophy makes allowance for both. [...] T]he historical approach is particularizing, while the comparative approach is rather generalizing. The task of comparative philosophy is not to investigate the detail, but to understand the whole. But, in order to understand the whole, some knowledge of details is necessary. [...] Comparative philosophy is philosophy: it is directed toward a *re-evaluation* of the “philosophies of East and West” within a comprehensive and total perspective. [...] The formal object in the study of comparative philosophy is the phenomenon of philosophy itself.’ I emphasised the term re-evaluation, because, as we shall see, I consider it as a crucial element of both March’s reasoning from conjecture and my own method. According to Liat, ‘[c]omparisons between philosophy may be concerned with their function, their contents or their systematic form and method.’ Therefore, for Liat the comparative study of the phenomenon-philosophy should focus on three constitutive and distinguishing aspects of such a phenomenon: ‘the *function*, the *contents*, and the *systematics* of philosophy,’ *ibid.* 66.

<sup>397</sup> Liat makes a distinction between historical, sociological, anthropological, philological, logical, psychological and transcendental re-evaluative approaches, each of them with its own perspective on philosophy as its formal object (e.g., transcendental re-evaluative approach ‘has as its formal object philosophy in its essential meaning’, anthropological approach studies ‘philosophy as an essential element of culture’, logical approach deals with ‘the logical structure of philosophy,’ and so on). See *ibid.* 116-118. For a detailed account of each approach, see *ibid.* chapters 9-12.

<sup>398</sup> Imparative philosophy tries ‘to form its philosophical view of the reality by systematically taking into account the universal range of human experience.’ Raimundo Panikkar, “What is Comparative Philosophy Comparing?” 129. But, ‘there is not an independent comparative philosophy as a discipline of its own.’ *Ibid.* Instead, we should ‘*imparare*, in other words, learn by being ready to undergo the different philosophical experiences of other people.’ *Ibid.* 127-128.

losophy,<sup>399</sup> based on ‘diatopical hermeneutics,’<sup>400</sup> that is, if it aims to *im-parare* (literally, to prepare, provide, acquire, gain, procure, obtain something in one’s own mind, to learn) and not *cum-parare* (to put together, equate). Those who maintain that comparative philosophy is possible not as a comparison between entire philosophical traditions, but as a comparison between theories and texts belonging to those traditions<sup>401</sup> could represent an intermediate position: ‘[w]e can aim at a comprehensive understanding of the onto-hermeneutic environment of a particular philosophical theory [...], while realizing that such a massively thorough comparison is not actually possible.’<sup>402</sup> Such an ideally general but materially limited comparative philosophy (a better definition could be: consciously limited but contextualising comparative philosophy) might have several purposes.<sup>403</sup> It can disclose the assumptions we unconsciously make, or explain how it is possible to come to similar conclusions starting from different premises, or to different conclusions starting from similar premises (I call it “revealing function” of comparative philosophy). It might also display new strategies of thinking and reasoning, and, in so doing, it can equip us with new tools we can use (adjusting them to ‘our own familiar philosophical territory,’<sup>404</sup> if necessary) for getting philosophical answers (I call it “opening function,” because it opens our familiar problems to new strategies of inquiry). Third, comparative philosophy might challenge ‘our usual assumptions about what “philosophy” itself is, and hence might even be considered to be (or entail) a kind of “meta-

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<sup>399</sup> Raimundo Panikkar, “Religion, Philosophy and Culture,” *passim*.

<sup>400</sup> ‘Diatopical hermeneutics is the required method of interpretation when the distance to overcome, needed for any understanding, is not just a distance within one single culture (morphological hermeneutics) or a temporal one (diachronic hermeneutics), but rather the distance between two (or more) cultures, which have independently developed in different spaces (*topoi*) their own methods of philosophizing and way of reaching intelligibility along with their proper categories.’ Ibid. 130. See also his “Religion, Philosophy and Culture.”

<sup>401</sup> ‘I agree that a single statement or sentence in a philosophical text must be understood in the context of the text as a whole [...], and that particular philosophical theories need to be understood in terms of the philosophical tradition within which they exist, and yet as scholars of comparative literature, comparative religion or comparative musicology, or comparative ethnology, etc. can provide valuable insights through their comparison (without undertaking the monumental, not to say impossible, task of comparing entire literary, musical, religious, and cultural traditions), so likewise can one compare different philosophical theories without undertaking to compare entire philosophical traditions. The endeavor to see things in their full context must be seen as a limiting concept, an admirable if unachievable goal.’ Jesse Fleming, “Comparative Philosophy: Its Aims and Methods,” *Journal of Chinese Philosophy* 30, no. 2 (2003), 259-260.

<sup>402</sup> Ibid. 260.

<sup>403</sup> For working out those functions, I partially build on Fleming’s arguments: see *ibid.* 260-265.

<sup>404</sup> Ibid. 260.

philosophy” –a philosophy of philosophy.’<sup>405</sup> This is a “reflective and broadening” function. Fourth, we might become aware of new problems or networks of problems. This is a “problematizing function.” Finally, a more substantive aim of comparative philosophy could be called the “mutual understanding function.” How Fleming rightly points out, there is an apparent inner paradox in contemporary comparative philosophy. On the one hand, ‘especially in the twenty-first century [differences between “Eastern” and “Western” philosophies] are diminishing due to mutual intellectual and cultural influence. For the philosophy of comparative philosophy, this would seem to entail the [...] conclusion that “comparative philosophy” (defined as comparison of some “Eastern” philosophy with some “Western” philosophy) is no longer possible, because there is no longer any purely “Eastern” philosophy or purely “Western” philosophy.’<sup>406</sup> On the other hand, however, the increased influences and confluences between philosophical traditions make such a comparison all the more inevitable and urgent. So we need comparative philosophy to understand the others we (increasingly) live with. This tension is of crucial importance for my work. Is it reasonable (or possible) to look for a contemporary purely Islamic philosophy to be compared with a purely Western tradition? If the answer is positive, in what terms can we define this purity (or a threshold of purity)? Moreover, what is its relation to the notions of past and modernity? If the answer is negative (or even partially negative), what should we consider? In addition, are we still performing comparative philosophy? Obviously, such a contemporary tension raises several difficulties. Does “confluence” actually mean “western hegemony”? Is “mutual understanding” *per se* a *desideratum*? How can comparative philosophy work in this sense? Is it really a completely speculative and innocent exercise? Are there (overtly or covertly) social or political goals? I shall examine such (and other) objections in a while. I have not developed the second “extreme” of my ideal continuum, that is, an “ambitious” conception of the aims of comparative philosophy. Such a conception might be ideally related to the above-mentioned ongoing process of mutual influence and confluence between philosophical traditions. For instance, Fred Dallmayr plainly states that by the term “comparative political theory” he means:

‘A mode of theorizing that takes seriously the ongoing process of globalization, a mode which entails, among other things, the growing proximity and inter-

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<sup>405</sup> Ibid. 261.

<sup>406</sup> Ibid. 264.

pretation of cultures and the emergence of what Marshall McLuhan called the “global village”. In contrast to hegemonic and imperialist modes of theorizing, the term implies that one segment of the world’s population cannot monopolize the language or idiom of the emerging “village,” or global civil society. Shared meanings and practices –to the extent that they are possible– can only arise from lateral interaction, negotiation, and contestation among different, historically grown cultural frameworks. This, in turn, means that the basic approach favored by comparative political theory is dialogical, or “hermeneutical” –that is, it relies on mutual interpretation. [...] Comparative political theory clearly departs from what is commonly called “formal theory,” which imposes a general, universal “form” on diverse phenomena, thereby revealing its debt to the universalist claim of the European Enlightenment.’<sup>407</sup>

Interestingly, Dallmayr’s comparative political theory is said to be “dialogical” and “hermeneutical,” thus, it seemingly shares some methodological affinities with Panikkar’s implicative philosophy (the method of which the latter calls diatopical hermeneutics, as I have said).<sup>408</sup> However, the use of the adjective “comparative” by Dallmayr and its rejection by Panikkar is not a merely formal difference. Effectively, they have two different conceptions of the aims of “comparative” philosophy. While they both start from a general “humanistic” premise grounded in the necessity of dialogue, they profoundly differ with reference to the epistemic status of such a dialogue and its products. For Panikkar, cultures (and, consequently, philosophies that develop within them) are not only fundamentally incommensurable, but also mutually incompatible:

‘Acknowledging the primordial function of each culture, which consists in offering a vision of reality which allows man to live his life, we could maybe defend an atomised and separated *pluriculturalism*, i.e. a separate and respectful existence between diverse cultures, each in its own world. We would have the *existence* of a plurality of culture without mutual connection. But what is obviously impossible is the *coexistence* of their fundamental diversity in today’s world. [...

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<sup>407</sup> Fred Dallmayr, “Beyond Monologue: For a Comparative Political Theory,” *Perspectives on Politics* 2, no. 2 (2004), 249.

<sup>408</sup> Dallmayr directly quotes Panikkar: 251-252.

Since] there is a de facto incompatibility [... between cultures,] multiculturalism today is also de facto impossible.’<sup>409</sup>

To sum up, according to Panikkar multiculturalism is impossible if we understand it as a co-existence of different cultural frameworks, because such frameworks are more or less complete and exclusive. Pluriculturalism is possible, but it is not desirable, because it entails merely the “side-by-side” separated and secluded existence of different cultures (a ‘disconnected plurality’).<sup>410</sup> On the contrary, interculturality is both possible and desirable. Cultures can communicate even if they are incommensurable:

‘[T]he fact that the circumference and the radius are mutually incommensurable [...], in no way means that they do not condition each other, nor that they can become separate. [...] To think that cultures are incommunicable because they are incommensurable is a rationalistic presupposition which believes that only a common *ratio mensurabilis* can be the instrument of human communication. To understand (*entenderse*) each other does not mean to comprehend each other (*comprenderse*). Intelligibility is not the same thing as awareness (*tener consciencia*). One can be aware of something that is unintelligible.’<sup>411</sup>

Then, imparative philosophy is a philosophy of personal awareness but not necessarily of intellectual understanding. Therefore, ideally ‘interculturality is the complete form of human culture,’ but, importantly, it does not imply the pursuit or creation of one single culture.<sup>412</sup> Rather, we might say, the Panikkar’s ideal can be caught in the formula *in pluribus unum*, or, more accurately, *inter plura unum* (in which “*unum*” is the inter-culturally situated human subject). On the contrary, such an un-situated or better dia-topical ideal is not the primary concern of Dallmayr’s comparative political theory. While based on “dialogical” and “interpretative” methods, the latter is concerned with ‘shared meaning and practices’<sup>413</sup> and aims ‘to move toward a more genuine universalism, and beyond the spurious universality tradition-

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<sup>409</sup> Raimundo Panikkar, “Religion, Philosophy and Culture,” 15-16.

<sup>410</sup> Ibid. 17.

<sup>411</sup> Ibid. 16-17.

<sup>412</sup> Ibid. 17.

<sup>413</sup> Fred Dallmayr, “Beyond Monologue: For a Comparative Political Theory,” 249.

ally claimed by the Western canon [...].'<sup>414</sup> Therefore, not only can cultures and philosophies communicate, but they are also commensurable, if we use the appropriate (non-hegemonic or falsely universal) tools.

The point about commensurability of philosophical traditions or theories brings me to discuss some major objections to comparative philosophy. Here, I do not try to answer them, whilst in the last part of this chapter I shall take into consideration five objections (O2.1-O2.5) that may be specifically raised against my own method. The first difficulty of comparative philosophy is, as I mentioned, the problem of commensurability. On the methodological level, we can consider radical incommensurability (the claim that 'the questions and answers in one tradition cannot sustain meaningful statement in the other tradition' because of a 'radical difference in basic concepts and modes of inquiry'), moderate incommensurability (the claim that 'sometimes we can understand others just well enough to know that we don't understand them,' that is, we understand that the philosophical tradition  $t_2$  values  $x$ , but we are not able to understand  $x$  nor to translate it in our philosophical language, so we can make judgements about  $x$  only from within the horizon of our own philosophical tradition  $t_1$ ), and a form of 'evaluational incommensurability' (we can fully comprehend  $x$  and translate it in our philosophical language, but we are not able to settle conflicts or inconsistencies between  $t_1$  and  $t_2$  about  $x$  because we lack a common standard of evaluation: we cannot make a conclusive decision about  $x$  because  $t_1$  and  $t_2$  differ on what counts as evidence).<sup>415</sup> On the ethical level, the problem of commensurability concerns the possibility of making meaningful comparison between philosophical traditions 'on the matters of how people ought to live their lives, whether both traditions have moralities and if so how similar they are.'<sup>416</sup> Finally, metaphysical and epistemological commensurability 'involves the comparison of traditions on their conception of the real and their modes of inquiry and justification.'<sup>417</sup> In addition to the

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<sup>414</sup> Ibid. 253.

<sup>415</sup> For these considerations, see David Wong, "Comparative Philosophy: Chinese and Western," 2-5.

<sup>416</sup> Ibid. 1.

<sup>417</sup> Ibid.

commensurability-problem, comparative philosophy might face several risks.<sup>418</sup> ‘Descriptive chauvinism’ is ‘the fault which consists in recreating the other tradition in the image of one’s own.’ So, for instance, we cannot assume that a text within the tradition  $t_2$  (at the time  $m_2$ ) makes the same questions or constructs answers in the same way we do in our tradition  $t_1$  at the time  $m_1$ . Moreover, ‘normative chauvinism [...] is the tendency to believe that [one’s own] tradition is best and that insofar as the others are different, they are inferior or in error.’ On the other hand, for some authors, ‘normative scepticism’ (the tendency to describe the tradition or theory  $t_2$  while at the same time suspending all normative judgment about it) should be avoided as well. Finally, we should consider the evolutionary patterns of each tradition (that is, we should be aware that they have a present and a past), in order to avoid ‘perennialism.’ This overview of the risks related to comparative philosophy is an introductory caveat for what follows.

## 2.2.B Reasoning from Conjecture.

As we have seen, comparative philosophy is defined differently on the basis of its different aims, methods, and limitations. If this is true, one might say that a single comparative philosophy does not exist, but *several comparative philosophies* and consequently, *several comparative ethics*. I would argue that conjecture represents a *particular sort* of comparative ethics. Namely, conjecture represents a *distinctively liberal* kind of comparative ethics, because it is conceived to serve the purposes of political liberalism (reaching an overlapping consensus on –and, through it, a public justification of– a political conception of justice) and to work in a precise (even if, by necessity, adequately flexible) way. As such, conjecture does not aim at neutrality (in Panikkar’s sense), but at sincerity.<sup>419</sup> Therefore, *pace* Panikkar, conjecture steps forward as a *possible* comparative philosophy. Conjecture is overtly and frankly an attempt to find within others’ comprehensive doctrines good reasons for endorsing (that is, to fully justify) a liberal political conception of justice. The crucial point is that such an attempt has to be *sincere* and that such reasons have to be truly *good* reasons –“good” from the viewpoint of a

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<sup>418</sup> For what follows: Ronnie Littlejohn, “Comparative Philosophy,” 2-3. The author builds mainly on Martha Nussbaum’s *Cultivating Humanity: A Classical Defense of Reform in Liberal Education* (Cambridge, Mass.: Harvard University Press, 1997).

<sup>419</sup> For the sincerity requirement, see *infra*.



specific comprehensive doctrine.<sup>420</sup> Accordingly, I define conjecture as a peculiar kind of comparative political theory, namely, a kind of comparative approach worked out by political liberalism in order to deal with the problem of justification. In conjecture, the comparative approach and the justificatory purposes are inseparable. These points will become clearer in a while.

In “The Idea of Public Reason Revisited,” Rawls famously examines a ‘wide view of public political culture.’<sup>421</sup> As I will explain in chapter four, the latter represents a substantial development of what in the original edition of *Political Liberalism* he called the ‘inclusive view’ of public reason.<sup>422</sup> In the new introduction for the paperback edition of *Political Liberalism* (1996) he revised this idea, reformulating it as a ‘wide view of public reason,’<sup>423</sup> detailing it further in his 1997 essay “The Idea of Public Reason Revisited.”<sup>424</sup> As we will see in detail in chapter four, whilst the wide view does not contradict the inclusive view, the two positions are different. Otherwise, one could not understand why Rawls distinguishes the two and says that the last version is ‘by far the best statement I have written on ideas of public reason and political liberalism.’<sup>425</sup> Moreover, with reference to the conditions stipulated for the inclusive view, in the 1996 introduction he says: ‘*I now see no need for these conditions so far as they go beyond the proviso and drop them. The proviso [...] secures what is needed.*’<sup>426</sup> Thus, he implicitly maintains that the wide view and its proviso should replace the inclusive view. As I shall argue, the wide view does not simply involve a widening of the kinds of reasons allowed in public reasoning, it also corresponds to a less consensual and more plu-

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<sup>420</sup> See *infra* and Micah Schwartzman, “The Ethics of Reasoning from Conjecture,” 526 and 529-531.

<sup>421</sup> John Rawls, “The Idea of Public Reason Revisited,” 462-466. For Rawls’s definition of public political culture, see *supra*. See also chapter three.

<sup>422</sup> In the original edition (1993) of *Political Liberalism*, 247-254.

<sup>423</sup> This new introduction is included in the expanded edition, and the wide view of public reason is discussed in §5 (xlviii-lx, in particular l).

<sup>424</sup> Originally published in *University of Chicago Law Review* 64 (1997), 765-807. Included in *Political Liberalism* expanded edition (2005), 440-490. As above, all quotations of “The Idea of Public Reason Revisited” are from this last edition of *Political Liberalism*.

<sup>425</sup> See Rawls’s letter to his editor at Columbia University Press included in the 2005 expanded edition of *Political Liberalism*, 438.

<sup>426</sup> See the 1996 introduction to *Political Liberalism*, l. Emphases added.

ralist and deliberative conception of public reason. This position (epitomized in Rawls's renewed emphasis on the moral salience of the criterion of reciprocity, his clarification about the fact that the content of public reason is specified by a family of political conceptions of justice rather than just by justice as fairness,<sup>427</sup> and, above all, in the statement of the proviso) does not radically depart from the inclusive view, but significantly improves the latter in order to better answer to Rawls's deeper concerns. The result is a different interpretation of public reason that may also be more fitting to the European focus adopted in my study (see chapter five). Now let me recapitulate some points that are helpful for my present purposes. An 'exclusive view' of public reason says that 'on fundamental political matters, reasons given explicitly in terms of comprehensive doctrines are never to be introduced into public reason.'<sup>428</sup> Nevertheless, Rawls argues, in some circumstances some non-public reasons may 'strengthen the ideal of public reason.'<sup>429</sup> Then, in the original edition of *Political Liberalism* Rawls affirms that an inclusive view 'seems the correct one,' since it makes room for different scenarios<sup>430</sup> and 'is more flexible as needed to further the ideal of public reason.'<sup>431</sup> Crucial to my aims here is the fact that, with the 1996-1997 formulation of the wide view (his last and pre-

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<sup>427</sup> See chapter three.

<sup>428</sup> John Rawls, *Political Liberalism*, 247.

<sup>429</sup> Ibid.

<sup>430</sup> I will return to this point at length in chapter four. For the moment, I want just to remind some fundamental elements. In the account of the inclusive view Rawls writes: '[U]nder different political and social conditions with different families of doctrine and practice, the ideal [of public reason] must surely be advanced and fulfilled in different ways, sometimes by what may look like the exclusive view, at others by what may look like the inclusive view.' Ibid. 248. Then, Rawls analyses three different scenarios. A well-ordered society in which 'public reason [...] may appear to follow the exclusive view. Invoking only political values is the obvious and the most direct way for citizens to honor the ideal of public reason and to meet their duty of civility.' A nearly well-ordered society, where 'those of different faiths may come to doubt the sincerity of one another's allegiance to fundamental political values.' In this case, an inclusive view is more effective in strengthening the ideal of public reason, since it allows 'the leaders of the opposing groups to present in the public forum how their comprehensive doctrines do indeed affirm those values. [...] Their doing so may help to show that the overlapping consensus is not a mere *modus vivendi*. This knowledge surely strengthens mutual trust and public confidence; it can be a vital part of the sociological basis encouraging citizens to honor the ideal of public reason.' Finally, he considers a society that is not well-ordered. In such cases (as the U.S.A. during slavery and segregation times) the appeal to comprehensive reasons may be required 'to give sufficient strength to the political conception to be subsequently realized.' Therefore, for instance, abolitionists' arguments based on religious grounds further the ideal of public reason, although through non-public arguments. 'Given those historical conditions, it was not unreasonable of them to act as they did for the sake of the ideal of public reason itself. In this case, the ideal of public reason allows the inclusive view.' Ibid. 248-251.

<sup>431</sup> Ibid. 248. For this preference, see also 251-252.

ferred view),<sup>432</sup> Rawls introduces what I shall call a “general threshold for *public* reasoning,” namely, the proviso (which ‘specifies public political culture as distinct from the background culture’<sup>433</sup>), and three *non-public* forms of discourse: declaration, witnessing, and conjecture.

The proviso sets a limit for a non-public reason to be used in *public* political discussions about fundamental political questions (constitutional essentials and questions of basic justice).<sup>434</sup> One might say that the proviso sets a provisional admission for religious or philosophical arguments in public political discussions: we can introduce them, ‘*provided that* in due course proper political reasons –and not reasons given solely by comprehensive doctrines– are presented that are sufficient to support whatever the comprehensive doctrines introduced are said to support.’<sup>435</sup> Therefore, the proviso allows the introduction of *non-public reasons (if and only if) supported by public reason* in public political discussion about fundamental political questions. If we fail to present properly public reasons that support those non-public reasons, we fall below the threshold of genuine public reasoning. We are not able to address our fellow citizens with reasons that are appropriate for public justification.<sup>436</sup> Therefore, we do not meet the moral duty of civility that the ideal of liberal citizenship im-

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<sup>432</sup> Ibid. 438.

<sup>433</sup> “The Idea of Public Reason Revisited,” 462.

<sup>434</sup> As I will explain in chapter three, in Rawls’s view those are the issues that should be decided through public reason. ‘[T]he limits imposed by public reason do not apply to all political questions but only to those involving what we may call “constitutional essentials” and questions of basic justice [...]. This means that political values alone are to settle such fundamental political questions as: who has the right to vote, or what religions are to be tolerated, or who is to be assured fair equality of opportunity, or to hold property.’ John Rawls, *Political Liberalism*, 214. According to Rawls, constitutional essentials are of two kinds: ‘(a) fundamental principles that specify the general structure of government and the political process: the powers of the legislature, executive and the judiciary; the scope of majority rule; and (b) equal basic rights and liberties of citizenship that legislative majorities are to respect: such as the right to vote and to participate in politics, liberty of conscience, freedom of thought and association, as well as the protections of the rule of law.’ Ibid. 227 (see also 228-230). Freeman sums up constitutional essentials and questions of basic justice as follows: ‘[c]onstitutional essentials include questions of basic rights and liberties as well as constitutional powers and procedures of government. Basic justice includes matters related to equality of opportunity, the social minimum, and other all-purpose means for effectively exercising basic liberties and fair opportunities.’ Samuel Freeman, *Rawls*, 466. See chapter three.

<sup>435</sup> “The Idea of Public Reason Revisited,” 462. Emphasis added.

<sup>436</sup> See this already quoted passage: ‘[p]ublic reasoning aims for public justification. We appeal to political conceptions of justice, and to ascertainable evidence and facts open to public view, in order to reach conclusions about what we think are the most reasonable political institutions and policies. Public justification is not simply valid reasoning, but argument addressed to others: it proceeds correctly from premises we accept and think others could reasonably accept to conclusions we think they could also reasonably accept. This meets the duty of civility, since in due course the proviso is satisfied.’ Ibid. 465.

poses, that is, ‘to be able to explain to one another on those fundamental questions how the principles and policies they advocate and vote for can be supported by the political values of public reason.’<sup>437</sup> The proviso and the duty of civility will be analysed more accurately in chapter four (4.2 is devoted to my interpretation of the duty of civility). Here, I would like to focus on the three forms of non-public reasoning: declaration, witnessing and conjecture.

Declaration is a non-public form of reasoning because 1) we do not address other fellow citizens with properly public reasons, nor 2) do we expect that our declaration might establish a ground for public agreement and justification. This second point is of paramount importance.

‘[W]e each declare our own comprehensive doctrine, religious or nonreligious. This we do not expect others to share. Rather, each of us shows how, from our own doctrines, we can and do endorse a reasonable political conception of justice with its principles and ideals. The aim of doing this is to declare to others who affirm different comprehensive doctrines that we also each endorse a reasonable political conception belonging to the family of reasonable such conceptions. On the wide view [of public reason], citizens of faith [...] do not stop there, but go on to give a public justification for [the conclusions of their doctrine] in terms of political values. In this way citizens who hold different doctrines are reassured, and this strengthens the ties of civic friendship.’<sup>438</sup>

Therefore, the wide view of public reason allows citizens to declare (for instance): “leaving aside public political values and standards of inquiry, I would like to disclose the fact that my religious doctrine  $d$  fully endorses the political conception  $c$  for the religious reason  $r_1$ ,  $r_2$ , and  $r_3$ . Having said that, I think that  $c$  can also be publicly justified in the light of the public political values  $pv_1$  and  $pv_2$ . Thus, we (me and you as citizens) can agree on  $pv_1$  and  $pv_2$  as public reasons for the justification of  $c$ . Nonetheless, bear in mind that I have also specific non-public and still for me crucial reasons ( $r_1$ ,  $r_2$ , and  $r_3$ ) for endorsing  $c$ .” Such a declaration may serve two purposes.<sup>439</sup> First, it may have an informative and expressive aim: ‘citizens

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<sup>437</sup> John Rawls, *Political Liberalism*, 217.

<sup>438</sup> “The Idea of Public Reason Revisited,” 465.

<sup>439</sup> Micah Schwartzman, “The Ethics of Reasoning from Conjecture,” 525.

may wish for others to understand the deeper grounds of their political views. Declaration is thus a form of free expression. It is not an attempt to gain official recognition, but rather a way of informing others about the sources of one's own ethical, religious, or philosophical motivations.<sup>440</sup> Second, it may have an "in-one-another-we-can-trust" aim: 'declaration makes it possible for citizens to gain some insight into where their fellow citizens stand with regard to the values they hold in common. The open discussion of comprehensive doctrines helps citizens to see how those who disagree with them can nevertheless converge on a reasonable basis for justifying political decisions. For this reason, declaration can be valuable as a means of promoting civic trust.'<sup>441</sup>

Witnessing is the second non-public form of discourse. It shares with declaration the two above-mentioned features: in witnessing 1) we do not address other fellow citizens with properly public reasons, nor 2) do we expect that our witnessing might be a ground for public agreement.

'[Witnessing] typically occurs in an ideal, politically well-ordered, and fully just society in which all votes are the result of citizens' voting in accordance with their most reasonable conception of political justice. Nevertheless, it may happen that some citizens feel they must express their principled dissent from existing institutions, policies, or enacted legislation. [...] While on the whole these citizens endorse reasonable political conceptions of justice supporting a constitutional democratic society, in this case they nevertheless feel they must not only let other citizens know the deep basis of their strong opposition but must also bear witness to their faith by doing so. At the same time, those bearing witness accept the idea of public reason. While they may think that the outcome of a vote on which all reasonable citizens have conscientiously followed public reason to be incorrect or not true, they nevertheless recognize it as legitimate law and accept the obligation not to violate it.'<sup>442</sup>

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<sup>440</sup> Ibid.

<sup>441</sup> Ibid.

<sup>442</sup> John Rawls, "The Idea of Public Reason Revisited," 466 note 57.

Those who bear witness both endorse the political conception of justice and follow public reason. Nevertheless, on a single issue or some issues, they might have comprehensive reasons to disagree so strongly with the outcome of the exercise of public reason, that they feel compelled to bear witness to their comprehensive doctrine and its reasons. However, they disagree on the outcome of public reasoning, not on the idea of public reason itself. If they could, they would reject the outcome, not the ideal of public reason. Therefore, since they recognise that such an outcome is the result of the exercise of public reason in a democratic society, they do not violate it. As examples, Rawls cites Quakers' religious pacifism and Catholics' opposition to abortion. He assumes that both Quakers and Catholics accept the idea of public reason and do not violate the laws enacted in accordance with it, because they think that those laws are politically legitimate. Nonetheless, at the same time they may express the religious basis of their opposition to such laws. 'As long as citizens recognise the legitimacy of policies enacted according to public reason, it is reasonable for them to express the religious (or otherwise nonpublic) grounds of their opposition.'<sup>443</sup>

To sum up, '[t]he difference between *witnessing* and *declaration* is that, in the former, citizens register their dissent from the conclusions of public reason, whereas, in the latter, they disclose grounds for their support. In both cases, however, the assumption is that citizens act in accordance with demands of public reason.'<sup>444</sup> Hence, they are both *non-public* forms of discourse *in accordance with* the idea of public reason. Witnessing is a *dissenting non-public discourse in accordance with the idea of public reason*. Declaration is a *confirmative non-public discourse in accordance with the idea of public reason*. As I said, the proviso establishes a *condition for publicly appealing to non-public reasons within the scope of public reason* (it is, as I have said, a general threshold for *public reasoning*). What those three concepts have in common is the fact that they play their role during or after the process of public justification. The proviso *conditionally enlarges the range of reasons* we can appeal to in publicly justifying a policy or a political decision (within the scope of public reason). Declaration allows us to express why and how we can 'affirm the ideal of public reason [...] from within [our] own reasonable doctrin[e]',<sup>445</sup> and by means of this, our principled reasons for taking

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<sup>443</sup> Micah Schwartzman, "The Ethics of Reasoning from Conjecture," 4.

<sup>444</sup> Ibid. 525-526.

<sup>445</sup> John Rawls, *Political Liberalism*, 218.

part to the process of public justification. Finally, through witnessing citizens may express their principled reasons for dissenting from a legitimate political decision, law, or policy. Being recognised as legitimate, such a decision, law, or policy is binding. It is legitimate since it is the outcome of publicly justified political procedures and processes. For a citizen, such a law, policy, or decision ‘may not be thought the most reasonable, or the most appropriate, by each, but it is *politically (morally) binding* on him or her *as a citizen* and it is to be accepted as such. Each thinks that all have spoken and voted at least reasonably, and therefore all have followed public reason and honored their duty of civility.’<sup>446</sup> Therefore, witnessing, declaration, and the concept of proviso relate to the question of how we should reason in accordance with the idea of public justification. If ‘public reasoning [...] proceeds entirely within a political conception of justice,’<sup>447</sup> the proviso conditionally enlarges the kind of reason we can appeal to in public reasoning, while declaration and witnessing allow a non-public reasoning which not only does not conflict with, but also might strengthen public reasoning.

However, along with declaration and witnessing, there is a third form of *non-public* reasoning, which is not in accordance with but *for the sake of* public reason.<sup>448</sup> Rawls calls this form of non-public reasoning conjecture. In his definition of conjecture:

‘[W]e argue from what we believe, or conjecture, are other people’s basic doctrines, religious or secular, and try to show them that, despite what they might think, they can still endorse a reasonable political conception that can provide a basis for public reasons. The ideal of public reason is thereby strengthened. However, it is important that conjecture can be sincere and not manipulative. We must openly explain our intentions and state that we do not assert the premises from

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<sup>446</sup> John Rawls, “The Idea of Public Reason Revisited,” 446.

<sup>447</sup> Ibid, 453.

<sup>448</sup> Note that Leslie C. Griffin [“Good Catholics Should Be Rawlsian Liberals,” *Southern California Interdisciplinary Law Journal* 5, no. 3 (1997), 320] uses the expression ‘for the sake of public reason’ with reference to Martin Luther King’s use of religious language for his civil rights campaign, thus, with this example Griffin is referring to the proviso (see chapter four), while here I am referring to the case of conjecture. Clearly, the difference is a matter of terminology rather than of substance: obviously, I have no problem in recognising that we are acting for the sake of public reason also when we satisfy the proviso. My point is simply that the proviso is not external to public reason (this is why I have defined it as a general threshold for *public* reasoning), while declaration, witnessing, and conjecture are part of the idea of public reason in a wider sense, but they are not public forms of reasoning.

which we argue, but that we proceed as we do to clear up what we take to be a misunderstanding on others' part, and perhaps equally on ours.'<sup>449</sup>

Some remarks are in order. First, as I suggested above, conjecture is different from the proviso, declaration, and witnessing in one fundamental respect: conjecture is not public reasoning through non-public reasons supported by public reasons (as in the case of proviso), nor is it a non-public form of discourse in accordance with (within the limits imposed by) public reason (as in the case of declaration and witnessing). Rather, conjecture is non-public reasoning for the sake of public reason itself: we try to appeal to non-public reasons within others' comprehensive doctrine in order to show 'that, despite what they might think, they can still endorse a reasonable political conception that can provide a basis for public reasons.' In this way, '[t]he ideal of public reason is [...] strengthened.' We try to call our fellow citizens' attention to the fact that they have non-public reasons for endorsing the political conception and that *actually* their comprehensive doctrines do not conflict with the demands of public reason. As Schwartzman puts it, conjecture 'is a form of *reasoning*. It is not simply an attempt at rhetorical persuasion. The idea is to present people with arguments that give them *good* reasons, as evaluated from within their own comprehensive views, for endorsing a reasonable political conception as the basis for public reasoning. Thus, reasoning from conjecture is *a form of non-public justification* [last emphasis added]. Its purpose is to generate *rational* agreement on a shared or public basis for decision-making.'<sup>450</sup> Such a rational agreement does not appeal to merely strategic interests.<sup>451</sup> Rather, conjecture represents a (non-public) justification in a much deeper sense, since it is 'based on the convergence of different sets of moral reasons on common moral and political conclusions.'<sup>452</sup> If this is true, one could go even further and say that through conjecture we try to show that our fellow citizens have *good* reasons for acknowledging the priority of the *right* reasons (that is, of public reason) when fundamental political questions are publicly debated.<sup>453</sup> Thus, conjecture aims to lead to a 'principled agreement [..., a] consensus on the need for a common moral standpoint, at least for the purposes of justifying political

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<sup>449</sup> Ibid. 465-466.

<sup>450</sup> Micah Schwartzman, "The Ethics of Reasoning from Conjecture," 526.

<sup>451</sup> Ibid. 526-527.

<sup>452</sup> Ibid. 527.

<sup>453</sup> For the scope of public reason, see chapter three.



decisions.’<sup>454</sup> In addition, ‘[s]ince political liberalism holds that this standpoint should be specified by a reasonable political conception of justice, justifying such a conception becomes the goal of reasoning from conjecture.’<sup>455</sup> As I have explained above, Rawls makes a distinction between political (or *pro tanto*) and full justification. Schwartzman rephrases this point in different terms. The idea is that ‘C has a *pro tanto*, or political, justification for policy  $\beta$  when that policy is supported by a reasonable balance of political values. But she does not yet have a *full*, or all-things considered, justification for supporting  $\beta$ . If her comprehensive view contains non-public values that conflict with the *pro tanto* justification for  $\beta$ , she may decide to give priority to those values.’<sup>456</sup> In other words, in some cases we may achieve a political justification but not a full justification for settling a political question in a certain way. In those cases, Schwartzman continues, ‘[t]he aim of conjecture is to bridge the gap between *pro tanto* and *full* justification.’<sup>457</sup> He says that:

‘In general, political liberalism leaves it up to individual citizens to determine how *pro tanto* justifications fit within their comprehensive doctrines. But when citizens fail in this regard, or when they appear to be unable to reconcile the demands of a reasonable political conception with their comprehensive views, it may be possible to continue deliberating on the basis of conjectural arguments. If it can be shown that a comprehensive view is at least consistent with a reasonable political conception [...] then perhaps the weighty values –e.g., mutual respect, reciprocity, and political autonomy– that support providing others with public reasons will be sufficient to establish a *full* justification [...].’<sup>458</sup>

In facilitating the full justification of a *pro tanto* justified political conception, conjecture may lead to an overlapping consensus and to public justification. In this sense, I have called it “non-public reasoning for the sake of public reason.”

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<sup>454</sup> Micah Schwartzman, “The Ethics of Reasoning from Conjecture,” 527.

<sup>455</sup> Ibid.

<sup>456</sup> Ibid.

<sup>457</sup> Ibid.

<sup>458</sup> *ibid.* 527-528.

Following Schwartzman in his reconstruction of this Rawlsian concept, a second remark concerning conjecture is that conjecturers<sup>459</sup> ‘offer arguments based on premises they do not accept. They argue from within comprehensive doctrines, *other than their own*, for the purpose of justifying a reasonable political conception.’<sup>460</sup> This point should be clear now: if one tries to justify a political conception within *her own* comprehensive doctrine, she is trying to achieve a full justification. If one tries to argue in that direction from within *others’* comprehensive doctrine, she is reasoning from conjecture. But in no way can she substitute them in achieving full justification. Conjecture is about finding out good reasons for others to justify a political conception within their doctrine; it is not about replacing them in justifying it. While conjecture is (should be) a plainly external attempt to show possible ways for justifying, full justification requires an *internal* effort. This brings us back to the problem of sincerity mentioned by Rawls: we should openly say that ‘we do not assert the premises from which we argue.’ Such a requirement serves a double purpose: it not only ‘reassure[s] others of our sincerity,’ but also calls for others’ serious consideration of our arguments, ‘on the ground that these arguments are based on premises to which we believe they are committed.’<sup>461</sup>

A last element of conjecture is noteworthy here. Schwartzman suggests that ‘conjecture need not be based on arguments that are merely tentative or suggestive.’<sup>462</sup> In reasoning from conjecture, one ‘may be quite certain that [her] claims are conclusively justified on the basis of particular comprehensive doctrines.’<sup>463</sup> Therefore, the method of conjecture is not based on “conjecturing” (as this word is commonly understood). To be sure, it is likely that in most cases the conjecturer’s arguments are really “conjectures” (i.e., ‘merely tentative’ arguments): for obvious reasons, when we reason from within the comprehensive perspective of others, it is difficult to be sure that our claims are ‘conclusively justified’ from that perspective. A degree of uncertainty remains even when we are familiar with such a perspective.<sup>464</sup> I would add

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<sup>459</sup> I borrow this term from Schwartzman.

<sup>460</sup> Micah Schwartzman, “The Ethics of Reasoning from Conjecture,” 528.

<sup>461</sup> Ibid.

<sup>462</sup> Ibid.

<sup>463</sup> Ibid.

<sup>464</sup> Schwartzman says that ‘[t]his may be simply the natural result of differences in judgment.’ Ibid. 529.

that partial uncertainty is even positive, if we understand it as the conjecturer's awareness of the "otherness" of others' comprehensive doctrines. It seems to me that this respectful awareness is required by Rawls's overall account of conjecture (otherwise, what could be the real meaning of his annotation 'and perhaps equally on ours'?). Furthermore, such awareness may represent a prudential admonition for aiming at those claims that are most likely to be justifiable within others' doctrine. However, the crucial feature of conjecture is that 'conjectural arguments have a certain status in virtue of the fact that their premises are not shared by those who advance them. [...] Conjecture is (or should be) defined [...] by the kind of reasoning involved, and not by the degree of confidence expressed by that reasoning.'<sup>465</sup> In few words, what characterises conjecture is the *attempt* to reason from within a different religious, ethical, or philosophical perspective, in order to show how its members could justify the political conception from that standpoint. If one "unfolds" the phrase "to reason from within others' comprehensive doctrine" as "to reason from within others' ethical, philosophical, or religious viewpoint", she may realise that the important point that Rawls has in mind is precisely the conjecturer's effort/attempt/disposition toward the other, in order to help<sup>466</sup> her in finding out reasons for justifying the reasonable conception that should govern their lives as cooperating members of the same society.

Some objections may arise against such an account of conjecture. Schwartzman considers three of them:

1. 'Conjecture is not a form of justification but rather an insincere mode of argument designed to manipulate people into accepting liberal political principles.'<sup>467</sup> As I have pointed out, Rawls's political liberalism requires sincerity in reasoning from conjecture. But what does sincerity mean exactly? Schwartzman takes into consideration an initial definition of sincerity, as 'believing what you say.' Then, he continues, conjecturers meet such a sincerity requirement only 'if they disclose the fact

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<sup>465</sup> Ibid. 528-529.

<sup>466</sup> I use the verb "to help" in the sense of "assisting," or, best of all, "working together." In no case, as I have said, can the conjecturer replace the members of a comprehensive doctrine in providing a full justification, nor can she dictate a justificatory pattern. If a full justification is not possible at all, the conjecturer should recognise this fact and stop her attempt, because members of the comprehensive doctrine cannot be obliged to provide a full justification. In this case, however, those who take part in the public justification may regard that doctrine as unreasonable. In this case, then, the problem is how to treat it and its members. For this, see chapters three and four.

<sup>467</sup> Micah Schwartzman, "The Ethics of Reasoning from Conjecture," 529. For his reply, see *ibid.* 529-534.

that they do not assert the premises from which they argue.’ This is the ‘principle of disclosure.’<sup>468</sup> However, such a principle is a necessary but not sufficient condition for sincere reasoning from conjecture. If I (the conjecturer) tell you (a member of the comprehensive doctrine *d*) that you should endorse  $\beta$  because of the comprehensive reason *r* in which you believe, and I add that, however, I do not share your commitment to *d* and, consequently to *r*, and that I endorse  $\beta$  for different reasons, then I meet the principle of disclosure and my reasoning is sincere. But what if I know that the reason *r* to which you are committed is groundless or unjustified from the perspective of *d* itself? What if, for example, I know that your commitment to *r* (and, consequently, to  $\beta$ ) is based on a misinformed interpretation of *d*? In this case, I would know that, from the viewpoint of *d*, *r* is actually a *bad* reason for endorsing  $\beta$ . Intuitively, one may say that if I simply omitted to tell you that there is strong evidence that *r* has no grounds within *d*, I would not be sincere with you. Then, the principle of disclosure is not sufficient. As I have said, conjecture aims at justification. And ‘[i]f we accept that justification is about giving others *good* reasons, even when the “goodness” of the reason is judged from within their perspectives, then the principle of disclosure is insufficient to guarantee the sincerity of conjecture.’<sup>469</sup> To face this problem, Schwartzman presents the ‘principle of full disclosure.’ It says that ‘reasoning from conjecture is sincere and non-manipulative if, and only if, conjecturers (i) disclose that they do not believe the premises from which they argue, and (ii) disclose whether they believe their arguments are justifiable from within the comprehensive views of their intended audience.’<sup>470</sup> The second point (ii) averts the problem that I have just mentioned.

2. ‘[E]ven if conjecture is sincere and non-manipulative, it is an attempt to impose alien interpretations on particular comprehensive doctrines.’<sup>471</sup> Firstly, Schwartzman observes that the ‘lack of commitment to a culture (or comprehensive doctrine) [is

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<sup>468</sup> Ibid. 530.

<sup>469</sup> Ibid. 531.

<sup>470</sup> Ibid.

<sup>471</sup> Ibid. 529. Discussed on 534-539.

not] a reason to refrain from arguing from within it.’<sup>472</sup> Secondly, he points out the fact that ‘the need for Islamic [or otherwise comprehensive] authority does not necessarily preclude the possibility of reasoning from conjecture.’<sup>473</sup> Indeed the conjecturer may appeal to a ‘contextual authority.’<sup>474</sup> In arguing that others should endorse a conception of justice, we are obviously making a normative demand on them. This requires that ‘we claim a kind of normative authority for ourselves.’<sup>475</sup> But why should they recognise our normative authority? We cannot just impose our authority, since others must be persuaded that they have good reasons to take into consideration our claims. Schwartzman argues that ‘one way to answer the question of normative authority is to say that what we are demanding is simply what follows from norms, values and beliefs to which they are already committed. Our authority is premised on our claim to have reasoned properly from their ethical or religious perspective.’<sup>476</sup> Thus, the normative authority of our claims is grounded in the context in which we are reasoning.

3. ‘Conjecture lacks epistemic credibility.’<sup>477</sup> After all, it may seem that adherents of a comprehensive doctrine *d* are the best judges and interpreters of *d*. ‘Why should *C* accept *A*’s interpretation of her own comprehensive view? To answer this question, *A* needs to explain why she knows better. That is, she has to give a justification for her epistemic authority. If *A* cannot give a justification, then presumably *C* has good reason to trust her own interpretation of the beliefs and values to which she is committed.’<sup>478</sup> The conjecturer has three options.<sup>479</sup> She might admit that she

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<sup>472</sup> Ibid. 535.

<sup>473</sup> Ibid. 536.

<sup>474</sup> Schwartzman borrows this concept from Alan Gibbard, *Wise Choices, Apt Feelings* (Oxford: Oxford University Press, 1990), 174. Quoted in Micah Schwartzman, “The Ethics of Reasoning from Conjecture,” 536.

<sup>475</sup> Micah Schwartzman, “The Ethics of Reasoning from Conjecture,” 537.

<sup>476</sup> Ibid. Importantly, he adds that ‘the view that Islamic reformation should be based on traditional religious sources seems consistent with conjectural arguments that proceed based on similar, contextual grounds.’

<sup>477</sup> Ibid. 529. Discussed on 540-542.

<sup>478</sup> Ibid. 540.

is not an “insider” and that she is just speculating (conjecturing in the ordinary sense). Alternatively, she might try to become an authority on a particular doctrine. Lastly, she might challenge ‘the reasonableness of excluding an outsider, or a non-believer, solely on the basis of epistemic considerations.’ Schwartzman argues that:

‘Recall that the purpose of conjecture is to try to reconcile conflicts between non-public and public values. If a person, or a community, asserts that non-public values should take priority in cases of conflict, then it is reasonable to ask for a justification for that view. Perhaps a justification can be given that will at least be intelligible, if not defensible, to outsiders. But if the proffered justification is not even intelligible, if an outsider cannot even hope to understand the beliefs or values on which that justification is based, then there are strong grounds for questioning whether it is an appropriate basis for justifying the exercise of political power.’<sup>480</sup>

The last point is very relevant to my aims. It unambiguously *links reasonableness and intelligibility*. Kevin Vallier defines intelligibility in these terms: ‘A’s reason X is intelligible to the public if and only if *members of the public* (at the right level of idealization) *can see that X is justified for A according to A’s evaluative standards*.’<sup>481</sup> He mentions three alternative necessary (but not sufficient) conditions for a reason to be counted as a justificatory reason. Satisfying one of these alternative requirements is a necessary condition for a reason to enter into what he calls ‘the justificatory pool,’<sup>482</sup> that is, to be counted as a relevant reason for providing a justification, say, of a policy, but this is obviously not a sufficient condition to say that the same reason actually provides a justification for that policy. First, if we favour a requirement based on accessibility, then we should admit into the justificatory pool only reasons that are accessible to the relevant public, and ‘A’s reason R<sub>A</sub> is accessible to the public if

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<sup>479</sup> Ibid. 540-541.

<sup>480</sup> Ibid. 541-542.

<sup>481</sup> Kevin Vallier, “Against Public Reason Liberalism’s Accessibility Requirement,” 388, emphasis added. See also Kevin Vallier and Fred D’Agostino, “Public Justification,” 9-11.

<sup>482</sup> Kevin Vallier, “Against Public Reason Liberalism’s Accessibility Requirement,” 372.

and only if all members of the public regard  $R_A$  as *justified for A according to common evaluative standards*<sup>483</sup> (the reason is not shared, but we can evaluate it from shared standards). Alternatively, we could prefer a stronger ‘shareability requirement,’ which demands that we must count in the justificatory pool only the reasons that the relevant public regard ‘as justified for each member of the public [...] according to common standards’<sup>484</sup> (we all share both the reason and the evaluative standards). Finally, we could adopt a shallow intelligibility requirement, according to which we should count as permissible reasons those reasons that the public can see as justified for its member A according to A’s standards (neither the reason nor the standards are shared). Vallier points out that if we adopt an intelligibility requirement (which he favours, for reasons that I do not need to analyse here), ‘public reason will lean towards “convergence” conceptions of public reason.’<sup>485</sup>

I agree on this point, and for this reason I mention intelligibility while discussing conjecture: in conjecture there is certainly an element of convergence that makes intelligibility relevant. Nonetheless, here I treat this notion from a different perspective (thus, I depart from Vallier’s notions of intelligibility and convergence). In particular, I do not analyse intelligibility as a requirement for including a reason in the justificatory pool. Rather, I consider *intelligibility as a qualifying feature of the reasonable* when arguments are brought to the attention of the public. In other words, when politically reasonable persons publicly discuss fundamental political questions, their arguments (whether public reasons or non-public reasons aiming at satisfying the proviso) should be at least intelligible to other politically reasonable persons. In chapter four, I will build my interpretation of the proviso on this link between reasonable-

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<sup>483</sup> Kevin Vallier and Fred D’Agostino, “Public Justification,” 10. Emphasis added.

<sup>484</sup> Ibid. 11. Emphasis added.

<sup>485</sup> Kevin Vallier, “Against Public Reason Liberalism’s Accessibility Requirement,” 389. For the distinction between ‘consensus’ views and ‘convergence’ (sometimes also called ‘distributive’) views of public reason, see in particular Gerald Postema “Public Practical Reason: An Archeology,” *Social Philosophy and Policy* 12, no. 1 (1995), 69-70, Kevin Vallier and Fred D’Agostino, “Public Justification,” 7-8 and Fred D’Agostino, “Some Modes of Public Justification,” 391. Here D’Agostino says: ‘[o]n the consensual reading public justification involves providing a reason R which is a reason both for A and for B to accept the proposal Π. On the distributive reading, public justification involves providing a reason  $R_A$  which is a reason for A to accept the proposal Π and a reason  $R_B$  which is a reason for B to accept the proposal Π, where  $R_A$  is not necessarily the same as  $R_B$ .’ Some of the most relevant examples in recent literature on the convergence view are Kevin Vallier *Liberal Politics and Public Faith: Beyond Separation* (New York: Routledge, 2014), see in particular chapter 4, and Gerald F. Gaus *The Order of Public Reason: A Theory of Freedom and Morality in a Diverse and Bounded World* (New York: Cambridge University Press, 2011), see in particular 283-292 and chapter 7. For a strong interpretation of the consensus view, see Jonathan Quong, *Liberalism without Perfection*, see 261-273. I will concisely come back to this distinction in the footnotes at the beginning of chapter three.

ness and intelligibility: for the proviso to be satisfied, the non-public reasons advanced in public discussions must be intelligible in this sense from the perspective of other reasonable fellow citizens. Thus, postponing until chapter four the analysis of the proviso, let me now concisely explain the issue of intelligibility within a Rawlsian framework. What follows aims to: 1) clarify some points about conjecture and 2) prepare the ground for the development of my view of the proviso.

In reasoning from conjecture (and, I add for the purposes of section 2.3, in justificatory evaluative political theory), the reasonableness of a given comprehensive doctrine (also) involves the latter being at least intelligible to outsiders *when it deals with political values*.<sup>486</sup> Intelligibility does not require full comprehension (or access), even less endorsement. However, I argue that a *reasonable* comprehensive doctrine cannot be completely unintelligible to outsiders during the process of full justification of the political conception. Remember that comprehensive doctrines are an exercise of both practical and theoretical reason.<sup>487</sup> Now, if ‘the *content* of the reasonable is specified by the content of a reasonable conception,’ the ‘*idea* of the reasonable itself is given in part [...] by the two aspects of persons’ being reasonable: their willingness to propose and abide by fair terms of social cooperation among equals and their recognition of and willingness to accept the consequences of the burdens of judgment.’<sup>488</sup> Add to this that the procedure of political construction (through which the content of the political conception is worked out) is based essentially on ‘the principles of practical reason in union with conceptions of society [as a fair system of cooperation] and person [as free

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<sup>486</sup> This specification is crucial. According to political liberalism, comprehensive doctrines do not have to be reasonable in areas that are not relevant for achieving an overlapping consensus, that is, in areas that do not belong to the ‘domain of the political,’ to which the political conception is limited. See John Rawls, *Political Liberalism*, for example 10-11 and 38-39. In those areas, then, as far as political liberalism is concerned, comprehensive doctrines could be completely unintelligible to outsiders. Examples of such potentially unintelligible areas could be: a conception of how God’s substance and attributes are related, a conception of the Trinity, a conception of reincarnation, a cosmogony, a conception of eternity and creation, and so on, as far as they do not call into question the domain of the political. In such areas, persons are not concerned with the demand of being politically reasonable, so the problem of the double exercise of practical reason (see below) does not arise. In Rawls’s words: ‘[i]n a particular comprehensive doctrine, in particular a religious one, the ranking of values may not be what we might expect. Thus, suppose we call *transcendent* such values as salvation and eternal life –the *Visio Dei*. This value, let’s say, is higher, or superior to, the reasonable political values of a constitutional democratic society. These are worldly values and therefore on a different, and as it were lower, plane than those transcendent values. It doesn’t follow, however, that these lower yet reasonable values are overridden by the transcendent values of the religious doctrine. In fact, a *reasonable* comprehensive doctrine is one in which they are not overridden; it is the unreasonable doctrines in which reasonable political values are overridden.’ John Rawls, “The Idea of Public Reason Revisited,” 483.

<sup>487</sup> John Rawls, *Political Liberalism*, 59.

<sup>488</sup> Ibid. 94. Emphases added.



and equal].<sup>489</sup> Thus, ‘political constructivism specifies an idea of the reasonable’<sup>490</sup> by working out a reasonable political conception that follows from the two aspects of the reasonableness of persons articulated through principles of practical reason in union with conceptions of society and person. Political constructivism makes a political justification possible by imposing reasonable limits (the veil of ignorance) on the rational choice of agents in the original position.<sup>491</sup> Furthermore, thanks to the fact that it appeals to the idea of the reasonable and not to the concept of truth,<sup>492</sup> political constructivism ‘secure[s] the possibility of an overlapping consensus on [...] fundamental political values,’ since it ‘develops the principles of justice from public and shared ideas of society as a fair system of cooperation and of citizens as free and equal by using the principles of their *common practical reason*.’<sup>493</sup> Finally, political constructivism ‘represents an order of political values proceeding from the values expressed by the principles of practical reason, in union with conceptions of society and person, to the values expressed by certain principles of political justice.’<sup>494</sup> In this way the political conception can be defined as an ‘autonomous political doctrine,’ that is:

‘[O]ne that represents, or displays, the political principles of justice –the fair terms of social cooperation– as reached by using the principles of practical reason in union with the appropriate conceptions of persons as free and equal and of society as a fair system of cooperation over time. The argument from the original position exhibits this line of thought. Autonomy is a matter of how the view presents the political values as ordered. [...] A view is autonomous, then, because in its represented order the political values of justice and public reason (expressed by its principles) are not simply presented as moral requirements externally imposed. Nor are they required of us by other citizens whose comprehensive doctrines we do not accept. Rather citizens can understand those values as based on their prac-

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<sup>489</sup> Ibid. 90.

<sup>490</sup> Ibid. 94.

<sup>491</sup> Ibid. 93.

<sup>492</sup> Ibid. 94.

<sup>493</sup> Ibid. 90. Emphasis added.

<sup>494</sup> Ibid. 95.

tical reason in union with the political conceptions of citizens as free and equal and of society as a system of fair cooperation.’<sup>495</sup>

Secondly, when citizens honour those politically-constructed principles of justice, they can be said to be *politically autonomous*, that is, autonomous ‘in a way compatible with their reasonable comprehensive doctrines.’<sup>496</sup> In few words, political constructivism works out a political conception that can be the focus of an overlapping consensus because of its being political in a way that reasonable persons can endorse. Then, apparently, reasonableness plays its role both during political justification (e.g., through the idea of the veil of ignorance in the original position) and in making an overlapping consensus possible. But, as we have seen, for a comprehensive doctrine to take part in an overlapping consensus, it must fully justify the political conception. In the overlapping consensus the practical reason of citizens *qua* members of different comprehensive doctrines must converge (on the basis of their different full justifications) on the conception of justice politically justified by the exercise of practical reason of citizens *qua* citizens. Then, the *principles of practical reason applied in full justification* cannot radically contradict the *principles of practical reason applied in the political justification* of the political conception. Otherwise the comprehensive doctrine could not ‘support a reasonable balance of political values’ and it would ‘run afoul of public reason.’<sup>497</sup> I call it “the problem of double exercise of practical reason.” As I have argued, this problem is solved by a “unified” account of political reasonableness. It implies that, as reasonable persons, our practical reasoning in *fully* justifying a conception of justice cannot be completely unintelligible to other reasonable persons, since reasonableness requires that our common practical reasoning is able to justify the same political conception and its political values *politically*. In few words, this account of political reasonableness is “unified” because it “covers” and guides practical reason both in the political and in the full justification of the political conception of justice. When political values are at stake, then, a reasonable exercise of practical reason involves the application of practical reason to such values within reasonable comprehensive doctrines being intelligible to outsiders as reasonable persons. To be sure, Rawls openly states that the political justification in the original position is a ‘hypothetical and non-historical’ sit-

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<sup>495</sup> Ibid. 98.

<sup>496</sup> Ibid. 90.

<sup>497</sup> Ibid. 243 and 253.

uation.<sup>498</sup> So, one might say, not each person is actually supposed to give a political justification and, for those who do not do that, the problem of the double exercise of practical reason would not arise. The answer to this objection is that it neglects the real meaning of Rawls's social contract. Even if the initial agreement is only hypothetical, such a 'device of representation'<sup>499</sup> is conceived to set the appropriate conditions for the initial agreement. Here, the reasonable 'is represented by the various restrictions to which the parties are subject in the original position and by the conditions imposed on their agreement.'<sup>500</sup> In Rawls's social contract theory, reasonableness is required for grounding the publicity of the rational agreement between free equals:

'[J]ust as the validity of a contract does not turn solely on the terms agreed to, but also on the fact of agreement, so justice consists in more than the proper distribution of rights and assets. Principles of justice should also be public, each of us affirming them in light of the fact that others affirm them too. More is necessary [...] than just a *scheme of distributive justice*, even one that each of us has reason to endorse. Equally important is the *publicity* of its defining principles – that our reason for accepting them turns on others having reason to accept them too. [...] The contractarian metaphor has the merit of combining in a single image two essential conditions which the principles of justice should satisfy –their justifiability to reason and their publicity.'<sup>501</sup>

In this way, in the original position both persons' moral powers are represented: the capacity for a conception of the good (the rationality of the parties) and the capacity for a sense of justice (the reasonableness embedded in the restrictions imposed by the veil of ignorance). Reasonableness is the *sine qua non* condition for the publicity of the agreement reached by free and equal citizens and it allows citizens to justify a politically reasonable public conception of justice. Then, hypothetical or not, the kind of justification sketched out in the original position can be reached by reasonable persons. Consequently, the question of what I have

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<sup>498</sup> Ibid. 271-275.

<sup>499</sup> Ibid. 24.

<sup>500</sup> Ibid. 305.

<sup>501</sup> Charles Larmore, "Public Reason," 370-371.

called the *double exercise of practical reason* arises from the very fact of being reasonable (and, then, able to give a proper public justification): reasonable persons are able to justify a conception of justice *both* politically and fully. As a consequence of this, it can be argued that the principles of practical reason used by *reasonable* members of a comprehensive doctrine to balance political and non-political values should be at least intelligible to reasonable outsiders. Reasonableness entails a certain degree of “consistency” (at least understood as “non-incommensurability”) between these two exercises of practical reason by reasonable persons. If those two exercises of practical reason were absolutely incommensurable and one of them (the one concerning the full justification within a particular comprehensive doctrine) were unintelligible to politically *reasonable* outsiders, how could another politically *reasonable* person (the insider) perform both of them? Unity of practical reason is assured by the fact that both exercises are equally performed by politically *reasonable* persons, as citizens who provide a political justification for a conception of justice *and* as members of a particular comprehensive doctrine who try to fully justify that conception. In this sense, reasonableness partially “discloses” the exercise of practical reason within one’s comprehensive doctrine *when it deals with political values*. The crucial point is that for the rest it could easily (and reasonably) be the case that a comprehensive doctrine is unintelligible to outsiders (because political reasonableness is not concerned). However, when it comes to settling *political values* within a *reasonable* comprehensive doctrine, the way in which the latter does so must be to some degree intelligible to *reasonable* persons: we could say that for insiders the way in which a reasonable comprehensive doctrine does this is shared knowledge and goes much beyond mere political intelligibility, while for outsiders it must be at least politically intelligible. But for political liberalism this is what is required. Since reasonableness requires that reasonable citizens are able to order political values through practical reason (and the above-mentioned political conceptions), this fact involves reasonable citizens *sharing politically reasonable principles of practical reason in dealing with political values*. Those principles, then, are common to both insiders and outsiders as reasonable persons. Then, reasonableness is a political virtue<sup>502</sup> that should be displayed in working out a political justification and which is latently traceable in the capacity for achieving a full justification. Practically, this means that reasonable outsiders must reasonably be able to know *if* a full justification is achieved (not necessarily the details of why and how it is achieved, since political liberalism leaves the “why and

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<sup>502</sup> John Rawls, *Political Liberalism*, for instance 224.

how” question to adherents,<sup>503</sup> apart from the –limited– case of conjecture). I think this is a fundamental element of stability for the right reasons. Remember that such a stability occurs when:<sup>504</sup> 1) society’s basic structure is effectively regulated by the most reasonable political conception of justice; 2) such a political conception is endorsed through an overlapping consensus of all reasonable comprehensive doctrines; and 3) public political discussions about fundamental political questions are nearly always decided on the basis of public reasons. Then, *if we want to know whether our society is stable for the right reasons, we must know if an overlapping consensus is present. In order to know that, however, we must know whether a given comprehensive doctrine takes part in that consensus or not.* Furthermore, if a full justification of the political conception does not occur, outsiders must be able to understand which comprehensive values have the priority over the political ones. Moreover, only if the basic functioning of practical reasoning within the comprehensive doctrine is intelligible to outsiders can they know whether reasoning from conjecture is possible. If this is the case, they can try to present other reasons to adherents of the specific comprehensive doctrine, so that they can give a full justification of the political conception. If a full justification is not possible at all (because comprehensive values irreparably conflict with political values), then the comprehensive doctrine is not reasonable.<sup>505</sup> However, in the absence of a full justification,<sup>506</sup> there could be a third case, namely the case of the alleged complete political unintelligibility of the comprehensive doctrine to outsiders. But, if practical political reasoning within the comprehensive doctrine were completely unintelligible to outsiders and they were completely unable to understand where the conflict between the comprehensive doctrine and the political conception arose, the primacy of such “unintelligible” comprehensive values could not be plausibly justified to outsiders (that is, to other citizens): simply, they could not recognise such a doctrine as politically reasonable. In my understanding, however, even if the conclusion is the same in the second and in the third case (namely, that the doctrine is politically unreasonable), in the third case there is an additional element which is morally and politically

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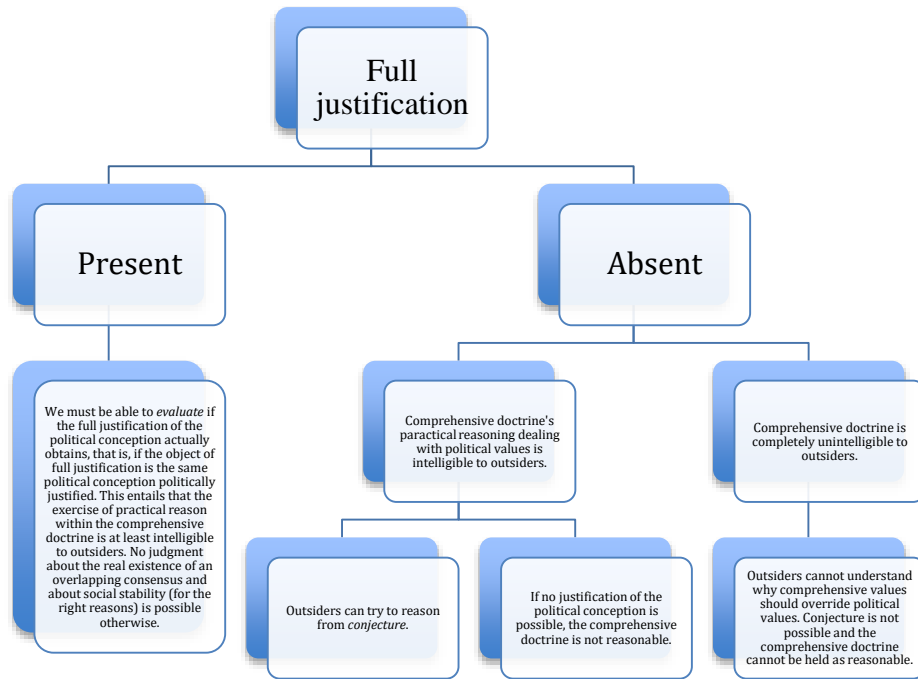
<sup>503</sup> See, for instance, John Rawls, “Reply to Habermas,” 386.

<sup>504</sup> John Rawls, *Political Liberalism*, xlvii and “Reply to Habermas,” 391.

<sup>505</sup> John Rawls, *Political Liberalism*, for example 243 and 253.

<sup>506</sup> Only in the absence of a full justification does the unintelligibility problem raise a question of reasonableness. If a full justification is successfully provided, we must assume that there is no fundamental conflict between the practical reasoning exercised in the *pro tanto* justification and the practical reasoning exercised during the full justification.

relevant: the denial of the capacity for a common (reasonable) exercise of practical political reasoning is allegedly embedded in the very essence of the comprehensive doctrine, and not simply in one of the arguments derived from it. For this reason, I call this case “ontological unreasonableness.” a doctrine is ontologically unreasonable if its members deny from the very beginning and because of its very nature any possibility of approaching it in terms of political reasonableness and justification. This is *not* to say that political liberalism passes judgment on an ontological question, namely, the ontological status of a particular comprehensive doctrine. Such a judgment would go beyond the domain of the political. Instead, the notion of ontological unreasonableness refers to the political consequences of what the same members of that particular comprehensive doctrine say about it, that is, that its political stance is absolutely inaccessible to reasonable outsiders. Therefore, ontological unreasonableness is only a particular case of political unreasonableness: it simply discloses the grounds on which the members of a particular doctrine locate the source of what other citizens can define political unreasonableness. I summarise these ideal-typical cases in Figure 4. In few words, as I have said, in my understanding the idea of reasonableness partially “discloses” the exercise of practical reason within comprehensive doctrines for ordering and balancing political and non-political values, at least as a threshold of minimum intelligibility when political values are at stake. I will return to intelligibility in 4.2, and to ontological unreasonableness in 6.2.



**Figure 4: Reasonableness, full justification, and intelligibility.**

Coming back to the concept of conjecture, one can observe that several recent works in political philosophy refer to conjecture as a suitable method for settling alleged conflicts between the content of a liberal political conception and comprehensive doctrines. This effort focuses on different issues (citizenship, human rights, health policies, and so on) and different –mainly religious– comprehensive doctrines (not only Islam, but also Christian conservatism, Confucianism, and so on).<sup>507</sup> For methodological purposes, I discuss March’s approach, for it openly considers some important issues at stake in practising justificatory comparative political theory. In the light of such considerations, I will be able to explain my justificatory evaluative method.

<sup>507</sup> For the following relations, I give just few prominent examples. For Islam and citizenship, see Andrew F. March, mainly: *Islam and Liberal Citizenship*; “Islamic Foundations for a Social Contract in non-Muslims Liberal Democracies,” *The American Political Science Review* **101**, no. 2 (2007), 235-252; “Liberal Citizenship and the Search of an Overlapping Consensus: The Case of Muslim Minorities,” *Philosophy & Public Affairs* **34**, no. 4 (2006), 373-421. For Islam and Confucianism on the one hand and human rights on the other, see Joshua Cohen, “Minimalism About Human Rights: The Most We Can Hope For?,” in particular 202-210. For Christianity and safe sex policies, see Robert S. Taylor, “Religious Conservatives and Safe Sex: Reconciliation by Nonpublic Reason,” *American Political Thought* **3**, no. 2 (2014), 322-340.

### 2.2.C March's Conjecture.

In light of the previous considerations concerning comparative political theory and conjecture, I can now make explicit the role of *conjecture as a comparative justificatory project*.<sup>508</sup> In a recent article, March remarks that 'there has been a steady increase in the visibility of comparative political theory in the field of political science.'<sup>509</sup> Having provided a wide overview of recent calls to expand the field of comparative political theory,<sup>510</sup> March elucidates the two underlying assumptions that characterise any project of comparative political theory.<sup>511</sup> The first assumption is the existence of a 'specific common object of inquiry.' Comparative political theory does not aim at a juxtaposition or 'zoological cataloguing' of writers, texts, theories, arguments, or concepts belonging to different traditions, cultures, or religions. Rather:

'Meaningful and interesting comparative work [...] aims at a specific problem or question that is illuminated through multiple examples ("How is liberty protected through institutions? How is it protected through *moeurs*?" [...]). Or perhaps there is a single concept, practice, or phenomenon (liberalism, imperialism, democracy, sovereignty, constitutionalism, marriage) about which we know more and about which we ask new questions by examining multiple instances of it.'<sup>512</sup>

The second assumption is that the compared entities are distinct. A comparative political theorist should be able to identify relevant features that distinguish her objects, so that comparison 'is not only possible but meaningful.' That is, '[f]or comparison itself to be the main

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<sup>508</sup> Such a definition of conjecture should not be read as reducing comparison to a merely instrumental task. Instead, within conjecture justification can be achieved *by virtue of* comparison.

<sup>509</sup> Andrew F. March, "What is Comparative Political Theory?," 531.

<sup>510</sup> Ibid. 531-532, in particular note 2. See also 538-543.

<sup>511</sup> For the following points, see *ibid.* 537.

<sup>512</sup> Ibid. March interestingly argues that: '[c]omparison must be, in the first place, a method, not just an expedient term vaguely suggesting the focus of one's research interests (e.g., non-Western texts) or substantive concerns and commitments (e.g., critiquing Western hegemony). Those foci and substantive concerns may be legitimate and important, but they need not amount to a distinctively comparative method. [...] The two most intuitive ways in which political theory might globalize itself and undermine hegemonic institutions would be some form of global Habermasian ideal-speech situation or a more radical perpetual critique from the perspective of the world's dominated populations. Neither of those, however, is particularly comparative and, I suggest, may in fact run directly against some of the assumptions of comparative political theory.' Ibid.



methodological tool, there have to be not only distinct units, but their differences also have to be somehow enduring and generative of knowledge or insights greater than what is derived from treating them in noncomparative ways.<sup>513</sup>

Later, March points out five mainstream accounts of the purposes and justifications of comparative political theory.<sup>514</sup> Such accounts largely represent an analytic development of the considerations I have sketched in 2.2.a. The first justification of comparative political theory is an epistemic one. If one assumes that political theory is about universal human dilemmas and not merely about Western concerns, political theory should be comparative, for it ‘can make no claims for [the universality of its questions and concepts] without including non-Western perspectives.’<sup>515</sup> In this perspective, the central issue is ‘the epistemic value in encountering the alien.’<sup>516</sup> Such a claim could be discerned in Fred Dallmayr’s call ‘to move toward a more genuine universalism, and beyond the spurious “universality” traditionally claimed by the Western canon.’<sup>517</sup> Secondly, comparative political theory is frequently justified on ‘global-democratic’ bases. The main argument of such a view proceeds as follows: ‘[i]f the most important questions of contemporary political philosophy are themselves of a global nature, how could a “planetary political philosophy” (as Dallmayr calls it) proceed except by including a planet’s worth of theoretical perspectives?’<sup>518</sup> A further argument for comparative political theory is grounded in its ‘critical-transformative’ role. According to this perspective, Western questions, concepts, arguments, and frames cannot be extended unproblematically to non-Western contexts. This ‘is not just mistaken but is an act of hegemony and domination that ought to be counteracted by exploring the ways in which non-Western think-

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<sup>513</sup> Ibid.

<sup>514</sup> Ibid. 538-546.

<sup>515</sup> Ibid. 539.

<sup>516</sup> Ibid.

<sup>517</sup> Fred Dallmayr, “Beyond Monologue: For a Comparative Political Theory,” 253.

<sup>518</sup> Andrew F. March, “What is Comparative Political Theory?,” 540. He quotes Fred Dallmayr, for instance, “Beyond Monologue: For a Comparative Political Theory,” 251.

ers discuss political questions.’<sup>519</sup> A fourth justification for comparative political theory is that it ‘illuminates common problems at the intersection of political theory and comparative politics.’<sup>520</sup> So, for example, one might try to understand the problem of political sovereignty through the analysis of Sayyid Qutb’s conception of sovereignty and argue that ‘inasmuch as Qutb is engaged with questions about legitimacy of political authority and the moral foundations of political communities, he is something of a “political theorist”.’<sup>521</sup> A final source of justification for comparative political theory lies in a “rehabilitative” effort: ‘[t]he point here is not so much to justify a given norm or practice [...] by showing that it can be affirmed by multiple traditions [...], but to *rehabilitate* a non-Western tradition or trend by showing that it is less alien or hostile than its crudest opponents charge.’<sup>522</sup> For instance, Roxanne Euben has argued that Islamic fundamentalism is not so much a ‘premodern, antimodern, or postmodern phenomenon,’ but it is ‘part of a transcultural and multi vocal reassessment of the value and definition of modernity’ in order to ‘simultaneously abolish, transcend, preserve and transform it,’<sup>523</sup> so that ‘Islamic fundamentalist political thought [...] is part of an ongoing [...] critique of modernity and rationalism in particular, a critique which Westerners not only recognize but in which we participate.’<sup>524</sup>

March openly calls into question some unreflective tenets of those five motivations underpinning a great part of comparative political theory literature. The following quotation is representative of the problems raised by these approaches:

‘Some common tropes or implications are that it is enough for comparative political theory to point to the mere existence of moral disagreement [...]. Or that it

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<sup>519</sup> Andrew F. March, “What is Comparative Political Theory?,” 541. For an example, see Fred Dallmayr, “Beyond Monologue: For a Comparative Political Theory,” 249: ‘[i]n contrast to hegemonic and imperialist modes of theorizing, the term [comparative political theory] implies that one segment of the world’s population cannot monopolize the language or idiom of the emerging [...] global civil society.’

<sup>520</sup> Andrew F. March, “What is Comparative Political Theory?,” 541.

<sup>521</sup> Roxanne Leslie Euben, “Comparative Political Theory: An Islamic Fundamentalist Critique of Rationalism,” *The Journal of Politics* 59, no. 1 (1997), 32.

<sup>522</sup> Andrew F. March, “What is Comparative Political Theory?,” 542.

<sup>523</sup> Roxanne Leslie Euben, “Premodern, Antimodern or Postmodern? Islamic and Western Critiques of Modernity,” *The Review of Politics* 59, no. 3 (1997), 429.

<sup>524</sup> *Ibid.* 436.

is enough in scholarly terms to demonstrate or suggest that a value-conflict can be “understood as” a challenge to existing liberal or secular norms, or to demonstrate (note: to fellow Westerners) that some religious or cultural tradition or civilization is somehow more complex or polyvalent than the most simplistic caricatures of that tradition. Yet, it is not always explained whether comparative political theory calls for us to read non-Western authors and examine non-Western views the way we are entitled to read and study Western ones (critically, unsentimentally, and even disrespectfully if we so wish), or whether their “alien” status requires that we treat them differently –with both more, and thus less, respect. [...] Non-Western texts are thus both asserted to be in a dialogue with us but also assumed to have to be treated in their own terms. There is a hint that we may have something to learn from this or that writer being discussed, but often the claim goes no further than that he or she is merely evidence of the existence of a certain debate. Thus, a great irony [...] is that non-Western texts are often not given enough weight in the sense of not being seen as eligible for the same critical rejection as a Western one would [...]. However, they are also often given too much weight in the sense of being called on to represent a certain civilization’s, culture’s, or religion’s difference from (and/or similarity with) so-called Western values.’<sup>525</sup>

The main point is that often the existence of moral disagreement is merely acknowledged, more or less taken for granted, and that ‘the simple fact of disagreement serves to render existing norms problematic.’<sup>526</sup> But it is not clear how such a disagreement should be “managed” or reconciled. This is a ‘dilemma for comparative political theory: [i]t wants to be relevant, which it achieves by directing itself to important normative disputes. But when the task is bringing to light poorly understood moral perspectives on normative disputes that oppose dominant Western views [...], comparative political theory is often not quite sure what to say.’<sup>527</sup> Therefore, March’s central claim is that comparative political theory, as an ‘engaged activity,’<sup>528</sup> should be primarily and openly concerned with political value-conflicts.<sup>529</sup> Thus,

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<sup>525</sup> Andrew F. March, “What is Comparative Political Theory?,” 545-546.

<sup>526</sup> Ibid. 545.

<sup>527</sup> Ibid. 551.

<sup>528</sup> On the distinction between political theory as a ‘scholarly activity’ and as an ‘engaged activity,’ see ibid. 534-535.

comparative political theory is engaged because it deals with moral disagreement, but how is it comparative? ‘What makes a text, thinker, or tradition “alien”, thus justifying treating an instance of moral disagreement as a problem for comparative political theory?’<sup>530</sup> In other words, where could comparative political theory find the element of crucial distinction on which its comparative exercise may be grounded? March argues that comparative political theory is interested in ‘the dispute between two fairly autonomous, more or less identifiable traditions of thought,’<sup>531</sup> and that what makes a tradition of thought autonomous is the fact that it has autonomous (original, originating, and independent) sources of authority:

‘Traditions of thought are not identified just by their conflicting substantive value commitments (such as what characterizes conflicts between liberals, libertarians, Marxists, feminists, and conservatives), but by their mutually incompatible (possibly incomprehensible) *sources of authority*. An ideal-typical definition of two distinct traditions of thought would be that the adherents of one do not regard adherents of the other as part of a *common community of moral argumentation*. This is different from regarding others as wrong (as liberals and Marxists might hold of one another on many matters); the condition I am describing is one where the moral other is not regarded as endorsing the same basic truth claims, systems of proof (authority), or moral language such that she could be regarded as even within a broad common community of mutual justification.’<sup>532</sup>

Understandably, as the main concern of comparative political theory March has in mind the moral disagreement arising from what Rawls calls the fact of reasonable pluralism. In such a condition, political theory is urged to solve the problem of a “common” justification between doctrines that radically differ with reference to their sources of authority and truth claims. According to March, comparative political theory is politically engaged in this sense. Since ‘there are normative proposals for terms of social cooperation both in domestic and global contexts that meet with principled objection from various and mutually incompatible

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<sup>529</sup> ‘Clearly, our engaged comparative interest in non-Western political thought arises largely out of a concern with (political) value-conflict.’ Ibid. 550.

<sup>530</sup> Ibid. 552.

<sup>531</sup> Ibid. 554.

<sup>532</sup> Ibid.

moral traditions,' he believes 'the main impetus in existing calls for a "comparative political theory" *to be of a moral, justificatory nature*.'<sup>533</sup> As I have explained, from the standpoint of political liberalism, one way to solve the problem of public justification (through facilitating full justification) is reasoning from conjecture, that is, reasoning comparatively –with the stipulations I have outlined. Consequently, for March '*comparative political theory may be conceived as "justificatory" comparative political theory*.'<sup>534</sup> Concisely, the strongest argument in favour of comparative political theory is the problem of moral conflict and justification. I call it the "justificatory justification" of comparative political theory. The latter (understood as conjecture) compares relatively autonomous (mainly religious)<sup>535</sup> comprehensive doctrines as traditions of moral argumentation with their own mutually incompatible sources of authority. The final aim of the comparative method in political theory is to find –if possible– some basis for a common (public) justification.

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<sup>533</sup> Ibid. 565. Emphasis added.

<sup>534</sup> Ibid. 560. Emphasis added.

<sup>535</sup> Ibid. 552.

How do we compare, then? Let me briefly expose March's reasoning from conjecture as justificatory comparative political theory.<sup>536</sup> If every comparative method requires a relevant distinction between the *comparanda*, and if we agree that such a distinction can be grounded in the autonomy of the sources of moral argumentation upon which each *comparandum* constitutes itself as a community of moral argumentation, then it logically follows that the comparative political theorist should firstly consider the most orthodox sources. March calls it the 'canon first' principle.<sup>537</sup> 'Epistemic communities develop more or less authoritative bodies of doctrines, and outside interpreters should strive to conjecture first from within the more authoritative sources.'<sup>538</sup> March presents different reasons for adopting this principle.<sup>539</sup> He takes into account two moral considerations. The conjecturer's humility requires that she 'should strive to make arguments based on sources, values, and principles that [her] interlocutor is most likely to regard as authoritative because this takes her tradition more seriously than if [the conjecturer] *first* referred to sources or values in which she would probably have less trust.' Second, although authoritative sources might convey particular interests, the conjectur-

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<sup>536</sup> Here I cannot analyse March's methodological discussion in its entirety: see *Islam and Liberal Citizenship*, 65-96. In particular, I focus only on the main principle of his approach, the 'canon first' principle. Three other principles are mentioned (76-77): the principle of 'transparency' ('not to exaggerate the authority or intellectual force of evidence one finds in favor of compatibility, or being "transparent" in one's recognition of the contingent nature of consensus'), the principle of 'sympathy' ('we assume that our interlocutors or sources [...] are sincere in their defense of their values and that specific positions or maxims are part of an overall conception of value. The principle of sympathy requires thus that we display an understanding of the context in which statements of value or norms are made, the relative importance of various norms, and the necessity of using language in different ways'), and the principle of 'restraint' (one should 'accept from the outset that negative results are also a form of results and that much can still be gained from the process of achieving them,' so that 'one's relative credibility can be preserved'). Moreover, here I refer only to the 'diagnostic stage' of conjecture (see below in the text), but in addition to the latter two other stages are required: the evaluative stage and the synthetic stage (ibid. 77-79). In the second evaluative stage of conjecture, we analyse 'those views [the views that are apparently conducive to an overlapping consensus from within a comprehensive doctrine] in terms of the nature of their reasoning and argumentation in an attempt to judge whether the underlying foundation for those views merits accepting them as *principled* and *stable* arguments for accepting liberal terms of social cooperation.' Finally, in the third synthetic stage of conjecture, we try to present 'as a coherent overall "doctrine of citizenship" or "overlapping consensus" a series of arguments or positions drawn from a variety of sources, scholars, and time periods. [...] What the conjecturer is trying to show is that for any given question, a principled and also authentic and plausible affirmation can be given from within the ethical doctrine. *The aspiration is that an individual adherent of the doctrine who is also a citizen of a liberal democracy could in good faith articulate a general doctrine of citizenship based on the synthesis of a variety of positions*' (emphasis added). Finally, I do not discuss March's considerations about the depth (degree of 'flexibility' required for analysing 'how Muslims come to terms with the requirements of liberal citizenship in their own language') and level of detail (level of precision of the points on which an overlapping consensus should be reached) for an overlapping consensus (see ibid. 93-95). March argues that we need both a high flexibility and a high level of precision in analysing if and how an overlapping consensus can be reached.

<sup>537</sup> Ibid. 73.

<sup>538</sup> Ibid.

<sup>539</sup> For what follows, see ibid. 74.

er must ‘assume that they represent the most concerted and sincere intellectual effort to understand, in this case, texts considered divinely revealed.’ Moreover, there is a third – pragmatic – reason for beginning with the most authoritative sources: if the conjecturer has ‘an interest in meaningful and effective exchange with moral contemporaries, [...] that is best achieved by mastering their ethical language in the way they speak it, rather than referring to more eccentric dialects.’

The ‘canon first’ principle is part of a wider logic underlying the meaning of reasoning from conjecture. Since the ‘conjecturer’s job is not to create Islamic arguments but to find them and analyze them in terms of their nature as reasons for action,’<sup>540</sup> the conjecturer’s ‘aspiration is to give good reasons, that is, *plausible* reasons [one] think[s] can withstand open scrutiny within a discursive community.’<sup>541</sup> Since it would be (too) difficult to argue that the aim of conjecture is to show that *truly* Islamic arguments support a liberal political conception,<sup>542</sup> the conjecturer should show that there are *plausible* Islamic arguments that could support such a conception:

‘[T]he first aim or principle of conjecture (justificatory comparative political theory) is not truth, or even support for liberal principles *per se*, but “plausibility”. We are aspiring to the most *plausible* interpretation of an ethical or cultural tradition, in the sense of preserving what are generally held to be the most constitutive elements of that tradition – what makes that tradition *that* tradition and not another one – that still allows us to arrive to some sort of consensus.’<sup>543</sup>

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<sup>540</sup> Ibid. 83.

<sup>541</sup> Ibid. 70.

<sup>542</sup> March pinpoints three possible objections to conjecture that are more or less grounded in this point (ibid. 67-68). A ‘religious integrity objection’ (religious doctrines are different from secular ones and conjecture is either factually impossible or disrespectful), a ‘banality objection’ (it is always possible to find reinterpretations of religious doctrines, including interpretations that are potentially conducive to an overlapping consensus; so it is not surprising that we can find an Islamic doctrine of citizenship consistent with liberal democracy), and a ‘polyvalent traditions objection’ (in each religious tradition, there are many diverse patterns, trends, and schools and it is not possible to find a single “true” Islamic doctrine of citizenship).

<sup>543</sup> Ibid. 68.

How can we measure plausibility? March maintains that it can be measured ‘only in terms of the reception of a given claim by the discursive community toward which it is directed.’<sup>544</sup> For example, conjecturer’s claims about the possibility of an overlapping consensus are directed toward several discursive communities: liberal citizens, ‘Muslim religious authorities, non-Muslim experts on Islam, and conscientious lay Muslims.’<sup>545</sup> Thus, the plausibility of her claims can be measured by the ‘relative acceptance of such a proposal by members of each of those four main discursive communities.’<sup>546</sup> Then, with regard to Muslims, conjecturer’s arguments are plausible to the ‘extent to which persons who might find the objections to liberal citizenship compelling might also find compelling the efforts to mitigate those objections.’<sup>547</sup>

However, March observes, the ‘canon first’ principle apparently exacerbates the ‘paradox of comparative ethics,’ as he calls it: ‘[o]n the one hand, we begin with *different* ethical traditions that have *disagreements*, and on the other, we are trying to find ground for *agreement*. If, on the one hand, there is no disagreement worth bridging, then the venture is uninteresting and banal, yet if there is no bridging of disagreements, then the venture is futile.’<sup>548</sup> But if we agree on the ‘canon first’ principle, we should begin by considering the sources that are less likely to permit a ‘bridging,’ that is, to present arguments in the direction of a full justification of and an overlapping consensus on a liberal political conception. This is precisely because ‘the operational standard’ for a conjecturer to identify the most relevant sources is to ‘begin with doctrines, traditions, patterns of thought, or arguments that represent the point of conflict or moral disagreement with political liberalism.’<sup>549</sup> Nevertheless, March argues that ‘one must first examine and present the more “orthodox” views, if only to better understand the contours of the ethical dispute.’<sup>550</sup> Thus, the most orthodox views may be especially important in a ‘di-

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<sup>544</sup> Ibid.

<sup>545</sup> Ibid.

<sup>546</sup> Ibid. 69.

<sup>547</sup> Ibid. 95.

<sup>548</sup> Ibid. 74.

<sup>549</sup> Ibid. 85.

<sup>550</sup> Ibid. 75.



agnostic stage,’<sup>551</sup> when we try to make ‘transparent the range of views, and reasons for those views, from within an ethical tradition that serve to reject liberal terms of social cooperation.’<sup>552</sup> However, at a second level of the diagnostic stage, we should search for views that lead to accept (from within the comprehensive doctrine) the liberal political conception, since full justification is the final ambition of reasoning from conjecture. Thus, if we are able to find such justificatory views within the most orthodox sources, we can present stronger arguments to the members of that comprehensive doctrine. But if we cannot find such arguments within the most orthodox sources, we can gradually turn to less orthodox sources, which are more likely to provide arguments toward an overlapping consensus:

‘However, it is expected that the more orthodox sources will often fail to provide the resources for an overlapping consensus. At this point, one ought to retreat gradually to other sources from within an ethical tradition that are arguing for positions more conducive to an overlapping consensus. By way of a metaphor, we might imagine this as peeling an onion. We thus begin with those “conservative” sources that provide the points of contact and disagreement and seek points of consensus or congruence as close to them as possible. When one discourse, genre, or tradition, shows no resources for consensus, we peel back one layer of the onion (as it were) at a time in search for compatibility, rather than rushing right to the most reformist or transformative discourses, that is, those most appealing to a popular liberal conscience.’<sup>553</sup>

The ‘canon first’ principle serves a fundamental purpose of conjecture: the conjecturer should rigorously reason from *within* the comprehensive doctrine, so that her arguments could be regarded as *authentically* internal to that doctrine. Since reasoning from conjecture aims at full justification, it is essential that conjecturer’s arguments sound *authentic* and *genuine*. This entails that, for example, the conjecturer should stay as close as possible to the most orthodox Islamic views, so that Muslims can regard conjecturer’s arguments as authentically Islamic (that is, as arguments properly worked out from sources that are genuinely Islamic). In March’s words:

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<sup>551</sup> Ibid. 77-78.

<sup>552</sup> Ibid. 78.

<sup>553</sup> Ibid. 75.

‘Ibn Khaldun, Averroës, and al-Farabi may be geniuses writing within Islamic civilization, but we do not read their masterpieces as orthodox expressions of Islamic commitments. That “Farabi said so” is not an argument likely to move a pious Muslim believer. Al-Ghazali and Ibn Taymiyya, on the other hand, may represent the apex of medieval Islamic thought on par with Ibn Khaldun and al-Farabi in terms of sophistication but do so from within mainstream Islamic theology and jurisprudence.’<sup>554</sup>

Significantly, March adds:

‘[T]his is an important principle if this form of justificatory comparative ethics is going to avoid the pitfalls into which most public and popular discussions of the “compatibility of Islam and x” fall. There is no shortage of “liberal” or “moderate” Muslim intellectuals. [...] Thus, if comparative ethics is going to be doing something more interesting, revealing, and challenging than merely pointing to the fact that some persons with Muslim names are perfectly capable of presenting arguments for the compatibility of Islam and liberalism, it must take seriously the sources of moral disagreement and ask cautiously and seriously *what is involved Islamically* in such disagreement being transcended. Thus, if this study puts an inordinate emphasis on a conservative mode of Islamic belief and practice, it is not because I regard that mode as more legitimate but rather because it is that mode that both has a widespread claim to internal orthodoxy and presents the deepest moral challenge to liberalism.’<sup>555</sup>

This point is crucial to understanding the methodological difference between conjecture (as justificatory comparative political theory) and justificatory evaluative political theory. The latter is analysed in the following section, but here I must emphasise that conjecture requires that we (as conjecturers) argue from a standpoint that is as close and internal to the *genuine* or *authentic tradition* as possible, so that we can exhibit genuinely –for instance– Islamic arguments for justifying a liberal political conception of justice. Only these kinds of arguments and reasons can motivate Muslims as faithful believers to endorse such a conception, to fully justify it, and to join the overlapping consensus. On the contrary, *justificatory evaluative po-*

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<sup>554</sup> Andrew F. March, “What is Comparative Political Theory?,” 556.

<sup>555</sup> Andrew F. March, *Islam and Liberal Citizenship*, 75. Italics in the original.

*litical theory is not so much concerned with the Islamic authenticity and genuineness of the arguments presented, because its focus is not on the process of full justification. Rather, its focus is on Muslim citizens' attitude toward the requirements of public justification (notably, the idea of public reason). Justificatory evaluative political theory does not ask 'what is involved Islamically' in reconciling moral disagreement. Rather, it asks what is involved for citizens in the idea of public justification and honouring the ideal of public reason.* The two questions are quite close because, at the end, the reconciliation of moral disagreement (March's goal) is conducive to public justification. But there are important differences if we consider the respective objects, approaches, and aims. These differences will become clear in the following section.

## **2.3 Justificatory Evaluative Political Theory.**

So far in this chapter, I have: a) reconstructed the main points of the idea of justification from Rawls's perspective, and b) analysed a well-known way (i.e., conjecture) in which political liberalism can "enter" into comprehensive doctrines. With reference to the last point, I have considered conjecture as a justificatory comparative approach to the issue of establishing Islamic grounds for achieving a justification of a political conception of liberal citizenship. From the very beginning of this chapter, however, I have made clear that I am not arguing from conjecture. My object is not a "genuinely Islamic" argumentation in favour of a liberal political conception of citizenship, nor does my study aim to "support" Muslim believers in their full justification of that conception. Rather, I am trying to work out a new approach from within a political liberal perspective for analysing the question of Muslims' citizenship in a liberal democracy. Therefore, previous considerations about conjecture aim to bring out the main features of my approach.

From my perspective, then, the problem is not a historical reconstruction of the notion of Islamic citizenship, nor of Muslims' citizenship in the context of modern nation-states.<sup>556</sup> Nor, as emphasised in the first chapter, am I concerned with a quasi-sociological account of

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<sup>556</sup> For a recent analysis of these concepts, see Gianluca P. Parolin, *Citizenship in the Arab World: Kin, Religion and Nation-State* (Amsterdam: Amsterdam University Press, 2009).

Muslims' status in contemporary European countries. My point is specifically a normative one. I am concerned with framing Muslims' citizenship in European societies from a political liberal viewpoint. From such a perspective, I do not consider the issue of how an *Islamic justification* of liberal citizenship *should or could be established*. Rather, I firstly aim to *point out what evaluative requirements are involved in the idea of public justification*. More accurately, my evaluative approach strives to take into consideration the *question of how the justification produced by European Muslims relates to the liberal standards of public justification and how, then, the ideal of public reason is honoured*. I presented public justification as a result of an overlapping consensus. Thus, one might ask, can we say that something like a *specific* kind of public justification is *required* by a political liberal perspective grounded in (among other things) the idea of an overlapping consensus? Now remember what an overlapping consensus is (2.1). It is not an average between existing comprehensive doctrines, and it is different from a *modus vivendi* because 'it is moral in its object and motivation.'<sup>557</sup> Its defining feature is that it occurs between reasonable doctrines affirmed by reasonable persons who, among other things, want to offer and abide by fair terms of social cooperation on reciprocal bases. Thus, an overlapping consensus must provide *an adequate* (from the perspective of political liberalism) basis for public justification. A necessary condition for an overlapping consensus to occur is that, obviously, each doctrine participating in it justifies the same political conception. To be able to be part of a public justification, the conception of citizenship justified from within each comprehensive doctrine (in the full justification) must consistently embed the standards of public justification included in the political conception. Otherwise there is not, strictly speaking, an adequate full justification, that is a full justification conducive to an overlapping consensus. The overlapping consensus must bear on the 'agreement on the guidelines for public inquiry and on the criteria as to what kind of information and knowledge is relevant in discussing political questions, at least when these involve constitutional essentials and questions of basic justice. [...] Otherwise the political conception does not provide a basis of political legitimacy.'<sup>558</sup> So far, nothing new.

However, the central claim of this research is that we can analyse the problem stated in chapter one precisely from such a public perspective. While a conjecturer may say how a po-

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<sup>557</sup> John Rawls, *Political Liberalism*, xli.

<sup>558</sup> John Rawls, *Justice as Fairness: A Restatement*, 89-90.

litical conception –including a conception of public reason– is (fully) justified from an Islamic standpoint, my thesis is that contemporary concerns about Muslims’ citizenship in Europe may be better answered by starting from that public perspective. Since they are public, we can start from the standards of public reasoning without previously addressing the question of their congruence within Islam (that is, the question of their consistency with authentic Islamic sources). In other words, from a political liberal perspective, not only can we analyse the Islamic grounds for those public standards (as conjecture does), but we can also start from those public standards and see whether and how they are affirmed in the conception of citizenship proposed by contemporary Muslim thinkers. “Not only” thus reflects the idea that March’s work is fully compatible with and complementary to my approach: they simply have two different focuses. Whilst they are complementary, the two strategies are conceptually different, and each of them addresses certain kinds of questions more directly. Thus, the choice between them is closely related to one’s analytical purposes. Figure 5 accounts for the different perspectives of these two strategies, where JCPT means Justificatory Comparative Political Theory and JEPT means Justificatory Evaluative Political Theory.

In other words, the core idea of this study is that we can use public reason as an evaluative perspective from which we can analyse citizens’ political public demands, positions, and claims. I will then apply this evaluative framework to some proposals concerning citizenship coming from Muslim citizens. The relevant criterion for selecting those proposals is specified at the end of this section. To understand this idea, it is useful to start from the double role of an ideal of public reason pointed out by Lawrence B. Solum:

‘An ideal of public reason, or standard of civility, is intended to serve a regulative role. More particularly, an ideal of public reason regulates public-reason-giving practices in two ways: (1) as a standard for self-evaluation and, (2) as a standard for political criticism. [...] An ideal of public reason serves as a *standard for self-evaluation* in the sense that it can be used by citizens to guide their own use of reason in the public sphere. One can ask, “What kinds of arguments should I give or refrain from giving in public political debate?” An ideal of public reason answers this question by articulating a set of reasonable standards of civility to one’s fellow citizens. [...] An ideal of public reason can serve another role –as a *standard for the political criticism* of argument in the public sphere. One can ask, “When is it proper for me to criticize the argumentation of a fellow citizen on the

ground that the reasons offered transgress the limits of civility?” An ideal of public reason answers this question by defining standards for political criticism of reasons given in public.<sup>559</sup>

The fundamental idea of this thesis (namely, employing public reason as specifying a list of justificatory evaluative criteria) is quite close to Solum’s intuition that the ideal of public reason can function as a ‘standard for political criticism.’ In more detail, in my understanding, from Rawls’s conception of public reason we can deduce three specific demands, which we can understand as *three political liberal evaluative requirements*. Such requirements are:

- 1) *The preliminary acknowledgement of the need for a public justification* of the political conception of justice, the fundamental laws, policies, political decisions, and institutions that should govern the basic structure of a society in which citizens disagree about their views of the good. This requirement stems from the constitutive idea of political liberalism, the core of which ‘says that in the face of deepseated conflicts about the true religion [...] those who want to live together in a common structure of social cooperation should strive for a kind of *consensus through reduction*.’<sup>560</sup> In my reading, this idea is implicit in the Rawlsian notion of reciprocity.<sup>561</sup> As Scanlon has observed, once the fact of reasonable pluralism is taken into account, justifications ‘that appeal to [a particular comprehensive doctrine] will be ones that some citizens (those who do not share this view) have no reason to accept. This has implications [...] for the kind of justifications that citizens should offer one another. Justifications of a society’s basic institutions that depend crucially on particular comprehensive views will be reasonably resented by citizens who do not share these views. They will not only be destabilizing but also fail to show proper respect for these citizens, who are owed reasons that they could reasonably accept. [...] This requirement, which is central to the idea of public reason, is what Rawls calls “the criterion of reciprocity”.’<sup>562</sup> Reasonable persons, who are willing to offer and abide by fair terms of social cooperation and recognise the bur-

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<sup>559</sup> Lawrence B. Solum, “Constructing an Ideal of Public Reason,” *San Diego Law Review* 30, no. 4 (1993), 732-733. Emphases added.

<sup>560</sup> Rainer Forst, ‘Foreword,’ in *Political Liberalism: Variations on a Theme*, ix.

<sup>561</sup> *Supra* and *infra*.

<sup>562</sup> Thomas M. Scanlon, “Rawls on Justification,” 161.

dens of judgement and their consequences, are also able to endorse the moral criterion of reciprocity and to accept the resulting liberal principle of legitimacy. Then, based on political reciprocity, reasonable persons must recognise the necessity for a public justification of coercive political power. Thus, I call it the *reciprocity requirement* (**RR**).

- 2) In line with (1), a second requirement of political liberalism is that all citizens must be able to evaluate *if there is consistency between the standards of public reason specified by a (family of) liberal political conception(s) of justice and the standards of public reasoning presented as justified by the members of a certain comprehensive doctrine*. In case of inconsistency, there would be a gap between public reason in the strict Rawlsian sense and the conception of public reasoning held by the members of such a doctrine. In this case, they would not properly produce a full justification (in Rawls's sense) for the standards of public reason, and a real overlapping consensus would not occur. The possibility of an evaluation of consistency of this kind is a logical requisite in a Rawlsian perspective: as I have just made clear, in the case of inconsistency that specific comprehensive doctrine would take part neither in the overlapping consensus, nor in the public justification and would not support stability for the right reasons. Then, if citizens are to know whether or not members of that specific comprehensive doctrine effectively take part in the overlapping consensus and support social stability, they must be able to know if they speak of the very same conception of public reasoning. Only in this way can citizens have the mutual assurance that they will support stability for the right reasons. As I wish to demonstrate in the next chapters, the underlying idea is that –as Paul Weithman puts it– a wide view of public reason is ‘the weakest and least restrictive guideline sufficient to solve the mutual assurance problem.’<sup>563</sup> I call it the *consistency requirement* (**CR**). In chapter three, I will present different dimensions (which I will call PR1, PR2, and so on) in which CR can be “unpacked.” In other words, PR1, PR2, and so on (which together identify CR) represent different dimensions of the idea of public reason expressed by Rawls's political conception. Consistency must be evaluated from the perspective of such specifications.
- 3) After having considered 1) if the members of a comprehensive doctrine are willing to participate in public justification, and 2) if what they present as a justified –from their

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<sup>563</sup> Paul Weithman, *Why Political Liberalism?*, 331. Emphasis removed.

non-public perspective— conception of public reasoning is consistent with the Rawlsian idea of public reason, one must evaluate how they honour public reason in practice. If it is true that '[p]olitical liberalism will live or die in an effort to construct a constitutive form of public reason—one that allows very different sorts of people to reason together on fundamental questions of social justice,'<sup>564</sup> and if it is true that public reason is 'an ideal conception of citizenship for a constitutional democratic regime'<sup>565</sup> in which 'comprehensive doctrines of truth or right [are] replaced by an idea of the politically reasonable addressed to citizens as citizens,'<sup>566</sup> then liberal citizens must be able to evaluate *how the ideal of public reason is honoured*. In my view, this possibility is involved in the idea of a 'duty of civility,' which requires being 'able to explain to one another on [fundamental political questions] how the principles and policies [we] advocate and vote for can be supported by the political values of public reason.'<sup>567</sup> Indeed, such a duty would be fancy, if it did not require that other fellow citizens can evaluate how one's arguments "fit" into that ideal. I call it *civility requirement (CiR)*.

Therefore, we can consider these three requirements as *political liberal evaluative criteria*. Such requirements will be analysed in chapters three and four. In those chapters, I will derive RR, CR (disassembled into PR1, PR2, and so on), and CiR from Rawls's conception of public reason. In chapter five, I will integrate them into a unitary conception of public reason citizenship. Finally, in chapter six I will employ them as criteria from which I will evaluate the conception of citizenship and public reasoning presented from the Muslim perspective I will take into account.

Hence, with reference to my study, we can evaluate:

- 1- *European Muslims' acknowledgement of the need for a public justification of a conception of citizenship*. This evaluation concerns whether RR is satisfied.

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<sup>564</sup> Bruce Ackerman, 'Political Liberalisms,' 83.

<sup>565</sup> John Rawls, *Political Liberalism*, 213.

<sup>566</sup> John Rawls, "The Idea of Public Reason Revisited," 441.

<sup>567</sup> John Rawls, *Political Liberalism*, 217.



- 2- *The coherence between the conception of public reasoning presented as justified by Muslims in Europe and the idea of public reason specified by political liberalism*, which is politically (pro tanto) justified and should be the focus of the overlapping consensus. This evaluation refers to the fulfilment of CR.
- 3- *The manner in which European Muslims honour the ideal of public reason* (that is, if CiR is satisfied). In more detail, this task involves an analysis of the concrete attitude displayed by European Muslims in their public reasoning. To what extent do they appeal to religious arguments in public forums? Do they satisfy the Rawlsian proviso as I reconstruct it (4.2)? Can we understand such an appeal in terms of witnessing, declaration, or should we consider those religious reasons as beyond the domain of public reason, even in its wide view?

In Figure 6, starting from full justification, I summarise the three evaluative stages (the three numbered questions in bold on the right) which characterise my justificatory evaluative approach, and I compare this approach to conjecture (on the left). In this figure I have tried to make clear the relations between the consecutive logical steps and the analytical results to which they can lead. The evaluative analysis developed in chapter six will be structured following the logic illustrated in this general scheme.

Then, my approach is *justificatory* because it assumes that the public justification of a free-standing political conception of citizenship makes it possible for a deeply divided society to achieve the right (i.e., political) kind of social unity and stability for the right reasons. Therefore, I assume that, from a normative point of view, the question of Muslims' citizenship in European liberal democracies can be answered only in terms of their participation in that process of public justification. Moreover, my perspective is *evaluative* because it aims to provide a standard of liberal evaluation, enabling free and equal citizens to:

1. Ascertain the existence of a consensus about the necessity to provide a public justification, given the fact of reasonable pluralism (*evaluation of reciprocity*).
2. Be sure that a specific comprehensive doctrine supports social stability for the right reasons. This entails that citizens must be able to test its participation in the public justification via an overlapping consensus. In turn, this means that they must be able to evaluate the consistency of the conception of public reasoning endorsed

from the standpoint of that doctrine with the idea of public reason worked out within a liberal political conception (*evaluation of consistency*).

3. Appreciate how the ideal of citizenship expressed by public reason is honoured. Citizens must be able to discern other citizens' prevailing attitude toward public reason and the nature of arguments publicly appealed to (*evaluation of civility*).

In order to present my approach in greater detail, I now consider some possible objections.

(O2.1) First, mainly with reference to my second point (CR), one might argue that this view is inconsistent with Rawls's affirmation that in public justification 'citizens do not look into the content of others' doctrines, and so remain within the bounds of the political.'<sup>568</sup> One might add that he also maintains that, since '[f]or many the true, or the religiously and metaphysically well-grounded, goes beyond the reasonable [ , t]he idea of an overlapping consensus leaves this step to be taken by citizens individually in line with their own comprehensive views.'<sup>569</sup> In replying to this objection, I repeat that I do not try to evaluate the coherence of European Muslims' arguments from the perspective of their comprehensive view (that is, to assess if they are "authentic and genuine Islamic" arguments), then if their full justification is well-grounded from an Islamic point of view. Political liberalism leaves this step to the members of each view and, partially, to conjecturers. Partially because conjecture is permitted only as a last option when a doctrine's members are apparently unable to provide a full justification on their own.<sup>570</sup> Rather, the second dimension of my evaluative approach is concerned with the consistency of the conception of public reasoning that Muslims present as justified from their religious perspective (and which I take as it is presented by them) with the free-standing political conception of public reason citizenship. However, as I have said, I do not consider whether Muslims have adequate religious arguments for maintaining that the conception they present as justified is effectively justified from an Islamic point of view. I leave this question to Muslims (and to conjecturers). I only take into account the consistency be-

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<sup>568</sup> John Rawls, 'Reply to Habermas,' 387.

<sup>569</sup> John Rawls, *Political Liberalism*, 153.

<sup>570</sup> 'In general, political liberalism leaves it up to individual citizens to determine how *pro tanto* justifications fit within their comprehensive doctrines. But when citizens fail in this regard, or when they appear to be unable to reconcile the demands of a reasonable political conception with their comprehensive views, it may be possible to continue deliberating on the basis of conjectural arguments.' Micah Schwartzman, "The Ethics of Reasoning from Conjecture," 527, emphases added.

tween the political conception of citizenship (in terms of public reason) and the conception that European Muslim citizens present as justified from their religious point of view. What matters here is *the coherence between these two conceptions of citizenship* (more specifically, between these two conceptions of public reasoning, because I consider an ideal of citizenship grounded in public reason), and not the internal Islamic coherence during the process of full justification. In this sense, Muslims and conjecturers' attempts to provide Islamic grounds for a full justification represent a logical precondition for my analysis, but the specific focal point of my research is situated on a different level (see Figure 5).

(O2.2) Second, and in continuity with the first objection, one might also argue that, while 'conjecture (justificatory comparative political theory) in fact involves an attitude of respect and recognition vis-à-vis [Islam as a religious tradition],'<sup>571</sup> justificatory evaluative political theory is disrespectful toward Islam because it does not focus on the Islamic tradition. I take this objection very seriously. I have extensively discussed some possible implications of the relations between Muslims and their religious tradition in my previous works.<sup>572</sup> Moreover, here I can only reply that my perspective has a specific object which is not Islamic tradition *per se*. As Andrew March rightly argues with reference to his method:

'Liberal political theorists cannot perform exegesis of Islamic texts for Muslim citizens, but they can say that given arguments derived from such exegesis are insufficiently principled from the standpoint of political liberalism and that they do not point to an overlapping consensus. And they can suggest [...] what types of formulations *would* be reasonable from a liberal standpoint while preserving the language and fundamental concerns of the comprehensive doctrine.'<sup>573</sup>

Similarly, I believe that respect for a religious tradition entails –among other things– the recognition of the fact that its members are very likely its best and most skilled interpreters. On the other hand, I try to pinpoint what political requirements political liberalism can reasonably establish for public reasoning. Then, like conjecture, my evaluative approach does not aim to substitute Muslims in their interpretative activity. However, while conjecture aims

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<sup>571</sup> Andrew F. March, *Islam and Liberal Citizenship*, 63.

<sup>572</sup> In particular, in my master thesis "Oltre un illuminismo islamico."

<sup>573</sup> Andrew F. March, *Islam and Liberal Citizenship*, 79.

to ‘suggest what types of formulations would be reasonable from a liberal standpoint,’ evaluative political theory aims to allow *a public “scrutiny” of the content of the (supposedly) fully justified conception of citizenship*, along with the *modalities in which the political ideal of public reason citizenship is politically honoured*. In doing this, then, Muslims are considered as the ultimate interpreters of Islamic religious requirements *and* as citizens on equal footing.

(O2.3) A third objection could claim that justificatory political theory is always evaluative, because it always involves an evaluation of what reasons represent adequate reasons in order to justify a principle or a course of action. If ‘a public justification is achieved when members of the relevant public have adequate or sufficient reason to endorse a particular coercive proposal, law or policy,’<sup>574</sup> then we should always be able to evaluate whether the reason *r* represents an adequate or sufficient reason to endorse, say, the proposal *p*. In this general meaning, the objection is not troublesome: it rightly emphasises the overall unity underlying a justificatory evaluative approach. However, if the objection entails that such an approach is redundant and, at the end, theoretically fruitless, then it should be noticed that the latter tries to solve a specific problem that has not been answered until now. In other words, the evaluative part of my approach should be understood as an attempt to provide a public standard from which citizens are able to assess others’ claims and demands concerning terms of social cooperation. Public reason is then conceived as citizens’ public standpoint for evaluating those demands and claims and as an ideal of citizenship that specifies shared political values. In line with these considerations, my overall aim is to provide a public perspective for tackling contemporary anxieties and concerns about Muslims’ citizenship in European societies. Therefore, we could say that even if an evaluative element is always present in justificatory political theory, in my research the quest for a liberal standard of evaluation represents a specific strategy for dealing with contemporary demands. In this sense, the evaluative component of this study is genuinely grounded in an *engaged conception of justificatory political theory*.

(O2.4) A fourth objection could be raised as follows: we should not be surprised to find among Muslims views that are perfectly in line with European concerns. After all, every tradition is dynamic and subject to different interpretations. Since every tradition is a living tradition, it would be trivial to attempt to show that Muslims can endorse an ideal of public rea-

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<sup>574</sup> Kevin Vallier and Fred D’Agostino, “Public Justification,” 1.

son.<sup>575</sup> This objection partially refers to what in the first chapter I have called the “artificially-constructed-problem objection” (or also the “general objection”, GO). The two objections share a common concern about the problematisation of Muslims’ citizenship in Europe. However, while the first denies my starting assumptions and questions, the latter rejects the strategy I adopt to answer them. For this reason, I have postponed the analysis of such an objection at this stage. To it I reply by referring back to the distinction between Islamic arguments for justifying a political conception on the one hand, and Muslim citizens’ claims concerning that conception on the other. I take for granted that a tradition is dynamic and subject to different interpretations that may significantly affect its members’ capacity for achieving a full justification. However, I wish to reiterate my main point: *the problem is not only whether (and how) a full justification can be achieved from an Islamic perspective, but also how those who provide that justification actually relate to a broader need for a public justification*. Only by facing this problem can we *strengthen a common ideal of citizenship and translate citizens’ reciprocal claims and demands in a shared public language*. This goal may be ambitious, but it is far from being banal. In particular, it is not banal to pinpoint how specific claims contribute to the debate about terms of citizenship, strengthening or weakening a common political ideal based on public reason. The latter appears even more necessary if we understand this strategy (also) as a tool for *identifying the responsibilities of each participant in the public debate about citizenship in Europe*. These considerations are related both to the previous remarks concerning an engaged conception of justificatory political theory and to the next point.

(O2.5) The last objection I wish to consider here is what I call the “one-for-all objection.” It says that it is not possible to evaluate European Muslims’ claims and demands from a public standpoint because it is not possible to isolate a single European Muslim voice or position. To be sure, the reality of Muslims in Europe is certainly diverse and there are several voices (*supra*). Then, a European Muslim discourse is always a polyphonic discourse. Nothing here should be read as an attempt to deny this reality or to silence different voices. Nevertheless, any public evaluation requires some form of abstraction and generalisation, even though there are obvious (moral and political) limits to the possibilities of theoretical abstraction (those limits refer to the respect of reasonable pluralism within Islam in Europe). How can political theory deal with this problem? If it is not possible to evaluate *the* European Muslim approach

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<sup>575</sup> Here I build on March’s ‘banality objection,’ see *Islam and Liberal Citizenship*, 67-68.

to the issue of citizenship, I think that the best alternative is to consider an approach that could be *plausibly* defined as a European Muslim one. Then, my main methodological principle is the *principle of plausibility*.<sup>576</sup> It allows me to focus on a position that can be regarded as plausibly representative of a European Muslim approach, without aspiring to absolute homogeneity, unity, or unanimity in defining such an approach. As March correctly emphasises, the plausibility of a claim  $x$  ‘can be measured only in terms of the reception [of  $x$ ] by the discursive community to which [ $x$ ] is directed.’<sup>577</sup> Therefore, I assume that a particular view can be plausibly considered as working out a European Muslim approach if and only if it satisfies the principle of plausibility (PP), which says that:

(PP): *The necessary and sufficient condition for plausibly considering a view  $x$  as representative of a European Muslim approach to the issue of citizenship is that  $x$  is widespread among Muslim citizens in European liberal democracies.*

An important caveat is in order: here endorsement and acceptance are measured in terms of reception, popularity, and diffusion. Thus, if a claim  $x$  is very popular among European Muslims, I assume that they endorse  $x$  and I define it as a plausible European Muslim claim. Indeed, this is a strong and questionable assumption, but it would be very difficult to propose a better alternative. Notwithstanding these inescapable limitations, I hope that previous remarks have made clear why a justificatory evaluative approach to the issue of European Muslims’ citizenship is worthy of consideration. This methodological principle is the best non-optimal way for avoiding an essentialist and unified account of the diverse realities of Muslims in Europe without dismissing the very concept of a European Muslim approach to the issue of citizenship. Why should we throw out the baby with the bath water? Indeed, the burden of proof falls on those who maintain that we should.

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<sup>576</sup> I derive this principle from Andrew March’s considerations: see *ibid.* 68-70. I mentioned March’s position about this point above in 2.2.c.

<sup>577</sup> Andrew F. March, *Islam and Liberal Citizenship*, 68.

**Table 1 Justificatory Comparative Political Theory and Justificatory Evaluative Political Theory.**

| <b>Political liberalism: theoretical approaches to the relation between justification and comprehensive doctrines</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-----------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Method</b>                                                                                                         | <b>Justificatory comparative political theory</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>Justificatory evaluative political theory</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Theoretical horizon</b>                                                                                            | Justification of the liberal political conception of citizenship                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Justification of the liberal political conception of citizenship                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Justificatory focus</b>                                                                                            | Full justification - Overlapping consensus                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Public justification                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Approach</b>                                                                                                       | Comparative (Conjecture)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Evaluative                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Object</b>                                                                                                         | Islam as 'a tradition of argumentation about the formulation of religious doctrine' (March, <i>Islam and Liberal Citizenship</i> , 9).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Muslim citizens' attitude toward public justification.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Analytical purposes</b>                                                                                            | <p>1) Analysis of moral disagreement between Islamic arguments and the liberal political conception (March, <i>Islam and Liberal Citizenship</i>, chapter three).</p> <p>2) Analysis of a 'reasonable Islamic affirmation of citizenship' (March, <i>Islam and Liberal Citizenship</i>, 136), that is, an 'ideal-typical doctrinal affirmation of citizenship' (ibid. 135) consistent with the demands of political liberalism (ibid., chapter four).</p> <p>3) Analysis of which 'very strong and authentically Islamic arguments' (March, <i>Islam and Liberal Citizenship</i>, 15) may represent principled good reasons for Muslims to fully justify the political conception (ibid. chapters five-eight).</p> | <p>1) Analysis of European Muslims' acknowledgement of the need for a public justification of political (coercive) power.</p> <p>2) Analysis of the consistency between the conception of public reasoning endorsed by European Muslims and the idea of public reason specified by political liberalism (does Muslims' full justification actually focus on the same conception of public reason politically justified, so that a real overlapping consensus on that conception can be reached?) .</p> <p>3) Analysis of how European Muslims participate in the public justification and honour the ideal of public reason.</p>                                                                               |
| <b>Aims</b>                                                                                                           | To argue that a full justification of the liberal political conception is possible from a <i>genuinely</i> Islamic standpoint and that an overlapping consensus can be achieved. Thus, liberal citizenship can be endorsed for reasons that are authentically Islamic.                                                                                                                                                                                                                                                                                                                                                                                                                                             | To argue that for stability for the right reasons to be obtained, citizens should abide by an ideal of liberal citizenship grounded in public reason. In turn, this requires a form of "civic evaluative" standard and practice. Such an evaluative task requires a thorough reconstruction of the ideal of public reason, in order to know precisely what justificatory demands political liberalism makes. If such demands concerning public justification are met in European Muslims' discourses, one has strong evidence to claim that they honour public reason and, in doing so, they participate in European public political culture and support European societies' stability for the right reasons. |

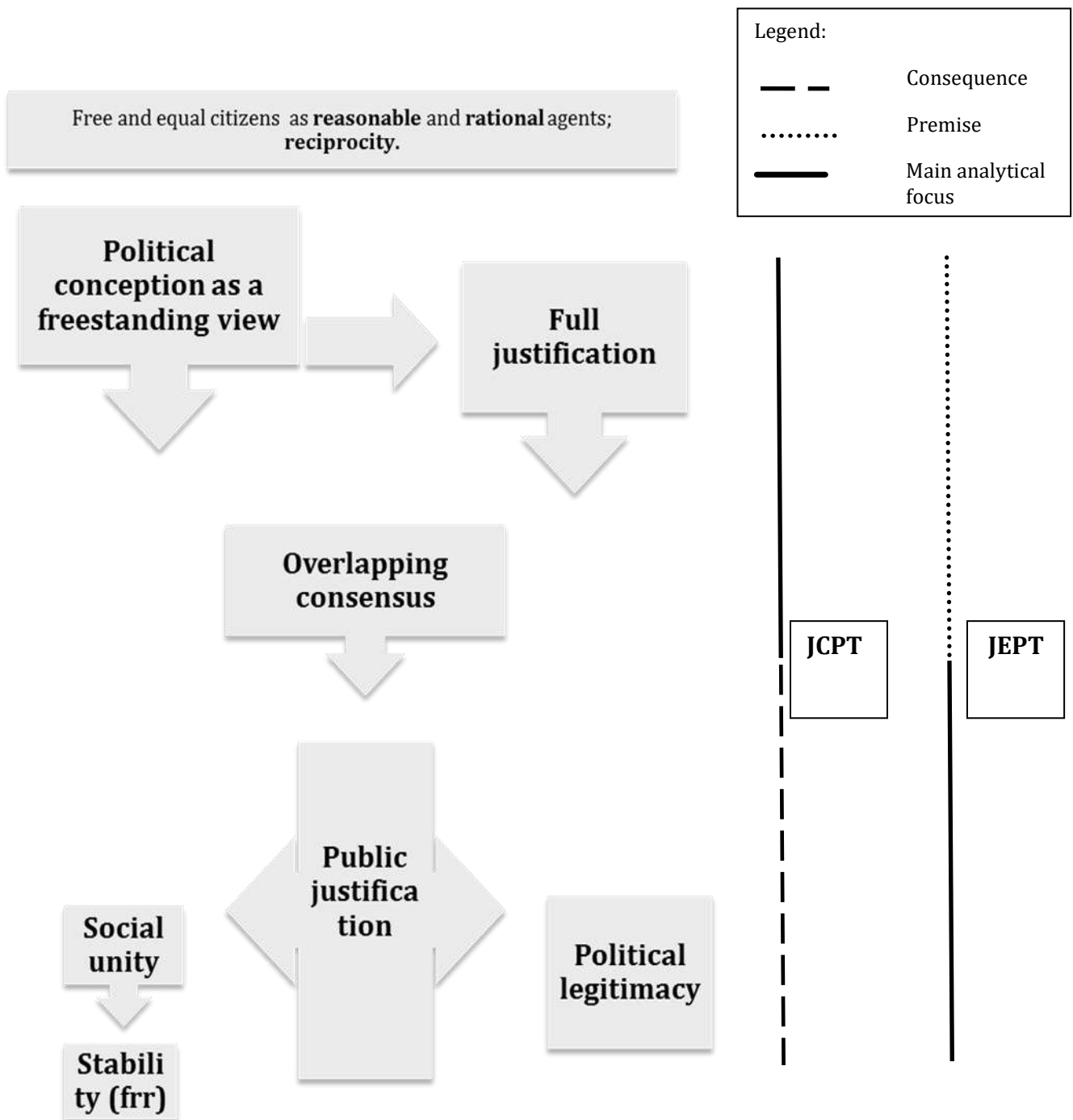


Figure 5: Positioning in a Rawlsian framework of: 1) justificatory comparative political theory (conjecture)'s main theoretical focus and its implicit consequences and 2) justificatory evaluative political theory's main theoretical focus and its necessary premises.



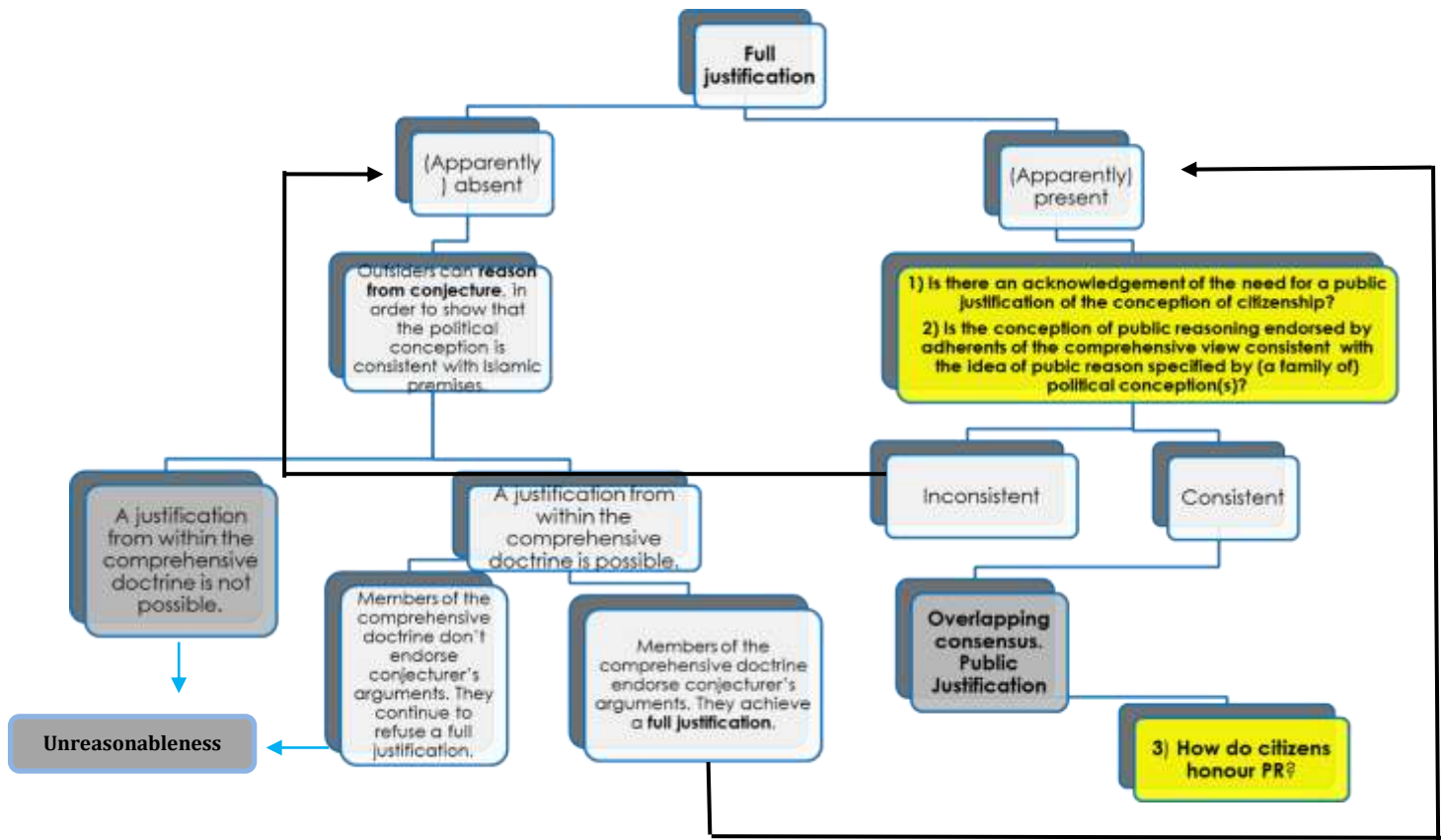


Figure 6: Starting from full justification: on the left how conjecture can lead to a public justification; on the right the three evaluative stages (in the two boxes with questions 1-2 and 3) within a standard Rawlsian account of an overlapping consensus and public justification. Note that: the question under (1) corresponds to the requirement RR, the question under (2) corresponds to the CR requirements (PR1, PR2, and so on), and the question under (3) corresponds to the requirement CiR.



# **PART II**

## **RECONSTRUCTING PUBLIC REASON**



In the first part, I framed my research problem in terms of a diffuse call for a common public political ground for citizenship, paralleled by diffidence about any over-emphasis on a specific Muslim identity, perceived as potentially in conflict with that common public political ground. I also suggested that public reason may represent a solution that both 1) answers European anxieties concerning social stability and the commitment to the fundamental terms of cooperation and 2) allows Muslims to be recognised as fully cooperating and equal fellow citizens whose political demands can no longer be arbitrarily ignored. As will become clear in the following chapters, in such a scenario public reason's most important contribution is that it enables citizens to engage in political discussion in terms of arguments rather than just in terms of feelings. One may even suspect that such feelings could function as a way to hide and overwhelm political arguments. In the rest of this study I will try to justify those claims. Moreover, in the first part I argued that, from the perspective of political liberal theory, European concerns about Muslims' citizenship should not be conceived as strictly limited to their capacity for fully justifying a liberal conception of citizenship. Even though this is a necessary premise in a Rawlsian scheme, it does not reveal the whole picture. European anxiety also derives from the absence of a standard for *evaluating from a public perspective* Muslims' participation in the activity of public justification. The problem, then, is not only whether a justification of the liberal political conception is possible from an Islamic perspective (a question that refers to the idea of an overlapping consensus and to the inclusion of Muslim citizens *as* Muslims). Rather, in order to answer what seems to be the main European concern (that is, the mutual assurance of being and staying committed to the fundamental terms of social cooperation and supporting social stability), what political theory should provide is a public standard for evaluating other citizens' attitudes toward the publicly justified conception of citizenship. Hence, in chapter two, I developed the method that I call *justificatory evaluative political theory*, with its three evaluative criteria grounded in public reason: reciprocity, consistency, and civility. Indeed, only after having positively concluded the first two stages of such an evaluation –the stage concerning the acknowledgement of the need for a public justification (reciprocity) and the stage concerning the coherence between the conception of public reason citizenship politically justified and the conception of citizens' public reasoning presented as justified by Muslims (consistency)– can we say that a real full justification of the

political conception has been achieved by Muslim citizens. Only then can we maintain that an overlapping consensus and a public justification of the conception of citizenship grounded in public reason have actually been reached. Note that *though the consistency requirement is very close to the main core of conjecture, it starts from a different standpoint*. In this case, what matters is not the perspective of an outsider who looks for Islamic arguments that support the political conception. Rather, it is the *public perspective* of (ideally) each and every citizen who considers what her Muslim fellow citizens affirm to be their justified conception of public reasoning. Crucially, this public perspective takes the conception offered by Muslim citizens *as it is* (that is, as Muslim citizens present it): unlike conjecture, the public viewpoint does not consider the Islamic genuineness or soundness of those arguments. This perspective simply considers what fellow citizens present as their comprehensively justified conception of public reasoning, but it does not look into the religious arguments that supposedly support that conception. It just compares it to the politically justified conception of public reason citizenship (the freestanding political conception). Only in the case of consistency between them, when an overlapping consensus is publicly recognised as having been achieved (and the conception of citizenship is truly publicly justified), can we evaluate from a public viewpoint how the duty of civility is honoured. That is, how the ideal of citizenship underpinning that conception is respected.

However, before analysing those questions in part three, I must reconstruct the idea of public reason, in order to explain why it is fitting to present European needs. In so doing, I will answer the first research question Q1. To this task I will devote the next two chapters. Here, I will firstly summarise Kant's conception of the public use of reason, then I will analyse my own interpretation of Rawls's account of public reason (mainly in reference to the wide view expounded in "The Idea of Public Reason Revisited"), and finally I will consider some major objections raised against Rawls's conception. This second part, then, tries to reconstruct the idea of public reason that I will apply in the third part and, in doing so, it establishes the bases on which I will develop the ideal of citizenship that I will defend as the most reasonable alternative (chapter five) and the analysis of a European Muslim proposal about citizenship (chapter six).

## Chapter Three

### *What is Public Reason?*

*Those who can give justice are  
owed justice.<sup>∞</sup>*

In this chapter, I begin the reconstruction of the idea of public reason by considering it in its Rawlsian form. In the next chapter, I will present my interpretation of the duty of civility. In so doing, I will complete the reconstructive part of my work, whose aim is to answer the first research question Q1. Then, in the first chapter of the third part (chapter five), I will bridge the reconstructive and the evaluative task by presenting an ideal of citizenship grounded in public reason. Such an ideal aims to answer the second research question Q2. Finally, in the second chapter of the third part (chapter six), I will analyse from an evaluative perspective a plausible European Muslim approach to the issue of citizenship in European societies. In so doing, I will answer the last research question Q3.

This chapter is divided into two main sections. In the first, I consider the Kantian account of the public use of reason. In the second, I reconstruct the Rawlsian account of public reason, beginning with the idea of publicity.

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<sup>∞</sup> John Rawls, *A Theory of Justice*, 510/446.

### 3.1 Kant's Public Use of Reason.

It has been argued that 'the problem of public reason became central to the political theory of the early modern period, and continues to be in ours.'<sup>578</sup> According to some authors, it would be possible to narrate a 'secret history'<sup>579</sup> of the idea of public reason that goes back to Hobbes and Locke,<sup>580</sup> that is, to even earlier stages of modern political thought than the Kantian roots usually presented as the origin of the "official history" of such an idea. According to Duncan Ivison, a common thread would underlie this 'secret history' from Hobbes to Locke and on to Rawls: the belief that 'the exercise of a common mode of public reason [is] a prerequisite for the maintenance of civil society, and [thus, Hobbes, Locke, and Rawls] similarly propos[e] politics as an answer to the pluralism and indeterminacy of political argument in conditions of deep diversity.'<sup>581</sup> Simone Chambers has conceptualised the *fil rouge* in the history of public reason from Hobbes to Kant in terms of an attempt to answer the question about

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<sup>578</sup> Duncan Ivison, "The Secret History of Public Reason: Hobbes to Rawls," *History of Political Thought* **18**, no. 1 (1997), 125.

<sup>579</sup> I borrow this expression from the title of Duncan Ivison's article quoted in the previous footnote.

<sup>580</sup> Ibid., respectively, 130-136 and 136-140.

<sup>581</sup> Ibid. 144. In a previous article ["The Art of Political Liberalism," *Canadian Journal of Political Science* **28**, no. 2 (1995), 203-226], Ivison argued that contemporary '[l]iberal regimes require good liberal citizens, and to the extent that most of us are not, liberal theories need some account of how we are to come to be. The exercise of power here, or at least the process of legitimising its exercise, could be said to be a kind of "liberal discipline," which appears parasitic on the ideals of autonomy and self-restraint (among others). [...] By liberal discipline, I mean the way in which in the same time as recognizing the ineluctable diversity of comprehensive doctrines, political liberalism seeks to both restrict and mould the relations between the comprehensive and political views of citizens. To put it starkly: the way political liberalism seeks to domesticate difference into harmless diversity. Only if a claim can be put in the terms of the theory of justice will it be recognized.' "The Art of Political Liberalism," 223-224. Consequently, Ivison maintains that such a 'liberal discipline' puts a special 'emphasis on a specific kind of political order resting in agreement on justice, and restricting the kinds of claims that can be made a focus of political discourse.' He sees political liberalism as a 'process of persuasion' through the idea of public reason. Thus, the latter is functional to the needs of such 'liberal discipline' (ibid. 224-225).



who shall judge in the modern condition of pluralism.<sup>582</sup> The historical reconstruction of the concept has brought different contemporary interpretations of its requirements<sup>583</sup> and

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<sup>582</sup> For this account of the history of public reason from Hobbes to Locke and Kant, see Simone Chambers, “Who Shall Judge? Hobbes, Locke, and Kant on the Construction of Public Reason,” *Ethics and Global Politics* 2, no. 4 (2009), 349-368. Chambers stresses the importance of public reason in achieving a final political judgement. According to him, ‘[p]ublic reason [...] refers to the role of the public as judge of public right and not simply to a set of reasons that an actual public happens to share.’ Thus, ‘concepts of public reason arose in answer to the question “who shall judge?”.’ In fact, the ‘religious and moral pluralism unleashed by the reformation led first to the weakening of authoritative common forms of reasoning, this in turn and more importantly led to the question who is the final arbiter when a political community is faced with deep disagreement about political/moral questions.’ Ibid. 349. His thesis is that in all modern conceptions ‘[p]ublic reason is constructed not found.’ Ibid. 354. He contends that ‘[p]ublic reason is more about a public having the capacity, space, and right to reason authoritatively. We can hope that that reasoning will construct [...] reasons acceptable to all but it is the public as authoritative reasoner that represents the radical change brought about by the rise of pluralism and not a trading in of one set of reasons for another.’ Ibid. 350. Then, according to Chambers, Hobbes (352-354), Locke (354-359, see in particular his claim that Locke’s central contribution to the idea of public reason stems from his conception of the right of resistance, rather than from his conception of toleration: 357-359), and Kant (359-364) propose different solutions to a common question: the problem of a public standard of judgement. Then, his history of public reason is more a history of how the public distinguishes the good from the bad and the right from the wrong in conditions of pluralism than a history of which set of reasons constitutes a set of public reasons. In this sense, I think, one can better understand the specificity of Rawls’s public reason, in which this public judgment finally aims to become *political* and concerns the politically right rather than the morally, philosophically, or religiously good.

<sup>583</sup> For example, for two divergent views about how a Hobbesian conception should specify the requirements of public reason, see David Gauthier, “Public Reason,” *Social Philosophy and Policy* 12, no.1 (1995), 19-42, and Michael Ridge, “Hobbesian Public Reason,” *Ethics* 108, no. 3 (1998), 538-568. While Gauthier maintains that ‘Hobbes has provided most of the materials needed for an account of public reason’ (“Public Reason,” 36), he also thinks that it is necessary to limit the scope of Hobbes’s public standard (or public person) for judgment: ‘[e]ach citizen has good reason, in terms of her own deliberative standard, to agree with her fellows to authorize a public person to judge and will in her name, on those matters and in those respects that significantly affect the interactions of the citizens and the public goods available to them.’ Ibid. 37. Ridge argues that, in order ‘to develop the most plausible Hobbesian account of public reason’ (“Hobbesian Public Reason,” 541), we should change the Hobbesian perspective: ‘[r]ather than focussing on the authorization of some public person, or sovereign, as both Hobbes and Gauthier do, this alternative strategy focuses on the authorization of some public set of principles.’ Ibid. 539. According to Ridge, while Hobbes and Gauthier focus on the primacy of a public person whose reason determines the content of public reason, it would be better to give priority to a set of public principles that must guide, direct, and limit the power of the arbitrator who enforces them (see, for instance, *ibid.* 558): only in this way –in Ridge’s view– does the Hobbesian account of public reason not ‘pu[t] the cart before the horse’ (*ibid.*). For Ridge’s strategy, see in particular 550-553, and 558-566.

grounds.<sup>584</sup> Unfortunately, I cannot analyse this part of the story here. While certainly interesting and subject to different readings, the latter is not a fundamental component of the theoretical structure of this study. This is neither a history<sup>585</sup> nor an archaeology<sup>586</sup> of public rea-

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<sup>584</sup> For example, in reconstructing the “why?” of public reason, D’Agostino and Gaus [“Public Reason: Why, What and Can (and Should) It Be?,” in *Public Reason* (The International Research Library of Philosophy 21), edited by Fred D’Agostino and Gerald Gaus (Aldershot: Dartmouth/Ashgate, 1998), xi-xiii] first argue that –despite the fact that public reason may seem to be a post-Enlightenment ideal, since it starts by recognising that *not* all reason is public, that is, that *not* any true and valid reason is a true and valid reason for every rational being (xi)– the idea of public reason is ‘already present in great Enlightenment philosophers such as Hobbes and Kant.’ More importantly, they ascribe a different rationale to each of the two main conceptions arising from the works of these two authors (see xii-xiii). For reasons that I will explain in this section, they argue that for Kant ‘public reason is unconstrained reason, leading to truth and enlightenment.’ Kant thus holds what they call an *epistemological and moral view* of public reason, according to which (a) on the epistemological level, ‘the discovery of truth [...] results from the exercise of public reason [and i]t is thus our epistemological commitments that lead us to use reason publicly,’ and (b) on the moral level, ‘if we are to respect others we must not make moral or political claims on them –especially claims backed up by the threat of force– that cannot be justified to them.’ On the other hand, for Hobbes the grounds of public reason ‘are political rather than epistemic.’ Hobbes is looking for an arbitrator or judge who can provide a public reason to which people’s private reasoning must be subjugate if we are to avoid conflict. Then in Hobbes’s view ‘public reason is a distinctively political notion: it is not necessarily truer or better reasoning, but it is reasoning that we all embrace for political reasons [...] If we accept a common public reason we can live together in peace.’ This leads to what D’Agostino and Gaus call the *pragmatic-legitimation view* of public reason. According to them, contemporary political liberalism defends some version of this view. This is because Rawls is mainly concerned with reconciling the possibility of a *just and stable society* with the *fact of reasonable pluralism*. However, Gaus and D’Agostino recognise that ‘it is certainly true that Rawls’s conception of political reason contains a normative element missing in Hobbes.’ In fact, Rawls does not aim for mere stability, but for stability for the right reasons (or, in D’Agostino and Gaus’s words, ‘a stable order of free and equal citizens’). In line with this argument, I believe that Rawls combines the kind of political considerations of a *pragmatic-legitimation view* with something like point (b) –the moral dimension– of the Kantian view, that is the *mutual moral political respect displayed by the practice of public justification*. For helpful considerations about how a Hobbesian strategy of justification impacts on Rawls’s justification in *A Theory of Justice* see Thomas Nagel in his “Moral Conflict and Political Legitimacy,” *Philosophy and Public Affairs* 16, no. 3 (1987), 218-221. In this article, Nagel distinguishes between a Hobbesian ‘convergence defense of political legitimacy’ (which discloses the possibility of a ‘convergence of rational support for certain institutions from the separate motivational standpoints of distinct individuals,’ and according to which a ‘political result is thought to be right because it is rationally acceptable to all, rather than being rationally acceptable to all because it is by some independent standard right’) and a ‘common standpoint defense of legitimacy’ (according to which ‘a political result is rationally acceptable to everyone because by [some previously defined shared] standard it is right; it is not right because it is universally acceptable’). According to Nagel, in *A Theory of Justice* Rawls presents a mixed theory, because ‘true principles of justice are those which can be affirmed by individuals motivated both by the impartial sense of justice as fairness and by their fundamental personal interests, commitments, and conceptions of the good.’ The last point is entailed in Rawls’s notion of the ‘strains of commitment,’ according to which parties ‘cannot enter into agreement that may have consequences they cannot accept [...] Since the original agreement is final and made in perpetuity, there is no second chance [...] Thus parties must weigh with care whether they will be able to stick by their commitment in all circumstances’ (John Rawls, *A Theory of Justice*, 176/153). Therefore, according to Nagel, even though the parties in the original position do not know their own conceptions of the good, due to the strains of commitment ‘each person can choose only such principles of justice as he believes he will be able to live under and continue to affirm in actual life, when he knows the things about himself and his position in society that are concealed by the [v]eil of [i]gnorance. This introduces an element of convergence.’ Thomas Nagel, “Moral Conflict and Political Legitimacy,” 220.

<sup>585</sup> See the historical appendix in Lawrence B. Solum, “Constructing an Ideal of Public Reason,” 754-762.

son. I just mention these considerations here in order to avoid the impression that public reason suddenly appears in the history of thought in an unannounced flash. Having said this, one should recognise the specificity of each of these conceptions. Even supposing that a *fil rouge* does exist (I do not venture into this question here), this should not obscure the fundamentally different backgrounds and purposes of those political theories.

Why should we consider Kant's account of a public use of reason, then? In which respects is it relevant to the Rawlsian perspective that I am considering here? After all, in *Political Liberalism* and in his 1998 letter to his editor (announcing a revised edition of *Political Liberalism* after the publication of "The Idea of Public Reason Revisited" in 1997),<sup>587</sup> Rawls ex-

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<sup>586</sup> See Gerald Postema's contribution "Public Practical Reason: An Archeology." For his conception of public reason, see in particular 68-76. More specifically, he firstly analyses a 'distributive' or 'convergence' view in which 'a reason R\* is said to be shared if it is true that R\* is a reason *for each* member [...], but not a reason *for all*. [...T]he fact that R\* is a reason *for other* members of the group does not figure among the factors that make it a reason for any particular member. It would remain a reason of the same sort and force for any such member even if it was not a reason for anyone else, or no one else recognized it as such. Reasons of this sort are shared only in the sense that different agents coincidentally converge on them' (69). On the contrary, he endorses a more 'robust' conception of public justification, a 'consensus' view in which a 'public reason R\* is shared in the robust sense that R\* is a reason *for each* member in virtue of its being a reason for all.' In this case, agents 'would believe that there would be a "reason for us".' Ibid. 70. On this point, he adds that 'the reasons I offer you in this spirit are not merely reasons that *I* (for my own part) find persuasive, nor reasons that I believe *you* do or could find persuasive, but rather reasons I believe *we* do or could find persuasive. They are reasons offered with the implicit claim to be *reasons for us*.' Ibid. 74. Then, his robust public justification is not argument *ad hominem*, but rather 'argument *inter homines*.' Ibid. In chapter two, I mentioned other references about the distinction between consensus and convergence modes of public justification.

<sup>587</sup> Rawls was not able to complete his project of revision of *Political Liberalism* because of his illness and death in 2002. As mentioned in chapter two, his letter to the editor at Columbia University Press is included in the expanded edition –2005– of *Political Liberalism* (438-439).

plicitly distances himself from a Kantian conception.<sup>588</sup> As I shall explain, however, despite many important differences, Kant pointed out what will be a fundamental underlying idea in Rawls's conception of public reason: the internal relation between publicity, legitimacy, and reciprocity. Thus, an –inevitably concise– investigation of Kant's public use of reason constitutes a necessary premise to the analysis of Rawls's public reason.

In his *Answer to the Question: What is Enlightenment?* (1784), Kant famously affirms that:

*'Enlightenment is the human being's emergence from his self-incurred minority. Minority is inability to make use of one's own understanding without direction from another. This minority is self-incurred when its cause lies not in lack of understanding but in lack of resolution and courage to use it without direction from*

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<sup>588</sup> Some remarks in this direction are already present in his Dewey Lectures (1980) "Kantian Constructivism in Moral Theory" (see John Rawls, *Collected Papers*, in particular 339-340). In *Political Liberalism*, Rawls specifies 'four differences between Kant's moral constructivism and the political constructivism of justice as fairness' (see 99-101). 1) 'Kant's doctrine is a comprehensive moral view in which the ideal of autonomy has a regulative role for all of life. [...] But as such it is not suitable to provide a public basis of justification.' 2) Secondly, constructivism is different in Rawls and Kant. Rawls's political view is 'doctrinally autonomous,' that is, it represents 'the order of political values as based on principles of practical reason in union with the appropriate political conceptions of society and person.' On the contrary, Kant endorses a 'deeper meaning of autonomy' according to which 'the order of moral and political values must be made, or itself constituted, by the principles and conceptions of practical reason.' It is what Rawls calls 'constitutive autonomy,' that is, the idea that the 'order of values does not constitute itself but is constituted by the activity, actual or ideal, of practical (human) reason itself. [...] Kant's] constructivism is deeper and goes to the very existence and constitution of the order of values. This is part of his transcendental idealism.' 3) While Rawls's political conceptions of person and society are political in the sense that he tries to derive them from the 'shared fund' of fundamental political ideas that constitutes the public political culture of a democratic society, those conceptions 'in Kant's view have [...] a foundation in his transcendental idealism.' Nevertheless, according to Rawls, such a "true" (that is, comprehensive) foundation cannot be the basis on which a freestanding political conception of justice can be organised. 4) The fourth difference is a difference in the respective aims of the two views. Rawls's conception 'aims at uncovering a public basis of justification on questions of political justice given the fact of reasonable pluralism,' so it begins 'from shared fundamental ideas implicit in the public political culture in the hope of developing from them a political conception that can gain free and reasoned agreement in judgment, this agreement being stable in virtue of its gaining the support of an overlapping consensus of reasonable comprehensive doctrines.' On the other hand, Kant 'views the role of philosophy as apologia: the defense of reasonable faith. This [is the problem of] showing the coherence and unity of reason, both theoretical and practical, with itself; and of how we are to view reason as the final court of appeal, as alone competent to settle all questions about the scope and limits of its own authority.' Moreover, specifically with reference to the idea of public reason, Rawls says that 'Kant contrasts the public use of reason, which is free, to the private use, which may not be free. *I do not mean to endorse this view*' (ibid. 296, note 13, emphasis added). Finally, in the above-mentioned letter to the editor, Rawls writes that 'throughout the original text [of *Political Liberalism*] the idea of principles of practical reason, or simply practical reason, often appears, which to most readers had suggested that Kant's ideas of practical reason were being used. Many readers got the idea that my view is Kant's or similar to it, *but that is a serious mistake*' (438, emphasis added).

another. *Sapere aude!* Have courage to make use of your *own* understanding! is thus the motto of enlightenment.’<sup>589</sup>

For single individuals, it is often very difficult to achieve enlightenment. For ‘minority [...] has become almost nature’ to them. Kant is clear on this point: emancipation requires some individual effort, because ‘[i]t is so comfortable to be a minor!’ Several obstacles prevent individuals emancipating themselves: not only their ‘laziness and cowardice,’ but also habit and the fear inoculated by their guardians’ self-interested warnings and advice.<sup>590</sup> However, Kant seems more optimistic about the possibilities for a *public* to enlighten itself: ‘indeed this is almost *inevitable*, if only it is left its *freedom*. For there will always be a few independent thinkers, even among the established guardians of the great masses, who, after having themselves *cast off the yoke of minority*, will disseminate the spirit of a *rational valuing of one’s own worth* and of the *calling of each individual to think for himself*.’<sup>591</sup> Then, a public can achieve enlightenment if (and only if) it is free. Which freedom is required by this kind of enlightenment? Kant argues that ‘nothing is required but [...] the least harmful of anything that could even be called freedom: namely, freedom to make *public use* of one’s reason in all matters.’<sup>592</sup> Thus, for a public to ‘enlarge its cognitions [...] and to purify them of errors, and generally to make further progress in enlightenment’ in which lies ‘the original vocation’ of human nature,<sup>593</sup> the public use of reason must be free and unrestricted. The problem is the apparently paradoxical conception of the ‘public use of reason’ that Kant offers.

‘The *public* use of one’s reason must always be free, and it alone can bring about enlightenment among human beings; the *private use* of one’s reason may, however, often be very narrowly restricted without this particularly hindering the progress of enlightenment. But by the public use of one’s own reason I understand the use which someone makes of it *as a scholar* before the entire public of the

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<sup>589</sup> Immanuel Kant, “Answer to the Question: What is Enlightenment?” in *The Cambridge Edition of the Works of Immanuel Kant: Practical Philosophy*, edited and translated by Mary J. Gregor (Cambridge: Cambridge University Press, 1996), 17.

<sup>590</sup> Ibid.

<sup>591</sup> Ibid. 17-18. Emphases added.

<sup>592</sup> Ibid. 18.

<sup>593</sup> Ibid. 20.

*world of readers*. What I call the private use of reason is that which one may make of it in a certain *civil* post or office with which he is entrusted.<sup>594</sup>

This formulation has provoked some bewilderment. As Claudia Mancina puts it, ‘the difficulty is the inversion of the typical liberal priority between private and public which Kant –a founding father of liberalism– seems to make.’<sup>595</sup> In fact, it would seem that reason is used publicly by a private (a scholar) who writes to his readers, while reason is used privately by a public official. Onora O’Neill suggests that the solution to this puzzle is possible if we consider the distinction in terms of the ‘*audience* whom an act of communication may reach.’<sup>596</sup> Similarly, Mancina argues that ‘the difference between private and public use is a difference of *publics*: in the second case the public is virtually the entire world, the body of readers, of those who are ideal interlocutors of every discourse characterised by publicity.’<sup>597</sup> This point is made clear by Kant himself:

‘[F]or many affairs conducted in the interest of a commonwealth a certain mechanism is necessary, by means of which some members of the commonwealth must behave merely passively, so as to be directed by the government, through an artful unanimity, to public ends (or at least prevented from destroying such ends). Here it is, certainly, impermissible to argue; instead, one must obey. But insofar as this part of the machine [that is, the individual] also regards himself as a member of a whole commonwealth, even the *society of citizens of the world*, and so in his capacity of a scholar who by his writings addresses *a public in the proper sense* of the word, he can certainly argue without thereby harming the affairs assigned to him in part as a passive member. [... A]s a scholar, who by his writings speaks to *the public in the strict sense, that is the world* [...], he enjoys an unre-

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<sup>594</sup> Ibid. 18.

<sup>595</sup> Claudia Mancina, “Uso pubblico della ragione e ragione pubblica: da Kant a Rawls,” *Diritto e Questioni Pubbliche* 8 (2008), 35. My translation.

<sup>596</sup> Onora O’Neill, *Constructions of Reasons: Explorations of Kant’s Practical Philosophy* (Cambridge: Cambridge University Press, 1989), 32. These considerations were developed in her previous article “The Public Use of Reason,” *Political Theory* 14, no. 4 (1986), 523-551.

<sup>597</sup> Claudia Mancina, “Uso pubblico della ragione e ragione pubblica,” 36. My translation.

stricted freedom to make use of his own reason and to speak in his own person.’<sup>598</sup>

So, for example, a clergyman *as a teacher* is bounded to teach ‘in accordance with the creed of the church he serves,’ since on this occasion he is making a private use of his reason, that is, he is speaking not only to a specific audience, but also making reference to (or speaking in the name of) a specific authority which entitled him to hold that office and task. I will return to this conception of authority presently. In this sense, he is merely ‘a part of the machine,’ and he could be prevented from making free use of his own reason. But the same clergyman who speaks *as a scholar* ‘to the public in the strict sense, that is, the world,’ must be free: only in this way can that public ‘make further progress in enlightenment.’ However, the Kantian distinction between public and private use of reason is not endorsed by Rawls. As I have already mentioned, he clearly says that:

‘The public vs. nonpublic distinction is not the distinction between public and private. The latter I ignore: there is no such thing as private reason. There is *social* reason –the many reasons of associations in society which make up the background culture; there is also [...] *domestic* reason –the reason of families as small groups in society– and this contrasts both with public and social reason. As citizens, we participate in all these kinds of reason and we have the rights of equal citizens when we do so.’<sup>599</sup>

Therefore, Rawls distinguishes public and non-public (social and domestic) reason. Reason is *public* when: 1) it is ‘the reason of free and equal citizens, [so it] is the reason *of the public*,’ 2) ‘its subject is the public good concerning questions of fundamental political justice, [that is,] constitutional essentials and matters of basic justice,’ 3) ‘its nature and content are public, being expressed in public reasoning by a family of reasonable conceptions of political justice reasonably thought to satisfy the criterion of reciprocity.’<sup>600</sup> Now, it seems that the first point is endorsed by both Kant and Rawls. The difference is that, while for Kant ‘the public in the strict sense is the world,’ in *Political Liberalism* for Rawls the “public” refers to

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<sup>598</sup> Immanuel Kant, “Answer to the Question: What is Enlightenment?” 18-19. Emphases added.

<sup>599</sup> John Rawls, *Political Liberalism*, 220 note 7. Emphases added.

<sup>600</sup> John Rawls, “The Idea of Public Reason Revisited,” 442.

the political body of fellow citizens. With regard to the second point, ‘matters of basic justice’ are obviously not the sole subject of Kant’s public use of reason. However, the main difference regards the third point and is linked to the previous two. As I will explain presently, for Kant the fact that the public is potentially the world at large stems from the prerequisite that, for a use of reason to be public, it must refer exclusively to the universal and unconstrained authority of reason. On the contrary, as I will demonstrate in the next section, according to Rawls the ideal of public reason is derived starting from some “materials” already present in the public political culture of a democratic society, since its content is specified by a (family of) conception(s) of justice, which is (are) worked out ‘begin[ning] from shared fundamental ideas implicit in the public political culture,’ that is, from ‘what is, or can be, held in common.’<sup>601</sup> Thus, Rawls’s ideal of public reason starts from what citizens (can) have in common, has a precise scope and subject, and bases its stability on the existence of an overlapping consensus. On the other hand, Kant’s public use of reason also starts from what (the world’s) citizens have in common: reason. Yet, as we will see, the authority of reason must be unconstrained, since it is not grounded in something transcendent or superior to it, so it must be free to “critically discover” itself. Kant would not accept the limits that Rawls imposes on public reason. I return to this claim at the end of the section, explaining how these limits derive from Rawls’s focus on the ‘domain of the political.’

Kant’s idea that the freedom of the public use of reason is the only way for gaining further achievements in the process of enlightenment of the ‘society of citizens of the world’ is repeated in the essay *On the Common Saying: That May be Correct in Theory, but it is of no Use in Practice* (1793), where we read that:

‘Freedom of the pen [...] is the sole palladium of the people’s rights. For to want to deny them this freedom is not only tantamount to taking from them any claim to a right with respect to the supreme commander (according to Hobbes), but it is also to withhold from the latter –whose will gives order to the subjects as citizens only by representing the general will of the people– all knowledge of

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<sup>601</sup> John Rawls, *Political Liberalism*, 100. See the end of this section.



matters that he himself would change if he knew about them and to put him in contradiction with himself.’<sup>602</sup>

Finally, in the Second Supplement (“Secret Article for Perpetual Peace”) to *Toward a Perpetual Peace* (1795), Kant says that the state should ‘allow [philosophers] to speak freely and publicly about universal maxims of waging war and establishing peace (for that they will do of their own accord, if only they are not forbidden to do so).’<sup>603</sup>

Thus, according to Kant, publicity is the true mark of reason in the direction of humanity’s enlightenment. In the words of one commentator, the essay *What is Enlightenment?* makes

‘Clear Kant’s equation of reason with the *aspiration* to full publicity. “To use one’s own reason” is to be engaged in the quest to address *all* “citizens of the world.” Our judgements and principles are *only* reasonable to the extent that they can be accepted by all –which means, among other things, that they cannot assume the authority of any particular organization or leader.’<sup>604</sup>

These considerations bring us back to the question of authority. Authority, publicity, audience/public(s), uses of reason, and toleration are internally related elements. I concisely follow Onora O’Neill in the reconstruction of such nexus. I start from the concepts of publicity and publicisability. Moreover, I consider the problem of authority and how the latter (understood as the authority of reason) is related to the ideas of toleration and legitimacy.

According to O’Neill, the crucial aspect in the public uses of reason is the publicisability of communication:

‘A communication that presupposes some authority other than that of reason may fail to communicate with those who are not subject to that authority; they can interpret it, if at all, only on the hypothesis of some claim that they reject. At some

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<sup>602</sup> Immanuel Kant, “On the Common Saying: That May be Correct in Theory, but it is of no Use in Practice,” in *The Cambridge Edition of the Works of Immanuel Kant: Practical Philosophy*, 302.

<sup>603</sup> Immanuel Kant, “Toward Perpetual Peace,” in *The Cambridge Edition of the Works of Immanuel Kant: Practical Philosophy*, 337.

<sup>604</sup> Garrath Williams, “Kant’s Account of Reason,” *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta (Spring 2013), URL = <http://plato.stanford.edu/archives/spr2013/entries/kant-reason/>, 19 (page number refers to the printable pdf version).

points in the debates about such communications arguments must stop and authority be invoked. But a communication that does not presuppose such an authority, and so is in principle accessible to the world at large and can be debated without invoking authority may, as it happens, actually be addressed to or understood by few. *Publicizable communications may or may not receive full publicity. For Kant publicizability is more fundamental than publicity.* Communications that cannot, however disseminated, reach those who do not accept or assume some authority are not full uses of reason at all. Communications that presuppose no external authority are, even if they aim at and reach only a small audience, fit to be public uses of reason. Hence Kant regards communications between “men of learning” who are committed to reasoned inquiry as public [...], although the circle of communication is small, whereas “enlightenment of the masses” *needs publicity as well as publicizability.*<sup>605</sup>

Therefore, even if the scholar’s writings actually reach only few people, they are nonetheless public uses of reason if they could –potentially– reach ‘the society of citizens of the world.’ Thus, O’Neill maintains that ‘[p]olitical progress ultimately requires communication that is both publicizable and made public. Only if we can communicate in ways that are generally interpretable is there any point in seeking an unrestricted audience.’<sup>606</sup> Therefore, one could say that a use of reason –in order to contribute to the enlightenment of the society of human beings and to be qualified as a public use of reason– must possess the *capacity* (or quality or potency) *for being made universally public* (what O’Neill calls ‘publicisability’). This is the only real criterion we have, according to Kant, in order to judge the public character of the use of reason. A genuine public use of reason entails what I shall call a “perfect” or “full” publicisability, that is, the virtual possibility of becoming universally public, since ‘the public in the strict sense [is] the world.’ Full or perfect publicisability means that the only authority to which reason is subject in its public use is reason itself. Otherwise publicisability

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<sup>605</sup> Onora O’Neill, *Constructions of Reasons*, 34. Emphases added.

<sup>606</sup> Ibid.

could not be full (that is, universal). As Chambers puts it, ‘[p]ublic reason, in this Kantian sense, answers to no higher authority than reason itself.’<sup>607</sup> Alternatively, in O’Neill’s words:

‘A public use of reason [...] must] assume no authority that could not be accepted by an unrestricted audience. Since “the world at large” accepts no common external authority, the only authority the communication can assume must be internal to the communication. [...] What is spoken or written cannot count as a public use of reason merely because it is noised or displayed or broadcast to the world at large. Communication has also to meet sufficient standards of rationality to be interpretable to audiences who share no other, rationally ungrounded, authorities. [...] One who reasons publicly must address, and so be interpretable by, all others.’<sup>608</sup>

Thus, only by grounding our communications in the authority of reason (an authority that is internal to our communication) can we reach high standards of publicisability. This confers to our communications a public dimension, which is alien to communications grounded in particular (e.g., religious, administrative, and so on) authorities. Therefore, the difference between public and private uses of reasons traces back to a difference between a necessarily particular and limited audience and a potentially universal (even if, perhaps, actually small) audience, which in turn traces back to a difference between the reference to a particular authority (the authority of the state or a church, for instance) and the reference to the authority of reason. What is relevant here is that this reference to the universal authority of reason explains Kant’s argument for toleration and freedom of public uses of reasons. The latter must be free, because only the authority of reason can say if those uses can withstand its own judgement. Public uses of reason are subject to the judgment of a tribunal in which reason itself is the final judge. Precisely in this respect they differ from private uses of reason. Private and public uses of reason are subject to different jurisdictions: on the one hand, the universal jurisdiction of reason on its own, and, on the other hand, other particular (always limited and for this reason ‘private’) jurisdictions depending on other (less-than-universal) authorities. Then, the authority of reason lies in its capacity for self-criticism, which gradually lets some principles emerge as the most robust and agreed upon from a critical perspective:

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<sup>607</sup> Simone Chambers, “Who Shall Judge?” 362.

<sup>608</sup> Onora O’Neill, *Constructions of Reasons*, 35.

‘Reason, on this account, has no transcendent foundation, but is rather based on agreement of certain sort. Mere agreement [...] would have no authority. What makes agreement of a certain sort authoritative is that it is agreement based on principles that meet their own criticism. [...] Reason’s authority consists simply in the fact that the principles we come to think of as principles of reason are the ones that are neither self-stultifying nor self-defeating in use. *The best way to find which principles have this character is to encourage the increasingly public use of reason.*’<sup>609</sup>

The last remark is important. Allowing reason critically to develop its own standards and principles means to let reason be the only authority with reference to itself. Then, a necessary condition for the development of rational standards and principles is that public uses of reason must be free. Kant underlines this point as follows: ‘The very existence of reason depends on that freedom; for reason can claim no dictatorial authority, but its decrees are always simply the agreement of free citizens, every one of whom may freely express, not only his objections, but even his veto.’<sup>610</sup> If we want to reason publicly (that is, if we want to make our communications fully publicisable), we must appeal to the authority of reason. However, such an appeal entails that, with reference to those uses of reason, the only judge in charge is reason itself. In turn, this means that no other “judge” could prevent one from publicly using her own reason. Then, in Kant’s account, freedom of public uses of reason is internally linked with reason’s authority and self-criticism. Without such freedom, reason could establish no tribunal for itself, and the ‘society of citizens of the world’ would make no progress. O’Neill interestingly expounds this correlation between reason’s self-criticism, reason’s authority, and toleration in this passage:

‘Toleration of public uses of reason is [...] necessary for the emergence and maintenance of the increasingly generally shared standards of reasoning that fully public communication requires. [...] In Kant’s view such self-criticism is best sustained in the form of free, critical and universal debate. Whereas the external authority of a “dictator” destroys the authority of reason, the debate of “fellow cit-

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<sup>609</sup> Ibid. 38. Emphasis added.

<sup>610</sup> Immanuel Kant, *Critique of Pure Reason* A738/B766. The English edition quoted here is: *Critique of Pure Reason*, translated and edited by Marcus Weigelt, based on Max Müller’s translation (London: Penguin, 2007), 593.

izens” sustains it [...] Criticism, and the toleration that criticism requires, are fundamental for the authority of reason [...] To accept and foster the authority of reason is to submit disputes to free and critical debate. Toleration, at least of incipiently public uses of reason, has then quite a fundamental status in Kant’s thought. Without it the authority of reason ebbs. [...] The development of reason and of toleration is interdependent: *A measure of publicizability is needed for publicity; and publicity in turn is needed for further development of standards of publicizability. Practices of toleration help constitute reason’s authority.*<sup>611</sup>

Thus, the free use of publicisable uses of reason allows them to become more and more public, that is, to be increasingly publicised. In turn, the fact that they are publicised allows to achieve more advanced standards of publicisability, thanks to the free exercise of reason’s powers of self-criticism.

With this account of publicity in mind, I now consider the relation between the latter and the idea of legitimacy. Kant deals with this subject on several occasions, but an important reference to it can be found in the Second Appendix (“On the Agreement of Politics with Morals in Accord with the Transcendental Concept of Public Right”) to *Toward a Perpetual Peace*. As the title of the Appendix suggests, Kant is dealing with the problem of the relation between politics and morality. These two are mediated by the idea of publicity.<sup>612</sup>

‘If I abstract from all the *matter* of public right as teachers of right usually think of it (from the various empirically given relations of individuals within a

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<sup>611</sup> Onora O’Neill, *Constructions of Reasons*, 38-39. Emphases added.

<sup>612</sup> ‘The duplicity of politics with respect to morals, in making use of one or the other branch of it for its purposes, abets this. Both philanthropy and respect for the *rights* of the human being are duties: but the former is only *conditional* duty whereas the latter is *unconditional* duty, commanding absolutely, and whoever wants to give himself up to sweet feeling of beneficence must first be completely assured that he has not transgressed this unconditional duty. Politics readily agrees with morals in the first sense (as ethics), in order to surrender the rights of human beings to their superiors; but with morals in the second meaning (as doctrine of right), before which it would have to bend its knee, it finds it advisable not to get involved in any pact at all, preferring to deny it any reality and to construe all duties as benevolence only; but this ruse of a furtive politics would still be easily thwarted by philosophy, publicizing those maxims it uses, if only politics would venture to let philosophers publicize their own maxims.’ Immanuel Kant, “Toward Perpetual Peace,” 351. In the First Appendix, Kant defines principles of public right as ‘politics cognizable a priori,’ adding that ‘it is just the general will given a priori (within a nation or in the relation of various nations to one another) that alone determines what is laid down as right among human beings; but this union of the will of all, if only it is acted upon consistently in practice, can also, in accordance with the mechanism of nature, be the cause bringing about the effect aimed at and providing the concept of right with efficacy. Thus it is, for example, a principle of moral politics that a people is to unite itself into a state in accordance with freedom and equality as the sole concepts of right, and this principle is not based upon prudence, but upon duty.’ Ibid. 345.

state or also of states to one another), I am still left with the *form of publicity*, the possibility of which is involved in every claim to a right, since without it there would be no justice (which can be thought only as *publicly known*), and so too no right, which is conferred only by justice. Every claim to a right must have this capacity for publicity, and since one can very easily appraise whether it is present in a case at hand –that is, whether or not publicity is consistent with an agent’s principles– it can yield a criterion to be found a priori in reason that is very easy to use; in case they are inconsistent we can cognize at once, as if by an experiment of pure reason, the falsity (illegitimacy) of the claim in question (*praetensio iuris*).<sup>613</sup>

Such an abstraction from all the matter (empirical or factual relations) to the pure form of right (the pure form of publicity), allows Kant to make explicit a ‘*transcendental formula of public right*,’ which says that ‘all actions relating to the rights of others are wrong if their maxim is incompatible with publicity.’<sup>614</sup> As Kant plainly recognises, this principle is a negative one: it says what is wrong from both an ethical and a juridical perspective.<sup>615</sup> As Mancina argues, ‘a maxim that cannot be declared publicly, because it would provoke general opposition, is unjust. Then, publicity must not be understood as a merely empirical condition, [...] but as a moral and juridical condition.’<sup>616</sup> However, Kant identifies a second –positive– transcendental principle of public right: ‘all maxims which *need* publicity (in order not to fail in their end) harmonize with right and politics combined.’<sup>617</sup> Publicity, then, reconciles politics and morality. Following Mancina one more time, one could observe that ‘publicity verifies the agreement of a political maxim with public right [... P]ublicity [is an ethical category of communication only if the latter is understood] as a juridical status, precisely the juridical status deriving from the original contract and which can only have the name of public right. Pub-

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<sup>613</sup> Ibid. 347.

<sup>614</sup> Ibid.

<sup>615</sup> Ibid.: ‘For a maxim that I cannot *divulge* without thereby defeating my own purpose, one that absolutely must *be kept secret* if it is to succeed and that I cannot *publicly acknowledge* without unavoidably arousing everyone’s opposition to my project, can derive this necessary and universal, hence a priori foreseeable, resistance of everyone to me only from the injustice with which it threatens everyone.’

<sup>616</sup> Claudia Mancina, “Uso pubblico della ragione e ragione pubblica,” 38. My translation.

<sup>617</sup> Immanuel Kant, “Toward Perpetual Peace,” 351.

licity then embeds the Rousseauian idea of legitimacy: there is no legitimate power without publicity.<sup>618</sup> As the last observation reveals, this interrelation between publicity and legitimacy calls into question the concept of a social contract. Kant expresses his conception in *On the Common Saying: That May be Correct in Theory, but it is of no Use in Practice*. Two excerpts are relevant:

‘Now this is an *original contract*, on which alone a civil and hence thoroughly rightful constitution among human beings can be based and a commonwealth established. [... This contract] is *only an idea* of reason, which however, has its undoubted practical reality, namely to bind every legislator to give his laws in such a way that they *could* have arisen from the united will of a whole people and to regard each subject, insofar as he wants to be a citizen, as if he has joined in voting for such a will. *For this is the touchstone of any public law’s conformity with the right* [emphasis added]. In other words, if a public law is so constituted that a whole people *could not possibly* give its consent to it [...], it is unjust; but if it is *only possible* that a people could agree to it, it is a duty to consider the law just, even if the people is at present in such a situation or frame of mind that, if consulted about it, it would probably refuse its consent.’<sup>619</sup>

And:

‘Here it is obvious what evil the principle of happiness (which is really not fit for any determinate principle at all) gives rise to in the right of a state, just as it does in morals, despite the best intentions of those who teach it. The sovereign wants to make people happy in accordance with his concepts and becomes a despot; the people are not willing to give up their universal human claim to their own happiness and become rebels. Had it first been asked what is laid down as right (where principles stand firm a priori and no empiricist can bungle them), then the idea of the social contract would remain in its incontestable authority, not howev-

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<sup>618</sup> Claudia Mancina, “Uso pubblico della ragione e ragione pubblica,” 38. My translation.

<sup>619</sup> Immanuel Kant, “On the Common Saying: That May be Correct in Theory,” 296-297.

er as a fact [...] but only *as a rational principle for appraising any public rightful constitution*.<sup>620</sup>

Here I cannot consider the differences between the Rawlsian original position as a ‘device of representation’ and the Kantian social contract as an ‘idea of reason.’ Nor, apart from some remarks at the end of this section, can I focus on the idea of constructivism.<sup>621</sup> What I shall say here is that Kant’s understanding of the social contract as a ‘touchstone of any law’s conformity with the right’ is clearly not far from Rawls’s conception of the original position, where the agreement ‘represents the outcome of a rational process of deliberation under ideal and nonhistorical conditions that express certain reasonable constraints,’ thus, the ‘content of justice must be discovered by reason: that is, by solving the agreement problem posed by the original position.’<sup>622</sup> Therefore, both Kant and Rawls see the social contract as a hypothetical situation for solving the problem of rational agreement on legitimate laws or principles. Obviously, the ways in which this result is achieved are different, mainly due to the Rawlsian *political* understanding of the notion of reasonableness (see below and next section). However, with these remarks on the social contract in mind, I can now make explicit my interpretation of the link between the latter, legitimacy, and publicity in Kant’s work. As I have said, in Kant’s account the social contract is the hypothetical situation for evaluating the conformity of laws passed by the sovereign with the right (that is, for appraising their legitimacy). Since Kant famously and repeatedly excludes any possibility of revolution against or resistance to the ‘supreme legislative power,’<sup>623</sup> one could think that the problem of legitimacy risks being formulated in quasi-Hobbesian terms: whatever the sovereign decides to be the right is *ipso facto* legitimate, because the commonwealth would be destroyed otherwise. This reading seems to be supported by affirmations like the following one: ‘if a people now subject to a certain actual legislation were to judge that in all probability this is detrimental to its happiness, what is to be done about it? Should the people not resist it? The answer can only be that,

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<sup>620</sup> Ibid. 300-301. Emphasis added.

<sup>621</sup> John Rawls, in particular “Kantian Constructivism in Moral Theory” and *Political Liberalism* (especially 89-129). See also, among others, Onora O’Neill, “Constructivism in Rawls and Kant,” in *The Cambridge Companion to Rawls*, 347-367. For a “Kantian dialogue” between Rawls and Habermas, see Thomas McCarthy, “Kantian Constructivism and Reconstructivism: Rawls and Habermas in Dialogue,” *Ethics* **105**, no. 1 (1994), in particular 54-56 and 58-63.

<sup>622</sup> John Rawls, *Political Liberalism*, 273 and 274.

<sup>623</sup> See, for instance, Immanuel Kant, “On the Common Saying: That May be Correct in Theory,” 298 and “The Metaphysics of Morals,” in *The Cambridge Edition of the Works of Immanuel Kant: Practical Philosophy*, 462-465.



on the part of the people, there is nothing to do about it but to obey.’<sup>624</sup> However, one could simply observe that after all the subtitle of this section of Kant’s writing is “Against Hobbes.” And Kant’s principled opposition to a Hobbesian interpretation of social stability and legitimacy is made clear in the lines that come immediately after those that I have just quoted:

‘Should the people not resist it? The answer can only be that, on the part of the people, there is nothing to do about it but to obey. For what is under discussion here is not the happiness that a subject may expect from the institution or administration of a commonwealth but above all merely the right that is to be secured for each by means of it, which is the supreme principle for which all maxims having to do with a commonwealth must proceed and which is limited by no other principle. With respect to the former (happiness) no universally valid principle for laws can be given. [... T]he public well-being that must *first* be taken into account is precisely that *lawful constitution which secures everyone his freedom by laws, whereby each remains at liberty to seek his happiness in whatever way seems best to him, provided he does not infringe upon that universal freedom in conformity with law and hence upon the right of other fellow subjects* [emphases added].’<sup>625</sup>

In other words, the crucial criterion for assessing the legitimacy of laws and on which social stability must be grounded is the overriding principle of right. The latter has the priority and establishes the limits of citizens’ (‘subjects’) pursuit of their own happiness. Moreover, the priority of the principle of right also explains why Kant connects obedience to law with its conformity with the right:

‘[T]he legislator can indeed err in his appraisal of whether those measures [which are also directed to citizens’ happiness –prosperity, increased population and the like–] are adopted *prudently*, but not when he asks himself whether the law also harmonizes with the principle of right; for there he has that idea of the original contract at hand as an infallible standard, and indeed has it a priori (and need not, as with the principle of happiness, wait for experience that would first have to teach him whether his means are suitable). For, provided it is not self-

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<sup>624</sup> Immanuel Kant, “On the Common Saying: That May be Correct in Theory,” 297.

<sup>625</sup> Ibid.

contradictory that an entire people should agree to such law, however bitter they might find it, the law is in conformity with right. But if a public law is in conformity with this, and so beyond reproach (*irreprehensible*) with regard to right, then there is also joined with it authorization to coerce and, on the other's part, a prohibition against actively resisting the will of the legislator; that is, the power within a state that gives effect to the law is also unopposable (*irresistible*).<sup>626</sup>

In this sense, I think, Kant says that the law must be irreprehensible from the point of view of the right: the fact that law is 'irresistible' is necessarily premised on the fact that it is 'irreprehensible' with regard to the right. Precisely the above-mentioned account of the relation between publicity, freedom/toleration, reason's self-criticism and progress contributes to putting the problem of legitimation in a new light and distinguishing it from a Hobbesian account. We are brought back to the consideration that 'freedom of the pen is the sole palladium of the people's rights.' Freedom and publicity "open" the supreme power of the sovereign to a potentially dynamic process of adjustment and revision, consistent with Kant's conception of reason's self-criticism.<sup>627</sup> This idea is embedded in a 'negative right' of the people: 'what a people cannot decree for itself, a legislator also cannot decree for a people.'<sup>628</sup> Only free public uses of reason are able to disclose what is consistent with the right and, thus, legitimate: '[i]n every commonwealth there must be *obedience* under the mechanism of the state constitution to coercive laws (applying to the whole), but there must also be a *spirit of freedom*, since each, in what has to do with universal human duties, *requires to be convinced by reason that this coercion is in conformity with right* [emphasis added], lest he fall into contradiction with himself.'<sup>629</sup>

Such a relation between publicity, social contract, and legitimacy entangles another crucial notion: the notion of reciprocity. As I understand it (building mainly on Mancina and O'Neill), in Kant's work reciprocity can be interpreted as deeply related to the above-mentioned concepts of communication and publicisability between rational human beings. A

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<sup>626</sup> Ibid. 298.

<sup>627</sup> Ibid. 302.

<sup>628</sup> Ibid.

<sup>629</sup> Ibid. 303.

hint of this account can be found in the *Groundwork of the Metaphysics of Morals* (1785), with reference to Kant's conception of human dignity. The latter can be understood in terms of the free subjection of an autonomous will to the universal laws of reason:

'*Morality* is thus the relation of actions to the autonomy of the will, that is, to a possible giving of universal law through its maxims. An action that can coexist with the autonomy of the will is *permitted*; one that does not accord with it is *forbidden*. A will whose maxims necessarily harmonize with the laws of autonomy is a *holy*, absolutely good will. The dependence upon the principle of autonomy of a will that is not absolutely good (moral necessitation) is *obligation*. [...] The objective necessity of an action from obligation is called duty. [...] Although in thinking the concept of duty we think of subjection to the law, yet at the same time we thereby represent a certain sublimity and *dignity* in the person who fulfills all his duties. For there is indeed no sublimity in him insofar as he is *subject* to the moral law, but there certainly is insofar as he is at the same time *lawgiving* with respect to it and only for that reason subordinated to it.'<sup>630</sup>

Kant develops this conception of dignity while he is discussing the idea of a 'kingdom of ends' (and stating the formula of universal law).<sup>631</sup> Human dignity emerges as the moral outcome of the participation of free autonomous wills to the universal legislation establishing a 'merely possible kingdom of ends.' The latter is understood as 'a systematic union of various rational beings through common laws [which determine ends in their universal validity –by abstracting from the personal differences of rational beings as well as from all the content of their private ends–, thus it is understood as] a whole of all ends in systematic connection.'<sup>632</sup> Then, human dignity consists of being able to be member of such a kingdom. This is the dis-

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<sup>630</sup> Immanuel Kant, "Groundwork on the Metaphysics of Morals," in *The Cambridge Edition of the Works of Immanuel Kant: Practical Philosophy*, 88.

<sup>631</sup> Here I merely wish to recall this formula. For a discussion about *Groundwork*'s formulas, see Allen Wood, "General Introduction" to *The Cambridge Edition of the Works of Immanuel Kant: Practical Philosophy*, xxii-xxiv. Formula of universal law: 'I ought never to act except in such a way that I could also will that my maxim should become a universal law' (Immanuel Kant, "Groundwork on the Metaphysics of Morals," 57). Formula of the law of nature: 'act as if the maxim of your action were to become by your will a *universal law of nature*' (ibid. 73). Formula of humanity: 'so act that you use humanity, whether in your person or in the person of any other, always at the same time as an end, never merely as a means' (ibid. 80). Formula of autonomy: 'act so that [your] will could regard itself as giving universal law through all its maxims' (ibid. 84). Formula of the kingdom of ends: 'act in accordance with the maxims of a member giving universal laws for a merely possible kingdom of ends, (ibid. 88).

<sup>632</sup> Immanuel Kant, "Groundwork on the Metaphysics of Morals," 83.

tinctive feature of a rational being: ‘the dignity (prerogative) he has over all merely natural beings brings with it that he must always take his maxims from the point of view of himself, and likewise every other rational being, as lawgiving beings [...] in this way a world of rational beings (*mundus intelligibilis*) as a kingdom of ends is possible, through the giving of their own laws by all persons as members.’<sup>633</sup> At this point, the concept of respect for the equal dignity of rational beings as members of a possible kingdom of ends emerges:

‘[N]othing can have a worth other than that which law determines for it. But the *lawgiving itself*, which determines all worth, must for that very reason *have a dignity, that is, an unconditional, incomparable worth* [emphasis added]; and the word *respect* alone provides a becoming expression for the estimate of it that a rational being must give. *Autonomy* is therefore the ground of the dignity of human nature and of every rational nature.’<sup>634</sup>

In this way, we return where we started in the previous discussion of *What is Enlightenment?*: that is, we return to the relation between autonomy and the authority of reason, this time understood from a more moral and political perspective. Respect is due to other rational beings who try to exercise the powers of their reason and who reciprocally regard one another as members of the same possible kingdom of ends. From these remarks and from the preceding discussion about toleration, it follows that respect and reciprocity have a moral and public-political character. This conclusion is supported by Kant’s emphasis on a faculty of communication (that he calls ‘*sensus communis*’) ‘which in its reflective act takes account [...] of the mode of representation of everyone else, in order, *as it were*, to weigh its judgement with the collective reason of man-kind, and thereby avoid the illusion arising from subjective and personal conditions.’<sup>635</sup> O’Neill calls this faculty ‘public sense,’ which requires other maxims ‘as guides in our thinking and communicating.’<sup>636</sup> Those further maxims are: ‘to think for

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<sup>633</sup> Ibid. 87.

<sup>634</sup> Ibid. 85.

<sup>635</sup> Immanuel Kant, *Critique of Judgement*, V, 294-295, quoted in Onora O’Neill, *Constructions of Reasons*, 45.

<sup>636</sup> Onora O’Neill, *Constructions of Reasons*, 45.

oneself,’ ‘to think from the standpoint of everyone else,’ and ‘always to think consistently.’<sup>637</sup> While O’Neill rightly stresses the significance of these maxims with reference to communication, I would add that at the same time and for the same reasons they also manifest the idea of reciprocity between communicating rational beings. In more details, it seems to me that these three maxims bring to light three dimensions of reciprocity. The first maxim (‘to think for one-self’) underlines the necessary separateness/distinctiveness of each person. Reciprocity would be meaningless if it were impossible to identify different subjects. In that case, it would be more correct to speak of fusion and (at most) of interactions between identical merged components. On the contrary, reciprocity requires some separation. The second maxim (‘to think from the standpoint of everyone else’) embeds a tension toward the perspective of the other and the kind of “mirroring” that represents the most characterising feature of the concept of reciprocity. Finally, the third maxim (‘always to think consistently’) must be understood, as O’Neill points out, as an ‘unending and exacting task,’ since ‘[i]f reason is to achieve consistency between the understanding and judgements of a plurality of inquirers, then the maxim of consistent thought is in effect a maxim of seeking to render whole bodies of thought coherent, and so appropriately the maxim of an unending philosophical task.’<sup>638</sup> Thus, the third maxim can be understood as the “integrative” dimension of reciprocity, where each separate person, after having ‘thought from the standpoint of everyone else,’ tries to draw coherent conclusions from that exercise. Coherence must be measured here not as something internally fixed or stable with reference to the thinker. Rather, as something more dynamic: a reflective exercise in which the thinker tries to adjust her own beliefs with the broader context she knew when she ventured into the sea of human otherness. From a Kantian perspective, this sea –if properly qualified– is what may bring to a ‘kingdom of ends.’ If this short account of publicity, social contract, legitimacy, and reciprocity is convincing, then one can understand Mancina’s claim that ‘[i]t is meaningful that Rawls associates [In Italian: *apparenti*] his criterion of reciprocity with Kant’s original contract: with this, he says that reci-

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<sup>637</sup> Quoted in *ibid.* 46-47. For the first of those maxims O’Neill refers to Kant’s *What is Orientation in Thinking*, VIII, 145; for both the second and the third to *Critique of Judgement*, V, 294.

<sup>638</sup> Onora O’Neill, *Constructions of Reasons*, 47.

procidity determines a political structure based on mutual respect, rather than on mere mutual advantage (like in Hobbes's contractualism).'<sup>639</sup>

As I have said at the beginning of this section, a reconstruction of the Kantian conception of the public use of reason is an important preliminary step to understanding Rawls's public reason. The reason for that is that both Kant and Rawls endorse the idea of an internal connection between publicity of reason's use, legitimacy, and reciprocity. Such a link represents a fundamental element of the political dimension of human life<sup>640</sup> and develops itself in the practical sphere. I have already analysed this connection in Kant's works, and in the next section I will analyse it in Rawls's conception. Apart from this "legacy," what further conclusions can we draw? Here I remember the caveat expressed by Rawls in his letter to the editor: 'throughout the original text the idea of [...] practical reason often appears, which to most readers had suggested that Kant's ideas of practical reason were being used. Many readers got the idea that my view is Kant's or similar to it, but that is a serious mistake.'<sup>641</sup> However, the references to practical reason in *Political Liberalism* (to which I referred in chapter two) obviously do not mean that Rawls endorses *tout court* Kant's conception of practical reason. I think we are not obliged to expunge those references, if only we can understand the use Rawls makes of them. In this study, I do not aim to reconstruct Rawls's conception of reason as such. However, here I can simply sketch out some considerations. Similarly to Kant,<sup>642</sup> Rawls affirms the primacy of practical reason:

'The procedure of construction is based essentially on practical reason and not on theoretical reason. Following Kant's way of making the distinction, we say: practical reason is concerned with the production of objects according to the conception of those objects –for example, the conception of a just constitutional regime taken as the aim of political endeavor– while theoretical reason is concerned with the knowledge of given objects. [...] However, theoretical reason] shapes the

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<sup>639</sup> Claudia Mancina, "Uso pubblico della ragione e ragione pubblica," 49. My translation.

<sup>640</sup> I cannot analyse here Kant's doctrine of right and his conception of the relations within the state and among the states. For this, see mainly "On the Common Saying: That May be Correct in Theory," parts two and three; "Toward a Perpetual Peace;" "The Metaphysics of Morals," part two ("Public Right"). For my aims, what I have said with reference to publicity, reciprocity, and the social contract will suffice.

<sup>641</sup> See the expanded edition of *Political Liberalism*, 438.

<sup>642</sup> See Garrath Williams, "Kant's Account of Reason," 13-15.

beliefs and knowledge of the rational persons who have a part in the construction; and these persons also use their general capacities of reasoning, inference, and judgement in selecting the principles of justice.’<sup>643</sup>

Moreover, in “Kantian Constructivism in Moral Theory,” Rawls argues that:

‘[T]he way in which the Reasonable frames the Rational in the original position represents a feature of the unity of practical reason. In Kant’s terms, empirical practical reason is represented by the rational deliberations of the parties; pure practical reason is represented by the constraints within which these deliberations take place. *The unity of practical reason is expressed by defining the Reasonable to frame the Rational and to subordinate it absolutely*; that is, the principles of justice that are agreed are lexically prior in their application in a well-ordered society to claims of the good. [...] This illustrates one feature of the unity of reason: the Reasonable and the Rational are unified within one scheme of practical reasoning which establishes the strict priority of the Reasonable with respect to the Rational. This priority of the right over the good is characteristic of Kantian constructivism.’<sup>644</sup>

Now, it is surely true that Rawls made this claim before (in the case of “Kantian Constructivism,” about twenty years before) his proposal of revision of *Political Liberalism* and his “The Idea of Public Reason Revisited,” on which I mainly base my understanding of public reason. I am aware that the shift from “Kantian Constructivism” to *Political Liberalism* involved major changes, and that apparently Rawls was more and more careful about making clear the difference between his political theory and Kant’s philosophy. Thus, while here I do not venture to say to what degree Rawls’s work was Kantian at the beginning and to what extent it is Kantian at the end, nor to pinpoint where the deepest Kantian legacies lie, I think that disclosing some of these points may help to untangle some important knots. Hence, coming back to the last quotation, it is noteworthy that, by dismissing the transcendental unity of rea-

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<sup>643</sup> John Rawls, *Political Liberalism*, 93.

<sup>644</sup> John Rawls “Kantian Constructivism in Moral Theory,” 319. Emphasis added. See also “Themes in Kant’s Moral Philosophy,” in John Rawls, *Collected Papers*, 510 and 513-516.

son,<sup>645</sup> Rawls is able to distinguish *politically* the reasonable from the rational in the procedure of political construction. That is, in Rawls's political liberal model reasonableness emerges as a distinctive category of the political. As I will try to explain in a moment, the distinctive feature of a Rawlsian account is the eminently *political dimension* of his conception of reason in its public practical use.

This point is clear if we briefly consider what O'Neill judges to be the main difference between Kant's and Rawls's (with reference to *Political Liberalism*) constructivism. According to O'Neill, Kant not only constructively justifies principles of action through the categorical imperative (mainly in the formula of universal law: 'I ought never to act except in such a way that I could also will that my maxim should become a universal law,' *supra*),<sup>646</sup> but he also constructively justifies the supreme principle of practical reason (i.e., the categorical imperative) itself:

'[For Kant] there is no independent order of reason which lays down a common plan or procedure that constitutes the principle(s) of practical reasoning: "reason has no dictatorial authority." Since reason is not provided from "on high," we will either dispose of no more than rationality, or must show how a conception of reasonableness can be constructed out of the capacities and materials which human agents actually have at their disposal. [...] As Kant depicts the matter, the very predicament of a plurality of uncoordinated agents is all we can presuppose in trying to identify principles of practical reason: it is because reason's authority is *not* given that it must be instituted or constituted –constructed– by human agents. [...] Yet they need, if they are to organise their thinking and doing together, to find –to construct– some common authority. [...] Since all they have in common is their lack of a given "plan of reason," all they can do is to refuse to treat any of the various faiths and beliefs, traditions and norms, claims and propositions they variously adhere to as having an unrestricted authority for organising thinking and doing. [...] Then, they must] adopt the overarching principle of think-

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<sup>645</sup> Claudia Mancina, "Uso pubblico della ragione e ragione pubblica," 41.

<sup>646</sup> Onora O'Neill, "Constructivism in Rawls and Kant," 355.



ing and acting only on principles which they regard as open to, and followable by, all.’<sup>647</sup>

Thus, there are two steps in this account of Kant’s reasoning. First, he constructively justifies the supreme principle of practical reason (the categorical imperative) as the necessitation to act from the representation of the pure form of the moral law, that is, as the sole universal and unconditioned ground for constructively justifying principles of action in the second stage.<sup>648</sup> The justification of the categorical imperative lies in the necessity of a universal and (for this reason) unrestricted “supreme principle” of practical reasoning. The authority of reason, as I have already mentioned, is not grounded in something that is antecedent or superior to itself. Only on such self-establishing ground can the constructive second step acquire the required unconditionality. Yet, according to O’Neill, Rawls denies the possibility of the first step of the construction, that is, a constructive justification of the conception of practical reason and of its supreme principle.<sup>649</sup> As O’Neill observes, in *Themes in Kant’s Moral Philosophy* Rawls writes:

‘First, in moral constructivism, *what* is it that is constructed? The answer is: the *content* of the doctrine. [...] A *second* question is this: Is the CI-procedure

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<sup>647</sup> Ibid. 357-358.

<sup>648</sup> The categorical imperative imposes on the will of a rational being the absolute and objective necessity to act in accordance to the representation of the moral law: ‘[o]nly a rational being has the capacity to act *in accordance with the representation* of laws, that is, in accordance with principles, or as a will. Since *reason* is required for the derivation of actions from laws, the will is nothing other than practical reason. If reason infallibly determines the will, the actions of such a being that are cognized as objectively necessary are also subjectively necessary, that is, the will is a capacity to choose *only that* which reason independently of inclinations cognizes as practically necessary, that is as good. However [...] if the will is exposed also to subjective conditions (certain incentives) that are not always in accord with the objective ones [...], in a word, if the will is not *in itself* completely in conformity with reason (as is actually the case with human beings), then actions that are cognized as objectively necessary are subjectively contingent, and the determination of such a will in conformity with objective laws is a *necessitation* [...] The representation of an objective principle, insofar as it is necessitating for a will, is called a command (of reason) and the formula of the command is called an imperative.’ Immanuel Kant, “Groundwork on the Metaphysics of Morals,” 66. Imperatives are hypothetical if they represent the necessity (that is, they command) to act in a certain way ‘as a means to achieving something else.’ On the contrary, the categorical imperative commands an action as necessary in itself, ‘without reference to another end.’ It is a command that expresses ‘an *unconditional* and objective and hence universally valid *necessity*’ and that ‘must be obeyed, that is, must be followed even against inclination.’ Ibid. 69. Kant also maintains that ‘the categorical imperative alone has the tenor of a practical law; all others can indeed be called *principles* of the will but not laws, since what it is necessary to do merely for achieving a discretionary purpose can be regarded as in itself contingent and we can always be released from the precept if we give up the purpose; on the contrary, the unconditional command leaves the will no discretion with respect to the opposite, so that it alone brings with it that necessity which we require from the law.’ Ibid. 72.

<sup>649</sup> Onora O’Neill, “Constructivism in Rawls and Kant,” 356.

[that is, the categorical imperative-procedure] itself constructed? No, it is not. Rather, it is simply *laid out*. [...] The idea here is that not everything can be constructed and every construction has a basis, certain materials, as it were, from which it begins. While the CI-procedure is not [...] constructed but laid out, it does have a *basis*; and this basis is the conception of free and equal persons as reasonable and rational, a conception that is *mirrored* in the procedure.’<sup>650</sup>

Rawls adds that Kant does not establish further justificatory grounds for his conception of the moral law, since he adopts a coherentist account of the authentication practical reason.<sup>651</sup> In other words, the primacy of pure practical reason does not need to be justified in its turn, since it simply completes the ‘constitution of reason as one unified body of principles: this makes reason self-authenticating as a whole.’<sup>652</sup> This coherence is acknowledged as a ‘fact of reason.’<sup>653</sup> According to Rawls, Kant’s categorical imperative –as supreme principle of pure practical reason– needs no justification, since it is recognised as a fact of reason. This recognition is necessitated by pure practical reason itself, since it shows the practical reality of the ‘faculty of freedom.’<sup>654</sup> In fact, Rawls says that ‘Kant [...] accepts the view that pure practical reason, with the moral law as its first principle, is authenticated by the fact of reason and in

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<sup>650</sup> John Rawls, “Themes in Kant’s Moral Philosophy,” 513-514.

<sup>651</sup> Ibid. 523.

<sup>652</sup> Ibid.

<sup>653</sup> Ibid.

<sup>654</sup> ‘[M]oral law is the only way for us to construct a unified public order of conduct without falling into heteronomy. [...] Acting from pure practical reason involves first, bringing about an object the conception of which is framed in the light of the ideas and principles of pure practical reason, and second, our being moved (in the appropriate way) by pure practical interest in realizing that conception. Since it is in virtue of our reason that we can be fully free, only those actions meeting these two conditions are *fully free*.’ Ibid. 521. See Kant’s “Critique of Practical Reason,” in *The Cambridge Edition of the Works of Immanuel Kant: Practical Philosophy*, 177-178: ‘Moreover the moral law is given, as it were, as a fact of pure reason of which we are a priori conscious and which is apodictically certain, though it be granted that no example of exact observance of it can be found in experience. Hence, the objective reality of the moral law cannot be proved by any deduction, by any efforts of theoretical reason, speculative or empirically supported [...]; and it is nevertheless firmly established of itself. But something different and quite paradoxical takes the place of this vainly sought deduction of the moral principle, namely that *the moral principle, conversely itself serves as the principle of the deduction of an inscrutable faculty which no experience could prove but which speculative reason has to assume as at least possible* (in order to find among its cosmological ideas what is unconditioned in its causality, so as not to contradict itself), *namely the faculty of freedom, of which the moral law, which itself has no need of justifying grounds, proves not only the possibility but the reality in beings who cognize this law as binding upon them.*’ Emphases added.

turn by that fact's authenticating, in those who acknowledge the moral law as binding, the objective reality of freedom, although always [...] only from a practical point of view.'<sup>655</sup>

As mentioned, since 'not everything can be constructed and any construction has a basis,' for Rawls the conception of reasonableness cannot itself be constructed, but must be 'laid down' starting from 'shared fundamental ideas implicit in public political culture.' Therefore, as I said before, the reasonable emerges as an eminently *political* category. In O'Neill's understanding, this means that Rawls's constructivism is more limited and less radical than Kant's constructivism. Since it is "anchored" in public political culture and depends for its stability on the overlapping consensus of citizens, it involves restrictions that would be unacceptable to Kant's view of unrestricted reason.<sup>656</sup> As I concisely mentioned in the first chapter and I will explain in greater detail in 5.2.c, O'Neill criticises Rawls's conception of public reason by saying that while Kant's practical reasoning 'does not assume that those who reason must share a political identity,' in Rawls's 'more Rousseauian conception [...] public reason is identified with citizens' reason.'<sup>657</sup> She concludes that in 'Kant's eyes, a Rawlsian conception of public reason would not be fully public, nor therefore fully reasoned.'<sup>658</sup> From a Kantian perspective, O'Neill argues that:

"“Outsiders” would legitimately view any claim that principles of reason are to be identified with the specific beliefs or norms of groups from which they are excluded as fetishising some arbitrary claim [...]. Ways of organising thinking and acting that appeal to such spurious “authorities” –whether edicts of Church or State [...] or the public culture of a particular democratic society– are not ways of reasoning: they are simply arbitrary for foreigners, dissidents, the excluded and other outsiders.'<sup>659</sup>

Thus, as we saw at the beginning of the section, for the Kantian cosmopolitan view, in the constructive procedure the proper public of reason is the world at large. On the other hand,

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<sup>655</sup> John Rawls, "Themes in Kant's Moral Philosophy," 523.

<sup>656</sup> Onora O'Neill, "Constructivism in Rawls and Kant," 359.

<sup>657</sup> Onora O'Neill, "Political Liberalism and Public Reason," 423.

<sup>658</sup> Ibid. 424.

<sup>659</sup> Onora O'Neill, "Constructivism in Rawls and Kant," 359.

due to the role he gives to public political culture and to the cooperative political relationship between fellow citizens in his procedure of political construction, Rawls ‘views bounded societies as in part constitutive of reason, [and] must treat international justice as an appendix to domestic justice.’<sup>660</sup> Moreover, as mentioned, while Rawls’s political constructivism is limited to matters of political justice, Kant’s constructivism, ‘which [does not presuppose] shared citizenship, can aim at a fuller range of ethical justification.’<sup>661</sup> Now, here it is not necessary to say which of these two readings of Kant’s constructivism is more plausible. Whether Kant proposes a coherentist or a radical version of constructivism is not a question of crucial importance here. What matters is that there are indeed two main differences between a Rawlsian and a Kantian constructivist approach: the first refers to the subject (respectively, only matters of political justice or broader moral issues) and the second to the public (respectively, only fellow citizens or all rational beings). Such differences derive from Rawls characterisation of the reasonable in *political* terms. This is done through the role he ascribes to public political culture in developing the political conception and to the overlapping consensus in securing its stability. In contrast with Kant, Rawls does not presupposes a mere ‘plurality of uncoordinated agents’<sup>662</sup> who share only the fact that they are all endowed with reason, but a political society in which effective social cooperation and a shared political culture do have a role. In particular, they characterise reasonableness as a specifically political notion. Thus, for Rawls reason in its public practical use is not unrestricted in the Kantian sense. Instead, it is oriented by the political domain in which it is exercised. Political liberalism does not deal with Kant’s pure practical reason, but with a notion of practical reason confined to and restricted by the domain of the political in which it is deployed. In other words, political liberalism deals with a “*political* conception of practical reason,” which shapes the idea of public reason. In this way, we can explain why Rawls repeatedly says that he does not endorse Kant’s view:

‘Justice as fairness aims to uncovering a public basis of justification on questions of political justice given the fact of reasonable pluralism. Since justification is addressed to others, it proceeds from what is, or can be, held in common; and so we begin from shared fundamental ideas implicit in the public political culture in

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<sup>660</sup> Ibid. 360.

<sup>661</sup> Ibid. 361.

<sup>662</sup> Ibid. 358.

the hope of developing from them a political conception that can gain free and reasoned agreement in judgement, this agreement being stable in virtue of its gaining the support of an overlapping consensus of reasonable comprehensive doctrines. These conditions suffice for a reasonable political conception of justice.’<sup>663</sup>

This also entails a different conception of autonomy. As I have explained, Kant’s autonomy is an ethical and political ideal necessitated by reason for its own self-criticism and development (what Rawls calls ‘constitutive autonomy’).<sup>664</sup> In Rawls’s view, on the other hand, the distinction between the rational and the reasonable in the process of political construction ensures that they can reunite (while remaining distinct) in shaping the political –and not ethical<sup>665</sup>– ideal of ‘full autonomy,’ in which the politically reasonable is embedded into the rational subject, and not imposed on the subject from outside, like in the case of ‘rational autonomy’ in the original position.<sup>666</sup>

In this section, I only aimed to present the main elements of Kant’s conception of public uses of reason in the broader context of his works. The next section will clarify some of the remarks about Rawls’s view of public reason that here I have only sketched out.

### 3.2 Rawls’s Public Reason.

Rawls has developed his conception of public reason gradually. In fact, even though this idea was explicitly stated only in his later works, Charles Larmore claims that ‘the concept itself has always been at the heart of [Rawls’s] philosophy.’<sup>667</sup> Larmore retraces the unifying element of such a concept in ‘the spirit of reciprocity’ underlying Rawls’s conception of jus-

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<sup>663</sup> John Rawls, *Political Liberalism*, 100-101.

<sup>664</sup> *Ibid.* 99.

<sup>665</sup> *Ibid.* 77.

<sup>666</sup> *Ibid.* 72-76, 77-81, 305-306. I report Rawls’s definitions of ‘full autonomy’ and ‘rational autonomy’ below.

<sup>667</sup> Charles Larmore, “Public Reason,” 368.

tice as fairness: ‘the conception of justice by which we live is a conception [...] we endorse, not for the different reasons we may each discover, and not simply for reasons we happen to share, but instead for reasons that count for us because we can affirm them together.’<sup>668</sup> As he points out, the idea of fairness itself ‘denotes that mutual acknowledgment of principles which public reason demands and which forms the real import of the language of social contract [Rawls] has used to articulate his conception of justice.’<sup>669</sup> In *A Theory of Justice*, the concept of public reason is embedded in the idea of publicity. Thus, in order to reconstruct Rawls’s conception of public reason, I shall firstly consider how the idea of publicity is developed.

### 3.2.A The Idea of Publicity.

(1) The idea of publicity is a recurring element in Rawls’s writings. According to Larmore, in *A Theory of Justice* such an idea is tightly related to the idea of social contract. More precisely, he argues that a better understanding of the idea of contract may ‘highlight the public dimension of justice.’<sup>670</sup> As he explains, the idea of contract expresses the idea of publicity:

‘[C]onceiving of the principles of justice as the object of a rational agreement comes to more than saying that each individual concerned has a reason to accept them. The language of contract also points to the good in each individual’s finding that reason in the reason that others have to accept them as well. This good lies at the core of the ideal which Rawls calls “*publicity*,” and a virtue of the idea of contract [...] is that it gives expression to this ideal. [Emphasis added] [...] Just as the validity of a contract does not turn solely on the terms agreed to, but also on the fact of agreement, so justice consists in more than the proper distributions of rights and assets. [...] More is necessary [...] than just a *scheme of distributive justice*, even one that each of us has a reason to endorse. Equally important is the

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<sup>668</sup> Ibid.

<sup>669</sup> Ibid.

<sup>670</sup> Ibid. 371.

*publicity* of its defining principles –that our reason for accepting them turns on others having reason to accept them too.’<sup>671</sup>

As Larmore points out, in *A Theory of Justice* the concept of publicity plays two essential and intertwined roles.<sup>672</sup> First, it is a defining feature of a well-ordered society, in which ‘(1) everyone accepts and knows that the others accept the same principles of justice, and (2) the basic social institutions generally satisfy and are generally known to satisfy these principles.’<sup>673</sup> Second, it is an important element for the argument concerning stability.<sup>674</sup> For Larmore, the link between publicity and stability makes clear two possible meanings of the former. The simpler meaning of publicity is that everyone knows that principles of justice are in force and that they shape society’s institutions in a certain way. However, publicity in its ‘inner meaning’ implies that ‘the knowledge that others too affirm these principles fosters eve-

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<sup>671</sup> Ibid. 370.

<sup>672</sup> Ibid. 371.

<sup>673</sup> John Rawls, *A Theory of Justice*, 4-5/4.

<sup>674</sup> In this research, I am concerned only with the account of stability developed in *Political Liberalism* (see below). With reference to the question of stability in *A Theory*, here it will be enough to say that, according to Rawls, ‘[w]hen the basic structure of society is publicly known to satisfy its principles for an extended period of time, those subject to these arrangements tend to develop a desire to act in accordance with these principles and to do their part in institutions which exemplify them. A conception of justice is stable when the public recognition of its realization by the social system tends to bring about the corresponding sense of justice.’ *A Theory of Justice*, 177/154. Moreover, he says that ‘[s]ince a well-ordered society endures over time, its conception of justice is presumably stable: that is, when institutions are just (as defined by this conception), those taking part in these arrangements acquire the corresponding sense of justice and desire to do their part in maintaining them. One conception of justice is more stable than another if the sense of justice it tends to generate is stronger and more likely to override disruptive inclinations and if the institutions it allows foster weaker impulses and temptations to act unjustly.’ Ibid. 454/398. Thus, Rawls talks about ‘relative stability’ (496/434ff): ‘a decision in the original position depends on a comparison: other things equal, the preferred conception is the most stable one’ Ibid. 498/436. In fact, according to Rawls, ‘stability is a desirable feature of moral conceptions. Other things equal, the persons in the original position will adopt the more stable scheme of principles.’ Ibid. 455/398. In *A Theory*, Rawls aims at ‘inherent stability’: ‘a society regulated by a public sense of justice is inherently stable: other things equal, the forces making for stability increase (up to some limit) as time passes.’ Ibid. 498/436. See also 144/125. Thus, he adds that ‘[t]he stability of a conception depends upon a balance of motives: the sense of justice that it cultivates and the aims that it encourages must normally win out against propensities toward injustice. To estimate the stability of a conception [...], one must examine the relative strength of these opposing tendencies.’ Ibid. 454-455/398. Here I do not analyse the argument for stability in *A Theory* (which is constituted of three parts: 1- the importance of publicity, chapter three, section 29, 2- the development of a sense of justice, chapter eight, and 3- the ‘congruence’ argument, chapter nine): for its reconstruction, see Sebastiano Maffettone, *Rawls: An Introduction*, mainly 49-51, 253-259. See also Brian Barry, “John Rawls and the Search for Stability,” *Ethics* **105**, no. 4 (1995), especially 880-890. For a restatement of the mutual assurance problem and of the congruence argument in *A Theory* and how these elements have evolved in the transition to *Political Liberalism*, see Paul Weithman’s book *Why Political Liberalism?* and his article “Inclusivism, Stability, and Assurance.” See also Larry Krasnoff, “Consensus, Stability, and Normativity in Rawls’s Political Liberalism,” *The Journal of Philosophy* **95**, no. 6 (1998), especially 280-290, Kevin Vallier *Liberal Politics and Public Faith: Beyond Separation*, 15, and Gerald F. Gaus, “The Turn to a Political Liberalism,” in *A Companion To Rawls*, eds. Jon Mandle and David A. Reidy, (Malden, Mass.: Wiley Blackwell, 2014), 235-250.

ryone's conviction that they are valid and worthy of support.'<sup>675</sup> This conviction is implied in Rawls's linking publicity and stability: a 'conception of justice is stable when the public recognition of its realization by the social system tends to bring about the corresponding sense of justice.'<sup>676</sup> This is a self-reinforcing process. In other words, the fact that in a well-ordered society the conception of justice is publicly affirmed reinforces everyone's sense of justice, which strengthens stability. This, in turn, strengthens everyone's sense of justice. For this reason, in *A Theory* Rawls emphasises the 'inherent stability' of a well-ordered society.<sup>677</sup> According to Larmore, this inner meaning of publicity is related to the fact the each person finds a reason to endorse the conception of justice *in the fact that* others embrace it as well. That is, the public affirmation of the principles of justice embodies some specific social good that represents for each member of the public a particular kind of reason to endorse them.<sup>678</sup> Now Rawls says that 'the public recognition of the two principles of justice gives greater support to men's self-respect and this in turn increases the effectiveness of social cooperation,' and that 'a desirable feature of a conception of justice is that it should *publicly express* men's *respect for one another*.'<sup>679</sup> According to Larmore, this means that 'the self-respect each person finds confirmed in [the principles of justice] has to be part of a mutual respect which their common affirmation displays.'<sup>680</sup> In short, Rawls's claim is that self-respect is 'perhaps the most important primary good,' which includes (1) 'a person's sense of his own value, his secure conviction that his conception of his good, his plan of life, is worth carrying out' and (2) 'a confidence in one's ability, so far as it is within one's power, to fulfill one's intentions.'<sup>681</sup> Moreover, there is a 'duty of mutual respect,' which is due to each person 'as a moral being, that is, as a being with a sense of justice and a conception of the good.'<sup>682</sup> In fact, the basis of equali-

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<sup>675</sup> Charles Larmore, "Public Reason," 372.

<sup>676</sup> John Rawls, *A Theory of Justice*, 177/154.

<sup>677</sup> *Supra*.

<sup>678</sup> Charles Larmore, "Public Reason," 373.

<sup>679</sup> John Rawls, *A Theory of Justice*, 178/155 and 179/156. Emphases added.

<sup>680</sup> Charles Larmore, "Public Reason," 373.

<sup>681</sup> John Rawls, *A Theory of Justice*, 440/386.

<sup>682</sup> *Ibid.* 337/297.



ty (that is, ‘the features of human beings in virtue of which they are to be treated in accordance with the principles of justice’)<sup>683</sup> is constituted by the capacity for moral personality: the capacity for having a conception of one’s own good (expressed ‘by a rational plan of life’) and the capacity for having a sense of justice, that is ‘a normally effective desire to apply and to act upon the principles of justice.’<sup>684</sup> Moral personality merely requires ‘a capacity and not the realization of it. A being that has this capacity, whether or not is yet developed, is to receive the full protection of the principles of justice. [... For t]hose who can give justice are owed justice.’<sup>685</sup> Thus, the basis of equality rests on the moral personality of human beings (in this sense, they have an ‘equal dignity’).<sup>686</sup> However, equality does not rest on a philosophical or religious assessment of the equal intrinsic worth or value of human beings.<sup>687</sup> This is because justice as fairness is not a perfectionist view.<sup>688</sup> Justice as fairness expresses the idea of respect for the moral personality of persons in this way:

‘Among other things, respect for persons is shown *by treating them in ways that they can see to be justified*. But more than this, *it is manifest in the content of the principles* to which we appeal. Thus, to respect persons is to recognize that they possess an inviolability founded on justice that even the welfare of society as

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<sup>683</sup> Ibid. 504/441.

<sup>684</sup> Ibid. 505/442.

<sup>685</sup> Ibid. 509-510/445-446.

<sup>686</sup> Ibid. 329/289.

<sup>687</sup> See *ibid.* 329/289, 510/446, and 585-586/513.

<sup>688</sup> ‘The parties do not share a conception of the good by reference to which the fruition of their powers or even the satisfaction of their desires can be evaluated. They do not have an agreed criterion of perfection that can be used as a principle for choosing between institutions. To acknowledge any such standard would be, in effect, to accept a principle that might lead to a lesser religious or other liberty [...] Thus it seems that the only understanding that the persons in the original position can reach is that everyone should have the greatest equal liberty consistent with a similar liberty for others. They cannot risk their freedom by authorizing a standard of value to define what is to be maximized by a teleological principle of justice. [...] The human perfections are to be pursued within the limits of the principle of free association. Persons join together to further their cultural and artistic interests in the same way that they form religious communities. They do not use the coercive apparatus of the state to win for themselves a greater liberty or larger distributive shares on the grounds that their activities are of more intrinsic value. Perfectionism is denied as a political principle.’ *Ibid.* 327-329/288-289.

a whole cannot override. It is to affirm that the loss of freedom for some is not made right by a greater welfare enjoyed by others.’<sup>689</sup>

The relation between respect and justification helps us to understand how the former connects publicity and stability. In Larmore’s words, ‘respect is the good in question’ in the public affirmation of the principles of justice.<sup>690</sup> Connecting the previous remarks about self-respect and mutual respect, it seems that the public affirmation of principles of justice enhances social stability because it (1) demonstrates the *mutual respect* of those adopting ‘certain principles of justice for reasons they understand one another to acknowledge,’ thus jointly endorsing them from a shared point of view, and consequently (2) it improves *self-respect* because the ‘mutual respect demonstrated by their allegiance to this common basis is then a good which they can regard themselves as having achieved.’<sup>691</sup> Thus, it seems that in this account of publicity mutual respect and self-respect are self-reinforcing and jointly affirmed.<sup>692</sup>

(2) The claim that ‘the ideal of publicity grows in his doctrine of “public reason”’<sup>693</sup> in Rawls’s later works seems to be supported by his statement of the ‘full publicity condition’ in “Kantian Constructivism in Moral Theory” (1980). Such a condition is satisfied in a well-ordered society, in which *all* the following three levels of publicity are present:<sup>694</sup>

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<sup>689</sup> Ibid. 586/513, emphasis added. However, while Rawls’s theory of justice expresses the idea of respect, it ‘cannot start out from’ this idea or from the notion of inherent worth or dignity. He says: ‘I believe [...] that while the principles of justice will be effective only if men have a sense of justice and do therefore respect one another, the notion of respect or of the inherent worth of persons is not a suitable basis for arriving at these principles. It is precisely these ideas that call for interpretation’ (ibid.). Thus, *A Theory of Justice* tries to specify an idea of mutual respect, but it does not start from it, thus it refrains from inserting it explicitly among the conditions of the original position. On this point, Larmore (“Public Reason,” 374) argues that, even if Rawls ‘declares that he has not derived the principles of justice from the respect for persons because the very notion of respect calls for interpretation, which only a conception of justice can provide,’ such a claim ‘does not rule out the possibility that respect, in a specific sense we grasp perhaps only in the light of his theory as a whole, is a value on which that theory rests.’ This shows the centrality of the notion of respect in Larmore’s understanding of the work of John Rawls.

<sup>690</sup> Charles Larmore, “Public Reason,” 373.

<sup>691</sup> Ibid.

<sup>692</sup> Rawls apparently confirms this point: ‘those who respect themselves are more likely to respect each other and conversely. Self-contempt leads to contempt of others and threatens their good as much as envy does. *Self-respect is reciprocally self-supporting.*’ John Rawls, *A Theory of Justice*, 179/156. Emphasis added.

<sup>693</sup> Charles Larmore, “Public Reason,” 375.

<sup>694</sup> John Rawls “Kantian Constructivism in Moral Theory,” 324-325. See also *Political Liberalism*, 66-71.

- 1- ‘Everyone accepts and knows that the others likewise accept the same principles [of justice],’ and this knowledge in turn is publicly recognized;’
- 2- Citizens agree on the ‘general beliefs in the light of which first principles of justice themselves can be accepted,’ that is, general beliefs about human nature and the way in which institutions work (citizens’ agreement on such beliefs is due to the fact that the latter are ‘supported [...] by publicly shared methods of inquiry and methods of reasoning [...] familiar to common sense and [including] the procedures and conclusions of science, when these are well established and not controversial’).
- 3- The justification of the conception of justice is ‘publicly available,’ that is, everyone can find that justification ‘present in public culture, reflected in law and political institutions, and in the philosophical and historical traditions of their interpretation.’ That is, what is publicly available here is the way in which the justification of the conception of justice connects the latter with the conception of the person and society that characterise public political culture.

Now, according to Rawls a conception of justice should satisfy the full publicity condition for two reasons. Firstly, since such a condition sets ‘more specific constraints on conceptions of justice [... it] is more likely to provide a sharper basis for deciding among conflicting understandings of freedom and equality and for determining how their claims are to be balanced against one another.’<sup>695</sup> In other words, the full publicity condition clarifies and limits the range of possible interpretations of the relation between freedom and equality. This makes it more likely that in a well-ordered society all free and equal persons affirm the public conception of justice from a common (public) perspective. Secondly, Rawls connects the full publicity condition to the question of political legitimacy: ‘if institutions rely on coercive sanctions [...] and influence people’s deepest aspirations, the grounds and tendencies of these institutions should stand up to public scrutiny.’<sup>696</sup> Thus, social arrangements and institutions resting on a conception of justice that meets the full publicity condition are more likely to be

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<sup>695</sup> John Rawls “Kantian Constructivism in Moral Theory,” 325.

<sup>696</sup> Ibid. 326. He adds that publicity ‘ensures [...] that free and equal persons are in a position *to know and to accept the background social influences that shape their conception of themselves as persons, as well as their character and conception of their good*. Being in this position is a *precondition for freedom*; it means that nothing is or need be hidden.’ Ibid. Emphases added.

publicly supported because they are justifiable from a public perspective. Moreover, Rawls limits the scope of the full publicity condition to the essential terms of social cooperation. ‘Moral principles outside the domain of justice need not [...] be public in this strong sense,’<sup>697</sup> because for many moral, philosophical (and, obviously, religious) questions no public agreement can be expected. Thus, in a well-ordered society, while with reference to fundamental political questions ‘considerations of justice are to have a special role [and o]ther reasons are taken not to be appropriate,’ the latter may have their own ‘governing role within the life of associations.’<sup>698</sup> Thus, while full publicity is the only appropriate condition for fundamental questions of justice (which are to be decided from an agreed common point of view), it does not apply to what Rawls will call the background culture. This limitation of the scope of the full publicity condition ‘is a first statement of the theory of public reason formulated in response to the doctrinal diversity which will be the chief preoccupation of his emerging political liberalism.’<sup>699</sup>

(3) A further development toward the idea of public reason can be found in “The Idea of an Overlapping Consensus” (1987). In this essay, Rawls openly deals with an important question, namely, whether the public perspective needed for settling questions of justice can somehow cohere with citizens’ comprehensive doctrines of the good. In fact

‘Only if the consensus shaping their public reasoning about justice also forms an overlapping consensus, a common element in their otherwise different points of view, is the structure of their political life likely to endure. The notion of an overlapping consensus serves therefore to connect a conception of justice already arrived at, and already marked by a more fundamental kind of consensus, to the question of its stability.’<sup>700</sup>

Now the overlapping consensus links the idea of a public perspective with the idea of stability in a *political* way. This way of framing the problem was already clearly stated in “Justice as Fairness: Political not Metaphysical” (1985), in which Rawls wrote that:

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<sup>697</sup> Charles Larmore, “Public Reason,” 376.

<sup>698</sup> John Rawls “Kantian Constructivism in Moral Theory,” 326.

<sup>699</sup> Charles Larmore, “Public Reason,” 376.

<sup>700</sup> Ibid. 377. See chapter two for the difference between political, full, and public justification.

‘[J]ustification is not regarded simply as valid argument from listed premises, even should these premises be true. Rather, justification is addressed to others who disagree with us, and therefore it must always proceed from some consensus, that is, from premises that we and others publicly recognize as true; or better, publicly recognize as acceptable to us for the purpose of establishing a working agreement on the fundamental questions of political justice. [...] The aim of justice as fairness as a political conception is *practical*, and not *metaphysical* or *epistemological*. That is, it presents itself *not* as a conception of justice that is *true*, but one that can serve as a basis of informed and willing *political* agreement between citizens viewed as free and equal persons. [...] To secure this agreement we try [...] to avoid disputed moral and religious questions. We do this not because these questions are unimportant or regarded with indifference, but because we think them too important and recognize that there is no way to resolve them politically. [...] The aim is free agreement, *reconciliation through public reason*.’<sup>701</sup>

This account and its further development in *Political Liberalism* and “Reply to Habermas” (see 2.1) seem to specify a conception of public justification that Fred D’Agostino has qualified as ‘strongly public.’<sup>702</sup> In his view, the Rawlsian account of public justification is not only ‘*addressed* to everyone,’ but also ‘addressed to each *in the presence of* all the others.’<sup>703</sup> Accordingly, the justification of *X* is strongly public if and only if one has overwhelming reason(s) for endorsing *X* which can survive the discovery that others may have different reason(s) for endorsing it. In Rawls’s view, as I mentioned in section 2.1, ‘citizens do not look into others’ doctrines [...] but] take into account and give some weight to only the fact –the

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<sup>701</sup> John Rawls, “Justice as Fairness: Political not Metaphysical,” 394-395. Emphases added.

<sup>702</sup> Fred D’Agostino, “Some Modes of Public Justification,” 403. ‘[A] justification of a proposal *Π* is a *strongly public* justification of *Π* if and only if each of the parties to the justificatory exercise is provided with a reason to accept the proposal which survives her/his discovery of the reason(s) which the other(s) have been provided with, whereas a justification of a proposal *Π* is a *weakly public* justification of *Π* if one or more of the parties to the justificatory exercise is provided with a reason to accept the proposal which does not (or would not) survive the discovery of the reason(s) which the other(s) have been provided with. So if *A* is given a reason *R<sub>A</sub>* for accepting *Π* and *B* is given a reason *R<sub>B</sub>* for accepting *Π*, then *Π* is strongly publicly justified for *A* and *B* only if *A* continues to accept *Π*, for the reason *R<sub>A</sub>*, once she/he learns that *B* accepts it on the basis of *R<sub>B</sub>*, while *B* continues to accept *Π*, on the basis of *R<sub>B</sub>*, once she/he learns that *A* accepts this proposal for the reason *R<sub>A</sub>*. Where either or both reject *Π* once they learn of the grounds on which it is accepted by the other, then the justification is not strongly public.’

<sup>703</sup> Ibid. Italics in the original.

existence— of the reasonable overlapping consensus itself.’<sup>704</sup> The important idea of a public justification via an overlapping consensus is that citizens *publicly* recognise (together) that *whatever non-public* reasons each of them (singularly) may have to support the conception of justice *X*, they (together) affirm *X* as their common *political* ground for cooperating in society on fair terms. The fact that each of them (singularly) can find non-public grounds that somehow embed, express, or absorb that political conception of justice and the fact that these grounds overlap on such a conception are what secure the stability of its public affirmation. Thus, taking Rawls’s example,

‘In endorsing a constitutional democratic regime, a religious doctrine may say that such are the limits God sets to our liberty; a nonreligious doctrine will express itself otherwise. But in either case, these doctrines formulate in different ways how liberty of conscience and the principle of toleration can cohere with equal justice for all citizens in a reasonable democratic society. Thus, [these principles] must have an essential place in any constitutional democratic conception. They lay down the fundamental basis to be accepted by all citizens as fair and regulative of the rivalry between doctrines.’<sup>705</sup>

In Rawlsian terms, in public justification we jointly recognise that we are able to endorse in an overlapping consensus the freestanding political conception. We are then brought back to the questions of respect and stability. First, in public justification ‘reasonable citizens take one another into account as having reasonable comprehensive doctrines that endorse that political conception, and this mutual accounting shapes the moral quality of the public culture of political society.’<sup>706</sup> Accordingly, D’Agostino maintains that only this kind of public justification can properly express the respect for free and equal persons participating in the justificatory exercise.<sup>707</sup> Secondly, the satisfaction of the full publicity condition is a necessary premise for the achievement of the *political* (not ethical) ideal of ‘full autonomy’ of citizens of a well-

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<sup>704</sup> John Rawls, “Reply to Habermas,” 387.

<sup>705</sup> John Rawls, “The Idea of public Reason Revisited,” 460-461.

<sup>706</sup> John Rawls, “Reply to Habermas,” 387.

<sup>707</sup> Fred D’Agostino, “Some Modes of Public Justification,” 403.

ordered society.<sup>708</sup> In fact, ‘[o]nly if the full explanation and justification of justice as fairness is publicly available can citizens come to understand its principles in accordance with the idea of society as a fair system of cooperation.’<sup>709</sup> This requires that the basic ideas from which those principles are drawn must be present in the public political culture of society (as requested by the third level of publicity, and, consequently, by the full publicity condition itself, *supra*). In conclusion, it is hardly surprising that in this later stage of Rawls’s work publicity is presented once more as a characteristic feature of a well-ordered society.<sup>710</sup> In this way, on the one hand, Rawls squares the circle opened with *A Theory of Justice*: publicity appears where it did at the beginning.<sup>711</sup> On the other hand, its connection with the political interpretation of such notions as the overlapping consensus, justification, stability, and autonomy characteristic of *Political Liberalism* has been accomplished by now. Thus, the public dimension of Rawls’s justificatory exercise may now be properly presented in terms of *public reason*.

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<sup>708</sup> John Rawls, *Political Liberalism*, 77 (emphases added): ‘citizens’ *rational* autonomy is modelled in the original position by the way the parties deliberate as their representative. By contrast, citizens’ *full autonomy* is modelled by the structural aspects of the original position, that is, by how the parties are situated with respect to one another and by the limits on information to which their deliberations are subject [...] It is not parties but citizens of a well-ordered society who are fully autonomous. This means that in their conduct citizens not only comply with the principles of justice, but they also act from these principles as just. [...] *It is in their public recognition and informed application of the principles of justice in their political life, and as their effective sense of justice directs, that citizens achieve full autonomy*. Thus, full autonomy is realized by citizens when they act from principles of justice that specify the fair terms of social cooperation *they would give to themselves when fairly represented as free and equal persons*.’ In this sense, as I have said, full autonomy is a ‘*political* and not an ethical value.’ See also 305-306 (emphases added): ‘[w]hen the principles of justice which are adopted by the parties are affirmed and acted upon by equal citizens in society, citizens then act with full autonomy. The difference between full and rational autonomy is this: *rational autonomy is acting solely from our capacity to be rational and from the determinate conception of the good we have at any given time. Full autonomy includes not only this capacity to be rational but also the capacity to advance our conception of the good in ways consistent with honouring the fair terms of social cooperation; that is the principles of justice*.’ Thus, the parties in the original position are only rationally autonomous, since they do not possess on their own the capacity to advance their conceptions of the good in ways consistent with honouring the fair terms of social cooperation, but this capacity is “emulated” by imposing reasonable constraints upon them from outside. On the contrary, ‘it is equal citizens in a well-ordered society who are fully autonomous because *they freely accept the constraint of the reasonable, and in so doing their political life reflects that conception of the person which takes as fundamental their capacity for social cooperation*.’

<sup>709</sup> Ibid. 78.

<sup>710</sup> Ibid. 35 (emphases added): a well-ordered society (1) is a society ‘in which *everyone accepts, and knows that everyone else accepts*, the very same principles of justice’; (2) ‘its basic structure [...] is *publicly known* [...] to satisfy these principles’; and (3) ‘its citizens have a normally effective sense of justice and so they generally comply with society’s basic institutions, which they regard as just’ (thus *realising their full autonomy, for which publicity is a prerequisite, supra*). Therefore, ‘[i]n such a *society the publicly recognized conception of justice establishes a shared point of view from which citizens’ claims on society can be adjudicated*.’

<sup>711</sup> John Rawls, *A Theory of Justice*, 4-5/4. *Supra*.

### 3.2.B The Idea of Public Reason.

In the previous part of the chapter, I have tried to show how the grounds of the idea of public reason have gradually emerged in Rawls's work, starting from a number of roots already present in his Kantian background, developed in his conception of justice, and fully elaborated in their specific shape only in his later writings. However, the presentation of such an idea in Lecture VI of *Political Liberalism* represents a distinctive feature of the latter. As has been noted, the "The Idea of Public Reason" is 'the only topic of this book never treated in previous writings,'<sup>712</sup> even though –as I have already underlined– the idea of 'reconciliation through public reason' is mentioned in "Justice as Fairness: Political not Metaphysical" (1985)<sup>713</sup> and, above all, the notion of 'free public reason' is sketched out in "The Idea of an Overlapping Consensus" (1987).<sup>714</sup> An early statement of this idea can be found in "The Domain of the Political and Overlapping Consensus" (1989):

'[G]reat values fall under the idea of free public reason, and are expressed in the guidelines for public inquiry and in the steps taken to secure that such inquiry is free and public, as well as informed and reasonable. These values include not only the appropriate use of the fundamental concepts of judgement, inference and evidence, but also the virtues of reasonableness and fair-mindedness as shown in the adherence to the criteria and procedure of common-sense knowledge, and to the methods and conclusion of science when not controversial, as well as respect for the precepts governing reasonable political discussion.'<sup>715</sup>

As I have underlined, during his final years, Rawls returned several times to this idea, above all in 1996 with the new introduction to *Political Liberalism*, and in 1997 with "The Idea of Public Reason Revisited." This topic is also treated in *Justice as Fairness: A Restate-*

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<sup>712</sup> Sebastiano Maffettone, *Rawls: An Introduction*, 274.

<sup>713</sup> John Rawls, "Justice as Fairness: Political not Metaphysical," 395.

<sup>714</sup> John Rawls, "The Idea of an Overlapping Consensus," 429. Here Rawls says: 'just as a political conception of justice needs certain principles of justice for the basic structure to specify its content, it also needs certain guidelines of inquiry and publicly recognized rules of assessing evidence to govern its application. Otherwise there is no agreed way for determining whether those principles are satisfied, and for settling what they require of particular institutions, or in particular situations. Agreement on a conception of justice is worthless –not an effective agreement at all– without agreement on these further matters.'

<sup>715</sup> John Rawls, "The Domain of the Political and Overlapping Consensus," 484-485.



ment (published in 2001, section 26), and in *The Law of Peoples* (published in 1999, section 17). For the reasons that I will consider in chapter five, as I have anticipated, I will focus mainly on the wide view of public reason. Apart from arguments concerning the specific aims of this study, I consider the interpretation focusing on the wide view as the closest one to Rawls's own final position: not only does he clearly understand the wide view as a different and improved conception in comparison with the inclusive view,<sup>716</sup> but he also reaffirms that 'the Chicago article [that is, "The Idea of Public Reason Revisited"] is by far the best statement I have written on ideas of public reason and political liberalism.'<sup>717</sup> Of course, what follows must be read together with section 2.1 ("Rawls's Political Liberalism and the Problem of Justification"), in which I presented several concepts that are now relevant for an account of public reason, and with chapter four, in which some major objections are considered and my own view is finally fully stated. As far as possible, I have tried to avoid repetitions in this reconstructive task, but sometimes they will be unavoidable. In the next three sub-sections, I will analyse (a) the ideal of public reason, (b) the conditions in which the idea of public reason works, and (c) its structure. In the meantime, I will present a first set of critiques concerning these points. Since the debate raised by this notion is extremely broad, I have evidently selected some critical positions concerning points that are crucial for my evaluative purposes, as indicated in chapter two. Then, in the following sections and in the next chapter I present all the elements (isolated in the text) that will be employed in chapter five to build my model. The latter will be applied in chapter six.

As I define it (see also the introduction of the next chapter), *the idea of public reason expresses both a procedure of public justification and a moral political regulative ideal of citizenship grounded in a commitment to political reciprocity between cooperating citizens of a liberal democratic regime concerned with the political legitimacy of their fundamental political institutions and decisions*. These two dimensions of public reason are profoundly interrelated. As a justificatory-procedural idea, public reason sets the limits of public debate concerning fundamental political questions so that the political values underpinning that political ideal of citizenship are honoured. On the other hand, as a regulative ideal of citizenship public

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<sup>716</sup> See the 1996 introduction to the paperback edition of *Political Liberalism*, xlix-l.

<sup>717</sup> See the letter to his editor, included in the expanded edition of *Political Liberalism*, 438.

reason is honoured if citizens provide one another with reasons that other citizens as free and equal could reasonably accept. In the remaining part of this chapter and in the next chapter I will try to explain this definition in greater detail and to shed light on the two dimensions of public reasons.

### 3.2.B.1 The Ideal of Public Reason.

Public reason is first of all a justificatory device.<sup>718</sup> As such, it ‘does not concern a determinate object, but rather the limits of the public debate when fundamental questions are at stake within a liberal-democratic society.’<sup>719</sup> It sets the conditions in which certain fundamental political questions should be discussed and –eventually– decided so that the normative requirements expressed through the liberal principle of political legitimacy and the criterion of reciprocity are satisfied. As I have explained in 2.1, according to Rawls an appropriate public justification is required when we are faced with the two problems of ensuring political reciprocity within a system of fair social cooperation and of establishing legitimate political institutions in a democratic regime in which people are expected *both* to disagree in terms of their

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<sup>718</sup> Thomas M. Scanlon, “Rawls on Justification,” in particular 139 and 160-162.

<sup>719</sup> Sebastiano Maffettone, *Rawls: An Introduction*, 274. See John Rawls, *Political Liberalism*, lii note 28: ‘the idea of public reason is not a view about specific political institutions or policies, but a view about how they are to be argued for and justified to the citizen body that must decide the question.’

comprehensive views<sup>720</sup> and to be willing to take part in social activities as justice requires. Public reason, then, is grounded in the two related concepts of legitimacy and reciprocity.<sup>721</sup> In presenting public reason, Rawls insists on the fact that this ideal arises from the problem of ensuring legitimacy to the exercise of political power. The political relationship of citizenship, he says, 'is a relation of free and equal citizens who exercise ultimate political power as a collective body.'<sup>722</sup> So, the question is 'how, when constitutional essentials and matters of basic justice are at stake, [can citizens so related] be bound to honour the structure of their constitutional democratic regime and abide by statutes and laws enacted under it [?]'<sup>723</sup> His answer closely connects reasonableness (see again 2.1), reciprocity, and the principle of legitimacy. Reasonable persons view one another as free and equal citizens who participate in a system of social cooperation over time and are willing to offer and abide by fair terms of cooperation, provided that other citizens do the same. Let me establish an important point for what follows. The criterion of reciprocity expresses the moral political ideal of fair cooperation between free and equal, rational and reasonable citizens who recognise one another as such. It says that

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<sup>720</sup> For the features of moral disagreement and a deliberative solution, see Amy Gutmann and Dennis Thompson, "Moral Disagreement in a Democracy," *Social Philosophy and Policy* 12, no.1 (1995), especially 87-92 and 104-108. See also their "Moral Conflict and Political Consensus," *Ethics* 101, no. 1 (1990), in which they argue that what is required is 'greater moral disagreement about policy and greater moral agreement on how to disagree about policy' (64). Here, they distinguish between 'principles of preclusion,' that is, the principles that determine which issue can be put on the political agenda ('in the sense of being a legitimate subject of legislation'), and 'principles of accommodation,' that is, principles 'which govern the conduct of the moral disagreement on issues that should reach the agenda,' 64-65 (the two kinds of principles are discussed, respectively on 65-76 and 76-86). According to the authors, principles of preclusion should be less stringent and should open the political agenda to more questions, while principles of accommodation should 'go beyond the idea of toleration [...] and should] be understood as resting on the idea of mutual respect, which is a prerequisite of democratic deliberation' (65). For a taxonomy of the ways in which reasonable people can disagree, see Simon Caney, "Liberal Legitimacy, Reasonable Disagreement and Justice," *Critical Review of International Social and Political Philosophy* 1, no. 3 (1998), 24-25. For the thesis that, in conditions of deep-seated moral disagreement, liberalism should depend on a 'higher order impartiality' see Thomas Nagel, "Moral Conflict and Political Legitimacy," in particular 230: 'when we look at certain of our convictions from outside, however justified they may be from within, the appeal to their truth must be seen merely as an appeal to our beliefs, and should be treated as such unless those beliefs can be shown to be justifiable from a more impersonal standpoint. [...] This does not mean we have to stop believing them –that is, believing them to be *true*. Considered as individual beliefs they may be adequately grounded, or at least not unreasonable: the standards of individual rationality are different from the standards of epistemological ethics. It means only that from the perspective of political argument we may have to regard certain of our beliefs, whether moral or religious or even historical or scientific, simply as someone's beliefs rather than as truths – unless they can be given the kind of impersonal justification appropriate to that perspective [...] We accept an epistemological division between the private and the public domains.' See also 231-237. For a markedly contextual and historical-based approach to the issue of disagreement, Joseph Raz, "Disagreement in Politics," *American Journal of Jurisprudence* 43, no. 1 (1998), in particular 47-52.

<sup>721</sup> Sebastiano Maffettone, *Rawls: An Introduction*, 276.

<sup>722</sup> John Rawls, "The Idea of Public Reason Revisited," 445.

<sup>723</sup> Ibid.

‘when those terms are proposed as the most reasonable terms of social cooperation, those proposing them must also think it at least reasonable for others to accept them as free and equal citizens.’<sup>724</sup> According to Rawls, from this criterion we are driven to recognise a liberal principle of political legitimacy, which can be stated as follows: ‘our exercise of political power is proper only when we sincerely believe that the reasons we would offer for our political actions –were we to state them as government officials– are sufficient and we also reasonably think that other citizens might also reasonably accept those reasons.’<sup>725</sup> If citizens are to abide by this principle, they have *reciprocally* to respect a moral duty of civility: they ‘must be able to explain to one another on those fundamental questions how the principles and policies they advocate and vote for can be supported by the political values of public reason.’<sup>726</sup> In this sense, the duty of civility expresses an ideal of democratic citizenship.<sup>727</sup> As Lawrence Solum puts it, ‘[a]n ideal of public reason is a normative standard for the use of public reason.’<sup>728</sup> Then, as I will explain in the introduction of chapter four, public reason is not merely a normative standard for a civic practice of public justification (the idea of public reason as a justificatory device), but also a regulative ideal of citizenship which expresses a *political* conception of public morality (*infra*), grounded in political reciprocity. Reciprocity and legitimacy are then the two grounds around which the ideal of public reason is structured into a coherent idea.<sup>729</sup> Rawls summarises this point in this passage, which I think useful to quote almost in its entirety:

‘This ideal [of public reason] is that citizens are to conduct their public political discussions of constitutional essentials and matters of basic justice within the framework of what each sincerely regards as the most reasonable political concep-

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<sup>724</sup> Ibid. 446.

<sup>725</sup> Ibid. 446–447. As mentioned in chapter two, in *Political Liberalism* the principle of legitimacy is stated as follows: ‘our exercise of political power is proper and hence justifiable only when it is exercised in accordance with a constitution the essentials of which all citizens may reasonably be expected to endorse in the light of principles and ideals acceptable to them as reasonable and rational’ (217).

<sup>726</sup> John Rawls, *Political Liberalism*, 217.

<sup>727</sup> Ibid. 253.

<sup>728</sup> Lawrence B. Solum, “Novel Public Reasons,” *Loyola of Los Angeles Law Review* **29**, no. 4 (1996), 1463.

<sup>729</sup> For the distinction between the idea and the ideal of public reason, see John Rawls, “The Idea of Public Reason Revisited,” 444.

tion of justice, a conception that expresses political values that others as free and equal also might reasonably be expected reasonably to endorse. Thus, each of us must have principles and guidelines to which we appeal in such a way that the criterion of reciprocity is satisfied. [... The role of the latter] is to specify the nature of the political relation [...] as one of civic friendship. For this criterion, when citizens follow it in their public reasoning, shapes the form of their fundamental institutions. [...] We must give [to our fellow citizens] reasons they can not only understand –as Servetus could understand why Calvin wanted to burn him at the stake– but reasons we might reasonably expect that they as free and equal might reasonably also accept.’<sup>730</sup>

And elsewhere, he openly connects those grounds with the requirement of restraint from appealing to the whole truth:

‘Since the idea of public reason specifies at the deepest level the basic political values and specifies how the political relation is to be understood, those who believe that fundamental political questions should be decided [...] according to their own idea of the whole truth [...] will of course reject the idea of public reason. Political liberalism views this insistence on the whole truth in politics as incompatible with democratic citizenship and the idea of legitimate law.’<sup>731</sup>

Finally, Rawls states when the ideal of public reason is realised:

‘[W]e honor public reason and its principle of legitimacy when three conditions are satisfied: a) we *give very great and normally overriding weight to the ideal it prescribes*; b) we believe *public reason is suitably complete*, that is, *for at least the great majority of fundamental questions, possibly for all*, some combination and balance of political values *alone* reasonably shows the answer; and finally c) we believe that *the particular view we propose*, and the law or policy based thereon, *express a reasonable combination and balance of those values*.’<sup>732</sup>

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<sup>730</sup> John Rawls, *Political Liberalism*, xlviii-xlix.

<sup>731</sup> John Rawls, “The Idea of Public Reason Revisited,” 447.

<sup>732</sup> John Rawls, *Political Liberalism*, 241, emphases added.

Notice that I will clarify the meaning of these conditions [especially the conditions (a) and (b)] in chapter four, which is mainly devoted to this task. Moreover, Rawls adds that the ideal of public reason is fulfilled

‘[W]henever judges, legislators, chief executives, and other government officials, as well as candidates for public office, act from and follow the idea of public reason and explain to other citizens their reasons for supporting fundamental political positions in terms of the political conception of justice they regard as the most reasonable. In this way they fulfil what I shall call their duty of civility. [...] The ideal of public reason is realized by citizens who are not government officials [...] when they ideally] think of themselves *as if they were legislators* and ask themselves what statutes, supported by what reasons satisfying the criterion of reciprocity, they would think the most reasonable to enact. [...] Thus citizens fulfill their duty of civility and support the idea of public reason by doing what they can to hold government officials to it.’<sup>733</sup>

I will examine several of these points in depth later in this chapter, in particular with reference to the scope and limits of public reason. However, it is already clear that –in at least one plausible interpretation– Rawls’s public reason is quite an institutional and formal idea. After all, in *Political Liberalism* he says that ‘public reason is the reason of the Supreme Court,’<sup>734</sup> and devotes a section to explaining why the Supreme Court is an ‘exemplar of public reason.’<sup>735</sup>

However, in such a formalistic interpretation public reason may not seem very appealing or strong enough as a normative ideal. To this end, for instance, Bruce Brower has argued that Rawls’s ideal of public reason ‘grounds treating the right as prior by placing a constraint on acceptable reasons. This is the strength of public reason: it is a *formal* constraint that yields substantive moral results.’<sup>736</sup> Rawls’s ideal, he adds, ‘treats the demand for public justifica-

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<sup>733</sup> John Rawls, “The Idea of Public Reason Revisited,” 444-445.

<sup>734</sup> John Rawls, *Political Liberalism*, 231.

<sup>735</sup> Ibid. 231-240.

<sup>736</sup> Bruce W. Brower, “The Limits of Public Reason,” *The Journal of Philosophy* **91**, no. 1 (1994), 9. Emphasis added.

tion as an overriding deontological constraint.’<sup>737</sup> Here I cannot develop Brower’s arguments as they would deserve, but the crucial point is that, in his view, Rawls is unable to justify his own conception of public reason because ‘any justification he can offer is so closely related to what he wants to defend.’<sup>738</sup> In particular, Brower rejects Rawls’s notion of reasonableness as justifying ground: ‘public reason defined in terms of the reasonable is very weak; it requires of public reasons only that they be acceptable to those whose highest motivation is to act on public reasons. So defined public reason cannot justify the priority of the right since it appeals only to agents who already accept the priority of the right.’<sup>739</sup> And ‘Rawlsian arguments will be acceptable only to those who have already approved the contractarian ideal of the reasonable person.’<sup>740</sup> Thus, according to Brower, to avoid circularity it would be better to conceive such an ideal in terms of an ‘open rational dialogue’ in which ‘citizens who treat each other with equal respect will share a goal of giving public reasons, and will treat reasons presented in conversation as open to rational criticism.’<sup>741</sup> In such a dialogue, the development of public reasons is a goal that reasonable persons (rephrased as persons ‘who engage in open critical dialogue in an attempt to develop public reasons’<sup>742</sup>) pursue by making reference also to ‘their rational life plans and conceptions of the good [...] as the basis for reasons open to rational criticism.’<sup>743</sup> Such a “thin” veil of ignorance would rule out as unreasonable only ‘nonrational means of influence,’ such as persons’ ‘rhetorical skills, facts about their coercive desires and abilities’ and so on.<sup>744</sup> As one can see, Brower ends up with a very different overall conception, but here I would just point out that if we consider Rawls’s “revisited” view of public reason, its underlying ideal can be more easily interpreted in the direction of a more open dialogue. This is not to suggest that Rawls’s public reason comes closer to Brower’s rational dia-

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<sup>737</sup> Ibid. 22.

<sup>738</sup> Ibid. 16.

<sup>739</sup> Ibid. 10.

<sup>740</sup> Ibid. 15.

<sup>741</sup> Ibid. 23.

<sup>742</sup> Ibid. 24.

<sup>743</sup> Ibid.

<sup>744</sup> Ibid.

logue, but simply that the revised view of public reason is able –I think– to mitigate the concerns underlying Brower’s criticism about an excess of formal constraints established *ex ante*. As we will see, the wide view of public reason opens the discussion to different kinds of reason. Moreover, in the wide view, the emphasis on the “institutional side” of public reason seems to be more limited (or at least it is surely less evident), while greater attention is devoted to such notions as reciprocity and civic friendship.<sup>745</sup> Therefore, another possible interpretation of the ideal of public reason (an interpretation more in line with the last version of public reason) is more deliberative and pluralist. This interpretation has been stated in these terms:

‘[I]t is important to disentangle public reason from too strict a link with the role of Supreme Court. This link would, in fact, make public reason too institutional [... T]he true richness of public reason [is] its capability to open a dialogue on controversial matters among citizens of a liberal-democratic polity. [Public reason is] the anti-chamber of a process of collective deliberation. This interpretation is favoured by a reading of IPRR [“The Idea of Public Reason Revisited”]. In conclusion, the practice of public reason encourages reciprocity among citizens. In so doing, it contributes to realizing mutual respect [...], to fixing once and for all the discursive and pluralist attitude of the whole approach in PL [*Political Liberalism*].’<sup>746</sup>

These observations lead me to clarify the sense in which the ideal of public reason is a moral one. In my understanding of Rawls’s argument, in a democratic public political culture (*infra*), this ideal is moral in the sense that it is rooted in what Rawls calls the ‘public or institutional identity’<sup>747</sup> of the citizens. Now, Rawls distinguishes between an ‘institutional or public identity’ and a ‘noninstitutional or moral identity.’ While the former concerns citizens’ basic political liberties, rights, and duties, the latter concerns their ‘deeper aims and commitments.’ Concerning the latter, he says:

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<sup>745</sup> John Rawls, “The Idea of Public Reason Revisited,” for instance 447.

<sup>746</sup> Sebastiano Maffettone, *Rawls: An Introduction*, 280.

<sup>747</sup> John Rawls, *Political Liberalism*, 30.



‘Citizens usually have both political and nonpolitical aims and commitments. They affirm the values of political justice and want to see them embodied in political institutions [...] They also work for the other values in nonpublic life and for the ends of the associations to which they belong. The two aspects of their moral identity citizens must adjust and reconcile [...] These two kinds of commitments and attachments –political and nonpolitical– specify the moral identity and give shape to a person’s way of life.’<sup>748</sup>

We could say that each individual has a larger moral identity, in which she regards herself in her moral (political and non-political) entirety. Such an identity can change over time, although changes are usually gradual rather than sudden. However, the crucial point is that changes in a person’s deeper moral commitments and aims (e.g., a religious conversion) do not affect her institutional identity: she ‘still [has] the same basic rights and duties, [she owns] the same property and can make the same [political] claims as before.’<sup>749</sup> Her political place in society does not shift because of changes in the “equilibrium” of her deeper moral attachments and commitments. Indeed, the use Rawls makes of terms is a little ambiguous here. However, if we keep in mind that according to him the political is ‘but a part of the domain of the moral,’<sup>750</sup> we can observe that also the institutional identity of citizens has a moral content. As I have already said several times, a political conception ‘is a normative and moral conception.’<sup>751</sup> Thus, we could also adopt the expression public political morality (or ‘institutional morality,’<sup>752</sup> for brevity, hereafter I will simply refer to public morality) for describing the public and political part of individual morality, that is, the part ‘that is not rooted in the deeply held ethical or religious beliefs of each one, but rather in [citizens’] loyalty to the political-constitutional system within which they live their public lives.’<sup>753</sup> To be sure, the expression public morality could be easily misunderstood, but I think of it as a *political* module

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<sup>748</sup> Ibid. 30-31.

<sup>749</sup> Ibid. 30.

<sup>750</sup> John Rawls, *Justice as Fairness: A Restatement*, 14.

<sup>751</sup> John Rawls, *Political Liberalism*, xxxix.

<sup>752</sup> Sebastiano Maffettone, “Political Liberalism: Reasonableness and Democratic Practice,” 555.

<sup>753</sup> Ibid.

of individual morality as a whole (then, a thin public morality, or a public morality ‘of narrow scope’<sup>754</sup>), rooted in the moral political criterion of reciprocity, which expresses the relationship of mutual recognition between free equal rational reasonable cooperating fellow citizens, and which is specified in a political conception of justice and expressed through public reason. It is not implausible to say that the ideal of public reason is grounded in citizens’ institutional identity since it realises what Scanlon calls their (‘quite strong’) ‘desire to be able to justify one’s actions (and institutions) on grounds one takes to be acceptable to others’<sup>755</sup> on reciprocal bases. This desire can be understood as the outcome of persons’ moral education to democratic citizenship.<sup>756</sup> If we correlate this point with Rawls’s claim that ‘citizens affirm the ideal of public reason [...] from within their own reasonable doctrines,’<sup>757</sup> then it should be clear that the ideal of public reason not only “adheres” to the public identity of citizens, but it also reconciles itself (at least ideally) to the content of their broader morality via an overlapping consensus. In this way, we are able to understand not only why the ideal of public reason is a moral (political) one, but also why Solum can say that ‘an ideal of public reason is reflexive in the sense that it applies to its own public justification.’<sup>758</sup> In my understanding this means that the limits imposed by the ideal of public reason are agreed upon in an overlapping consensus (then, justified by each citizen from within her deepest moral, philosophical, and religious commitments) as a standard that is compelling for citizens’ institutional (or public) identity, within which that standard can justify itself drawing on the resources of a democratic public political culture (with –among other things– its political conception of the person as free and equal, rational and reasonable, society as a fair system of cooperation over time, and the fact of reasonable pluralism, see 3.2.b.2). So, Solum affirms:

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<sup>754</sup> Fevzi Bilgin, *Political Liberalism in Muslim Societies*, 12.

<sup>755</sup> Thomas M. Scanlon, “Contractualism and Utilitarianism,” in *The Difficulty of Tolerance: Essays in Political Philosophy* (Cambridge and New York: Cambridge University Press, 2003), 139. Famously, according to Scanlon: ‘[p]eople are willing to go to considerable lengths, involving quite heavy sacrifices, in order to avoid admitting the unjustifiability of their actions and institutions.’ Ibid.

<sup>756</sup> Ibid. See also John Rawls *Political Liberalism*, 199: ‘children’s education includes such things as knowledge of their constitutional and civic rights [... It] should also prepare them to be fully cooperating members of society and enable them to be self-supporting; it should also encourage the political virtues so that they want to honour the fair terms of social cooperation in their relations with the rest of society.’

<sup>757</sup> John Rawls *Political Liberalism*, 218.

<sup>758</sup> Lawrence B. Solum, “Constructing an Ideal of Public Reason,” 735.

‘In the sphere of public political debate, an ideal of public reason must be justified in accordance with public reason. Because of this constraint, the justification of public reason by political liberalism is shallow in the sense that it can only draw on common sense and on our public political culture. But even those resources are sufficient for public reason to make the case to each citizen that he or she should find the roots of the political ideal of public reason in his or her own comprehensive deepest convictions.’<sup>759</sup>

Therefore, the ‘political justification’ of the ideal of public reason is ‘historically contingent’;<sup>760</sup> it is grounded in the political idea of cooperating free and equal, reasonable and rational citizens of a democratic society committed on reciprocal basis to providing one another public justifications for their political actions, decisions, and institutions. Obviously, then, to say ‘historically contingent’ does not mean morally empty. On the contrary, the ideal of public reason has a specific political moral content, which in my view is best captured by the idea of reciprocity between free and equal citizens cooperating on fair terms. Moreover, it may possibly acquire a deeper moral content during the process of full justification within the context of a particular religious or philosophical doctrine: in fact, as I mentioned, such an ideal and the limits it imposes for political discussions of fundamental political questions must be endorsed in an overlapping consensus. Thus, for example, for the religious doctrine X the ideal of public reason may have a certain moral religious relevance that differs from the moral religious meaning ascribed to it by the doctrine Y. Furthermore, as I showed in chapter two, the method of reasoning from conjecture may have something to say about how the full justification of this ideal can be achieved from the perspective of a specific doctrine. From the evaluative perspective of this study, however, the main focus is on the public political ground of such an ideal.

Allow me sum up. In line with the interpretation of the ideal of public reason offered so far, I argue that we should understand legitimacy and reciprocity as two sides of the same coin, in terms of their role in providing a moral political ground to the ideal of public reason. However, I also think that when Rawls says that legitimacy is ‘based on the criterion of reciprocity,’ he means that it is the more specifically moral notion of political reciprocity –as it is

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<sup>759</sup> Ibid. 753.

<sup>760</sup> Ibid. 762.

understood in the public political culture of a democratic regime— that characterises the idea of political legitimacy in its peculiarly political liberal way. It is the notion of reciprocity as ‘mutuality of justificatory criteria’<sup>761</sup> that configures the liberal principle of political legitimacy as it is. Thus, for the moment I would like to establish this point:

**(RR)** An account of public reason as an ideal of democratic citizenship is based on the (moral) political criterion of reciprocity, which is the moral ideal expressing the relationship of mutual recognition between free and equal rational and reasonable cooperating fellow citizens.

As this formulation of the reciprocity requirement prompts, in a political conception such a criterion is a political one. I will return to reciprocity (specifying it as “reciprocity of the reasonable”) in 4.2. As I have shown, for Rawls a commitment to the duty of civility follows from here. Thus, from the reciprocity requirement I derive a civility requirement, which is internally connected to the former.

**(CiR)** If one endorses a moral criterion of reciprocity and, consequently, is committed to a liberal principle of political legitimacy, she should also abide by the limits imposed by the idea of public reason in public political discussions (when the conditions specified in a proper account of such an idea are met, see 3.2.b.2 and 3.2.b.3).

This formulation of CiR is only provisional. I will restate it in the fourth chapter (as CiR\*), because there I will consider in detail how one can fulfil the duty of civility.

Rawls works out the ideal of public reason as belonging ‘to a conception of a well-ordered constitutional democratic society. The form and content of this reason [...] are part of the idea of democracy itself.’<sup>762</sup> However, this is not to say that public reason is relevant only for a perfectly just society. That would not be true with reference to *Political Liberalism* and it would be all the more untrue with reference to “The Idea of Public Reason revisited,” as I will explain in chapter five. However, the ideal and the idea of public reason are worked out from and for a liberal democratic regime and its public political culture. Elsewhere, he confirms that by saying: ‘[p]ublic reason is characteristic of democratic people: it is the reason of its

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<sup>761</sup> Sebastiano Maffettone, *Rawls: An Introduction*, 276.

<sup>762</sup> John Rawls, “The Idea of Public Reason Revisited,” 440-441.

citizens, of those sharing the equal status of citizenship' and 'as an ideal conception of citizenship for a constitutional democratic regime, it presents how things may be, taking people as a just and well-ordered society would encourage them to be.'<sup>763</sup> Thus, it is the reason of the public: it concerns the political relation between free and equal citizens.<sup>764</sup> The subject of such a reason is the good of the public: it concerns 'constitutional essentials and matters of basic justice' (*infra*).<sup>765</sup> Finally, this reason is public in its nature and content,<sup>766</sup> since the latter are specified 'by a family of reasonable conceptions of political justice reasonably thought

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<sup>763</sup> John Rawls, *Political Liberalism*, 213.

<sup>764</sup> Ibid. and "The Idea of Public Reason Revisited," 442.

<sup>765</sup> John Rawls, "The Idea of Public Reason Revisited," 442.

<sup>766</sup> Thus, 'public reason is public in three ways,' John Rawls, *Political Liberalism*, 213 and "The Idea of Public Reason Revisited," 442.

to satisfy the criterion of reciprocity.<sup>767</sup> I will concisely return to this aspect in 3.2.b.2. This provides to its content a certain degree of openness and adaptability to new political conditions:

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<sup>767</sup> Ibid. This point apparently marks a difference between the account of public reason in *Political Liberalism*, where the content of public reason was specified by a conception of justice (see 223), and the account developed since 1996 in the introduction to the paperback edition and later confirmed in “The Idea of Public Reason Revisited,” in which the content of public reason is specified by a family of political conceptions (see li and 450–451). However, already in *Political Liberalism* (225–227) Rawls points out that justice as fairness is but one form of political liberalism. The fact that from the beginning he conceived the project of *Political Liberalism* as dealing with a family of reasonable liberal political conceptions of justice rather than with justice as fairness alone is confirmed by Rawls himself in his letter to the editor (published in the expanded edition of *Political Liberalism*, 438–439), where he says that ‘[I] mention the idea of justice as fairness. Many readers were misled into thinking that the book is about this idea, but it is not. Political Liberalism is about a family of reasonable liberal ideas of political justice.’ Thus, in the 1996 introduction to the paperback edition and in “The Idea of Public Reason Revisited” Rawls simply made more clearly the point that he had already made in the original edition. Let me briefly compare the account of how the content of public reason is specified, respectively in *Political Liberalism* and in “The Idea of Public Reason Revisited.” In justice as fairness, he says in *Political Liberalism*, ‘the guidelines of public reason and the principles of justice have essentially the same grounds. They are companion parts of one agreement.’ Ibid. 225–226. However, he immediately adds that ‘political liberalism [...] has many forms, depending on the substantive principles used and how the guidelines of inquiry are set out.’ Ibid. 226. Rawls argues that his political conception of justice (justice as fairness) ‘is but one example of a liberal political conception; its specific content is not definitive of such a view’ (that is, political liberalism *per se*). Ibid. He also adds that the original position is the distinctive device of justice as fairness for defining ‘what principles [of justice] and guidelines [of public reason] other citizens [...] may reasonably be expected to endorse along with us,’ but he acknowledges the fact that ‘[m]any will prefer another criterion.’ Ibid. 226 and 227. What all the forms of political liberalism must have in common are the liberal character of their substantive principles of justice and an idea of public reason. This requires that ‘[a]ccepting the idea of public reason and its principle of legitimacy empathically does not mean [...] accepting a particular liberal conception of justice,’ *ibid.* 226, emphasis added. Yet, a few pages before he maintained that the ‘content of public reason is formulated by [...] a political conception of justice,’ (223, emphasis added and quotation marks removed). As Rawls notes in his 1998 letter, readers were induced to read this passage as saying that the content of public reason is specified by a single conception of justice; plausibly the most reasonable conception, that is, according to Rawls’s opinion, justice as fairness. In other words, the reader could have thought that while the project of *Political Liberalism* was open to different liberal conceptions of political justice, the content of public reason –given its normative relevance and its central place in Rawls’s new theory– was monopolised by the most reasonable of them. In “The Idea of Public Reason Revisited” (450), however, he openly says that the content of public reason is specified by the family of liberal political conception as a whole, ‘and not by a single one.’ Thus, he finally makes clear that, instead of having several different contents (depending on one’s political conception of justice) for a single common idea of public reason, the content of the idea of public reason is jointly specified by all the members of the family of liberal political conceptions. Accordingly, Rawls now says that political liberalism ‘does not try to fix public reason once and for all in the form of one favoured political conception of justice. [...] For instance, political liberalism also admits Habermas’s discourse conception of legitimacy [...], as well as Catholic views of the common good and solidarity when they are expressed in terms of political values. [...] The forms of permissible public reason are always several.’ Ibid. 451–452. These forms, one may add, jointly specify the content of public reason. Conceptually the difference is noteworthy, because the main reason for this specification is to make room for different liberal conceptions on the same footing (that is, plainly with the same dignity for what concerns the content of public reason), so that public reason becomes more open and dynamic. It seems that in this way Rawls averts a possible source of criticism, namely the apparently static and “once-for-all” nature of public reason. For this kind of criticism see Jürgen Habermas, “Reconciliation Through the Public Use of Reason: Remarks on John Rawls’s Political Liberalism,” *The Journal of Philosophy* 92, no. 3 (1995), in which he argues that in Rawls’s view ‘the act of founding the democratic constitution cannot be repeated under the institutional conditions of an already constituted just society, and the process of realizing the system of basic rights cannot be assured on an ongoing basis. It is not possible for the citizens to experience this process as open and incomplete, as the shifting historical circumstances nonetheless demand. They cannot reignite the radical democratic embers of the original position in the civic life of their society. [...] Because the citizens cannot conceive of the constitution as a project, the public use of reason does not actually have the significance of a persistent exercise of political autonomy but

‘It is crucial that public reason is not specified by any one political conception of justice, certainly not by justice as fairness alone. Rather, its content –the principles, ideals, and standards that may be appealed to– are those of *a family of reasonable political conceptions of justices and this family changes over time*. These political conceptions are not of course compatible and *they may be revised as a result of their debates with one another*. *Social changes over generations also give rise to new groups with different political problems*. *Views raising new questions related to ethnicity, gender, and race are obvious examples*, and the political conceptions that result from these views will debate the current conceptions. *The content of public reason is not fixed, any more than it is defined by any one reasonable political conception.*’<sup>768</sup>

As James Boettcher puts it, public reason allows for a good degree of flexibility.

‘The idea of public reason and the liberal principle of legitimacy may aim ideally at agreement. But their principal function is to show us how we can act to-

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*merely promotes the nonviolent preservation of political stability,*’ 128, emphasis extended. Rawls takes on this argument in “Reply to Habermas” (see especially 399-403), but for my aims it could be noted that the widening of the sources of the content of public reason seems partially to address this criticism and to make public reason more open to different or new political conditions. In “The Idea of Public Reason Revisited” Rawls says that ‘[t]here are many liberalisms and related views, and therefore many forms of public reason specified by a family of reasonable political conceptions. Of these, justice as fairness, whatever its merits, is but one. The limiting feature of these forms is the criterion of reciprocity. [...] Each of these liberalisms endorses the underlying ideas of citizens as free and equal persons and of society as a fair system of cooperation over time. Yet, since these ideas can be interpreted in various ways, we get different formulations of the principles of justice and *different contents of public reason*. [...] *Political liberalism, then, does not try to fix public reason once and for all in the form of a favoured political conceptions of justice*. [...] For instance, political liberalism also admits Habermas’s discourse conception of legitimacy (sometimes said to be radically democratic rather than liberal) [...] *T]he forms of permissible public reason are always several. Moreover, new variations may be proposed from time to time* [...] It is important to be so: *otherwise the claims of groups or interests arising from social change might be repressed and fail to gain their appropriate political voice,*’ 450-452, emphases added. For further remarks on these points, see *infra*. Similarly, Lawrence B. Solum argues that the new statement of public reason ‘makes it clear that [Rawls] does not conceive of public reason as static or unchanging.’ Lawrence B. Solum, “Novel Public Reasons,” 1485. In a recent article, also Jonathan Quong has emphasised that the new formulation of the content of public reason as specified by a family of political conceptions may answer Habermas’s criticism. He makes two arguments against Habermas’s claim. The first is related to the inescapable priority of some liberal rights, and the second is related to the point I am making in this note about the improvement introduced by Rawls thanks to the enlarged specification of the content of public reason. In Quong’s words: ‘[t]o some, Rawls’s account of the content of public reason [...] wrongly prioritizes philosophically derived liberal principles over the democratic autonomy of actual citizens. I believe this objection is misguided. First, certain fundamental liberal rights and principles –for example, freedom of speech and freedom of religion– are beyond reasonable dispute, and so incorporating such rights and principles into the content of public reason does nothing to unreasonably threaten democratic autonomy [...] Second, as Rawls has emphasised, the content of public reason is not fixed by one specific conception, but rather it can include any conception of justice within a broadly liberal family, and so there is ample scope for each citizen to exercise his or her democratic autonomy by advocating for the conception of justice he or she thinks best.’ Jonathan Quong, “On the Idea of Public Reason,” in *A Companion To Rawls*, 267.

<sup>768</sup> John Rawls, *Political Liberalism*, 1-li. Emphases added.

gether politically in light of ongoing disagreement. Absent the unlikely prospect of overlapping consensus on a single political conception of justice, citizens will continue to disagree not only about theological issues and questions of first philosophy but also about constitutional essentials, matters of basic justice, and other issues of law and policy. Far from being a weakness of Rawls's view, as some have suggested, disagreement about matters of justice is precisely what the main ideas of political liberalism, especially the idea of the reasonable, help us to understand. Adhering to the idea of public reason, citizens attempt to recognize other claims and arguments, and ultimately one another, as reasonable, while nevertheless disagreeing about what justice entails.'<sup>769</sup>

The fact that the content of public reason is specified by a family of reasonable conceptions shows that public reason's focus is more on its moral political nature than on its connection with a single conception of political justice. I will develop the consequences of these considerations in 3.2.b.2.

Furthermore, in replying to a possible objection, Rawls affirms that it would be an error to think that public reason tries to determine in advance the "right" answer to a particular political question: in that case it would be too restrictive an ideal.<sup>770</sup> He considers the question of school prayer as an example.<sup>771</sup> One cannot settle in advance this question simply by saying that liberal public reason forbids school prayer. Rather, '*[w]e have to consider all the political values that can be invoked to settle this question and on which side the decisive reasons fall.*'<sup>772</sup> Thus, public reason does not settle political questions in advance: public reason is not merely a vademecum for the conscientious liberal citizen. Rather, 'it specifies the public reasons in terms of which such questions are to be politically decided,'<sup>773</sup> and requires that citi-

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<sup>769</sup> James W. Boettcher, "What is Reasonableness?" *Philosophy and Social Criticism* 30, no. 5-6 (2004), 617-618.

<sup>770</sup> John Rawls, *Political Liberalism*, li and "The Idea of Public Reason Revisited," 474-478.

<sup>771</sup> John Rawls, "The Idea of Public Reason Revisited," 474-478.

<sup>772</sup> Ibid. 474. Emphasis added.

<sup>773</sup> John Rawls, *Political Liberalism*, li.



zens honour their duty of civility by answering those questions ‘*according to their complete ordering of political values.*’<sup>774</sup>

Moreover, Rawls affirms that ‘those who reject constitutional democracy with its criterion of reciprocity will of course reject the very idea of public reason’<sup>775</sup> and, as I mentioned, he adds that ‘the role of the criterion of reciprocity [...] is to specify the nature of the political relation in a constitutional democratic regime as one of *civic friendship*.’<sup>776</sup> The question of what to do with those who do reject public reason is analysed in the next chapter. What matters here is that public reason chiefly aims at reconciliation. Rawls emphasises this role of public reason mainly in the introduction of the 1996 edition of *Political Liberalism* and in “The Idea of Public Reason Revisited.”<sup>777</sup> It may be said that his revised conception of public reason is principally concerned with what I shall call “*the reconciliation of the reasonable.*” Effectively, when Rawls discusses the ‘limits of reconciliation by public reason,’ he traces the boundaries of the reasonable. He says that public reason can mitigate (‘but cannot eliminate’) conflicts that derive from irreconcilable comprehensive doctrines, since ‘even though our comprehensive doctrines are irreconcilable and cannot be compromised, nevertheless citizens who affirm reasonable doctrines may share reasons of another kind, namely, public reasons given in terms of political conceptions of justice.’<sup>778</sup> Moreover, a society in which public reason is honoured is able to avoid (or at least importantly to reduce) conflicts deriving from differences in social status, class, ethnicity, or gender. The reason is that ‘once we accept the principles of justice, or recognize them as at least reasonable [...], and know that our political and social institutions conform to them, the second kind of conflicts need no longer to arise, or arise so forcefully.’<sup>779</sup> On the contrary, a third kind of conflicts that derives from the burdens of judgement (*supra*) cannot be eliminated and ‘limit the extent of possible agree-

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<sup>774</sup> John Rawls, “The Idea of Public Reason Revisited,” 479. Emphasis added.

<sup>775</sup> Ibid. 442.

<sup>776</sup> Ibid. 447.

<sup>777</sup> John Rawls, *Political Liberalism*, lviii and “The Idea of Public Reason Revisited,” 487.

<sup>778</sup> John Rawls, “The Idea of Public Reason Revisited,” 487.

<sup>779</sup> John Rawls, *Political Liberalism*, lviii.

ment.’<sup>780</sup> This is not surprising. To understand the link that I establish between reconciliation through public reason and reasonableness, recall the basic definition of reasonable persons: those who are willing to ‘propose fair terms of cooperation and to abide by them’ and, second, to ‘recognize the burdens of judgement and to accept their consequences for the use of public reason in directing the legitimate exercise of political power.’<sup>781</sup> It is natural, then, that reconciliation through public reason affects the first two kinds of conflicts but not the third. The former both fall *within* the borders of a reconciliation through public reason, because the first kind of conflicts is associated with the second feature of persons’ reasonableness (the recognition of the burdens of judgment and of their consequences), while the second with the first (the willingness to propose and abide by fair terms of cooperation). On the other hand, the elimination of the third kind of conflicts falls *outside* the moral (political) and practical limits of reasonable reconciliation through public reason. Without the oppressive use of state power, no agreement could overcome reasonable pluralism.

The problem is that some authors firmly criticise precisely the possibility of a reasonable reconciliation through public reason. For instance, Chantal Mouffe argues that ‘to envisage politics as a rational process of negotiation among individuals is to obliterate all the dimensions of power and antagonism –what I propose to call “the political”; it is to miss completely its very nature.’<sup>782</sup> According to Mouffe, politics is characterised and moved by an ‘antagonistic element present in any social relation,’ while ‘every consensus is, by necessity, based on acts of exclusion.’<sup>783</sup> Political liberalism, based as it is on the idea of an agreement between reasonable and rational persons and the exclusion of the unreasonable, ‘justifies [political] exclusions on the grounds of rationality. As a result, the coercive dimension is denied, since those exclusions are presented as if they were the product of “free agreement” resulting from rational procedures (veil of ignorance [...]) and immune from relations of power.’<sup>784</sup>

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<sup>780</sup> Ibid.

<sup>781</sup> Ibid. 54.

<sup>782</sup> Chantal Mouffe, “Political Liberalism: Neutrality and the Political,” *Ratio Juris* 7, no. 3 (1994), 319.

<sup>783</sup> Ibid. 319-320.

<sup>784</sup> Ibid. 320.

The conclusion is that political liberalism is ‘not pluralistic at all,’<sup>785</sup> since in ‘politics the very distinction between “reasonable” and “unreasonable” is always the drawing of a frontier. It has a political character and it is the expression of a particular hegemony.’<sup>786</sup> Finally, while ‘[no] state or political order, even a liberal one, can exist without some form of exclusion, and pluralism can never be total,’ she claims that ‘it is very important to acknowledge those forms of exclusion for what they are and the violence that they imply, instead of concealing them under the guise of rationality.’<sup>787</sup>

Mouffe rightly points out a risk of which Rawls himself is aware. As I have already mentioned in the first chapter, he says that ‘political philosophy as reconciliation must be invoked with care. For political philosophy is always in danger of being used corruptly as a defense of an unjust and unworthy status quo.’<sup>788</sup> Having said that, I think that we are confronted with two different background conceptions of the role of political philosophy. The first starts from actual injustices and conflicts and asks how to imagine a social world in which they are eliminated or at least significantly reduced. The other starts from the same conflicts and injustices, but thinks that the practical task of political philosophy is limited to reveal or disclose them, because they cannot be eradicated. The first approach focuses on ideal consensus and is more ‘critical,’ whilst the second conception is centred on existing conditions, institutions, preferences, and balance of powers and is more ‘realist.’<sup>789</sup> Notice that the first perspective is not inconsistent with the second in so far as it recognises the importance of disclosing injustice and conflict, but it tries to go beyond it, because it believes that democracy ‘is worth defending and worth trying to show how the friend-foe fight may move to another level that is more symbolic and respectful of others’ and that ‘it is meaningful to exchange sensible arguments on political themes, instead of resorting to pure violence.’<sup>790</sup> Or, as Bruce Ackerman, an ad-

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<sup>785</sup> Ibid. 322.

<sup>786</sup> Ibid. 321.

<sup>787</sup> Ibid. 322.

<sup>788</sup> See John Rawls, *Justice as Fairness: A Restatement*, 4 note 4.

<sup>789</sup> In the first chapter I mentioned the distinction between ‘critical liberalism’ and ‘realist liberalism’ introduced by Sebastiano Maffettone in “Liberalismo filosofico contemporaneo,” see in particular 71-80.

<sup>790</sup> Sebastiano Maffettone, *Rawls: An Introduction*, 245. See also his “Political Liberalism: Reasonableness and Democratic Practice,” 566-568.

vocate of a form of political liberalism based on ‘conversational restraint,’ puts it, to the question ‘[i]f practical political life seems such an unlikely forum for the dialogic search of moral truth, why insist that dialogue is especially central to politics?’, a political liberal may reply that ‘there are other important things to talk about than moral truth: in particular, how people who disagree about the moral truth might nonetheless reasonably solve their ongoing problem of living together.’<sup>791</sup> In its very essence, political liberalism ‘calls upon us to reflect upon the pragmatic imperative to talk to strangers as well as soul-mates; and to consider whether, despite the strangers’ strangeness, we might still have something reasonable to say to one another about our efforts to coexist on this puzzling planet.’<sup>792</sup> Whether we opt for reconciliation or for irreconcilable antagonism as the normative horizon of political philosophy is a choice that profoundly affects how we understand the domain of the political. This is why, I think, Mouffe says that political liberalism ‘is necessarily blind to the existence of “the political”.’ I do not think that political liberalism is ‘necessarily blind’ to the existence of conflicts, exclusions, and antagonisms. Certainly, however, it does not make them its ultimate normative horizon.

An early expression of this view oriented toward reconciliation through public reason can be traced back to the discussion of the ‘precepts of reasonable discussions’ between reasonable persons in “The Domain of the Political and Overlapping Consensus:”

‘First, the political discussion aims to reach reasonable agreement, and hence so far as possible it should be conducted to serve that aim. We should not readily accuse one another of self- or group-interest, prejudice or bias, and of such deeply entrenched errors as ideological blindness and delusion. Such accusations arouse resentment and hostility, and block the way to reasonable agreement. [...] Second, when we are reasonable we are prepared to find substantive and even intractable disagreements on basic questions. The first general fact [i.e. the fact of reasonable pluralism] means that the basic institutions and public culture of a democratic society specify a social world within which opposing general beliefs and conflicting comprehensive doctrines are likely to flourish and may increase in number. It is unreasonable, then, not to recognize the likelihood –indeed the practical certain-

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<sup>791</sup> Bruce Ackerman, “Why Dialogue?” *The Journal of Philosophy* **86**, no. 1 (1989), 8.

<sup>792</sup> Ibid. 22.

ty— of irreconcilable reasonable disagreements on matters of the first significance. [...] Third, when we are reasonable, we are ready to enter discussion crediting others with a certain good faith. We expect deep differences of opinion, and accept this diversity as the normal state of the public culture of a democratic society. To hate this fact is to hate human nature, for it is to hate the many not unreasonable expressions of human nature that develop under free institutions.<sup>793</sup>

Here we can find the same point stated in a slightly different way: we should aim to political reconciliation through public reason (first point), while accepting the fact that the burdens of judgement limit the possibility of reconciliation. Under free institutions, political reconciliation is the goal of normative theory, mitigated by the awareness of the fact that without oppression such reconciliation cannot be total. That is, reconciliation cannot annihilate reasonable disagreement if it has to be achieved in conditions of freedom. However, reconciliation is the political normative horizon of a society of reasonable free and equal cooperating citizens. Reasonable citizens can reasonably hope for reconciliation through public reason. Thus, an important feature of public reason, which derives from a commitment to the criterion of reciprocity, is that:

**(PR1)** To endorse public reason involves engaging in political reconciliation. This engagement is not presented (comprehensively) as “acting for the highest good.” It just entails the reasonable acknowledgement that conflicts deriving from irreconcilable comprehensive doctrines and from social status, class, ethnicity, or gender may still allow some form of political agreement through a public form of reasoning and that they can also be mitigated through the latter.

As I understand them, RR, CiR, and PR1 are the main and reciprocally connected moral grounds of the ideal of public reason. However, an account of this ideal is not complete until one defines the idea that is structured upon it. Together, they aim to present a unitary conception of liberal citizenship.<sup>794</sup> How can the ideal of public reason be expressed in a structured idea?

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<sup>793</sup> John Rawls, “The Domain of the Political and Overlapping Consensus,” 478-479.

<sup>794</sup> For this reason, the distinction between the ideal and the idea of public reason has been strictly observed –for explanatory purposes– only in this section, and becomes gradually less important as the conception is fully sketched out.

### 3.2.B.2 The Conditions of Public Reason.

Rawls maintains that the ideal of public justification and deliberation through public reason requires some political institutions to be structured in a working idea. These institutional conditions are: ‘public financing of elections,’ ‘fair equality of opportunity especially in education and training,’ a ‘decent distribution of income and wealth’ so that all citizens can ‘take intelligent and effective advantage of their basic liberties,’ and ‘society as employer of last resort.’<sup>795</sup> These institutions are far below the requirements of Rawls’s conception of political justice (in particular the third point is obviously not the same as the difference principle), still they are ‘essential prerequisites for a basic structure within which the ideal of public reason [...] may protect the basic liberties and prevent social and economic inequalities from being excessive.’<sup>796</sup> These institutions are necessary for the ‘public political deliberation to be possible and fruitful.’<sup>797</sup> In other words, here Rawls is not listing the institutions that are necessary for political justice, but the institutions that are a *sine qua non* condition for any adequate or decent democratic public debate.

The core of public reason is the idea that political reciprocity and legitimacy (*supra*) impose limits on fellow citizens in terms of the ‘ways of reasoning and criteria for the kind of information relevant for political questions.’<sup>798</sup> In discussing fundamental political questions, citizens must provide suitable arguments that can serve as public justification for their positions: they must deliberate ‘within a framework of what [they] sincerely [regard] as the most reasonable political conception of justice, a conception that expresses political values that others, as free and equal citizens might also reasonably be expected to endorse.’<sup>799</sup> As I men-

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<sup>795</sup> John Rawls, *Political Liberalism*, lvi-lvii. Rawls discusses those institutions when he contrasts his view with libertarianism and says that ‘the latter does not combine liberty and equality in the way liberalism does; it lacks the criterion of reciprocity and allows excessive social economic inequalities as judged by that criterion. In this case we do not have stability for the right reasons, which is always lacking in a purely formal constitutional regime.’ Then, he provides an ‘indication of the institutions required for this stability,’ which are the institutions listed above. Ibid. lvi. Then, here Rawls connects his criticism against libertarianism to the salience of the moral criterion of reciprocity in ensuring stability for the right reasons, which, in turn, requires those minimal institutions so that the ideal of public reason can work and express the criterion of reciprocity, thus supporting stability for the right reasons.

<sup>796</sup> Ibid.

<sup>797</sup> Ibid.

<sup>798</sup> Ibid. 223.

<sup>799</sup> John Rawls, “The Idea of Public Reason Revisited,” 450.

tioned in 3.2.b.1, a distinctive element of “The Idea of Public Reason Revisited” is the emphasis that Rawls puts on the fact that ‘the content of public reason is given by a *family of political conceptions* of justice, and not by a single one.’<sup>800</sup> While there are many radically different non-public reasons (‘the many reasons of civil society [which] belong to [...] the “background culture”,’<sup>801</sup> *supra*), the ‘many forms of public reason’<sup>802</sup> in order to be ‘permissible’ are all limited by the criterion of reciprocity, because the content of public reason is always expressed by conceptions of justice which are all both *liberal* and *political*. While ‘standards of rightness and justificatory criteria’ for non-public reasoning ‘derive from the subject they treat and the kind of association involved’<sup>803</sup> (for instance, they may be correctly derived from some religious source), public reasoning ‘proceeds entirely within a political conception,’<sup>804</sup> and its guidelines, principles, and justificatory criteria derive from a family of liberal political conceptions,<sup>805</sup> as I underscored above (3.2.b.1). These conceptions have in common several features according to Rawls. First, as I have just mentioned, the principle of reciprocity is a common limit for all of them.<sup>806</sup> Second, since they are *liberal* political conceptions, they: 1- embed a list of basic rights and liberties, 2- assign a special priority to them, and 3- ensure ‘for all citizens adequate all-purpose means to make effective use of their freedoms.’<sup>807</sup> Third, since they are *political* conceptions, they: 1- apply to the basic structure of society, 2- are ‘presented independently from comprehensive doctrines,’ and 3- they are worked out from some fundamentals ideas ‘seen as implicit in the public political culture of a

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<sup>800</sup> Ibid. For additional considerations about this point, see also James W. Boettcher, “Rawls and Gaus on the Idea of Public Reason,” in *Thinking Fundamentals*, ed. David Shikiar, IWM Junior Visiting Fellows Conferences 9 (Vienna: IWM, 2000), 10-11.

<sup>801</sup> John Rawls, *Political Liberalism*, 220.

<sup>802</sup> John Rawls, “The Idea of Public Reason Revisited,” 450.

<sup>803</sup> Sebastiano Maffettone, *Rawls: An Introduction*, 276.

<sup>804</sup> John Rawls, “The Idea of Public Reason Revisited,” 453.

<sup>805</sup> Ibid. 450. Rawls specifies that ‘I have proposed that one way to identify those political principles and guidelines is to show that they would be agreed to in what in *Political Liberalism* is called the original position. Others will think that different ways to identify these principles are more reasonable.’

<sup>806</sup> Ibid.

<sup>807</sup> Ibid.

constitutional regime.’<sup>808</sup> As Rawls observes, ‘[t]o engage in public reason is to appeal to one of these political conceptions –to their ideals and principles, standards and values– when debating fundamental political questions.’<sup>809</sup> Then, while the principles of political justice for the basic structure of society are characteristic of each of these conceptions, the general principles of public reasoning (i.e., the content of public reason) governing the public debate about fundamental political questions is what these conceptions have in common, because they must fall within the limits of political reciprocity. This point does not contradict what Rawls says in Lecture VI of *Political Liberalism* (224) and in *Justice as Fairness: A Restatement* (89), namely, that the agreement on principles of public reason is one of the two constitutive parts of a political conception.<sup>810</sup> In fact, as I have explained in detail (see the footnote about the specification of the content of public reason by a family of reasonable conceptions in the previous section), in the 1998 letter to his editor Rawls explicitly affirms that from the beginning he thought of *Political Liberalism* as dealing with ‘a family of reasonable liberal ideas of political justice,’ rather than with justice as fairness alone.<sup>811</sup> Thus, one may imagine that *each* political conception has distinctive ‘substantive principles of justice for the basic structure’ and more or less similar –because liberal and political, limited by reciprocity– general principles and guidelines for public reasoning. Thus, while these conceptions of justice may disagree about the former (e.g., about whether or not to endorse the original position as a device for deriving the principles of justice), they share the basic moral grounds of the latter. In other words, while public reason has ‘many forms’ and ‘the forms of permissible public reason are always several,’ the content of this idea is *jointly* specified by a family of conceptions of justice which all respect the criterion of reciprocity as ‘the limiting feature of these forms’ of public reason.<sup>812</sup> Hence, liberal political conceptions “overlap” on the second of the two ‘companion parts’ of each of them, that is, on the general principles and guidelines of public reason. This supports my interpretation of public reason centred on its moral grounds

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<sup>808</sup> Ibid. 453.

<sup>809</sup> Ibid.

<sup>810</sup> See also *Political Liberalism*, 225-226: ‘[i]n justice as fairness, then, the guidelines of public reason and the principles of justice have essentially the same grounds. They are companion parts of one agreement.’

<sup>811</sup> See Rawls’s letter to his editor now included in the expanded edition of *Political Liberalism*, 439.

<sup>812</sup> John Rawls, “The Idea of Public Reason Revisited,” 450 and 452.



(3.2.b.1). After 1996,<sup>813</sup> the idea of public reason becomes more clearly independent from justice as fairness –even in its political form<sup>814</sup>– since the notion of a liberal political conception itself is now more plainly presented as conceptually freestanding with reference to its original matrix in Rawls’s mind, i.e. justice as fairness as *the* political conception. Note that this is not to say that Rawls does not continue to think that justice as fairness is the most reasonable of those conceptions of justice.<sup>815</sup> However, if justice as fairness is a political conception among other political liberal rivals, public reason really represents the pivot of political liberalism as (in Sebastiano Maffettone’s words) *a liberal ‘meta-theory’ of toleration and legitimacy*.<sup>816</sup> A meta-theory of liberalism obviously makes far less stringent requirements in comparison with those made by a theory of justice, because the subject matter of a meta-theory of liberalism is political legitimacy, which is a different and in some respect “broader” concept than political justice. As James Boettcher correctly notes, ‘*justice as fairness is a view about what justice is; political liberalism is a view about public reasoning and liberal legitimacy which admits justice as fairness as one reasonable political conception of justice among others.*’<sup>817</sup> As Sebastiano Maffettone observes, ‘[l]iberal legitimacy, in *Political Liberalism*, exceeds justice in

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<sup>813</sup> As already emphasised, however, the fact that the idea of public reason is independent from any specific conception of political justice was already clearly affirmed in the 1993 version of *Political Liberalism*: ‘accepting the idea of public reason [...] does not mean accepting a particular conception of justice,’ 226.

<sup>814</sup> See, for instance the presentation of the project of political liberalism: ‘[t]he ambiguity of *Theory* is now removed and justice as fairness is presented from the outset as a political conception of justice’ (*Political Liberalism*, xvii). Here –obviously– I do not discuss whether and how the principles of justice as fairness are affected by the passage from *A Theory* to *Political Liberalism*. The debate on this point has mainly concerned the ‘survival’ of the second principle (and in particular the egalitarian difference principle) in the justificatory structure of *Political Liberalism*. I just mention two positions for illustrative purposes. For the position according to which egalitarianism perishes at the stage of an overlapping consensus, see Brian Barry, “John Rawls and the Search for Stability,” in particular 908-914. For the opposite position, see David Estlund, “The Survival of Egalitarian Justice in John Rawls’s *Political Liberalism*,” *The Journal of Philosophy* 4, no. 1 (1996), 70-76.

<sup>815</sup> For a similar position, see Thomas M. Scanlon, “Rawls on Justification,” 162: ‘it may seem that his own doctrine, justice as fairness, and his two principles of justice have receded into the background, or perhaps even been replaced. The reason for this appearance has to do with the generality, and hence unavoidable abstractness, of the idea of public reason itself. The idea is that society should be organized around *some* reasonable political conception (justice as fairness being only one example, albeit Rawls’s own preferred choice) [...]’ This ‘generality and hence unavoidable abstractness’ of the idea of public reason has also been captured in the terms of a liberal ‘meta-theory’ of toleration and legitimacy (Sebastiano Maffettone, *Rawls: An Introduction*, 215 and *infra*).

<sup>816</sup> See Sebastiano Maffettone, *Rawls: An Introduction*, 215: ‘[b]asically, in [*Political Liberalism*], Rawls presents a kind of meta-theory of political legitimation, based on liberal tolerance.’ Here, I do not adopt Maffettone’s distinction between legitimacy and ‘legitimation.’ For his concept of legitimation, see in particular *ibid.* 21-24 and 225-228. See also his *Introduzione a Rawls*, 101-103. I am also grateful to Tatiana Alekseeva for having discussed this point with me.

<sup>817</sup> James W. Boettcher, “What is Reasonableness?” 601-602, emphasis added.

two opposite ways. On the one hand, it is not sufficient for an act to be just to be also legitimated. On the other hand, there are legitimated laws and regulations that we cannot think of as just. Citizens, however, are obliged to respect these legitimated norms even if unjust.’<sup>818</sup> I now quote a quite long but illuminating passage (from the “Reply to Habermas”), in which Rawls alerts us that we should distinguish between matters of legitimacy and matters of justice:

‘Suppose we aim to lay out democratic political institutions so that they are legitimate, and so that the political decisions taken and the laws enacted pursuant to them are also legitimate. This puts the *focus on the idea of legitimacy –and not justice*. [W]e may think [that] “legitimate” and “just” [are] the same. [...] They are not. A legitimate king or queen may rule by just and effective government, but then they may not; and certainly not necessarily justly even though legitimately. Their being legitimate says something about their pedigree: how they came to their office. It refers to whether they were the legitimate heir to the throne. [...] A significant aspect of the idea of legitimacy is that it allows a certain leeway in how well sovereigns may rule and how far they may be tolerated. The same holds under democratic regimes. [...] Laws passed by solid majorities are counted as legitimate, even though many protest and correctly judge them unjust or otherwise wrong. *Thus legitimacy is a weaker idea than justice and imposes weaker constraints on what can be done. It is also institutional*, though there is of course an essential connection with justice. [...] *D]emocratic decisions and laws are legitimate, not because they are just but because they are legitimately enacted in accordance with an accepted legitimate democratic procedure*. [...] Neither the procedures nor the laws need be just by a strict standard of justice, even if, what is also true, they cannot be too gravely unjust. [...] *Legitimacy allows an undetermined range of injustice that justice might not permit*.’<sup>819</sup>

I believe that Rawls thinks that this effort to open up political liberalism is sustainable insofar as we can rely on some ground that is common to every acceptable liberal political view. For this reason, I suspect, he locates the very possibility of an adequate justification in

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<sup>818</sup> Sebastiano Maffettone “Religion and Liberalism: Public Reason, Public Sphere and Cultural Pluralism,” 9.

<sup>819</sup> John Rawls, “Reply to Habermas,” 427-428. Emphases added.

the notion of democratic public political culture.<sup>820</sup> The latter is central in *Political Liberalism*: '[s]ince justification is addressed to others, it proceeds from what is, or can be, held in common; and so we begin from shared fundamental ideas implicit in the public political culture, in the hope of developing from them a political conception that can gain free and reasoned agreement in judgement'<sup>821</sup> in what Rawls calls a 'general and wide,' or 'full,' 'reflective equilibrium.'<sup>822</sup> In "The Idea of Public Reason Revisited," the connection between the notions of public political culture and public reason is perhaps even more emphasised: for example, the wide view of public reason is actually discussed in a section entitled "The Wide View of Public Political Culture."<sup>823</sup> If in *Political Liberalism*, as we have seen, Rawls contrasted non-public reasons (belonging to the background culture) and public reason (belonging to the public political culture),<sup>824</sup> in the later work the coessentiality between public reason and public political culture becomes more explicit, due to the fact that the line of demar-

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<sup>820</sup> The history of this concept in social sciences is a difficult one. I cannot reconstruct it here: I simply adopt Rawls definition (*supra* and *infra*). For a recent contribution with a deep and wide reconstructive scope, see Stephen Welch, *The Theory of Political Culture* (Oxford: Oxford University Press, 2013).

<sup>821</sup> John Rawls, *Political Liberalism*, 101.

<sup>822</sup> See for instance, *ibid.* 8: 'a political conception of justice, to be acceptable, must accord with our considered convictions, at all levels of generality, on due reflection.' Rawls also says that a political conception must pass the test of reflective equilibrium, that is, 'how well the view as a whole articulates our more firm considered convictions of political justice, at all levels of generality, after due examination, once all adjustments and revisions that seem compelling have been made. A conception of justice that meets this criterion is the conception that, so far as we can now ascertain, is the one most reasonable for us.' *Ibid.* 28. In "Reply to Habermas," we read (384, note 16 emphases added): '[w]ide reflective equilibrium [...] is the reflective equilibrium reached when [the] citizen has carefully considered alternative conceptions of justice and the force of various arguments for them. [...] The citizen has considered the leading conceptions of political justice found in our philosophical tradition [...] and has weighed the force of the different philosophical and other reasons for them. We suppose this citizen's general convictions, first principles, and particular judgements are at least in line. The reflective equilibrium is wide, given the wide-ranging reflection and possibly many changes of view that have preceded it. Wide and not *narrow* reflective equilibrium (in which we take note of only our own judgments [and not also of alternative conceptions of justice]) is plainly the important philosophical concept. [...] Think of each citizen in [a well-ordered society] as having achieved wide reflective equilibrium. Since citizens recognize that they affirm the same public conception of political justice, reflective equilibrium is also *general*: the same conception is affirmed in everyone's considered judgements. Thus citizens have achieved general and wide, or [...] *full* reflective equilibrium. In such a society, not only is there a public point of view from which all citizens can adjudicate their claims of political justice, but also this point of view is mutually recognized as affirmed by them all in full reflective equilibrium. This equilibrium is *fully intersubjective*: that is, each citizen has taken into account the reasoning and arguments of every other citizen.' See also Sebastiano Maffettone, *Rawls: An Introduction*, 139-157 (in particular 145-149) and Thomas M. Scanlon, "Rawls on Justification," especially 140-153 and 160. See also Norman Daniels, "Wide Reflective Equilibrium and Theory Acceptance in Ethics," *The Journal of Philosophy* 76, no. 5 (1979), 256-282.

<sup>823</sup> John Rawls, "The Idea of Public Reason Revisited," 462.

<sup>824</sup> John Rawls, *Political Liberalism*, 220.

cation –and the admitted junctions– between the two cultures shapes<sup>825</sup> and in turn is shaped by<sup>826</sup> the configuration of public reason. The notion of public political culture ‘comprises the political institutions of a constitutional regime and the public traditions of their interpretation [...], as well as historic texts and documents that are common knowledge’<sup>827</sup> and represents a shared fund of ‘fundamental implicit’ ideas from which the content of a political conceptions of justice can arise.<sup>828</sup> Rawls extracts from this shared fund three abstract and general ideas in particular, which are of cardinal importance for his project, because the family of reasonable liberal political conceptions of justice is elaborated by drawing on those ideas. Therefore, it is in their terms that ‘political liberalism can be formulated and understood:’<sup>829</sup>

1. The fundamental organising idea of society as a fair system of cooperation over time;
2. The companion political conception of the person as free and equal;
3. The companion conception of a well-ordered society as effectively regulated by a political conception of justice;

Moreover, this culture is characterised by ‘three general facts:’<sup>830</sup>

1. The fact of reasonable pluralism;
2. The fact that only the oppressive use of state power can maintain a shared understanding based on one comprehensive doctrine overtime;
3. The fact that ‘an enduring and secure [...] democratic regime must be willingly and freely supported by at least a substantial majority of its politically active citizens.’

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<sup>825</sup> John Rawls, “The Idea of Public Reason Revisited,” 462: ‘the details about how to satisfy the proviso must be worked out in practice [...] and how] they work out is determined by the nature of the public political culture and calls for good sense and understanding.’

<sup>826</sup> Ibid.: the proviso ‘specifies public political culture as distinct from the background culture.’

<sup>827</sup> John Rawls, *Political Liberalism*, 13-14.

<sup>828</sup> Ibid. 25 note 27.

<sup>829</sup> Ibid. 43. See also 35.

<sup>830</sup> Ibid. 36-38.

Rawls also adds a fourth fact (which underlies the discussion so far):<sup>831</sup>

4. The fact that the public political culture represents a shared fund of ‘fundamental implicit ideas from which it is possible to work up a political conception of justice suitable for a constitutional regime.’

The notion of public political culture recurs in different places and occasions. For example, in “The Priority of Right and Ideas of Good” (1988), Rawls already said that ‘state’s concern with [the education of children] lies in their role as future citizens, and so in such essential things as their acquiring the capacity to understand the public culture and to participate in its institutions.’<sup>832</sup> Moreover, in *The Law of Peoples*, he writes that there is a right to limit immigration in order ‘to protect a people’s political culture and its constitutional principles.’<sup>833</sup> Some authors have argued that the emphasis on public culture as the common element of a democratic regime –along with the requirement of an overlapping consensus of comprehensive views on a conception of political justice– is the expedient that allows Rawls to preserve a congruence between justice and good in *Political Liberalism*.<sup>834</sup> This argument is apparently supported by Rawls’s considerations about “The Good of Political Society” (seventh section of the Lecture V, “Priority of Right and Ideas of Good”).<sup>835</sup> The “politicisation” of this con-

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<sup>831</sup> Ibid. 38, note 41.

<sup>832</sup> John Rawls, “The Priority of Right and Ideas of the Good,” 465.

<sup>833</sup> John Rawls, *The Law of Peoples*, 39 note 48. This is ‘another reason for limiting immigration,’ since few lines before he pinpointed ‘at least a qualified right to limit immigration’ with reference to the preservation of the capacity of peoples’ territory ‘to support them in perpetuity.’

<sup>834</sup> With reference to the preservation of the congruence between right and good through the idea of an overlapping consensus, Brian Barry says that: ‘in the last chapter of *A Theory of Justice*, Rawls maintained that the stability of the principles of justice could be assured only to the extent that they were “congruent” with widely held conceptions of the good. In *Political Liberalism*, he says that the stability of the principles of justice can be assured only to the extent that they are in some way compatible with widely held “comprehensive views.” Apart from the shift in terminology, it is clear that in this respect Rawls has not changed his mind about stability’ (“John Rawls and the Search for Stability,” 890). For a dissenting opinion, see Paul Weithman, *Why Political Liberalism?*, 298-300. Also Maffettone (in a different way) maintains something similar when he says that: ‘Rawls’s answer [to the problem of the comprehensiveness of the notion of congruence as sketched out in *A Theory*] is to strive to make the congruence between justice and good relatively independent from his own theory of justice as fairness, to anchor it in the shared public culture of a democracy’ (*Introduzione a Rawls*, 71, my translation).

<sup>835</sup> Here Rawls says that a well-ordered society is a good in two ways. First, for ‘persons individually,’ because: 1) it allows the exercise of persons’ moral powers and ‘the exercise of the two moral powers is experienced as good,’ and because 2) it secures the ‘social bases of mutual self-respect.’ Secondly, it is a good realised socially, since, ‘establishing and successfully conducting reasonably just [...] democratic institutions over a long period of time [...] is a great social good and appreciated as such.’ *Political Liberalism*, 202-204.

gruence perhaps explains Rawls's proximity to classical republicanism in this section (*infra*).<sup>836</sup>

In Rawls's project the notion of public political culture plays a pivotal role because it is closely linked with the moral criterion of reciprocity. In fact, if we connect within public political culture the above-mentioned ideas 1 (fair social cooperation) and 2 (persons as free and equal) and the three general facts (the fact reasonable pluralism, the fact of coercion, and the fact of democratic support), we can identify the roots of *reciprocity as the moral ideal expressing the relationship between free and equal rational and reasonable citizens cooperating on fair terms*. As I will explain later (and as I will repeat in 4.2), then, the core of Rawls's conception of public reason is constituted by the *triadic relation between public political culture, reciprocity, and public reason with its proviso*. It is clear, then, that public political culture is the source of "rough" material for the specification of guidelines of public reason through the elaboration of political conceptions of justice that are all bound to –and morally-politically qualified by– the criterion of reciprocity. It is obvious that, during this process, those rough materials (implicit ideas and principles) are substantially transformed and revived from the moral and political point of view. Yet, the existence of those materials is what makes the liberal meta-theory of political liberalism possible. In one sense, this is the *realistic* side of Rawls's utopia (*supra*). It is on the basis of democratic public political culture *as it is today* that Rawls can say that his ideal conception 'describes *what is possible and can be*.'<sup>837</sup> It would be difficult, then, to overemphasise the importance of public political culture. In particular, it serves many crucial (and profoundly intertwined) roles in Rawls's political theory:

1. As I have just mentioned, it provides the shared fund of implicit ideas on which the political conceptions can be worked out.
2. Even more importantly, its existence is a necessary precondition for the affirmation of the liberal principle of legitimacy. Only a society in which those ideas are shared

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<sup>836</sup> Ibid. 205-206. On the contrary, he rejects 'civic humanism' as a form of Aristotelianism according to which 'politics is [...] the privileged locus of the good life,' because the man is defined as a political animal. In contrast, classic republicanism, according to Rawls, is not comprehensive, since it simply maintains that 'with a general retreat into private life, even the most well-designed institutions will fall into the hands of those who seek to dominate. [...] And that] the safety of democratic liberties requires the active participation of citizens.' Thus, with reference to classic republicanism, 'justice as fairness as a form of political liberalism has no fundamental opposition [, a]t most there can be certain differences on matters of institutional design.'

<sup>837</sup> Ibid. 213, emphasis added. The phrase continues: 'yet may never be, though no less fundamental for that.'

(to what degree is impossible to say here) can recognise the moral political authority of such a principle (remember that it says that ‘our exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason’).<sup>838</sup>

3. It shapes our conception of reasonableness: it tells us what it means to treat others and be treated by others as reasonable persons, as free and equal citizens who share the exercise of political power over one another. The two distinctive traits of reasonable citizens are the recognition of the burdens of judgement and their consequences and the willingness to offer and to abide by fair terms of social cooperation, thus recognising their two moral powers as free and equal persons and the fact of reasonable pluralism. But this characterisation in political terms of both persons and society is possible only thanks to the theoretical elaboration of the shared fund of public political culture.
4. In line with 1, 2, and 3, we can now capture the triadic relation mentioned above by saying that the idea of *public reason* is anchored in *public political culture* insofar as the former is grounded in the criterion of *reciprocity*, which, in turn, emerges from the fundamental organising idea of society as a fair system of cooperation between free and equal persons (which is part of the democratic public political culture).
5. Moreover, as Jonathan Quong has observed, the importance of the notion of democratic public culture also derives from its connection with the idea of reflective equilibrium. Quong notes that ‘Rawls explains that we begin with some of the ideas implicit in our public political culture *not simply because they are our ideas*, [...] rather we do so *as part of the process of reflective equilibrium*.’<sup>839</sup> As Quong notes, in *Political Liberalism* Rawls says that ‘[w]e collect such settled convictions as the belief in religious toleration and the rejection of slavery, and try to organize the basic ideas and principles implicit in these convictions into a coherent political

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<sup>838</sup> Ibid. 137. See also xliv, 224.

<sup>839</sup> Jonathan Quong, *Liberalism without Perfection*, 155, emphases added.

conception of justice. *These convictions are provisional fixed points that it seems any reasonable conception must account for. We start then, by looking to the public culture itself [... and] a political conception of justice, to be acceptable, must accord with our considered convictions, at all levels of generality, on due reflection, or in what I have called elsewhere “reflective equilibrium”.*<sup>840</sup> Quong aptly underlines, then, that ‘[d]rawing on the ideas implicit in our public culture is therefore not a radical departure from the methodology employed in *A Theory of Justice*, but rather a continuation of Rawls’s commitment to the method of reflective equilibrium.’<sup>841</sup> He calls this ‘the reflective equilibrium explanation of why political liberalism begins with ideas from our public culture.’<sup>842</sup> In few words, democratic public political culture can be understood not simply as a static and descriptive account of the actual basic convictions widely held in a specific society, but as a part of Rawls’s justificatory project: ‘[o]ur considered convictions gain justificatory force if they fit within a coherent conception of justice, and the conception of justice gains justificatory force if it can explain our most important considered convictions.’<sup>843</sup>

6. Since this fund is shared, it represents the ground on which the political *pro tanto* justification can be reached and become the focus of an overlapping consensus. In Rawls’s theory of justification, public political culture is, in this sense, the ground where ‘liberal ideal consensus’ and ‘factual democratic consensus’ can meet and be reconciled via a democratic practice backed by a normative conception of liberal citizenship.<sup>844</sup> On this account, the idea of reasonableness is more on the ideal-consensus pole of a hypothetical continuum and public reason represents the theoretical tool for transferring (in the literal sense of the Latin verb *transfere*) such a normative imprinting to the practice of democratic deliberation, which represents

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<sup>840</sup> John Rawls, *Political Liberalism*, 8, emphasis added.

<sup>841</sup> Jonathan Quong, *Liberalism without Perfection*, 155.

<sup>842</sup> Ibid.

<sup>843</sup> Ibid.

<sup>844</sup> Sebastiano Maffettone, “Political Liberalism: Reasonableness and Democratic Practice,” 572.



the factual dimension. At the end of this process of reconciliation, ideal consensus on liberal principles and factual agreement (necessary for social stability) are two sides of the very same coin (the coin of liberal democracy), and stability for the right reasons can occur. Once the coin has been minted, it is difficult to separate its two sides.

Rawls's conception of public political culture has been criticised on several occasions. For example, Thomas McCarthy criticises the 'observer-centred' approach of Rawls, contrasted with a more 'participant-centred' approach *à la* Habermas.<sup>845</sup> In his view, 'to suppose that the stock of shared political ideas and convictions is in some way given, there to be found and worked up, or that it could somehow be fixed by theorists, is to hypostatize, or freeze ongoing processes of public political communication whose outcomes cannot be settled in advance by political theory.'<sup>846</sup> If McCarthy calls for a more deliberative democracy with 'unrestricted public reasoning',<sup>847</sup> in order to avoid an excess of rigidity and pre-definition, also George Klosko claims that any attempt to pre-define the content of public political culture would be mistaken. He maintains that:

'The intuitive ideas [of public political culture] are intended to be generally subscribed to in ways that principles of justice are not. [...] However, because of the burdens of judgment, it seems unlikely that adherents of conflicting comprehensive views will readily agree that a specific conception of justice is best suited to free and equal people who have to live together. Among the many issues over which adherents of different views could well disagree are these precise characteristics of free and equal persons. [...] T]here is little reason to believe that liberal citizens will agree more readily about them than about other contested moral questions.'<sup>848</sup>

Klosko then proposes an empirical, evidence-based approach to political liberalism:

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<sup>845</sup> Thomas McCarthy, "Kantian Constructivism and Reconstructivism: Rawls and Habermas in Dialogue," 60-61.

<sup>846</sup> Ibid. 61.

<sup>847</sup> Ibid. 63.

<sup>848</sup> George Klosko, "An Empirical Approach to Political Liberalism," in *Political Liberalism: Variations on a Theme*, 138.

‘I believe that careful assessment of empirical evidence is necessary in order to develop the most defensible account of [the principles of justice]. If the end is to discover principles that people can accept, then a great deal depends on their existing moral and political views, with which principles must cohere. We must inquire into what liberal citizens believe and then craft our principles accordingly.’<sup>849</sup>

And:

‘[My] alternative, convergence method begins by attempting to find areas of agreement between existing comprehensive views. Once such areas have been identified, the second stage would attempt to derive principles with the most robust possible normative content. [...] The first stage of the convergence method can be represented visually as a Venn diagram, with a highlighted area of agreement –or overlap– between different comprehensive views.’<sup>850</sup>

No doubt, here we start with a criticism of Rawls’s notion of public political culture and we end up with a quite different version of political liberalism. However, remember that Rawls does not say that public political culture is absolutely homogeneous or that it does not contain conflicting views. Rather, he tries to ‘find a way of organizing familiar ideas and principles into a conception of political justice that expresses these ideas and principles in a somewhat different way than before’ and finds this ‘organizing idea within which all ideas and principles can be systematically connected and related’ in the ‘idea of society as a fair system of social cooperation between free and equal persons viewed as fully cooperating members of society over a complete life.’<sup>851</sup> Klosko, however, inverts the two stages of Rawls’s justificatory strategy: we begin now from something like an overlapping consensus between comprehensive views. This contradicts Rawls’s idea that:

‘To find this political conception we do not look at known comprehensive doctrines with the aim of striking a balance or average between them, nor do we attempt to strike a compromise with a sufficient number of those doctrines actually

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<sup>849</sup> Ibid. 132-133.

<sup>850</sup> Ibid. 139.

<sup>851</sup> John Rawls, *Political Liberalism*, 9.

existing in society by tailoring the political conception to fit them. *Doing that appeals to the wrong idea of consensus and makes the political conception political in the wrong way. Rather, we formulate a freestanding political conception having its own intrinsic (moral) political ideal* expressed by the *criterion of reciprocity*. We hope in this way that reasonable comprehensive doctrines can endorse for the right reasons that political conception and hence be viewed as belonging to a reasonable overlapping consensus.<sup>852</sup>

Note that it is difficult to maintain the priority of right (*infra*) if we revert the order of justification, giving primacy to the “overlapping consensus.” In this case, the latter would actually be more similar to an average between the conceptions of the good. Indeed, this can be a legitimate choice, but, in these terms, it is very different from Rawls’s political liberalism. In few words, the point is that: if we want to start from a freestanding conception and if we want that such a conception has a moral (political) content, on which –only in a second step– wider moral (comprehensive) views may converge, we must necessarily begin from some moral (political) ideas that they can share. Fundamental ideas of democratic public political culture play this role. Rawls is clearly more concerned with the substance of the problem (that is, with ‘uncovering a public basis of justification on questions of political justice’),<sup>853</sup> rather than with the details of those fundamental ideas. At the end of the day, these ideas consist of ‘what is, or can be, held in common’<sup>854</sup> by people living under democratic institutions over generations. I think that if we understand such ideas as something like general constitutional supreme principles, they are not particularly troublesome from a theoretical point of view. These considerations also reply to McCarthy’s criticism. Since Rawls’s fundamental ideas of public political culture are situated at a very high level of generality and abstraction, how could one meaningfully hope to ‘expand, contract, shift, challenge, and deconstruct’<sup>855</sup> them? I doubt that the idea of ‘free and equal persons’ in its basic and most profound meaning could be seriously expanded or challenged in a democratic regime. Note that obviously this is not to say that the principles worked out by Rawls from these ideas are equally above criticism. I am

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<sup>852</sup> Ibid. xlv. Emphases added.

<sup>853</sup> Ibid. 100.

<sup>854</sup> Ibid.

<sup>855</sup> Thomas McCarthy, “Kantian Constructivism and Reconstructivism: Rawls and Habermas in Dialogue,” 61.

simply saying that in a liberal democratic regime these ideas *per se* are abstract enough to be comprehensively inoffensive, but, at the same time, they are moral enough to be politically relevant. As a general point, it can be argued that ‘those elements of the liberal democratic political culture are like grounds from which any conception of justice must begin. Without those shared starting convictions, it would lack the minimal agreement on the basis of which it can be said that political philosophy answers to the same questions even if they are made from different viewpoints.’<sup>856</sup> Joshua Cohen has also pointed out that a shared public political culture is not only a common ground from which we can start to work out a political conception of justice, but it is also an element that in the long run promotes a convergence on moral political views, thus increasing the plausibility of an overlapping consensus. Allow me to quote this long but limpid passage:

‘[W]e need a *mechanism* –a social or political process that might produce convergence on political values but that does not similarly generate consensus on comprehensive moral values. The right place to look for such a mechanism is at the level of shared institutions, as they might plausibly play an educative role with respect to political ideas, but not with respect to comprehensive moral conceptions. [...] The underlying idea [...] is that people living within institutions and a political culture shaped by certain ideas and principles are likely to come to understand those ideas and principles and to develop some attachment to them. Take for example [the political conception of persons as free equal citizens]. This idea is manifest in various ways in the practices and traditions of interpretation and public discussion associated with citizenship in a democracy: for example equality before the law, or equal civil and political rights. [...] Some will accept political equality as following from their more fundamental moral or religious convictions; others will accept political equality as an important, nonderivative value. *But what keeps the expectation of general agreement from being hopelessly naïve is the plausible thought that citizens who grow up within a reasonably stable democracy will find this (self-)conception familiar and attractive: the political ideas “expressed” in common, public institutions and appealed to in the culture to justify those institutions will shape citizens’ moral-political education.* [...] Many

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<sup>856</sup> Sebastiano Maffettone, *Introduzione a Rawls*, 73, my translation.

views –religious, moral, philosophical– have sufficient internal flexibility or openness to make such accommodations possible. But because political values are a subset of moral values, we have no reason to expect the accommodations of shared political values to produce a more comprehensive agreement that extends to moral values generally.<sup>857</sup>

Now the obvious question is whether the plausibility of an overlapping consensus is then directly proportional to the strength of the constraints imposed by society's institutions and culture. In this case, an overlapping consensus may seem to be more a matter of social imposition than a matter of free agreement. I think that if we presuppose something like the above-mentioned institutions that are necessary for any free public debate (*supra*), we can see this process not as an oppressive vicious circle, but as a self-clarification like the one envisaged by Rawls through the idea of reflective equilibrium. As Cohen rightly puts it:

‘Under these conditions, we face strong pressure to regard the acquisition of shared ideas as a matter of learning rather than mere inculcation via institutional constraint [...] Though the political conception of the person does not arise through reasoning that proceeds outside an institutional setting, it must successfully withstand pressures arising from the institutionalization of deliberation itself, from freedom of expression and association, and from a fair distribution of resources. The attractions of the political conception of the person, then, are assumed to survive criticisms that might be directed against it. *If they do survive, then how could the mere fact that people would find other views attractive under different circumstances provide a reason for rejecting the views that they do hold?*’<sup>858</sup>

Therefore, sharing a common political culture and living under the same institutions can educate and promote certain political values and common interpretations of fundamental po-

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<sup>857</sup> Joshua Cohen, “A More Democratic Liberalism,” 1530-1533. Emphasis added. For the thesis that ‘democracy [is] a tradition, [which] inculcates certain habits of reasoning, certain attitudes toward deference and authority in political discussion, and love for certain goods and virtues, as well as a disposition to respond to certain types of actions, events, or persons with admiration, pity, or horror’ and that ‘the ethical substance [of this tradition] is more a matter of enduring attitudes, concerns, dispositions, and patterns of conduct than it is a matter of agreement on a conception of justice in Rawls’s sense,’ see Jeffrey Stout, *Democracy and Tradition* (Princeton: Princeton University Press, 2004), 3.

<sup>858</sup> Ibid. 1535-1536. Emphasis added.

litical ideas without representing a deterministic –oppressive– mechanism of inculcation. From all these considerations, I would like to establish the following:

(PR2) To endorse public reason involves the recognition of belonging to a common democratic public political culture with its central ‘organizing idea of society as a fair system of social cooperation between free and equal persons viewed as fully cooperating members of society over a complete life.’<sup>859</sup>

The central idea of public reason is that ‘political values alone are to settle fundamental [political] questions.’<sup>860</sup> Clearly, I must specify (1) the scope of what Rawls calls here ‘fundamental political questions’ (see 3.2.b.3), and (2) the meaning of the word ‘alone’ (see chapter four). For the moment, let me consider the question of political values. First, Rawls says that a liberal political conception:<sup>861</sup>

- 1) Is not procedurally neutral (in the sense of referring to no substantive value at all), since it expresses substantives principles of justice which have a moral content, and not merely procedural values.
- 2) Does not endorse neutrality of aims in the sense that the state should ‘*ensure* to all citizens equal opportunity to advance *any* conception of the good’ (emphases added). Instead, only ‘permissible conceptions of the good’ (that is, conceptions that respect the public principles of justice)<sup>862</sup> can be advanced. This is (the ‘particular’) meaning of

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<sup>859</sup> John Rawls, *Political Liberalism*, 9.

<sup>860</sup> Ibid. 214.

<sup>861</sup> In the following list, quotations are from *ibid.* 191-194.

<sup>862</sup> Ibid., for instance 190.

the priority of right.<sup>863</sup> The priority of right is compatible with a different notion of neutrality of aims, that is, that the institutions of the basic structure ‘are not intended to favour any comprehensive doctrine.’

- 3) Moreover, it is not neutral in its effect or influence: ‘it is surely impossible for the basic structure of a just constitutional regime not to have important effects and influences as to which comprehensive doctrines endure and gain adherents over time.’

A political conception of justice, then, expresses moral political principles. It does not favour any comprehensive doctrine, while it would be implausible to say that it has no effects on them in the long run. Finally, it puts some restriction on admissible life plans made by citizens. In accordance with the previous considerations, Rawls affirms that, ‘[e]ven though political liberalism seeks common ground and is neutral in aim, it is important to emphasize that it may still affirm the superiority of certain forms of moral character and encourage certain moral virtues,’ since ‘ideas of the good may be freely introduced as needed to complement a political conception of justice, so long as they are political ideas, that is, so long as they belong to a reasonable political conception of justice for a constitutional regime. This allows us to assume that they are shared by citizens and do not depend on any particular comprehensive doctrine.’<sup>864</sup> Recall that for ideas of the good to be political, they must a) be ‘shared by citizens regarded as free and equal,’ and b) ‘not

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<sup>863</sup> Ibid. 209: ‘the priority of right means (in its general meaning) that the ideas of good used must be political ideas, so that we need not rely on comprehensive conceptions of the good [...] Second, the priority of right means (in its particular meaning) that the principles of justice set limits to permissible ways of life: the claims that citizens make to pursue ends transgressing those limits have no weight. The priority of right gives the principles of justice a strict precedence in citizens’ deliberations [about justice] and limits their freedom to advance certain ways of life.’ See also ibid. 174: ‘the priority of right means that the principles of justice impose limits on permissible ways of life; and hence the claims citizens make to pursue ends that transgress those limits have no weight. But surely just institutions and the political virtues expected of citizens [...] must not only permit but also sustain] ways of life fully worthy of citizens’ devoted allegiance. A political conception of justice must contain within itself sufficient space, as it were, for such ways of life.’ The priority of right has been emphasised as an important element of continuity in Rawls’s work: Sebastiano Maffettone, *Rawls: An Introduction*, 216-217. The priority of right –through its characterisation of the two ideas of justice and legitimacy– can be seen as a unifying element of Rawls’s work: see Leif Wenar, “The Unity of Rawls’s Work,” in *The Legacy of John Rawls*, eds. Thom Brooks and Fabian Freyenhagen (London and New York: Continuum, 2005), 22-33. Rawls lists (*Political Liberalism*, 176) five political ideas of good: 1) the idea of goodness as rationality, 2) the idea of primary goods, 3) the idea of permissible conceptions of the good (‘associated with comprehensive doctrines’), 4) the idea of political virtues, 5) the idea of the good of a well-ordered society (for the latter, *supra*). Those are political ideas of the good because: a) they can be ‘shared by citizens regarded as free and equal,’ and b) they ‘do not presuppose any particular fully (or partially) comprehensive doctrine.’

<sup>864</sup> John Rawls, *Political Liberalism*, 194.

presuppose any particular fully (or partially) comprehensive doctrine.’<sup>865</sup> Thus, this means –among other things– that to be moral in the political and not in the comprehensive sense, they must somehow be grounded in the public political culture that I discussed before. As Fred D’Agostino’s analysis points out, values of public reason express a liberal interpretation of the idea of public justification.<sup>866</sup> But how are they specified? Rawls is not always clear on this matter. In *Political Liberalism* they are mainly discussed within justice as fairness as a political conception. Rawls claims that justice as fairness expresses two kinds of political values, which correspond to the two parts of a political conception (substantive principles of justice and principles and criteria for public reasoning): ‘values of justice’ (expressed by the principles of justice) and ‘values of public reason’ (‘expressed in the guidelines of inquiry and in the steps taken to make such an inquiry free and public, as well as informed and reasonable’).<sup>867</sup> Thus, he affirms that the ‘content of public reason is given by a political conception of justice: this content has two parts: substantive principles

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<sup>865</sup> Ibid. 176, quoted in the penultimate footnote.

<sup>866</sup> Fred D’Agostino, “Value Pluralism, Public Justification, and Post-Modernism: The Conventional Status of Political Critique,” *The Journal of Value Inquiry* 29, no. 3 (1995), in particular 356-362. D’Agostino argues that there is an unsolvable tension between different values (which he gathers in two categories: ‘moralistic’ and ‘realistic’ values) that characterise the ‘multifaceted’ demands for public justification. Some of those values are in conflict: we cannot realise all of them at the same time (e.g. the value of ‘salience’ and the value of ‘independence’ of the justification, see 359). He thus maintains that ‘the elements of the very idea of public justification may well be incoherent,’ *ibid.* Since, according to him, there is not a non-conventional overarching principle to rule out such a tension, we can have nothing but a mere conventional interpretation of the idea of public justification: ‘[t]he choice of any interpretation of the idea of public justification must be made on a purely conventional basis,’ 361. Thus, the choice of a conception of public justification cannot be “justified” if not as a matter of how preferences are aggregated: ‘the standards that have actually been accepted have a merely conventional claim to superiority with respect to others also based on preferences of the community’s members. These too could have been validated as socially binding, *if the procedure of aggregation had been applied in a different, though no more privileged way,*’ *ibid.* 362 To be clear, I fundamentally agree with D’Agostino on the idea that we cannot detach the idea of public reason from a specifically liberal interpretation of the values and demands of public justification. In this sense, as I have said, the notion of liberal public political culture plays an important role in my interpretation of Rawls’s conception of public reason. Having said that, it seems to me that qualifying public justification as merely ‘conventional’ radically departs from Rawls’s understanding of public reason. Here I cannot analyse this important question, but I just underscore that public reason expresses a *normative liberal* ideal. As such, it does have claims to *normative* superiority in a liberal society: the content of public reason is specified by a family of liberal conceptions, which must be justified by means of the device of the original position or some other procedure. Thus, all I will say here is that it seems profoundly inconsistent with Rawls’s view to conceive public reason as a mere conventional interpretation of the idea of public justification deriving from an arbitrary procedure of aggregation. For a development of D’Agostino’s theses, see his book *Free Public Reason: Making It Up As We Go*. In particular: 3-4, 7, and 9-10 for a helpful summary of his basic claims, 30-33 for the ‘dimensions of variation among conceptions of public justification,’ chapter four for his analysis of five different conceptions of public justification (depending on their interpretation of each of those dimensions), chapter five for the distinction between the above-mentioned ‘realistic’ and ‘moralistic’ desiderata, chapter six for the claimed incoherence in tracking those desiderata on the relevant dimensions and between pairs of desiderata, and chapter seven on the implausibility of constructing an overarching principle to overcome the contestability of any conception of public justification.

<sup>867</sup> John Rawls, *Political Liberalism*, in particular 139, 224, and 253.



of justice for the basic structure (the political values of justice) and guidelines of inquiry and conceptions of virtue that make public reason possible (the political values of public reason).<sup>868</sup> Now, is there any marked change when Rawls makes it clear that ‘the forms of permissible public reason are always several’<sup>869</sup> and that the content of public reason is specified not by a single political conception (justice as fairness) but by a family of political conceptions? Apparently not: Rawls does not provide any alternative list of political values.<sup>870</sup> This is not surprising. The content of public reason is specified by a family of liberal political conceptions, and, as I have already explained, the common limiting feature of the many forms of public reason is represented by the criterion of reciprocity.<sup>871</sup> Therefore, each citizen is free to reason from the liberal political conception that ‘he or she sincerely regards as the most reasonable political conception of justice,’<sup>872</sup> but this does not affect the account of political values, because *all* those political conceptions respect the criterion of reciprocity and thus they have the features that are necessary to specify a *permissible* form of public reason, that is, to provide an *appropriate* rendering of those political values. Such conceptions are all able to support the same ideal of public reason, ‘which arises from a conception of democratic citizenship in a constitutional democracy.’<sup>873</sup> Thus they are all able to express those political values which ‘free and equal citizens who exercise ultimate political power as a collective body’<sup>874</sup> in a democratic regime would endorse. The crucial thing is that, when they have to appeal to those political values, their

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<sup>868</sup> Ibid. 253.

<sup>869</sup> John Rawls, “The Idea of Public Reason Revisited,” 452.

<sup>870</sup> However, he does provide an illustrative list, just to make the case that public reason ‘proceeds entirely within a political conception of justice.’ He says: ‘[e]xamples of political values include those mentioned in the preamble to the United States Constitution: a more perfect union, justice, domestic tranquillity, the common defense, the general welfare and the blessings of liberty for ourselves and our posterity. These include under them other values: so, for example, under justice we also have equal basic liberties, equality of opportunity, ideals concerning the distribution of income and taxation, and much else.’ Ibid. 453.

<sup>871</sup> Ibid. 450.

<sup>872</sup> Ibid.

<sup>873</sup> Ibid. 445.

<sup>874</sup> Ibid.

public reasoning ‘proceeds entirely within a political conception of justice.’<sup>875</sup> Obviously, Rawls specifies that, while political values ‘are distinct from other values in that they are realized in and characterize political institutions,’<sup>876</sup> many values may be political but not liberal (e.g., the political values of a caste-system-like aristocratic society). Indeed, we are concerned only with the political values specified by public reason as expressed by ‘reasonable liberal political conceptions.’<sup>877</sup> This is not only to repeat what I have just said, but to underline what these conceptions have in common, and, consequently, on which basis the political values of public reason can be grounded. Political values can be jointly affirmed by different liberal political conceptions because they all fall within the boundaries of the criterion of reciprocity. The latter is intimately related to the very nature of liberal values and liberties: ‘[t]he criterion of reciprocity is normally violated whenever basic liberties are denied,’ Rawls says.<sup>878</sup> He makes some (indeed very general and hardly refutable) examples of violation of the criterion of reciprocity: ‘denying to some persons religious liberty, holding others as slaves, imposing a property qualification on the right to vote, or denying the right of suffrage to women.’<sup>879</sup> Thus, according to Rawls, a list of political values should include: 1) among values of political justice: ‘values of equal political and civil liberty, fair equality of opportunity, the values of economic reciprocity, the social bases of mutual respect between citizens,’ 2) among values of public reason: ‘guidelines of inquiry [which] make the inquiry free and public’ (the ‘appropriate use of the fundamental concepts of judgement, inference, and evidence, but also the virtues of reasonableness and fair-mindedness as shown in abiding by the criteria and procedures of commonsense knowledge and accepting the methods and conclusions of science when not controversial’) along with the political ‘virtues of civility and toleration, of reasonableness and the sense of fairness.’<sup>880</sup> Rawls offers some examples of the political values affirmed by public rea-

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<sup>875</sup> Ibid. 453.

<sup>876</sup> Ibid.

<sup>877</sup> Ibid. 454.

<sup>878</sup> Ibid. 447.

<sup>879</sup> Ibid.

<sup>880</sup> John Rawls, *Political Liberalism*, adapted from 139 and 194. See also 224.

son and how they should be presented and balanced.<sup>881</sup> I will return to some of them in the next chapter, together with the question of the ‘containment’ of the unreasonable. Crucially for my purposes, Rawls states:

‘[G]iven the fact of [reasonable] pluralism, what does the work of reconciliation by free public reason, and thus enables us to avoid reliance on general and comprehensive doctrines, is two things: first, identifying the fundamental role of political values in expressing the terms of fair cooperation consistent with mutual respect between citizens regarded as free and equal; and second, uncovering a sufficiently inclusive concordant fit among political and other values as displayed in an overlapping consensus.’<sup>882</sup>

This observation is important for two reasons. The first point supports my previous considerations about the fundamental role of reciprocity and its relation to the fundamental ideas of public political culture as grounding elements for those political values. The second point brings us back to the notion of stability. Both reciprocity and stability are related to the concept of political legitimacy. As I mentioned in chapter two, public reason is linked with the idea of stability in two ways. First, the ideal of public reason is endorsed via an overlapping consensus, then ‘citizens affirm the ideal of public reason, not as a result of political compromise, as in a *modus vivendi*, but from within their own reasonable doctrines.’<sup>883</sup> Thus, this ideal is stably affirmed in a democratic regime, so that ‘[u]nderstanding how to conduct oneself as a democratic citizen includes understanding an ideal of public reason.’<sup>884</sup> Second, the idea of public reason is a source of stability in itself, because through it we can establish legitimate institutions via a process of justification which is public in aim and content. The reciprocal moral duty of civility is thus met (for this point, see chapter four). The following are just a few examples of Rawls’s view:

‘While no one is expected to put his or her religious or nonreligious doctrine in danger, we must each give up forever the hope of changing the constitution so as

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<sup>881</sup> For instance John Rawls, *Political Liberalism*, 243 note 32, and “The Idea of Public Reason Revisited,” 455-456.

<sup>882</sup> John Rawls, “The Idea of an Overlapping Consensus,” 440.

<sup>883</sup> John Rawls, *Political Liberalism*, 218.

<sup>884</sup> *Ibid.*

to establish our religion's hegemony, or of qualifying our obligations so as to ensure its influence and success. To retain such hopes and aims would be inconsistent with the idea of equal basic liberties for all free and equal citizens.'<sup>885</sup>

And:

'Public reason aims for public justification. We appeal to political conceptions of justice, and to ascertainable evidence and facts open to public view, in order to reach conclusions about what we think are the most reasonable political institutions and policies. Public justification is not simply valid reasoning, but argument addressed to others: it proceeds correctly from premises we accept and think others could reasonably accept to conclusions we think they could also reasonably accept. This meets the duty of civility [...].'<sup>886</sup>

As I began to explain in chapter two and in section 3.2.b.1, in my view, stability for the right reasons and legitimacy are closely connected: they are both derived starting from the mutual presupposition of reciprocity and reasonableness, via a complex justificatory process in which 'factual democratic consensus' and 'ideal liberal consensus'<sup>887</sup> are reconciled and integrated. The initial factual consensus on some core ideas of public political culture is ideally worked up as a freestanding conception which is politically justified. Such a political conception then shifts onto a level in which the tension between the two dimensions (factual-ideal) is firstly resolved "one-by-one" (full justification), then "jointly" (via an overlapping consensus). In this way, it finally becomes fully public. However, the process remains open until a full reflective equilibrium is achieved: in this sense, I think, Rawls says that 'the overall criterion of the reasonable is general and wide reflective equilibrium.'<sup>888</sup> The two elements at the "beginning" and at the "end" of the justificatory process must be brought together, because they both belong and *should* belong to the same person(s) as citizen(s). Reasonableness and reciprocity meet one another on a more sophisticated level. In the end, we endorse and *should* endorse legitimate institutions and support

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<sup>885</sup> John Rawls, "The Idea of Public Reason Revisited," 460.

<sup>886</sup> Ibid. 465.

<sup>887</sup> Sebastiano Maffettone, *Rawls: An Introduction*, 248.

<sup>888</sup> John Rawls, "Reply to Habermas," 384.

stability for the right reasons. The strength of such support derives precisely from the depth of the reconciliation between the factual and the ideal, which, for Rawls, cannot stand in perpetual opposition or even separation. This too is political philosophy as reconciliation.

### 3.2.B.3 The Structure of the Idea of Public Reason.

In this final part, I would like to sketch out the more “structural” elements of Rawls’s idea of public reason. However, my reconstruction of public reason is not concluded in this chapter. For their crucial importance, I postpone some questions until the next chapter. In particular I will consider there the ‘wide view’ and the proviso, the question of how to treat the unreasonable, and some major criticisms against public reason.

It has been argued that Rawls establishes ‘two –partially overlapping– kinds of grounds for the requirements of public reason. The first kind is objective: it depends on the content. [...] The second kind is subjective: it depends on the persons and roles involved.’<sup>889</sup> The first kind of grounds concerns the ‘*scope*’ (the “what”) of public reason –the ‘fundamental political questions’ to which it applies– and it will be considered later. Let me start by analysing the second kind of grounds (the “who”/“where”/“when” of public reason).<sup>890</sup> Rawls clearly points out that ‘the idea of public reason does not apply to all political discussions of fundamental political questions [*infra*], but only to discussions of those questions in [...] the public political forum.’<sup>891</sup> Quong calls the public political forum ‘the *site* of public reason.’<sup>892</sup> In fact, Rawls distinguishes this kind of forum from the ‘background culture’ (*supra*), which is ‘the culture of civil society’ with ‘its diverse agencies and associations with their internal life.’<sup>893</sup> Thus, Rawls claims that the notion of public political forum (to which public reason applies) is different from Habermas’s notion of ‘public sphere,’<sup>894</sup> because the latter ‘is much the same

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<sup>889</sup> Sebastiano Maffettone, *Rawls: An Introduction*, 275.

<sup>890</sup> *Ibid.*

<sup>891</sup> John Rawls, “The Idea of Public Reason Revisited,” 442-443.

<sup>892</sup> Jonathan Quong, “On the Idea of Public Reason,” 269.

<sup>893</sup> John Rawls, “The Idea of Public Reason Revisited,” 442-443.

<sup>894</sup> See for example chapter 8 of Jürgen Habermas’s book *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, translated by William Rehg (Cambridge, Mass.: MIT Press, 1996).

of what [Rawls calls] the background culture [, to which] public reason with its duty of civility does not apply.’<sup>895</sup> On several occasions, Rawls strongly emphasises the non-pertinence of public reason outside public political forums. This point has caused some misunderstandings. For example, he claims that often ‘those who appear to reject the idea of public reason actually mean to assert the need for full and open discussion in the background culture. With this political liberalism fully agrees.’<sup>896</sup> Moreover, he repeats that the limits of public reason ‘do not apply to our personal deliberations and reflections about political questions, or to the reasoning about them by members of associations such as churches and universities, all of which is a vital part of the background culture. Plainly, religious, philosophical, and moral considerations of many kinds here properly play a role.’<sup>897</sup> Thus, it seems fair to say that Rawls fully recognises and values the life and attachments that each person develops outside of the public political forum. According to Rawls, the latter is composed of:<sup>898</sup>

- 1 ‘The *discourse of judges* in their decisions, and especially of the judges of a supreme court,’
- 2 ‘The *discourse of government officials*, especially chief executives and legislators;’
- 3 ‘The *discourse of candidates for public office* and their campaign managers [*sic*], especially in their public oratory, party platforms, and political statements;’

In all three of these cases (above all in the case of judges),<sup>899</sup> the constraints of public reason most obviously and strictly apply. This is so because in conditions of reasonable pluralism it would be a blatant violation of the moral political requirement of providing a genuine public justification for fundamental political decisions ‘to allow public officials to express

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<sup>895</sup> John Rawls, “Reply to Habermas,” 382, note 13. See also “The Idea of Public Reason Revisited,” 443-444, note 13. For a systematic comparison between Rawls’s public reason and Habermas’s public sphere, see Sebastiano Maffettone “Religion and Liberalism: Public Reason, Public Sphere and Cultural Pluralism,” especially 15-20.

<sup>896</sup> John Rawls, “The Idea of Public Reason Revisited,” 444.

<sup>897</sup> John Rawls, *Political Liberalism*, 215. Emphases added.

<sup>898</sup> John Rawls, “The Idea of Public Reason Revisited,” 443, emphases added; see also *Political Liberalism*, 216.

<sup>899</sup> John Rawls, “The Idea of Public Reason Revisited,” 444.

their own deep convictions about the good as the official reasons for state action.’<sup>900</sup> Solum adds that ‘this requirement does not violate the freedom of conscience or expression of public officials. Public office is entered voluntarily, and public officials retain the full freedoms when they speak in their capacity as private citizens.’<sup>901</sup> However, it seems to me that the decisive argument for Rawls is that the problem of public justification is especially compelling for public officials because they come to exercise political power more directly. To put it differently, public officials have access to state’s coercive resources more straightforwardly than ordinary citizens, so it is particularly important that they present a public justification for their most important decisions and actions. But the duty of civility imposes the constraints of public reason also upon *citizens* who are not public officials when they discuss fundamental political questions that fall within the scope of public reason (*infra*). In analysing this case in two different passages, on both occasions Rawls emphasises the ideal dimension of public reason: in fact, it is especially in this case that the duty of civility is presented as a moral requirement rather than as a mere institutional constraint. In *Political Liberalism* Rawls says:

‘[T]he ideal of public reason does hold for *citizens when they engage in political advocacy in the public forum* and thus for members of political parties and for candidates [...] It holds equally for how citizens are to vote in elections when constitutional essentials and matters of basic justice are at stake. Thus, the ideal of public reason not only governs the public discourse of elections insofar as the issues involve those fundamental questions, but also how citizens are to cast their vote on these questions. Otherwise, public discourse runs the risks of being hypocritical: citizens talk before one another one way and vote another.’<sup>902</sup>

As I have already noted, in “The Idea of Public Reason Revisited” he asks:

‘How though, is the ideal of public reason realized by citizens who are not government officials? In a representative government citizens vote for representative [...] and not for particular laws (except [...] when they may vote directly on referenda questions [...]). To answer this question, we say that *ideally citizens are*

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<sup>900</sup> Lawrence B. Solum, “Constructing an Ideal of Public Reason,” 753.

<sup>901</sup> Ibid.

<sup>902</sup> John Rawls, *Political Liberalism*, 215, emphasis added.

*to think themselves as if they were legislators and ask themselves what statutes, supported by what reasons satisfying the criterion of reciprocity, they would think it most reasonable to enact. When firm and widespread, the disposition of citizens to view themselves as ideal legislators, and to repudiate government officials and candidates for public office who violate public reason, is one of the political and social roots of democracy, and is vital to its enduring strength and vigor. Thus citizens fulfil their duty of civility and support the idea of public reason by doing what they can to hold government officials to it. This duty [...] is an intrinsically moral duty.*<sup>903</sup>

This long excerpt supports my interpretation of public reason mainly as an ideal expressing a moral political standard of discussion and deliberation, rather than as a strictly formal and institutional (“protocol-style”) constraint. It seems to me that this interpretation is more true to the spirit of Rawls’s revision of the idea of public reason. As Rawls explicitly affirms:

‘I am concerned only with a well-ordered constitutional democracy [...] understood as a deliberative democracy. The definitive idea for deliberative democracy is the idea of deliberation itself. When citizens deliberate, they can exchange views and debate their supporting reasons concerning public political questions. They suppose that their political opinions may be revised by discussion with other citizens; and therefore these opinions are not simply a fixed outcome of their existing private or non-political interests. It is at this point that public reason is crucial, for it characterizes such citizens’ reasoning concerning constitutional essentials and matters of basic justice [*infra*].’<sup>904</sup>

Moreover, the passage quoted above (‘otherwise, public discourse runs the risks of being hypocritical: citizens talk before one another one way and vote another’) also points out the fact that the notion of sincerity and the ideal of public reason are somehow “co-extensive.” As Schwartzman argues: ‘[s]incerity is not an independent requirement that needs to be added to

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<sup>903</sup> John Rawls, “The Idea of Public Reason Revisited,” 445, emphases added.

<sup>904</sup> Ibid. 448.



the ideal of public reason [...] It is an integral part of any adequate theory of political discourse.’<sup>905</sup>

Bearing in mind this interpretation of public reason, one must acknowledge that some unresolved ambiguities persist in Rawls’s account. However, they do not seem fatal to it. For example, as Kent Greenawalt observes:

‘If decisions by citizens and legislators how to vote are to be determined by public reason, just what is the significance of discerning in reflection, or discussion with co-believers, the implications of one’s comprehensive views for particular political issues? [...] The way one reflects by oneself and discusses with co-believers will be deeply affected by a standard of public reasons for appropriate decision-making. For example, if we assumed that Supreme Court justices are supposed to decide by public reasons, we might be disconcerted to learn that three Roman Catholic Supreme Court justices were discussing with each other exactly what implications are of Roman Catholicism for a particular constitutional issue. Thus, Rawls’s limiting of the requirement of public reasons to voting and public advocacy is less significant than one might initially suppose; that requirement would infect thought and discussion of relevant issues in all settings.’<sup>906</sup>

Now call it the “spill-over effect”<sup>907</sup> of public reason: according to Greenawalt’s argument, when fundamental political questions are discussed, public reason spills over from its appropriate public forum into other settings of citizens’ life. It is difficult to assess the impact of such an effect on the normative “soundness” of the ideal of public reason. Just to pose a trivial

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<sup>905</sup> Micah Schwartzman, “The Sincerity of Public Reason,” *The Journal of Political Philosophy* **19**, no. 4 (2011), 398. The author defines sincerity as ‘a form of correspondence between what we believe and what we say we believe,’ *ibid.* 384. He defines a ‘principle of sincere public justification’ as follows: ‘A ought to advocate proposal *p* if, and only if A (i) believes that ( $R_i \rightarrow p$ ), and (ii) publicly asserts  $R_i$  as sufficient to justify *p*,’ (where  $R_i$  is a public reason) *ibid.* 385. He defends this account of sincere public justification against two alternative requirements for sincere justification: 1) a stronger requirement according to which the citizen must be actually and conclusively motivated by the reasons she presents as sufficient to justify *p* and 2) a weaker requirement according to which the citizen who privately believes she has sufficient reasons to support *p* is not required to disclose those reasons publicly (respectively 387-390 and 390-393).

<sup>906</sup> Kent Greenawalt, “On Public Reason,” *Chicago-Kent Law Review* **69**, no. 3 (1994), 679.

<sup>907</sup> Also Stephen Macedo comes to a similar conclusion when he argues that ‘[l]iberal political virtues and attitudes will *spill over* into other spheres of life.’ See his “Liberal Civic Education and Religious Fundamentalism: The Case of God v. John Rawls?” *Ethics* **105**, no. 3 (1995), 477, emphasis added. See also 496. Notice, however, that here I do not fully share Macedo’s confidence (‘*will spill over*’) about the spill-over effect: I am simply arguing that it may be perhaps desirable from a normative perspective.

question (drawn from Greenawalt's example): were the three Roman Catholic Supreme Court justices discussing while drinking a cup of tea in their living-rooms or just before expressing a final judgement in the Court? In the first case a public reason liberal would be much less 'disconcerted' than in the second. More importantly, since Greenawalt is talking about discussions concerning fundamental political questions (*infra*), after all a partial "spill-over" may have positive effects from the perspective of citizens' learning process about how to treat those questions in a spirit of 'civic friendship' (to use Rawls's terminology). It may also be both a component and a consequence of what Scanlon calls citizens' 'moral education,' consisting in 'learning what justifications others are in fact willing to accept, by finding which ones you yourself find acceptable as you confront them from a variety of perspectives, and by appraising your own and others' acceptance or rejection of these justifications in the light of greater experience.'<sup>908</sup> Of course, in those cases in which the spill-over effect occurs, compliance with public reason is not morally required by the duty of civility. Rather, it expresses a liberal 'supererogatory ideal of good citizenship.'<sup>909</sup> In this way, we come back to the moral, deliberative, and pluralist (rather than merely formalistic and institutional) interpretation of public reason that I sketched out in 3.2.b.1. This position is clearly affirmed by Andrew Lister in these terms:

'The idea that public reason "excludes" certain reasons from consideration can make it seem that the principle is an institutional proposal, to the effect there ought to be an Office of Public Reason, staffed by a philosopher like Rawls, who would be in charge of determining what reasons do and do not count as legitimate public reasons [...] Yet the idea of public reason is not a legal restriction on what citizens can say to one another in public, but a normative restriction on the

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<sup>908</sup> Thomas M. Scanlon, "Contractualism and Utilitarianism," 139.

<sup>909</sup> Philip L. Quinn, "Political Liberalisms and Their Exclusions of the Religious," in *Religion and Contemporary Liberalism*, ed. Paul J. Weithman, 141. For additional considerations on this point, see James W. Boettcher, "Public Reason and Religion," in *The Legacy of John Rawls*, eds. Thom Brooks and Fabian Freyenhagen, 141-142.

grounds upon which they should act, as citizens, when deciding upon (fundamental) policies.’<sup>910</sup>

Similarly, Thomas Nagel argues that ‘the concept of public reason is not put forward by Rawls as a mechanical test for the admissibility of arguments but rather as a characterization of what we should be looking for in an admissible ground for the design of basic institutions.’<sup>911</sup> I do not explore this issue further. The “spill-over effect” might be real, but it is not necessarily a bad thing from the perspective of learning how to provide a public justification to political decisions on fundamental questions.

A further consideration deserves attention in this context. It concerns the salience of the question of coercion in defining the ‘site of public reason’ (to use Quong’s expression quoted above). Charles Larmore criticises Rawls for not having distinguished between ‘open discussion’ (‘where people argue with one another in the light of the whole truth as they see it’) and ‘decision making’ (‘where they deliberate as participants in some organ of government about which option should be made legally binding’).<sup>912</sup> Larmore maintains that an ‘unbridled public discussion’ has two positive consequences. First, through it we can ‘gain a firmer appreciation of the value of [a common] standpoint [for political decisions], seeing how without it so much would tend to drive us apart.’<sup>913</sup> Secondly, unbridled public discussion allows us to adopt a critical attitude and to change our mind more easily: we may find some opinions and views different from our own more persuasive than we originally thought and, then, we may feel ourselves urged to reconsider our own comprehensive views.<sup>914</sup> Moreover, according to Larmore an interpretation of public reason that frees political discussion from its constraints is more faithful to the liberal principle of legitimacy. In fact, as long as the question of political

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<sup>910</sup> Andrew Lister, “Public Reason and Democracy,” *Critical Review of International Social and Political Philosophy* 11, no. 3 (2008), 281-282. The quotation continues: ‘[t]here is nothing wrong with debating the existence of god in the opinion pages of a newspaper. What is wrong is to make a decision about public policy that can be justified only if one assumes that god does (or does not) exist (and therefore also to advocate such a policy).’ On the last point, see what follows about Larmore’s distinction between ‘open discussion’ and ‘decision making.’

<sup>911</sup> Thomas Nagel, “Rawls and Liberalism,” in *The Cambridge Companion to Rawls*, 76.

<sup>912</sup> Charles Larmore, “Public Reason,” 382. For a similar point, see the continuation of the passage from Andrew Lister’s article (“Public Reason and Democracy,” 281) quoted above.

<sup>913</sup> Charles Larmore, “Public Reason,” 383.

<sup>914</sup> Ibid.

coercion does not arise, political legitimacy does not require that fundamental political issues are discussed according to the limits imposed by public reason. Thus, Larmore claims that:

‘[T]he ideal of public reason, based as it is upon the principle [of legitimacy], ought to be understood as governing *only* the reasoning by which citizens –as voters, legislators, officials, or judges– take part in political *decisions* (about fundamentals) *having force of law*. Rightly conceived, *it does not thwart the uninhibited political discussions* which are the mark of a vigorous democracy. *We can argue with one another about political issues in the name of our different visions of the human good while also recognizing that, when the moment comes for a legally binding decision, we must take our bearings from a common point of view.*’<sup>915</sup>

I agree with Larmore on the fact that Rawls is not always clear about this subject.<sup>916</sup> However, it seems to me that some version of such a distinction is implicit also in Rawls’s account of public reason. First, the fact is too often forgotten that along with the notions of ‘public political culture’ and ‘background culture’ (*supra*) Rawls concisely presents what he calls ‘non-public political culture.’<sup>917</sup> He says that the latter occupies an intermediate position between public political culture and background culture and that it ‘comprises media [...] of all kinds: newspapers, reviews and magazines, television and radio, and much else [*sic*].’<sup>918</sup> I think that plausibly a great part of (although obviously not all)<sup>919</sup> open discussions in Larmore’s sense take place precisely in non-public political culture. Now, although Rawls is a little laconic on this point, public reason clearly does not apply to non-public political culture: in fact, he openly says that the ‘idea of public reason does not apply to the background culture with its

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<sup>915</sup> Ibid. Emphases added.

<sup>916</sup> According to Larmore, Rawls’s approach may be misleading due to his ambiguous use of expressions like ‘public political culture’ and ‘public political forum.’ Larmore claims that ‘[t]hough [Rawls] defines these latter terms as referring to the institutions and traditions in which citizens or their representatives authoritatively settle fundamental questions of justice, the terms themselves suggest a wider range of political discussion where the rules of public reason do not rightfully apply,’ *ibid.* 384.

<sup>917</sup> John Rawls, “The Idea of Public Reason Revisited,” 443-444 note 13.

<sup>918</sup> Ibid.

<sup>919</sup> Indeed, though more controversially, I think one might also include in Larmore’s notion of open discussion properly *public* political discussions, such as parliamentary debates before voting on a law on a fundamental political question, which, in a Rawlsian account should be governed by (a wide view of) public reason. See, for instance *ibid.* 443 and 444-445. Above all, see *Political Liberalism*, 216: public reason ‘applies in official forums and so to legislators *when they speak on the floor of parliament*,’ emphasis added.

many forms of nonpublic reason *nor to media of any kind*.<sup>920</sup> This seems to satisfy Larmore's demand of a space for open discussion. Secondly, and more importantly, Rawls says that 'the idea of public reason does not apply to all political discussions of fundamental political questions, but only to discussions of those questions in [...] the public political forum. This forum may be divided into three parts: the discourse of judges [...], the discourse of government officials [...], and the discourse of candidates for public office' and he adds that '[w]e need this three-part division because [...] the idea of public reason does not apply in the same way in these three cases and elsewhere. In discussing what I call the wide view of public political culture, we shall see that the idea of public reason applies more strictly to judges than to others, but that the requirements of public justification for that reason are always the same.'<sup>921</sup> What is the rationale for such distinctions? Clearly, the cogency of the requirements of public reason is directly proportional to the degree to which the duty of civility is binding on a specific person or office. The latter, in turn, is directly proportional to the potential impact of that person or office in terms of the principle of legitimacy. In line with Larmore's argument, then, we can infer from this that the less a discussion about fundamental political issues is likely to trigger an effective exercise of coercive power and, consequently, the less it affects the principle of legitimacy, the less its subjection to public reason is compelling. Thus, it seems that also on this point Larmore and Rawls to some extent finally agree. Having said this, however, I think that Larmore's distinction between free open discussion and coercive decision should be nuanced. Thanks to the enduring practice of public justification among citizens, the moral political criterion of reciprocity may leave its mark even on discussions that strictly speaking do not fall under the constraints of public reason, as I have explained when I analysed the spill-over effect. In this sense, Larmore's claim that '[w]e can argue with one another about political issues in the name of our different visions of the human good while also recognizing that, when the moment comes for a legally binding decision, we must take our bearings from a common point of view'<sup>922</sup> presupposes that the boundaries of open political discussion –in which the constraints of public reason do not apply properly– are established by the same moral political criterion that underpins the idea of public reason itself: namely, the criterion of

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<sup>920</sup> Ibid. 443-444. Emphasis added.

<sup>921</sup> Ibid. 442-443.

<sup>922</sup> Charles Larmore, "Public Reason," 383, quoted above.

reciprocity (see 4.2). In other words, even in open political discussions citizens who are willing to honour their duty of civility respect the idea that the constraints of public reason become more and more stringent as one get closer to binding decisions and to the effective use of coercive political power. But if this is so, then a sharp distinction between open discussions and binding decisions is not particularly helpful. Rather, since it seems that discussion and decision can be ideally imagined on a continuum, the salience of coercion in determining the sphere of application of public reason and the strictness of its requirements is a matter of degree. As I have said, interpreting public reason as an *ideal of liberal citizenship* better accounts for a conception of public reasoning (whether in the form of ‘open discussion’ or aimed at ‘decision making’) grounded in the moral political notions of reciprocity and civic friendship. It is in the light of these two notions that the strength of the requirements of public reason must be weighed case by case. In conclusion, I believe that Rawls agrees with Larmore on the idea that the limits of public reason typically concern binding decisions that call into question the coercive power of the state, while they leave ample space for open and unconstrained discussions (e.g., within associations and churches, on the media, and so on). Furthermore, partially distancing myself from Larmore, I argue that understanding public reason as an ideal of citizenship enables us to soften the distinction between the context of strictly binding decisions based on state’s coercive power and the context of free and open discussion. Thus, it seems that the kind of questions discussed (the “what”) is more important than a formalistic consideration of the coercive or open nature of the debate.<sup>923</sup> However, as I have mentioned, such an account of public reason as an ideal of citizenship is closely related to the notion of reciprocity that I will present in the next chapter (see 4.2).

So far I have analysed the “who,” the “when,” and the “where” of public reason. Nonetheless, I must now introduce the analysis of the “what.” The persons and roles that I mentioned constitute a public political forum in the proper sense when, and only when, they are concerned with the discussion of a particular set of subjects, namely, the subjects to which the requirements of public reason apply. We come then to the scope of public reason. Rawls re-

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<sup>923</sup> This position seems to be endorsed also by Sebastiano Maffettone, who argues that considerations about the kind of questions involved are more important than considerations about the effective recourse to the coercive power of the state for deciding the cogency of the constraints of public reason in a specific case. See “Religion and Liberalism: Public Reason, Public Sphere and Cultural Pluralism,” 9. Thus, according to Maffettone the crucial point concerns the content (the “what”) of the debate and not its formal nature (i.e., an open discussion or a decision making process involving the exercise of the coercive power of the state). To answer the question of “what” falls under public reason we must consider the ‘scope’ of the latter.

stricts the scope of public reason to ‘constitutional essentials’ and ‘matters of basic justice’ (*infra*). In what follows, I will simply assume Rawls’s view, but it must be noted that such restriction of the scope of public reason is not uncontroversial. There is an important debate in the related literature concerning two different ways for understanding the scope of public reason. Following Jonathan Quong, the first can be called ‘narrow view,’ which is fundamentally in line with Rawls’s view, which affirms that the idea of public reason applies to constitutional essentials and matters of basic justice, ‘but need not apply beyond this domain.’<sup>924</sup> Notably, this view is also endorsed by Scanlon.<sup>925</sup> Nonetheless, Quong’s preferred view is what he calls ‘broad view,’ which says that public reason ought to apply to ‘*all decisions where citizens exercise political power over one another*,’<sup>926</sup> thus broadening the scope of public reason much beyond Rawls’s ‘fundamental political questions.’ A different version of a broad view of the scope of public reason can also be found in Gaus’s *Justificatory Liberalism*. Charging Rawls of ‘justificatory populism,’ Gaus holds that:

‘Because disagreements and conflicts permeate political life, normal politics cannot be plausibly construed as a search for consensus. But if public reason is understood as essentially consensual, how can normal, everyday politics be explained? This leads [...] to distinguish sharply between constitutional politics and normal politics. On this view, constitutional politics is the realm of public reason and consensus, everyday politics is simply clash of interest. [...] I have dissented: A policy cannot justly be imposed on some people on the grounds that it advances the interests of others. [...] Because of his justificatory populism, however, Rawls is unable to provide a clear account as to what normal politics is really about. [...] Justificatory liberalism identifies [a different] interpretation that explains the difference between constitutional and normal politics *without adopting a dualistic theory* according to which they are about essentially different matters. Constitu-

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<sup>924</sup> Jonathan Quong, *Liberalism without Perfection*, 274.

<sup>925</sup> Thomas M. Scanlon, “Rawls on Justification,” 162-163. Additionally, notice that Quong (*Liberalism without Perfection*, 278-281) derives an argument in favour of the narrow view also from Peter de Marneffe’s discussion of citizens’ ‘basic interests’ (related to a fair distribution of primary goods) that a legitimate constitution must fairly protect [Peter de Marneffe, “Liberalism, Liberty and Neutrality,” *Philosophy and Public Affairs* 19, no. 3 (1990), especially 258-260]: this argument would support a narrow conception of the scope of public reason because the latter would apply only to citizens’ basic interests and would be excluded from the domain of their non-basic interests.

<sup>926</sup> Jonathan Quong, *Liberalism without Perfection*, 274. Emphasis added.

tional politics concerns what is *conclusively* justified, and so determines the agenda of normal politics. Widespread consensus is to be expected. Normal politics is about fundamental matters, but is not a search for consensus; it is the *confrontation of undefeated, unvictorious judgements* about the demands of basic principles. [...] Normal politics [...] is not constituted by a brute clash of incompatible moral views; it is a confrontation between *inconsistent public justifications*.<sup>927</sup>

This passage is crucial to understanding the core of the broad view. Namely, that also the ‘normal (i.e., nonconstitutional) political discourse’<sup>928</sup> should be somehow governed by public reason. As I have said, I cannot do justice to this discussion here. However, as Quong rightly points out, we should not confuse the distinction between the broad and narrow view of the scope of public reason with the distinction between the inclusive, wide, and exclusive view of public reason. As he maintains, the ‘latter distinction refers to the question of when, and under which conditions, comprehensive or non-public reasons can be introduced by citizens when debating issues that are *assumed to be within the scope of public reason*.’<sup>929</sup> Quong also adds that ‘[w]hether you adopt the broad or narrow view of public reason’s scope has no bearing on whether you accept the inclusive, exclusive, or wide view of public reason.’<sup>930</sup> In this work I am mainly concerned with the second distinction (i.e., between the inclusive, exclusive, and wide view: see chapter four), since it represents the main dimension on which the evaluative task of the third part of this study is plausibly expected to impact. Thus, due to the aims of this research, with reference to the first distinction I will simply assume Rawls’s narrow view of the scope of public reason. It follows that:

‘[T]he limits imposed by public reason do not apply to all political questions but *only to those involving what we may call “constitutional essentials” and questions of basic justice*. This means that political values alone are to settle such fundamental questions as: who has the right to vote, or what religions are to be toler-

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<sup>927</sup> Gerald F. Gaus, *Justificatory Liberalism*, in particular 232-233 (see also 131-136). Emphases added.

<sup>928</sup> Ibid. 231.

<sup>929</sup> Jonathan Quong, *Liberalism without Perfection*, 275. Emphasis added.

<sup>930</sup> Ibid.



ated, or who is to be assured fair equality of opportunity, or to hold property.

These and similar questions are the special subject of public reason.’<sup>931</sup>

However, let me clarify two points. First, I follow Rawls’s narrow view mainly due to the purposes of my research. Since I am concerned with the problem of a liberal evaluation of Muslims’ views concerning their civic status in European liberal democracies, it seems reasonable to follow Rawls’s suggestion according to which we should ‘consider first the strongest case where the political questions concern the most fundamental matters. If we should not honor the limits of public reason here, it would seem we need not honor them anywhere’<sup>932</sup> (*infra*) and that:

‘[I]f a political conception of justice covers the constitutional essentials and matters of basic justice [...] it is already of enormous importance even if it has a little to say about many economic and social issues that legislative bodies must regularly consider. [...] So long as there is firm agreement on the constitutional essentials [...] willing political and social cooperation between free and equal citizens can normally be maintained.’<sup>933</sup>

Second, none of this is to deny that the distinction between fundamental and non-fundamental political questions is often very difficult to draw.<sup>934</sup> I see no difficulty in recognising that such a distinction must be continuously renegotiated on the basis of changing political, social, economic, and scientific circumstances.<sup>935</sup>

Thus, the answer to the question of the “what” of public reason is that the latter should always apply when these fundamental questions (constitutional essentials and matters of basic justice) are discussed in the appropriate context (that is, a public political forum). In fact, remember that:

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<sup>931</sup> John Rawls, *Political Liberalism*, 214. Emphasis added.

<sup>932</sup> *Ibid.* 215.

<sup>933</sup> *Ibid.* 230.

<sup>934</sup> Kent Greenawalt, “On Public Reason,” 685-688.

<sup>935</sup> For a similar position, see James W. Boettcher, “Rawls and Gaus on the Idea of Public Reason,” 10, note 9.

‘[I]ts limits do not apply to our personal deliberations and reflections about political questions, or to the reasoning about them by members of associations such as churches and universities [...] but the ideal of public reason does hold for citizens when they engage in political advocacy in the public forum [...] It holds equally for how citizens are to vote in elections when constitutional essentials and matters of basic justice are at stake.’<sup>936</sup>

As I mentioned in a footnote to the second chapter, Rawls distinguishes between two kinds of constitutional essentials:<sup>937</sup>

- a. First, the ‘fundamental principles that specify the general structure of government and the political process: the powers of the legislature, executive and the judiciary; the scope of the majority rule.’ Essentials of this kind can be specified differently without altering the liberal democratic character of the political regime (Rawls makes the example of the difference between presidential and cabinet governments). However, Rawls says that ‘once settled, it is vital that the structure of government be changed only as experience shows it to be required by political justice or the general good, and not as prompted by the political advantage of one party or group that may at the moment have the upper hand.’
- b. Second, ‘[e]qual basic rights and liberties of citizenship that legislative majorities are to respect: such as the right to vote and to participate in politics, liberty of conscience, freedom of thought and association, as well as the protections of the rule of law.’ In contrast with essentials of the first kind, essentials of the second kind are more or less the same in all democratic regimes.

With reference to basic matters of justice, Rawls argues that his second principle of justice (fair equality of opportunity and the difference principle) is not an essential. In fact, he claims that, while some principles of opportunity regulating for instance freedom of movement and the free choice of occupation do specify fundamental constitutional rights, his principle of ‘fair equality of opportunity [...] goes beyond that and is not such an essential. Similarly, though a social minimum providing for the basic needs of all citizens is also an essential,

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<sup>936</sup> Ibid. 215.

<sup>937</sup> Ibid. 227-228.

what I have called the “difference principle” is more demanding and is not.’<sup>938</sup> In general, Rawls expects more disagreement about principles dealing with social and economic inequalities than about principles concerning basic rights and liberties. The basic reason for this distinction is that, according to Rawls, ‘although questions of both kinds are to be discussed in terms of political values, we can expect more agreement about whether the principles for the basic rights and liberties are realized than about whether the principles for social and economic justice are realized.’<sup>939</sup> Then, he pinpoints four reasons<sup>940</sup> for distinguishing constitutional essentials from principles regulating social and economic inequalities and in a passage that I have already partially quoted he says that:

‘These considerations explain why freedom of movement and free choice of occupation and a social minimum covering citizens’ basic needs count as constitutional essentials while the principle of fair opportunity and the difference principle do not. [...] If a political conception of justice covers the constitutional essentials and matters of basic justice [...] it is already of enormous importance even if it has little to say about many economic and social issues that legislative bodies must regularly consider. To resolve these more particular and detailed issues it is often more reasonable to go beyond the political conception and the values its principles express, and to invoke non-political values that such a view does not include. But so long as there is firm agreement on the constitutional essentials [...] willing political and social cooperation between free and equal citizens can normally be maintained.’<sup>941</sup>

This point has created many perplexities. Does this concern with the priority of fundamental constitutional rights and liberties over questions of social and economic justice mean that Rawls has abandoned (or at least largely relinquished) his previous egalitarian commitments?

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<sup>938</sup> Ibid. 228-229.

<sup>939</sup> Ibid. 229-230.

<sup>940</sup> Ibid. 230. See also David Estlund, “The Survival of Egalitarian Justice in John Rawls’s *Political Liberalism*,” 74.

<sup>941</sup> John Rawls, *Political Liberalism*, 230.

In this research I cannot explore this debate further, since it would lead us astray. I limit myself to observing the existing disagreement in the literature relevant to this point.<sup>942</sup>

Coming back to the question of the narrow/broad view of the scope of public reason, Rawls explains his preference for the first option in this way:

‘Some will ask: why not all questions in regard to which citizens exercise their final and coercive political power over one another are subject to public reason? Why would it ever be admissible to go outside its range of political values? To answer: *my aim is to consider first the strongest case where the political questions concern the most fundamental matters. If we should not honor the limits of public reason here, it would seem we need not honor them anywhere.* Should they hold here, we can then proceed to other cases. *Still, I grant that it is usually highly desirable to settle political questions by invoking the values of public reason. Yet this may not always be so.*’<sup>943</sup>

In this chapter I have emphasised the ideal dimension of public reason (that is, the interpretation of public reason chiefly as an ideal of citizenship in a liberal society of free and equal cooperating fellow citizens). I will stress such a dimension in the next chapter as well. Such an emphasis allows us to understand why Rawls, after having specified a *narrow* scope for the requirements of public reason, says that, however, a “*spill-over*” of public reason in discussions about political issues *other than fundamental ones* is ‘*usually highly desirable*’ even though not always possible. The presentation of public reason as an ideal of citizenship has already helped to explain why at times Rawls seems ambiguous about the boundaries of public reason. In particular, I considered Greenawalt’s concerns about what I have called the “*spill-over*” effect in non-public discourses, Larmore’s distinction between ‘open discussion’ and binding ‘decision making,’ and Quong’s distinction between the narrow and broad view. My main objective was to show that if we consider public reason primarily in its ideal dimension (based on the moral political criterion of reciprocity, see 4.2), we can better understand some of its supposed ambivalences or inconsistencies. Crucially, an account of the ideal of public reason also explains why the limits of the latter must be endorsed from within each

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<sup>942</sup> For two opposite positions, see Brian Barry, “John Rawls and the Search for Stability,” and David Estlund, “The Survival of Egalitarian Justice in John Rawls’s *Political Liberalism*.”

<sup>943</sup> John Rawls, *Political Liberalism*, 215. Emphases added.

person's reasonable comprehensive doctrine. As I mentioned above, Rawls believes that '[c]itizens affirm the ideal of public reason not as a result of political compromise, as in a *modus vivendi*, but from within their own reasonable doctrines.'<sup>944</sup> The reason of this remark is that the ideal of public reason aims to secure fundamental rights and liberties and to advance great values, and, indeed, '[t]o be able to live with others in terms of mutual respect is a significant moral achievement.'<sup>945</sup> Thus, in Rawls's own words:

'What has to be shown is either that honoring the limits of public reason by citizens generally is required by certain basic rights and liberties and their corresponding duties, or else that it advances certain great values, or both. *Political liberalism relies on the conjecture that the basic rights and duties and values in question have sufficient weight so that the limits of public reason are justified by the overall assessments of reasonable comprehensive doctrines once those doctrines have adapted to the conception of justice itself.*'<sup>946</sup>

With reference to this point, elsewhere he explains the two grounds on which the project of political liberalism relies:

'[F]irst, that the *values of the political are very great values* and not easily overridden; and second, that there are many reasonable comprehensive doctrines that understand the wider realm of values to be *congruent with, or supportive of, or else not in conflict with*, political values as these are specified by a political conception of justice for a democratic regime. *These two grounds secure the basis of public reason*, for they imply that fundamental political questions can be settled by an appeal to political values expressed by the political conception endorsed by the overlapping consensus. In these circumstances, *a balance of reasons as seen within each citizen's comprehensive doctrine, and not a compromise compelled by circumstances, is the basis of citizen's respect for the limits of public reason.*'<sup>947</sup>

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<sup>944</sup> Ibid. 218.

<sup>945</sup> Micah Schwartzman, "The Completeness of Public Reason," *Politics, Philosophy, and Economics* 3, no. 2 (2004), 211.

<sup>946</sup> John Rawls, *Political Liberalism*, 219. Emphasis added. For the 'adaptation' process, see 158-168.

<sup>947</sup> Ibid. 168-169. Emphases added.

Thus, it seems that the main ground for affirming such an ideal interpretation of public reason can be persuasively found in the indissoluble connection between the great values that it expresses (and which are morally, philosophically or/and religiously endorsed through the overlapping consensus) and the fundamental rights and liberties it aims to protect from illegitimate exercises of coercive power. It is by reference to those values and that aim that we can better understand the normative salience of such an ideal.

To sum up so far, coming back to the “who”/“where”/“when” and the “what” of public reason, let me state that:

**(PR3)** To endorse public reason involves being committed to its requirements when discussing (i) in a public political forum (this is the appropriate *site* of public reason, in the sense that I have specified above) (ii) political questions involving fundamental constitutional rights and liberties and chief questions of basic justice (this is the *scope* of public reason). Though not normatively binding, the fact that public reason is honoured in a wider range of cases through a “spill-over effect” (e.g., in non-public political discussions –such as discussions in churches and associations– or in public discussions about non-fundamental political questions) expresses a stronger –supererogatory or “more-than-what-is-strictly-required”– sense of reciprocity between fellow citizens.

When the two conditions under (PR3) are present, then, what reasons must be brought in public political discussion in order to fulfil the duty of civility? I will postpone the analysis of this question and of the wide public reason until the next chapter. However, here some preliminary considerations are in order. One may ask: what is a genuinely public reason according to Rawls? As I have mentioned, public reason provides ‘guidelines of inquiry’ and steps ‘to make such inquiry free and public, as well as informed and reasonable.’<sup>948</sup> Rawls states that:

‘[I]n making [public] justifications, we are to appeal only to presently accepted general beliefs and forms of reasoning found in common sense, and the methods and conclusion of science when these are not controversial. The liberal principle of legitimacy makes this the most appropriate, if not the only, way to specify the guidelines of public inquiry. [...] This means that in discussing constitutional es-

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<sup>948</sup> Ibid. 139.

entials and matters of basic justice we are not to appeal to comprehensive religious and philosophical doctrines –to what we as individuals or members of associations see as the whole truth [...] *As far as possible*, the knowledge and ways of reasoning that ground our affirming the principles of justice and their application to constitutional essentials and matters of basic justice are to rest on the plain truths now widely accepted, or available, to citizens generally. Otherwise, the political conception would not provide a public basis of justification.’<sup>949</sup>

Since it aims at satisfying the liberal principle of legitimacy, public reason requires that we offer to our fellow citizens reasons ‘acceptable to them as reasonable and rational’ persons: in this way we honour the duty of civility (the moral duty ‘to be able to explain to one another on those fundamental questions how the principles and policies [we] advocate and vote for can be supported by the political values of public reason’).<sup>950</sup> Rawls connects reciprocity, legitimacy, and its conception of “giving a public reason” even more clearly in this crucial passage: ‘the idea of political legitimacy, based on the criterion of reciprocity says: our exercise of political power is proper only when we *sincerely believe that the reasons* we would offer for our political actions –were we to state them as government officials– *are sufficient*, and we also *reasonably think that other citizens might also reasonably accept those reasons*.’<sup>951</sup> I will return to reciprocity as the fundamental moral political ground for the fulfilment of the duty of civility in chapter four (there I will present a “bifurcate model of the duty of civility” articulated on two levels, see 4.2). With reference to Rawls’s previously quoted definition, James Boettcher notes that two elements are noteworthy: ‘[f]irstly, [...] Rawls acknowledges that the exercise of public reason involves offering not simply reasons we believe to be persuasive or effective, but ones which we sincerely believe to be good. Second, the principle incorporates the idea of reasonableness at two moments, as a moral power of both the author and the addressee of reasons.’<sup>952</sup> Thus, according to this definition a reason *R* for justifying the action *x* is public if and only if:

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<sup>949</sup> Ibid. 224-225. Emphasis added.

<sup>950</sup> Ibid. 217.

<sup>951</sup> John Rawls, “The Idea of Public Reason Revisited,” 446-447. Emphases added.

<sup>952</sup> James W. Boettcher, “Rawls and Gaus on the Idea of Public Reason,” 9.

1. One *sincerely* believes that *R* is a *sufficient* reason to justify *x*;
2. One *reasonably* thinks that *R* can be *reasonably* accepted by others as a reason for *x*.

So, for Rawls providing a justification in terms of genuinely public reasons means ‘to appeal only to *presently accepted general beliefs, and forms of reasoning found in common sense, and the methods and conclusions of science when these are not controversial.*’ And he continues: ‘[t]he liberal principle of legitimacy makes this *the most appropriate, if not the only, way to specify the guidelines of public inquiry.*’<sup>953</sup> Since here I am considering only properly *public* reasons, I postpone until the next chapter the analysis of the conditions for introducing *non-public* reasons within the scope of public reason (in this sense, I defined the proviso as a “general threshold for public reasoning” in 2.2.b): there, I will present an “extensive interpretation” of the proviso grounded in the bifurcate model of the duty of civility mentioned a few lines above.

Now, I would like to add some observations about the notions of sufficiency and sincerity mentioned in the first point above (whilst, with reference to the second point, I will consider the question of what we can reasonably think that others can reasonably accept in 4.2 by specifying the boundaries of the duty of civility and the notion of unreasonableness, both defined in the light of –and rooted in– the criterion of reciprocity). Firstly, let me repeat what I said at the beginning of chapter two: *sufficiency* is wanting as a requirement for specifying the adequacy of reasons that must be provided in public justification. I termed “special” the definition of public justification that qualifies the adequacy of such reasons in terms of their conclusiveness. Thus, I interpret Rawls’s sufficiency requirement as a conclusiveness requirement: paraphrasing Rawls, in order to have a public justification, we must sincerely believe that the reasons we offer for our political actions are *conclusive* reasons to justify them, and we must also reasonably think that other citizens can reasonably accept those reasons. To say that a *public justification cannot be achieved without conclusive reasons* is different from saying that in no circumstance *can public reason be inconclusive* (see the final part of this chapter, 4.1, and 4.2). As I explained in 3.2.b.1 and I will make clear at the beginning of chapter four, public reason is also, but by no means only a justificatory device. Thus, the problem of the

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<sup>953</sup> John Rawls, *Political Liberalism*, 224. Emphases added. See also *ibid.* 139.



completeness of public reason (that absorbs the question of its conclusiveness, *infra*), is broader and more complex than the mere problem of the adequacy of reasons (in terms of their conclusiveness) required for a public justification. Since public reason is not only a justificatory device, we can assume the justificatory requirement of the conclusiveness of justificatory reasons while at the same time leaving open the question of the completeness of public reason itself and its relevance from the viewpoint of public reason as an ideal of citizenship. I will say some few words on the completeness of public reason shortly, before analysing it in detail in chapter four. However, let me add a concise remark about the question of *sincerity*, on which I will return in chapter four in presenting my interpretation of the proviso. Previously, I maintained that we can define sincerity as ‘a form of correspondence between what we believe and what we say we believe’ (I borrow this definition from Schwartzman).<sup>954</sup> However, we can understand this formulation in two ways. First, one may understand this definition as requiring that there to be a correspondence between, on the one hand, our belief that a *public* reason (or a set of public reasons) is sufficient to justify publicly a political proposal and, on the other hand, our public appeal to that *public* reason as a sufficient public reason to justify publicly that proposal. In this interpretation, a sincere public justification relies exclusively on *public* reasons. Schwartzman seems to favour this interpretation.<sup>955</sup> It specifies a first account of what he calls ‘an ideal of public sincerity.’<sup>956</sup> However, there is another way to specify an ideal of public sincerity. One could imagine that a citizen is sincere also when she publicly appeals to a *non-public* reason which she sincerely believes enhances a spirit of political reciprocity and civic friendship, that is, a non-public reason fitting with the rationale and the moral ground of a properly public reason. Here, there is a correspondence between our believing that the *spirit* underlying a *non-public* reason complies with the ideal of public reason and our affirming that non-public reason in public as an adequate ground for justifying publicly the political proposal in question. The label ‘ideal of public sincerity’ applies to both interpretations because also the second displays a crucial element of publicity: namely, the fundamental *spirit of political reciprocity* that characterises it. Note that I do not deny the first, more public, characterisation of the ideal of public sincerity. Simply, in chapter four I will apply the

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<sup>954</sup> Micah Schwartzman, “The Sincerity of Public Reason,” 384.

<sup>955</sup> Ibid. in particular 384-385.

<sup>956</sup> Ibid. 385.

two interpretations of sincerity to two different levels of the duty of civility. The first (fully public) interpretation of sincerity applies to the first, consensual stage of the duty of civility. The second interpretation of sincerity (which is public in its spirit but not in the particular reasons appealed to) applies to the second, more convergent stage of the duty of civility. I will argue that one can comply with a wide view of public reason and its proviso in both ways. As I have said, I will return to these points in the next chapter, because this is the core of the bifurcate model of the duty of civility that I will present in 4.2.

Let me concisely consider another issue that I will analyse in the next chapter. As recalled, Rawls claims that public reason must be *complete*: this means that the political values ‘can be suitably balanced or combined, or otherwise united [...] so that those values alone give a reasonable public *answer to all, or to nearly all, questions of justice*.’<sup>957</sup> He points out that the requirement of completeness derives from the fact that:

‘[U]nless a political conception is complete, it is not an adequate framework of thought in the light of which the discussion of fundamental political questions can be carried out. What we cannot do in public reason is to proceed directly from our comprehensive doctrine, or a part thereof, to one or several political principles and values, and the particular institutions they support. Instead, we are required first to work to the basic ideas of a complete political conception and from there to elaborate its principles and ideals, and to use the arguments they provide. Otherwise public reason allows arguments that are too immediate and fragmentary.’<sup>958</sup>

Thus, he maintains that public reason must enable us to form a ‘complete ordering of political values,’ on which we can base our justificatory public activity.

Now, two points must be emphasised. First, the previous remarks could open a deep and intense debate about the epistemological status of Rawls’s justificatory project. However, here I cannot open the floor to such discussion. The few points considered above and in the next chapter are sufficient for my purposes. This is not to say that I underestimate the importance of this kind of debate. In particular, the idea of the completeness of public reason has

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<sup>957</sup> John Rawls, *Political Liberalism*, 225. Emphasis added. See also “The Idea of Public Reason Revisited,” 454.

<sup>958</sup> John Rawls, “The Idea of Public Reason Revisited,” 455. Emphases added.

been thoroughly criticised and debated. Traditionally, two forms of incompleteness have been distinguished: indeterminacy (when public reason is ‘unable to deliver any clear conclusions about a particular question. In these cases, [...] public reason “runs out”: its content simply proves insufficient to yield an answer to the question posed’) and inconclusiveness (when ‘a plurality of different answers might be apparently justified by appeal to public reason, and public reason alone cannot clearly tell us which answer is correct or the most reasonable alternative’).<sup>959</sup> For example, in *Justificatory Liberalism* Gerald Gaus famously maintains that public justifications are typically inconclusive (they are ‘undefeated but not victorious’)<sup>960</sup> and says that ‘[p]ublic debate is [...] typically inconclusive in this way: the relevant information is so great that we are rational to form beliefs on the basis of what we have access to, but other people pick up on other information, coming to different conclusions. Because matters are so complex, neither side can typically claim victory.’<sup>961</sup> Accordingly, he also argues that in public justification indeterminacy is much less common than inconclusiveness, since ‘our standard epistemological situation is an overabundance, not a paucity, of reasons.’<sup>962</sup> The debate about the incompleteness of public reason is certainly one of the most relevant concerning the idea of public reason.<sup>963</sup> In the next chapter, in presenting my interpretation of the proviso, I will consider some questions closely related to the issue of completeness of public reason. This brings me to the second point. This chapter has dealt mainly with the answer to the question “What is public reason?” Nevertheless, as I have repeatedly underlined, we cannot answer the question “What does it mean to justify through public reason?” until we have introduced the idea of a wide view of public reason. To this task, I devote the next chapter.

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<sup>959</sup> Jonathan Quong, “Public Reason,” page 15 of the printable pdf version of the article.

<sup>960</sup> Gerald F. Gaus, *Justificatory Liberalism*, 151ff. For the idea of defeat and victory in public justification, see *ibid.* 144-150. See also Micah Schwartzman, “The Completeness of Public Reason,” 195. See also chapter four.

<sup>961</sup> Gerald F. Gaus, *Justificatory Liberalism*, 154.

<sup>962</sup> *Ibid.* 155. For Gaus’s conception and his proposal to face inconclusiveness (what he calls ‘adjudicative democracy’), see also *ibid.* 179-191, 223ff; see also his *Contemporary Theories of Liberalism: Public Reason as a Post-Enlightenment Project* (London and Thousand Oaks, Calif.: Sage, 2003), in particular 212-218 and (for the ‘liberal umpire’) 218-229. See also his definition of a ‘sufficiently credible belief’ in “The Rational, the Reasonable and Justification,” *The Journal of Political Philosophy* 3, no. 3 (1995), 252-256 (and 239).

<sup>963</sup> The debate between David Reidy on the one hand, and Andrew Williams and Micah Schwartzman on the other is informative in this sense. See David A Reidy, “Rawls’s Wide View of Public Reason: Not Wide Enough,” *Res Publica* 6, no. 1 (2000), especially 63-71; Andrew Williams, “The Alleged Incompleteness of Public Reason,” *Res Publica* 6, no. 2 (2000), in particular 205-211; Micah Schwartzman, “The Completeness of Public Reason,” 193-198, 203-208, 209-214.



## Chapter Four

# *Public Reason and Religion. Reinterpreting the Duty of Civility.*

*Il faudroit des Dieux pour donner  
des loix aux hommes.*<sup>∞</sup>

In the previous chapter I emphasised what I shall call the “core view” of public reason, namely, its moral political interpretation as an ideal of liberal citizenship. Such a perspective—that I will complete in this chapter—rejects the view that public reason is a mere mechanism of homogenisation in a “liberal sauce” of individual preferences. In other words, as I understand it, public reason is neither a silencer nor a simple filter. Rather, I think of it as a moral-political *and* procedural force field that is politically centripetal and cohesive, not suppressive.<sup>964</sup> Public reason does not require that we all vote in the same way: it is not a unanimity-generator. It does not require that we all use the same words: it is not a piece of soap to wash one’s mouth out with. Rather, it demands that we prefer those reasons, arguments, and words that better express the criterion of political reciprocity (see 4.2 below), which is the ultimate

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<sup>∞</sup> Jean-Jacques Rousseau, *Il contratto sociale*, French parallel text, translated by Maria Garin, with an introduction by Tito Magri (Rome and Bari: Laterza, 1997), 56.

<sup>964</sup> My most sincere thanks to Valentina Gentile for having discussed with me this and the following points on so many occasions.

measure of the health of a liberal democratic regime. In the absence of an absolute political power and of a single unified moral-religious view, what ultimately holds a liberal democratic regime together is a spirit of civic friendship. This is the third –and often neglected– element of the French triad (*liberté, égalité, fraternité*). One of the deepest intuitions of this study<sup>965</sup> is that contemporary liberal democracies must reinterpret the ideal principle of fraternity in a way that is consistent with their conception of the other two principles of the French triad (freedom and equality). A “well-tempered” political regime is a regime that harmonises –as far as possible– freedom, fraternity, and equality. According to political liberalism, such harmonisation must be *political*. In particular, freedom and fraternity seem at odds because the latter involves some kind of unity, while the former is the precondition for what Rawls calls the fact of reasonable pluralism (the result of ‘free practical reason within the framework of free institutions’).<sup>966</sup> Now, the ideal role of public reason is precisely to reconcile these two demands by showing that they are not mutually exclusive. On the contrary, they can constitute the two pillars of a unified *political* conception of democratic citizenship: a conception based on the moral political equality of citizens endowed with the capacity for a sense of justice and the capacity for a conception of the good who cooperate on fair terms that they publicly endorse and who support their common political institutions over time. In this way, fraternity is politically understood as civic friendship. Moreover, such a political interpretation of fraternity is consistent with the political interpretation of equality and freedom. *Liberté, égalité, fraternité* (freedom, equality, and civic friendship) are thus politically reconciled within a liberal conception that is stable for the right reasons. As I have just said, the mechanism that brings about such reconciliation and stability for the right reasons is the idea of wide public reason (along with the idea of an overlapping consensus, which is not, however, the main subject of my research, for the reasons that I explained in chapter two). I will analyse such an idea in this chapter. Wide public reason strives to ensure that the spirit of reciprocity that secures civic friendship in a regime of equality is not gained at the expense of liberty. Through wide public reason –and through the overlapping consensus– justificatory consensus and reasonable pluralism are finally politically reconciled and social unity and stability are reached for the right reasons (see *infra* and the second chapter). Since every political conception specifies how to articulate the relations among these three elements in a way con-

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<sup>965</sup> It is merely an intuition since I cannot provide a full argument for this claim in this research.

<sup>966</sup> John Rawls, *Political Liberalism*, 37.

sistent with the demands of justice, Rawls emphasises that the content of public reason is specified by a family of reasonable political conceptions (*supra*): thus, there are ‘many forms of public reason.’<sup>967</sup> Notwithstanding this, he reaffirms that ‘the limiting feature of these forms is the criterion of reciprocity.’<sup>968</sup> In light of these considerations, my previous claim that reciprocity is the ultimate measure of the health of a liberal democracy seems highly plausible and in 4.2 I will ground my own conception of wide public reason in a criterion that I will call “reciprocity of the reasonable.”

My interpretation of public reason mainly in terms of a moral political ideal seems in line with Rawls’s thinking, as I have said. He resolutely maintains that ‘[t]rying to meet this condition [the criterion of reciprocity] is one of the tasks that this ideal of democratic citizenship asks of us. Understanding how to conduct oneself as a democratic citizen includes understanding an ideal of public reason,’<sup>969</sup> and he reaffirms ‘the central place of the duty of civility as an ideal of democracy.’<sup>970</sup> More importantly, Rawls says that ‘[a]s an ideal conception of citizenship for a constitutional democratic regime, it presents how things might be, taking people as a just and well-ordered society would encourage them to be. It describes what is possible and can be, yet may never be, though no less fundamental for that.’<sup>971</sup>

This brings me to a crucial question that I have already touched on in 1.2.a and in 3.2.b.1 and that I will consider with greater attention in chapter five, namely the issue of the degree of “ideality” required by the ideal of public reason to become normatively salient in a democratic society. To be more precise, the question is: how just and well-ordered must a society be before the ideal of public reason can be advanced as a normative conception of citizenship? In chapter five I will argue that the ideal of public reason, while ‘belong[ing] to a conception of

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<sup>967</sup> John Rawls, “The Idea of Public Reason Revisited,” 450.

<sup>968</sup> Ibid.

<sup>969</sup> John Rawls, *Political Liberalism*, 218.

<sup>970</sup> Ibid.

<sup>971</sup> Ibid. 213. For similar considerations on this point and on the duty of civility as a moral and not as a legally enforceable duty, see also Patrick Neal, “Is Political Liberalism Hostile to Religion?” in *Reflections on Rawls: An Assessment of his Legacy*, ed. Shaun P. Young (Farnham, UK: Ashgate, 2009), 157.

a well-ordered constitutional democracy,<sup>972</sup> is normatively relevant not only in fully just and well-ordered societies.

The first stage of the reconstructive part of my work has already underscored the double dimension of public reason. Let me recapitulate this issue here. Building on what I have said in the previous chapter, I argue that public reason combines two distinct but complementary dimensions. There is a strong and deep connection between, on the one hand, the moral political core of public reason as a regulative moral ideal of citizenship which expresses a *political* conception of public morality, and, on the other, its justificatory role as a standard for a civic practice of public justification (as I have said, public reason is also –though not exclusively– a justificatory device). As Stephen Macedo puts it:

‘Rawls has discerned more clearly than anyone else that the public ideals and principles that constitute a practice of public reasoning in and around democratic institutions, when suitably elaborated, are themselves adequate to constitute a public morality, without any further philosophical grounding. A public morality – substantive principles and processes of public justification– can be understood from a public point of view as self-supporting.’<sup>973</sup>

What Macedo refers to as a ‘practice of public reasoning’ and as ‘processes of public justification,’ constitute the second dimension that I mentioned, while what he calls ‘substantive principles’ of ‘public morality’ refers to the first.

- 1) The moral political core of public reason as a regulative moral ideal of citizenship which expresses a *political* conception of public morality is more easily captured if we consider that the central insight of Rawls’s conception of public reason is an attempt to resist both a comprehensive view of public morality and ‘the Hobbesian invitation to abandon our public moral aspirations in favour of scepticism, will, and power.’<sup>974</sup> Such a moral political core of liberal citizenship is grounded in the idea of democratic social cooperation be-

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<sup>972</sup> John Rawls, “The Idea of Public Reason Revisited,” 440.

<sup>973</sup> Stephen Macedo, “In Defense of Liberal Public Reason: Are Slavery and Abortion Hard Cases?” in *Natural Law and Public Reason*, eds. Robert P. George and Christopher Wolfe (Washington, D.C.: Georgetown University Press, 2000), 21-22.

<sup>974</sup> *Ibid.* 21.



tween free and equal persons in a regime of political reciprocity. While political, this is not merely a formal, but a substantive regulative ideal of citizenship. Here the adjective “substantive” and the expression “public morality” should be read in terms of a (family of) political conception(s) of justice, and not in a comprehensive way. Thus, public reason can be understood as a substantive ideal in the sense that it is grounded in a public *political* morality. Here, with the adjective “political” I mean also that it is a relational, historical, and contextual conception of morality, grounded as it is in the cooperation among free equals on the basis of reciprocity. I take political reciprocity as the cornerstone of the public political culture of a constitutional liberal democratic society: in my understanding, what makes public political culture *liberal in the political sense* is the moral idea of reciprocity as fair cooperation among free equals who recognise one another as such. It is for this reason, I think, that Rawls makes reciprocity the ‘limiting feature’ of liberal public reason.<sup>975</sup> Reciprocity is, therefore, what characterises such a conception of public morality as *politically liberal*. In few words, when I say that public reason entails a substantive ideal I simply mean that it is grounded in the political and still moral idea of political reciprocity. I will come back to reciprocity in 4.2. I understand the notions of a regulative ideal of citizenship and of public morality in strong connection with the ideas of publicity, institutional identity, and legitimacy (*supra*). Thanks to this connection to legitimacy, the substantive dimension of the ideal of citizenship grounded in public reason connected with the justificatory project of political liberalism. Note that the latter represents the second dimension analysed below: this is not surprising, because, as I have mentioned, in public reason its moral political dimension (which is more regulative and ideal) and its role as justificatory device (which is more civic and practical) are unified. Quong elegantly expresses a similar position:

‘At the heart of political liberalism is a commitment to substantive, and not merely procedural, public justification. The substantive values on which a political justification rests must be acceptable to all reasonable persons, not simply the proce-

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<sup>975</sup> John Rawls, “The Idea of Public Reason Revisited,” 450.

dural rules by which the political decision was taken. This is what makes political liberalism distinctively liberal, rather than procedural or majoritarian.<sup>976</sup>

He also adds that ‘Rawls’s idea of public reason is not simply a logical implication of the commitment to public justification, but rather a substantive position regarding the normative features of democratic practice.’<sup>977</sup> Here we find the two dimensions of public reason connected once more. Clearly, in this perspective public reason does not merely specify procedural or formal requirements for the civic practice of public justification. Consider, for instance, the question of legitimacy. Liberal legitimacy ‘is not [...] merely formal. For Rawls, in the end what matters are our substantive judgements about justice, which, in cases where there is a lack of consistency, are able to provoke a withdrawal of legitimacy. [...] In such a case the reference is not to the [formal and procedural] *pedigree* of [a specific] norm or policy, but to its substantial content.’<sup>978</sup> From this standpoint, the solution of the practical dimension of the problem of stability (see 4.2) is certainly important, but its place in the theory is not prior to the moral political significance of the ideal of public reason.<sup>979</sup> Rather, the fact that such an ideal can contribute –together with the idea of an overlapping consensus– to solve practically that problem of stability is a further argument in favour of its moral and political importance. It is not mere institutional political stability *per se*, but stability *for the right reasons* that Rawls wants to protect.<sup>980</sup> As Paul Weithman notes, Rawls ‘explicitly locates the origins of liberalism in the aftermath of the wars of religion [and] takes religious toleration as one of liberalism’s defining achievements and famously argues that toleration should be extended to philoso-

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<sup>976</sup> Jonathan Quong, *Liberalism without Perfection*, 210.

<sup>977</sup> Ibid. 257.

<sup>978</sup> Sebastiano Maffettone, *Introduzione a Rawls*, 101-102. My translation. For his defence of the substantive core of political liberalism against some more procedural deliberative alternatives see his “Liberalism and Its Critique: Is the Therapy Worse than the Disease?” *Philosophy and Social Criticism* 26, no. 3 (2000), 5-16. His conclusion is that those alternatives ‘can successfully transform a sociological account of legitimation in a normative theory of justification if and only if [they] smuggle into the concept of legitimation a set of basic liberal assumptions’ and that ‘democratic deliberation captures our sense of justice if and only if it coheres with liberal substantive theory.’ Ibid. respectively 11 and 16.

<sup>979</sup> For an excellent analysis of the normative (and not merely practical) role played in Rawls’s theory by the concepts of consensus and stability, see Larry Krasnoff, “Consensus, Stability, and Normativity in Rawls’s Political Liberalism,” 280-290 and 291-292.

<sup>980</sup> Paul Weithman, “Inclusivism, Stability, and Assurance,” 81-82. See the quotation in one of the following footnotes.

phy itself.’<sup>981</sup> Nevertheless, his political liberalism (that Weithman calls ‘liberalism of reasoned respect’) does ‘not defend constraints on religious political advocacy and activity primarily because [it] fear[s] civil strife.’ Rather, political liberalism thinks that ‘observing these constraints is an important part of civic virtue. When citizens honor the requirements of civic virtue, they cooperate with one another on the basis of their common reason. This helps to establish a climate of civility, mutual trust and civic friendship in which citizens regard one another as reasonable.’<sup>982</sup> In other words, it is crucial to understand that –as Weithman points out elsewhere–<sup>983</sup> public reason is not simply aimed at limiting the potentially disruptive effects of the introduction of religion in politics. Rather, and much more importantly for Rawls, (a wide view of) public reason is necessary for solving the problem of mutual assurance and so for securing not merely institutional stability, but stability for the right reasons (see 1.2.a, 4.2, and chapter five).<sup>984</sup> Rawls himself supports these considerations, when he maintains that ‘[i]n one way we view stability as a purely practical matter. [...] But, as a liberal conception, justice as fairness is concerned with stability in a different way. [...] What counts is the kind of stability, the nature of the forces that secure it.’<sup>985</sup> Moreover, when he talks about the spirit of civic friendship, Rawls says:

‘It is sometimes said that the idea of public reason is put forward primarily to allay the fear of the instability or fragility of democracy in the practical political sense. That objection is incorrect and fails to see that *public reason with its crite-*

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<sup>981</sup> Paul J. Weithman, “Introduction: Religion and the Liberalism of Reasoned Respect,” 3.

<sup>982</sup> Ibid. 33.

<sup>983</sup> Paul Weithman, “Inclusivism, Stability, and Assurance,” especially 81-84 and 86-90.

<sup>984</sup> ‘The stability with which Rawls is concerned is *not institutional stability*, but stability of the terms of cooperation. And so his argument [...] does not turn on the claim that public appeal to religion will or may destabilize social institutions. It turns on the very different claim that if citizens generally violate his guidelines of public reasoning, then the terms of cooperation among them may not *be affirmed for the right reasons*.’ Ibid. 81-82, emphases added. As I have anticipated and I will explain in section 4.2 and in chapter five, according to Weithman wide public reason is important for Rawls because it solves the problem of mutual assurance: it makes publicly known the fact that citizens are firmly committed to the fair terms of social cooperation specified by the conception of political justice, because (as we will see) when citizens respect the duty of civility, they may introduce their deepest moral and religious convictions into the public political forum while at the same time respecting the limits imposed by public reason. This maximises the stabilising forces operating in the public political forum.

<sup>985</sup> John Rawls, *Political Liberalism*, 142. Emphases added.

*tion of reciprocity characterizes the political relation with its ideal of democracy and bears on the nature of the regime whose stability or fragility we are concerned about. These questions are prior to questions of stability and fragility in the practical political sense, though of course no view of democracy can simply ignore these practical questions.*<sup>986</sup>

In Rawls's political liberalism the moral political substantive content of public reason (including the idea of stability for the right reasons) precedes the practical problem of institutional stability. This point is worth emphasising and explains why I treat the ideal of public reason and the question of stability as connected but distinct and why my main focus is on the moral political relevance of the first. The second, when conceptually joined to the first, shares its moral political significance and becomes stability *for the right reasons*. In conclusion, political liberalism seems to rest on a *political* idea of good (an idea that is 'generated and [has its] role *within [the political conception itself]*'<sup>987</sup>): the idea of the good of a well-ordered society and of the political virtues sustaining it.<sup>988</sup> Rawls is unambiguous on this point. He even says that 'a political conception *must* draw upon various ideas of the good,' since 'the right and the good are complementary.'<sup>989</sup> Only in this way can a political conception be complete, in the sense that 'it generates from within itself the requisite ideas so that all perform their complementary roles with its framework.'<sup>990</sup> These political ideas of the good which complete the political conception lead to the view according to which 'the political values realized by a well-ordered constitutional regime are very great values and not easily overridden and the ideals they express

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<sup>986</sup> Ibid. xlix, note 24, emphases added.

<sup>987</sup> Ibid. 207, emphasis added. Rawls is aware of the possible problems arising at this stage of his argumentation: he openly asks 'how can political liberalism use ideas of the good at all without making claims about the truth of this or that comprehensive doctrine in ways not allowed by political liberalism itself?' Ibid. 209. His answer is that, as I mentioned in the previous chapter, admissible conceptions of the good must be *political*: they must satisfy the following restrictions: a) they 'are, or can be, shared by citizens regarded as free and equal,' and b) 'they do not presuppose any particular fully (or partially) comprehensive doctrine,' *ibid.* 176. In this way, 'we need not rely on comprehensive conceptions of the good but only on ideas tailored to fit within the political conception,' *ibid.* 209.

<sup>988</sup> Ibid. 176, 194-195 and 201-206.

<sup>989</sup> Ibid. 175-176. Emphasis added.

<sup>990</sup> Ibid. 207-208.

are not lightly abandoned.’<sup>991</sup> This is so because ‘these values govern the basic framework of social life –the very groundwork of our existence– and specify the fundamental terms of political and social cooperation.’<sup>992</sup> Rawls’s hope is that these political ideas of the good (precisely because of their being political and not presupposing any specific comprehensive doctrine)<sup>993</sup> can be harmonised with all the reasonable comprehensive views of the good present in society, so that citizens realise the importance of those political values and virtues and, by taking part in the overlapping consensus, they come to ‘affirm the ideal of public reason [...] from within their own reasonable doctrines.’<sup>994</sup> The actual participation of members of a particular comprehensive doctrine in such a consensus is a matter to be considered case-by-case, and can be investigated by the conjecturer.<sup>995</sup> However, the hoped for result is theoretically possible, because ‘the true, or the religiously and metaphysically well-grounded, goes beyond the reasonable.’<sup>996</sup> In this way, the idea of an overlapping consensus can exploit the conceptual space or gap existing between the true and the reasonable. However, if congruence between the good and the right, the rational and the reasonable is needed, political liberalism –thanks to the idea of an overlapping consensus– ‘leaves this step to be taken by citizens individually in line with their own comprehensive views.’<sup>997</sup> It is then possible to establish a link with the provisional conclusions of the previous chapter and say (by using James Boettcher’s words) that Rawls thinks of public reason ‘neither as a formula for solving political problems nor as a vehicle for consensus, but as an idea that can govern the political relations among democratic citizens, relations in which they recognize and reassure one another of their sincerity and reasonableness.’<sup>998</sup> In line with these considerations, in 4.2 I will ex-

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<sup>991</sup> Ibid. 218.

<sup>992</sup> Ibid. 139. Here Rawls quotes John Stuart Mill’s *Utilitarianism*, chapter five, par. 25.

<sup>993</sup> John Rawls, *Political Liberalism*, 176 and 209.

<sup>994</sup> Ibid. 218.

<sup>995</sup> See my considerations in chapter two.

<sup>996</sup> John Rawls, *Political Liberalism*, 153.

<sup>997</sup> Ibid.

<sup>998</sup> James W. Boettcher, “Rawls and Gaus on the Idea of Public Reason,” 2.

plain why I consider the “criterion of reciprocity of the reasonable” as the foundation of the regulative ideal of democratic citizenship expressed by public reason, but also as the ground on which public reason can work as a justificatory device.

- 2) Hence, in my view, public reason builds its justificatory role as a standard for a civic practice of public justification on its own moral political core rooted in reciprocity. As Kent Greenawalt<sup>999</sup> and Stephen Macedo<sup>1000</sup> observe, the central importance of public justification in contemporary liberal political theory originates from the fact that the latter is mainly concerned with the problem of social and political justice. Greenawalt affirms that:

‘If liberal democracy is seen primarily as a set of institutions for accommodating conflicting interests and desires, the manner in which people ground their claims is not of primary importance; but when the ideal aim of citizens and officials in their political lives is understood as achieving justice, what considerations count as relevant to justice becomes critical.’<sup>1001</sup>

Jeremy Waldron aptly captures this point by saying that ‘liberals demand that the social order should in principle be capable of explaining itself at the tribunal of each person’s understanding.’<sup>1002</sup> As I have said, this second dimension (the justificatory civic practice) of public reason is connected with the first (its moral political core). Though I outlined many features of this standard for the civic practice of public justification in chapter three, only in this chapter can I complete its reconstruction by pointing out the relations between public reason and non-public reasons.

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<sup>999</sup> Kent Greenawalt, *Religious Convictions and Political Choice* (New York: Oxford University Press, 1988), 5.

<sup>1000</sup> Stephen Macedo, “In Defense of Liberal Public Reason: Are Slavery and Abortion Hard Cases?” 12.

<sup>1001</sup> Kent Greenawalt, *Religious Convictions and Political Choice*, 5. I similarly interpret Macedo’s claim that public justification is ‘important because liberal justice, properly understood, is a social ideal: the liberal ideal of free self-government aspires to a polity in which citizens share a sense of justice, a society in which citizens are critical interpreters and enforcers of liberal values.’ Stephen Macedo, “In Defense of Liberal Public Reason: Are Slavery and Abortion Hard Cases?” 12. Note, however, that Macedo’s claim is associated with a stronger view of liberal public morality.

<sup>1002</sup> Jeremy Waldron, “Theoretical Foundations of Liberalism,” *The Philosophical Quarterly* 37, no. 147 (1987), 149.

In this chapter, then, I proceed as follows. First, I will present a short overview of Rawls's wide view of public reason (4.1.a). In doing that, I will substantially conclude the analysis of Rawls's conception of public reason. Furthermore, I will also consider some of the most discussed criticisms of public reason (sometimes both as an ideal and as a justificatory standard), (4.1.b). To be sure, in working out my conception of public reason I am mainly concerned with preparing the ground for the evaluative analysis of the third part. Thus, my aim here is not to consider every single criticism that has been raised against the idea of public reason. The latter, no doubt, is one of the most debated topics in contemporary political philosophy and its plausibility and/or fairness have been discussed from different perspectives. Some of these perspectives have been already discussed in chapter three. In this chapter, however, I will specifically address the problem of the relation between public reason and religion. I will focus on two different lines of criticism: the first is more epistemic in character, while the second is more moral and political.<sup>1003</sup> The first line of criticism has to do with the already considered (and yet unanswered) claim that in many crucial cases public reason fails to do its job because it is incomplete, or because in some cases the conflict between the duty of restraint imposed by public reason and other moral duties (often equally based on respect for others) may oblige one to recognise that 'there are reasonable and rational people who find themselves with good reasons to go against public reason on the basis of their moral perceptions.'<sup>1004</sup> The second line of criticism claims that public reason is unfair to religious citizens or, even more, that it does deprive the entire citizenry of crucial resources for realising a fuller democratic citizenship. I shall call the objections belonging to the first line of criticism "*inadequacy objections*," since according to them the idea of public reason does not provide an adequate ground to solve all the problems related to public deliberation. Similarly, I shall call the second line of criticism "*democratic impairment objections*." Again, taking in due consideration the conceptual kernel of this study, I will restrict the analysis to the debate concerning how inclusive or exclusive public reason should be with reference to religion. Consequently, I will not consider several other objections that could be included among the epistemic or the moral political criticisms in a broader sense. For instance, Joseph Raz has moved one of the

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<sup>1003</sup> I will build on Maffettone's distinction between 'epistemic' and 'political' forms of criticisms. See his "Political Liberalism: Reasonableness and Democratic Practice," 566ff. See also his book *Rawls: An Introduction*, 243-249, 281-282, 288-289.

<sup>1004</sup> Micah Lott, "Restraint on Reasons and Reasons for Restraint: A Problem for Rawls's Ideal of Public Reason," *Pacific Philosophical Quarterly* 87, no. 1 (2006), 84.

most prominent epistemic criticisms to *Political Liberalism*. More specifically, he criticises Rawls for refraining ‘from claiming that his doctrine of justice is true.’<sup>1005</sup> According to Raz, such ‘epistemic abstinence’ is simply not consistent with the purposes of a philosophical theory of justice, which cannot do without the truth. In fact, Raz claims that:

‘To recommend [a particular theory] as a theory of justice for our societies is to recommend it as a just theory of justice, that is, as a true, or reasonable, or valid theory of justice. If it is argued that what makes it *the* theory of justice for us is that it is built on an overlapping consensus and therefore secures stability and unity, then consensus-based stability and unity are the values that a theory of justice, for our society, is assumed to depend on. Their achievement –that is, the fact that endorsing the theory leads to their achievement– makes the theory true, sound, valid, and so forth. This at least is what such a theory is committed to. There can be no justice without truth.’<sup>1006</sup>

I do not go in depth into Raz’s argument here, apart from noting the obvious fact that *within* Rawls’s theory the adjectives that Raz uses in an interchangeable way (‘just,’ ‘reasonable,’ ‘true,’ and ‘valid’) are not equivalent. The fact that they are not equivalent in *Political Liberalism* shows precisely that the latter aspires to separate the true and the reasonable. However, this observation is not an argument against Raz’s claim: here I can only refer the reader to a more detailed analysis.<sup>1007</sup> I simply add that, in my view, Raz’s remarks can be conceived as an alternative conception of the foundations and purposes of political philosophy, rather than as an attack to the internal coherence of Rawls’s theory. If this is so, however, this is not the kind of epistemic criticism that I have in mind in this chapter: in other words, it does not belong to the class of inadequacy objections. In the same vein, Chantal Mouffe’s views –discussed in chapter three– do not represent the

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<sup>1005</sup> Joseph Raz, “Facing Diversity: The Case of Epistemic Abstinence,” 9.

<sup>1006</sup> Ibid. 15.

<sup>1007</sup> For a three-part reply to Raz, see Sebastiano Maffettone, “Political Liberalism: Reasonableness and Democratic Practice,” 570-571: First, ‘while the truth regards the sector of knowledge in general, in PL Rawls discusses, as part of the political conception, only those values that regard the basic structure and not the sum total of the values that pertain to the person in his or her entirety. Secondly, Rawls’s approach has always assumed an ontological constructivist perspective rather than a realist one, and so, rather than talk about the truth of his positions, it might be more appropriate to speak of objectivity and general acceptability [...] Thirdly, Rawls’s famous and controversial “methods of avoidance” can be understood by assuming, together with Rawls, that the philosophical dispute over truth is too ‘intractable’ to be included in a theoretical-political argument.’



kind of moral political criticism that I have in mind in this chapter, even though they are sometimes qualified as a form of political criticism.<sup>1008</sup> In other words, Mouffe's criticism does not belong to the class of the democratic impairment objections. In fact, neither Raz nor Mouffe criticise how public reason and religion relate to each other *within* Rawls's political liberalism, because they both provide an *alternative* to the project of political liberalism itself. Here, as I have said, I am concerned with a more limited and specific problem: the relation between public reason and religion, so the two labels "epistemic" and "moral political" must be understood as two broad categorisations which try to bring together many different –and often conflictual– reactions to Rawls's conception of public reason. These two labels are, I hope, broad enough to facilitate the exposition and connoted enough to maintain some internal coherence. In the second section (4.2), I will propose my own view of wide public reason, suggesting a reinterpretation of the proviso and the duty of civility. At that point, I will be able to reply to some of the major objections considered in 4.1. I will also deal with the problem of containment of unreasonable people. I have mentioned this problem several times, but I have always postponed its analysis because of its special nature. As I see it, this subject is on the outer border of a theory of political liberalism.

## 4.1 The Wide View of Public Reason and Its Critics.

### 4.1.A Rawls's Wide View.

I have already mentioned (2.2.b) the fact that in the original edition of *Political Liberalism*, in the eighth section of Lecture VI, Rawls contrasted an 'exclusive view' and an 'inclusive view' of public reason. In the first footnote of this section,<sup>1009</sup> Rawls maintains that he was initially inclined toward the exclusive view, but that he had been persuaded by Amy Gutmann and Lawrence Solum that such a view was excessively restrictive. Interestingly, he says that the example that finally convinced him was the case of Martin Luther King Jr. In fact, an ad-

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<sup>1008</sup> Ibid. 567.

<sup>1009</sup> John Rawls, *Political Liberalism*, 247, note 36.

vocate of an exclusive view of public reason, who affirms that ‘on fundamental political matters, reasons given explicitly in terms of comprehensive doctrines are *never* to be introduced into public reason,’<sup>1010</sup> would reject King’s reliance on religious sources in his struggle against racial segregation.<sup>1011</sup> In the exclusive account, an appeal to religion would be excluded even in the case of the civil rights movement, and this outcome would puzzle any serious liberal theorist: if ‘public reason [had] gagged Martin Luther King,’ it could not have been presented as an adequate political theory.<sup>1012</sup> Thus, Rawls defends an alternative and preferred view<sup>1013</sup> of public reason: the inclusive view. It allows ‘citizens, *in certain situations*, to present what they regard as the basis of political values rooted in their comprehensive doctrine, provided they do this in ways that strengthen the ideal of public reason.’<sup>1014</sup> In *some* cases, Rawls says, the ideal of public reason is best served by allowing reliance on ones’ religious or philosophical views (from now on I will refer exclusively to religious comprehensive doctrine, since my topic mainly deals with religious views, but on this regard, from a Rawlsian political perspective, there is no difference between religious, philosophical, and moral comprehensive views). According to Rawls, the view of public reason that we opt for must take seriously into consideration the social and historical conditions under which it must work. He affirms that under different conditions ‘*the ideal must surely be advanced and fulfilled in different ways, sometimes by what may look like the exclusive view, at others by what may look like the inclusive view.*’<sup>1015</sup> He observes that the ‘inclusive view allows for this variation.’<sup>1016</sup> Rawls thus imagines three different situations. In the first case, the imagined society is (more or less) well-ordered. Consequently, political values of public reason are familiar to every citizen, and an

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<sup>1010</sup> Ibid. 247. Emphasis added.

<sup>1011</sup> Rawls gives some examples of how ‘religious doctrines underlie King’s views and are important in his appeals,’ for instance on 250, note 39.

<sup>1012</sup> Leslie C. Griffin, “Good Catholics Should Be Rawlsian Liberals,” 318.

<sup>1013</sup> ‘The inclusive view seems the correct one,’ John Rawls, *Political Liberalism*, 248.

<sup>1014</sup> Ibid. 247, emphasis added.

<sup>1015</sup> Ibid. 248, emphasis added.

<sup>1016</sup> Ibid.

exclusive view represents the straightest way to comply with the ideal of public reason.<sup>1017</sup> Yet, things are much more complex in a society which is only ‘nearly well-ordered.’ When a society is only nearly just, it is not always so obvious that ‘everyone accepts, and knows that everyone else accepts, the very same principles of justice,’<sup>1018</sup> nor that the basic structure of such a society effectively satisfies those principles. Citizens may come to doubt each other and their commitment to political justice. Rawls makes the example of a dispute about the principle of fair equality of opportunity concerning education. It may be the case that a specific religious group favours public support for church schools, while another group supports public financing for public schools only. In a case like this, the two groups may ‘come to doubt the sincerity of one another’s allegiance to fundamental political values.’<sup>1019</sup> However, if they are allowed to present in the public forum the manner in which their religious views do affirm those political values, this ‘may help to show that the overlapping consensus is not a mere *modus vivendi*. This knowledge surely strengthens mutual trust and public confidence; it can be a vital part of the sociological basis encouraging citizens to honor the ideal of public reason.’<sup>1020</sup> This situation anticipates in some respects what in “The Idea of Public Reason Revisited” becomes the notion of declaration (*supra*), which, however, is permitted in all cases, not only in cases of dispute in a nearly well-ordered society. The third case analysed by Rawls is the one that most clearly shows the need for an inclusive view of public reason. In a society that is not well-ordered, there is ‘a profound division about constitutional essentials.’<sup>1021</sup> In such cases, some arguments based on religious grounds may be perfectly in line with the promotion of the ideal of public reason: examples of this trend are the movement for

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<sup>1017</sup> ‘Public reason in this well-ordered society may appear to follow the exclusive view. Invoking only political values is the obvious and the most direct way for citizens to honor the ideal of public reason and to meet their duty of civility.’ Ibid.

<sup>1018</sup> Ibid. 35.

<sup>1019</sup> Ibid. 248.

<sup>1020</sup> Ibid. 249.

<sup>1021</sup> Ibid.

the abolition of slavery<sup>1022</sup> and the civil rights movement. Rawls specifies that he is analysing the question ‘conceptually and not historically,’ and concludes that ‘[i]n this case the non-public reason of certain Christian churches supported the clear conclusions of public reason. [...] The abolitionists and King would not have been unreasonable in [their] conjectured beliefs if the political forces they led were among the necessary historical conditions to establish political justice, as does indeed seem plausible in their situation.’<sup>1023</sup> This is because ‘it may happen that for a well-ordered society to come about in which public discussion consists mainly in the appeal to political values, prior historical conditions may require that comprehensive reasons be invoked to strengthen those values.’<sup>1024</sup> Thus, the abolitionists and King ‘did not go against the ideal of public reason,’<sup>1025</sup> because ‘the ideal may be best achieved in different ways, in good times by following what at first sight may appear to be the exclusive view, in less good times by what may appear to be the inclusive view.’<sup>1026</sup>

This account of public reason’s inclusiveness raises an obvious but important question: why should citizens of faith be obliged to base their arguments on religious ground only ‘in less good times?’ What is the rationale behind this limitation? By the time of his 1996 introduction to the paperback edition of *Political Liberalism*, Rawls acknowledged that such a restriction was not theoretically justified. In presenting the ‘wide view’ of public reason, he

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<sup>1022</sup> A thorough Rawlsian analysis of the abolitionist movement is provided by David A. J. Richards in “Public Reason and Abolitionist Dissent,” *Chicago-Kent Law Review* 69, no. 3 (1994), 787-842. According to Richards, public reason makes possible what I shall call a “decompression of the public space,” which makes room for the free exercise of persons’ moral powers. Public reason is an instrument for social criticism with reference to established political epistemologies. Whilst at the time dominant religion and science were not opposed to slavery, the abolitionist movement honoured public reason because it focused on public reason’s ‘critical and moral independence in all domains (including science and religion) in forging arguments of public reason in opposition to the role that both dominant established science and religion played in the defense of slavery and racism.’ Ibid. 835. Richards argues that ‘the religious character of abolitionist dissent, to the extent it was religious, was marked by its insistence, remarkable for the standards of its age, that religious inquiry (for example, Bible interpretation) be conducted in terms of arguments of public reason not hostage of illegitimately entrenched political epistemologies (including religious epistemologies). In particular, abolitionist dissent centrally articulated its arguments of public reason to address all persons, including black Americans and women in general. [...] Public reason both procedurally was the voice of their claims to human rights and afforded the substantive arguments in terms of which such arguments were made. [...] The important feature of arguments of public reason [...] was not their religious or antireligious character, but their demand that any form of argument (religious or irreligious) bearing on respect for basic human rights must, in order to be legitimate, be conducted in terms of public reason that could, in principle, be critically addressed to all persons as equal bearers of human rights.’ Ibid. 836-837.

<sup>1023</sup> John Rawls, *Political Liberalism*, 249-251.

<sup>1024</sup> Ibid. 251, note 41.

<sup>1025</sup> Ibid. 251.

<sup>1026</sup> Ibid. 252.

now affirms that ‘[t]his is more permissive than *Political Liberalism* VI:8, which specifies certain conditions.’<sup>1027</sup> Where previously he said that ‘the Abolitionists’ and King’s doctrines were held to belong to public reason *because they were invoked in an unjust political society*, and their conclusions of justice were in accord with the constitutional values of a liberal regime [...] and would help to make society more just,’<sup>1028</sup> he is now persuaded that there is ‘*no need for these conditions so far as they go beyond the proviso.*’<sup>1029</sup> The proviso, he says, ‘secures what is needed.’<sup>1030</sup> In this way, public reason and stability for the right reasons are further strengthened, since citizens are able to show to one another ‘the roots in our comprehensive doctrines of our allegiance to the political conception.’<sup>1031</sup> The crucial element in this 1996-1997 period is the statement of the proviso. It says that: ‘reasonable comprehensive doctrines, religious or nonreligious, may be introduced in public political discussion *at any time, provided that* in due course proper political reasons— and not reasons given solely by comprehensive doctrines— are presented that are sufficient to support whatever the comprehensive doctrines introduced are said to support.’<sup>1032</sup> Some considerations are in order. According to Rawls:

1. In contrast with the inclusive view, in the wide view non-public reasons may be introduced at any time, not only when society is moderately or severely unjust.
2. The ‘proper political reasons’ that must be presented to support the conclusions of comprehensive doctrines are drawn not only from justice as fairness, but from any reasonable liberal political conception.<sup>1033</sup> This point refers to the pluralisation of

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<sup>1027</sup> Ibid. I, note 25.

<sup>1028</sup> Ibid. I. Emphasis added.

<sup>1029</sup> Ibid. Emphasis added.

<sup>1030</sup> Ibid.

<sup>1031</sup> Ibid.

<sup>1032</sup> John Rawls, “The Idea of Public Reason Revisited,” 462. Emphasis added. See also *Political Liberalism*, xlix-l.

<sup>1033</sup> This is particularly clear in the first formulation of the proviso: ‘provided that in due course public reason, given by a reasonable political conception, are presented sufficient to support whatever the comprehensive doctrines are introduced to support’ John Rawls, *Political Liberalism*, xlix-l, emphasis added.

the sources and forms of public reason introduced in the second elaboration of public reason (*supra*).

3. Those political reasons must be sufficient (i.e., conclusive, *supra*) to support the conclusion previously advocated by means of non-public reasons.
4. In due course is a vague expression. As Rawls himself asks: ‘when does [the proviso] need to be satisfied? On the same day or some later day? Also, on whom does the obligation to honor it fall?’<sup>1034</sup> He just answers that ‘the details about how to satisfy this proviso must be worked out in practice and cannot feasibly be governed by a clear family of rules given in advance. How they work out is determined by the nature of the public political culture and calls for good sense and understanding.’<sup>1035</sup>
5. Rawls specifies a further requirement for meeting the proviso: that it is to be ‘satisfied in good faith.’<sup>1036</sup>

Now, it is clear that such an account, while fecund, is quite vague and open to various interpretations. In 4.2 I will try to clarify some aspects of such an account by stating my own interpretation of the wide view, which, I believe, is in line with Rawls’s deepest intuitions.

Here I would only add two short remarks. First, as I stressed in 2.2.b, I understand the proviso as internal to the wide view of public reason, in the sense that it represents a form of public reasoning through conditioned non-public reasons. The proviso internalises the non-public discourse into public political discourse: to do that it must subject it to a clause of supplementary guarantee. This characterisation of the proviso seems supported by Rawls when he says that ‘the introduction into public political culture of religious and secular doctrines, provided the proviso is met, *does not change the nature and content of justification in public reason itself*. This justification is still given in terms of a family of reasonable political conceptions of

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<sup>1034</sup> John Rawls, “The Idea of Public Reason Revisited,” 462.

<sup>1035</sup> Ibid. 462-463.

<sup>1036</sup> Ibid. 462.

justice.’<sup>1037</sup> For this reason in 2.2.b I argued that the proviso sets the conditions for publicly appealing to non-public reasons within the scope of public reason and, as such, it is a general threshold for *public* reasoning. In contrast with that, witnessing and declaration (*supra*) are forms of non-public discourse (respectively, dissenting and confirmative) in accordance with public reason, and conjecture is a form of non-public discourse for the sake of public justification. Second, when he presents the wide view, Rawls refers once again to the previously mentioned examples when discussing his preference for the inclusive view: the case of a highly contested policy of public support for church schools, the abolitionist movement, and the civil rights movement. He affirms that in the first case ‘it is wise for all sides to introduce their comprehensive doctrines [...] so as to open the way for them to explain to one another how their views do indeed support those basic political values,’<sup>1038</sup> and that the Abolitionist and King fulfilled the proviso (or they could have fulfilled it, if they were not thinking of themselves as fulfilling it), since their doctrines ‘supported basic constitutional values.’<sup>1039</sup> The rationale of the wide view is primarily moral and political: through the wide view, ‘*citizens’ allegiance to the democratic ideal of public reason is strengthened for the right reasons.*’<sup>1040</sup> This passage is of crucial importance. It highlights the connection between the wide view of public reason and the solution of the mutual assurance problem (see chapter one, 4.2, and chapter five). Thus, the two cases mentioned with reference to a (partially or severely) not well-ordered society are now taken to exemplify more generally an understanding of public reason which is focused more on both its moral and practical-deliberative dimensions than on the conditions of the society in which it must operate (see chapter five).

#### 4.1.B Two Lines of Criticism.

Rawls’s wide view of public reason has been extensively criticised from different perspectives. In the limited space of this section, it would be impossible to do justice to the broad lit-

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<sup>1037</sup> Ibid. 463. Emphasis added.

<sup>1038</sup> Ibid. 464.

<sup>1039</sup> Ibid.

<sup>1040</sup> Ibid. 463. Emphasis added.

erature generated by such a critical endeavour. Here I simply try to prepare the ground for my interpretation of the proviso by pinpointing some of the major criticisms that have been directed at public reason and the problems that my reading of the latter could help to resolve. In what follows (4.2), I will focus on two of those criticisms in particular: the charges of incompleteness and unfairness.

First, it is important to note that in “The Idea of Public Reason Revisited” Rawls provides a range of three possible objections to his account of public reason. A hypothetical critic may claim that:

1. *Public reason is too restrictive*, because it ‘unreasonably limit[s] the topics and considerations available for political argument and debate.’<sup>1041</sup> It may be so either because (a) public reason ‘mistakenly tries to settle political questions in advance,’<sup>1042</sup> or because (b) ‘it may lead to a stand-off and fail to bring about decisions on disputed issues.’<sup>1043</sup> In those cases, it may be more advisable to dismiss public reason and adopt an ‘open view with no constraints.’<sup>1044</sup> Note that the strength of (a) seems much reduced in the interpretation of public reason that I began to sketch out in chapter three. As I stressed several times, in this reading public reason is not static or unchanging, but open to change and dynamic (*infra*). As Lawrence Solum rightly puts it, on this account ‘[w]e can be civil to one another and at the same time say something new.’<sup>1045</sup> I do not further analyse this objection (which Solum calls ‘novelty objection’)<sup>1046</sup> here because I will consider it later among the “democratic impairment” arguments made for criticising public reason and advocating an ideal which is more open to religious arguments (*infra*). I think that my analysis of the proviso will provide sufficient grounds for rejecting this objection, but I will not openly argue further in that direction. Much more complex is

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<sup>1041</sup> Ibid. 474.

<sup>1042</sup> Ibid.

<sup>1043</sup> Ibid. 478.

<sup>1044</sup> Ibid. 474.

<sup>1045</sup> Lawrence B. Solum, “Novel Public Reasons,” 1485.

<sup>1046</sup> Ibid. 1460.



the objection under (b), which refers to the question of the alleged incompleteness of public reason, famously exemplified by the case of abortion.<sup>1047</sup> Rawls has already dealt with this topic in *Political Liberalism*, by saying that ‘public reason often allows more than one reasonable answer’<sup>1048</sup> to a particular political question (inconclusiveness) and that, on the other hand, some may think that ‘it leaves many questions without answers’<sup>1049</sup> (indeterminacy). Since it is more troublesome, I will explain the charge of incompleteness when considering the “inadequacy” criticisms against public reason later in this section. Furthermore, I will deal with incompleteness in the final part of section 4.2.

2. *Public reason is too narrow*, because actually ‘we should always present what we think are true or grounding reasons for our views. [...] We are bound to express the true, or the right, as seen from our comprehensive doctrines.’<sup>1050</sup> According to Rawls, public reason replaces –for political purposes only– the idea of the true as it is conveyed by one’s comprehensive doctrine with the idea of the politically reasonable.<sup>1051</sup> Yet, he claims, there is no contradiction between the politically reasonable and the true as expressed within a reasonable comprehensive doctrine (‘a true judgement in a reasonable comprehensive doctrine never conflicts with a reasonable judgment in its related political conception. A reasonable judgement of the political conception must still be confirmed as true, or right, by the comprehensive doctrine’).<sup>1052</sup> However, this does not answer concerns about the *fairness* of prescribing such a distinction between the politically reasonable and the true. Therefore, it is easy to understand why one of the democratic impairment objections that I will consider is based precisely on a fairness argument.

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<sup>1047</sup> John Rawls, *Political Liberalism*, 243 note 32 and “The Idea of Public Reason Revisited,” 479 note 80.

<sup>1048</sup> John Rawls, *Political Liberalism*, 240.

<sup>1049</sup> Ibid. 244.

<sup>1050</sup> John Rawls, “The Idea of Public Reason Revisited,” 481.

<sup>1051</sup> Ibid.

<sup>1052</sup> Ibid. 483.

3. *Public Reason is unnecessary in a well-ordered democracy*, because '[i]ts limits and constraints are useful primarily when a society is sharply divided [...]. In the political societies of the European democracies and the United States these worries [...] are idle.'<sup>1053</sup> Rawls's reply to this objection is that it rests on assumptions that are 'incorrect and sociologically faulty,' since in well-ordered or almost well-ordered societies 'harmony and concord *depend on* the vitality of the public political culture and on citizens' being devoted to and realizing the ideal of public reason.'<sup>1054</sup> Hence, stability for the right reasons cannot be maintained even in well-ordered societies without relying on general compliance with the ideal of public reason: clearly, this has to do with the problem of mutual assurance (see *supra*, 4.2, and 5.2.c). However, this objection is less focused on the point that I would like to make here and I leave it aside. On the contrary, in the next chapter I will consider the opposite problem, that is, whether the ideal of public reason is normatively binding *exclusively* in *well-ordered* societies. I can reveal in advance that my answer is negative.

The objections anticipated by Rawls have been further articulated in recent years in a debate that more directly concerns the inclusion of religious arguments and reasons in public political discussions and deliberations. As I have said in the introduction of this chapter, and without claiming to be complete, I gather those positions in two main categories.<sup>1055</sup> Roughly, the common inclusivist kernel of these objections is that Rawls's conception of public reason is too restrictive toward religion, whilst a more adequate and attractive picture makes room for religion in public deliberation and discussion. In my reading, then, inclusivism might be understood as a broader view bringing together epistemic and moral-political objections to public reason. Inclusivism can be defined as the position that 'challenges the common political liberal view that religious arguments are *prima facie* inadmissible in public political

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<sup>1053</sup> Ibid. 484-485.

<sup>1054</sup> Ibid. 485.

<sup>1055</sup> For an overview of the vast literature concerning the inclusivist criticisms to Rawls's public reason, see: Kevin Vallier and Fred D'Agostino, "Public Justification," 22-26; Andrew F. March, "Rethinking Religious Reasons in Public Justification," *American Political Science Review* 107, no. 3 (2013), in particular 523-524; Micah Schwartzman, "The Completeness of Public Reason," 193; Jonathan Quong, *Liberalism without Perfection*, 259-260.

deliberation over coercive laws.’<sup>1056</sup> As I have said, I consider two groups of inclusivist criticisms to Rawls’s public reason. In the following pages, my purpose is to give voice to Rawls’s critics: for this reason, I will mainly base the discussion on their own arguments and words by quoting them at length. Moreover, even though I will sometimes suggest some preliminary considerations about the most important objections, I will not reply to them here (whilst, as mentioned, I will consider some of them in 4.2). Finally, since the objections of the first kind are more complex, I decided to say a few more words about them.

A. The first line of criticism to public reason’s stance toward religion is more epistemic. I call the objections falling in this category “*inadequacy objections*,” since they all claim that public reason does not represent an adequate ground to answer all the problems related to public deliberations. Inadequacy objections have two main forms:

A1) *Incompleteness objection*. The objection, in Michael Perry’s words, sounds more or less as follows: ‘a politics –a practice of public justification– from which disputed beliefs about human good are excluded [...] is impossibly restrictive: such a politics is bereft of the normative resources required for addressing, much less resolving, the most fundamental political-moral issues that engage and divide us. Only a politics in which beliefs about the human good, including disputed beliefs, have a central place is capable of addressing our most basic political questions.’<sup>1057</sup> At the end of chapter three, I mentioned the complex problem of the alleged incompleteness of public reason. On that occasion, I also emphasised two kinds of incompleteness usually distinguished in the literature: inconclusiveness and indeterminacy. Public reason is *indeterminate* when it is ‘unable to deliver any clear conclusions about a particular question. In these cases, [...] public reason “runs out”: its content simply proves insufficient to yield an

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<sup>1056</sup> Andrew F. March, “Rethinking Religious Reasons in Public Justification,” 523.

<sup>1057</sup> Michael J. Perry, *Love and Power: The Role of Religion and Morality in American Politics* (New York: Oxford University Press, 1991), 29. In this book, Perry proposes a model which he calls ‘ecumenical politics,’ based on a practice of ‘ecumenical political dialogue,’ in which religious beliefs are central, yet with some qualifications [for instance, the ‘attitudes’ of fallibilism and pluralism are crucial to Perry’s ecumenical political dialogue, as well as the ‘virtues’ of public intelligibility –to translate as far as possible one’s position into a ‘shared (“mediating”) language’– and public accessibility –a non-sectarian and non-authoritarian defence of one’s position) see 99-112].

answer to the question posed.’<sup>1058</sup> Public reason is *inconclusive* when it delivers ‘a plurality of different answers’ and ‘public reason alone cannot clearly tell us which answer is correct or the most reasonable alternative.’<sup>1059</sup> As I mentioned, Gerald Gaus pinpoints that inconclusiveness is much more common than indeterminacy, since ‘our standard epistemological situation is an overabundance, not a paucity, of reasons.’<sup>1060</sup> Then, according to Gaus often public justifications are *inconclusive*, that is ‘undefeated but not victorious.’<sup>1061</sup> To be conclusive, a public justification must not only be undefeated<sup>1062</sup> (that is, not only must it be able to withstand ‘criticisms that challenge either the validity of its inferential structure or the soundness of the reasons that support its conclusions, or both’)<sup>1063</sup> but also victorious.<sup>1064</sup> For that, two other conditions must be met. First, the justification must satisfy a publicity condition: since ‘the only accessible way to have reasonable confidence that a proposal is publicly justified is to put it forward and invite specific challenges from others,’<sup>1065</sup> ‘others must have the opportunity to examine, clarify, and object to the proposed justification.’<sup>1066</sup> In this way, ‘public scrutiny improves the epistemic quality of public justifications.’<sup>1067</sup> The second and more burdensome condition that public justifications must meet to be not only undefeated but also victorious is that they must ‘demonstrate that it would be *unreasonable* for

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<sup>1058</sup> Jonathan Quong, “Public Reason,” 15.

<sup>1059</sup> Ibid.

<sup>1060</sup> Gerald F. Gaus, *Justificatory Liberalism*, 155.

<sup>1061</sup> Ibid. 151.

<sup>1062</sup> Gaus explains what it means for a justification to be undefeated in *ibid.* 144-147.

<sup>1063</sup> Micah Schwartzman, “The Completeness of Public Reason,” 195.

<sup>1064</sup> Gaus analyses two conditions for a public justification to be victorious in *Justificatory Liberalism*, 147-151.

<sup>1065</sup> Ibid. 148.

<sup>1066</sup> Micah Schwartzman, “The Completeness of Public Reason,” 195.

<sup>1067</sup> Ibid.

anyone to disagree with the justification that [one] has offered for her position.’<sup>1068</sup> In few words, Gaus argues (and Schwartzman agrees with him on this point)<sup>1069</sup> that in public justifications –where state coercion concerning fundamental questions is at stake– the relevant epistemic standard is ‘being beyond a reasonable doubt.’<sup>1070</sup> However, sometimes (often) public reasons are not able to meet that ‘higher burden of proof,’ and political disagreement persists. Thus, critics argue that if the idea of public reason cannot provide an answer that is ‘beyond a reasonable doubt’ (that is if public reason is inconclusive), we should revise our standards of public justification. This is even truer in case of indeterminacy. To see the difference between the two cases, let me refer to Schwartzman’s analysis of inconclusiveness. Public reason is inconclusive if ‘it fails to generate convergence among reasonable people on a single political outcome.’<sup>1071</sup> To understand this point, suppose that ‘A supports policy *P1*, and *B* supports *P2*, and that both *A* and *B* justify their positions on the basis of what they sincerely believe are reasonable balances of political values (*R1* and *R2*, respectively). Thus, *A* offers the justification  $R1 \rightarrow P1$ , and *B* offers  $R2 \rightarrow P2$ . Now if *P1* and *P2* are mutually exclusive, and if neither *A* nor *B* can prove to the other that his or her position is the *most* reasonable, then they have reached an impasse within the limits of public reason. Each of them believes that public reason provides a determinate conclusion, but they are unable to reach agreement on a specific political outcome.’<sup>1072</sup> Consider, for instance the case of abortion. Rawls has argued that, for trying to solve such an intricate issue, we should balance three political values: ‘the due respect for human life,’ ‘the ordered reproduction of political

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<sup>1068</sup> Ibid.

<sup>1069</sup> Ibid.

<sup>1070</sup> Gerald F. Gaus, *Justificatory Liberalism*, 150.

<sup>1071</sup> Micah Schwartzman, “The Completeness of Public Reason,” 194.

<sup>1072</sup> Ibid.

society over time,’ and ‘the equality of women.’<sup>1073</sup> Rawls think that on ‘any reasonable balance of these three values,’ the political value of women’s equality is overriding and from this he concludes that ‘any reasonable balance of these values will give a woman a duly qualified right to decide whether or not to end her pregnancy during the first trimester.’<sup>1074</sup> But why should the political value of equality of women be overriding? A political liberal may equally claim that the respect of human life is the overriding political value and she may consistently conclude that abortion should be forbidden.<sup>1075</sup> On which bases does Rawls argue that ‘any comprehensive doctrine that leads to a balance of political values excluding that duly qualified right [to abortion] in the first trimester is [...] unreasonable?’<sup>1076</sup> As Macedo frames the problem, ‘[t]he abortion question is so vexing, in a sense, precisely because there are weighty reasons on both sides, and it is easy to see how reasonable people can come down on either side.’<sup>1077</sup> However, inconclusiveness easily turns into indeterminacy, as Philip Quinn’s analysis shows<sup>1078</sup> and as Schwartzman observes: ‘[w]hat appeared only a moment ago to be a failure of public convergence may actually turn out to be a case of indeterminacy.’<sup>1079</sup> Schwartzman says that public reason is indeterminate ‘if it fails to provide a *sufficient* reason for

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<sup>1073</sup> John Rawls, *Political Liberalism*, 243, note 32.

<sup>1074</sup> Ibid.

<sup>1075</sup> For a similar argument, see Philip L. Quinn, “Political Liberalisms and Their Exclusions of the Religious,” 150. He notes that ‘[s]ome who agree with Rawls about the values at stake will claim that the value of respect for human life is overriding and argue that a fetal right to life is required to give substance and force to that value. There is a conflict of intuitions about how two great values are to be balanced in a hard case.’

<sup>1076</sup> John Rawls, *Political Liberalism*, 243, note 32.

<sup>1077</sup> Stephen Macedo, “In Defense of Liberal Public Reason: Are Slavery and Abortion Hard Cases?” 29. Macedo concludes that ‘[a]bortion is a matter of basic, principled disagreement that calls [...] for a recognition of the reasonableness of both sides of the issue, and for moderation or magnanimity and for principled compromise.’ Ibid. 33.

<sup>1078</sup> Philip L. Quinn, “Political Liberalisms and Their Exclusions of the Religious,” 150. *Infra*.

<sup>1079</sup> Micah Schwartzman, “The Completeness of Public Reason,” 196.

selecting between two (or more) responses to some issue.’<sup>1080</sup> The claim here is not that there are several possible reasonable balances of political values, but that public reason *alone* cannot provide any grounds for solving the problem:<sup>1081</sup> alone, public reason does not have the necessary resources for this task. For example, for deciding the question of abortion, the internal resources of public reason are not sufficient, because they are not able to settle the prior question to the status of the foetus, on which all the issue seems to rest. As Kent Greenawalt rightly points out, the ‘abortion issue is so intractable because of the sharp divergence over the moral status of the foetus. Those who think [...] that at the moment after conception a foetus, or more precisely at this early stage a zygote, has moral rights as full as those of a newborn baby tend to take a very different view of the morality of abortion from those who think a foetus is only potential life and that moral rights arise only at birth or at some later point in time.’<sup>1082</sup> Since both sides of the controversy cannot appeal to their comprehensive doctrines, Philp Quinn claims that to honour public reason they ‘must accept the discipline of restricting their appeals to generally accepted common sense beliefs and uncontroversial science. *However*, common sense is divided on or simply perplexed by the question of abortion and probably will remain so, and uncontroversial science is and is likely always to be silent on the question of whether the early foetus is a person and so should be protected by a strong right to life.’<sup>1083</sup> He then concludes that ‘there appear to be two ways of describing the situation. One could

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<sup>1080</sup> Ibid. Emphasis added.

<sup>1081</sup> ‘To see the difference between indeterminacy and inconclusiveness, consider again *A*’s claim that  $R1 \rightarrow P1$  is an inconclusive justification for a right to abortion. Her argument does not provide decisive grounds for supporting a right to abortion, but it does have the status of a determinate, undefeated public justification. Now it might be objected that *P1* cannot be established based on public reason alone. When asked to provide an argument for the way in which she has ordered the political values of respect for human life and the equality of women (*R1*), *A* may have no further public reason(s) to support her position. If her argument cannot be defended by anything other than an appeal to her comprehensive view, then it would seem that public reason has not in fact provided her with a basis on which to determine the issue. Furthermore, if the same holds true for *B*, who opposes a right to abortion, then neither *A* nor *B* has a public reason for the manner in which they have ordered the relevant political values.’ Ibid.

<sup>1082</sup> Kent Greenawalt, *Religious Convictions and Political Choice*, 121.

<sup>1083</sup> Philip L. Quinn, ‘Political Liberalisms and Their Exclusions of the Religious,’ 150. Emphasis added.

say that public reason in this case yields no reasonable balance of the values of respect of human life and equality of women because its resources are too weak to determine any reasonable balance. Or one could say that public reason permits two reasonable balances of those values because its resources are too weak to single out just one reasonable balance. In any case, public reason [...] is incomplete.’<sup>1084</sup> Thus, critics argue that in those cases in which public reason fails to produce an agreement on a reasonable balance of political values (cases of inconclusiveness) or cannot provide by itself sufficient reasons to settle a fundamental political question (cases of indeterminacy), citizens should be free to introduce in public political debate their comprehensive doctrines in order to eliminate the impasse. For instance, Kent Greenawalt maintains that the duty to base public political discussion exclusively on publicly accessible reasons and shared premises is binding *if and only if* such public reasons and premises provide a single and clear answer to the question discussed (that is, if public reason is both conclusive and determinate). On issues such as abortion, citizens cannot take a position without relying on controversial assumptions and intuitions (e.g., why should the balance of political values in which the equality of women is overriding be preferred to a balance in which the value of protection of life is prioritised?) or on their comprehensive doctrines (e.g., in order to solve the problem of the moral status of the foetus). When public reason does not provide a single and clear answer or cannot provide sufficient grounds for deciding, it is necessary (and fairer)<sup>1085</sup> that citizens rely on their comprehensive doctrines to “complete” public reason and arrive at some definite conclusions: ‘[i]f people must rely on evaluations that are not based on commonly accessible reasons to arrive at posi-

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<sup>1084</sup> Ibid.

<sup>1085</sup> Greenawalt’s argument seems to be grounded in both epistemic considerations and concerns about fairness, see *Religious Convictions and Political Choice*, for instance 144 and 152-155. On page 155 Greenawalt says: ‘To demand that many devout Catholics, Protestants, and Jews pluck out their religious convictions is to ask them how they would think about a critical moral problem if they started from scratch, disregarding what they presently take as basic premises of moral thought. Asking that people perform this exercise is not only unrealistic in the sense of impossible; the implicit demand that people try to compartmentalize beliefs that constitute some kind of unity in their approach to life is positively objectionable.’



tions regarding [questions such as animal rights and abortion ...], the religious believer has an argument that he should be able to rely on his religiously informed view of humankind's place in the world [or the moral status of the foetus ...]; if commonly shared moral perspectives and forms of reason provide no evidently correct perspective, it is hard to understand why a liberal democrat should eschew his deeply held religious premises in favor of some alternative assumptions that also lie beyond public reasons and can yield a starting point.'<sup>1086</sup>

A2) *Civility-as-a-duty-that-can-be-derogated objection*. A second form of the inadequacy line of criticism is grounded in the idea that the ideal of public reason is *often* 'unable to provide people with good reasons for exercising *restraint* with respect to their non-public reasons.'<sup>1087</sup> In particular, by making the example of two hypothetical individuals (Dr. X and Pastor Lopez),<sup>1088</sup> Micah Lott argues that on several occasions persons who are fully rational and reasonable and who do recognise the duty of civility as morally grounded in mutual respect have good and powerful reasons to break the restraint requirement imposed by the duty of civility. In fact, there are cases in which we may come to the conclusion that the duty of civility is weaker than other moral duties equally grounded in respect for persons. Lott maintains that '[i]t is acceptable to be uncivil in cases where something more important than civility is at stake and when one

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<sup>1086</sup> Ibid. 112-113. Note, however, that Greenawalt also maintains that when it is possible to come to a single answer through public reason alone, a liberal citizen should rely on it: '[i]f publicly accessible reasons decisively answer a question of fact or value, or limit the range of plausible answers, the good liberal citizen does not rely on particular religious premises to urge a political result that is at odds with the answer or range of answers that the publicly accessible reasons indicate to be sound.' Ibid. 207.

<sup>1087</sup> Micah Lott in "Restraint on Reasons and Reasons for Restraint," 75.

<sup>1088</sup> Both Dr. X and Pastor Lopez must break the duty of civility (which otherwise they recognise and abide by) because the only way in which they can honour (a higher form of) the duty of respect for other persons is by recurring to non-public reasons. Dr. X supports a law protecting chimpanzees from being killed, based on pioneering (and highly controversial) scientific evidence proving that chimps possess language skills and moral capacities similar to human beings. Pastor Lopez advocates the prohibition of abortion, based on the religion-based belief that full human personality exists since conception. Dr. X and Pastor Lopez are 'good Rawlsians' who face a dilemma: on the one hand, they have 'a very serious obligation to do what [they] can to protect the lives of thousands of innocent children [and chimps]. On the other hand, however, the only way [they] can do this is by going against public reason and thereby failing in [their] duty of civility.' Ibid. 80.

must be uncivil in order to act for that more important thing. [...] If people perceive their duties to be in conflict with one another, then it is right for them to choose the more important duty at the expense of the lesser duty, or at least they cannot be faulted for doing so.’<sup>1089</sup> The conclusion is that we should refrain from blaming those who are unable to fulfil the duty of civility because they try to abide by what they perceive as their higher order duty. What is more, in the examples that Lott provides, those who break the duty of civility do so precisely because they are willing to honour the very moral foundation of the duty of civility itself: respect for other persons. In fact, Dr. X and Pastor Lopez think that on some particular occasions respecting the duty of civility is not the *adequate* way for honouring the moral requirement of respect for others. In this sense, ‘public reason is not the *only* way in which persons [...] can demonstrate respect for their fellow citizens as free and equal.’<sup>1090</sup> Lott affirms that this problem ‘shows that liberal political conceptions do not exhaust the *reasonable* answers that can be given to questions of constitutional essentials and basic justice. [...] We can imagine people who are committed to a liberal political conception and who value public reason, and yet who also have views which give them good reason to go against public reason. [...] Public reason [does] not provide the *only* reasonable views on these matters. This opens the door to the possibility that people will have rational and reasonable views that cannot be articulated in public reason, and this makes possible the dilemmas faced by people such as Dr. X and Pastor Lopez.’<sup>1091</sup> According to Lott, even Rawls’s wide view of public reason is unable to solve the problem, because Dr. X and Pastor Lopez would have good reasons for offering non-public reasons ‘*even if they don’t know if they can*

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<sup>1089</sup> Ibid. 81. Emphasis added.

<sup>1090</sup> Ibid. 87. Lott adds that ‘from the point of view of Dr. X and Pastor Lopez, the duties which conflict with public reason are *also* expressions of respect for persons. [...] Thus, the decision about whether or not to exercise restraint is a question about what kind of respect takes precedence,’ *ibid.* 88, emphasis added.

<sup>1091</sup> Ibid. 84. The original emphases in this passage have been modified.

fulfil the proviso, and *even if* they don't ever fulfil the proviso.'<sup>1092</sup> Even though Dr. X and Pastor Lopez may be generally willing to satisfy the proviso because they are committed to the ideal of public reason, the duty of civility is not always an overarching moral duty.

B. The second line of criticism is more moral and political. The central idea is that public reason provides a poor ideal of democratic citizenship: under the ideal public reason, democratic citizenship is impaired. There are three "*democratic impairment objections*":

B1) *Fairness and integrity objection*.<sup>1093</sup> The first moral and political objection against the idea of public reason is that it is unfair to (and too burdensome for) religious citizens. Moreover, it is said that 'the Rawlsian idea asks the religious citizen to "split" himself in a way that does, or can do, damage to the moral and or religious integrity of the person.'<sup>1094</sup> Kent Greenawalt presents a line of argument in this direction.<sup>1095</sup> Philip Quinn, after having rejected Audi's two principles of 'secular rationale' and 'secular motivation',<sup>1096</sup> and before dealing with the above-mentioned problem of the alleged incompleteness of public reason, concisely raises the question of its unfairness. He notes that public reason may unfairly exclude some reasonable citizens, because, 'even if one agrees with Rawls that the *hope* for [an] overlapping consensus on a liberal conception is not utopian, one should be willing to acknowledge that no such consensus exists in our society here and now. Hence those whose reasonable comprehensive doctrines do not at present support any liberal conception of justice will find it

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<sup>1092</sup> Ibid. 91.

<sup>1093</sup> Here, for brevity, I consider together two objections that are usually treated separately.

<sup>1094</sup> Patrick Neal, "Is Political Liberalism Hostile to Religion?" 159 (see also 164-169).

<sup>1095</sup> Kent Greenawalt, *Religious Convictions and Political Choice*, for instance 144 and 152-155, *supra*.

<sup>1096</sup> See Robert Audi, *Religious Commitment and Secular Reason* (Cambridge: Cambridge University Press, 2000), 86-100; "The Separation of Church and State and the Obligations of Citizenship," *Philosophy and Public Affairs* **18**, no. 3 (1989), 278-285; "The State, the Church, and the Citizen," in *Religion and Contemporary Liberalism*, 55-56; and "Liberal Democracy and the Place of Religion in Politics," in *Religion in the Public Square: The Place of Religious Convictions in Political Debate*, 25-33.

natural to object that they have no sufficient reason to honor the limits of public reason or to affirm the duty of civility.’<sup>1097</sup> Similarly, Patrick Neal submits that ‘Rawls’s account of liberalism misunderstands the perspective of the religious citizen and consequently treats it unfairly.’<sup>1098</sup> The reason is that Rawls’s view of public reason would be unable to resolve what Neal calls ‘the issue of authority.’<sup>1099</sup> The latter is based on the idea that a ‘conscientious citizen with prior [religious] loyalties will assess public reason and the question of whether or not to practice it against the standard set by those prior loyalties. His commitment to public reason and the state of which it is part will thus be a *necessarily qualified* one.’<sup>1100</sup> Neal contends that ‘[t]he hard truth about claims of conscience [...] is that they are fundamentally unjustifiable from the point of view of the legitimate state, for they claim a legitimacy that is other than that of the state.’<sup>1101</sup> If the problem is entirely understood in terms of obedience to two irreconcilable authorities, establishing two different and equally binding orders of legitimacy, then it is plausible to conclude (as Neal does) that it is not fair to qualify as unreasonable those citizens who choose to obey the authority of religion rather than public reason. Those citizens are not unreasonable, because, in a situation of opposing and irreconcilable orders of authority, citizens ‘are left with a disagreement about how best to specify the demands of justice. [But this] is quite a different thing from a disagreement between those who support justice and those who are selfish scoundrels.’<sup>1102</sup> Disagreements about which of the two authorities best specifies the requirements and principles of justice are not unreasonable,

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<sup>1097</sup> Philip L. Quinn, “Political Liberalisms and Their Exclusions of the Religious,” 148.

<sup>1098</sup> Patrick Neal, “Political Liberalism, Public Reason, and the Citizen of Faith,” in *Natural Law and Public Reason*, 172.

<sup>1099</sup> Ibid. 173 and 174.

<sup>1100</sup> Patrick Neal, “Is Political Liberalism Hostile to Religion?” 173.

<sup>1101</sup> Ibid. 174.

<sup>1102</sup> Patrick Neal, “Political Liberalism, Public Reason, and the Citizen of Faith,” 178.

according to Neal. At the end of the day, he says, Rawls has built ‘an account of political justice (political liberalism) which *by definition* is not incompatible with the comprehensive moral theory of liberalism (presumably the comprehensive Kantian liberalism of *A Theory of Justice*). Assuming such congruence, there can be no rupture between politics and morality.’<sup>1103</sup> This is perfectly normal according to Neal: nobody would defend political principles that contradict one’s own comprehensive view. The idea is simple: being a Kantian, Rawls would have built a conception of justice which is not openly Kantian, but which is not inconsistent with Kantian liberalism. If this is true, Rawls’s political liberalism is just one among other and equally legitimate accounts of political justice, including conceptions derived from comprehensive views other than Kantian liberalism. Political liberalism ‘cannot be equated with justice itself,’<sup>1104</sup> because it would have been designed to fit with Rawls’s deepest moral (Kantian) convictions: thus, by definition it cannot contradict Rawls’s comprehensive liberal view. But if this is so, it would be unfair to deny citizens of faith the same right to seek congruence between their comprehensive views and an account political justice: in determining the requirements of justice, they must be free to follow the authority of their religion, because for Neal there is reasonable disagreement about the demands of justice and about whether or not they include the Rawlsian notion of public reason. In this perspective, public reason treats religious believers unfairly because it presents itself as the unique reasonable ground for establishing the order of the politically legitimate, but, in so doing, it actually dissimulates its congruence with comprehensive liberalism. Thus, public reason is ultimately unfair because it claims to be the sole political reason for the public of reasonable citizens, but as a matter of fact ‘[r]easonable people of good will disagree about what justice requires of us,’<sup>1105</sup> and religious citizens are

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<sup>1103</sup> Ibid. 191.

<sup>1104</sup> Ibid. 193.

<sup>1105</sup> Ibid. 179.

not unreasonable if they ‘believe, upon the basis of reflection, that political liberalism is not the best specification of the value of justice.’<sup>1106</sup> I will not openly address this objection. However, notice that much of its plausibility derives from the clause mentioned above: “*if* the problem is entirely understood in terms of obedience to two irreconcilable authorities, establishing two different and equally binding orders of legitimacy.” But Rawls’s basic intuition is precisely that reasonable persons agree on the fact that, in spite of (1) their reasonable disagreement about matters of religion, philosophy, and so on, (2) they are able to live together within the same order of legitimacy (namely, the political legitimacy expressed by a democratic constitution) thanks to a common form of reasoning specifying justificatory standard and a shared ideal of political life (namely, a political ideal of citizenship). Neal accepts and emphasises the idea of reasonableness under (1), that is the fact of reasonable pluralism, but he underrates or overlooks the idea of reasonableness entailed by (2), that is fair social cooperation under the same politically legitimate institutions. However, since for Rawls the idea of reasonableness is specified by both (1) and (2) [remember Rawls’s definition: reasonable persons both accept the burdens of judgement which fall under (1) *and* are willing to offer and abide by the fair terms of social cooperation which fall under (2)], it seems to me that Neal and Rawls are not referring to the same notion of reasonableness. Thus, the cogency of Neal’s argument seems at least very questionable. *If* we are reasonable in the Rawlsian sense, we cannot accept the idea that, when discussing the fundamentals of our constitution, we can substitute to our liking *political* loyalty to the democratic constitutional order with our particular religious loyalties. If we do that, we are not reasonable in the Rawlsian sense. Then, Neal cannot say that political liberalism is unfair

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<sup>1106</sup> Ibid.

according to its own internal standards.<sup>1107</sup> Nor is a critical objection against political liberalism the fact that –according to Neal– there is a consistency between comprehensive and political liberalism. This is not, *per se*, a fatal criticism against Rawls’s theory. In fact, political liberalism is freestanding from a theoretical and political point of view, and even if Rawls worked out political liberalism from within his own comprehensive view, this would not be sufficient to prove its unfairness to other comprehensive views, as long as they are able to support the political conception through an overlapping consensus. One could say that in political liberalism there is a sort of “justificatory outsourcing” with reference to full justification. It is no longer the job of the political philosopher to vindicate the congruence of the right and the good, of the reasonable and the rational, as in chapter nine of *A Theory of Justice*. Rather, each citizen must vindicate such congruence within her own comprehensive view. What the political

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<sup>1107</sup> However, these remarks do not exhaust the range of possible criticisms related to the alleged arbitrariness and unfairness of Rawls’s public reason. See for instance Paul F. Campos [“Secular Fundamentalism,” *Columbia Law Review* **94**, no. 6 (1994), 1814-1827], who argues that the idea of public reason is not only unfair, but also deeply arbitrary and authoritarian: he claims that ‘for Rawls “reason” and “reasonable” fill the lexical space that in many other discourses would be filled by “God” or “the scriptures,” or “moral insight.” [...] That is, “reason” functions as the master concept that transcends the enumeration of particular reasons: *invoking* “reason” becomes equivalent to *giving* reasons’ (1820-1821), and that ‘the authoritative (and authoritarian) voice of a public reason that speaks *ex cathedra* [eliminates] the possibility of true conceptual incommensurability and its discursive offspring, interminable moral disagreement. [...] In this triumphalist incarnation liberalism can begin to resemble the very dogmatic systems that it once rebelled against’ (1825). Similarly, Miriam Galston [“Rawlsian Dualism and the Autonomy of Political Thought,” *Columbia Law Review* **94**, no. 6 (1994), 1842-1859] argues that Rawls’s political liberalism is not autonomous from his comprehensive view. That is, Rawls’s ‘dualism’ that distinguishes between political principles and comprehensive views would in fact reflect his particular comprehensive view about the relations between politics and comprehensive doctrines in general. In this way, Rawls would unfairly exclude those who hold a different (but in principle equally good) comprehensive view about those relations. As Galston puts it, contrary to Rawls’s dualist view (as rooted in his comprehensive beliefs) ‘a person’s comprehensive view could contain the belief that political life and institutions should be constructed in a way that mirrors, and thus reinforces, his or her theological philosophical, or moral beliefs’ (1851). Galston argues that it would be unfair to exclude as unreasonable those persons, because ‘Rawls rejects comprehensive views that presuppose single conception of the human good, but himself presupposes a single conception of the relationship between politics and the human good’ (1856). The conclusion would be that ‘Rawls unwittingly does injustice to a wide range of significant comprehensive views and is thus himself guilty of the kind of coercive, exclusionary use of power that he seeks to avoid’ (1858). Likewise, Michael Sandel argues that Rawls cannot assert the priority of political values without referring to some controversial moral, philosophical, or religious doctrine. He makes the example of abortion and affirms that ‘[g]iven the intense disagreement over the moral permissibility of abortion, the case for seeking a political solution that brackets the contending moral and religious issues –that is neutral with respect to them– would seem especially strong. *But whether it is reasonable to bracket, for political purposes, the comprehensive moral and religious doctrines at stake largely depends on which of those doctrines is true.* If the doctrine of the Catholic Church is true, if human life in the relevant moral sense does begin at conception, then bracketing the moral-theological question of when human life begins is far less reasonable than it would be on rival moral and religious assumptions. *The more confident we are that fetuses are, in the relevant moral sense, different from babies, the more confident we can be in affirming a political conception of justice that sets aside the controversy about the moral status of fetuses.*’ *Liberalism and the Limits of Justice*, second edition (Cambridge and New York: Cambridge University Press, 1998), 197-198, emphases added.

philosopher must do, however, is to explain how an overlapping consensus is possible and how this consensus is sufficient for the justificatory purposes of the theory.<sup>1108</sup> And this is what Rawls does. Let me focus on two other versions of this objection. Cristopher Eberle maintains that ‘an obligation to pursue public justification doesn’t imply an obligation to exercise restraint.’<sup>1109</sup> His central thesis is that citizens have an obligation to pursue public justification, but not to refrain from supporting their favoured coercive laws if they are unable to provide such justification.<sup>1110</sup> In his words: ‘so long as a religious citizen sincerely and conscientiously attempts to articulate a rationale for his favoured coercive policies that will be convincing for his compatriots, then he has thereby discharged his obligation to respect them, *even if his attempts end in failure*.’<sup>1111</sup> Then, the duty of civility merely consists of an ‘ideal of conscientious engagement’<sup>1112</sup> that fixes some ‘constraints on the reasons [a citizen] employs in political decision making and advocacy,’<sup>1113</sup> rather than on a restraint requirement. There-

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<sup>1108</sup> For this part, I build on Larry Krasnoff “Consensus, Stability, and Normativity in Rawls’s Political Liberalism,” 285. Krasnoff says that in *A Theory of Justice* ‘the problem of stability was addressed by an appeal to a minimal, instrumental sense of rationality (assumed to be common to all richer conceptions of rationality) and to certain minimal psychological assumptions (most prominently the Aristotelian Principle, assumed to hold of anyone endowed with rational capacities). In the terms of his later work, it was as if Rawls had searched the various comprehensive doctrines for a lowest common denominator of rationality; he then attempted to use this lowest common denominator to prove that the reasonable was rational on every comprehensive doctrine. But the guiding thought of the later work, and especially of the idea of the reasonable, is that this sort of procedure is both unwieldy and unnecessary. It is unwieldy because it would involve us in an elaborate survey of comprehensive doctrines to determine if our minimal conception of rationality was common to them all; and *it is unnecessary because the particular comprehensive doctrines, themselves exercises of reasons, are perfectly capable of affirming the reasonable in their own terms. So long as these various private exercises of reason converge on the same public notion of the reasonable, there is no reason for the normative theory itself to secure the stability of a political conception of justice.*’ Emphases added. This is the substance of what I call justificatory outsourcing.

<sup>1109</sup> Cristopher J. Eberle, *Religious Conviction in Liberal Politics*, 70.

<sup>1110</sup> Eberle formulates his thesis in the following terms: ‘a citizen has an obligation sincerely and conscientiously to pursue a widely convincing secular rationale for her favoured coercive laws, *but* she doesn’t have an obligation to withhold support from a coercive law for which she lacks a widely convincing secular rationale.’ Ibid. 10. Emphases modified.

<sup>1111</sup> Ibid. 82. Emphasis added.

<sup>1112</sup> Ibid. 104-108.

<sup>1113</sup> Ibid. 104. Just to give an example of such constraints, according to the ideal of conscientious engagement a citizen must ‘pursue public justification for her favoured coercive policies,’ and ‘listen to her compatriots’ evaluation of her reasons for her favored coercive policies with the intention of learning from them’ (ibid. 105).



fore, what Eberle refuses in justificatory liberalism is not the ‘principle of pursuit,’ but the ‘doctrine of restraint.’<sup>1114</sup> according to him, then, once the ideal of conscientious engagement has been satisfied, a citizen is free to support her favourite coercive laws even if she *only* has religious reasons for supporting them.<sup>1115</sup> What matters here is that Eberle justifies his refusal of the doctrine of restraint by arguing (among other things) that restraint is unduly burdensome for religious citizens and seriously endangers their moral integrity.<sup>1116</sup> However, the most adamant formulation of this line of criticism is given by Nicholas Wolterstorff. I quote him at length. ‘(1) It belongs to the *religious convictions* of a good many religious people in our society that *they ought to base* their decisions concerning fundamental issues of justice *on* their religious convictions. They do not view it as an option whether or not to do so. It is their conviction that they ought to strive for wholeness, integrity, integration, in their lives: that they ought to allow the Word of God, the teachings of the Torah, the command and example of Jesus, or whatever, to shape their existence as a whole, including, then, their social and political existence. Their religion is not, for them, about *something other* than their social and political existence; it is *also* about their social and political existence. Accordingly, to require of them that they do not base their decisions and discussions concerning political issues on their religion is to infringe, inequitably, on the free exercise of their religion. [...] (2) The second inequity is a kind of unfairness that per-

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<sup>1114</sup> Ibid. 68-71.

<sup>1115</sup> Note that a not too different perspective is also advocated by Jürgen Habermas within what he defines the ‘public square:’ see his “Religion in the Public Square,” *European Journal of Philosophy* **14**, no. 1 (2006), 1-25. According to Habermas, a doctrine of restraint (in terms of a ‘translation’ in secular terms) is valid only within public institutions, but not within the ‘informal public sphere.’ In fact, Habermas contends that ‘[r]eligious citizens can well recognize the “institutional translation proviso” without having to split their identity into a public and a private part the moment they participate in public discourses. They should therefore be allowed to express and justify their convictions in a religious language if they cannot find secular “translations” for them.’ Ibid. 10.

<sup>1116</sup> Cristopher J. Eberle, *Religious Conviction in Liberal Politics*, for instance 113 and 183. On page 183 Eberle affirms that ‘many citizens don’t regard their religious commitments as a set of preferences on the order of a taste for schnapps or a desire to live in the suburbs. Rather, *they regard themselves as bound to obey a set of overriding and totalizing obligations imposed on them by the Creator. They regard their failure to discharge those obligations as anathema. If we impose on those citizens the expectation that they ought to privatize their religious commitments, we thereby impose on them the expectation that they be willing to violate their fundamental commitments.*’ Emphases added.

tains more to practice than theory. Much if not most of the time we will be able to spot religious reasons from a mile away: references to God, to Jesus Christ, to the Torah, to the Christian Bible, to the Koran, are unmistakably religious. Typically, however, comprehensive secular perspectives will go undetected. How am I to tell whether the utilitarianism or the nationalism of the person who argues his case along utilitarian or nationalist lines is or is not part of his comprehensive perspective?' <sup>1117</sup> Public reason, then, would severely endanger the capacity of religious people for achieving an integrated existence and the fulfilment of their view of the truth (1), and it would be unfair because it would disallow religious comprehensive views much more easily than non-religious comprehensive perspectives (2).

B2) *Novelty*<sup>1118</sup> or *conservatism*<sup>1119</sup> objection. This objection, as formulated by Jeremy Waldron, points to the rigidity (or conservatism) and lack of novelty that public reason is said to introduce in public political discussions, because of its requirement that citizens rely on reasons that are public in the sense of being accepted by all. Rawls says that, according to public reason, 'in making [public] justifications we have to appeal only to presently accepted general beliefs and forms of reasoning found in common sense, and the methods and conclusions of science when these are not controversial.'<sup>1120</sup> Thus, Waldron claims that '[w]hat this conception seems to rule out is the novel or disconcerting move in political argumentation: the premise that no one has ever thought of before, but which, once stated, sounds plausible or interesting. Rawls's conception seems to assume an inherent limit in the human capacity for imagination and creativi-

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<sup>1117</sup> Nicholas Wolterstorff, "The Role of Religion in Decision and Discussion of Political Issues," 105. I added the numeration. See also his "Why We Should Reject What Liberalism Tells Us about Speaking and Acting in Public for Religious Reasons," in *Religion and Contemporary Liberalism*, for instance 177.

<sup>1118</sup> This label has been used by Lawrence B. Solum, "Novel Public Reasons," 1460. See *infra*.

<sup>1119</sup> This alternative label for the objection has been used by Chad Flanders, "The Mutability of Public Reason," *Ratio Juris* 25, no. 2 (2012), 182. See *infra*.

<sup>1120</sup> John Rawls, *Political Liberalism*, 224.

ty in politics, implying as it does that something counts as a legitimate move in public reasoning only to the extent that it latches onto existing premises that everybody already shares.’<sup>1121</sup> If true, public reason would entail a serious risk for a political society: citizens would lose not only an important opportunity to become acquainted to the comprehensive views of their fellow citizens, but also the opportunity that their own views ‘may be improved, in [their] subtlety and depth, by the exposure to a religion or a metaphysics that [they are] initially inclined to reject.’<sup>1122</sup> The risk is a poor and conservative flattening of political discussion. Waldron expresses this worry very clearly: ‘I mean to draw attention to an experience we all have had at one time or another, of having argued with someone whose world view was quite at odds with our own, and of having come away thinking, “I’m sure he’s wrong, and I can’t follow much of it, but, still, it makes you think...”’ The prospect of losing that sort of effect in public discourse is, frankly, frightening –terrifying, even, if we are to imagine it being replaced by a form of “deliberation” that, in the name of “fairness” or “reasonableness” (or worse still, “balance”) consists of bland appeals to harmless nostrums that are accepted without question on all sides. That is to imagine open-ended public debate reduced to the formal trivia of American television networks.’<sup>1123</sup>

B3) *Citizenship resources impoverishment (or democratic depletion) objection.* Some authors have emphasised the contribution of religious perspectives to the quality of liberal citizenship. According to this view, the idea of limiting the role that such perspectives play in the public life of our societies would be counterproductive if not self-defeating. For instance, David Hollenbach contends that ‘[f]or a society to try to exclude such visions of the good life from public simply because they are identified with religion would be to impoverish itself both intellectually and cultural-

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<sup>1121</sup> Waldron, Jeremy. “Religious Contributions in Public Deliberation.” *San Diego Law Review* **30**, no. 4 (1993), 838.

<sup>1122</sup> Ibid. 842.

<sup>1123</sup> Ibid.

ly.’<sup>1124</sup> Similarly, John Coleman shows the participatory and transformative civic potential that becomes available to citizens when they are free to draw on the moral resources of their religious traditions: in his words, ‘deprivatizing religion’ means ‘revitalising citizenship’.<sup>1125</sup> He joins José Casanova, who maintains that ‘religious normative traditions should have the same rights as any other normative tradition to enter the public sphere as long as they play by the rules of open public debate. Indeed, it is when other nonreligious normative traditions have failed, abandoned the public sphere, or abdicated their public role that religious normative traditions are likely to step in to fill the public vacuum. One after another, all the modern public institutions which at first tended to exercise some of the public functions traditionally performed by religious institutions abandoned their public normative roles: academic philosophy, the specialized social sciences, the universities, the press, politicians, intellectuals. Under such circumstances one cannot but welcome the return of religion to the naked public square.’<sup>1126</sup> In the same vein, Paul Weithman argues that ‘churches make valuable contributions to American liberal democracy. [... S]ince some citizens have realistically available opportunities to participate in politics only because their engagement has been facilitated by a religious organization [... t]o maintain that citizens should not engage in political action solely for religious reasons is to require these citizens to withdraw from democratic politics [...] To maintain that churches should not be engaged in politics is, in effect, to require that they not facilitate the realized citizenship of large numbers of Americans.’<sup>1127</sup>

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<sup>1124</sup> David Hollenbach, S.J., “Politically Active Churches: Some Empirical Prolegomena to a Normative Approach,” 305.

<sup>1125</sup> John A. Coleman, S.J., “Deprivatizing Religion and Revitalizing Citizenship,” in *Religion and Contemporary Liberalism*, 264-290.

<sup>1126</sup> José Casanova, *Public Religion in the Modern World* (Chicago: The University of Chicago Press, 1994), 205. Casanova quotes John Richard Neuhaus’s expression ‘the naked public square.’ See his *The Naked Public Square: Religion and Democracy in America*, second edition with a new preface (Grand Rapids, MI: Eerdmans, 1986).

<sup>1127</sup> Paul J. Weithman, *Religion and the Obligations of Citizenship*, 65.

For their preeminent importance and urgency, in the next section I will focus on the first objection of each group. That is, with reference to criticisms concerning the alleged inadequacy of public reason, I will consider the incompleteness objection, while, with reference to the supposed impairment of democratic citizenship that it would provoke, I will consider the fairness objection.

Once again, my purpose here is not to offer a full defence of public reason with regard to those criticisms: a separate work would barely be sufficient to that task. Clearly, only a fully-fledged reply to all those criticisms could establish public reason as a normative standard on an unquestionably solid ground. Unfortunately, I cannot provide such an argument here. However, concerning (a2), I find persuasive James Boettcher's reply to Micah Lott,<sup>1128</sup> and,

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<sup>1128</sup> James W. Boettcher, "The Moral Status of Public Reason," 168-171. Boettcher claims that Lott's argument against the restraint requirement fails to show that there is no moral fault when we withdraw from the duty of restraint and instead give priority to different interpretations of the moral duty to respect other persons which conflict with the duty of civility expressed by public reason. Even when we are pursuing the value of respect, Boettcher affirms that we are morally wrong if we do not fulfil the duty of civility, because '[r]espect is not simply a political value that needs to be maximized up to a certain threshold. Nor is its significance reducible to favourable political consequences such as additional trust or civic friendship. Respect is also a normative principle according to which we should properly recognize the moral *standing* and *authority* of our fellow citizens as entitled to good reasons for our exercise of power over them on fundamental political questions.' Ibid. 169. Thus, the duty of civility is a particularly strong duty, which is not so easily overridden. If, nonetheless, we argue (as Lott does) that there are other ways in which we can respect our fellow citizens, one can reply (as Boettcher does) that different forms of respect are not directed to citizens *qua* citizens, since only 'requirements of public reason are internally connected to respect for the *rights* of others. Public reason should govern the very process through which citizens together work through their disagreement about how an abstract system of basic rights unfolds and takes shape in law and policy.' Ibid. 170, emphasis added. [Of course, there is another, less principled argument, against Lott's claims: if we say that in disrespecting someone we are respecting her in some other (unspecified) way, we are implicitly justifying 'any single rights violation or other form of disrespect, such as racial insensitivity or prejudice, by observing that the offending citizen respects his or her compatriots in a host of other ways,' *ibid.*] In conclusion, 'citizens usually have good reason to exercise restraint in the circumstances where the idea of public reason applies. Thus their failure to do so usually warrants moral criticism.' Ibid. However, Boettcher recognises that Lott rightly emphasises the fact that one's failure to comply with the duty of civility and its restraint requirement 'is more *understandable* when citizens are motivated by what they take to be compelling moral grounds, like the duty to protect the innocent from harm.' Ibid. Thus, it would be perfectly conceivable that other citizens 'may *sometimes* decide to tolerate [these failures] by withholding strong moral criticism or condemnation of their compatriots.' Ibid. 171.

concerning (b2), the replies of Lawrence Solum and Chad Flanders to Jeremy Waldron.<sup>1129</sup>  
Furthermore, luckily such an unquestionable *a priori* foundation of public reason is by no

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<sup>1129</sup> Lawrence B. Solum, "Novel Public Reasons." To simplify Solum's articulated reply to Waldron (see *ibid.* 1476ff), his most important argument against Waldron's thesis is that public reason does not require previous universal acceptance of the justificatory reasons, but their availability. Thus the 'criterion for public reason is not universal prior acceptance. Rather, public reasons are those that *could* be widely shared by those who considered them, and these can be as novel as one likes.' *Ibid.* 1477. Moreover, unanimity is not required: we aim neither for actual universal acceptance, nor for universal availability. What is required is wide availability. What matters is availability eventually leading to 'wide agreement among reasonable persons.' *Ibid.* 1476 and 1477-1478. This obviously allows new reasons and premises which are not already universally shared. What matters is that such reasons and premises *could* be shared (that is, they are available) to reasonable persons. Chad Flanders ("The Mutability of Public Reason," 186-188) contends that Solum's reply to the novelty objection is unsatisfactory. He claims that Solum's availability criterion 'risks not only expanding the content of public reasons, but also eliminating any restrictions on it.' *Ibid.* 186. If we say (as Solum does) that we should admit any reason 'that *could* be widely shared by those who consider' it, we risk being obliged to admit reasons derived from comprehensive doctrines. In fact, 'those who argue that they should be able to assert premises based on their comprehensive doctrines will make precisely the same claim: they will say that although their arguments are not currently accepted, they may one day be, and so they remain *available*.' *Ibid.* For example, even if others do not accept my religious arguments today, why should it be in principle excluded that they can come to accept them one day, when those arguments are considered as they deserve? Maybe others will convert to my religion in the future. If so, those arguments remain available today (because they *could* be accepted) and they must be admitted in public political debate. Thus, Flanders argues that to be coherent with the restraint of public reason, we must interpret availability in a more limited way. Instead of saying that those reasons and arguments that 'could be accepted if considered' are available, one could say that only those reasons and arguments that are 'accepted but not known to be accepted' are available, *ibid.* 188 (after all, in *Political Liberalism* Rawls refers to 'presently accepted general beliefs and forms of reasoning found in common sense, and the method and conclusions of science when these are not controversial,' 224). Thus, in a more modest sense, available reasons would consist in those 'beliefs which are available to us as premises in our reasoning because they are obvious or not at all controversial' (Chad Flanders, "The Mutability of Public Reason," 187). But if this is so, the problem of novel reasons is unsolved, because we cannot introduce in public political debate properly new arguments. According to Flanders, the introduction of the proviso also represents an unsatisfactory answer to the objection from conservatism: if we present a new reason from our comprehensive doctrine, in order to satisfy the proviso we must also present a properly public reason (i.e., a reason available in the previous sense) to support it. Then 'the putatively novel reason was not all that "novel." One was simply phrasing in a different way a claim that could easily have been made in terms of public reason alone. Asserting one's comprehensive justification might have an expressive function, but it would not be doing any real justificatory work.' *Ibid.* 190. Therefore, Flanders suggests looking for the solution of this problem in the historical and mutable nature of public reason itself. Not only does public reason change over time, so that '[w]hat may not yet be legitimate as a public reason now [...] may be legitimate in the future –should our ideal of public reason be made actual' (*ibid.* 196), but also 'changes in background culture eventually lead to changes in public reason itself' (*ibid.* 203). Thus 'the reasons available to the "public" at any time will be constantly in flux.' *Ibid.* For this reason, he claims that we should not draw a stark line between public reason and background culture. Flanders's conclusion is that 'public reason can change and has changed through shifts in what is widely accepted by the public at large. These shifts happen not through public reason itself, but through sometimes slow and sometimes sudden alterations in the background culture.' *Ibid.* 204. Now I do think that both Solum and Flanders's arguments present interesting elements for building a criticism of the novelty objection (something that I do not attempt to do here). Flanders rightly points out that public reason is dynamic and open to changes and that the background culture is a vital incubator for those changes. I will consider a similar point concerning the changing nature of public reason in discussing the charge of inconclusiveness. However, I think that Flanders exaggerates the inadequacy of both Solum's reply and of the proviso to solve the problem of conservatism. First, in the next section I will show that in my interpretation of the proviso the introduction of (novel) comprehensive reasons *may* do a 'real justificatory work,' provided that the fundamental criterion of reciprocity (as the deepest foundation of the duty of civility) is not violated. Second, a sympathetic reading of Solum's article cannot miss the moral significance that he confers to the notion of availability. As mentioned, he maintains that 'the criterion for public reason is availability to the public at large' ("Novel Public Reasons," 1463), but after a while he also stresses the relevance of the criterion of reciprocity by saying that '[w]hile the duty of civility requires citizens to offer public reasons, it does not itself require abstention from the disclosure of nonpublic reasons that play a foundational or supporting role in either political deliberation or public political debate. Moreover, the giving of nonpublic reasons, which –while not shared– are the foundations of public reasons –

means necessary. I do think that if I am able to show that my account of public reason seriously undermines the plausibility and power of the two most troubling objections to public reason, then the appeal of that account is greatly strengthened. An account of public reason can gain credibility “on the field,” that is, thanks to its capacity to work effectively, while at the same time showing that, with regard to the unsettled questions, the burden of proof falls on its critics.

## 4.2 A Reinterpretation of the Proviso (and a Reply to Critics).

In this section, I present my interpretation of the wide view of public reason. I try to combine and make consistent two positions usually thought to be in contrast; namely, a strong commitment to the moral foundation of public reason (what I will call the “reciprocity of the reasonable,” *infra*) and a more inclusive stance toward the role of religious convictions in politics.

In 2.2.b, I defined the proviso as a “general threshold for public reasoning.” In this section, that basic intuition will become clearer. The idea that a more appropriate interpretation of the proviso can specify an ultimate bottom line is crucial for my purposes: the proviso defines a threshold (or minimal standard) for the evaluation carried out in this research. In fact, one may argue that the proviso establishes a threshold of liberal toleration. As I will explain over

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which are shared— may foster mutual civility and tolerance. I may see that you and I agree about fundamental public values but disagree about the moral foundations of those values. Despite my unwillingness to accept them as true, I may nevertheless come to see your fundamental views as reasonable’ [ibid. 1466]. If we link Solum’s presentation of available reasons as those reasons ‘that *could* be widely shared by those who considered them’ with his above-mentioned considerations about reciprocity, we could say that he endorses neither the ‘too expansive’ nor the too ‘modest’ conception of availability which Flanders pinpoints. To be fair, Flanders underscores the fact that Solum’s availability response is connected to Rawls’s criterion of reciprocity (“The Mutability of Public Reason,” 188). But he says that precisely for this reason availability is not able to solve the dilemma (as mentioned, *either* availability would give too much space to comprehensive doctrines because people who assert them are deeply persuaded that others, on due consideration, could accept them *or* availability would confine public reasoning to arguments and reasons that are so uncontroversial that most people already accept them or would accept them if they knew them). On the contrary, I think that we could use (and my interpretation of the proviso does use) the criterion of reciprocity as a moral political threshold in order to identify those reasons that, while not shared, do not violate political reciprocity and thus are “available” to others in a very general but still morally meaningful way. My understanding of the proviso does not require availability in the sense of providing a straightforward public reason. However, it does still require some connection between non-public reasons and public reason. I will explore this issue in detail in the next section. I conclude this long excursus by emphasising that, if I am right on these points, Flanders emphasis on the mutability of public reason (not only for its internal dynamics, but also for the relevance of the background culture), a certain interpretation of Solum’s argument from availability, and the proviso are not conflicting answers to the objection from conservatism.

the course of the following pages, such a threshold can be found in the criterion of reciprocity, which expresses the moral-political core of public reason worked out from the public political culture of a constitutional democracy. For the sake of clarity, remember how Rawls formulates the triadic relation that ties together public political culture, reciprocity, and public reason with its proviso (for the explanation of such a relation, see 3.2.b.2):

‘The ideal [of *public reason*] is that citizens are to conduct their public political discussions of constitutional essentials and matters of basic justice within the framework of what each sincerely regards as a reasonable political conception of justice, a conception *that expresses political values* that others as free and equal also might reasonably be expected to endorse. Thus each of us must have principles and guidelines to which we appeal in such a way that the *criterion of reciprocity* is satisfied.’<sup>1130</sup>

Remember that to express those political values we must ‘start by looking to the public political culture itself as a shared fund of implicitly recognized basic ideas and principles.’<sup>1131</sup> To put it concisely, I understand this triadic relation between public political culture, reciprocity, and public reason as the foundation of Rawls’s liberal meta-theory of toleration and legitimacy. Reciprocity is the moral core of such meta-theory, and the proviso –as its minimal threshold– embodies its most salient requirements. To break this relation means rejecting the liberal account of toleration and legitimacy: then, we fall in a difficult case of severe non-compliance with the duty of civility. However, I cannot deal with such cases until I have specified that duty in some depth. This is my purpose in what follows.

Following Paul Weithman, a fundamental insight of this section is that the wide view of public reason is a crucial element for stability for the right reasons to materialise and that the proviso<sup>1132</sup> is the mechanism through which the mutual assurance problem can be solved. The

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<sup>1130</sup> John Rawls, *Political Liberalism*, xlviii-xlix. Emphases added.

<sup>1131</sup> Ibid. 8.

<sup>1132</sup> Recall: ‘reasonable comprehensive doctrines, religious or nonreligious, may be introduced in public political discussion at any time, *provided that* in due course proper political reasons –and not reasons given solely by comprehensive doctrines– are presented that are sufficient to support whatever the comprehensive doctrines introduced are said to support.’ John Rawls, “The Idea of Public Reason Revisited,” 462, emphasis added.



mutual assurance problem is connected to a ‘generalised prisoner’s dilemma’<sup>1133</sup> that Rawls has to face in his account of stability for the right reasons. Remember that stability for the right reasons is not mere institutional stability, as we have seen. Rather, it is the moral kind of stability that characterises a society in which fair terms of social cooperation are freely affirmed by all (or a substantial number of) citizens. Why is it so difficult to reach this kind of stability according to Weithman? And why did it lead Rawls to adopt the wide view of public reason and its proviso? I try to reconstruct Weithman’s complex argument in few words. Having shown that the conception of justice is politically (*pro tanto*) justified, Rawls is confronted by the fact that:

‘[I]n addition to having a sense of justice, each citizen has a conception of her own good. That each citizen has such a conception opens the possibility that she will think honoring the terms of cooperation [...] is not good for her. Thus [1] terms that are collectively rational might not be individually rational. And so the rational thing for each individual to do may be to defect from terms of cooperation. And [2] if each thinks others will defect, then each will think it rational to defect preemptively, so that society is not regulated by terms of cooperation.’<sup>1134</sup>

Therefore, to avert the threat of instability Rawls must: (1) solve the problem of *defection* by showing that it *is in the interest* of each individual to cooperate on fair terms (i.e., Rawls must solve the generalised prisoner’s dilemma) and (2) *make publicly known* the fact that the problem of defection has been solved, so that the problem of *preemptive defection* can also be averted. This latter is the core of the problem of mutual assurance: nobody will be tempted to defect preemptively on the sole condition that everybody knows (or thinks) that nobody will defect. Thus, this knowledge must be public. Here I focus exclusively on how Rawls answers to this double challenge to stability in *Political Liberalism* (I do not consider the account of the question of stability in *A Theory of Justice*).<sup>1135</sup> Rawls solves the problem of defection (1)

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<sup>1133</sup> See in particular John Rawls, *A Theory of Justice*, 269-270/237-238, 336/295-296, and 577/505. On page 577/505 we read: ‘[t]he hazards of the generalized prisoner’s dilemma are removed by the match between the right and the good.’ This remarks anticipates the role played by the idea of an overlapping consensus in *Political Liberalism* (*infra*).

<sup>1134</sup> Paul Weithman, “Inclusivism, Stability, and Assurance,” 83. Numbers added.

<sup>1135</sup> A detailed analysis of the differences between *A Theory of Justice* and *Political Liberalism* on the issue of stability can be found in Paul Weithman’s book *Why Political Liberalism?* Other bibliographic references about this point are mentioned in a previous footnote in section 3.2.a.

by showing that the political conception can be the focus of an overlapping consensus in which each person can find a form of congruence between her conception of the good and the political conception (i.e., in the overlapping consensus each person fully justifies the conception of justice). In this way, Rawls tries to demonstrate that cooperation rather than defection is in the interest of each individual. However, *'the individual rationality of compliance is not enough. If preemptive defection is to be avoided, the fact that each citizen recognizes the individual rationality of compliance must itself be a matter of public knowledge. In sum, each must have some assurance that others accept the terms of cooperation and will not defect.'*<sup>1136</sup> In fact, the overlapping consensus alone is not enough to solve the problem of stability for the right reasons, because we can rationally accept to view the terms of social cooperation as binding us only insofar as we know that others do (and will continue to do) the same. If we are not sure about others' commitment to the fair terms of social cooperation, then we may come to think that preemptive defection is our best reply to others' strategic choices.

[W]hen an overlapping consensus obtains, each person's payoff table has the following structure: the payoffs are such that it is rational for a person to honor the terms of cooperation and treat the political conception of justice as authoritative *only when she has the assurance* that all others, or a sufficient number of others, also adhere to the terms and treat the conception as authoritative.<sup>1137</sup>

How to solve the assurance problem then? The basic idea is that at least on some occasions we need the assurance of others' allegiance to the terms of social cooperation specified by the liberal political conception (our 'common point of view'),<sup>1138</sup> and that assurance is provided by relying on common shared (i.e., public) reasons.<sup>1139</sup> Does this mean that we should always base political discussion exclusively on public reasons? In other words, does this mean that we should adopt an *exclusive view* of public reason? The answer is no. As we have seen in 4.1.a, in some circumstances (for instance in the case of public support for church schools

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<sup>1136</sup> Paul Weithman, "Inclusivism, Stability, and Assurance," 83. Emphases added.

<sup>1137</sup> Ibid. 85-86. Emphasis added.

<sup>1138</sup> John Rawls, *A Theory of Justice*, 5/4.

<sup>1139</sup> 'What citizens know about one another's commitment to the authority of a conception of justice depends, in part, upon what concepts and methods of reasoning they actually use when they argue about basic political questions. That, I believe, is why Rawls introduces guidelines of public reason –to provide a solution to the assurance problem.' Paul Weithman, "Inclusivism, Stability, and Assurance," 86.

mentioned above) stability for the right reasons may be actually best served by disclosing the deep roots of one's commitment to the social order established by the political conception of justice: in this way each citizen can come to know that all other citizens are part of an overlapping consensus. In doing so citizens strengthen, rather than undermine, civic friendship and stability. The idea is simple: if you introduce in public political discussion of fundamental political questions your religious (or philosophical or moral) reasons *in a spirit of compliance with the ideal of public reason (infra)*, 'I may see that you and I agree about fundamental public values but disagree about the moral foundations of those values. Despite my unwillingness to accept them as true, I may nevertheless come to see your fundamental views as reasonable.'<sup>1140</sup> This in turn strengthens civic friendship and mutual confidence. This is why Rawls rejects the exclusive view of public reason in favour of the *inclusive view* and, later, why he shifts from the inclusive to the *wide view* of public reason (see 4.1.a for the explanation of such a shift).<sup>1141</sup> In this way, he allows the widest possible space for the positive convergent contribution of religious voices (in terms of disclosing one's deep allegiance to the 'common point of view' via an overlapping consensus), while at the same time keeping intact a common mechanism for mutual assurance. To employ an admittedly inelegant metaphor, the latter works like a pressure cooker safety valve: as I will explain, the proviso brings some degree of flexibility that permits the correct balance between convergence of non-public reasons and consensus on properly public reasons to be found each time (or at least on the majority of occasions), as is necessary to solve the problem of stability for the right reasons. In effect, the expression 'in due course'<sup>1142</sup> is (intentionally?) ambiguous and opens the door to different readings. For instance, Paul Weithman interprets the proviso in these terms:

'Rawls allows ordinary citizens to rely on their comprehensive doctrines *without adducing public reasons* in support of their positions, *so long as their doing so does not lead others to doubt* that they acknowledge the authority of the public conception of justice. *If doubts never arise, then the proviso is never triggered* [...] *Only if doubts arise, and others need assurance of their allegiance*, must citi-

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<sup>1140</sup> Lawrence B. Solum, "Novel Public Reasons," 1466.

<sup>1141</sup> For Weithman's explanation of why and how Rawls refuses the (at first glance attractive) exclusive view in favour of the inclusive and –later– the wide view, see "Inclusivism, Stability, and Assurance," 86-88.

<sup>1142</sup> John Rawls, "The Idea of Public Reason Revisited," 462.

zens provide assurance by *actually adopting* and reasoning from the “*unified perspective*” the public conception of justice provides.’<sup>1143</sup>

Elsewhere, he maintains that:

‘[T]he motivation for the proviso is not the conviction that religion destabilizes society or that it leads to civil strife. It is the fact that a person’s reliance on religious argument can lead her interlocutors to doubt whether she acknowledges the political authority of justice as fairness. Rawls could have required citizens to assure one another of their commitments by requiring them to comply with more restrictive guidelines of public reason than those associated with the wide view. He could, for instance, have argued that citizens must *preempt* others’ doubts about their acceptance of the political conception. In that case, he might have replaced the phrase “in due course” in the proviso with the phrase “at the same time.” Instead, the proviso requires citizens to adopt and deliberate in their “common point of view” only when they have good reason to think assurance is actually needed. In defending it, *Rawls advocates what is, by construction, the weakest and least restrictive guideline sufficient to solve the mutual assurance problem* [emphasis added].’<sup>1144</sup>

Thus, for Weithman the wide view solves the problem of mutual assurance because it makes room for religious reasons and turns their introduction in public political discussion into a source of stability (citizens may say to each other: “Oh, now I can see what your deep conviction about our reciprocal political standing is!”), while at the same time it sets up a shared mechanism (the proviso) for giving one another assurance of one’s allegiance to (a member of the family of) the political conception(s) of justice when needed. As Weithman observes, this also seems to explain Rawls’s caveat: ‘details about how to satisfy this proviso must be worked out in practice and cannot feasibly be governed by a clear family of rules

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<sup>1143</sup> Paul Weithman, “Inclusivism, Stability, and Assurance,” 88-89. Emphases added. See also *Why Political Liberalism?*, 330-331.

<sup>1144</sup> Paul Weithman, *Why Political Liberalism?*, 331.

given in advance. How they work out is determined by the nature of the public political culture and calls for good sense and understanding.’<sup>1145</sup>

I fundamentally agree with Weithman on the fact that the wide view of public reason is required to solve the assurance problem and so to secure stability for the right reasons. I also agree with him (and with Rawls) that public reason can work effectively in that direction only if it is understood widely and its proviso is interpreted as the ‘least restrictive guideline sufficient to solve the mutual assurance problem.’<sup>1146</sup> Indeed, Rawls rejects the exclusive view and, later, the inclusive view precisely because they are not always the best options for solving the assurance problem and securing stability for the right reasons. I call my interpretation of the proviso “extensive”, since it does not always require a direct and strict link between the non-public reasons appealed to in public debate and a public reason. However, as I will explain presently, I think that the best way to work out that extensive interpretation of the proviso is to reconsider the duty of civility and its foundations. This brings us back to what I have said before: depending on the circumstances, stability for the right reasons may require a flexible balance of consensual shared public reasons and of convergent non-public reasons. In effect, Weithman’s interpretation of the proviso also seems to be based on a similar consideration: the proviso is the “safety” mechanism which is triggered ‘only if doubts arise’ about one’s allegiance to the public conception. Only in those cases should a consensual view based on public reasons prevail. In other cases, when doubts do not arise, a convergence of non-public reasons in the justification of political decisions, policies, and laws on fundamental political questions is enough for securing stability for the right reasons. Moreover, sometimes such convergence may be even better in terms of stability than the search for a consensus exclusively on properly public reasons, as the example of public funding to religious schools shows. However, as Weithman acknowledges, it is difficult –maybe too difficult– to know in advance ‘what counts as an expression of doubt.’<sup>1147</sup> Most importantly, if we *never* appeal to public reasons, it is very likely that doubts about our allegiance to the public conception of justice *will* arise and become more and more numerous, so that, in the end, we are left with the only viable option: to appeal to properly public reasons in order to satisfy the proviso and

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<sup>1145</sup> John Rawls, “The Idea of Public Reason Revisited,” 462-463.

<sup>1146</sup> Paul Weithman, *Why Political Liberalism?*, 331, quoted above.

<sup>1147</sup> Paul Weithman, “Inclusivism, Stability, and Assurance,” 89.

solve the mutual assurance problem. I am not suggesting that this result is an undesirable one. Simply, my claim is that perhaps taking others' doubts as the critical threshold for triggering the proviso is not the best strategy to fully understand the significance of the proviso itself. Indeed, it is not implausible to imagine a paradoxical situation in which, as we are increasingly more confident (for whatever reason) that the others do not doubt our allegiance to the public conception of justice, and –consequently– as we offer less and less genuine public reasons, with the passing of time it becomes more and more likely that the others will come to doubt our allegiance. The more the problem of mutual assurance is attenuated, the more it becomes intense and acute. Maybe it would be wiser to clarify from the beginning a different way in which the proviso may be fulfilled. In my understanding, the respect of the duty of civility (and not simply others' doubts) is the cornerstone for evaluating the satisfaction of the proviso. In fact, my account of the proviso differs from Weithman's conception more in its presentation than in its practical functioning. However, my presentation of the proviso is aimed at avoiding the circularity of ending up with having to present *public* reasons in any case in order to solve the mutual assurance problem. I think that Weithman's account of the proviso shares this goal. However, I believe that it is not clear on this point, because, as I have just explained, one might read Weithman's proviso as implying this kind of circularity: you do not have to offer public reasons if other citizens have no doubts about your willingness to maintain your sense of justice and abide by fair terms of social cooperation, *but* the more you appeal to non-public reasons, the more others are likely to doubt, *therefore* you have to appeal to public reasons finally. On the contrary, the "bifurcate model" of the duty of civility presented here (*infra*) determines from the very beginning the criterion for dispelling others' doubts about one's allegiance to the public conception of justice: the criterion of "reciprocity of the reasonable" (*infra*). In doing so, it shows that, as long as that criterion is satisfied, we do not have to appeal to public reasons in order to solve the mutual assurance problem because doubts about our loyalty *should not* arise. In this way, the risk of circularity is averted.

I propose then a *bifurcate model for the duty of civility*, that is, a two-level conception of that duty. I assume that a direct appeal to public reasons is the most straightforward way to assure one's allegiance to the public conception of political justice and to show respect for other fellow citizens as free equals reciprocally engaged in social cooperation based on fair terms publicly endorsed. Thus, I call the direct appeal to public reasons the "first level duty of civility." It is evident, then, that my interpretation of the wide view starts with a consensual

premise. However, it does not stop there. The main idea is that if it is not possible to successfully use the consensual mode of public reasoning by directly appealing to shared political values and methods of reasoning ('presently accepted general beliefs and forms of reasoning found in common sense, and the method and conclusions of science when these are not controversial'),<sup>1148</sup> it is nonetheless possible to climb down one level toward some degree of convergence, taking advantage of the flexibility introduced by Rawls's proviso. The bottom line, however, is represented by the criterion of political reciprocity (as mentioned, I will call it reciprocity of the reasonable), understood as a qualified form of respect: that is, as the *respect which free and equal persons owe each other as fellow citizens cooperating on fair terms*. I will return to this conception of reciprocity in the following pages. Here, I must be clear on one point: at the end, also at the second level there must be some connection with a properly public reason. However, this connection may be quite indirect. First, if the connection of a non-public reason with a public reason is clear enough to everyone else, one does not need to mention explicitly that public reason. Here, I come close to Weithman's interpretation of the proviso. Second, the connection may be not with a public reason, but with the spirit of political reciprocity and civic friendship that represents the rationale and the deep moral grounding of any public reason as such. Thus, with reference to the second level of the duty of civility, I have in mind two particular ways for satisfying the proviso. Let me summarise my two-level model as follows:

- A. *First level of the duty of civility*: one appeals to public reasons alone as justificatory reasons. The justificatory pool is composed exclusively of genuine public reasons. In supporting a law or policy, in the end ideally all have the *same* conclusive *public* reasons (in a strong consensual view)<sup>1149</sup> or *different* –but always *public* and thus shareable even though not shared– conclusive reasons (in a weak consensual view<sup>1150</sup> or public-convergence view). Thus, citizen X satisfies the duty of civility

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<sup>1148</sup> John Rawls, *Political Liberalism*, 224.

<sup>1149</sup> Jonathan Quong, *Liberalism without Perfection*, 264.

<sup>1150</sup> Ibid. Quong endorses a weak consensus view (ibid. 273). Here, with reference to the consensual level of the duty of civility (A), I do not analyse the differences between a strong consensual view and a weak consensual (or public-convergent) view. However, since the weak consensual view is more flexible but at the same time it is still consensual (it says that we may hold different *public* reasons), it seems that the weak consensual model represents a reasonable interpretation of the first level of the duty of civility. Also Rawls seems to endorse this model (ibid.).

of the first level if she supports the law *L* by appealing exclusively to a public reason *R*.

B. *Second level of the duty of civility.* (For simplicity in the following lines I will talk exclusively of religious non-public reasons, but the same reasoning applies to comprehensive views that are not religious). I argue that a citizen of faith who wants to introduce a religious reason in public political discussion of fundamental political questions –that is, within the scope of public reason as defined in chapter three– can fulfil the proviso in one of these two ways:

B1) The citizen of faith satisfies the proviso if her *religious* reason *supports* (or is supported by) a *public* reason. As I will explain, in this way she clearly and unambiguously supports the criterion of reciprocity. This possibility reflects Rawls’s formulation of the proviso (‘provided that in due course proper political reasons [...] are presented that are sufficient to support whatever the comprehensive doctrines introduced are said to support’).<sup>1151</sup> As I have said, building on Weithman’s interpretation of the proviso, I do think that, *if the connection* between the non-public reason and a public reason or a political value *is clear enough in the eyes of other fellow citizens*, there is no evident reason to exclude the former from the justificatory pool of the relevant justificatory reasons just because the person who appeals to that non-public reason does *not* present the related public reason *contextually* and/or *explicitly*. In other words, if the supportive relation between the non-public reason at hand and a public reason is strong and evident enough in the eyes of other liberal citizens, that non-public reason must be counted as relevant for public justification also if the person who appeals to it does not also directly appeal to the public reason related to that non-public reason. Otherwise, one could not understand Rawls’s annotation that ‘*whether [or not] the Abolitionists and King thought of themselves as fulfilling the purpose of the proviso [...], they could have,*’<sup>1152</sup> because in any case they ‘supported basic constitutional values,’<sup>1153</sup>

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<sup>1151</sup> John Rawls, “The Idea of Public Reason Revisited,” 462.

<sup>1152</sup> Ibid. 464, note 54. Emphases added.



even when those values were not *explicitly* invoked. For instance, imagine a citizen of faith who supports a law according to which the state must subsidise the construction of new multifaith or separate prayer rooms in hospitals when the already existing religious facilities are markedly mono-confessional. Imagine that in supporting such a law the citizen appeals to a religion-based duty of respect for others' religious choices, for instance, a duty based on the argument that God calls to believe freely and without compulsion, so people of different faiths must be free to worship their own God. Clearly, this does not amount to a relativistic view: from the perspective of the citizen of faith, there is only one true religion and she probably wholeheartedly hopes that, one day, citizens of other faiths will finally come to know the true God (i.e., *her* God). It is precisely because she has that religious rationale (i.e., that acceptance of the true religion must be based on sincere and spontaneous belief, because religious belonging without religious sentiment would amount to nothing but hypocrisy or mere habit) that she accepts that others may worship their Gods. This religious reason is not only consistent with, but also supportive of a public reason that upholds the law mentioned above on the basis of freedom of worship and the responsibility of the state to provide the minimal conditions necessary for the equal exercise of that freedom. Without any doubt, whether or not that supportive relation is made explicit by the citizen of faith, other citizens will be able to recognise it on reflection. This is so because *reciprocity* is affirmed by both kinds of reasons: the religious reason expresses a comprehensive understanding of reciprocity (equal freedom for all God's creatures to know and exalt their Creator on the basis of sincere conviction), whilst the public reason expresses a political understanding of reciprocity (equal freedom of worship for all citizens as a public political value). The crucial point is that the religious understanding of reciprocity overlaps with –supports– the political understanding of reciprocity: politically what matters is that the former permits the endorsement of freedom of worship as affirmed by the latter. Formally, citizen X satisfies the second level duty of civility if she advocates *L* by invoking the non-public

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<sup>1153</sup> Ibid. 464.

reason *P* which (explicitly or implicitly but recognisably) supports a public reason *R*. To be sure, the phrases “implicitly but recognisably” and “clear enough in the eyes of other fellow citizens” are admittedly vague. How can we know that a non-public reason that we are presenting to our fellow citizens can be clearly recognised as supportive of a public reason or a political value? I cannot consider this important issue and its epistemic implications here. Seemingly, we run into the same difficulties raised by Weithman’s conception of the proviso focused on others’ doubts about our allegiance to the political conception of justice: it is difficult to foresee in advance ‘what counts as an expression of doubt,’<sup>1154</sup> likewise it is difficult to know in advance whether a non-public reason is “clearly” linked to a public reason in the eyes of other fellow citizens. However, as I have mentioned, I do believe that the approach presented in this research has an important advantage in comparison with Weithman’s view. Here I anchor the fulfilment of the proviso to the satisfaction of the duty of civility and I consider reciprocity (what I will call the criterion of reciprocity of the reasonable, *infra*) as the moral-political foundation of that duty and as the crucial threshold for the proviso. Shifting the focus from others’ doubts to the criterion of reciprocity of the reasonable and citizens’ respect of the duty of civility allows the proviso to be interpreted in a more straightforward and less circular way. Here I am interested in the moral-political side of the issue and I believe that this reading is close to the core of Rawls’s presentation of the wide view. In particular, the example of King reveals Rawls’s faith in citizens’ capability to recognise the supportive connections between public and non-public reasons, even when such connections are only implicit. Obviously, such a capability requires a moral political effort. For this reason, he appeals to citizens’ practical wisdom, good sense, and understanding.<sup>1155</sup> This point simply shows that it is not always a simple, unproblematic, and spontaneous matter to know how to comply with public reason: as I have said, there is no “vademecum” for liberal citizenship. Contrary to what some of the criticisms that I have considered

<sup>1154</sup> Paul Weithman, “Inclusivism, Stability, and Assurance,” 89.

<sup>1155</sup> John Rawls, “The Idea of Public Reason Revisited,” 462-463.

above seem to imply, public reason entails much more debate, discussion, and critical reflexion than is usually thought.

B2) However, there is a more indirect way in which the proviso can be satisfied. Imagine that the citizen of faith mentioned above is now supporting the same law (*L*) for state funding of new prayer rooms in hospitals, but based on a different religious reason: say, that even in matters of faith ‘God does not love those who overstep the limits,’<sup>1156</sup> and that denying religious comfort to dying people is surely an excess. Now, this religious reason is reasonable for political purposes. There is no refusal of political reciprocity (the citizen involved may think that it is not a good thing for dying people to find comfort in a false God, but she finally allows them the freedom to choose for themselves). Still, that religious reason is not directly connected with the public reason mentioned above, namely, freedom of worship (which, for the sake of simplicity, I assume to be the only relevant public reason at hand). Her religious reason is neither in conflict with nor *directly* supportive of freedom of worship: instead, it is independent from that public reason. Indeed, between God’s prohibition of overstepping the limits in affirming one’s own faith and freedom of worship (at least as we usually understand it) there may be a link, but certainly not a direct one as in the previous case. However, the *effects* of invoking this religious reason are perfectly reasonable, since it advocates for a law which affirms the freedom and equality of citizens in realising their moral powers. The problem is that citizens’ freedom and equality are not present in the reason invoked itself: the latter is not a public reason. Nor is the reason invoked directly linked to a public reason: in fact, in contrast to the case analysed in the previous point (B1), the reason appealed to is independent from what is, by assumption, the only relevant public reason at hand. Still, the affirmation of citizens’ freedom and equality (indirectly) results from the fact that the religious citizen has appealed to *that* non-public reason. Can we count that non-public reason (call it *P2*) in the justificatory pool and consider it as consistent with the proviso? Now, we may imagine different possibili-

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<sup>1156</sup> Qur’an, 2:191.

ties. First, we may find that citizen *X* *also* presents a public reason *R* (i.e., *X* affirms both the non-public reason *P2* and the public reason *R* referring to freedom of worship, which is by assumption the only available public reason). This case would collapse in the first class analysed under letter A, because in this scenario what matters in terms of public justification is that there is a straightforward public reason *R*, even though the two reasons *R* and *P2* are presented in parallel. Second, we may imagine that citizen *X* *also* endorses another religious reason (*P*) which –explicitly or implicitly but beyond any reasonable doubt– supports a public reason (*R*). This case would collapse in the second class analysed under letter B1, where the non-public reason *P* supports the public reason *R*. Also in this case *P2* would have no bearing on its own in the public justification of *L*, because all the justificatory work would be done by the supportive relation between *P* and *R*. In the first two cases, then, *P2* is simply neglected as a justificatory reason and it remains in the background: it has no specific role to play in the public justification of *L* because it is possible to bypass it by resorting to a properly public reason or to a non-public reason that supports (or is supported by) a properly public reason. There is however, a third scenario. *X* may invoke *exclusively* *P2*, which is –by construction– independent from the only relevant properly public reason *R*. Should we reject *P2* –which, after all, brings about results which are consistent with political reciprocity and which may strengthen civic friendship– just because it is not directly supported by any public reason? My answer is negative, but it is also contingent upon a crucial assumption. The assumption is that those positive effects in terms of affirmation of the spirit of reciprocity are not merely fortuitous. Instead, they must represent the ground on which citizen *X* presents her religious reason (which, in the case under scrutiny, is her only justificatory reason). That is, if she appeals to this religious reason out of a *sincere disposition to enhance political reciprocity and civic friendship*,<sup>1157</sup> her religious reason *P2* meets the requirements for satisfying the proviso. As I will explain, in this situation by appealing to *P2* the

<sup>1157</sup> Remember that she could also affirm civic friendship and political reciprocity out of her religious conviction, because the political conception is a module which is the focus of an overlapping consensus.

religious citizen does meet the threshold that I call “the reciprocity of the reasonable.” This is not always the case. Imagine again that the same citizen supports the same law only on the basis of a religious reason. However, now the religious reason is different from the previous one: the religious reason for supporting *L* is now that leaving unbelievers to pass away praying to their false God is the surest way for their souls to be condemned in the afterlife, and this is a good thing from the perspective of advancing the creational project of the true God. Obviously, even if the legal results are the same (assuming that the law *L* is approved), and the state subsidises new separate prayer rooms, the spirit in which that non-public reason is presented is contrary to civic friendship: it is not reasonable to propose such reason with the goal of others’ damnation in mind. This is not because political liberalism is concerned with souls’ salvation or damnation (it is not), but because in this case the political decision would be justified in light of considerations that are instrumental to our contempt for people with religious views different from our own: realistically, from this position we could not participate in an overlapping consensus on a political conception of justice that is based on citizens’ equality and freedom. The fact that on this specific issue (the law on prayer rooms) coercive political power is not used to suppress but to promote political freedom and equality would be merely fortuitous from a moral and political point of view. If our goal is to use political power *against* citizens who hold different but reasonable comprehensive views *simply because* they hold these views, we are not promoting but *denying* political freedom and equality: next time we could be tempted, for instance, to use the state’s apparatus to wipe out citizens believing in a different God or in no God (see below the analysis of the notion of unreasonableness). Then, the previous assumption about the spirit in which non-public reasons are appealed to is of crucial importance for including (or excluding) a religious reason in (from) the justificatory pool. However, coming back to the first case imagined under B2, let me explain why I think that if a citizen presents a non-public reason in a spirit that enhances civic friendship we should not neglect it. *How can we recognise such a spirit of reciprocity and civic friendship* in those cases? In few words, the basic idea is that while such a non-public reason is not public in

character, it is nonetheless “*public enough*,”<sup>1158</sup> and other reasonable citizens are able to recognise this fact. To show how this can happen, recall my characterisation of *intelligibility* in chapter two. There, I argued that “when politically reasonable persons publicly discuss fundamental political questions, their arguments should be at least intelligible to other politically reasonable persons.” In the example that we are considering now, we can recognise not only the reasonableness of the religious reason *P2* from a political perspective, but also the reasonableness of the grounds on which it is advanced (from here the importance of the assumption just mentioned). One could say that the politically reasonable is intelligible to politically reasonable citizens. Political reasonableness –as described in previous chapters– is a feature that mediates the intelligibility of non-public reasons between politically reasonable persons, at least with reference to some limited features of such reasons, namely, limited to their ability to embed and communicate the spirit of political reciprocity. In other words, even if a reason is not shared between you and me (as it is often the case with religious reasons), since we are both politically reasonable citizens in public discussion of fundamental political questions you are able to discern if I am advancing that reason in a spirit of political reciprocity. Whether or not a non-public reason is invoked in a spirit of reciprocity and civic friendship is a political and moral fact that is intelligible to other reasonable persons. Since reciprocity is tightly connected with reasonableness and reasonableness is something that reasonable persons have in common by definition, reasonableness mediates between reasonable persons and makes their non-public arguments somehow (and to some *political* degree only) intelligible to other reasonable persons, at least as far as political reciprocity is concerned. Reasonableness entails a commitment to reciprocity (*infra*). Thus, in public political discussions *reasonable* persons cannot consistently appeal to non-public reasons that violate or contradict that very spirit of reciprocity and civic friendship. Intelligibility thus means that other reasonable people are able to recognise the spirit of reciprocity and civic friendship that should

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<sup>1158</sup> “Public enough” here simply means “sufficiently public.” I am not completely satisfied with this expression, but I cannot find any better alternative for the moment.

always characterise public reasoning: whether public or non-public reasons are invoked, public discourse should be grounded in political reciprocity. As one can see, here I defend only a very narrow understanding of intelligibility, restricted to the domain of the political and to political notions such as reciprocity, reasonableness, and civility. In my reading of the proviso, this latter is satisfied whenever other reasonable citizens are able to detect that *spirit of reciprocity and civic friendship* in one's appealing to non-public reasons. It is true that one may appeal to a notion of reciprocity or friendship that is broader and deeper than *political* reciprocity or friendship (for instance, fraternity among God's creatures, that is, a comprehensive notion of reciprocity or friendship). However, this does not contradict political reciprocity or friendship which, in Rawls's terms, are moral elements of a 'module' that must be endorsed via an overlapping consensus. One does not have to endorse someone else's non-public reasons in their comprehensive content to appreciate –if present– the spirit of political reciprocity underlying their being brought to the public forum. Obviously, this spirit of reciprocity is not sufficient for a reason to be victorious in justifying a law or policy, but it can be understood as the minimal necessary condition for a reason to be brought in public political discussion in a way consistent with the proviso. I think that *a non-public reason that embodies a sincere and consistent commitment to reciprocity satisfies the proviso* because it relies on moral grounds 'that each citizen might reasonably endorse as consistent with their freedom and equality.'<sup>1159</sup> Thus, non-public reasons of this kind are adequately morally-politically grounded to be reabsorbed within the ideal of public reason. Moreover, if reasonable citizens are able to detect that spirit of reciprocal political commitment even in one's non-public reasons, then they can feel *assured* of the willingness to be loyal to the 'common point of view' (the political conception of justice) and the authority of public reason. The problem of *mutual assurance* is thus also solved in this "extensive" interpretation of the wide view: this reading of the

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<sup>1159</sup> Daniel A. Dombrowski, *Rawls and Religion: The Case for Political Liberalism* (Albany, NY: State University of New York Press, 2001), 116.

proviso ‘secures what is needed’<sup>1160</sup> (a second and linked reason for affirming that the wide view solves the assurance problem is provided in chapter five). If this spirit of reciprocity and civic friendship is sincere, then the fact that one does not provide proper public reasons is not a demonstration of a willingness to back out of (or defect from) the ‘common point of view’ represented by the political conception. Rather, this fact is related either to one’s incapacity (for whatever reason) to find a proper public reason at all, or to the conviction that one’s religious reason supports the spirit of reciprocity and civic friendship better than any public reason at hand (that is, available at the moment to a particular citizen) could otherwise do. I introduce now two important remarks. First, note that, however, a *reasonable* citizen as such is and remains committed to the need for providing a *public* justification (*supra*). Therefore, she acknowledges that, if proper public reasons are available and they adequately support civic friendship and reciprocity, she should directly appeal to those properly public reasons as the most straightforward way to achieve a public justification and honour the duty of civility. Second, this is not to say that a religious citizen should be motivated *only* by public considerations: she may appeal to a non-public reason because she genuinely values this reason in itself (that is, out of religious conviction for its own sake). However, since she is reasonable and accepts the burdens of judgement and their consequences, she is also committed to the ideal of public justification, as I have just mentioned. Thus, she may present that religious reason, but she should also strive for satisfying the duty of civility as specified by A, B1, or B2. From these remarks it follows that –if requested– a citizen should be willing to go back up to level B1 and to present public reasons that support her non-public reason, or at least (if she is not able to detect any supportive public reason) to make it explicit that she introduced that religious reason (also) to advance political reciprocity and civic friendship. Only in this way can the problem of mutual assurance be solved. Since it corresponds to the respect of political reciprocity, the threshold for satisfying the proviso is low enough to admit many religious contributions that may manifest our deep

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<sup>1160</sup> John Rawls, *Political Liberalism*, 1.



commitment to the conception of justice on which the overlapping consensus is reached and, in so doing, they may strengthen civic friendship and stability for the right reasons. At the same time, however, in virtue of the same spirit of political reciprocity, reasonable citizens accept the fact that it may be necessary to go back up to a higher level of the duty of civility (A or B1) when doubts arise<sup>1161</sup> about the ability of a religious reason brought to the public political forum to fulfil the proviso and respect the threshold pinpointed by the criterion of reciprocity of the reasonable (*infra*). *If* we are sincerely and consistently willing to honour the duty of civility, we must accept the fact that sometimes this safety mechanism is the only way for providing mutual assurance. *When* this is the case is an issue devolved to the practical wisdom of citizens themselves.

I now briefly come back to the question of sincerity, which I mentioned at the end of chapter three. On that occasion, I maintained that we can understand the ‘ideal of public sincerity’<sup>1162</sup> in two complementary ways (for more details, see above). The first is properly public and focuses on our sincere belief that a *public* reason to which we appeal is sufficient to justify a proposal publicly. This first understanding of the ideal of public sincerity refers to the first level of the duty of civility as I constructed it. On the other hand, the second understanding of such an ideal focuses on our sincere belief that a *non-public* reason to which we appeal as an adequate ground to publicly justify a proposal *complies with* the spirit of reciprocity and civic friendship expressed by an ideal of public reason. This second understanding refers to the second level of the duty of civility. Now, it may seem that my interpretation of the proviso puts too much stress on the notion of sincerity. If we say that the proviso is satisfied just because the non-public reasons one appeals to are sincerely grounded in a spirit of reciprocity and civic friendship, it may seem that we are naively and dangerously relying (or simply relying too much) on other citizens’ commitment to fair social cooperation. However, I do not think that this claim is correct. This point only goes to show that social cooperation previous-

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<sup>1161</sup> It is indisputable that on this point there is a remarkable proximity to Weithman’s model. As I said at the beginning, my interest here is more in understanding how we should present the duty of civility than in developing a radically different view: in fact, I believe that Weithman’s insights about how the wide view of public reason works toward solving the mutual assurance problems are fundamentally correct and I build on them.

<sup>1162</sup> Micah Schwartzman, “The Sincerity of Public Reason,” 385.

ly requires a certain degree of mutual trust, which it further develops. As long as mutual trust is not betrayed and doubts do not arise, there is no reason to ask for further assurance or be suspicious toward non-public reasons, as Weithaman rightly points out. Moreover, this point shows that liberal toleration is not grounded in scepticism or fear toward religion in general (and perhaps some religions in particular). These remarks also reply to many criticisms analysed in previous sections: the interpretation of the proviso developed in this research recognises the potential contributions in terms of civic friendship, political participation, and reciprocity coming from religious organisations and individuals. The introduction of religious reasons in public political discussion is not seen *per se* as an incendiary attack against social unity. On the contrary, as Rawls emphasises, religious doctrines (and reasons drawn from these doctrines) are of capital importance to stability for the right reasons, for the only form of social unity consistent with the fact of reasonable pluralism ‘is given by a stable overlapping consensus of reasonable comprehensive doctrines.’<sup>1163</sup> One’s participation in the overlapping consensus is best shown by her willingness to present in public political discussion non-public reasons that support public reasons (B1) or which are in line with the spirit underpinning the ideal of public reason itself (B2). Thus, political liberalism lays the foundations of liberal toleration on solid moral political grounds: the reciprocal recognition between free and equal, reasonable and rational citizens (*infra*). I then argue that what really matters in order to sustain a just liberal society is not a consensus on a set of public reasons. If a –strong or weak<sup>1164</sup>– consensual view holds, all the better in terms of social cohesion. But from a political viewpoint this is not necessary. Instead, what really matters is sharing the moral core of liberal democracy: political reciprocity between free equals who recognise one another as such and cooperate on fair terms. Then, all citizens ask each other to make public what they sincerely believe is the best ground for enhancing political reciprocity and civic friendship. If that ground is represented by a religious reason, it should be admitted in public political discussion even if it is not directly supported by genuine public reasons. Clearly, then, sincerity

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<sup>1163</sup> John Rawls, *Political Liberalism*, 43.

<sup>1164</sup> See point A above.

is a crucial premise of any account of public reason and of a wide interpretation of public reason in particular.<sup>1165</sup>

To sum up, according to my model of wide public reason we begin from a consensual view of public reason. According to the first level of the duty of civility (A), reasonable citizens try first to find reasons that are most likely to be endorsed by other reasonable citizens, i.e. public reasons. However, this is not the end of the story. Rather, reasonable citizens can comply with their duty of civility at a second –but no less important– level by presenting non-public reasons which support public reasons (B1), or which are advanced in line with the spirit of reciprocity and civic friendship underpinning the ideal of public reason (B2). (As I have mentioned several times, in the following pages I will specify reciprocity as “reciprocity of the reasonable,” but for the moment I simply talk of reciprocity for brevity: as I use them here, the two expressions are interchangeable). The rationale is to combine a civically strong and cohesive understanding of public reason with a more inclusive and “religion-friendly” conception of the latter by refining our understanding of the duty of civility. This is, I think, the most extensive interpretation of the wide view compatible with a robust commitment to public reason as regulative ideal of democratic citizenship. The first level of the duty of civility is the most pressing and strict, but it is also negotiable: to be a good Rawlsian citizen it is not necessary to satisfy it. The second level is broader and looser, but it is not negotiable: if we fail to comply with it, we fail on an important dimension of our being citizens of a liberal democratic society. That is, we fail to comply with the criterion of reciprocity understood as a (moral) thesis about the moral political equality of citizens endowed with the two moral powers (a capacity for a sense of justice and a capacity for a conception of the good)<sup>1166</sup> and cooperating in society on fair terms. As should be clear, here we come back to the regulative political substantive (and not merely formal) dimension of public reason analysed at the beginning of this chapter. If one radically denies this thesis, she infringes the moral criterion of political reciprocity in a way that is not consistent with any serious declination of the duty of civility.

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<sup>1165</sup> As I said, I agree with Schwartzman when he argues that ‘[s]incerity is not an independent requirement that needs to be added to the ideal of public reason [...] It is an integral part of any adequate theory of political discourse.’ Micah Schwartzman, “The Sincerity of Public Reason,” 398, emphasis added.

<sup>1166</sup> Recall that, according to Rawls, ‘[s]ince we start within the tradition of democratic thought, we [...] think of citizens as free and equal persons. The basic idea is that in virtue of their two moral powers (a capacity for a sense of justice and for a conception of the good) [...] persons are free. Their having these powers to the requisite minimum degree to be fully cooperating members of society makes persons equal.’ John Rawls, *Political Liberalism*, 18-19.

Thus, she can be qualified as politically unreasonable, with the consequences that it entails (*infra*). For this reason, I understand the issue of containment (*infra*) as the outer border of a political liberal theory of toleration. In other words, I understand containment as a response to the unreasonableness involved in the negation of the criterion of reciprocity itself and in a systematic failure to comply with the second level of the duty of civility. In such cases, there is an infringement of others' moral –not legal– rights (i.e., rights to equal respect and consideration as a free and equal citizens),<sup>1167</sup> a rejection of the liberal principle of legitimacy and, ultimately, of the ideal of public reason itself. Thus, in my view *only systematic violations of the duty of civility and a more or less intentional rejection of the moral political criterion of reciprocity must be politically contained* (see below). This kind of unreasonableness is incompatible with good liberal democratic citizenship: as Macedo puts it, '[r]easonableness and cooperativeness or reciprocity are, obviously, closely bound up here: public reasonableness depends on citizens being willing to deliberate about the fair terms of social cooperation if others will likewise do so.'<sup>1168</sup> (Note that this does not imply that a person who is unreasonable in this way does not have access to equal legal rights on the same footing with other –reasonable– citizens, *infra*). On the other hand, single (and possibly minor) instances in which one fails to respect the duty of civility of the second level may not be enough to determine that that person is unreasonable *tout court*, at least not in a –politically speaking– conclusive way. Such a failure could have several causes, some frankly venial, even though the implications may be serious. For example, in Lott's example Dr. X is simply unable to find a way to both protect chimps and to honour the requirements of public reason, to which he is otherwise committed.<sup>1169</sup> Indeed, cases of "*sporadic*" *unreasonableness* are less threatening from a political perspective. However, since in such cases the obligations of good citizenship specified

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<sup>1167</sup> For the purposes of my research, I simply assume that in a liberal democracy (as expressed in its public culture) every person is understood as possessing those moral rights. Note, however, that the duty of civility being a moral duty and not a legal duty (John Rawls, *Political Liberalism*, 217 and 253), its violation does not involve a violation of others' legal rights (Robert Audi, *Religious Commitment and Secular Reason*, 85). Nor, however, is it just a supererogatory ideal unable to impose moral requirements. Rather, the 'moral status of public reason' infers that such an ideal imposes binding moral requirements (James W. Boettcher, "The Moral Status of Public Reason," in particular 159-160).

<sup>1168</sup> Stephen Macedo, "In Defense of Liberal Public Reason: Are Slavery and Abortion Hard Cases?" 24.

<sup>1169</sup> As I mentioned above, in cases like this, we should admit that one's failure to comply with the duty of civility 'is more *understandable* when citizens are motivated by what they take to be compelling moral grounds, like the duty to protect the innocent from harm.' Thus, other citizens 'may *sometimes* decide to tolerate [these failures] by withholding strong moral criticism or condemnation of their compatriots.' James W. Boettcher, "The Moral Status of Public Reason," 170-171.

by the moral-political duty of civility are also violated, they are subject to *social moral criticism*.<sup>1170</sup> The reason for this distinction is rather simple: there is an obvious difference between being morally criticised for not honouring a moral requirement and being politically contained. The reader could wonder what counts as “sporadic and minor” and what counts as “systematic and intentional” forms of unreasonableness. The answer is necessarily vague: it depends. Like the reader, I am not fully comfortable with this answer and I will return to the sources of unreasonableness in public justification and to the question of containment in a moment. However, the distinction between “sporadic” and “systematic” forms of political unreasonableness is inescapably loose and mutable because, as Rawls aptly points out, the wide view of public reason is bound to citizens’ ‘good sense and understanding.’<sup>1171</sup> Apart from the main points considered here, there is no way to anticipate in theory what only citizens’ judgment can settle in practice.

Yet, if one does not respect the first, highly consensual, level of the duty of civility, while she complies with the second level, she does *not* infringe others’ moral rights (i.e., the right to equal respect and consideration as free and equal citizens). In this case, civility is not violated at all, because by satisfying the proviso a citizen shows her commitment to the criterion of reciprocity, the liberal principle legitimacy, and the idea of public reason: such a citizen is politically reasonable, and she wants to be recognised as such. As Boettcher rightly observes, ‘[i]n attempting to satisfy the proviso, citizens are guided by their disposition to be reasonable and their desire to be recognized by others as reasonable [...] The aspiration to be recognized as reasonable motivates citizens to reason and act in a manner that *reassures others of their good faith effort* to offer public reasons for their political choices.’<sup>1172</sup> In this sense, I fully agree with the claim that we can ‘understand the idea of *public reason as a vehicle for allowing citizens to see one another as reasonable*, even when they are fully aware of what seem to be irreconcilable differences between them.’<sup>1173</sup> The desire to be *reciprocally* recognised as *reasonable* is manifested in the satisfaction of the *duty of civility*, at least at its sec-

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<sup>1170</sup> Robert Audi, *Religious Commitment and Secular Reason*, 85. James W. Boettcher, “The Moral Status of Public Reason,” 159-160.

<sup>1171</sup> John Rawls, “The Idea of Public Reason Revisited,” 463.

<sup>1172</sup> James W. Boettcher, “Public Reason and Religion,” 129-130. Emphases added. See also *ibid.* 145.

<sup>1173</sup> James W. Boettcher, “Rawls and Gaus on the Idea of Public Reason,” 17. Emphasis added.

ond level. For these reasons, therefore, I argue that the core of the duty of civility is grounded in what I call the “reciprocity of the reasonable.” Before explaining its content, let me describe its role in defining the frontiers and limits of the duty of civility.

The *criterion of reciprocity of the reasonable* serves as a *critical threshold* for recognising when the second and most fundamental level of the duty of civility is violated. For this reason, I have defined my interpretation of the proviso as extensive: its bottom line (and its most essential criterion) coincides with the respect of the criterion of reciprocity of the reasonable. According to B2, it is not enough that a non-public reason contradicts a single public reason for it to be rejected as unreasonable. In fact, non-public reasons that satisfy the proviso must be counted as justificatory reasons and, as such, can play a role in supporting or opposing a specific political position. In this case, they must be weighed against all the other public and non-public reasons in the justificatory pool. When we try to justify publicly a law or a policy, a public reason can go against another public reason. Likewise, a non-public reason that satisfies the proviso can go against a public reason (or another non-public reason that satisfies the proviso). Clearly, for instance, there is no inconsistency in saying that a non-public reason *P* can satisfy the proviso under B1 or B2 even if it counts against a law *L* which is supported by a public reason *R*. This is not different from the case in which two properly public reasons (say, *R1* and *R2*) count respectively in favour and against *L*. Instead, to be disqualified from public justification as *unreasonable*, a reason must *deny or contradict* (be at odds with) *the criterion of reciprocity itself*. What does this mean? In few words, it means that *those reasons that deny citizens’ freedom and equality cannot be counted as reasonable, because they deny the moral grounds of the ideal of public reason*. The reciprocity of the reasonable thus specifies a criterion for distinguishing reasonable from unreasonable non-public reasons. A non-public reason may deny the criterion of reciprocity in two ways (alternatively, one could say that there are two sources for unreasonableness):<sup>1174</sup>

U1) The refusal of citizens’ freedom and equality may be embedded *within the content* of a non-public argument. For instance, imagine that we support a law that discriminates against the members of a particular religious group because our sacred texts describe them as inferior and perverted. If we present such a description in public as an

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<sup>1174</sup> Interestingly, Paul Weithman has independently come to outline a similar distinction: see *Religion and the Obligations of Citizenship*, 83.

argument for supporting that discriminatory law, we fail to show political respect for others as free and equal citizens. In this case, unreasonableness is subsumed within the very content of the non-public reason and the latter cannot count as a reasonable justificatory reason.

U2) Furthermore, the refusal of the criterion of reciprocity may be implied not in the content of a non-public reason, but in the willingness to coerce others only on grounds that they could reasonably reject. In that case, there is *unreasonable enforcement upon others*. Suppose that someone is supporting pro-life positions on abortion based on an argument drawn from her comprehensive view according to which human life is sacred and should be protected from its beginning. Leaving aside the vexing question of the moral status of the foetus, I cannot see how one can exclude such a religion-based reason (“human life is sacred and should be protected from its beginning”) as unreasonable *per se*. Its content is not unreasonable, because it does not deny political reciprocity between free and equal citizens. Therefore, a religious citizen may generally present that religion-based reason in public discussions about fundamental political questions (for instance, in a discussion about the death penalty) and try to satisfy the proviso as specified by B1 or B2: I do not think that it would be difficult to show that such a religion-based reason could be presented in a way consistent with the spirit of reciprocity and civic friendship requested by B2. However, the citizen who refers to this non-public reason cannot reasonably expect that other reasonable citizens would accept the *criminalisation* of abortion in the first trimester and, say, the *prosecution* of women who have an abortion in that period *exclusively on the basis of* this religion-based reason (even though, once again, the *content* of the reason “human life is sacred and should be protected from its beginning” is *not* politically unreasonable in itself, because it does not deny citizens’ freedom and equality). This expectation would be unreasonable because citizens reasonably disagree precisely on the moral status of the foetus: while they may generally agree on the protection of human life, they reasonably disagree about the exact moment in which human life begins. Thus, it would be unreasonable to claim that, *in the absence of a supportive public reason*, the question of abortion can be politically decided exclusively on religious grounds. Now, it could seem that B2 leads precisely to this outcome: according to B2, in effect, a non-public reason can be included in the justificatory pool *without* being supported by a specific

public reason. It would follow, then, that we can appeal to that non-public reason (the protection of human life as sacred from the beginning) as an adequate reason to justify political coercion, even if other citizens can reasonably reject part of its non-public content, that is, even if reasonable disagreement does persist about whether a zygote is a human being. However, if one wants to fulfil the duty of civility as I specified it, she should acknowledge that B2 would rule out the hypothesis of basing political coercion exclusively on reasons that citizens can reasonably reject. In fact, it should be recalled that the case analysed in B2 was premised on a *different* and very specific sort of acceptability. Namely, I said that B2 is satisfied *only if* other reasonable citizens *can recognise a spirit of political reciprocity* and civic friendship underlying the appeal to a specific non-public reason. The *sine qua non* condition for satisfying the proviso at level B2 is that the non-public reason in question must be *invoked in a way that is consistent with the affirmation of other citizens' political freedom and equality*. Yet if one thinks that, lacking any public ground, political coercion should be grounded exclusively on her comprehensive view, what lacks is precisely that spirit: on the contrary, what prevails is the willingness to *impose* on the others one's own comprehensive view and in so doing one *denies citizens' freedom and equality*. What other reasonable citizens cannot be reasonably expected to endorse is not only the non-public content of that non-public reason (the qualification of the zygote, the embryo, and, later, the foetus, as a human being whose life is sacred and should be protected), but also the political spirit on the basis of which that non-public reason is brought to the public forum. While the comprehensive content about the moral status of the foetus would have remained an object of *reasonable* dispute in any case, if the political spirit underlying the public presentation of the non-public reason at hand ("human life is sacred and should be protected from its beginning") had been consistent with the criterion of political reciprocity, at least other reasonable citizens would have been assured about one's allegiance to the moral grounds of the ideal of public reason. Nothing similar occurs in the case considered now, because there is no sign of respect for the criterion of reciprocity in basing political coercion exclusively on (otherwise reasonable) non-public grounds. It is simply an *unreasonable attitude* because it denies other citizens' freedom and equality and treats them as passive subjects of one's will. To sum up, to say that "human life is sacred and should be protected" is certainly not unreasonable in itself, because this affirmation does not reject citizens' freedom and equality: it may



satisfy the proviso under B1 or B2, even though disagreement on the “sacred” nature of human life would probably persist. On the other hand, to take sides over the moral status of the foetus is not unreasonable *as long as* taking a side does not mean coercing other citizens on the basis of one’s own comprehensive doctrine. Otherwise, *a question of reasonable disagreement becomes a matter of unreasonable political enforcement*. Thus, to impose a non-public reason (no matter how reasonable its content) as the sole basis for public justification in extremely disputed cases such as abortion is never politically reasonable and this possibility is ruled out by B2. However, since with reference to the issue of abortion it is also very difficult to find genuine public reasons to fulfil the duty of civility as specified by A and B1, maybe the best we can hope for politically is a *provisional reasonable solution* that satisfies the criterion of reciprocity. I will return to this point at the end of the chapter when I discuss the incompleteness objection (see 2a).

In other words, to be counted in the justificatory pool, a non-public reason must avoid both kinds of unreasonableness. That is, it must be reasonable both in its content and in the spirit in which it is offered to the public. Since they neglect citizens’ freedom and equality, actually both cases of unreasonableness are clearly connected in one important respect: they ultimately deny the need for a justification of coercion that does not stifle reasonable pluralism. Bearing in mind that one of the two features of reasonable persons is the acceptance of the burdens of judgment and their consequences (*supra* and *infra*), those who systematically appeal to unreasonable reasons (as specified under U1 and U2) cannot be defined as reasonable persons, because the reasons they present are not consistent with the persistence of the fact of reasonable pluralism. One can even imagine a test for knowing whether a non-public reason violates political reciprocity. One could say that a non-public reason infringes political reciprocity if other reasonable citizens’ acceptance of that reason would require –due to the content of that reason (U1), or to the willingness to impose that reason independently from the fact that others cannot be reasonably expected to accept it as the sole ground for being politically coerced (U2)– their *forced conversion*<sup>1175</sup> to the non-public view from which that reason stems. Indeed, if one politically discriminates a group on the basis of her sacred text or religious tradi-

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<sup>1175</sup> For the unreasonableness involved in the idea of forced conversion from the perspective of political liberalism, see Daniel A. Dombrowski, *Rawls and Religion: The Case for Political Liberalism*, 10, 19, 21, and 34. For a similar point, see also Leslie C. Griffin, “Fundamentalism from the Perspective of Liberal Tolerance,” *Cardozo Law Review* 24, no. 4 (2003), 1635-1636.

tion, the members of this group would have to change (convert) their minds in order to accept this political discrimination based on reasons that they do not share and the content of which clearly violates political reciprocity. The same kind of reasoning applies with reference to U2: in this case, it is not a matter of content. In fact, the content of the reason presented in public may be politically reasonable in itself, as in the case of the belief that human life is sacred and should be protected. Rather, the problem is the willingness to impose coercive measures on others on grounds that they could reasonably reject. Maybe other citizens acknowledge that a particular non-public reason is not politically unreasonable *per se*. However, it seems unlikely that they would accept to be coerced on the basis of this reason alone, imposed on them as the sole and ultimate ground for political justification. In both cases (U1 and U2), the idea behind the forced conversion test is that one cannot reasonably expect that other citizens accept political coercion based exclusively on non-public grounds that are at odds with political reciprocity, unless they share those non-public grounds. Others' acceptance is thus premised on their belief in –or on their “conversion” to– those non-public grounds. From here the admittedly not particularly felicitous expression “forced conversion.” To force other citizens to convert to one's own comprehensive view in order to accept the exercise of political power simply means denying their freedom and equality. After having explained the content of the criterion that I called reciprocity of the reasonable, I will come back to the notion of unreasonableness and analyse how reciprocity helps to exclude unreasonableness without sacrificing reasonable but illiberal (here “illiberal” simply means “non-liberal”) preferences.

Let me now explain in greater detail what I mean when I use the expression *reciprocity of the reasonable*. As I have already said on several occasions, in my understanding the criterion of political *reciprocity expresses the core of the moral political ideal of free and equal rational and reasonable citizens cooperating on fair terms*.<sup>1176</sup> Rawls says that reciprocity is related to social cooperation: ‘all who are engaged in cooperation and who do their part as the rules and procedure require, are to benefit in an appropriate way as assessed by a suitable benchmark of comparison.’<sup>1177</sup> This benchmark is expressed by the fair terms of social coop-

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<sup>1176</sup> John Rawls, “The Idea of Public Reason Revisited,” 446: ‘[t]he criterion of reciprocity requires that when those terms are proposed as the most reasonable terms of fair cooperation, those proposing them must also think it at least reasonable for others to accept them, as free and equal citizens, and not as dominated or manipulated, or under the pressure of an inferior political or social position.’

<sup>1177</sup> John Rawls, *Political Liberalism*, 16.

eration specified by a conception of political justice. Moreover, Rawls maintains that reciprocity ‘lies between the idea of impartiality, which is altruistic (being moved by the general good), and the idea of mutual advantage understood as everyone’s being advantaged with respect to each person’s present or expected future situation as things are.’<sup>1178</sup> Thus, reciprocity does not simply mean being committed to the general good, nor simply being committed to an idea of mutual advantage. Rather, it is the result of these two commitments taken together within a view that is unified by a (moral) political commitment to persons’ freedom and equality as rooted in their two moral powers.<sup>1179</sup> Rawls efficaciously captures the essence of political reciprocity in these terms: ‘reciprocity is a relation between citizens in a well-ordered society expressed by its public political conception of justice.’<sup>1180</sup> Crucially, he connects reasonableness and reciprocity in the following way: ‘*Reasonable persons [...] are not moved by the general good as such but desire for its own sake a social world in which they, as free and equal, can cooperate with others on terms all can accept. They insist that reciprocity should hold within that world so that each benefits along with others.*’<sup>1181</sup> How can we move, however, from reasonableness to reciprocity? I try to reconstruct a plausible explanation for this move.<sup>1182</sup> Rawls quotes Sibley’s 1953 article “The Rational Versus the Reasonable” as one of the two main sources for his notion of the reasonable.<sup>1183</sup> In that article, Sibley characterises the reasonable in a moral sense that ‘implies a willingness to consider our actions from a common standpoint and in light of the interests of others.’<sup>1184</sup> Thus, *reasonableness* is connected with the idea of entering in a relation of *reciprocity* with others. This, in turn, is related to the idea of *public justification*: as I have previously mentioned, Sibley observes that as a reasonable person I am committed to the idea that ‘I must justify my conduct in terms of some

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<sup>1178</sup> Ibid. 16-17.

<sup>1179</sup> As mentioned a few pages previous: ‘[t]he basic idea is that in virtue of their two moral powers (a capacity for a sense of justice and for a conception of the good) [...], persons are free. Their having these powers to the requisite minimum degree to be fully cooperating members of society makes persons equal,’ *ibid.* 19.

<sup>1180</sup> Ibid. 17.

<sup>1181</sup> Ibid. 50, emphases added.

<sup>1182</sup> Here I build on James W. Boettcher, “What is Reasonableness?”

<sup>1183</sup> John Rawls, *Political Liberalism*, 48-49, note 1. The other source is Kant.

<sup>1184</sup> James W. Boettcher, “What is Reasonableness?” 603. For this characterisation of the reasonable, see W. M. Sibley, “The Rational Versus the Reasonable,” 554-555.

principle capable of being appealed to by all parties concerned, some principle from which we can reason in common.’<sup>1185</sup> This is because ‘[t]o be reasonable here is to see the matter [...] from the other person’s point of view, to discover how each will be affected by the possible alternative actions; and, moreover, not merely to “see” this (for any merely prudent person would do as much) but also to be prepared to be disinterestedly influenced, in reaching a decision, by the estimate of these possible results.’<sup>1186</sup> Thus, one can agree with Miriam Galston in saying that ‘the reasonable has a strong social connotation:’<sup>1187</sup> as reasonable persons we want to recognise other reasonable persons and to be recognised as such by them. Recognition must be built on reciprocal grounds. I have already mentioned the opinion according to which ‘[i]n attempting to satisfy the proviso, citizens are guided by their disposition to be reasonable and their desire to be recognized by others as reasonable.’<sup>1188</sup> Thus, reasonableness entails a *reciprocal recognition* as beings worthy of moral consideration and concern. Therefore, reasonableness intrinsically entails some form of reciprocity. More specifically, *political reasonableness* refers to the moral *political* interest and consideration that *citizens reciprocally* manifest. It is this kind of reciprocity between reasonable citizens that explains why they: 1) are willing to propose and accept fair terms of social cooperation; 2) recognise one another as free and equal; 3) are willing to recognise the legitimacy of their common social institutions despite their disagreement about truth. If this is correct, then reasonable citizens’ reciprocal political recognition entails a recognition of reasonable citizens’ *political autonomy*: that is, ‘the legal independence and assured political integrity of citizens and their sharing with other citizens equally in the exercise of political power.’<sup>1189</sup> In my view, such a notion of political autonomy expresses the political liberal interpretation of the *ideal of democratic self-ruling*:

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<sup>1185</sup> W. M. Sibley, “The Rational Versus the Reasonable,” 557.

<sup>1186</sup> Ibid.

<sup>1187</sup> Miriam Galston, “Rawlsian Dualism and the Autonomy of Political Thought,” 1846.

<sup>1188</sup> James W. Boettcher, “Public Reason and Religion,” 129-130.

<sup>1189</sup> For the sake of completeness, notice that Rawls says that the value of autonomy ‘may take at least two forms. One is *political autonomy*, the legal independence and assured political integrity of citizens and their sharing with other citizens equally in the exercise of political power. The other form is *moral autonomy* expressed in a certain mode of life and reflection that critically examines our deepest ends and ideals, as in Mill’s ideal of individuality, or by following as best one can Kant’s doctrine of autonomy. While autonomy as a moral value has had an important place in the history of democratic thought, it fails to satisfy the criterion of reciprocity required of reasonable political principles and cannot be part of a political conception of justice. Many citizens of faith reject moral autonomy as part of their way of life.’ John Rawls, *Political Liberalism*, xlii-xliii. Emphases added.

the latter is grounded in citizens' freedom and equality as rooted in their two moral powers. Accordingly, from this definition of citizens' reciprocal political recognition and political autonomy we can also derive both: 1) the commitment of reasonable citizens to the *priority of basic rights and liberties* and to the freestandingness of their *public institutional identity* (see chapter three), and 2) their participation on the same footing in the *democratic practice of public justification* of the exercise of political power. Overall, this perspective describes what I call the reciprocity of the reasonable. I can summarise these points in the following way:

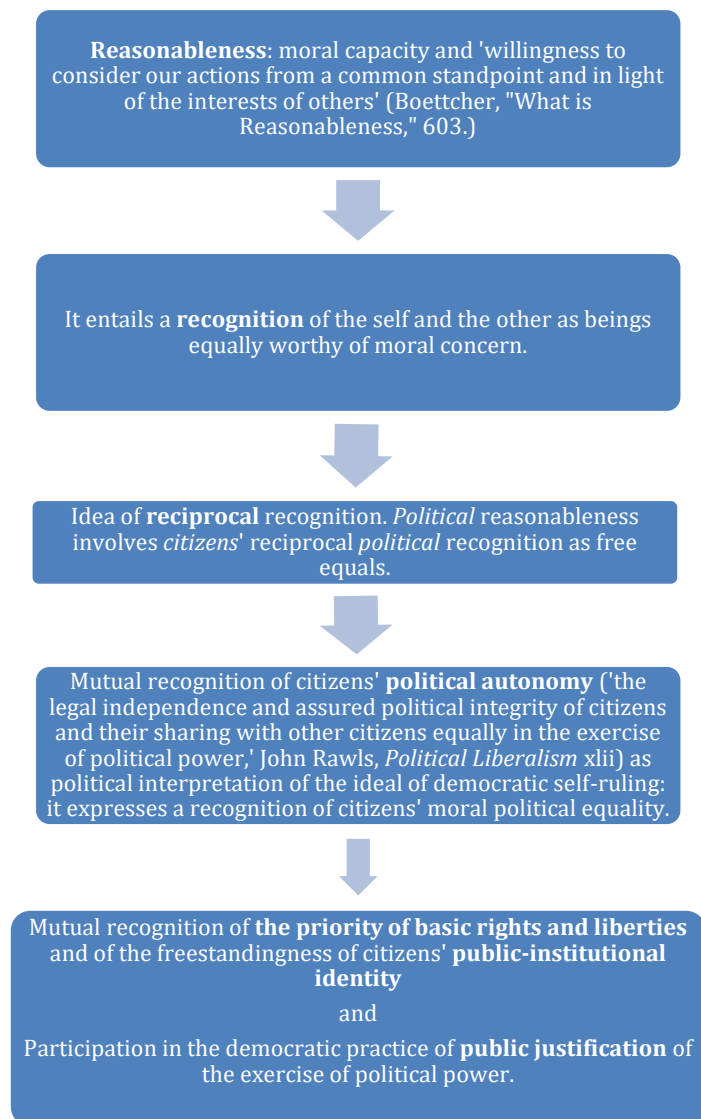


Figure 7 Reciprocity of the reasonable.

I have already underlined the fact that most cases of non-compliance with the duty of civility can be tackled by mere social criticism. One may simply not realise that the content of a specific non-public reason not only lacks the support of a public reason, but also denies the criterion of reciprocity itself (thus, that the presentation of that non-public reason falls under U1). Alternatively, one may hold a non-public reason which is reasonable in its content, but that –she thinks– should be imposed upon other citizens “only this time” (as she promises to herself) because the issue at stake is far too important from her comprehensive perspective. This second case is much more complex than the previous one. However, I assume that, despite the undeniable deficit of reasonableness in both these cases, social criticism can be strong enough to absorb and neutralise their negative effects on social trust and civic friendship. However, social criticism alone can be insufficient when unreasonableness is more than just sporadic or accidental. When unreasonableness threatens to jeopardise stability for the right reasons (remember that, as Weithman observes, Rawls is not concerned with mere institutional or political stability) of a just society, Rawls proposes to ‘contain’ it. Unfortunately, he is quite laconic on this point: he barely mentions it. In *A Theory of Justice*, Rawls says that intolerant people’s ‘freedom should be restricted only when the tolerant sincerely and with reason believe that their own security and that of the institution of liberty are in danger. The tolerant should curb the intolerant only in this case. The leading principle is to establish a just constitution with the liberties of equal citizenship’<sup>1190</sup> (I return to the last point presently). Famously, in *Political Liberalism* he devotes just a short but well-known footnote to this subject: ‘[t]hat there are doctrines that reject one or more democratic freedoms is itself a permanent fact of life, or seems so. This gives us the practical task of containing them –like war and disease– so that they do not overturn political justice.’<sup>1191</sup> Apart from that, as I have said in the third chapter, Rawls seems aware that a stable and just democratic society inevitably favours certain doctrines over others: but this fact ‘would not appear unfair [...], for social influences favoring some doctrines over others cannot be avoided by any view of political justice. No society can include within itself all forms of life.’<sup>1192</sup> In returning to the containment of the unreasonable in “The Idea of Public Reason Revisited,” Rawls unequivocally connects

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<sup>1190</sup> John Rawls, *A Theory of Justice*, 220/193.

<sup>1191</sup> Ibid. 64, note 19, emphases added.

<sup>1192</sup> Ibid. 197. Emphasis added.

*unreasonableness* to the *rejection of the criterion of reciprocity* and of the ideal of public reason. This seems in line with my interpretation of the proviso and the duty of civility, in particular under B2:

*‘Those who reject constitutional democracy with its criterion of reciprocity will of course reject the very idea of public reason. For them the political relation may be that of friend or foe, to those of a particular religious or secular community to those who are not; or it may be relentless struggle to win the world for the whole truth. Political liberalism does not engage those who think this way. The zeal to embody the whole truth in politics is incompatible with an idea of public reason that belongs with democratic citizenship.’*<sup>1193</sup>

Remember that I adopt Rawls’s specification of the reasonable person: someone who accepts the burdens of judgement and their consequences and who is willing to propose and abide by fair terms of social cooperation with other free and equal citizens. Without claiming that the following few lines may represent a complete theory of how to deal with unreasonable citizens, for the purposes of my justificatory evaluative political theory I must nonetheless develop some considerations here, while deeper analyses can be found elsewhere.<sup>1194</sup> I divide the discussion in two parts:

1. First, in the literature there is a wide debate concerning whether –and above all to what extent– we should exclude unreasonable citizens from the ‘constituency of public justification.’<sup>1195</sup> This option seems plausible if we bear in mind that ‘democracy aims at the public justification of political power, it necessarily ignores claims or arguments that are not suitably public, [... such as] appeals to religious truth or claims to racial, gender

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<sup>1193</sup> John Rawls, “The Idea of Public Reason Revisited,” 442. Emphases added.

<sup>1194</sup> Among the most influential recent contributions to this topic see: Marilyn Friedman, “John Rawls and the Political Coercion of Unreasonable People,” in *The Idea of a Political Liberalism: Essays on Rawls*, ed. Victoria Davion and Clark Wolf (Lanham, Md.: Rowman & Littlefield, 2000), 16-33; Erin Kelly and Lionel McPherson, “On Tolerating the Unreasonable,” *The Journal of Political Philosophy* 9, no. 1 (2001), 38-55; Jonathan Quong, “The Rights of Unreasonable Citizens,” *The Journal of Political Philosophy* 12, no. 3 (2004), 314-335, but see also chapter ten of his book *Liberalism without Perfection*; Vicente Medina, “Militant Intolerant People: A Challenge to John Rawls’s Political Liberalism,” *Political Studies* 58, no. 3 (2010), 556-571.

<sup>1195</sup> Jonathan Quong, “The Rights of Unreasonable Citizens,” 316.

or ethnic superiority.’<sup>1196</sup> Rawls endorses this position in the passage quoted above: unreasonable persons must be excluded from the constituency of public justification (in Rawls’s words, ‘political liberalism does not engage those who think this way’). In passing, I could add two remarks. First, referring back to what I said in the second chapter, one may observe that while justificatory comparative political theory tries to evaluate the reasonableness of a particular comprehensive doctrine and its capacity to enter into an overlapping consensus, justificatory evaluative political theory is more concerned with excluding particular instances of systematic unreasonableness from the constituency of public justification. Second, for the discussion that I am considering now, it is important to introduce the distinction made by Kelly and McPherson between *political* and *philosophical* reasonableness.<sup>1197</sup> In few words, according to them, while political reasonableness refers to one’s willingness to propose and accept fair terms of social cooperation (that is, a moral political disposition to act in a certain way), philosophical reasonableness refers to one’s acceptance of the burdens of judgement and their consequences.<sup>1198</sup> According to Kelly and McPherson, one could be politically reasonable (that is, willing to act on the basis of fair terms of social cooperation) *and* philosophically unreasonable (e.g., she could be a racist). The two authors claim that public justification should include all *politically* reasonable citizens, whether or not their philosophical views are reasonable (but only ‘just as long as their *philosophical* unreasonableness *does not spill over* into *political* unreasonableness’).<sup>1199</sup> However, as Jonathan Quong points out, actually it is difficult that such a spill-over from philosophical to political unreasonableness does not materialise. In fact, Quong criticises Kelly and McPherson’s characterisation of the burdens of judgement (whose rejection generates philosophical unreasonableness) merely in epistemological terms.<sup>1200</sup> Quong convincingly argues that Rawls kept the two elements of the reasonable (the willingness to

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<sup>1196</sup> Ibid. 315.

<sup>1197</sup> Erin Kelly and Lionel McPherson, “On Tolerating the Unreasonable,” 39ff. That distinction has been endorsed also by Maffettone (see his “Political Liberalism: Reasonableness and Democratic Practice,” 562).

<sup>1198</sup> Erin Kelly and Lionel McPherson, “On Tolerating the Unreasonable,” 39-44.

<sup>1199</sup> Ibid. 40, emphasis added.

<sup>1200</sup> Jonathan Quong, “The Rights of Unreasonable Citizens,” 319-321.



propose and abide by fair terms and the acceptance of the burdens of judgment) tightly connected because otherwise any serious *moral* understanding of public justification would be impossible. Without accepting the burdens of judgement and their consequences (i.e., without accepting the fact of reasonable pluralism), nothing more than a *modus vivendi* would be possible: citizens would be ready to overturn the system of social cooperation if they could. Quong is right when he says that ‘[a]ccepting the burdens of judgement is [...] the only way to motivate a moral account of public justification.’<sup>1201</sup> The burdens of judgment are thus ‘a necessary component of reasonableness if that concept is to do the moral work required of it.’<sup>1202</sup> Indeed, the burdens of judgment have an epistemological dimension, but they are needed primarily to provide a moral motivation to the reasonable and, in the end, they are absorbed by the *moral* political nature of this concept. One could say that the acceptance of the burdens of judgment and of reasonable pluralism is the motivational component of a broader moral political concept (the concept of the reasonable), which has a practical dimension too (i.e., proposing and abiding by fair terms of cooperation). Note that this characterisation of the reasonable is consistent with my account of the duty of civility. It is precisely because reasonable persons recognise the fact of reasonable pluralism and are committed to the ideal of public justification that they must rely on the spirit of reciprocity and civic friendship mentioned above as the minimum necessary for the proviso to be satisfied under B2. Thus *philosophical* reasonableness defined in terms of acceptance of the fact of reasonable pluralism *collapses* into *political* reasonableness and together they represent the two components of the same moral political concept. Having said that, however, notice that this does not mean that reasonable *illiberal* (i.e., non-liberal) views are excluded from public justification. Although we cannot include *philosophically unreasonable* but politically reasonable positions because such a distinction seems to rest on a misunderstanding of the concept of reasonableness itself, we can nonetheless consistently include illiberal religious or philosophical views that are *politically reasonable* (in the full sense of accepting the burdens of judgments and of being willing to accept and propose fair terms of cooperation). In few words, reasonableness is a *political* category, while in this context the fact of being liberal or illiberal is a philosophical (in a thick,

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<sup>1201</sup> Ibid. 320-321. emphases added.

<sup>1202</sup> Ibid. 321.

deep, and broad –i.e., comprehensive– sense) question.<sup>1203</sup> *Politically speaking, what is important is one's reasonableness, not the fact that one is liberal or illiberal from a philosophical perspective.* Remember that the ‘only comprehensive doctrines that run afoul of public reason are those that cannot support a reasonable balance of political values.’<sup>1204</sup> Thus, obviously, according to political liberalism comprehensive doctrines can be reasonable without being liberal (in this thick–deep and broad– sense): reasonable yet illiberal persons and doctrines are compatible with *political* liberalism, while they are incompatible with *comprehensive* liberalism.<sup>1205</sup> Taken together, these two elements of reasonableness as a moral political concept (that is, the burdens of judgement as an epistemological concept providing moral motivation to reasonable citizens and the willingness to propose and abide by fair terms of social cooperation shaping reasonable citizens’ practical political reasoning) show that Rawls’s notion of toleration is not based on scepticism. Rather, it is based on moral grounds, to which the burdens of judgment belong. One could say that the deepest foundation of the concept of the reasonable is a political commitment to two forms of respect: a) the respect toward our fel-

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<sup>1203</sup> For instance, Leslie C. Griffin argues that ‘*theological* fundamentalists’ may be *politically* reasonable: see “Fundamentalism from the Perspective of Liberal Tolerance,” 1635-1636. One’s comprehensive view may be either liberal or illiberal (i.e., non-liberal), what matters is one’s political reasonableness, as Rawls clearly explains in “The Idea of Public Reason Revisited” (488, emphasis added): ‘[t]he idea of the politically reasonable is sufficient unto itself for the purposes of public reason when basic political questions are at stake. Of course, [some] fundamentalist religious doctrines [...] will reject the ideas of public reason and deliberative democracy. They will say that democracy leads to a culture contrary to their religion [...] They assert that the religiously true, or the philosophically true, overrides the politically reasonable. We simply say that such a doctrine is politically unreasonable. Within political liberalism nothing more need be said.’

<sup>1204</sup> John Rawls, *Political Liberalism*, 243.

<sup>1205</sup> For this reason I think that the following claim by Marilyn Friedman is grounded in error. She says that those who do not accept the burdens of judgment and are not willing to propose and accept fair terms are ‘not merely unreasonable; more specifically, they are also *illiberal*’ (“John Rawls and the Political Coercion of Unreasonable People,” 28). This seems to mean –correctly– that unreasonableness entails inconsistency with *political* liberalism. This is surely true: remember Rawls’s quotation above: ‘political liberalism does not engage those who think this way’ (“The Idea of Public Reason Revisited,” 442). The problem is that immediately after she simply equates the adjectives “illiberal” and “unreasonable.” Thus, in her view, political liberalism would disqualify all illiberal views as unreasonable. But this is simply not true. Only unreasonable illiberal views are disqualified from public justification. But saying this presupposes a clear distinction between the opposition reasonable/unreasonable (which concerns *political* liberalism) and the opposition liberal/illiberal (which concerns *comprehensive* liberalism). For these reasons, one can reject Friedman’s most caustic charges [‘Rawls’s legitimation pool for political liberalism is defined precisely in such a way as to exclude those whose prior (illiberal) commitments would lead them to reject political liberalism,’ “John Rawls and the Political Coercion of Unreasonable People,” 28; ‘Rawls’s approach is therefore similar in one respect to the very viewpoints that he regards as unreasonable, namely, it seeks to justify the use of coercive (liberal) power over some of the individuals who reject its tenets. From their points of view, it is Rawls who appears [...] to be unreasonable,’ 30].

low citizens, and b) the respect toward our reasonable (even though sometimes illiberal) comprehensive doctrines.<sup>1206</sup>

2. I turn now to the second part of the argument: the problem of how to treat unreasonable citizens. It is not possible to analyse this issue in every single detail here. I would like to consider it in a subsequent study because it may represent the part of a theory of public reason citizenship with the most direct effects on reality. Here I just try to clarify some fundamentals. Rawls suggests that we should contain unreasonable doctrines when they directly threaten the stability of a just society, but he does not explain how.<sup>1207</sup> First, note that containment can be defined as *‘any policy whose primary intention is to undermine or restrict the spread of ideas that reject the fundamental tenets of liberal democracy, that is (1) that political society should be a fair system of cooperation for mutual benefit, (2) that citizens are free and equal, and (3) the fact of reasonable pluralism.’*<sup>1208</sup> Some contend that Rawls’s notion of the containment is too “soft,” running the risk of endangering the constitutional regime of a democratic society irreparably.<sup>1209</sup> I follow again Quong in framing the problem, because rather than focusing exclusively on the (crucial) question of preserving stability for the right reasons, Quong also asks what kinds of rights can be invoked when one claims that the rights of unreasonable citizens are to be limited. For instance, can unreasonable citizens invoke a right to freedom of speech? Quong maintains that we should distinguish between two different kinds of rights claims. First, unreasonable citizens can claim ‘the same basic liberal rights and entitlements as other citizens.’<sup>1210</sup> Second, one may think that they can also claim a ‘right to be unreasonable.’<sup>1211</sup> According to Quong, while there is no point for a political liberal committed to a political conception of citizens as free and equal to deny equal

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<sup>1206</sup> I am grateful to Valentina Gentile for having brought this point to my attention during her LUISS Ph.D. course “Religion and Politics” on January 2015.

<sup>1207</sup> For recent interpretations of Rawls’s containment, see: Vicente Medina, “Militant Intolerant People: A Challenge to John Rawls’s Political Liberalism,” 558-569 and Jonathan Quong, “The Rights of Unreasonable Citizens,” 323-330.

<sup>1208</sup> Jonathan Quong, “The Rights of Unreasonable Citizens,” 323.

<sup>1209</sup> Vicente Medina, “Militant Intolerant People: A Challenge to John Rawls’s Political Liberalism,” in particular 566 and 569.

<sup>1210</sup> Jonathan Quong, “The Rights of Unreasonable Citizens,” 314.

<sup>1211</sup> Ibid. 330.

basic rights and liberties to unreasonable citizens, the latter cannot consistently invoke a right to be unreasonable. This is because any right must be inscribed in a system of rights, which is supported by an ‘overall moral ideal which the system of rights is meant to uphold.’<sup>1212</sup> In a liberal society, such an ideal is the ideal of social cooperation on fair terms between free equals. Quong’s central idea is that any activity which is ‘motivated by, or aimed at, the rejection of fair cooperation between free and equal citizens’<sup>1213</sup> is not protected by any right at all, because such a right would be inconsistent with the whole system of rights to which it is supposed to belong. Thus, ‘there is no right to be unreasonable,’<sup>1214</sup> because ‘[r]ights are only intended to permit or protect choices made within a limited domain, and that domain is set by the boundaries of political justice. [...]he alternatives open to you in exercising your rights are always constrained by the general principles of justice derived from the ideal of persons as free and equal.’<sup>1215</sup> Thus, in few words, Quong’s position is that a Rawlsian liberal should acknowledge that reasonable and unreasonable citizens are equally entitled to the same basic civil and political rights and liberties, but, since ‘only permissible conceptions (those that respect the principles of justice) can be pursued,’<sup>1216</sup> unreasonable citizens have no right to advance their unreasonable conceptions of the good, because such a right could not exist within a democratic system of rights. Thus, when their basic rights (as the right to the freedom of expression) *are used to promote* unreasonable conceptions of the good which threaten other citizens’ equal rights or the stability for the right reasons of a just society, the liberal state can legitimately ‘infringe the rights of unreasonable citizens, even if they are generally to be accorded the same rights as everyone else.’<sup>1217</sup> After all, as Rawls also affirms, in a liberal democracy the ‘priority of right gives the principles of justice a strict precedence in citizens’ deliberations and limits their freedom to advance

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<sup>1212</sup> Jonathan Quong, *Liberalism without Perfection*, 308.

<sup>1213</sup> Ibid.

<sup>1214</sup> Jonathan Quong, “The Rights of Unreasonable Citizens,” 331, emphasis added.

<sup>1215</sup> Ibid. 331.

<sup>1216</sup> John Rawls, *Political Liberalism*, 193.

<sup>1217</sup> Jonathan Quong, “The Rights of Unreasonable Citizens,” 314.

certain ways of life.’<sup>1218</sup> Obviously, not *all* the rights and liberties of unreasonable citizens can be infringed, but only those that become instrumental to the promotion of views that deny other citizens’ freedom and equality (e.g., it would be unreasonable from the part of public authorities to infringe the right to a fair trial and, even more, the right to bodily integrity of some citizens in order to avoid preemptively that those citizens promote their unreasonable views. Clearly, it is difficult to draw a line in the hardest moral cases, where unreasonableness is possibly coupled with the likely or potential recourse to violence, as the ‘ticking bomb’ scenario shows.<sup>1219</sup> However, I do not need to address such complications here). What makes Quong’s position theoretically appealing is that according to his view unreasonable people are kept *within* political liberalism. They are not excluded, since they enjoy equal liberal rights and liberties. It also makes clear that containment is mainly a *moral* device that aims at softening the impact of unreasonable views on stability for the right reasons of a publicly justified system of cooperation. It does not concern –at least not primarily– legal limitations of unreasonable citizens’ civil and political rights and liberties, in so far as this does not jeopardise stability *for the right reasons* (here the problem is not merely to contain a security threat but to safeguard the political moral stability of fair social cooperation) of the system that protects those equal rights and liberties. I am aware that many important questions remain open, but I must stop here: my point was simply to provide a –provisional– account of how to treat unreasonable citizens, because such an account is required by any theory of public reason. What I have said is just enough for the aims of my research.

At this point, I can come back to the reciprocity requirement (RR) and the civility requirement (CiR) enunciated in 3.2.b.1. There I defined them in the following terms:

**(RR)** An account of public reason as an ideal of democratic citizenship is based on the (moral) political criterion of reciprocity.

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<sup>1218</sup> John Rawls, *Political Liberalism*, 209.

<sup>1219</sup> The case of the ticking bomb raises problematic questions about whether ‘the torture of a terrorist suspect to find the location of a bomb set to explode is justified as the lesser evil.’ For an analysis of this issue and the correlated debate, see for instance Maureen Ramsay, “Can the Torture of Terrorist Suspects Be Justified?” in *Secret Intelligence: A Reader*, eds. Christopher Andrew, Richard J. Aldrich, and Wesley K. Wark (London and New York: Routledge, 2009), 411-429 (the quotation in this footnote is from page 411).

**(CiR)** If one endorses a moral criterion of reciprocity and, consequently, is committed to a liberal principle of legitimacy, she should also abide by the limits imposed by the idea of public reason in public political discussions.

In chapter three I also outlined three dimensions (PR1, PR2, and PR3) of what I called the consistency requirement (CR). Finally, in this chapter I have defined more accurately the criterion of reciprocity in terms of what I have called reciprocity of the reasonable. Thus, *RR should be read in the light of the criterion of reciprocity of the reasonable*, which consists of the reciprocal recognition between reasonable free and equal fellow citizens cooperating on fair terms and who possess both a capacity for a sense of justice and a capacity for a conception of the good.

The reader is now able to see how the civility requirement (CiR) is grounded in the reciprocity requirement (RR), which refers to the spirit of reciprocity and civic friendship that specifies a critical threshold for satisfying the proviso and the duty of civility. I can then restate CiR in the light of the extensive interpretation of the proviso and the bifurcate (two-level) model of the duty of civility developed in this chapter, so that evaluative political theory can answer the question “how do citizens honour public reason?” The civility requirement now is formulated as follow:

**(CiR\*)**: One abides by the ideal of public reason if in her effort to publicly justify a political position in public political discussion she appeals to: (A) properly public reasons, (B1) non-public reasons supported by public reasons, or (B2) non-public reasons which embody a sincere and consistent commitment to the spirit of reciprocity underpinning the ideal of public reason (the fact that this commitment must be sincere and consistent means that those non-public reasons cannot be unreasonable in the sense specified by U1 and U2).

As announced in section 4.1.b, in concluding this chapter I would like to present a reply to two major objections raised against Rawls’s conception of public reason. I do believe that the reinterpretation of the proviso that I offered here can answer many of the criticisms analysed above. Some of them have just been addressed implicitly. For instance, with reference to the democratic depletion objection, in discussing the question of sincerity I argued that my understanding of the proviso is more suitable for taking into consideration contributions to political reciprocity and civic friendship made on religious terms. Interpreted in this way, it would be difficult to say that public reason deprives liberal societies of (religious) resources that are es-

sential for their democratic and civic life. B (and B2 in particular) is an extensive enough interpretation of the proviso to dispel such worries. However, here I wish to concisely address the two major criticisms considered in 4.1.b: the incompleteness objection (that is, the thorniest among the inadequacy objections) and the integrity and fairness objection (that is, the most difficult among the democratic impairment objections). I do not attempt to offer a complete response to those objections: this is not the aim of this study. However, since the credibility of public reason as a theoretical tool for answering the questions that I am considering in this research is inversely proportional to the strength of such objections, here I try to show that, when confronted with my model of wide public reason, those objections are far less convincing than one might think. Having said that, however, I emphasise once more that I am *not* claiming that the following is enough to defeat those criticisms conclusively.

(1) With reference to the *fairness and integrity objection*, let me firstly ask: is there something unfair in requiring that any reason (public or non-public) which one appeals to in public political discussion is at least grounded in a spirit of reciprocity and civic friendship and that it cannot reject (neither in its content nor in the manner in which it is invoked, enforced, or imposed upon others) the ideal of fair social cooperation between free equals? As we have seen, moral integrity is very important to Rawls, and he made a great effort to reconcile the public and non-public dimensions of citizens' moral identity: the idea of an overlapping consensus aims precisely at such reconciliation. Every citizen is demanded to make a similar reconciliatory effort, in terms of being able to participate in the overlapping consensus. One can observe that such a requirement equally concerns both religious and non-religious citizens. In this sense, it does not seem to be unfair to the latter. However, political liberalism is not concerned with preserving the moral integrity of those who deny other citizens' freedom and equality. Unreasonable people reject political reciprocity and, consequently, their moral integrity cannot have special claims on reasonable citizens. If one is concerned with the protection of an *unreasonable* moral integrity, the political liberal 'can only say "grow up!"'.<sup>1220</sup> However, this is obviously *not* the kind of moral integrity that we are usually concerned with when we discuss the fairness and integrity objection. Instead, the question is whether or not public reason protects *reasonable* citizens' moral integrity. Indeed, a strict doctrine of restraint may have the splitting effect pinpointed by Wolterstorff (*supra*), with the possible result of pre-

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<sup>1220</sup> Stephen Macedo, "In Defense of Liberal Public Reason: Are Slavery and Abortion Hard Cases?" 35.

venting religious citizens from living an integrated life. However, my interpretation of the proviso is not based on strict restraint and reasonable religious citizens' moral integrity is not endangered. Clearly, to say that '[i]t belongs to the religious convictions of a good many religious people in our society that they ought to base their decisions concerning fundamental issues of justice on their religious convictions'<sup>1221</sup> is not a manifestation of unreasonableness, *provided that* those convictions do not entail a rejection of political reciprocity between free and equal citizens. The wide view of public reason not only makes room for the contribution of religious convictions on human flourishing in what Rawls calls the background culture (a space that political liberalism recognises and protects, but in which it does not directly enter), but also highly values religious contributions which strengthen civic friendship and stability for the right reasons, not only due to the notion of the proviso as general threshold for public reasoning, but also thanks to declaration as confirmative non-public reasoning (for these definitions, see chapter two). This is also a further sense in which the extensive interpretation of the proviso treats both religious and non-religious citizens fairly: religious and secular contributions that foster a public political life consistent with the criterion of reciprocity of the reasonable are equally welcomed. Public reason does not require a tragic, stark, and irreconcilable division of the morality of reasonable citizens in two parts for the purpose of public justification. In fact, the overlapping consensus and the wide view of public reason permit a reconciliation between the public and the non-public dimensions of citizens' moral identity. From the perspective of public reason, preserving a sincere commitment to the moral (political) core of public justification (i.e., to the criterion of reciprocity) 'secures what is needed.'<sup>1222</sup>

(2) With reference to the *incompleteness objection*, following Gaus, it should be firstly noted that indeterminacy is less common than inconclusiveness.<sup>1223</sup> Cases in which public reason is completely silent about an essential political question are much fewer than cases in which public reason can provide more than one reasonable answer. To be sure, the most obvious example of public reason's indeterminacy is the question of the moral status of the foetus:

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<sup>1221</sup> Nicholas Wolterstorff, "The Role of Religion in Decision and Discussion of Political Issues," 105. Original emphases removed.

<sup>1222</sup> John Rawls, *Political Liberalism*, 1.

<sup>1223</sup> Gerald F. Gaus, *Justificatory Liberalism*, 155.



public reason alone is not able to answer this question. However, even in those rare cases, we may have different possible strategies for coping with indeterminacy. For instance, Schwartzman lists five strategies to face incompleteness in general, even though some of them –like reliance on democratic procedures– are meaningful and effective only in cases of inconclusiveness. Those strategies are the following: postponing the decision, taking advantage of others’ capacity to point out a genuine public reason, trying to ‘economize disagreements by narrowing as much as possible [the] major points of contention’ and to ‘negotiate a principled compromise,’ or relying on democratic or even random procedures.<sup>1224</sup>

Even when public reason is incomplete, a liberal democracy is, by its very nature, committed to a principle of ‘*presumption in favour of liberty*.’<sup>1225</sup> Gerald Gaus talks of a ‘political liberty principle’ stating that: ‘(1) A citizen is under no standing obligation to justify her actions to the state. (2) All use of force or coercion by the state against the persons of its citizens requires justification; in the absence of such justification, such force or coercion by the state is unjust.’<sup>1226</sup> Rawls endorses this presumption by stressing the priority of basic liberties<sup>1227</sup> and by requiring public justification for the exercise of political power. For instance, when Rawls explains the ‘full publicity condition:’ he affirms that ‘if the basic structure relies on coercive sanctions, however rarely and scrupulously applied, the grounds of its institutions should stand up to public scrutiny.’<sup>1228</sup> Rawls’s liberal principle of legitimacy is premised on similar assumptions: ‘political power is proper and hence justifiable only when it is exercised in accordance with a constitution the essentials of which all citizens may reasonably be expected to endorse in the light of principles and ideals acceptable to them as reasonable and rational.’<sup>1229</sup> What does this presumption in favour of liberty entail? First, public reason should be ground-

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<sup>1224</sup> Micah Schwartzman (“The Completeness of Public Reason,” 209-214) call them, respectively, intrapersonal delegation, deference to others, moral accommodation, democratic procedures, and arbitrary decision procedures.

<sup>1225</sup> Gerald F. Gaus, “Coercion, Ownership, and the Redistributive State,” 238, expression italicised. See also Kevin Vallier *Liberal Politics and Public Faith: Beyond Separation*, 30-31.

<sup>1226</sup> Gerald F. Gaus, “Coercion, Ownership, and the Redistributive State,” 239.

<sup>1227</sup> Rawls defines a *liberal* conception as a conception that specifies ‘certain rights, liberties and opportunities,’ determines ‘a special priority for these freedoms,’ and takes ‘measures assuring all citizens [...] adequate all-purpose means to make intelligent and effective use of their liberties.’ *Political Liberalism*, xlvii.

<sup>1228</sup> Ibid. 68.

<sup>1229</sup> Ibid. 217.

ed in this presumption in favour of liberty in the two following ways. On the one hand, in the negative sense that such a presumption excludes certain non-public reasons as inadequate for the public justification of the exercise of coercive political power: namely, it rules out those non-public reasons that do not respect one of the two levels of the bifurcate model of duty of civility. On the other hand, in the positive sense that the presumption in favour of liberty implies that *public reason should be open to (and include in public political discussion) the widest range of public and non-public reasons compatible with a sincere and consistent commitment to treating others as cooperating free and equal citizens*. This means –among other things– that in principle only non-public reasons that are inconsistent with the spirit of reciprocity should be excluded from the public political forum. Let me consider this point in greater detail. It seems plausible to maintain that this presumption in favour of liberty allows that in the hardest cases, when it is not possible to find a clear answer in terms of public reasons alone, we may appeal to non-public reasons in a sincere spirit of reciprocity and civic friendship as specified above. That is, *even when we cannot find enough resources within public reason alone, we can nonetheless remain committed to the ideal of public reason by advancing only reasons* (e.g., inconclusive public reasons or non-public reasons) *that are consistent with the spirit of reciprocity on which the ideal of public reason is grounded*. This entails avoiding non-public reasons that are unreasonable in one of the two ways mentioned above. Obviously, however, in some cases (abortion evidently being one of them) disagreement stems precisely from divergences in what reasonably seems to be the best way for enhancing reciprocity. For the most part, both pro-life and pro-choice advocates are not unreasonable with reference to the content of the reasons that they bring to the fore. How to solve the impasse? Clearly, in any democratic regime, any political decision should be the outcome of a convergence of the majority of votes on a reasonable balance of political values.<sup>1230</sup> And while disagreements may persist about how to balance political values on a specific issue, citizens should nonetheless abide by political decisions that are legitimate (even if for some of them they such decisions may be unjust, *supra*) because they have been voted by a democratic majority committed to a liberal political conception of justice. Citizens may even ‘bear witness’ (see chapter two) to the comprehensive grounds for their opposition to legitimate politi-

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<sup>1230</sup> Ibid. for instance 243.

cal decisions.<sup>1231</sup> Now the problem is that, while in cases of inconclusiveness there may be *a plurality of determinate reasonable balances of political values* and so reasonable disagreement about alternative (but equally legitimate) outcomes is likely to persist (*infra*), when public reason is indeterminate *no determinate reasonable balance of political values* is actually available on the basis of public reason alone. And, as I have just said, appealing to one's commitment to the criterion of political reciprocity does not seem to be sufficient by itself to settle the issue: finally the question at hand must be politically decided. How to do so?

(2A) It is not true that in conditions of absolute uncertainty (*indeterminacy*) public reason is completely silent about how we should behave.<sup>1232</sup> While in these cases public reason alone is not able to provide any particular answer *about the subject* discussed, it still reminds us that we are free and equal cooperating fellow citizens and that we have a reciprocal duty of civility to honour. This is no small thing. Accordingly, one possible solution would be the following. Since the ideal of public reason to which we are committed is unable to provide any determinate public ground for a reasonable solution, then justifications of the kind A and B1 are precluded. Moreover, if our commitment to political reciprocity is really genuine and sincere, then we should acknowledge that we cannot consistently hold such a commitment to political reciprocity while at the same time attempting to coerce other free and equal persons exclusively on the basis of a non-public reason that they can reasonably reject. This would be a form of unreasonableness of the second kind (U2). Thus, if we are sincerely committed to political reciprocity, in cases in which public reason is *indeterminate* and a public justification for coercion cannot be provided, we should acknowledge that *the only alternative compatible with the criterion of reciprocity* between free and equal persons *is to go back to the presumption in favour of liberty*: reasonable persons –by the very fact of being reasonable– refuse to coerce other reasonable persons on grounds they cannot be reasonably expected to en-

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<sup>1231</sup> John Rawls, "The Idea of Public Reason Revisited," 466, note 57.

<sup>1232</sup> Pace Greenawalt, *Religious Convictions and Political Choice*, 148-149.

dorse.<sup>1233</sup> To be clear, this is an admittedly *provisional* solution: lacking any determinate public ground to adopt a more specific policy, we can do nothing but treating others equally as free and equal persons. Moreover, reasonableness must go both ways: the harder the case, the more divisive the issue, the more the compromise and practical wisdom must be pondered.<sup>1234</sup> As a critic has rightly emphasised, ‘reasonableness is surely a matter of degree.’<sup>1235</sup> Indeed, reasonable disagreement will persist. However, public reason does not aim to produce agreement on ultimate truths. Rather, it tries *to contain disagreement within a reasonable common perspective*. For example, I have already said that public reason cannot answer the question of the personhood of the foetus. Thus, public reason seems to be indeterminate about the question of abortion. It is said that neither a right to nor a ban of abortion can be justified on the basis of public reason alone. Nonetheless, whether or not to criminalise abortion is an important political issue that a democratic state must inevitably decide upon. According to critics, public reason is unable to settle the question precisely because it is indeterminate. However, according to the argument developed here, a qualified right to abortion (for instance during the first trimester) seems to be the only reasonable option compatible with a presumption in favour of liberty in the absence of any public justification for coercing women not to have an abortion. In other words, an absolute ban of abortion would be unreasonable because it would coerce women without providing any public ground for such a coercion (as discussed under U2, see above). This solution seems reasonable because it leaves pro-life supporters free to decide not to have an abortion. Indeed, they may complain that in this way they are obliged to live in a society that, according to their views, allows something like infanticide. This is a very serious complaint and it should be carefully taken into account. But lacking any public justification for coercion, political liberals should grant priority to individual liberty. However, the great advantage of public reason is that it allows disagreement to endure and

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<sup>1233</sup> For instance, with reference to abortion Dombrowski remarks that ‘[i]f one could prohibit abortion without violating the rights of the pregnant woman who wants an abortion, then Rawls would see the “pro-life” position as politically reasonable. But this seems impossible. By way of contrast, it is at least possible, and perhaps likely, that permitting first trimester abortions does not violate the rights of any person.’ Daniel A. Dombrowski, *Rawls and Religion: The Case for Political Liberalism*, 127. See also Rawls, “The Idea of Public Reason Revisited,” 480: abortion’s opponents ‘*need not themselves exercise the right to abortion. They can recognize the right as belonging to legitimate law enacted in accordance with legitimate political institutions and public reason, and therefore not resist it with force. Forceful resistance is unreasonable: it would mean attempting to impose by force their own comprehensive doctrine that a majority of other citizens who follow public reason, not unreasonably, do not accept.*’ Emphasis added.

<sup>1234</sup> See Stephen Macedo, “In Defense of Liberal Public Reason: Are Slavery and Abortion Hard Cases?”

<sup>1235</sup> Marilyn Friedman, “John Rawls and the Political Coercion of Unreasonable People,” 19.

develop *within* a shared perspective, that is, within wide public reason itself. Thus, pro-life supporters may continue to advocate publicly against abortion, also by presenting their religion-based arguments in accordance with B2 (i.e., without presenting also public reasons that support those religion-based arguments), for instance the claim that “human life is sacred and should be protected from its beginning” mentioned above. The important thing is that other citizens are not *coerced* exclusively on the basis of reasons that they could reasonably reject. Even when public reason is indeterminate, discussion can continue without degenerating into open social conflict, and individual freedom is politically protected by a justificatory presumption in favour of liberty. As I have said, compromise and political wisdom are needed. So one could imagine that norms regulating abortion may evolve taking into account new areas of “overlapping consensus,” for instance restricting or broadening the possibility to have an abortion; a choice that normally nobody makes light-heartedly. But such new areas of consensus can emerge only thanks to a shared discursive framework which includes disagreement without annihilating it, but limiting its most radical disruptive effects. The moral ground of this perspective, I argued, is a consistent commitment to a spirit of political reciprocity between free and equal cooperating citizens.

(2B) Fortunately, however, ‘our standard epistemological situation is an overabundance, not a paucity, of reasons.’<sup>1236</sup> Should we abandon public reason because of its (quite frequent) *inconclusiveness*? The answer is no. As I have said before, in a democratic society many different determinate and reasonable balances of political values can be considered as legitimate outcome of public political discussion and decision. The choice between equally reasonable balances is made by appealing to the *majority principle*. In effect, Rawls argues that:

‘[D]isputed questions, such as that of abortion, may lead to a *stand-off* between different political conceptions, and *citizens must simply vote on* the question. Indeed, *this is the normal case*: unanimity of views is not to be expected. Reasonable political conceptions of justice do not always lead to the same conclusion, nor do citizens holding the same conception always agree on particular issues. Yet *the outcome of the vote is to be seen as reasonable provided all citizens of a reasonably just constitutional regime sincerely vote in accordance with the idea of public*

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<sup>1236</sup> Gerald F. Gaus, *Justificatory Liberalism*, 155.

*reason. This does not mean the outcome is true or correct, but it is for the moment reasonable, and binding on citizens by the majority principle.*<sup>1237</sup>

Even more clearly, Rawls stresses not only the idea of reasonableness but also the idea of legitimacy by saying that:

‘[T]he outcome of the vote [...] is to be seen as *legitimate* provided all government officials, supported by other reasonable citizens, of a just constitutional regime *sincerely vote in accordance with the idea of public reason*. This does not mean that the outcome is true or correct, but that it is reasonable and legitimate law, binding on citizens by the majority principle.’<sup>1238</sup>

To simplify, the binding character of a political decision rests on its legitimacy, and the latter depends on its being a reasonable alternative (possibly among other reasonable alternatives) which has been approved by the majority *sincerely voting in accordance with the idea of public reason*. This seems to reinforce the idea that what really matters is a sincere commitment to the moral political ground of public reason. Only such a commitment somehow *qualifies the majority rule*. Indeed, Rawls maintains that ‘*when, on a constitutional essential or matter of basic justice, all appropriate government officials act from and follow public reason, and when all reasonable citizens think of themselves ideally as if they were legislators following public reason, the legal enactment expressing the opinion of the majority is legitimate law.*’<sup>1239</sup> In few words, even when public reason is inconclusive citizens are able to recognise a political decision as legitimate and binding because it is a reasonable outcome voted by the majority in accordance with public reason.<sup>1240</sup> Therefore, inconclusiveness is not

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<sup>1237</sup> John Rawls, *Political Liberalism*, liii-liv. Emphases added.

<sup>1238</sup> John Rawls, “The Idea of Public Reason Revisited,” 479-480. Emphases added.

<sup>1239</sup> Ibid. 446, emphases added.

<sup>1240</sup> See Rawls’s remarks about opposition to abortion quoted above.

enough to urge citizens to relinquish the idea of public reason.<sup>1241</sup> As Rawls points out, public reason is important also when it is inconclusive, because it explains why citizens can disagree on a political decision while at the same time they accept it as a legitimate law, and, as such, as a law that is binding on them. Rawls argues that

*‘[P]olitical liberalism does not hold that the ideal of public reason should always lead to a general agreement of views, nor is it a fault that it does not. Citizens learn and profit from debate and argument and when their arguments follow public reason, they instruct society’s political culture and deepen their understanding of one another even when agreement cannot be reached.’*<sup>1242</sup>

In line with these remarks, it might be said that when public reason is inconclusive, it is all the more crucial to remain committed to the ideal of public reason itself. Inconclusiveness backed by a commitment to the moral political ideal of public reason may permit the reabsorption of otherwise disruptive disagreements, while leaving the door open to the emersion of a more shared reasonable perspective.<sup>1243</sup> It even favours the emersion of such a perspective, because it makes a debate possible which (*pace* Habermas) is not pre-determined but which is grounded in a shared moral commitment to political reciprocity. If I am correct about this, it is not difficult to see that public reason is dynamic. It can move from a condition of stable and almost “universal” agreement about the most reasonable alternative, to phases of inconclusiveness and contestation, to a new consensus and so on. In its dynamism, public reason draws not only from its internal resources, but also from the resources coming from the background culture. Moreover, some elements of what is generally considered public may be-

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<sup>1241</sup> As Quong puts it (“On the Idea of Public Reason,” 267-268), ‘even if the content of public reason is too abstract to provide a single determinate answer to any important political question we might face, this does not mean that public reason fails to be suitably complete. So long as the content of public reason alone provides enough normative material to arrive at one or more reasonable answers, this degree of completeness is all citizens require in order to be able to eschew non-public reasoning over essential matters.’ Although Quong’s view of public reason is more consensual than the view that I advocate, I agree with him on the fact that showing that public reason is sometimes inconclusive is not enough for urging citizens to abandon it. However, to be clear, I underline (I hope superfluously) that I also agree with him that a mere reliance on non-public reasons (that is reliance on non-public reasons without a commitment to the ideal of public reason analysed above) on fundamental political questions would be unreasonable and inconsistent with the duty of civility: no legitimate law (at least in the liberal sense) could be supported by exclusively non-public reasons, that is without at least a sincere commitment to political reciprocity and civic friendship: *supra* for my account of how the proviso can be satisfied.

<sup>1242</sup> John Rawls, “The Idea of Public Reason Revisited,” 480-481, emphases added.

<sup>1243</sup> For a similar idea, see Michael J. Perry, *Love and Power*, 95.

come non-public at a certain moment and vice versa.<sup>1244</sup> For instance, think to the progressive formation of the contemporary consensus about the notion of political equality regardless of one's census, race, and gender. *A posteriori* we may certainly say that many of the views that in the past denied an equal status of citizenship to certain groups (poor people, black people, women...) were clearly unreasonable. But it could be that in the past they were part of a kind of "public reason" very different from contemporary liberal democratic public reason, which was progressively questioned and contested, also thanks to the contributions coming from religious perspectives. The emersion of a more democratic common standpoint may be the result of sources, forces, and struggles external to current public reason.<sup>1245</sup> In fact, as Boettcher perceptively observes, for opening up these possibilities of renewal and greater inclusion political liberalism 'seems to require its reasonable citizens to maintain multiple interpretations of basic political values.'<sup>1246</sup> Therefore, some degree of inconclusiveness may even be a positive asset for the ideal of public reason in terms of its capacity to evolve over time and to include new social groups and political issues. Elsewhere, Boettcher maintains that 'public reason does not present a *populist* conception of public justification that would require a citizen to adopt and present those arguments that would in fact be endorsed by all other citizens. Rather, the idea of public reason instructs each citizen to *seek* agreement by identifying first-person political justifications that satisfy the criterion of reciprocity.'<sup>1247</sup> *Pace* Gaus (*supra*), then, Rawls's public reason is not a "*vox populi, vox dei*" consensual mechanism that prescribes a single answer to every question. Rather, public reason is permeated by debate: *it re-absorbs disagreement within a shared frame without annihilating it*. For this reason, public reason can stand on its foot even when it is inconclusive. This is not a flaw in the theory. Rather, this is a crucial dimension of political liberalism as a liberal meta-theory of political legitimacy and toleration.

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<sup>1244</sup> See Chad Flanders, "The Mutability of Public Reason," 199-201.

<sup>1245</sup> See again Chad Flanders, "The Mutability of Public Reason," 192-196 and for fuller accounts of these struggles see in their entirety the contributions by David A. J. Richards "Public Reason and Abolitionist Dissent," and Judith Shklar, "American Citizenship: The Quest for Inclusion," *Tanner Lectures on Human Values*, University of Utah (May 1-2, 1989), available at URL = [http://tannerlectures.utah.edu/\\_documents/a-to-z/s/shklar90.pdf](http://tannerlectures.utah.edu/_documents/a-to-z/s/shklar90.pdf).

<sup>1246</sup> James W. Boettcher, "What is Reasonableness?" 616.

<sup>1247</sup> James W. Boettcher, "Public Reason and Religion," 127.



In conclusion, Rawls does not aim at solving reasonable disagreement once and for all. Rather he aims at including it within a common shared moral and political frame, so that it does not endanger stability for the right reasons. On the contrary, as we have seen, the fact that citizens are committed to the ideal of public reason while they disagree not only about their comprehensive views, but also about the most reasonable balance of political values may strengthen stability for the right reasons. As Rawls says, ‘political liberalism does not hold that the ideal of public reason should always lead to a general agreement of views [...] Citizens learn and profit from debate and argument, and when their arguments follow public reason, they instruct society’s political culture and deepen their understanding of one another even when agreement cannot be reached.’<sup>1248</sup> This means, as it has been emphasised, that ‘*while public reason may not be able to lay down necessary and sufficient conditions to solve a case, it can contribute to a better atmosphere between citizens of a liberal democratic polity.* And with this better atmosphere, one can suppose also that political deliberation becomes less difficult.’<sup>1249</sup> To recapitulate what I have just explained, the cases in which public reason is *indeterminate* will endure. However, they do not defeat the ideal of public reason, because they are quite rare (the most important hard cases with reference to indeterminacy are euthanasia and abortion) and, above all, because citizens can protract the discussion without tearing each other apart by abiding by the norms of the wide view of public reason analysed above. The problem, however, is that, in any case, in the end a political decision must be made. How to do so? The idea proposed above is that when it is impossible to provide a public justification because public reason is indeterminate, a political liberal should rely on a presumption in favour of liberty, while at the same time public reason allows reasonable disagreements to freely develop within its structure, which morally shapes continued discussion. Even in the more frequent cases of *inconclusiveness*, public reason is not defeated. First, as I mentioned, it may be that a consensus on a single balance of political values gradually emerges thanks to the interplay between public political culture and background culture, because public reason makes it possible for the extended discussion about disagreeing views to remain within limits compatible with the existence of a society which is stable for the right reasons. Second, a commitment to public reason explains why one can believe that a political decision is not the most reasonable or just one while at the same time believing that it is politically *legitimate*.

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<sup>1248</sup> John Rawls, “The Idea of Public Reason Revisited,” 480–481.

<sup>1249</sup> Sebastiano Maffettone, *Rawls: An Introduction*, 288, emphasis added.

This is so not only because such a decision has been adopted following democratic procedures and the majority rule, but also because it is compatible with and expresses citizens' status as free and equal, since its justification ultimately relies on a commitment to the ideal of public reason and political reciprocity as its moral political foundation.

Let me conclude by specifying a crucial point. The fact that public reason can reabsorb and include reasonable disagreement (without flattening or annihilating it) within public reason itself as a shared frame explains why I think that a conception of citizenship grounded in public reason can resolve the problem that I outlined in the first chapter. There, I said that the challenge of a broadened and deepened reasonable pluralism connected with the long-lasting and irreversible presence of Islam in European societies can be taken on only by providing a shared discursive platform. In chapter five, I will show why public reason may represent such a platform and how it can solve the articulated theoretical problem that I am considering in this study.

**PART III**

**EUROPEAN MUSLIMS**

**AND**

**PUBLIC REASON**



## Chapter Five

# **Reconciliation through Public Reason: Justificatory Evaluative Political Theory between Modelling and Application.**

*To assume that any culture is inherently illiberal, and incapable of reform, is ethnocentric and ahistorical. Moreover, the liberality of a culture is a matter of degree. All cultures have illiberal strands, just as few cultures are entirely repressive of individual liberty. Indeed, it is quite misleading to talk of “liberal” and “illiberal” cultures, as if the world was divided into completely liberal societies on the one hand, and completely illiberal ones on the other. The task of liberal reform remains incomplete in every society [...].<sup>∞</sup>*

In the last two chapters, I developed the reconstructive part of my study. In this chapter, I will bridge the reconstructive and the evaluative tasks, while the next will be entirely devoted to the evaluative analysis.

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<sup>∞</sup> Will Kymlicka, *Multicultural Citizenship*, 94.

## 5.1 Modelling Public Reason Citizenship.

In this section, I try to summarise my *justificatory evaluative model of public reason citizenship*. It is based on what in 2.3 I defined as the *three political liberal evaluative requirements* (RR, CR, CiR). Figure 6 in chapter two illustrates their connections and how to proceed in the liberal evaluation that I suggest undertaking. I specified the content of those three evaluative requirements in chapters three and four. Thus, I spelled out PR1, PR2, and PR3 as structuring components of CR. Moreover, I have restated CiR in terms of CiR\*. Now let me recapitulate this model in order to facilitate its application in the evaluative part of this study (6.2, 6.3, and 6.4). Here I just summarise the main points: I do not present a full-fledged argument for each requirement and its specifications, since such arguments have already been developed in chapters two, three, and four.

(RR) In chapters one and two, I formulated the reciprocity requirement as involving the “acknowledgment of the need for a public justification in public discussions about fundamental political questions.” I said that, according to political liberalism, citizens should be able to say whether other fellow citizens (Muslims and non-Muslims) recognise the necessity for a public justification of the conception of citizenship, the fundamental policies, laws, and institutions. In 3.2.b.1, I presented the content of RR by emphasising its connection with the criterion of reciprocity. I said that “an account of public reason as an ideal of democratic citizenship is based on the (moral) political criterion of reciprocity, which is the moral ideal expressing the relationship of mutual recognition between free and equal rational and reasonable cooperating fellow citizens.” In 4.2 I also specified this understanding of reciprocity as “reciprocity of the reasonable.” *Thus, in this study the recognition of the necessity for a public justification in public discussion and deliberation about fundamental political questions is expressed in (and can be evaluated through the lens of) the recognition of the criterion of reciprocity of the reasonable, which consists in the reciprocal recognition between reasonable free and equal cooperating citizens who possess a capacity for a sense of justice and a capacity for a conception of the good.* Accordingly, the political liberal evaluation that I develop with reference to RR in 6.2 consists of asking: *does the European Muslim perspective in question affirm the criterion of reciprocity of the reasonable?*

(CR) In the first chapter, I argued that for the evaluation that I have in mind it is important to know whether other fellow citizens take part in public justification in a way that is consistent with the idea of public reason. As I explained in 2.3, this means evaluating the consistency between the conception of public reasoning that members of a particular comprehensive doctrine uphold as fully justified and the conception of public reason politically (or *pro tanto*) justified by the meta-theoretical perspective of political liberalism. For this reason, I call this requirement “consistency requirement.” In chapter three, I presented three dimensions of CR: PR1, PR2, and PR3 (see 3.2.b.1, 3.2.b.2, and 3.2.b.3). They specify the features of a liberal political conception of public reason and represent the dimensions in respect of which I conduct the evaluation of consistency. PR1 maintains that “to endorse public reason involves engaging in political reconciliation.” PR2 affirms that “to endorse public reason involves the recognition of belonging to a common democratic public political culture with its central ‘organizing idea of society as a fair system of social cooperation between free and equal persons viewed as fully cooperating members of society over a complete life’.” Finally, PR3 holds that “to endorse public reason involves being committed to its requirements when discussing (i) in a public political forum (ii) political questions involving fundamental constitutional rights and liberties and chief questions of basic justice. Though not normatively binding, its being honoured in a wider range of cases expresses a stronger sense of reciprocity between fellow citizens.” Note that my interpretation of the qualifications under PR3 (that is, the concept of public political forum and the kind of questions that fall under the requirements of public reason) is analysed and developed in detail in chapter three. However, in 6.3 I consider whether the conception of public reasoning presented as a European Muslim approach to the issue of citizenship in Western Europe is consistent with PR1, PR2, and PR3. Thus, with reference to CR the political liberal evaluation that I apply in 6.3 consists of asking: *does the European Muslim perspective in question present an account of public reasoning which is consistent with the features of public reason as expressed by PR1, PR2, and PR3?*

(CiR) As I have explained, the civility requirement concerns whether and how public reason is concretely honoured in public discussions of fundamental political questions, for one discharges her duty of civility by honouring public reason. In 3.2.b.1, I formulated CiR in these terms: “if one endorses a moral criterion of reciprocity and, consequently, is committed to a liberal principle of legitimacy, she should also abide by the limits imposed by the idea of public reason in public political discussions.” Then, in 4.2, after having clarified my interpre-

tation of the proviso that divides the duty of civility in two levels, I reformulated CiR as CiR\*, so that it becomes possible to answer the question of how and when citizens honour public reason. CiR\* says that “one abides by the ideal of public reason if in her effort to publicly justify a political position in public political discussion she appeals to: (A) properly public reasons, (B1) non-public reasons supported by public reasons, or (B2) non-public reasons which embody a sincere and consistent commitment to the spirit of reciprocity underpinning the ideal of public reason (the fact that this commitment must be sincere and consistent means that those non-public reasons cannot be unreasonable in the sense specified by U1 and U2).” Consequently, the political liberal evaluation concerning CiR\* developed in 6.4 addresses the question: *does the European Muslim perspective in question really honour the duty of civility (by appealing to properly public reasons, non-public reasons supported by public reasons, or non-public reasons that reflect a sincere and consistent commitment to the spirit of reciprocity)?*

In Table 2, I summarise my *justificatory evaluative model of public reason citizenship* based on the three political liberal evaluative requirements. In chapter six, I apply the evaluative questions as reported in the last column on the right in the table.



**Table 2 The Justificatory Evaluative Model of Public Reason Citizenship.**

| <b>Evaluative requirements</b>      | <b>Main question</b>                                                                                                                                                                                                   | <b>Specification</b>                       | <b>Content</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>Evaluative question</b>                                                                                                                                                                                                                                                                       |
|-------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Reciprocity Requirement (RR)</b> | Do citizens recognise the necessity for a public justification?                                                                                                                                                        | Criterion of reciprocity of the reasonable | It is based on the criterion asserting the moral political ideal that expresses the relationship of mutual recognition between free and equal rational and reasonable cooperating fellow citizens.                                                                                                                                                                                                                                                                                                                                                  | <i>Does the European Muslim perspective in question affirm the criterion of reciprocity of the reasonable?</i>                                                                                                                                                                                   |
| <b>Consistency Requirement (CR)</b> | Do citizens consistently participate in the process of public justification from the perspective of public reason? (Alternatively: is their conception of public reasoning consistent with the idea of public reason?) | PR1                                        | To endorse public reason involves engaging in political reconciliation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <i>Does the European Muslim perspective in question present an account of public reasoning which is consistent with the features of public reason as expressed by PR1, PR2, and PR3?</i>                                                                                                         |
|                                     |                                                                                                                                                                                                                        | PR2                                        | To endorse public reason involves the recognition of belonging to a common democratic public political culture with its idea of society as a fair system of social cooperation between free and equal persons.                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                  |
|                                     |                                                                                                                                                                                                                        | PR3                                        | To endorse public reason involves being committed to its requirements when discussing (i) in a public political forum (ii) political questions involving fundamental constitutional rights and liberties and chief questions of basic justice.                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                  |
| <b>Civility Requirement (CiR)</b>   | Is public reason concretely honoured in public discussions of fundamental political questions?                                                                                                                         | CiR*                                       | One abides by the ideal of public reason if in her effort to publicly justify a political position in public political discussions she appeals to: (A) properly public reasons, (B1) non-public reasons supported by public reasons, or (B2) non-public reasons which embody a sincere and consistent commitment to the spirit of reciprocity underpinning the ideal of public reason. The fact that this commitment must be sincere and consistent means that those non-public reasons cannot be unreasonable in the sense specified by U1 and U2. | <i>Does the European Muslim perspective in question honour the duty of civility in practice (by appealing to properly public reasons, non-public reasons supported by public reasons, or non-public reasons that reflects a sincere and consistent commitment to the spirit of reciprocity)?</i> |

So far, I have explained the justificatory evaluative model of public reason citizenship: in chapter two, I presented the evaluative approach, while, in chapters three and four, I reconstructed the arguments underlying the three evaluative requirements, their foundations, and their qualifications. However, I must still demonstrate that a conception of citizenship grounded in public reason is not only *desirable*, but also *possible* given the actual conditions of Western European democratic societies (5.2.a). Moreover, with reference to the problem that I outlined in 1.2, I must explain why public reason citizenship is also *preferable* if compared with competing conceptions which are close to it (5.2.b), by showing that it is able to solve the above mentioned problem more effectively (5.2.c). If this can be done, at the end of 5.2 I will have conclusively demonstrated that public reason as normative conception of citizenship for contemporary Western Europe is *desirable*, *possible*, and *more suitable than its alternatives*: therefore it not only *could* but *should* be adopted as the ideal conception of citizenship for European societies. In other words, my aim here is to show that public reason citizenship stands out as a realistically utopian project of political reconciliation.

## **5.2 Public Reason Citizenship: An Appealing Normative Model for Contemporary Europe.**

### **5.2.A Between Ideal and Non-Ideal: Application of the Model to Contemporary European Societies.**

Rawls regards a closed society ‘as self-contained and as having no relations with other societies. Its members enter it only by birth and leave only by death.’<sup>1250</sup> Rawls, as I have said, is fully conscious that this is a ‘considerable abstraction,’ but he thinks that such an abstraction is ‘justified only because it enables us to focus on certain main questions free from distracting details.’<sup>1251</sup> Moreover, his theorising about public reason is on quite an abstract and idealised level. In fact, he openly says that ‘the idea of public reason [...] *belongs to a con-*

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<sup>1250</sup> John Rawls, *Political Liberalism*, 12.

<sup>1251</sup> Ibid.

ception of a well-ordered constitutional democratic society.’<sup>1252</sup> Now, with reference to the connection between Rawls’s theoretical strategy and the problem I am considering in this study, an essential question that must be answered is the following: why does this research not consider one or more European society or societies (for instance, France, Germany, Italy, or the UK) as they actually are? I claim that public reason is a viable and appealing normative ideal for these societies. Yet, I also pointed out that existing European societies are not fully just and well-ordered societies, so, apparently, the ideal of public reason –which belongs to a conception of a well-ordered and fully just society– could not apply to those societies. In other words, now I must face the difficult question of if and under what conditions the ideal of public reason can work in non-ideal conditions. In his article in the 2014 *Blackwell Companion to Rawls*, Jonathan Quong rightly asks: ‘[i]f Rawls’s conception of public reason is only intended for an ideally just and well-ordered society, how should citizens behave in our imperfect and nonideal world?’<sup>1253</sup> Quong does not answer this question, but he underscores the fact that ‘[t]his is a hugely important question that has received insufficient attention.’<sup>1254</sup>

In this section, I try to answer Quong’s question. To do that, let me start by calling to the memory a point I have raised in 1.2.a, 3.2.b.1 and in the introduction to chapter four. There, I have maintained that both: (1) the ideal of public reason belongs to a conception of a well-ordered society; and that (2) the ideal of public reason is normatively relevant for those societies which are not fully just and well-ordered. Is there any inconsistency between these two claims? No, I think there is not. As Paul Weithman perceptively observes,<sup>1255</sup> when Rawls says that the ideal of public reason ‘belongs to a conception of a well-ordered constitutional democracy’ and that ‘[t]he form and content of this reason [...] are part of the idea of democracy itself,’<sup>1256</sup> he wants to say that no well-ordered society is possible without honouring this ideal. The fact that compliance with the ideal of public reason is a condition for stability of a

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<sup>1252</sup> John Rawls, “The Idea of Public Reason Revisited,” 440. Emphasis added.

<sup>1253</sup> Jonathan Quong, “On the Idea of Public Reason,” 270.

<sup>1254</sup> Ibid.

<sup>1255</sup> Paul J. Weithman, *Religion and the Obligations of Citizenship*, 182-183.

<sup>1256</sup> John Rawls, “The Idea of Public Reason Revisited,” 440-441.

fair system of social cooperation<sup>1257</sup> is repeated several times in *Political Liberalism*.<sup>1258</sup> Whilst Rawls himself states that the three conditions that he mentions for a society to be a fair and stable system of cooperation (namely, the fact that the basic structure of society is regulated by a political conception of justice, the existence of an overlapping consensus, and compliance with public reason) are sufficient and not necessary conditions,<sup>1259</sup> it should be noted that he immediately adds that ‘the three conditions express an ideal case.’<sup>1260</sup> Stability for the right reasons of an ideally well-ordered society cannot occur without an overlapping consensus and the idea of public reason. On the contrary, an overlapping consensus is not necessary for other forms of stability and social unity, as a ‘constitutional consensus,’ that is, ‘a less deep consensus on the principles and rules of a workable political constitution [which] may be sufficient for less demanding purposes and far easier to obtain,’<sup>1261</sup> because in such consensus constitutional democratic principles ‘are accepted simply as principles and not as grounded in certain ideas of society and person of a political conception, much less in a shared public conception. And so the consensus is not deep.’<sup>1262</sup> So, I fundamentally agree with Weithman when he says that –at least in “The Idea of Public Reason Revisited,” Rawls seems to claim that ‘no society is well-ordered unless its citizens and public officials perfectly comply with the requirements of public reason.’<sup>1263</sup> As Chad Flanders puts it, ‘[t]he ideal of public reason is part of ideal theory, after all.’<sup>1264</sup>

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<sup>1257</sup> Note that these conditions are different from the characteristic features of a well-ordered society. As mentioned in the previous chapters, the latter are the following: ‘everyone accepts, and knows that everyone else accepts, the very same principles of justice,’ ‘its basic structure[...] is publicly known [...] to satisfy these principles,’ ‘citizens have a normally effective sense of justice.’ John Rawls, *Political Liberalism*, 35.

<sup>1258</sup> Ibid. xlvii-xlviii and 44.

<sup>1259</sup> Ibid. 44, note 46. See also 149.

<sup>1260</sup> Ibid. 44, note 46.

<sup>1261</sup> Ibid. 149. See also 158-168.

<sup>1262</sup> Ibid. 158.

<sup>1263</sup> Paul J. Weithman, *Religion and the Obligations of Citizenship*, 183.

<sup>1264</sup> Chad Flanders, “The Mutability of Public Reason,” 195.

However, it seems plausible to say –as Weithman suggests<sup>1265</sup>– that the idea of a well-ordered society plays a more and more a diminished role in Rawls’s theory from *A Theory of Justice* to *Political Liberalism* and –even more so– to “The Idea of Public Reason Revisited,” because now Rawls’s attention is not primarily focused on showing that a well-ordered society is possible. Rather, he wants to show how an overlapping consensus is possible.<sup>1266</sup> Then, he increasingly emphasises the two conditions leading to a well-ordered society (the idea of an overlapping consensus and the idea of public reason), while he leaves in the background of the theory a single unified definition of a well-ordered society. In few words, he seems to be less concerned with the ideal dimension of his theory than with the mechanisms and processes that his theory shapes and sustains and which eventually lead to ideal results. These remarks are in line with what I said in chapter three, where the overall project of *Political Liberalism* (with “The Idea of Public Reason Revisited”) was presented as a liberal meta-theory of toleration and legitimacy.<sup>1267</sup> This process is exemplified in the shift of emphasis from the definition of a well-ordered society as one in which ‘everyone accepts, and knows that everyone else accepts, *the very same* principles of justice,’<sup>1268</sup> to the idea that the content of public reason is specified by a family of reasonable political conceptions and that ‘there are many forms of public reason.’<sup>1269</sup> Political liberalism does not prescribe a single set of ultimate principles of political justice: it does not have to show that the principles of justice as fairness are true or the most reasonable ones (even though they may be the true or the most reasonable principles of justice, but it is not necessary that political liberalism –as a meta-theory of toleration and legitimacy– takes sides on this question). It is not the aim of Rawls’s political liberalism to say once and for all which conception of justice should regulate the basic structure of society. What counts is that society’s basic structure is regulated by some reasonable liberal political conception of justice and by the ideal of public reason, whose content is specified by a family

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<sup>1265</sup> Paul J. Weithman, *Religion and the Obligations of Citizenship*. 198.

<sup>1266</sup> Recall the fundamental question of *Political Liberalism* (4): ‘how is it possible for there to exist over time a just and stable society of free and equal citizens, who remain profoundly divided by reasonable religious, philosophical, and moral doctrines?’

<sup>1267</sup> For this, see *supra* and Sebastiano Maffettone, *Rawls: An Introduction*, 215 (Maffettone says: ‘[b]asically, in [*Political Liberalism*], Rawls presents a kind of meta-theory of political legitimation, based on liberal tolerance’).

<sup>1268</sup> John Rawls, *Political Liberalism*, 35. Emphasis added.

<sup>1269</sup> John Rawls, “The Idea of Public Reason Revisited,” 450.

of such conceptions. Rawls also says that ‘the idea of public reason is not a view of specific political institutions, but a view about how they are to be argued for and justified,’<sup>1270</sup> thus suggesting that the question of compliance with public reason does not exhaust the question of well-ordered institutions (a matter that only a single and complete conception of justice can settle). Finally, the idea that the ideal dimension of a well-ordered society –while fundamental for the normative and regulative purposes of the (meta)theory– is not the main analytical focus of his political liberalism is captured by the fact that he begins from the public political culture of *existing* democracies. Therefore, the intuition is that here and now (that is, in the public culture of our actual and not well-ordered societies) one can find the fundamental ideas from which one can begin the elaboration of a normative theory (saying how we should behave toward the ideal). Thus, we have two parallel processes the main ideas of which are not alien to the original edition of *Political Liberalism* (see 3.2.b.1), but which are much more evident in “The Idea of Public Reason Revisited:” (1) an increased emphasis on the conditions leading to a well-ordered society rather than on the definition of what a well-ordered society looks like and (2) an increased emphasis on the plurality of sources characterising one of those two conditions, namely, the idea of public reason (note that the concept of an overlapping consensus is in itself a plural concept).

In line with the previous remarks, Weithman underscores another point, which is crucial to my purposes here. After having noted that, in a plausible reading of Rawls, ‘no society is well-ordered unless its citizens and public officials perfectly comply with the requirements of public reason,’ he adds that ‘[t]his does not imply that the duty of civility and the proviso are binding *only* in well-ordered society or that they *do not* bind in actual ones.’<sup>1271</sup> It would be a mistake to think that the ideal of public reason, while being a defining feature of an ideal conception of liberal democracy, has no normative grip in non-ideal conditions. There are three strong arguments for the opposite view. (A) First, we should bear in mind what I have just said, namely, that plausibly in *Political Liberalism* and “The Idea of Public Reason Revisited,” Rawls’s main concern is with the implications of his liberal meta-theory of toleration and legitimacy, rather than with the features of an ideally defined well-ordered society. (B) Second, the very characterisation of Rawls’s normative project –including public reason– as *real-*

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<sup>1270</sup> John Rawls, *Political Liberalism*, lii note 28.

<sup>1271</sup> Paul J. Weithman, *Religion and the Obligations of Citizenship*, 183.

*istically* utopian (*supra*),<sup>1272</sup> that is, as a project which ‘presents how things might be [...], what is possible and can be,’<sup>1273</sup> once –if ever– actual people in “flesh and blood” live their political lives as citizens in accordance with a normative political conception of justice and its sustaining normative ideal of public reason. (C) Third [and consistently with (b)], the fact that in *Political Liberalism* Rawls provides examples of public reason’s normative grip even in societies which are not well-ordered (see chapter four for the cases presented in the inclusive view), while in the following revised account he says that it ‘secures what is needed,’<sup>1274</sup> clearly meaning that this revised account is able to cover the cases covered by the original one (and other cases in addition, *supra*, chapter four), including non-ideal cases.<sup>1275</sup> Therefore, from (a), (b), and (c) one may conclude that the ideal of public reason clearly aspires to have a *normative power also in not fully just and well-ordered societies*. Prima facie, then, the fact that actual European societies are not well-ordered in the ideal sense is not an obstacle to the recognition of public reason as an ideal of democratic citizenship specifying a normative standard for a civic practice of public justification even in those societies. We *can* behave in accordance with the ideal of public reason and consider it as the regulative ideal guiding our public political action, even though we do not live in fully just societies.

Is there, however, a bottom line under which this ideal has no normative force? To be sure, it would be difficult to see how the ideal of public reason as the one I have sketched out could express binding normative requirements with reference to individuals who live under severely unjust institutions. Then, we must be able to say what is the relevant threshold of liberal “decentcy” for the ideal of public reason to carry some ‘normative weight.’<sup>1276</sup> I find very plausible James Boettcher’s claim that ‘the idea of public reason gives rise to prima facie obligations even in liberal democratic societies that are not fully well-ordered, *provided that certain background institutional conditions are satisfied*.’<sup>1277</sup> Which are those background institu-

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<sup>1272</sup> John Rawls, *The Law of Peoples*, in particular 5-9 and 11-23.

<sup>1273</sup> John Rawls, *Political Liberalism*, 213.

<sup>1274</sup> John Rawls, *Political Liberalism*, 1.

<sup>1275</sup> For this point, I borrow from Weithman, *Religion and the Obligations of Citizenship*, 183-184.

<sup>1276</sup> I borrow this expression from James W. Boettcher, “The Moral Status of Public Reason,” 156.

<sup>1277</sup> *Ibid.* 158.

tional conditions according to Boettcher? He argues that, (1) first, requirements of public reason ‘are prima facie obligations for a moral agent C only if C is a citizen of a liberal democratic society,’ and that, (2) second, ‘such a society should at least provide basic constitutional protections and minimally functioning liberal democratic institutions for those who would be obligated [, ... since] it is hard to see how a person acquires or maintains role-mediated democratic obligations while at the same time being utterly and unjustly excluded or disenfranchised from the relevant institutions.’<sup>1278</sup> All this seems perfectly reasonable, but two remarks are in order. Note that the first condition explain why this study focuses only on the political relation of citizenship (at the beginning of this study, I have defined it as “the political relation specifying the mutual rights and obligations of persons who share that relation in a liberal democratic society”), because democratic citizenship is the only relevant relation from the standpoint of public reason’s normative scope, even in a not fully well-ordered society. Furthermore, the second condition stated by Boettcher is admittedly vague: the requirement that society must pass ‘some threshold of protection and democratic functioning that allows for [every citizen’s] meaningful participation’<sup>1279</sup> crucially depends on the definition of such a threshold. Now, Rawls seems to agree with Boettcher that once a certain threshold is reached (what I call the decency threshold), and once decent conditions for political debate and decision are guaranteed, then even in a not well-ordered society public reason steps forward as a normative ideal that promotes ( in a future-oriented perspective) justice and the well-ordering of the basic structure. However, I find it somewhat odd that Boettcher does not realise that a useful specification of the threshold is provided by Rawls himself. In 3.2.b.2 I have already pointed out that Rawls specifies those conditions in these terms:

1. ‘Public financing of elections and ways of assuring the availability of public information on matters of policy;’
2. ‘A certain fair equality of opportunity, especially in education and training;’
3. ‘A decent distribution of income and wealth meeting the third condition of liberalism: all citizens must be assured the all-purpose means necessary for them to take intelligent and effective advantage of their basic freedoms;’

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<sup>1278</sup> Ibid. 174-175.

<sup>1279</sup> Ibid. 175.



4. ‘Society as employer of last resort through general or local government, or other social and economic policies;’
5. ‘Basic health care assured for all citizens.’<sup>1280</sup>

Those conditions, Rawls says, do not fully realise his principles of justice: then, a society which embodies these institutions and nothing more is not a fully well-ordered society. Still, he openly maintains that those conditions are ‘*essential prerequisites for a basic structure within which the ideal of public reason [...] may protect the basic liberties and prevent social and economic inequalities from being excessive.*’<sup>1281</sup> Clearly, then, when those conditions are fulfilled, public reason can work. Thus, it can ‘carry some normative weight’ even in a not fully well-ordered society in which those conditions are present.

Crucially for my aims, I think that, if common sense is sufficient to be persuaded that existing European liberal democracies are not well-ordered societies in the Rawlsian sense, so we need no further evidence to acknowledge the fact that nonetheless European societies pass the decency threshold test specified by Rawls. Then, public reason *can* work as a normative ideal even in the existing (and not fully well-ordered) European societies. Even though European societies are certainly not fully well-ordered, it would be hard to maintain that they are not decent in the sense specified above. Probably, it would be reasonable to conclude that those societies are nearly well-ordered, but we do not need to speculate too much about these matters and introduce such complications. Here, it is enough to demonstrate that public reason can lay normative claims even in societies that are not well-ordered but at least decent, that is, in societies which provide those minimal conditions that allow public reason to work. In few words, for the considerations I made above, I argue that public reason as a regulative moral ideal of democratic citizenship (see chapters three and four) is available also in non-ideal conditions. That is, *public reason can perform its regulative role also in societies which are not well-ordered, provided that they satisfy the minimal conditions that I mentioned above.*<sup>1282</sup>

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<sup>1280</sup> John Rawls, *Political Liberalism*, lvi-lvii.

<sup>1281</sup> Ibid. lvii. Emphases added.

<sup>1282</sup> I wish to express my most sincere gratitude to Leif Wenar for having discussed this point with me.

It is of crucial importance to note that the previous considerations are just intended to recognise: a) that even under less-than-ideal conditions public reason ‘carries some normative weight,’ and b) the minimal conditions (or decency threshold) for (a) to be true. However, this does not automatically mean that public reason *should be* the normative ideal for European not well-ordered societies. So far, I have just argued that public reason *could be* considered as a binding moral political ideal of citizenship in existing European societies. To go one step further and argue that such an ideal *should be* considered as binding, we need to analyse some alternative conceptions and demonstrate that public reason works better than these alternatives. This is precisely what I will do in the remaining part of the chapter.

Summing up, the normative deployment of public reason as an ideal conception of citizenship does not require a fully well-ordered society: crucially for my aims, it is possible to abide by this normative ideal under the conditions that characterise contemporary European societies. To be clear, it would be interesting and fully reasonable to consider the following two questions:

- 1) The degree to which each existing national case approaches and possibly influences the ideal conception of a well-ordered society. Taking into account such a question would allow the political theorist to draw some conclusions on the actual degree of cogency of the ideal of public reason in any particular European country (e.g., in Italy, France, Germany, or in the UK).
- 2) The plausibility of shifting the conception of society’s basic structure from the national level to the level of the European Union. Assume –as Rawls does– that the basic structure is constituted of ‘a society’s main political, social, and economic institutions, and how they fit together into one unified system of social cooperation from one generation to the next,’<sup>1283</sup> and assume –as Rawls does– that this structure is the specific subject of a political conception of justice because ‘the institutions of the basic structure have deep and long-term social effects and in fundamental ways shape citizens’ character and aims, the kinds of persons they are and aspire to be.’<sup>1284</sup> Then, taking into consideration the far reaching effects of the process of integration among the European Un-

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<sup>1283</sup> John Rawls, *Political Liberalism*, 11.

<sup>1284</sup> Ibid. 68.

ion's member states, it would be perfectly reasonable to conclude that a political conception of justice should be concerned at least with those effects of the EU's basic structure which impact more directly on EU's citizens' life plans. While I cannot present a full argument for that here, it would seem that the political bond of citizenship and the problem of the legitimacy of the exercise of coercive political power have –at least partially– acquired a regional dimension. For instance, consider the election of the EU Parliament, or the binding effects of EU regulations. Consequently, it is plausible to think that our conception of public reason could also be affected by (and perhaps should reflect) this shift. However, in this research I cannot say to what extent –if any– the idea of public reason should be revised in order to make room for this process of integration.

Since I cannot analyse these issues here, I am determined to explore them in subsequent research, which may represent a follow-up to this study.

In this section, I have demonstrated that public reason citizenship is a *possible* normative conception of citizenship for contemporary Western European societies as they currently are. Yet, how does this conception work in comparison with its alternatives? Is it in a better or worse position to solve the problem that I described in 1.2?

### **5.2.B Marianne Wandering Around: Islam in Europe From a Republican Perspective.**

In 1.1.a.1, I said that today a multicultural model of citizenship seems inadequate or at least problematic in the specific case of Muslims with an immigrant background in Western Europe. Crucially, this fact is acknowledged by one of the most prominent liberal multicultural theorists: Will Kymlicka. As already mentioned, after having listed several conditions which represent the necessary background for the implementation of his 'ideal of multiculturalism-as-citizenization,'<sup>1285</sup> Kymlicka maintains that:

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<sup>1285</sup> Will Kymlicka, "Multiculturalism: Success, Failure, and the Future," 21-24.

‘The situation with respect to immigrant groups is more complex. The same factors that push for multiculturalism in relation to historic minorities have also generated a willingness to contemplate multiculturalism for immigrant groups. [...] However, MCPs [multiculturalism policies] for immigrants have run into difficulties where the situation is perceived as high-risk. Where immigrants are seen as predominantly unauthorized, as potential carriers of illiberal practices or movements, and/or as net burdens on the welfare state, then multiculturalism poses perceived risks to both prudential self-interest and moral principles, and *this perception can override the forces that support multiculturalism*.’<sup>1286</sup>

Thus, as I said in 1.1.a.1, it seems that perceptions do matter. Firstly, as we have seen, in contemporary Western Europe Muslims with an immigrant background fit the negative representation described by Kymlicka. Then, according to Kymlicka himself, it is unlikely that multicultural policies and institutions meet widespread support in Western European societies. Unlike in Canada, in Europe it is difficult to conceive that ‘multiculturalism serves as a source of shared national identity and pride for native-born citizens and immigrants alike.’<sup>1287</sup> As a consequence, Kymlicka (rightly) fears that ‘in the absence of multiculturalism, national identity is more likely to lead to intolerance and xenophobia.’<sup>1288</sup> In other words, Kymlicka’s considerations show the importance and urgency of solving the *mutual assurance problem* in Western Europe with reference to Muslim citizens’ loyalty to fair terms of social cooperation. Accordingly, in 1.2 I argued that a new kind of common identity is needed, and in 5.2.c I will show that my model of public reason citizenship can provide such an identity. Unfortunately, liberal multiculturalism cannot work in this direction with reference to Muslim citizens in Western Europe, because, as Kymlicka seems to acknowledge, in this specific case liberal multiculturalism cannot benefit from those (external) conditions that would trigger its (internal) stabilising forces. In a situation of general distrust like this, liberal multiculturalism in itself does not provide mechanisms through which citizens publicly assure one another that they will honour fair terms of social cooperation and that they will not defect. Then, the mutual assurance problem is still open. Secondly, negative perceptions are frequently associated

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<sup>1286</sup> Ibid. 24. Emphasis added.

<sup>1287</sup> Ibid. 11.

<sup>1288</sup> Ibid. 11-12.

with very real phenomena of exclusion, discrimination, and alienation. Therefore, in 1.2 I argued that the only way to empower European Muslims on a basis of reciprocity is to provide them with adequate instruments of social critique, so that they can expose and denounce actual discriminations and exclusions and have their voices heard. In 5.2.c I will explain why I think that public reason can equip citizens (Muslims and non-Muslims alike) with those instruments.<sup>1289</sup>

As I mentioned in 1.1.a.1, I do not provide real philosophical objections against liberal multiculturalism in general. The reason for this is that I am not interested in confuting it as a philosophical view. I neither need nor desire to provide such a philosophical argument. In other words, I find Kymlicka's liberal multiculturalism (the only version of multiculturalism I consider in this research) philosophically reasonable on the whole. Nonetheless, when one specifically considers the case of European Muslims (that is, when one restricts the scope of her analysis both *contextually* to contemporary Europe and *subjectively* to the situation of Muslims with an immigrant background), it does seem that the favourable conditions presupposed by liberal multiculturalism are not there, as Kymlicka himself points out. However, if political philosophy aspires to be realistically utopian, it should take seriously into consideration the actual conditions in which it must work. I think that public reason citizenship is better equipped than Kymlicka's liberal multiculturalism to solve the impasse that ostensibly characterises the relationship between contemporary Western European societies and their Muslim citizens. This is because public reason citizenship is able to provide what, *under these specific circumstances*, Kymlicka's liberal multiculturalism seems to many people (Kymlicka included) unable to provide: namely, a shared common political identity and instruments of social critique. As I will show in 5.2.c, public reason can fulfil this role because it equips citizens with that identity and those instruments *within a framework of reconciliation* in which reasonable disagreement is absorbed within an agreed discursive arena without being annihilated or nullified. Thus, it solves the mutual assurance problem that liberal multiculturalism leaves open. If solving such a problem is of crucial importance for explaining society's stability (for the right reasons, and not merely as a *modus vivendi* or a Hobbesian stability imposed by the

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<sup>1289</sup> Note that a similar view –requiring both a new shared common identity and empowering instruments– is expressed in Aristide R. Zolberg and Long Litt Woon, “Why Islam is Like Spanish: Cultural Incorporation in Europe and the United States,” 18, where they say that the ‘question facing Muslim immigrants and their children is not only how they can *overcome such practical problems* but also how they can *develop a sense of belonging* and being comfortable’ (emphases added). On the same page, they also quote a similar position developed in Zianuddin Sardar, “Introduction,” in *Muslim Minorities in the West*, ed. Syed Z. Abedin and Zianuddin Sardar (London: Grey Seal, 1995), 15.

sovereign<sup>1290</sup>), and if the capacity for securing social stability is a an essential feature for assessing the value of political theories, then, the fact that liberal multiculturalism does not solve the mutual assurance problem with reference to Muslims' citizenship in contemporary Europe suggests that liberal multiculturalism is not an adequate framework for theorising Muslims' citizenship in Europe, no matter how valuable it is in other contexts.

Until now, I have discussed an important philosophical "alternative" to my model of ideal citizenship for contemporary Western European societies: (liberal) multiculturalism. However, in this section, I would like to analyse a second possible alternative to the idea of public reason that I developed so far.

Cécile Laborde has presented a republican account of citizenship for European Muslims in her book *Critical Republicanism: The Hijab Controversy and Political Philosophy*.<sup>1291</sup> Because of the thoroughness and elegance of her work, critical republicanism represents an important alternative to the idea of public reason I adopt here. However, it seems to me that her theses do not contradict the basic tenets of public reason. Nonetheless, since she openly adopts a (revised) republican position concerning citizenship, one might legitimately ask what are the main differences between her positions and the idea I embrace here. Second, one may ask which of the two positions is best equipped for dealing with the issue at stake. For this reason, let me summarise the main points of her book.

The starting point of Laborde's analysis is the law of 15 March, 2004, banning the wearing of the *hijab* (the Muslim headscarf).<sup>1292</sup> While the law also bans Jewish yarmulkes and osten-

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<sup>1290</sup> For Hobbesian 'imposed' stability as opposed to Rawlsian stability (that is, 'inherent stability' in *A Theory of Justice* and 'stability for the right reasons' in *Political Liberalism*), see Paul Weithman, *Why Political Liberalism?*, in particular 5-6, 44-45, 50-51, 56, 176. Hobbes's idea is that 'terms of cooperation could be stabilized only by the institution of a sovereign who was known effectively to enforce severe penalties for defection' (Paul Weithman, *Why Political Liberalism?*, 176). Thus, in a Hobbesian account stabilising forces come from outside the system, while, as we have seen, in a Rawlsian account stability is secured by forces which are internal to it (thanks to the notion of 'congruence' in *A Theory of Justice* and the idea of an 'overlapping consensus' in *Political Liberalism*). For all these questions, here I can only refer the reader to Paul Weithman's outstanding book *Why Political Liberalism?*

<sup>1291</sup> Cécile Laborde, *Critical Republicanism: The Hijab Controversy and Political Philosophy*.

<sup>1292</sup> Following Laborde, here I do not make any distinction between different kinds of veiling (*hijab*, *chador*, *khimar*, *niqab*, and *burqa*). For a detailed account of differences between these forms of veiling, of the Qur'anic foundations for the practice of veiling, and of (some of) the underlying personal motivations for its use in contemporary societies, see Renata Pepicelli, *Il velo nell'Islam: storia, politica, estetica*, 20-22, 25-41, 65-138.

tatious Christian crosses,<sup>1293</sup> public debate was overwhelmingly centred on Muslim headscarves. The reason for that was the existence of a highly politicised controversy concerning the wearing of Muslim headscarves in public schools dating back to 1989.<sup>1294</sup> However, the law did not extinguish the debate. Why did the wearing of the *hijab* provoke ‘a sense of diffused threat to French national identity’?<sup>1295</sup> According to Laborde, ‘the wearing of *hijab* to school was highly controversial because it challenged three dimensions of the republican ideal of *laïcité* (secularism) at once.’<sup>1296</sup> In other words, the *hijab* was (is) perceived as a threat to the ideal sustaining the republican “French being”. What are those three dimensions of *laïcité*? First of all, Laborde denies that *laïcité* simply means state’s abstention and neutrality toward religion. This term –she claims– captures a far more specific and characterised concept: it ‘encompasses a comprehensive theory of republican citizenship’ and this latter is articulated in the French revolutionary triad: *liberté*, *égalité*, and *fraternité*.<sup>1297</sup> That is, freedom, equality and fraternity. Only equality expresses the idea of secularism or religious neutrality.<sup>1298</sup> Taken together, liberty, equality and fraternity define the ideal of republican citizenship in its entirety. However, different versions of republicanism might be identified depending on the way in which they depict those three pillars of republican citizenship. According to Laborde, the public issue of *hijab* emerged fundamentally because its introduction in public schools contrasted with the official doctrine of French republicanism. French ‘official republicanism’<sup>1299</sup> banned the *hijab* from public schools because the latter represented a refusal of

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<sup>1293</sup> According to this law, ‘in primary and secondary public schools, the wearing of signs or clothes through which pupils ostensibly express a religious allegiance is forbidden.’ Quoted in: Cécile Laborde, *Critical Republicanism*, 7 and 52.

<sup>1294</sup> For the reconstruction of those events, see Riva Kastoryano, “French Secularism and Islam: France’s Headscarf Affair,” in *Multiculturalism, Muslims and Citizenship*, eds. Tariq Modood, Anna Triandafyllidou, Ricard Zapata-Barrero (London and New York: Routledge, 2006), 57-60. See also Joan Wallach Scott’s contribution, *The Politics of Veil*, in particular chapter one.

<sup>1295</sup> Cécile Laborde, *Critical Republicanism*, 7.

<sup>1296</sup> Ibid.

<sup>1297</sup> Ibid. 7-8.

<sup>1298</sup> Ibid. 8.

<sup>1299</sup> For an initial account of ‘official republicanism’, see Cécile Laborde, “Secular Philosophy and Muslim Headscarves in Schools.”

its ideal of citizenship. So, official republicans were naturally led to struggle against this challenge. Nonetheless, Laborde argues, another version of republicanism is possible, and this version might be compatible with students' wearing the *hijab* in public schools. She calls this version 'critical republicanism.'

Critical republicanism is mainly conceived as an alternative to both 'radical multiculturalism' on the one hand, and 'official' republican citizenship:

'[N]either the radical multicultural rhetoric of the recognition of difference as an alternative to the ideal of civic inclusion nor the liberal and republican unconscious idealization of status quo arrangements in actual Western societies have helped reduce the "citizenship deficit" of members of minorities. Both, in fact, have underestimated the appeal of the republican ideal of inclusive citizenship, when this is critically understood and applied [...] by interrogating the complex relationships between ideal and practical norms on the one hand, and the ends and means of progressive reforms on the other.'<sup>1300</sup>

Thus, critical republicanism aspires to overtake those positions. First, multicultural theory of citizenship is inadequate according to Laborde. In her understanding, 'radical, post-colonial, post-national, and post-secular forms of multiculturalism' fundamentally do not present a theory of common citizenship.<sup>1301</sup> As for Kymlicka's liberal multiculturalism,<sup>1302</sup> critical republicanism shares some of its concerns, but important differences endure:<sup>1303</sup>

'[W]hile multiculturalists advocate the public recognition of specific groups, [...] critical republicans do not single out any predefined and fixed group as the object of their concerns. They claim, rather, that citizens who find themselves associated with these groups have different citizenship entitlements which address different types of disadvantage. [...] *Q*ua members of racialized underclass, such citizens would benefit from genuinely colour-blind socio-economic integration;

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<sup>1300</sup> Cécile Laborde, *Critical Republicanism*, 20.

<sup>1301</sup> Ibid.

<sup>1302</sup> See above.

<sup>1303</sup> For this, see Cécile Laborde, *Critical Republicanism*, 20-21.



*qua* Muslims, they need a revised theory of the inclusive secular state; [...] and *qua* “minorities within minorities” (e.g. women), they need the robust promotion of their ability to resist multifaceted domination. Critical republicans, then, pursue no single strategy of ethno-cultural (or religious) recognition; and are more likely to advocate the de-ethnicization and disestablishment of dominant cultures and identities [...] as the best strategy for the civic incorporation of minorities members.’<sup>1304</sup>

Thus, critical republicanism does not aim at the recognition of single unified identities (such as “Muslim,” “Sikh,” and so on); nor does it try to work out a theory of citizenship that takes into consideration a single dimension of citizens’ identities, namely, the dimension assumed as problematic or as the main source of disadvantage. Laborde thinks that, contrary to multiculturalism, critical republicanism assumes that ‘culture is not the problem, and it is not the solution.’<sup>1305</sup> Rather, it tackles disadvantage in its multifaceted dimensions (economic, social, sexual, political, and so on) and it questions and works on society’s dominant culture and identity(ies) in order to achieve this goal.

As I said before, Laborde rejects official republicanism too. Her main objection against this view is that it uncritically derives practical principles from substantive ideals, making complete abstraction from real (i.e., non-ideal) conditions.<sup>1306</sup> In other words, official republicans impose on Muslim women an idealised image of the French citizen. They demand that Muslims interiorise the ideal of *laïcité*, but actually France is not (and cannot be) as ideally secular as official republicans pretend (or desire) it to be. The result, thus, is that official republicans’ state neutrality is, in fact, a ‘status quo neutrality,’ that is, ‘a theoretical position which unreflectively takes some background institution or distributive pattern for granted and, as a result, fails to provide an impartial baseline from which current claims about unjust treatment, misrecognition, oppression, and the like can be normatively assessed.’<sup>1307</sup> Laborde

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<sup>1304</sup> Ibid. 21-22.

<sup>1305</sup> Anthony Appiah, “The Multiculturalist Misunderstanding,” *New York Review of Books* 44, no. 15 (October 9, 1997), 36. Quoted in Cécile Laborde, *Critical Republicanism*, 21.

<sup>1306</sup> Cécile Laborde, *Critical Republicanism*, 12 and 82-83.

<sup>1307</sup> Ibid. 13.

contrasts official republicanism's status quo neutrality with critical republican context-sensitiveness in the following way:

‘Critical republicans, *contra* official republicans, believe that the optimal compliance of citizens with republican principles cannot legitimately be required under conditions where those principles are only imperfectly realized and upheld by state institutions. To put it in Rawlsian terms: in non-ideal conditions, where the basic structure is not fully just, citizens may have (inter alia) a duty to strive to bring about just institutions, but they are not (non-reciprocally) required to abide by ideal principles of justice. To put it in perhaps more apposite republican idiom: when institutions are corrupt, citizens cannot be expected to be fully virtuous. [...] The critical republican view [...] suggests that it is institutions, instead of citizens, that should be “republicanized” as a matter of priority. And when demands are made on minority citizens, they should be made on a reciprocal basis, rather than in isolation from the existing structure of legal and customary rights and entitlements.’<sup>1308</sup>

In the official republican separatist view, state institutions should not, for instance, fund Muslim cemeteries. The problem with such an abstract and uncritical interpretation of republicanism, Laborde argues, is that it legitimises the status quo and imposes unreasonable burdens on members of minorities. The reason is that the vast majority of cemeteries ‘are run following customary, unreflected pre-Christian or Christian norms: for example burial plots traditionally face east. [Hence, European cemeteries are] unsuited for Muslim burials, where the dead must imperatively be lying on their side and have their face turned towards Mecca (south-east).’<sup>1309</sup> This is just an example of how a strict conception of neutrality as separation ends up with disproportionate, non-reciprocal, and non-impartial demands on minorities, due to a non-neutral status quo. Fairness requires that, before formulating demands on minorities or rejecting their claims, status quo is scrutinised and critically assessed:

‘[O]fficial republicans would have to admit that the current regime of state-church relations in France exhibits anomalies which are troubling from the per-

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<sup>1308</sup> Ibid. 13-14.

<sup>1309</sup> Ibid. 96.

spective of the French state's proclaimed commitment to neutralist separation. Failing that, the demand that Muslims abide by principles of *laïcité* as neutrality when, under status quo arrangements, *laïcité* is only imperfectly realized, cannot plausibly be construed as a fair demand.'<sup>1310</sup>

Obviously, her "critical" form of republicanism is largely built by means of comparison/opposition with "official" republicanism.<sup>1311</sup> I cannot examine in detail the principles of official republicanism here. In Table 3, I make a comparison between the tenets of the two views. Like official republicanism, critical republicanism is a theory of citizenship based on the link between liberty, equality, and fraternity: 'on the republican view, I am free when I am recognized by others as enjoying a status that resiliently protects me against arbitrary interference and guarantees my equal status as a citizen living in community with others.'<sup>1312</sup> Protection against arbitrary interference, equal citizenship, and membership in the community coincide with, respectively, liberty, equality, and fraternity. Hence, critical republicanism claims to be a *republican* conception of citizenship.<sup>1313</sup> However, as I have previously emphasised, it differs from official republicanism in its interpretation of those ideals: 'critical republicanism articulates a progressive, social-democratic, and inclusive version of republicanism.'<sup>1314</sup> How does this new interpretation express the republican ideal of citizenship? In what follows, I briefly analyse the main features of Laborde's theoretical position.

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<sup>1310</sup> Ibid. 83.

<sup>1311</sup> And with a third version of republicanism, that she calls 'tolerant republicanism.' The author devotes chapters 3, 6, and 9 of her book to this view. Here it will be enough to consider the official and the critical forms of republicanism.

<sup>1312</sup> Ibid. 11.

<sup>1313</sup> 'I shall defend the validity of ideal republican principles such as secular impartiality, civic integration, and liberty as non-domination.' Ibid. 13.

<sup>1314</sup> Ibid.

**Table 3 Enunciation of the three pillars of republican citizenship according to the two versions of republicanism (Cécile Laborde, *Critical Republicanism*). For official republicanism: chapters 2, 5, 8; for critical republicanism: chapters 4, 7, 10. See also chapter 1 and conclusions.**

|                   | Official Republicanism                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Critical Republicanism                                                                                                                                                                                                                                                                                |
|-------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Egalité</b>    | <p><i>Laïcité</i> as neutrality (Neutralist republicans<sup>†</sup>)</p> <p>Separation/abstention; <i>laïcité</i> as a separation doctrine and as a doctrine of <u>conscience</u> (pp. 33-48). Analogy: liberal ideal of equality as state neutrality (p. 32), similar to egalitarian, difference-blind liberalism (p. 40). <u>Criticism</u>: excessive abstraction from real conditions for its principles to be applicable: status quo neutrality (pp. 12-13 and 82-83).</p>                                                                                                                                                                                                                                                                                                                                                           | <p>Secularism as impartiality</p> <p>Institutional doctrine (p. 87) of secularism as non-dominating impartiality (p. 89), that is, separation with two provisos (basic free exercise and contextual parity, p. 88).</p>                                                                               |
| <b>Liberté</b>    | <p>Autonomy (<i>Laïciste</i> republicans)</p> <p><i>Laïcité</i> as democratic state's <u>emancipatory power</u>: it makes it possible to liberate individuals from the oppression of 'private institutions such as the family and religious institutions' (p. 102). Analogy: liberal ideal of individual autonomy as a worthy form of life, similar to liberal perfectionism (p. 102). <u>Criticism</u>: a) the 'liberty-based case against headscarves in schools' (p.124) fails to respect the agency of women; b) it is based on a neo-orientalist interpretation of Islam; c) it is self-defeating because it might 'exacerbate the defensive assertion of patriarchal norms and practices' (pp. 149-150).</p>                                                                                                                       | <p>Non-domination</p> <p>Non-domination as a right to voice (capacity for contestation, pp. 152, 155, 160); interest in minimal autonomy (pp. 153, 155, 168).</p>                                                                                                                                     |
| <b>Fraternité</b> | <p>Community (National republicans)</p> <p><i>Laïcité</i> as a <u>civic religion</u> (p. 182): anti-ethnic theory of the nation (p. 174) and 'national culture as civic bond' (pp. 176-178) = national republicanism; model of assimilation: no ethnic difference is relevant (pp. 174, 184-185, 188-189, 192). <u>Criticism</u>: 'the politics of republican solidarity are oppressive of difference' because: a) 'the application of difference-blind policies in conditions of widespread racial discrimination only contributes to the legitimization of ethnicized social relationships' and b) 'republican conception of nationality as shared common culture is inherently exclusive: it downplays the ethnic-like, particularist components of French culture and underestimates the moral costs of assimilations' (p. 229).</p> | <p>Trans-ethnic integration</p> <p>'Struggles for recognition [...] are best interpreted as struggles for voice' and against domination (pp. 237-238). Critical patriotism (pp. 247-249): de-ethnicization of existing 'modes of national identification' and mainstreaming of Muslim identities.</p> |

<sup>†</sup>In my understanding, Laborde internally classifies official republicans depending on the degree of comprehensiveness of their conception of *laïcité*: *laïciste* republicans are less neutralist (that is, they hold a more comprehensive view) than neutralist republicans (because the former promote the 'exercise of rational autonomy', that is, a 'comprehensive conception of ... education'), but they are more neutralist (that is, they hold a less comprehensive view) than national republicans. In fact, national republicans endorse the most comprehensive version of official republicanism: they 'insist that democratic principles and values must be rooted in a particular culture to have the required motivational force. Thus, civic education must be patriotic in a "thicker" cultural sense than neutralists believe. *Contra laïciste*, national republicans argue that education should promote, not so much the dubious virtues of a-social individuality and unfettered choice, as the more civic-minded virtues of self-restraint, responsibility, solidarity, and the ability to abide by common rules. Thus, civic education must, of necessity, find the right balance between individuality and sociability, criticism and compliance, self-assertion and self-restraint'. See *ibid.* 181-182.

*Egalité*: In Laborde's critical interpretation of the republican theory of citizenship, equality stands for secularism, and secularism stands for 'non dominating impartiality.'<sup>1315</sup> Critical republicans' impartiality is different from official republicans' abstentionist neutrality. The former might be conceived as something similar to a "separation rightly understood." In fact, while official republican *laïcité* as neutrality is also a 'doctrine of conscience' that 'prescribes norms of conduct for religious organizations, in terms of their internal "laïcization", and for individual citizens, in terms of religious restraint in the public sphere,'<sup>1316</sup> critical republican secularism preserves the idea of separation, but it critically reinterprets its rationale. Such a rationale connects institutional separation, freedom of conscience, toleration, and equality:

'[S]ecularism is primarily an *institutional* doctrine of separation, prescribing the extent to which state institutions, and the public sphere more generally, must remain secular *so that* citizens can freely follow their conscience. A tough institutional doctrine of separation is therefore the condition for a tolerant doctrine of conscience. [... T]he republican secularism aims to show equal respect to all religious and non-religious citizens by guarding against majoritarian infringements on freedom of conscience. [...] Thus, it constructs the public sphere fairly expansively, as a space where citizens can meet as citizens.'<sup>1317</sup>

Bearing this (republican) rationale for secularism clearly in mind, Laborde restates the republican doctrine of separation as follows: 'the state should not support religion, unless such abstention (i) unreasonably burdens the exercise of basic religious freedoms or (ii) legitimizes status quo entitlements which unduly disadvantage minority religious groups.'<sup>1318</sup> The author calls (i) the 'basic freedom exercise proviso,' and (ii) the 'contextual parity proviso.' The general provision is one of separation and abstention: the state should not intervene in religious affairs. Nonetheless, this provision is tempered by the two conditions. (I) requires that, for the state to be fair and inclusive, it must intervene when religious citizens would be unrea-

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<sup>1315</sup> Ibid. 89.

<sup>1316</sup> Ibid. 44.

<sup>1317</sup> Ibid. 87.

<sup>1318</sup> Ibid. 88.

sonably burdened and deprived of their basic rights by state's abstention (e.g., the state should provide religious spaces and services in enclosed public institutions like prisons, for otherwise the exercise of prisoners' basic rights of free religious exercise would be compromised). Moreover, (ii) requires that demands on minorities must be fair: they must be context-sensitive and avoid legitimising status quo while unreasonably burdening minorities (like in the above-mentioned example of cemeteries). Thanks to these two provisos republican equality is no more understood as neutrality, but as impartiality.

*Liberté*:<sup>1319</sup> Drawing on Philip Pettit's work<sup>1320</sup>, Laborde defines liberty as non-domination. Republican freedom as non-domination is claimed to be more demanding than the liberal idea of freedom as non-interference.<sup>1321</sup> In fact, 'freedom as non-interference makes the absence of interference sufficient for freedom; in contrast, freedom as non-domination requires the absence of a capacity on the part of anyone else ... to interfere arbitrarily in another person's life or affairs.'<sup>1322</sup> In comparison with freedom as non-interference, two clarifications are in order. First, freedom as non-domination is more stringent since it denies the mere *capacity for* or possibility of interference (what Pettit calls 'the easier-to-lose-freedom-effect'). Second, putting the emphasis on the discretion of the interference ("to interfere arbitrarily") means that an interference that would be considered as a constraint on freedom from the standpoint of freedom as non-interference, could be acceptable from the point of view of freedom as non-domination because of its non-arbitrariness (what Pettit calls 'the harder-to-lose-freedom-effect'):

'Under freedom as non-interference, a regime of law, being necessarily coercive, systematically compromises people's freedom [...] Under the second conception, however, subjection to the law need not represent a loss of liberty for anyone who lives under it, provided –and of course it is a big proviso– that the mak-

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<sup>1319</sup> I am grateful to Daniele Santoro for our instructive discussions about the republican ideal of freedom in spring 2013, when I was writing an unpublished paper (titled "Civic and Epistemic Virtues"). For this part of the section, I am indebted to him and I draw on some considerations that I developed in that paper.

<sup>1320</sup> See Philip Pettit, *Republicanism: A Theory of Freedom and Government* and "The Republican Ideal of Freedom," 223-243.

<sup>1321</sup> For this conception of liberal freedom, see, among others, Isaiah Berlin, "Two Concepts of Liberty," in *The Liberty Reader*, in particular 34-43.

<sup>1322</sup> Philip Pettit, "The Republican Ideal of Freedom," 224.

ing, interpretation and implementation of the law are not arbitrary: provided that the legal coercion involved is constrained to track the interests and ideas of those affected. The proviso [...] is that the legal regime represents a fair rule of law.’<sup>1323</sup>

Here, we can see the influence of the venerable (Aristotelian) republican ideal of ruling and being ruled:<sup>1324</sup> to be subject to a regime of law is not *per se* a loss of freedom, if we can consider ourselves at the same time as makers of and subject to the law. Here I cannot examine in details the differences between Pettit’s idea of non-domination and Laborde’s conception of it; such an analysis would not be necessary for my aims.<sup>1325</sup> In order to briefly recapitulate Laborde’s account of non-domination, let me firstly consider what the author calls ‘Muslim women’s double domination.’<sup>1326</sup> This latter consists of an inter-groups and intra-group domination: while inter-groups domination is provoked by an ‘arbitrary state’ problem (that is, state’s imposition of liberal reforms upon groups ‘which perceive themselves to be victims of the state’s illiberal and ethnocentric past’), intra-group domination is provoked by an ‘internal minority’ problem (that is, the result of the ‘negative impact that multicultural accommodation or toleration can have on the most vulnerable members of the groups that benefit from it, in particular women’).<sup>1327</sup> To put it simply, in the *hijab* affair, Muslim women risk to be dominated twice: first, by the *État laïque* that bans the veiling and, in so doing, denies the agency of those women who use the *hijab* as a sign of emancipation; and/or, second, by ‘sexist norms’ and practices within their own cultural environment.<sup>1328</sup> Between those Scylla and Charybdis, the idea of non-domination offers a third solution. Laborde (in harmony with

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<sup>1323</sup> Ibid. 227.

<sup>1324</sup> For the influence of this ideal on the evolution of citizenship theory, see, among others, David Burchell, “Ancient Citizenship and its Inheritors,” in *Handbook of Citizenship Studies*, eds. Engin F. Isin and Bryan S. Turner (London and Thousand Oaks, Calif.: Sage, 2002), 89, and Rogers M. Smith, “Modern Citizenship,” in *Handbook of Citizenship Studies*, 106. See, notably, J. G. A. Pocock, “The Ideal of Citizenship since Classical Times,” in *Theorizing Citizenship*, ed. Ronald Beiner (Albany: State University of New York Press, 1995), 30-33.

<sup>1325</sup> However, as I will explain in a while, it should be noticed that Laborde’s notion of non-domination seems to be “wider” than Pettit’s one. See Cécile Laborde, *Critical Republicanism*, 16-19 and 151-157. For instance, we read: ‘Pettit’s account [...] concerns itself too narrowly, with domination as a *subjectively experienced* harm, thus neglecting phenomena of restrictive socialization and the development of adaptive preferences under oppressive conditions, whereby individuals *prima facie* consent to living under relations of domination.’ Ibid. 152.

<sup>1326</sup> Ibid. 151.

<sup>1327</sup> Ibid.

<sup>1328</sup> Ibid. 152.

Pettit's definition) defines domination as a 'capacity for *arbitrary* interference.'<sup>1329</sup> The interference is arbitrary, according to Pettit, if it does not 'track the interests and ideas of the person suffering the interference.'<sup>1330</sup> So far, so republican (in Pettit's terms). Differences arise – and the critical republican ideal of non-domination is specified – when we consider interferences which the victims have consented to. Are these cases of domination? Laborde distinguishes two forms of dominated consent, depending on the circumstances in which it is expressed. First, there are situations in which we are aware that someone else could exercise power over us and that this power does not track our interests, but we consent to it. For example, think of the case of workers forced to accept patently iniquitous contracts.<sup>1331</sup> Laborde and Pettit agree on qualifying this situation as a case of domination. The 'consent to a form of interference is not a sufficient guard against arbitrariness' Pettit says.<sup>1332</sup> This is a "weak" form of dominated consent for Laborde, because of the awareness of the victims: they know they are subject to their employer's domination. There is, however, a "stronger" form of dominated consent, Laborde argues.<sup>1333</sup> This second form of dominated consent occurs when the victim of the interference is not aware of it and domination is not perceived. If we enlarge the notion of non-domination in this way, we might be able to employ this idea to tackle those cases in which wearing the *hijab* is an imposition with dominating effects, whether or not the imposition is perceived (for instance, due to family or social pressure, even when one does not consciously experience the latter as a form of arbitrary interference with her freedom). In those cases, Laborde asserts, the interference is dominating not because it dismisses the interests of the victims (like in the example of workers), but because it denies them. Victims are simply unable to perceive what their interests are. In framing domination in this way, Laborde aims to disclose 'phenomena of unjust ([...] arbitrary) preference formation or "backroom manipulation",'<sup>1334</sup> by showing that in some cases 'domination can be partly consented to, by

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<sup>1329</sup> Ibid. 153. Pettit says: 'one agent dominates another if and only if they have a certain power over that other, in particular a power of interference on an arbitrary basis,' see Philip Pettit, *Republicanism*, 52.

<sup>1330</sup> Philip Pettit, *Republicanism*, 55 and Cécile Laborde, *Critical Republicanism*, 153.

<sup>1331</sup> See Cécile Laborde, *Critical Republicanism*, 153.

<sup>1332</sup> Philip Pettit, *Republicanism*, 62.

<sup>1333</sup> Cécile Laborde, *Critical Republicanism*, 153.

<sup>1334</sup> Ibid. 154.



being invisible to its victims.’<sup>1335</sup> But what are those basic interests then? What is the relevant interest that domination denies? Laborde answers that domination violates our basic interest in a form of ‘minimal autonomy.’<sup>1336</sup> Few considerations are in order. For an interference to be qualified as arbitrary and, then, as dominating, it must involve a systematic and intentional denial (or a dismissal) of a capacity we consider essential: minimal autonomy. According to the author, education should actively promote autonomy-promoting capacities.<sup>1337</sup> However, Laborde openly states that ‘the good life is not one of full autonomy and self-determination, but rather one in which autonomy-related skills can (but do not have to) be used by individuals to face the most pernicious forms of domination.’<sup>1338</sup> Hence, what matters is not a perfectionist ideal of full-autonomy, but a capacity for minimal autonomy enabling individuals to resist domination.<sup>1339</sup> Minimal autonomy entails a capacity for contestation or ‘voice.’<sup>1340</sup> A non-dominated human being is one who is not silenced, who is able to contest the power exercised over her or him, to ask a justification for any interference so that the latter can be qualified as non-arbitrary.<sup>1341</sup> This “sufficientarian,” non-perfectionist, and instrumental approach to autonomy allows Laborde to avoid the problem of the coherence and compatibility between autonomy and religion. In so far as individuals have a minimum capability for autonomy, they are not dominated. They do not need to value full autonomy, but just to be autonomous enough to have a voice “on their own”, to be free from domination.<sup>1342</sup>

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<sup>1335</sup> Ibid.

<sup>1336</sup> Ibid. 153.

<sup>1337</sup> Ibid. 152.

<sup>1338</sup> Ibid.

<sup>1339</sup> Importantly, Laborde emphasises that ‘we do not have a (basic and universal) interest in pursuing a life of autonomous assertion, but we do have a (basic and universal) interest in combating ethical servility.’ Ibid. 156.

<sup>1340</sup> ‘What matters is that individuals have minimum discursive control or “voice” – that they can contest the power that is exercised over them.’ Ibid. 152. For Pettit’s account of contestation, see Philip Pettit, *Republicanism*, 183-205.

<sup>1341</sup> Cécile Laborde, *Critical Republicanism*, 155.

<sup>1342</sup> ‘Nothing about non-domination requires that individuals break free from their religious or communal attachments; nor does the ideal imply that the good life is a life of autonomy. The autonomy critical republicans value is more akin to a basic capability: a skill which, up to a threshold (minimum discursive control), is essential to the good life, but which, above the threshold, individuals do not have to develop further, let alone to exercise fully. Conceived as a *minimum capability*, autonomy is not understood as an intrinsic but as an instrumental, yet primary, good. It is an essential ingredient to living a successful life – a life that is good for oneself – but it is not necessarily a part of that success.’ Ibid. 155.

*Fraternité*: Official republicans, Laborde contends, hold that civic solidarity involves an ‘anti-ethnic theory of the nation’<sup>1343</sup> and assume ‘national culture as civic bond.’<sup>1344</sup> Laborde underscores the link between national culture and membership in the civic community, because in this view, at the end, citizenship is perceived as a matter of cultural (and not merely political) membership. ‘By the Third Republic, French nationality had come to acquire a substantive content, in terms of socialization into a common national culture.’<sup>1345</sup> Critical republicanism cannot agree without demur. Firstly, the conception of official republicans is misleading, because ‘it confuses the denial of the moral relevance of ethnicity with the denial of its social existence, and as a result inadvertently deprives itself of the means to tackle discriminatory practices.’<sup>1346</sup> Secondly, this conception is exclusive, since it uncritically includes the ‘ethnic-like, particularist components of French culture’ in its definition of ‘nationality as shared common culture,’ and the resulting demand of integration seems to be excessively burdensome.<sup>1347</sup> In contrast with this idea of integration, Laborde develops her own model of national community. While she recognises the attractiveness of the republican ideal of ‘an inclusive and impartial sphere within which all resident individuals, regardless of their particular origins and identities, can be included as equal citizens,’<sup>1348</sup> she judges that existing strategies to achieve this goal are wrong. As we have seen, the mistake concerns the misrecognition of the actual (non-neutral) conditions in which the ideal of neutrality is implemented *sic and simpliciter*.

‘[A]ll “civic” nations are rooted in a particular “ethnic” experience. As a result, civic competences and virtues have historically been associated with the traits of dominant groups (white, male, middle class, Christian, Parisian, and so forth) [...] The difficulty is that the historical ethnicization of the public sphere [...] still

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<sup>1343</sup> Ibid. 174.

<sup>1344</sup> Ibid. 176-178.

<sup>1345</sup> Ibid. 176.

<sup>1346</sup> Ibid. 229.

<sup>1347</sup> Ibid.

<sup>1348</sup> Ibid. 232-233.

weighs heavily on the present, and creates often intangible obstacles to the fair incorporation of minorities.’<sup>1349</sup>

Critical republicans think that political claims of cultural recognition arise when culture represents an additional level of subjection, that is, when cultural ‘misrecognition [...] is experienced as an “insult added to injury”’: when, that is, it compounds and exacerbates existing socio-economic exclusion and relegation.’<sup>1350</sup> Consequently, Muslims’ demands for cultural recognition and even defiant social behaviours should be read in this light: as a response to an intricate and multifaceted social disdain experienced by Muslims, ‘not exclusively or necessarily *qua* religious believers, but *qua* presumed members of a marginalized working class and racial (post-colonial) underclass.’<sup>1351</sup> It should be clear, then, that the key-concept is always domination: struggles for recognition are, ultimately, ‘struggles against domination’ of different and usually interrelated forms.<sup>1352</sup> To conclude, Laborde calls for a ‘critical (or civic) patriotism’<sup>1353</sup> that critically tries both to “de-ethnicize” existing French identity and to mainstream ‘immigrant and Muslims identities’, that is, ‘[to present and perceive them] as normal (if plural) ways of being French.’<sup>1354</sup> This last remark is particularly relevant: the critical task is one of pluralisation of a monistic and falsely neutral civic identity, in order to achieve a non-dominant conception of civic belonging and national identification.<sup>1355</sup>

In conclusion, critical republicanism vindicates the republican triad (*égalité*, *liberté*, and *fraternité*), though its interpretation of this triad makes it compatible with the wearing of *hijab* in public schools, because this latter does not contradict any of those republican pillars when

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<sup>1349</sup> Ibid. 233.

<sup>1350</sup> Ibid. 236-237.

<sup>1351</sup> Cécile Laborde, *Critical Republicanism*, 237.

<sup>1352</sup> Ibid. 238.

<sup>1353</sup> She openly draws on Habermas’s notion of ‘constitutional patriotism’ (ibid. 247). With reference to the scope of my research, it may be useful to mention Habermas’s “Citizenship and National Identity: Some Reflections on the future of Europe,” in *Theorizing Citizenship*, 263-264, 271, and 274-279.

<sup>1354</sup> Cécile Laborde, *Critical Republicanism*, 248. Here, we may read a further criticism of affirmative politics of recognition: ‘Mainstreaming is about removing symbolic obstacles to equal citizenship; it does not so much involve a positive validation of Muslim identities as it requires the transformation of dominant perceptions of shared identity. In this sense, it appeals more to a negative ideal of non-domination than to a positive ideal of recognition.’

<sup>1355</sup> For more details on critical patriotism, see ibid. 244-253.

“rightly understood”. Thus, not only is the republican ideal acceptable to Muslims, but it should also be attractive to them:

‘Secularism, properly understood, does not require pupils to remove signs of religious allegiance; female emancipation is not assisted by the prohibition of religious symbols; and civic solidarity depends not on cultural conformism but on social equality and the politics of participatory inclusion. Yet republican ideas [...] are undeniably appealing and [...] should be attractive to members of religious minorities. Republicanism is at bottom an ideal of progressive, egalitarian, and social-democratic citizenship, which points to a society where all citizens enjoy basic but robust civic standing, in the form of political voice, minimum personal autonomy, material capabilities, equal opportunities, and intersubjective mutual recognition as equals.’<sup>1356</sup>

At this point, it should be clear why I consider critical republicanism as an interesting alternative framework for discussing the issue of citizenship of European Muslims. First, critical republicanism is developed and presented as a complete theory of citizenship. Second, it is openly developed and presented as a theory that aims at offering fair terms of citizenship to Muslims. In the rest of this section, I analyse the question of whether this option is *more* interesting than the Rawlsian idea of public reason, as I previously did with reference to liberal multiculturalism.

Having expressed the republican conception emerging from Laborde’s model, now I consider some possible objections to it. The first and most obvious argument would consist of emphasising that critical republicanism seems deeply rooted in French (republican) heritage and that this historical connection is so indissoluble that it is unlikely to spread (and adapt) to different European contexts. Although this consideration does not mean that such diffusion is impossible, a critic may doubt that such a republican conception would generally be normatively attractive to different realities in Europe.<sup>1357</sup> However, to be effective, this argument would require an accurate and thorough assessment of the different national models of citi-

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<sup>1356</sup> Ibid. 254.

<sup>1357</sup> For instance, one may wonder how to make such normative model more or less consistent with multicultural policies implemented in different degree in different European countries: see, among others, the comparative study by Nasar Meer and Tariq Modood, “The Multicultural States We’re In.”

zenship historically developed and adopted all around Europe. Be that as it may, I am not concerned with this kind of analysis. Having adopted a more abstract, normative, and ideal standpoint, I will restrict my arguments to normative ones. Let me consider, then, why public reason is normatively more attractive than critical republicanism.

I take into account two different kinds of arguments. First, under (a) I will scrutinise Laborde's objections to Rawls. If it can be demonstrated that these objections do not hit the mark and that Rawls's conception of public reason is stronger than the arguments used against it, then there would exist a *prima facie* reason to endorse it or, at least, not to reject it. Second, under (b) (divided in b1 and b2) I will consider the strength of the two theories respectively: which of the two theories is more suitable for answering my main research question (Q)? In doing this I will focus my attention on Laborde's account of secular impartiality, the egalitarian pillar of her critical republican view.

(A) I begin from Laborde's criticism of Rawls's public reason. First of all, Laborde charges Rawls with an excess of 'liberal neutralis[m]'.<sup>1358</sup> While she acknowledges that Rawls does not claim that a set of 'action-guiding principles' directly originate from his ideal theory,<sup>1359</sup> nonetheless, she argues, his view of the relationships between religion and public reason is not suitable. Contrary to Rawls's view, she continues, critical republicanism aspires to estab-

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<sup>1358</sup> Cécile Laborde, *Critical Republicanism*, 86.

<sup>1359</sup> Ibid. 83. Rawls's conception of the relation between ideal theory (and the related concept of strict compliance) and non-ideal theory (and the related concept of partial compliance) is presented in *A Theory of Justice*. I briefly summarise (by necessity, not exhaustively) the main concepts. Ideal theory considers the conception of justice and its principles from the perspective of a well-ordered society: 'for the most part, I examine the principles of justice that would regulate a well-ordered society. Everyone is presumed to act justly and to do his part in upholding just institutions' (8/7-8). Ideal theory requires strict compliance with principles of justice, so that the society is just. Strict compliance is one of the stipulations in the original position: 'the principles of justice are chosen on the supposition that they will be generally complied with' (245/215). And 'the persons in the original position assume that the principles they acknowledge [...] will be strictly complied with and followed by everyone' (351/308-309). On the contrary, in non-ideal conditions, principles of justice are not perfectly followed and compliance is only partial. So, partial compliance theory 'studies the principles that govern how we are to deal with injustice' (8/8). Samuel Freeman gives the following account of ideal vs. non-ideal theory: ideal theory consists of 'Rawls's assumption of the ideal conditions of a perfectly just, or "well-ordered", society, in which everyone accepts and complies with principles of justice. The problem of *Theory* is to discover the principles of justice most suitable for these ideal conditions of "strict compliance" with principles of justice. Once principles for ideal circumstances are derived, questions of partial compliance in *non-ideal theory* can be addressed. These include a theory of punishment, the doctrine of just war, civil disobedience, revolution, preferential treatment, assistance to burdened societies and many other questions about how to deal with and remedy injustice or departures from the ideal.' See Samuel Freeman, *Rawls*, 472. In *Political Liberalism*, Rawls presents ideal theory as a 'necessary complement' to non-ideal theory: the former directs the desire for change in the latter (285). See also 281-285. For a helpful overview of the ongoing debate about the opposition between ideal and non-ideal theory, see the article by Laura Valentini, "Ideal Vs. Non-ideal Theory: A Conceptual Map," *Philosophy Compass* 7, no. 9 (2012), 654-664.

lish a theory of citizenship able to reduce the (real, non-ideal) ‘citizenship deficit of members of minorities.’<sup>1360</sup> According to Laborde, political liberalism would not be adequately equipped to carry out such a task, because it detaches religion and politics too dramatically. People do have the right to use religious reasons (or, in Rawlsian terms, reasons derived from their reasonable comprehensive doctrines, whether they be religious or non-religious) in public political discussions. Nevertheless, according to Laborde, religion should not override shared or common (or, more appropriately, public) reason when fundamental questions are at stake and, above all, where state institutions are concerned. Thus, critical republicanism grants a limited role to religion in public debates and specifies its own version of the constraints of public reason. Critical republicanism’s specificity would consist of:

‘[S]uggest[ing] that [,] while it is natural and acceptable for citizens to enter politics out of religious conviction, and to introduce religious arguments in broad public debate, it is not acceptable for the constitution to be theologically inspired, or for public officials to justify public decisions by reference to religious views; in both cases, “common grounds” principles should be appealed to. Generally, critical republicans tend to be fairly tolerant of the religious expression of ordinary citizens, but they adopt a less tolerant stance towards display of religious allegiance or support by state institutions.’<sup>1361</sup>

One can read in this passage –and in the provision limiting the role of religion in public forums– two central tenets of the republican tradition: first, the fear of the potentially divisive power of religions and, second, the faith in neutrality (better, in Laborde’s words, “impartiality,” that is, not to taking sides, being *super partes*) of state institutions. I can now take into consideration the question of whether Laborde’s criticism of Rawls and her characterisation of the specificity of critical republicanism are strong enough to be conclusive. Let me divide Laborde’s previous formulation of the critical republican interpretation of the constraints of public reason into the following normative claims:

- (I) It is natural and acceptable for citizens to enter politics out of religious conviction;
- (II) It is natural and acceptable to introduce religious arguments in public debate;

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<sup>1360</sup> Cécile Laborde, *Critical Republicanism*, 20.

<sup>1361</sup> Ibid. 86.

- (III) It is not acceptable for the constitution to be theologically inspired;
- (IV) It is not acceptable for public officials to justify public decisions by reference to religious views;

Laborde seemingly acknowledges that Rawls would agree with her critical republicanism on points (iii) and (iv).<sup>1362</sup> Indeed, this interpretation would be correct. With reference to (iii), as I explained in chapter three, Rawls also believes that constitutional essentials should be decided through the use of public reason.<sup>1363</sup> For constitutional essentials are ‘fundamental political questions’, along with ‘questions of basic justice’, and the constraints of public reason apply to them (and only to them).<sup>1364</sup> One could even observe that Rawls’s idea of public reason seems to be more (and not less) open to religion than Laborde’s critical republicanism, since the constraints of Rawlsian public reason apply only to constitutional *essentials*. While these latter refer exclusively to the most relevant and fundamental political issues (especially basic rights and liberties), the ‘theological inspiration’ of the constitution evoked by Laborde seems to concern a much broader and disputable set of questions, without any real impact on citizens’ fundamental rights and liberties (even including, for example, possible references to God in the preamble or in the general principles of the constitution). After all, many contemporary democratic constitutions refer to values that one could see as rooted (openly or tacitly) in religious views, and this fact is not seen as particularly problematic. The agreement between Rawls and Laborde is also solid with regard to point (iv), especially in light of Rawls’s reference to the idea of political legitimacy. In chapters three and four, I analysed in detail the subjects to (and the circumstances under) which constraints of public reason apply. I have also specified my interpretation of the proviso (4.2), which allows the introduction of non-public reasons in public political discussions of fundamental political questions in so far as they do not violate the criterion that I called reciprocity of the reasonable. I do not come back to these aspects here. However, in general terms one can say that Rawls agrees with Laborde

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<sup>1362</sup> Ibid.

<sup>1363</sup> See chapter three and John Rawls, *Political Liberalism*, for example xix, xlviii, li, liii, liv, 214-215, 217, 224-225, 227-230, 235, 241, 252, and “The Idea of Public Reason Revisited,” 460.

<sup>1364</sup> ‘[T]he limits imposed by public reason do not apply to all political questions but only to those involving what we may call “constitutional essentials” and questions of basic justice ... This means that political values alone are to settle such fundamental political questions as: who has the right to vote, or what religions are to be tolerated, or who is to be assured fair equality of opportunity, or to hold property.’ John Rawls, *Political Liberalism*, 214.

on (iv): public decisions to be legitimate must be based on public reasons that each citizen may reasonably be expected not only to understand, but also to endorse. So far, so good: Laborde and Rawls agree on points (iii) and (iv). On the contrary, Laborde apparently maintains that Rawls would disagree with her on points (i) and (ii).<sup>1365</sup> However, such an interpretation would rest on a misinterpretation of Rawls's view. In fact, as for (i), the reasons for entering politics are neither constitutional essentials nor questions of basic justice. Therefore, public reason does not apply to one's motivation to enter politics. A citizen can enter politics for whatever 'social reason' (e.g., belonging to a church which values active engagement in earthly affairs in order to change them) or 'domestic reason' (e.g., being the child of a politician).<sup>1366</sup> The problem is not *why (in foro interno)* one enters politics, but *how* one discusses fundamental political questions in public political forums. Therefore, the views of Rawls and Laborde do not differ with reference to (i). As for (ii), as I have explained in depth, endorsing Rawls's wide view of public reason does not mean excluding religious arguments from public political forums (see 4.1.a and 4.2). From the perspective of Rawls's political liberalism, satisfying the proviso (see the two levels of the duty of civility specified in 4.2) is the necessary and sufficient condition for making the introduction of non-public reasons in public political discussion acceptable. Thus, for instance, one can legitimately argue in favour of or against a law concerning a fundamental political question drawing on his or her reasonable comprehensive doctrine (religious, philosophical, or moral), if and only if the proviso is 'satisfied in good faith.'<sup>1367</sup> Most important of all, Rawls overtly recognises that, through this qualified introduction of religious reasons, the ideal of public reason is strengthened<sup>1368</sup> and that, therefore, this introduction can be based on a 'positive ground', rather than on a 'defensive ground, as if [the intrusion of religious arguments] into public discussion were inevitable in any case'<sup>1369</sup>, that is, as if it were a necessary evil.

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<sup>1365</sup> Cécile Laborde, *Critical Republicanism*, 86.

<sup>1366</sup> John Rawls, *Political Liberalism*, 220.

<sup>1367</sup> John Rawls, "The Idea of Public Reason Revisited," 462.

<sup>1368</sup> John Rawls *Political Liberalism*, 247-252, and "The Idea of Public Reason Revisited," 463.

<sup>1369</sup> John Rawls, "The Idea of Public Reason Revisited," 464.



Therefore, Laborde's critique of the Rawlsian account of public reason does not hit its target. If compared with Rawls's idea of public reason, critical republicanism says nothing different about (i) and (ii), nor about (iii) and (iv). Of course, I am not saying that critical republicanism and political liberalism are identical. Quite the contrary, in the previous section I tried to do justice to critical republicanism by presenting it in its own specificity. Rather, my intention was simply to demonstrate that the points Laborde appeals to in order to prove the superiority of her theoretical model are not the exclusive jurisdiction of the latter.

(B) I can now analyse in greater detail the problems that critical republicanism potentially raises. I consider two main questions. (B1) I would like to start from the following statement by Laborde that I have already quoted: 'the demand that Muslims abide by principles of *laïcité* as neutrality when, under status quo arrangements, *laïcité* is only imperfectly realized, cannot plausibly be construed as a fair demand.'<sup>1370</sup> Does this remark imply that, *if* the status quo were really neutral, *then* Muslims could be fairly demanded to abide by principles of *laïcité* as neutrality? In ideal conditions, would *laïcité* as neutrality be the reference point for any republican theorist (critical or official)? Laborde ostensibly holds that we cannot persist in our official republican demands and we need critical republicanism just because these ideal conditions are not present.<sup>1371</sup> Indeed, she clearly states that she 'interpret[s] republican reflection as rooted in non-ideal theory and political *praxis*, concerned not so much with ideal theories of justice as with the correction of actual relationships of power and domination.'<sup>1372</sup> Of course, her theory has a normative core: the ideal of citizenship as non-domination,<sup>1373</sup> and she then employs this 'normative yardstick of evaluation'<sup>1374</sup> for tackling real injustices toward religious minorities (in our case, Muslims), that is, in the framework of non-ideal theory. Even if critical republicanism is not primarily concerned with ideal theory, non-domination is still its normative ideal (in non-ideal conditions). But, then, one might ask whether or not *laïcité* as neutrality would be part of republican ideal theory, that is, if neutrali-

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<sup>1370</sup> Cécile Laborde, *Critical Republicanism*, 83.

<sup>1371</sup> Ibid. mainly 12-15, 23, 82-83, 85-86, 87-88, 254-257.

<sup>1372</sup> Ibid. 23.

<sup>1373</sup> On this point, see in particular ibid. 16, 155, 156.

<sup>1374</sup> Ibid. 156.

ty would be desirable in ideal conditions. If the answer is positive, then critical republicanism and its revision of *laïcité* look like the self-reflective republican reply to the acknowledgment that *laïcité* as neutrality regrettably cannot be obtained, and that in non-ideal conditions other principles and ideals are required for the sake of freedom and fairness. In this case, secularism as impartiality seems to be a more realistic (realist) and fairer revision of *laïcité* as neutrality, once it has been adjusted to non-ideal conditions. Indeed, this seems to be the correct interpretation. Laborde unequivocally affirms that her ‘*basic objection to official republicanism [...] concerns not so much its substantive ideals as its strategy for reform.*’ Too often official republicanism functions as an uncritical ideology which both legitimizes the status quo by idealizing it and imposes unreasonable burdens of compliance on challengers, outsiders, and minorities.’<sup>1375</sup> This is the core of Laborde’s thesis. She does not radically criticise official republicanism as comprehensive ideal. Rather, she criticises its decontextualised application to real (non-ideal) conditions, which ends up by legitimising an unfair status quo. However, if I am right about this point, then one might raise the following question: if the purpose is to achieve integration, freedom, and equality for minority groups through a critical theory of citizenship, is it a successful strategy to suggest implicitly that, ideally, *laïcité* as neutrality would be preferable and that critical republican principles are just imposed by circumstances? To be sure, clearly this is a possible theoretical option. However, it is quite problematic and internal tensions would probably persist. I believe that Laborde’s revision of republican principles is much deeper than that. I think it stems from her attempt to adjust them to what Rawls calls ‘the fact of reasonable pluralism.’<sup>1376</sup> This attempt compels her to shift the focus onto the issue of inclusion in non-ideal conditions, although she does not completely dismiss traditional (or official) republican ideals. Therefore, my impression is that the resulting equilibrium between ‘official’ and ‘critical’, or between ideal theory and principles adjusted to non-ideal conditions, is not always fixed and stable. This is the point: one can see republicans facing the choice between assimilating Muslims to their traditional ideal of citizenship, or revis-

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<sup>1375</sup> Ibid. 15, emphasis added. See also 83 (‘[t]he problem with official republican neutrality is *not* that it is an impractical “ideal theory” [...] It is, rather, that while (in contrast to Rawlsian ideal theory) it claims to be a set of directly applicable, or at least action-guiding, principles, it nonetheless (in contrast to Rawlsian non-ideal theory) completely abstracts from the concrete conditions to which they are supposed to apply’) and 233 (‘the substantive ideals pursued by official republicans are persuasive and attractive. However, the strategic principles they defend are problematic’).

<sup>1376</sup> This intuition is confirmed by her most recent works, see for instance her “Justificatory Secularism.”

ing the latter.<sup>1377</sup> Laborde follows the second strategy. However, she defines the ideal critical republican citizen in non-ideal terms: the republican citizen forced to live in a non-ideal republic and to revise her ideals and principles in order to adjust them to real conditions. If it is true that critical republicanism ‘offers its own version of the three ideals of *laïcité*: equality as secular impartiality, liberty as non-domination, and fraternity as trans-ethnic integration’<sup>1378</sup>, the overall impression is that such ideals are presented as “adaptive” ideals, whilst in the ideal republic strict and full compliance would be consistent with an official republican interpretation of *laïcité*. Consequently, one could ask: if *laïcité* as neutrality were perfectly realised under status quo arrangements, then would official republican ideals hold and would Muslims be compelled to abide by them? In conclusion, we could say in wordplay, official *laïcité* as neutrality looks like the “ideal ideal”, whereas critical *laïcité* as secular impartiality looks like the “non-ideal ideal.” Which takes priority? Laborde’s answer could plausibly be the following: critical ideals are the only possibility given actual conditions of domination and, even if the critical ideals are presented in opposition to the official ones, at the end they are normatively autonomous. Still, from a *normative* perspective the question is open: one may think that Laborde’s good republican citizen is forced to be critical because she lives under non-ideal conditions; still she is nostalgic toward her strongest republican principles and ideals. She has to be a critical republican because –in this world as it exists– she cannot be an official republican. Then, a normative tension persists and Laborde should solve it more clearly. Moreover, this would not be a very optimistic account of citizenship in Europe. As it takes seriously the existing negative conditions of discrimination and exclusion, critical republicanism as a realistic utopia is realistic, but it is not very utopian, for it has little hope of changing them in the best possible way. Note that the above-mentioned tension is not extant if one follows the interpretation of public reason that I developed earlier. Laborde is right when she maintains that ‘[o]ne problem with much of republican (and liberal) normative theory is that its proposals are designed to apply to ideal well-ordered societies, but they are also offered as

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<sup>1377</sup> Pocock perceptively latches onto a similar point with reference to feminist theories. See J. G. A. Pocock, “The Ideal of Citizenship since Classical Times,” 31-33. He says: ‘[a]t an early point in the exposition of the problem, one can see that [feminist theorists] face a choice between citizenship as a condition to which women should have access, and subverting or deconstructing the ideal itself as a device constructed in order to exclude them.’ Ibid. 31.

<sup>1378</sup> Cécile Laborde, *Critical Republicanism*, 9.

practical proposals designed to guide reform in the real world.’<sup>1379</sup> Nonetheless, the Rawlsian perspective I defend does not claim that ideal theory can be directly transposed in non-ideal conditions while completely abstracting from them. Laborde is aware of this.<sup>1380</sup> I do not argue that existing European societies (which are not well-ordered) should be immediately reformed in the light of the specific “contents” (principles, institutions, laws, and policies) of a Rawlsian well-ordered society. Rather, I argue that in existing societies the ideal of public reason can also provide regulative guidance about how to conceive liberal citizenship from both a procedural and a politically substantive point of view. In 3.2.b.1, I mentioned that ‘Rawls’s public reason does not concern a determinate object, but rather the limits of the public debate when fundamental questions are at stake within a liberal-democratic society.’<sup>1381</sup> In the previous section (5.2.a), I presented Rawls’s public reason as an ideal conception of citizenship that also retains its regulative role in non-ideal conditions. In this case, the regulative ideal is always the same: the requirements of public reason take into account the circumstances under which we live (for example, they are reflected in my two-level formulation of the proviso), but once stated it keeps its fundamental traits both in ideal and non-ideal conditions (provided that the minimal conditions specified above are present). This allowed me to say that public reason represents a viable normative option even in existing European societies. On the contrary, the tension I have just underscored concerns *two different* ways of conceptualising the republican regulative ideal (as neutrality/separation or as non-dominating impartiality), and the difficulty in assessing which of them a good republican citizen should cherish the most. The tension in Laborde’s theory originates from this duality.

(B2) The last point brings me to a closely related question. Why ought Muslims to be normatively committed to the critical republican ideal of citizenship? Why should they endorse it and, accordingly, support social cooperation within the basic structure in which ‘the fundamental political relation of citizenship’<sup>1382</sup> can arise and flourish? These questions deal with two fundamental aspects of our issue: the reasons that Muslims have to adopt a political con-

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<sup>1379</sup> Ibid. 12.

<sup>1380</sup> See the excerpt quoted above from page 83: ‘while (in contrast to Rawlsian ideal theory) [official republicanism] claims to be a set of directly applicable, or at least action-guiding, principles, it nonetheless (in contrast to Rawlsian non-ideal theory) completely abstracts from the concrete conditions to which they are supposed to apply.’

<sup>1381</sup> Sebastiano Maffettone, *Rawls: An Introduction*, 274.

<sup>1382</sup> John Rawls, *Political Liberalism*, xliii.

ception of citizenship and, accordingly, the stability of the society supported by this shared conception. In fact, if the goal is to achieve, in Rawlsian terms, a well-ordered society, then one must take into consideration the question of stability for the right reasons. Therefore, we should ask: what kind of reasons must Muslims have to endorse secular impartiality as a normative principle of a critical republican political conception of citizenship? Are those reasons of the “right” kind? That is, are they strong enough for Muslims to be morally committed to the stability of European societies? As I mentioned, to answer these questions I focus on the first egalitarian pillar of Laborde’s critical republicanism: the interpretation of secularism as impartiality. Now, Laborde contends that ‘the great majority of Muslims [...] should welcome a critical republican approach to secularism.’<sup>1383</sup> She argues that this is true for three reasons:

‘*First*, critical republicans endorse secularism as the best guarantee of equal citizenship. Many Muslim demands are demands of access to the equal status of citizenship: they are not demands for exorbitant, special rights. Yet, *second*, critical republican equality is not the formal equality of official republicans or of liberal egalitarians like Barry; nor does it necessarily mandate state abstention from intervention in religious affairs. Critical republicans recognize that a secular state respects equal citizenship only if it does not dominate its religious citizens. Thus, a critical republican state would ensure that Muslims [...] are able to follow the basic tenets of their religion: it is the commitment to what I called basic free exercise. *Third*, [...] critical republicanism rejects status quo neutrality and normatively scrutinizes existing church-state arrangements. Its commitment to what I called contextual parity follows from the thought that the status quo can dominate members of minority religions, and it prescribes how to treat religious minorities fairly in formally secular, but historically Christian-dominated, societies.’<sup>1384</sup>

However, one could plausibly argue that these are not reasons a Muslim should agree to *qua* Muslim. At best, from the point of view of a Muslim *qua* Muslim, such reasons could justify a strategic or context-based acceptance of critical republican impartiality. First, “just” because Muslims are not treated as equal citizens –and, consequently, because their primary

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<sup>1383</sup> Cécile Laborde, *Critical Republicanism*, 97. Remember that critical secularism ‘upholds the secular character of the public sphere unless doing so infringes a basic religious free-exercise right [...] or entrenches exorbitant majoritarian historical privileges.’ Ibid. 89.

<sup>1384</sup> Ibid. 97.

concern is equality— they should accept impartiality. Second, “just” because Muslims may need state intervention for exercising their basic religious rights (for example concerning the availability of places of worship) they should strive for a ‘basic free exercise proviso’. Thirdly, “just” because the status quo is not neutral —and, consequently, because Muslims should be compensated for this contextual disadvantage— they should agree on a ‘contextual parity proviso.’ What kind of reasons are these? In justifying Muslims’ acceptance or endorsement of critical republicanism (or of whatever other political conception of citizenship), I think one should start by pinpointing three possibilities. (a) Muslims are somehow able to make reference to reasons within their own religious doctrine (Islam): that is, they can endorse it from a Muslim perspective. Alternatively, (b) Muslims’ endorsement or acceptance is shaped as a mere *modus vivendi*: that is, they accept it only provisionally, but they do not morally endorse it. Or, finally, (c) Muslim citizens’ religious conviction is simply overlooked: they endorse the political conception *qua* citizens *tout court* (in Laborde’s case, as impartial republican citizens). To be sure, in the first and in the third cases there is real endorsement, either *qua* Muslims or *qua* impartial citizens. On the contrary, in the second case, there is only temporary and opportunistic acceptance, but there is not moral support. It seems to me that the arguments presented by Laborde in order to justify Muslim citizens’ acceptance or endorsement of secular impartiality lie somewhere between (b) and (c). Muslim citizens do not endorse it as Muslims (a). Rather, they should accept (‘welcome’) it because they actually need it (b), or they should endorse it because they are already critical secularists (c).<sup>1385</sup> Whilst many of the motivations presented above seem to fall under (b), in my opinion it is the idea of moral endorsement of critical secularism under (c) that really underlies Laborde’s argument and reflects the republican ideal of the nation as the community of citizens *qua* citizens (*fraternité*). Hence, analysing the kind of reasons that Laborde provides for Muslims to support the principle of critical secularism, one might conclude that consensus on this principle may be stable only on the assumption that citizens will politically justify and endorse it as impartial republican citizens (c), otherwise it may be accepted as a mere *modus vivendi* (b) but it would not be genuinely stable. This is so because justifications of the first kind (a) (that is, justifications

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<sup>1385</sup> The last point (c) is a little tautological: critical secularism should be endorsed by Muslim citizens because of their being secular citizens. To demonstrate the widespread acceptance of critical secularism among Muslims in Europe, Laborde quotes the study carried out by Jytte Klausen in her *The Islamic Challenge*: ‘[m]any [Muslim] secularists prefer the strict separation of church and state and, if this was already the established rule, their first preference is that the state provides no assistance to religion. But given that state neutrality is generally not an option, the secularists want equity.’ Ibid. 89. Laborde adds that ‘[w]here my critical republicanism differs [from this conception of secularism] is in its belief that neutrality at times can and should be an option.’ Cécile Laborde, *Critical Republicanism*, 97.

produced starting from within one's comprehensive doctrine) are not considered in Laborde's theory. Indeed, stability achieved under (c) is moral, but, unfortunately, it can be obtained only at great cost: namely, the sacrifice of religious, philosophical, and moral pluralism. Undoubtedly, in a society 'marked by a diversity of opposing and irreconcilable religious, philosophical, and moral doctrines,'<sup>1386</sup> not everyone is willing to endorse a conception based only on a purely and exclusively political justification.<sup>1387</sup> A Muslim could aspire not only to share a common political conception of citizenship with her fellow citizens, but also to have some persuasive Islamic reasons to do so. Understandably, without such reasons she could be reluctant to ratify the political conception, or, at least, her support would probably be uncertain and vacillating. In order to avoid this, we should somehow combine (c) and (a).<sup>1388</sup> As I have explained in chapter two, Rawls's idea of an overlapping consensus explicitly links political justification [which can be subsumed under (c)] and full justification (a), providing a moral ground to a conception of public reason that can draw on public political culture for its own moral content, that is the reciprocal respect for the freedom and equality of cooperating fellow citizens. Laborde, however, overlooks such an important question: how to secure moral endorsement (then, different from mere acceptance as a *modus vivendi*) of her conception of citizenship on the part of those Muslims who would like to achieve it as Muslims? To put it differently, is a consensus on a conception of citizenship also rooted within Islam possible? To conclude, I argue that, by leaving these questions unanswered, Laborde's account of citizenship is significantly weakened. An important element is missing in her theory; an element whose main purpose is the reconciliation between pluralism on the one hand, and consensus and stability on the other. As I have just said, Rawls's public reason seems to be better

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<sup>1386</sup> John Rawls, *Political Liberalism*, 3-4.

<sup>1387</sup> This point is summarised by Freeman with reference to the difference between *A Theory of Justice* and *Political Liberalism* concerning the problem of stability: '[in *Theory* s]tability was prefaced on the argument that reasonable persons would find it rational to affirm their sense of justice as supremely regulative in order to realize their capacities for agency and therewith their status as autonomous moral agents. But given the fact of reasonable pluralism, many people will not want to affirm their status as autonomous moral agents even in a society where justice as fairness is generally accepted. Thus the stability problem remains: How is it possible that reasonable and rational citizens find it not just *reasonable to agree* upon justice as fairness (or any other liberal conception of justice), but *also* find it *rational to endorse* this conception of justice as supremely regulative of their pursuit of their good?' Samuel Freeman, *Rawls*, 366, italics in the original. We could ask a similar question with reference to critical secularism: how can Muslims as reasonable and rational citizens find it both reasonable (*qua* citizens) and rational (*qua* Muslims) to endorse a political conception of citizenship including the principle of critical secularism? About the distinction between rational and reasonable, see above.

<sup>1388</sup> Or, in Rawlsian terms, political *pro tanto* justification and full justification.

equipped for this task. To put it simply, the idea of an overlapping consensus provides the deepest level of moral commitment, so that the endorsement of the political conception can be anchored in one's religious or philosophical views (what I have called the "justificatory outsourcing" with reference to full justification). Hence, in Rawls's view Muslims can and should endorse the political conception *qua* Muslims, that is, from within their Islamic perspective (a). This is the idea of full justification (see chapter two). As I mentioned in chapter four, however, such a non-public endorsement must be expressed in public, so that the mutual assurance problem is also solved (see chapter four).<sup>1389</sup> This can be done by publicly honouring the idea of wide public reason. Taken together, the idea of an overlapping consensus and the idea of public reason make stability for the right reasons possible.<sup>1390</sup> In other words, the fact that an overlapping consensus is reached means that Muslims can embrace the political conception *qua* Muslims (a). Simultaneously, the fact that they respect public reason shows that they are willing to endorse it *qua* (political liberal) citizens. This point qualifies endorsement under (c) in a politically liberal way. Hence, in a Rawlsian perspective (a) and (c) are not only reconciled, but (a) supports and deepens (c). In other words, the overlapping consensus allows the move from the political *pro tanto* justification to the public justification. Citizens support the political conception as political liberal citizens, that is, they recognise it as politically justified *and at the same time* as justified from within their own comprehensive doctrine. On the contrary, critical republicanism does not seem so greatly concerned with an endorsement similar to (a), while it is perfectly apt and ready to provide a republican version of a (c)-kind of endorsement. Yet, one may then legitimately doubt that Laborde's critical republicanism is able to assure stability for the right reasons. This is a crucial question, because a normative theory of citizenship for contemporary Western European societies must prove able of reconciling religious pluralism with the aspiration of social stability. However, if we take seriously the idea of reasonable pluralism as an enduring feature of free human reason under democratic institutions, then we cannot pay the price of annihilating reasonable plural-

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<sup>1389</sup> I have already explained that 'when an overlapping consensus obtains, each person's payoff table has the following structure: the payoffs are such that it is rational for a person to honour the terms of cooperation and treat the political conception of justice as authoritative only when she has the *assurance* that all others, or a sufficient number of others, also adhere to the terms and treat the conception as authoritative' (Paul Weithman, "Inclusivism, Stability, and Assurance," 85-86).

<sup>1390</sup> *Supra*. See also Larry Krasnoff, "Consensus, Stability, and Normativity in Rawls's Political Liberalism," and Paul Weithman, "Inclusivism, Stability, and Assurance."



ism for the sake of stability. In few words, from a normative perspective what matters is stability for the right reasons, not stability *tout court*.

In conclusion, in this section I have explained why I think that public reason citizenship represents a more attractive normative conception for contemporary Western European societies if compared with two theoretical alternatives that are still close to it: liberal multiculturalism and critical republicanism. In the next section, I show how public reason can resolve the problem I pointed out in the first chapter.

### 5.2.C Reconciliation Through Public Reason.

In the previous section and in 1.2.a.1, I maintained that liberal multiculturalism alone seems unable to resolve the problem of mutual assurance that Western European democracies face with regard to their Muslim citizens. As I have said, however, I am not interested in confuting the philosophical foundations of liberal multiculturalism. Instead, what I am saying is that, regardless of the specific merits of (or problems raised by) liberal multiculturalism, one should be public reason liberal *before* being multicultural.<sup>1391</sup> Otherwise, the problem of mutual assurance cannot be efficaciously solved. In addition to this, in the previous section I said that critical republicanism does not represent an adequate framework for including Muslim citizens *qua* Muslims. Thus, one can doubt that critical republicanism too is a suitable theoretical perspective for assuring stability for the right reasons (that is, one can doubt that the bases for Muslims' endorsement that it provides are solid enough). In Weithman's terms, one may say that *critical republicanism does not solve the generalised prisoner's dilemma*, because it does not consider a notion like the Rawlsian idea of an overlapping consensus, so it cannot show that everyone's 'balance of reasons tilts in favor of acting justly when others do, even from the "self-interested point of view",' <sup>1392</sup> that is, that everyone has sufficient reasons to 'continue to act justly rather than defect.' <sup>1393</sup> On the other hand, *liberal multiculturalism does*

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<sup>1391</sup> For this idea, see Sebastiano Maffettone, "From Liberal Multiculturalism to Multicultural Liberalism," 129. In the same way, Maffettone suggests that we should shift from liberal multiculturalism to 'multicultural liberalism,' following the intuition that 'substantives count more than adjectives' (ibid. 130). See also 142, 142-160, and 160-162).

<sup>1392</sup> Paul Weithman, *Why Political Liberalism?*, 49.

<sup>1393</sup> Ibid.

*not solve the mutual assurance problem*, because it does not make publicly known the fact that everyone's 'balance of reasons tilts in favor of acting justly when others do, even from the "self-interested point of view".' In conclusion, neither critical republicanism, nor liberal multiculturalism are suitable conceptions of citizenship for securing social stability for the right reasons (and not a mere *modus vivendi* or a Hobbesian 'imposed' stability,<sup>1394</sup> see footnotes above) in contemporary European societies.

In 1.2.a, I said that the *crisis* that Western European societies are facing in relation to their Muslim citizens concerns the *normative content of a shared conception of citizenship*. The latter seems deficient or seriously impaired. More specifically, I have claimed that we cannot resolve the problems of exclusion, discrimination, and mutual distrust examined in 1.1.a.1 without a normative conception of citizenship that at the same time (a) establishes the ground on which a common political identity can be structured, and (b) provides shared standards for political and social criticism. Both these elements are of crucial importance if we want to fairly include Muslim citizens and to solve the problem of mutual assurance. While the two elements are inseparable, the first (a *common political identity*) has a particularly strong relation to the solution of the *mutual assurance* problem. On the other hand, the second element (*shared standards for political criticism*) is a fundamental condition for fair *inclusion* of citizens in general, and of members of minority groups in particular.<sup>1395</sup> In Laborde's terms, shared standards for denouncing political and social injustice are of crucial importance for non-dominated citizenship.

Now I will consider these two elements in turn, and I will try to show that public reason citizenship is able to secure stability for the right reasons in European societies. If my argument succeeds, then a conception of citizenship grounded in public reason is not only normatively available in existing European societies (i.e., it *could* be followed in those societies), but it is also normatively preferable than its rival conceptions and able to play the role required of it. Then, it *should* be followed as ideal conception of citizenship for European societies.

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<sup>1394</sup> Ibid. in particular 5-6, 44-45, 50-51, 56, 176.

<sup>1395</sup> Here "in particular" must be understood in comparative terms.

(1) For a normative conception of citizenship, it is of vital importance to provide citizens with shared standards and criteria for discerning reasonable from unreasonable, legitimate from illegitimate, and just from unjust political demands. As I have explained (see in particular 3.2.b.2 and 4.2), political liberalism as a meta-theory of legitimacy and toleration is mainly concerned with the first two kinds of distinctions. With regards to the case of Muslim citizens, I argued in chapter one that, while I do not specifically address the specific questions of justice involved in contemporary phenomena of social and political discrimination and exclusion of Muslims, I am deeply convinced that any serious normative conception of citizenship should address such problems from the perspective of protecting citizens' political status as free equals. In other words, such a conception should enable citizens to appeal to shared standards for publicly exposing and criticising unreasonable or unjust demands placed upon them. That those standards are shared is essential: whenever a citizen appeals to common standards for social and political criticism, other citizens are urged to listen to her voice. If they do not even listen to her, they can be morally blamed for not recognising her equal status as a citizen. Thus, the fact that a normative conception of citizenship provides citizens with shared standards of criticism empowers all the citizenry, and citizens who are members of disadvantaged groups in particular.<sup>1396</sup> Such standards are of capital importance for political inclusion. Moreover, this aspect is important not only in negative, but also in positive terms: indeed, it is self-evident that the existence of common standards and criteria for political criticism also makes citizens able to recognise the positive contributions of individuals and groups to the overall legitimacy and justice of the social and political system. In line with this, I have already mentioned Tariq Ramadan's claim that 'the actual problem is to know what the contribution [made by Muslim citizens'] is, not only for themselves, but for Europe,' and his assertion that 'Europe will begin to change its perception about Islam only when it realises that Islam represents a resource and not only a problem.'<sup>1397</sup> Ramadan's call requires that European societies are able to recognise the positive contributions made by their Muslim citizens to their social and political life, thus, shared standards for political criticism are necessary. I argue that public reason citizenship provides such standards. As Solum points out:

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<sup>1396</sup> Again, comparatively.

<sup>1397</sup> Tariq Ramadan in *Islam in Europa / Islam in Italia tra diritto e società*, 326, my translation.

‘An ideal of public reason can serve [...] as a standard for the political criticism of argument in the public sphere. One can ask, “When is it proper for me to criticize the argumentation of a fellow citizen on the ground that the reasons offered transgress the limits of civility?” An ideal of public reason answers this question by defining standards for political criticism of reasons given in public. [This] role of public reason does not assume coercive enforcement by the state, as such enforcement would violate the political right of freedom of expression. But [this] role of public reason does not rule out the use of social pressure to encourage compliance with the ideal.’<sup>1398</sup>

This passage emphasises two important questions. First, the requirements of public reason specify the criteria for assessing whether the claims made by others concerning fundamental political questions conflict with the demands of political legitimacy. This happens when such claims exceed the two levels of the duty of civility (4.2).<sup>1399</sup> Political claims that violate reciprocity between cooperating reasonable free and equal citizens can and should be critically exposed, denounced, and rejected. Second, the public availability of standards for social political criticism empowers those who would be subject to those dominating claims. In addition, through the progressive elimination of unjust social structures and distributions and the rejection of unreasonable claims (that is, claims that violate citizens’ freedom and equality), shared standards for social criticism provided by a conception of citizenship grounded in public reason also bring society’s basic structure closer to the ideal of a well-ordered society. In this way, public reason accomplishes its role as a *regulative* moral ideal (see the introduction of chapter four and 5.2.a).

(2) As I have just mentioned, a common public political identity is an important element for solving the problem of mutual assurance. If all citizens share a public political identity, then they have reasons to think that others’ ‘individual rationality of compliance’<sup>1400</sup> with the

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<sup>1398</sup> Lawrence B. Solum, “Constructing an Ideal of Public Reason,” 733.

<sup>1399</sup> For a similar interpretation of the role of public reason as an instrument for social and political criticism, in 4.1.a I also quoted David A. J. Richards, “Public Reason and Abolitionist Dissent,” in particular 835-837.

<sup>1400</sup> Paul J. Weithman, “Inclusivism, Stability, and Assurance,” 83.

public political conception of justice can be framed within a common public perspective. Such a perspective, I argue, is best represented by the idea of public reason. Citizens internalise the existence of an overlapping consensus which unifies their individual full justifications (see chapter two). On this basis, they know that, despite their disagreements about the deep sources of their full moral identities, they can nonetheless share a public or institutional identity with their fellow citizens, that is, they can share an *identity as citizens* (see chapter three). Such an identity governs their reciprocal public interactions and embodies their ‘disposition to be reasonable and their desire to be recognized by others as reasonable,’<sup>1401</sup> thus regulating how they should address their fellow citizens in public political forums (see chapter three and the analysis of the proviso in 4.2). Importantly, then, such an identity is not morally empty: it is grounded in the idea of reciprocity of the reasonable (see the introduction of chapter four and 4.2). Moreover, as I have said (see 3.2.b.1), Rawls’s public reason not only provides the ground for such public identity, but also ideally fits within citizens’ fuller moral identities through the idea of an overlapping consensus. In Rawls’s words, public identity grounded in public reason is a ‘module’ of citizens’ fuller identities, which draw on their comprehensive doctrines. I return to these considerations about public reason, political identity, and mutual assurance shortly. Now I want to clarify an important question: is the political identity specified by public reason defined once and for all? Notice that the significance of the connection between public reason and the common political identity of citizens is also stressed by Onora O’Neill, who observes that

‘The power of Rawls’s conception of public reason is drawn from its connection to his account of *citizens*. Being a citizen with a sense of political identity is much more than being one of a plurality of beings capable of rational and reasonable justification, and cognizant of the limits placed on reasonableness by the burdens of judgement: it is constitutive of reasonableness.’<sup>1402</sup>

However, O’Neill is sceptical about how Rawls’s public reason structures such identity. In particular, she argues that Rawls seems to *predefine* this identity rather than seeing it as continuously constructed and reconstructed through political processes. According to her, in Rawls’s view of a closed and idealised society,

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<sup>1401</sup> James W. Boettcher, “Public Reason and Religion,” 129-130.

<sup>1402</sup> Onora O’Neill, “Political Liberalism and Public Reason,” 418.

‘[A]mong [citizens] there is in effect prior understanding that they form “a people.” That is why he can speak explicitly of citizens as *sharing* a political identity [...] Yet it is all too well known that in real life persons are often unsure about their sense(s) of political identity [...] A central objective of politics may be the reconstrual of political identities [...] Boundaries and identities are a central domain of thinking about justice rather than its fixed parameters.’<sup>1403</sup>

Hence, according to O’Neill, the idea of a common political identity in Rawls’s closed society is not simply a ‘mere abstraction,’ but a dangerous idealisation which has to be ‘handled with care in practical reasoning,’ because ‘[it] assumes predicates which are false of all existing human societies,’ and one risks ‘to conclude that the world rather than the idealization is at fault.’<sup>1404</sup> In this sense, it has been argued that ‘[a]bstractions are sometimes powerful lies.’<sup>1405</sup> But why –even in a well-ordered society– should one think that Rawls *predefines* a homogeneous political identity? What he assumes *ex ante* is a general set of ideas implicit in democratic public culture (*supra*). However, Rawls maintains that public reason in itself is not specified at a certain moment once and for all, but that it changes over time (3.2.b.1): ‘[Rawls] does not conceive of public reason as static or unchanging.’<sup>1406</sup> *Pace* O’Neill, public reason does not *predefine* or assume an unchanging shared political identity. Rather, public reason is the vector –or the channel– through which citizens’ public or institutional identity is continuously structured and restructured, built and rebuilt, shaped and reshaped. O’Neill is right in affirming that identities are not static and that they cannot be *predefined*, but saying this does not amount to a refutation of public reason, since the latter *does not assume but shapes* a common political identity. Having clarified this important point and coming back to the question of assurance, I said that the fact that public reason represents the ground on which this public identity can be built explains why public reason is able to solve the problem of mutual assurance and to ensure stability for the right reasons. Examining the second level of the duty of civility in 4.2, I explained that a wide view of public reason solves the problem

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<sup>1403</sup> Ibid. 419-420.

<sup>1404</sup> Ibid. 419.

<sup>1405</sup> Peter F. Lake, “Liberalism Within the Limits of the Reasonable Alone: Developments of John Rawls’ Political Philosophy, its Political Positivism, and the Limits on its Applicability,” *Vermont Law Review* 19, no. 3 (1995), 629. For Lake’s criticism of Rawls’s use of abstraction, see in particular *ibid.* 626-631.

<sup>1406</sup> Lawrence B. Solum, “Novel Public Reasons,” 1485.

of mutual assurance firstly by allowing the introduction of non-public reasons in public discussions of fundamental political questions, *provided that* other citizens can be publicly and adequately assured of the commitment to the fair terms of social cooperation. The crucial threshold for meeting the requirement expressed here by the adverb “adequately” consists of the respect for the criterion of reciprocity of the reasonable. Moreover, other citizens must be able to see that such non-public reasons enhance civic friendship and a spirit of political reciprocity (because, as I argued in chapter four, “the reasonable is intelligible to reasonable people”), and this explains the meaning of the adverb “publicly.” I also said that the introduction of non-public reasons can strengthen the ideal of public reason, and this explains why an exclusive view of public reason is inadequate (see 4.1). Thus, *satisfying the requirements of public reason and the proviso (at least as specified by B2) is the first way to solve the mutual assurance problem*, that is, to guarantee public knowledge of the fact that everyone continues to be committed to the ideal of public reason and to preserve her sense of justice by honouring the fair terms of social cooperation specified by a liberal political conception of justice. However, public reason importantly contributes *to avert the mutual assurance problem also in a second way*. As I have demonstrated, the wide view of public reason permits *the establishment of a common political identity* despite the differences in citizens’ deepest moral identities without obliterating or annihilating them (rather, their essential role in achieving an overlapping consensus is publicly known). In doing this, we follow the same path leading from an overlapping consensus to the idea of public reason illustrated in Figure 3, but in the opposite direction (bottom-up rather than top-down). Within such a public or common political identity, citizens *recognise* one another as free equal citizens, who hold different comprehensive doctrines and broader moral identities, but also endorse an idea of public reason which expresses their sharing a common political identity. To participate in the practice of public justification and to show a commitment to the political moral requirements of public reason (the reciprocity of the reasonable) means affirming that one embraces the shared political identity of citizens as citizens. In turn, this assures other fellow citizens of one’s allegiance to shared fair terms of social cooperation. With reference to Muslim citizens, public reason can provide a solid ground for solving many cases of mistrust and suspicion. If citizens (Muslims and non-Muslims) show one another that they all embrace a common political identity structured around the idea of public reason and that they act accordingly, then the problem of mutual assurance is solved. Their participation in public justification in conformity with the requirements of wide public reason and their endorsement of the related moral criterion of reciproci-

ty of the reasonable is what is required for giving assurance of their political allegiance to the democratic system of social cooperation. An important consequence of this interpretation of public reason as the ground for citizens' public identity is that it does justice to those Muslim citizens who complain about the repeated and never conclusive questions and doubts about their allegiance to constitutional democracy and their sense of belonging (see 1.1.a.1 and 1.2.a).

In conclusion, my thesis is that *public reason produces a decompression of the public space that makes it possible to reabsorb reasonable pluralism without annihilating it*. Such reabsorption of reasonable pluralism within the common discursive platform of public reason is possible because public reason (1) resolves the problem of mutual assurance both by specifying an extensive interpretation of the proviso (see 4.2) and by grounding an inclusive common public political identity within which citizens can recognise one another as free equals cooperating on fair terms, and (2) empowers citizens through the recognition of shared standards for denouncing unjust demands placed upon them and this secures their political inclusion on an equal footing. If public reason is able to perform such a role, then the idea of reconciliation through public reason reveals itself in its deepest meaning. In the next chapter, I will try to demonstrate this claim by applying the justificatory evaluative theoretical framework developed so far. In other words, my aim is to show that the three requirements of public reason citizenship (RR, CR, and CiR) can be satisfied by a plausible European Muslim approach. If the evaluation concerning RR, CR, and CiR can demonstrate that there is no inconsistency between the requirements of public reason citizenship and at least one plausible account of how to be a European Muslim, then one can conclude that (on at least that account) European Muslims can be included in the political identity and benefit from the shared standards provided by public reason.



## Chapter Six

# Tariq Ramadan's European Muslims and Public Reason.

*Entre l'Islam et l'Occident, c'est moins une affaire de violence qu'une question de justice.<sup>∞</sup>*

*This is the ultimate liberation that founds fraternities [:] to be with God and to live with men.\**

In this final chapter, I apply the justificatory evaluative theoretical framework in order to show that the normative model of public reason citizenship that I developed can both include European Muslim citizens and assure citizens about social stability for the right reasons. As I have said in the conclusion of the last chapter, my purpose is to demonstrate that a plausible European Muslim approach can fulfil the requirements of public reason citizenship, namely RR, CR, and CiR. If this is so, then it is possible to say that (as regards at least that approach) there is no obstacle that prevents European Muslims from benefitting from both the political identity and the shared standards provided by public reason. Actually, a European Muslim

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<sup>∞</sup> Tariq Ramadan, *Aux sources du renouveau musulman: D'al-Afghānī à Hassan al-Bannā, un siècle de réformisme islamique*, third edition (Lyon: Tawhid, 2013), 459.

\* Tariq Ramadan, *Islam, the West and the Challenges of Modernity* (Leicester, UK: The Islamic Foundation, 2001), 311.

approach already displays –at least implicitly– such identity and standards if it satisfies the requirements of public reason citizenship (RR, CR, and CiR). Finally, once it is proven that this identity and these standards are publicly available to citizens as citizens (to Muslim citizens as far as this study is concerned, but I will assume for the sake of simplicity also to other non-Muslim citizens), then the complex problem outlined in 1.2.a can be solved, because then public reason citizenship is a viable normative model from the perspective of at least one plausible European Muslim perspective.

I repeat here a crucial aspect of the justificatory evaluative approach that I adopt, since it will become apparent in the following sections and it is better to avoid confusion from the very beginning. In contrast with justificatory comparative political theory (i.e., conjecture), justificatory evaluative political theory is not concerned with assessing the degree of correctness or plausibility of the arguments advanced from the standpoint of a specific religious tradition, for instance the Islamic tradition of legal, theological, and philosophical thought. Rather, it is concerned only with an evaluation of those arguments from a public perspective. Thus, when in what follows I refer to arguments that the European Muslim approach under consideration presents as authentically or genuinely Islamic (or as more genuinely Islamic than other alternative arguments), in no way am I expressing my own judgment about the correctness or soundness of those arguments from the standpoint of Islamic doctrine. In other words, I do not enter into the issue of Islamic correctness or plausibility of the arguments presented by the Muslim approach I am analysing. I leave this important critical task to historians and experts of legal, theological, and philosophical Islamic thought, as well as – obviously– to Muslim believers. Here I am only interested in considering how and why those arguments are presented from the viewpoint of public reason.

## **6.1 A (Contested) Biography. A European Muslim Approach.**

In this chapter, I apply the evaluative framework to the conception of citizenship emerging from the work of Tariq Ramadan. In other words, here I consider Ramadan’s conception of citizenship in the light of the three main requirements of public reason citizenship (RR, CR, CiR) and their specifications (see Table 2). However, one could ask: why Ramadan? After all, the main title of this research relates “liberal citizenship” to “European Muslims,” not to “Tariq Ramadan.” Is it legitimate to homogenise and unify the rich universe of Muslims in

Europe under the umbrella of Tariq Ramadan's thought? Does he represent a universal paradigm of European Islam or –more in harmony with the logic of this study– of how to be European Muslim citizens? My answer to these questions, stated in these terms, is a resolute “no.” It would be dreadfully naïve to think that any single approach or label can subsume the complexity and variety of human spirituality and social conditions, above all when the two are combined in ways that puzzle even the most experienced sociologists, as in the case of Muslims in contemporary Europe. Thus, in analysing Tariq Ramadan's approach here, I am not suggesting that it is the only, nor even the best, the most suitable, or the most complete way of being Muslim in contemporary European societies. I am perfectly aware (and very happy to acknowledge) that there are many possible alternative ways of being a European Muslim. I do not want to force them to stay on a single path, nor am I saying that this path is inevitably the most advisable (note, *en passant*, that the same Tariq Ramadan has never claimed for himself the role of sole reference for European Muslims, a role that would be at odds with the whole historical development of Muslim societies and communities, for in Islam there is not a single or central earthly religious authority). However, from an analytical viewpoint, Ramadan's work has an important double advantage. First, to my knowledge he has produced the most extensive and exhaustive reflection on Muslims' citizenship in Europe.<sup>1407</sup> This allows the achievement of a greater level of detail in the evaluation carried out in this study. Second, while far from being hegemonic (and in no way desiring such hegemony) within Muslim communities around Europe, his thought is nonetheless very popular.<sup>1408</sup> To be clear: his audience is not so much composed of young people of the *banlieue*, but rather of the lower to high, socially active, and quite educated, middle class.<sup>1409</sup> The core of his audience is mainly represented by French speaking second and third generations with immigrant origins from the Maghreb, rather than, for instance, by German speaking Turks.<sup>1410</sup> On the

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<sup>1407</sup> For some alternative references, see the footnotes of the first chapter.

<sup>1408</sup> See for instance Frank Frégosi, “Les contours discursifs d'une religiosité citoyenne: laïcité et identité islamique chez Tariq Ramadan,” in *Paroles d'islam: Individus, sociétés et discours dans l'islam européen contemporain / Islamic Words: Individuals, Societies and Discourses in Contemporary European Islam*, edited by Felice Dassetto, (Paris: Maisonneuve & Larose, 2000), 206 and Nina zu Fürstenberg, *Chi ha paura di Tariq Ramadan?* (Vicenza: Marsilio, 2007), 17.

<sup>1409</sup> Ian Hamel, *La vérité sur Tariq Ramadan. Sa famille, ses réseaux, sa stratégie* (Lausanne: Favre, 2007), 284 and Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 21, 30-31, and 35.

<sup>1410</sup> Ian Hamel, *La vérité sur Tariq Ramadan*, 182.

other hand, his academic work is mainly addressed to the Anglo-American world, where he built his academic career (see *infra* for his biography), also thanks to his publications with Oxford University Press, such as *Radical Reform*, *What I Believe*, and *Islam and the Arab Awakening*.<sup>1411</sup> In any case, his voice is undoubtedly one of the most influential and listened to (not necessarily favourably, to be sure) with reference to the question of Muslims' citizenship in Europe. His intellectual production is extremely prolific: many books in French, English, German, Italian, and Spanish; numerous tapes recorded with the publisher Tawhid (Lyon); a very efficient website in French, English, and Arabic;<sup>1412</sup> a strong presence on social networks (Facebook and Twitter), YouTube, and on television shows (he presents the show "Risalat al Islam" on Iqraa satellite TV in French, while on the Iranian channel PressTV he presented "Islam and Life" in English until 2014 and now "Islamic Awakening – Conversations with Tariq Ramadan");<sup>1413</sup> a remarkable number of (very well-attended) conferences all around Europe; a large number of networks (the first was the association Coopération Coup de Main, created in 1988, which did not contain an explicit Islamic reference; rather, it was aimed at increasing awareness –particularly among young people– toward the problems of the Third World, and organised trips to Africa, South America, and Asia;<sup>1414</sup> then the association Musulmans, Musulmanes de Suisse, founded in 1994 and based in Bern;<sup>1415</sup> third, Présence Musulmane also known as Muslim Presence, which is an informal network created in 1996<sup>1416</sup> that aims 'to establish a platform for dialogue, convergence and mutually enriching discussion from an Islamic perspective'<sup>1417</sup> through the training and cooperation of associa-

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<sup>1411</sup> Tariq Ramadan, *Radical Reform: Islamic Ethics and Liberation* (Oxford and New York: Oxford University Press, 2009), *What I Believe* (cit. *supra*), and *Islam and the Arab Awakening* (Oxford and New York: Oxford University Press, 2012).

<sup>1412</sup> URL = <http://tariqramadan.com/>.

<sup>1413</sup> Videos can be found on Ramadan's website: <http://tariqramadan.com/english/category/en/medialibrary/islam-life/>.

<sup>1414</sup> Ian Hamel, *La vérité sur Tariq Ramadan*, 155.

<sup>1415</sup> Paul Landau, *Le Sabre et le Coran*, 82.

<sup>1416</sup> Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 29 and 111-113, and Ian Hamel, *La vérité sur Tariq Ramadan*, 241.

<sup>1417</sup> See the Muslim Presence's website, URL = [http://muslimpresence.com/?page\\_id=426](http://muslimpresence.com/?page_id=426).

tions working on the ground;<sup>1418</sup> the European Muslim Network, a think tank based in Brussels of which Ramadan is President;<sup>1419</sup> finally, the Research Centre for Islamic Legislation and Ethics, CILE, of which Ramadan is Executive Director, founded in 2012 within the Qatar Faculty of Islamic Studies, Hamad Bin Khalifa University of the Qatar Foundation for Education, Science and Community Development<sup>1420</sup> and based in Doha, Qatar; the CILE organises an annual conference, seminars, training and teaching activities on an international level –the 2015 annual conference was held in Brussels from 14 to 15 March). *TIME* Magazine named him among the most important religious innovators of the twenty-first century in 2000 and among the most influential people in the world in 2004; also, during the last decade, he has been cited many times among the hundred leading global public intellectuals by *Foreign Policy* and *Prospect* magazine. In 2007, both the weekly *New York Time Magazine* and the periodical magazine *The New Republic* devoted two long profiles to him, respectively by Ian Buruma and Paul Berman.<sup>1421</sup> Moreover, an entire strand of literature has flourished in support of or against Ramadan,<sup>1422</sup> and on the internet his name is present in a profusion of articles, blogs, chats and so on.

This surely makes Ramadan's theoretical production a serious contender for the application of the evaluative framework that I worked out. In chapter two, I said that if it is not possible to evaluate *the* European Muslim approach, then the best alternative is to consider an approach that could be *plausibly* defined as a European Muslim one. Thus, I defined the criterion for selecting the European Muslim approach as the plausibility principle, which affirms that:

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<sup>1418</sup> Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 111.

<sup>1419</sup> See the EMN's website: <http://www.euro-muslims.eu/>.

<sup>1420</sup> See: <http://www.cilecenter.org/en/vision-mission/>.

<sup>1421</sup> Ian Buruma, "Tariq Ramadan Has an Identity Issue," *The New York Times Magazine* (February 4, 2007), available on the website of *The New York Times*, URL = <http://www.nytimes.com/2007/02/04/magazine/04ramadan.t.html?pagewanted=all&r=0>; and Paul Berman, "Who's Afraid of Tariq Ramadan?" *The New Republic* (June 4, 2007), available on the website of *The New Republic*, URL = <https://newrepublic.com/article/60961/whos-afraid-tariq-ramadan>. In both cases, page references are to the version of the article downloaded from the internet.

<sup>1422</sup> See the references in this chapter.

(PP): *The necessary and sufficient condition for plausibly considering a view x as representative of a European Muslim approach to the issue of citizenship is that x is widespread among Muslim citizens in European liberal democracies.*

This is the best non-optimal solution: it allows us to take into account a European Muslim approach to the question of Muslims' citizenship, while at the same time avoiding essentialism. It is non-optimal because, as I have just said, the evaluation cannot be applied to "the only legitimate" Muslim conception of citizenship in Europe. Simply, there is no such single conception. This is why the approach chosen can only be "plausibly" defined as a European Muslim approach. The consequence, then, is that other legitimate European Muslim approaches are excluded from the analytical and evaluative scope of this research: the evaluation conducted here neither rejects nor ratifies them. They are simply out of focus. Thus, this is not the only possible evaluation, nor does it claim to be definitive. However, if the notion of "plausibility" has some sense, the fact that the approach considered can be plausibly defined as a European Muslim one implies that, if the evaluation shows that the approach in question satisfies the requirements of public reason citizenship, then it is possible to say that Muslim citizens can be included in public reason citizenship through (at least) one plausible European Muslim approach to the issue of citizenship.

It should now be clear (with the caveat that I expressed in chapter two) that Tariq Ramadan's approach fulfils PP: it can be plausibly considered as representative of a European Muslim approach because it is widespread among Muslim citizens in Europe (*supra*). Before examining in depth how he constructs his European Muslim approach to the question of Muslims' citizenship in Europe, I must now briefly introduce Ramadan's biography.

Ramadan was born in 1962 in Geneva. He is the son of Said Ramadan (1926-1995) and Wafa al-Banna (1933-), the daughter of Hasan al-Banna (1906-1949), the founder of the Muslim Brotherhood in 1928. His father was very attached to his father-in-law.<sup>1423</sup> He was also one of his closer assistants. After his graduation in law in Cairo, and after having been named editor of the monthly review of the Brotherhood, in 1948 Said fought in Palestine against the

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<sup>1423</sup> Tariq Ramadan in the interview with Orsola Casagrande in *Europa domani: conversazione con Tariq Ramadan* (Rome: Jouvence, 2008), 35.

creation of Israel.<sup>1424</sup> After the assassination of al-Banna in 1949, he travelled a lot: initially in Pakistan, where he was close to Abu al-A‘la Mawdudi (1903-1979, the founder of the Jama‘at-i Islami, a prominent political figure in Pakistan after the partition with India in 1947)<sup>1425</sup> and where he obtained a Pakistani diplomatic passport; later he returned for some time to Egypt before definitively leaving the country in 1954 when the repression of the Brotherhood by the regime of Gamal Abdel Nasser (1918-1970) became more rigid. He then lost his Egyptian citizenship and was not able to come back until his burial in 1995 [the prayer at his funeral would be pronounced by Yusuf al-Qaradawi<sup>1426</sup> (1926-), the Egyptian Islamic theologian and jurist and leading public intellectual who is also very famous thanks to the show *al-Sharī‘a wa-l-Hayat* (Sharī‘a and Life), on the Qatari channel Aljazeera and for being the president of the European Council for Fatwa founded in 1997,<sup>1427</sup> whose first collection of fatwas would later be prefaced by Tariq Ramadan himself<sup>1428</sup>]. After five years of continuous travels in Jerusalem, Syria, Jordan, Lebanon, and Saudi Arabia,<sup>1429</sup> Said finally settled in Geneva with his wife and his first three sons: Aymen (1952-), Bilal (1954-), and Yasser (1955-). The fourth son –Hani– was born in Geneva in 1959. The last two children of the Ramadan family were born in 1962 and 1963: Tariq and the only girl, Arwa. Then, Said founded the Islamic Centre of Geneva in the neighbourhood of Eaux-Vives in 1961,<sup>1430</sup> ‘the first institute of this kind in Europe.’<sup>1431</sup> Generously financed by Saudi Arabia for almost ten years, since 1971 the Islamic Centre has gone through serious financial straits, because Riyadh did not appreciate Said’s independence and interrupted any funding, sponsoring the creation of a great

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<sup>1424</sup> Ian Hamel, *La vérité sur Tariq Ramadan*, 85-87.

<sup>1425</sup> See the entries “Jama‘at-i Islami” and “Mawdudi, Abu al-A‘la” by Irfan Ahmad in *The Princeton Encyclopedia of Islamic Political Thought*.

<sup>1426</sup> Ian Hamel, *La vérité sur Tariq Ramadan*, 119.

<sup>1427</sup> See “al-Qaradawi, Yusuf” by Yasir Qadhi in *The Princeton Encyclopedia of Islamic Political Thought*.

<sup>1428</sup> *Recueil de fatwas, avis juridiques concernant les musulmans d’Europe*, first volume (Lyon: Tawhid, 2002), quoted in Lionel Favrot, *Tariq Ramadan dévoilé*, 294-295 note 148, Caroline Fourest, *Frère Tariq. Le double discours de Tariq Ramadan*, 121 note 1, and Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 85 note 2.

<sup>1429</sup> Ian Hamel, *La vérité sur Tariq Ramadan*, 91-93.

<sup>1430</sup> Ibid. 96-97.

<sup>1431</sup> Ibid. 97, my translation.

new mosque in Chemin Colladon (Petit-Sacconex, close to Geneva's airport) in 1978.<sup>1432</sup> When Said died in 1995, Aymen became the president of the Islamic Centre of Eaux-Vives, Hani its director, and Yasser its treasurer, while Wafa, Arwa, Tariq, and Bilal are members of the association that runs it.<sup>1433</sup> Tariq is married to Iman, a French woman who converted to Islam, and whose previous name was Isabelle.<sup>1434</sup> They have four children. In his youth, Tariq Ramadan attended the Coudriers and Sismondi schools in Geneva.<sup>1435</sup> Very athletic, he played with dedication in the Star Sécheron and de Perly football teams (where he was also a trainer for some years).<sup>1436</sup> He then graduated in philosophy and French literature (with a master thesis entitled "The Notion of Suffering in Nietzsche's Philosophy")<sup>1437</sup> and then he became professor at the Collège de Saussure in Geneva. He also became dean (the youngest dean of a secondary school in Switzerland)<sup>1438</sup> of the same school, a position that he held from 1988 to 1992. In 1992, he settled in Egypt with his family, where he spent approximately a year and a half receiving one-to-one training in Islamic sciences.<sup>1439</sup> This is certainly an important moment in Ramadan's life.<sup>1440</sup> Two facts that occurred in 1993 have been repeatedly quoted by Ramadan's critics as evidence of his "doublespeak."<sup>1441</sup> First, he was somehow involved in the cancellation of Voltaire's *pièce Mahomet* (original title: *Le fanatisme ou Mahomet le Prophète*) from the programme for the celebration of the tercentennial of Voltaire's

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<sup>1432</sup> Ibid. 113-114. These circumstances are confirmed by Tariq Ramadan himself in Orsola Casagrande, *Europa domani: conversazione con Tariq Ramadan*, 27.

<sup>1433</sup> Ian Hamel, *La vérité sur Tariq Ramadan*, 119; see also 124-125 and 130.

<sup>1434</sup> See what Tariq Ramadan says about her conversion in Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 106.

<sup>1435</sup> Lionel Favrot, *Tariq Ramadan dévoilé*, 90.

<sup>1436</sup> Ibid. 91.

<sup>1437</sup> Tariq Ramadan, *What I Believe*, 12.

<sup>1438</sup> Ian Hamel, *La vérité sur Tariq Ramadan*, 157.

<sup>1439</sup> Ramadan explains the circumstances of his stay in Egypt on several occasions: see for instance Orsola Casagrande, *Europa domani: conversazione con Tariq Ramadan*, 34-35 (for his first visit to Egypt when he was seventeen years old, see ibid. 32-33). Ramadan says 'In twenty months of intensive study and one-to-one courses, I covered the five-year program of Islamic sciences in specialised universities. This was my purpose, I wasn't interested in a diploma,' Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 105, my translation.

<sup>1440</sup> Ian Hamel even affirms that with this period in Egypt 'starts Tariq Ramadan's second life,' *La vérité sur Tariq Ramadan*, 166.

<sup>1441</sup> See for instance Lionel Favrot, *Tariq Ramadan dévoilé*, 98-101 and 153-157.



birth. According to critics like Fourest and Favrot, Ramadan had applied pressure through two friends of his (the socialist politician Jean Ziegler and his wife Erica Deuber Ziegler, at that time director of the Department of Culture of the city of Geneva) for obtaining the cancellation of the “blasphemous” play.<sup>1442</sup> Instead, according to Ramadan and his defenders, he had simply written an opinion column in Swiss newspapers after the cancellation of the show denouncing the play as a disrespectful portrayal of the Prophet, and recommending greater sensitivity toward the feelings of Muslims, above all during the tragic events occurring at that time in the former Yugoslavia.<sup>1443</sup> Second, in December he travelled to Sudan (with the political scientist François Burgat),<sup>1444</sup> where –during the Popular Arabic and Islamic Conference, ‘an international forum for well-known Muslim radicals with its headquarters in Khartoum’<sup>1445</sup>– he met the Islamist leader Hasan al-Turabi, who went on to define Ramadan as ‘the future of Islam.’<sup>1446</sup> Ian Hamel ironically but correctly<sup>1447</sup> observes that ‘this is the kind of compliment that persecutes you until the end of your days.’<sup>1448</sup> At the beginnings of the ‘90s, Ramadan also established tighter and tighter contact with the Union des Organisations Islamiques de France (UOIF, created in 1983) and, above all, with the Union des Jeunes Musulmans (UJM, launched in 1987 by the UOIF) and its publishing house Tawhid (founded in 1989), which published many books and tapes by Tariq Ramadan.<sup>1449</sup> The social roots of

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<sup>1442</sup> Caroline Fourest, *Frère Tariq. Le double discours de Tariq Ramadan*, 144-145 and Lionel Favrot, *Tariq Ramadan dévoilé*, 98-101. Ramadan confirms that he and Jean Ziegler are good friends: Orsola Casagrande, *Europa domani: conversazione con Tariq Ramadan*, 30.

<sup>1443</sup> Ian Hamel, *La vérité sur Tariq Ramadan*, 180-182. For Ramadan’s position on the Voltaire affaire, see: Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 169-170.

<sup>1444</sup> Ibid. 167.

<sup>1445</sup> See *The Princeton Encyclopedia of Islamic Political Thought*, entry “al-Turabi, Hasan” by Rüdiger Seesemann.

<sup>1446</sup> Ian Hamel, *La vérité sur Tariq Ramadan*, 168.

<sup>1447</sup> Correctly because critics often refer to Ramadan’s acquaintance with Turabi to attack him. For instance, Landau says that ‘Turabi –who some have called the “black pope”– is without any doubt one of the Islamist leaders who have most left their mark on Tariq Ramadan,’ (*Le Sabre et le Coran*, 72, my translation). However, Landau does not provide any conclusive evidence to support this thesis. For a similar position, see also Caroline Fourest, *Frère Tariq. Le double discours de Tariq Ramadan*, 116-117.

<sup>1448</sup> Ian Hamel, *La vérité sur Tariq Ramadan*, 168 my translation.

<sup>1449</sup> Ibid., above all 195-199; Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 15-17 and 109-110; Lionel Favrot, *Tariq Ramadan dévoilé*, 110; Paul Landau, *Le Sabre et le Coran*, 76-77; Caroline Fourest, *Frère Tariq. Le double discours de Tariq Ramadan*, 118-128.

the UJM and Tawhid are in the neighbourhood of les Minguettes (municipality of Vénissieux, Lyon), from which the “Marche pour l’Égalité” (also known as “Marche des Beurs”) started in 1983, demanding equal rights and social inclusion (the evolution of this march subsequently led to the foundation of the association SOS-Racisme in 1984,<sup>1450</sup> which fights against every kind of discrimination). After a decade of frustrated demands for social and economic inclusion, these *banlieues* were now much more prone to religious reference for advancing political claims, and this changing feeling within them explains the success of the UJM and similar organisations.<sup>1451</sup> The link with the UJM and Tawhid was of crucial importance to Ramadan, since it represented the springboard for the diffusion of his voice and celebrity in the “Hexagone.” However, Tariq was not the first Ramadan in contact with the UJM: his brother Hani was already in contact with the association at the end of the ‘80s.<sup>1452</sup> The popularity of Tariq Ramadan in France was sharply increasing when the country was struck by a wave of terrorist attacks related to the civil war in Algeria (such as the RER bombing in Saint Michel, Paris, on July 25, 1995). French intelligence suspected that Hani and Tariq Ramadan were somehow related to the Algerian Islamist groups (the Front Islamique du Salut, FIS, and the Groupe Islamique Armé, GIA), since Hani had previously participated in a demonstration organised by the FIS in Geneva, before the European headquarters of the United Nations.<sup>1453</sup> Much less evident, if at all, was the support of Tariq to the FIS, also taking into account his determined and repeated condemnation of any kind of terrorist violence.<sup>1454</sup> In any case, some have been persuaded that Tariq Ramadan was actually involved,<sup>1455</sup> and this was the line endorsed by the French Ministère de l’Intérieur, which forbade him to enter into France until the administrative Tribunal of Besançon declared the ban void in 1996 (after a great mobilisation of public intellectuals in France, Switzerland, and Belgium for supporting him). On his part, Ramadan accused the Egyptian government of having put pressure on France to ban him after

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<sup>1450</sup> The egalitarian-rights oriented associations of this kind and the new Islamic ones have different goals; proof of this can be found in the critique that Ramadan raises against the positions of SOS-Racisme about the *affaire du foulard*, see Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 193 and 196.

<sup>1451</sup> Ian Hamel, *La vérité sur Tariq Ramadan*, 197 and Lionel Favrot, *Tariq Ramadan dévoilé*, 128-129.

<sup>1452</sup> Lionel Favrot, *Tariq Ramadan dévoilé*, 74.

<sup>1453</sup> Ian Hamel, *La vérité sur Tariq Ramadan*, 209.

<sup>1454</sup> For instance (and very clearly) in Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 299-302.

<sup>1455</sup> This is the firm belief of Caroline Fourest: see *Frère Tariq. Le double discours de Tariq Ramadan*, 162-171.

the publication of his critique of Mubarak's rigid suppression of the Islamist opposition and, effectively, Egypt did prevent him from entering the country for the burial of his father in the same year.<sup>1456</sup> Furthermore, his brother Hani was banned from France between 1997 and 2001.<sup>1457</sup> However, the main scandal involving Hani Ramadan is represented by the publication of his article "La charia incomprise" by *Le Monde* on September 10<sup>th</sup>, 2002, in which he claims that stoning has mainly a dissuasive function because it is difficult to fulfil the conditions established for its application. However, he also affirms that AIDS is a divine punishment for human lust, since (according to him) this infection does not touch those who respect God's commandments.<sup>1458</sup> Hani had already been under attack for his book *La femme en islam* published by Tawhid in 1991,<sup>1459</sup> which many blamed as defending the subjugation of women.<sup>1460</sup> Owing to his article, Hani Ramadan has been at the centre of a major controversy: in January 2003 he was removed from his teaching position in public schools and, after a long judicial battle between him and Geneva authorities, he was dismissed with a severance payment of 345,000 Swiss francs.<sup>1461</sup> Coming back to Tariq, in 1996 he spent one year at the Islamic Foundation in Leicester and published *To Be a European Muslim*. This academic visit to the Islamic Foundation has also been profusely discussed by Ramadan's critics, since the Foundation was created in 1973 by Islamists close to Mawdudi and his Jama'at-i Islami (*supra*) and was among the first Islamic actors in the UK to campaign against Salman Rushdie in

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<sup>1456</sup> Ibid. 167-171, and Ian Hamel, *La vérité sur Tariq Ramadan*, 205 and 209.

<sup>1457</sup> Ian Hamel, *La vérité sur Tariq Ramadan*, 209-210, Caroline Fourest: see *Frère Tariq. Le double discours de Tariq Ramadan*, 171-172, and Lionel Favrot, *Tariq Ramadan dévoilé*, 74-75.

<sup>1458</sup> Hani Ramadan, "La charia incomprise," *Le Monde* September 10<sup>th</sup>, 2002.

<sup>1459</sup> Hani Ramadan, *La femme en islam* (Lyon: Tawhid, 1991).

<sup>1460</sup> Lionel Favrot, *Tariq Ramadan dévoilé*, 76-77, Caroline Fourest: see *Frère Tariq. Le double discours de Tariq Ramadan*, 136-137.

<sup>1461</sup> Ibid. 80-84, Ian Hamel, *La vérité sur Tariq Ramadan*, 125-128, Caroline Fourest: see *Frère Tariq. Le double discours de Tariq Ramadan*, 138-140, and Marc Lalive d'Epinay, "L'État de Genève débourse 345 000 francs pour se débarrasser de Hani Ramadan," *Le Temps* January 17, 2008, available at URL = [http://www.letemps.ch/Page/Uuid/01536816-a9f9-11dd-bf59-ad3d6140ad87/LEtat\\_de\\_Gen%C3%A8ve\\_d%C3%A9bourse\\_345\\_000\\_francs\\_pour\\_se\\_d%C3%A9barrasser\\_de\\_Hani\\_Ramadan](http://www.letemps.ch/Page/Uuid/01536816-a9f9-11dd-bf59-ad3d6140ad87/LEtat_de_Gen%C3%A8ve_d%C3%A9bourse_345_000_francs_pour_se_d%C3%A9barrasser_de_Hani_Ramadan).

1988.<sup>1462</sup> While many emphasise the connections between Said Ramadan (Tariq's father) and the Pakistani Islamic movement (*supra*) and claim that the choice of the Islamic Foundation is simply yet more evidence of Tariq Ramadan's doublespeak, Ian Hamel suggests a different interpretation. According to him, Ramadan's choice, while 'far from being naïve,'<sup>1463</sup> responds to two threads of logic: 'simply this foundation, beyond the fact that it offered a scholarship to him, corresponded to Ramadan's militant commitments of that time.'<sup>1464</sup> In other words, after being prohibited to enter into France had given him real international fame by making him a "victim," the choice of the Islamic Foundation had the function of creating a more Islamic and politically engaged image. Ramadan then needed real academic credibility, so that he could present himself as an 'activist scholar;' a public role that he still proudly claims for himself.<sup>1465</sup> Consequently, he defended a Ph.D. thesis on Islamic reformism at the University of Geneva; a thesis that raised a controversy, for it was deemed an apologia of his grandfather by his first supervisor who finally rejected it, but a new committee went on to accept it and Ramadan successfully defended it.<sup>1466</sup> The thesis was then published with the title *Aux sources du renouveau musulman: D'al-Afghānī à Hassan al-Bannā, un siècle de réformisme islamique*. His academic career started with a professorship at the Institut de Science des Religions of the University of Fribourg, where he taught from 1997 to 2004.<sup>1467</sup> The second half of the year 2003 was characterised by two major events. On October 3, just before his participation in the second European Social Forum in Paris that November, Tariq Ramadan published an article entitled "Critique des (nouveaux) intellectuels communautaires" on

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<sup>1462</sup> Lionel Favrot, *Tariq Ramadan dévoilé*, 112-113 and 162, Paul Landau, *Le Sabre et le Coran*, chapter five, Ian Hamel, *La vérité sur Tariq Ramadan*, 210-212, Caroline Fourest: see *Frère Tariq. Le double discours de Tariq Ramadan*, 85-87, Paul Berman, "Who's Afraid of Tariq Ramadan?" 4-5. For Ramadan's comments about his stay in Leicester, see Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 117-119.

<sup>1463</sup> Ian Hamel, *La vérité sur Tariq Ramadan*, 211.

<sup>1464</sup> Ibid. 212. My translation.

<sup>1465</sup> Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 126.

<sup>1466</sup> For a reconstruction of the events, see Ian Hamel, *La vérité sur Tariq Ramadan*, chapter nineteen.

<sup>1467</sup> Ian Hamel, *La vérité sur Tariq Ramadan*, 219-222.

the website Oumma.com,<sup>1468</sup> which both *Le Monde* and *Libération* had previously refused.<sup>1469</sup> In this article, Ramadan voiced a strong criticism against ‘Jewish French intellectuals who were previously considered as universalist thinkers [and who] have begun, at a national and international level, to develop analyses which are more and more oriented toward communitarian concern.’<sup>1470</sup> He then listed some of those ‘Jewish communitarian’ thinkers: Alain Finkelkraut, Alexandre Adler, Bernard Kouchner, André Glucksman, Bernard-Henri Lévy, and even Pierre-André Taguieff (who is not Jewish).<sup>1471</sup> Obviously, this article and the very unfortunate (to say the least) idea of listing names of Jewish intellectuals –immediately compared to *The Protocols of the Elders of Zion* by Bernard-Henri Lévy<sup>1472</sup>– provoked a great controversy. Ramadan’s defence was (and is) that, as in his other speeches and books, there is nothing anti-Semitic in the article, while at the same time he defended (and defends) his right to criticise Israel for its policies.<sup>1473</sup> Ramadan has repeatedly argued that his position is that ‘criticism is legitimate, but racism is not. Antisemitism is never justified.’<sup>1474</sup> The second important event of 2003 is Ramadan’s appearance on the television show “100 Minutes pour Convaincre” on France 2 on November 20, in which he faced Nicolas Sarkozy (who was Minister of the Interior at that time) and famously proposed a moratorium on stoning, which later became an “International Call for Moratorium on Corporal Punishment, Stoning, and the

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<sup>1468</sup> “Critique des (nouveaux) intellectuels communautaires,” published on the website Oumma.com on Octobre 2, 2003, URL = <http://oumma.com/Critique-des-nouveaux>. The text of the article can also be found in Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 323-326.

<sup>1469</sup> Ian Hamel, *La vérité sur Tariq Ramadan*, 263.

<sup>1470</sup> See Ramadan’s article in Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 324, my translation. Alternatively, see the online version.

<sup>1471</sup> Ian Hamel, *La vérité sur Tariq Ramadan*, 264.

<sup>1472</sup> Ibid.

<sup>1473</sup> Ibid. 264-267. See Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 263-289.

<sup>1474</sup> Quoted in Ian Hamel, *La vérité sur Tariq Ramadan*, 265, my translation.

Death Penalty in the Islamic World.”<sup>1475</sup> The fact that he had advocated a moratorium rather than an immediate abolition scandalised many people. I will devote more attention to this proposal later in this chapter. Subsequently, he was invited to join the faculty of Notre Dame University, Indiana, at the Kroc Institute for International Peace Studies, starting in the academic year 2004-2005, recruited by Professor Scott Appleby, today Marilyn Keough Dean of Notre Dame’s Keough School of Global Affairs.<sup>1476</sup> Having already obtained a visa for his whole family, arranged their relocation to the U.S.A., and enrolled his children in American schools,<sup>1477</sup> in the summer of 2004 he was informed that his visa had been revoked by the Homeland Security Department invoking the Patriot Act, without any further explanation. He finally gave up his position.<sup>1478</sup> Nonetheless, a political case exploded: the American Civil Liberties Union (ACLU), the American Association of University Professors (AAUP), and the Pen American Centre (among other associations and individual intellectuals) took his side in a media campaign for freedom of expression and against ideological exclusion.<sup>1479</sup> In an article published in the *Washington Post*, Ramadan argues that the prohibition was subsequently motivated (after a new visa application in September 2005 and a judicial order forcing the State Department to reply to the applicant)<sup>1480</sup> by the fact that between 1998 and 2002 he had donated a small amount of money to two charitable organisations (the Committee for Charity and Support for the Palestinians and the Association de Secours Palestinien), which in 2003 the U.S. Treasury Department listed among terrorist fundraising organisations for their al-

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<sup>1475</sup> This is the full title of a document published by Ramadan later in April 2005 (available on his website: URL = <http://tariqramadan.com/blog/2005/04/05/an-international-call-for-moratorium-on-corporal-punishment-stoning-and-the-death-penalty-in-the-islamic-world/>). He expressed the same concepts during the show “100 Minutes pour Convaincre,” although on that first occasion his message was more prone to be misunderstood. The transcript of the debate is available in Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 345-357. He also wrote an article for *Le Monde* (“Pour une moratoire sur l’application de la charia dans le monde musulman,” April 1, 2005, available at URL = [http://www.lemonde.fr/idees/article/2005/04/01/pour-un-moratoire-sur-l-application-de-la-charia-dans-le-monde-musulman\\_634114\\_3232.html?xtmc=tariq\\_ramadan&xtcr=207](http://www.lemonde.fr/idees/article/2005/04/01/pour-un-moratoire-sur-l-application-de-la-charia-dans-le-monde-musulman_634114_3232.html?xtmc=tariq_ramadan&xtcr=207)), which was also translated in English (“For a Moratorium on the Application of Sharia in the Muslim World,” available at URL = <http://www.truth-out.org/archive/component/k2/item/53443:tariq-ramadan--for-a-moratorium-on-sharia>).

<sup>1476</sup> Caroline Fourest: see *Frère Tariq. Le double discours de Tariq Ramadan*, 187. See the personal page of Professor Appleby on the Notre Dame University website: URL = <http://kroc.nd.edu/facultystaff/faculty/r-scott-appleby>.

<sup>1477</sup> Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 125.

<sup>1478</sup> Ian Hamel, *La vérité sur Tariq Ramadan*, 277-278.

<sup>1479</sup> Ibid. 279.

<sup>1480</sup> Tariq Ramadan, “Why I’m Banned in the USA,” *Washington Post* October 1, 2006, available at URL = <http://www.washingtonpost.com/wp-dyn/content/article/2006/09/29/AR2006092901334.html>.

leged links with Hamas.<sup>1481</sup> Notwithstanding the fact that Ramadan had stopped his donations to these organisations before they were blacklisted by the U.S. administration, he was told that his 2004 visa was revoked because he ‘should reasonably have known’ the affiliation of the two organisations.<sup>1482</sup> In his article, Ramadan remarks:

‘[T]he U.S. Embassy claims that I “reasonably should have known” that the charities in question provided money to Hamas. But my donations were made between December 1998 and July 2002, and the United States did not blacklist the charities until 2003. How should I reasonably have known of their activities before the U.S. government itself knew? I donated to these organizations for the same reason that countless Europeans –and Americans, for that matter– donate to Palestinian causes: not to help fund terrorism, but because I wanted to provide humanitarian aid to people who desperately need it. Yet after two years of investigation, this was the only explanation offered for the denial of my visa. I still find it hard to believe.’<sup>1483</sup>

Finally, the ban was lifted in 2010 by the U. S. State Department with an order signed by Hillary Clinton, due to the lawsuit launched by the ACLU.<sup>1484</sup> The 2004 prohibition was not, however, the end of Ramadan’s projection toward the Anglo-Saxon world. In fact, the turning point was in 2005. Firstly, he was invited by the Saint Anthony’s College of Oxford University, where he is now H.H. Sheikh Hamad bin Khalifa Al Thani Professor of Contemporary Islamic Studies and teaches Contemporary Islamic Ethics, Islam in the West, and Contemporary Islamic Movements.<sup>1485</sup> Secondly, in the same year Ramadan was appointed by Blair’s government to join a task force (a ‘working group on tackling extremism’), following the

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<sup>1481</sup> Ibid. See also “Muslim Scholar Barred by U.S. Denies Support for Terrorism,” *The New York Times* Europe September 26, 2006, available at URL = [http://www.nytimes.com/2006/09/26/world/europe/26scholar.html?\\_r=0](http://www.nytimes.com/2006/09/26/world/europe/26scholar.html?_r=0).

<sup>1482</sup> Tariq Ramadan, “Why I’m Banned in the USA.”

<sup>1483</sup> Ibid.

<sup>1484</sup> Sheldon Chad, “Ramadan’s Visa Ban Lifted,” *The Guardian* January 23, 2010, available at URL = <http://www.theguardian.com/commentisfree/belief/2010/jan/23/tariq-ramadan-clinton-visa>.

<sup>1485</sup> See his personal page on Saint Anthony’s College: URL = <http://www.sant.ox.ac.uk/people/tariq-ramadan> and <http://www.orinst.ox.ac.uk/staff/iw/ramadan.html>. Sheikh Hamad bin Khalifa Al Thani was the Emir of Qatar from 1995 to 2013.

London bombings on July 7, 2005.<sup>1486</sup> In 2007 he began a professional partnership with the City of Rotterdam and the Erasmus University, where he taught a course about identity and citizenship, but in 2009 the local authorities and the university decided to interrupt any collaboration with Ramadan due to his English-language show (“Islam and Life”) on the Iranian channel PressTV (*supra*).<sup>1487</sup> Ramadan brought an action against both the Erasmus University and the City of Rotterdam in August 2009 and finally won his lawsuit against the university in November 2012 and against the municipality in March 2013: the court ordered compensation for his unfair dismissal.<sup>1488</sup> Beside his Oxford professorship and his role as Director of the Centre for Islamic Legislation and Ethics (CILE), he is currently Senior Research Fellow at Centre for Interdisciplinary Study of Monotheistic Religions at Doshisha University (Japan),<sup>1489</sup> and Visiting Professor in the following universities: Faculty of Islamic Studies (Qatar),<sup>1490</sup> Mundiapolis (Morocco), and Perlis (Malaysia).<sup>1491</sup>

Ramadan’s work has been discussed from different angles. In the first place, as I mentioned above, Ramadan is accused of doublespeak, of being Janus-faced, and of practicing *taqiyya* (see chapter one for the definition of *taqiyya*). As I said, doublespeak consists in ‘saying something before an audience so as to flatter or mislead it and something different, with other content, elsewhere before another audience or in another language.’<sup>1492</sup> Thus, doublespeak is essentially a deceitful and fraudulent discourse. Ramadan is often accused of being

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<sup>1486</sup> Ian Hamel, *La vérité sur Tariq Ramadan*, 293. See also the article by Vikram Dodd, “Blair Backs Banned Muslim Scholar,” *The Guardian* August 31, 2005, available at URL = <http://www.theguardian.com/uk/2005/aug/31/religion.terrorism>.

<sup>1487</sup> Caroline Fourest, *Frère Tariq. Le double discours de Tariq Ramadan*, 193-194; Mark Hoogstad, “Rotterdam Fires Tariq Ramadan Over Iranian TV Show,” *NRC Handelsblad* August 18, 2009, available at URL = <http://vorige.nrc.nl/article2332245.ece>; and Toby Sterling, “Dutch University Fires Islamic Scholar Ramadan,” *The Guardian* August 18, 2009, URL = <http://www.theguardian.com/world/feedarticle/8662988>.

<sup>1488</sup> “Décision du Tribunal de Rotterdam, 8 11 2012,” available on Tariq Ramadan’s website: URL = <http://tariqramadan.com/blog/2012/11/09/decision-du-tribunal-de-rotterdam-08-11-2012/> and “Tariq Ramadan gagne son second procès, contre la municipalité de Rotterdam,” available at URL = <http://tariqramadan.com/blog/2013/03/19/tariq-ramadan-gagne-son-second-proces-contre-la-municipalite-de-rotterdam/>.

<sup>1489</sup> See URL = <http://www.cismor.jp/en/researchers/>, accessed on August 2, 2015.

<sup>1490</sup> See URL = <http://www.qfis.edu.qa/about-us/our-faculty>, accessed on August 2, 2015.

<sup>1491</sup> See URL = <http://tariqramadan.com/elements-de-biographie/>, accessed on August 2, 2015.

<sup>1492</sup> Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 65, my translation.



the example of Muslim doublespeak in Europe *par excellence*.<sup>1493</sup> The *fil rouge* of this line of criticism can be easily resumed in these terms: ‘a simple reading of [Ramadan’s] books allows the experts to see him for what he is, that is, an Islamist preacher who takes part in the *da‘wa* (propaganda [*sic!*]), rather than an enlightened academic and a reformer.’<sup>1494</sup>

Secondly, with a similar perspective, there are those who are sceptical about Ramadan’s idea of ‘Salafi reformism,’ a concept elaborated in his first works<sup>1495</sup> and deeply revised in his book *Radical Reform*. Actually, one could argue (as suggested by Andrew March) that the adjective “radical” has definitively substituted the adjective “Salafi” with reference to his religious reformism, meaning that Ramadan has gradually ‘dissolved’ Islamic law into ethics by

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<sup>1493</sup> This kind of criticism is present, of course, in the famous book by Caroline Fourest *Frère Tariq. Le double discours de Tariq Ramadan* and constitutes its main argument, but also in Paul Landau, *Le Sabre et le Coran*, 75 (‘everyone can choose “her own” Tariq Ramadan,’ my translation), chapter 8 (in which he refers to Ramadan the following metaphor: ‘the incendiary fireman who fires up the Islamist flame when he speaks to a Muslim audience, and pretends to extinguish the fire when he speaks to a Western audience,’ my adapted translation from page 141), 203, and in Lionel Favrot, *Tariq Ramadan dévoilé*, 94, 105, and 204-207.

<sup>1494</sup> Lionel Favrot, *Tariq Ramadan dévoilé*, 105, my translation.

<sup>1495</sup> The concept of Salafi reformism represents the core of the methodology elaborated by Ramadan in his early works, such as *Les musulmans dans la laïcité: responsabilités et droits des musulmans dans les sociétés occidentales*, revised edition (Lyon: Tawhid, 1998), in particular 70-72, *To Be a European Muslim* (in which the concept is explicitly mentioned at 241-242), and *Western Muslims and the Future of Islam*, 26-27. Note that he develops the historical framework of the origins of Salafi reformism in his doctoral thesis, published as *Aux sources du renouveau musulman: D’al-Afghānī à Hassan al-Bannā, un siècle de réformisme islamique*. In few words and simplifying greatly, the basic idea of Salafi reformism is that Muslims should remain faithful to the universal core principles of Islam, ‘but in a manner relevant to [their] context [that] permits Muslims to understand their presence in Europe positively’ (*To Be a European Muslim*, 4). The rationale behind this approach is that ‘Muslims must develop an understanding of the Western context that will make it possible for them to do what all Muslims have done throughout history: to integrate whatever there is in the culture where they live that does not contradict what they are and what they believe,’ *Western Muslims and the Future of Islam*, 216. Methodologically, Ramadan claims that Muslims should consider eternal and universal principles of *Shari‘a* (which he translates as ‘the way’ or ‘the path leading to the source,’ *Western Muslims and the Future of Islam*, 257) only those principles expressed in the *‘ibādāt* (which refers to matters related to worship), and the *‘aqīda* [‘all the matters related to the six pillars of *al-īmān*’ (faith), (*Western Muslims and the Future of Islam*, 253), that is believing in God, the angels, the book, the prophets, the day of Judgement, and predestination], while those parts of the *fiqh* (Islamic jurisprudence) that are related to *mu‘āmalāt* (social affairs) are not fixed once and for all and can be interpreted in light of the context through three key notions: *ijtihād* (‘effort exercised by a jurist to extract a law or a ruling from non-explicit scriptural sources or to formulate a specific legal opinion in the absence of texts of reference’ *To Be a European Muslim*, 259), *maslaha* (considerations of public interest, *To Be a European Muslim*, 76), and *fatwā* (‘explicit legal ruling’ as answer to a question concerning a legal issue, *To Be a European Muslim*, 259). For this approach, see in particular *To Be a European Muslim*, 3, 10, 43, 60, 76-99, and 130, and *Western Muslims and the Future of Islam*, 26-27, 35, 37-49, 62, 115, 214, and 216.

the means of concepts provided by Islamic law itself.<sup>1496</sup> However, the methodology and content of Ramadan's religious reformism is a question that concerns mainly conjecturers and justificatory comparative political theorists, and I limit myself to merely mentioning it. What matters here is that some have interpreted his reformism as aiming at producing 'an Islamic counterculture within the West' and claiming 'a share of the public space, not just a share of

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<sup>1496</sup> For this idea and a thorough and exhaustive analysis of Ramadan's religious reformism, see Andrew F. March, "Law as a Vanishing Mediator in the Theological Ethics of Tariq Ramadan," *European Journal of Political Theory* 10, no. 2 (2011), 177-201. Briefly, March pinpoints three phases in Ramadan's work, which progressively lead to the dissolution of Islamic law through concepts that Ramadan derives from the law itself: the idea that 'whatever is not prohibited is in fact permissible' from an Islamic perspective (Tariq Ramadan, *To Be a European Muslim*, 64), and the two notions of *maslaha* (public interest, *supra*) and *maqāsid al-Sharī'a* (objectives of *Sharī'a*). Precisely for this reason March defines Islamic law as a 'vanishing mediator' in the thought of Tariq Ramadan: finally, '[i]t is these concepts [derived from Islamic law itself] which have facilitated, mediated, a turn to a conception of Islamic ethics which is now free to leave behind the specific constraints and forms of standard juridico-ethical reasoning,' thus Ramadan 'dissolve[s] the formal constraints of law without ever declaring this as an objective or requirement for its own sake but rather by appropriating the conceptual resources and contents provided by the law itself' (Andrew F. March, "Law as a Vanishing Mediator in the Theological Ethics of Tariq Ramadan," 180). The first phase is the one represented by *To Be a European Muslim* (1999), in which Ramadan theorises a return to classical sources of legal theory to show that it is possible for Muslims to be European citizens and to live together with non-Muslims through the idea of a binding contract: this is the phase that March calls 'classical legal theory as a mandate for political moderation' ("Law as a Vanishing Mediator in the Theological Ethics of Tariq Ramadan," 180). The second phase corresponds to the elaboration of the two works *Islam, the West and the Challenges of Modernity* (2001) and *Western Muslims and the Future of Islam* (2004). In this phase, there is no substantial change in Ramadan's discourse about Muslims' allegiance to the authentic tradition of Islam, but he introduces two new elements. First, Ramadan emphasises 'legal theory's mandate for *change* in the area of [Islamic] applied positive law' ("Law as a Vanishing Mediator in the Theological Ethics of Tariq Ramadan," 187). Second, he carries out 'a reduction in status of the kinds of questions which admit of distinctly legal answers' (*ibid.*). This is done thanks to the already mentioned notions of *maslaha* (public interest) and *maqāsid al-Sharī'a* (objectives of *Sharī'a*). In this way, *Sharī'a* becomes a 'substantive moral matrix' (*ibid.* 188) rather than a fixed legal code of prescriptions and prohibitions. For this reason, as I have said, Ramadan defines *Sharī'a* as 'the way' or 'the path leading to the source' (*Western Muslims and the Future of Islam*, 257) and not simply "the law." The third and final phase corresponds to *Radical Reform* (2009), in which there is an 'explosion of the very idea of the law from within' ("Law as a Vanishing Mediator in the Theological Ethics of Tariq Ramadan," 192): those concepts which from the very beginning he has derived from the law now allow him to dissolve law into ethics. Effectively, he is persuaded that the limits of his previous approach have been reached (Tariq Ramadan, *Radical Reform*, 2). Then, in this third phase there is a move from Salafi reformism as an 'adaptation reform' to radical reformism as a 'transformation reform' (*ibid.* 3 and 30-33). The latter 'raise[s] the issue of the sources of *usūl al-fiqh* [(fundamentals of Islamic law and jurisprudence)],' and it aims 'to revisit not only the tools and concrete, historical implementations of *fiqh*, but also their sources, their categorization, and at the same time [...] the range of their authority' (*ibid.* 3). Thus, his new approach goes beyond a mere reform of *fiqh*. Instead, it touches the question of the sources of *fiqh* itself and their authority. Effectively Ramadan's radical reformism is "radical" precisely because it 'suggest[s] a new geography of the sources of *usūl al-fiqh*' (*ibid.* 5). Concretely, this means that Ramadan includes within the authoritative sources of Islamic law and jurisprudence not only the knowledge deriving from revelation [the scriptural sources (the Qur'an and the Sunna –tradition– of the Prophet) and the methods of legal reasoning developed by scholars during the centuries], but also the 'book of the universe' and the knowledge deriving from the study of the context in which one lives (*ibid.* 3-5, 34-38, and chapters eight and ten). For March, this last phase in Ramadan's thought is very demanding from a theological and methodological perspective, because it entails a 'radical displacement of law from the centre of Islamic normative inquiry and its substitution with a more elusive conception of "ethics",' [see Andrew F. March, "Review Essay: The Post-Legal Ethics of Tariq Ramadan: Persuasion and Performance in *Radical Reform: Islamic Ethics and Liberation*," *Middle East Law and Governance* 2, no. 2 (2010), 254], but it is much less innovative when it comes to the practical dimension of his applied ethics (in part four –'case studies'– of *Radical Reform*). For this, see the conclusions of March's article "Law as a Vanishing Mediator in the Theological Ethics of Tariq Ramadan," 195-197.

the private sphere.’<sup>1497</sup> According to Paul Berman, for instance, Ramadan does not want to deceive his Western audience.<sup>1498</sup> Rather, Salafi reformism is problematic because it ‘look[s] for modern concepts, and for Qur’anic equivalents, and [fills] the modern with the Qur’anic.’<sup>1499</sup> However, Berman seems to suggest that this expropriation of modernity is dangerous because finally it cannot reach a compromise with the proper and specific terms of modernity itself: Berman cites the examples of antisemitism, terrorism, and the subjugation of women to show that filling the “modern” with the “Islamic” is not a good strategy if one wants to be true to the former.<sup>1500</sup>

Thirdly, other authors have argued that Ramadan’s thought is unable to trigger a process of evolution in European Islam. This is the opinion of the well-known grand mufti of Marseilles, who affirms that ‘Ramadan’s discourse is disastrous [in French: *néfaste*] for the future of Islam in Europe,’ claiming that the French ‘Republic must not have more complexes toward Muslims than toward Catholics.’<sup>1501</sup> Finally, others have compared Ramadan to the evangelical pastor Jerry Falwell, one of the founders of American Christian fundamentalism.<sup>1502</sup>

On the other hand, Ramadan has prominent defenders. Just to name a few examples, the professors Olivier Roy, Jørgen Nielsen, and Frank Frégosi, and the journalists Ian Hamel and Ian Buruma manifest their appreciation (certainly in different ways and sometimes with some

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<sup>1497</sup> Paul Berman, “Who’s Afraid of Tariq Ramadan?” 27.

<sup>1498</sup> Ibid. 23.

<sup>1499</sup> Ibid.

<sup>1500</sup> Ibid. 27-51.

<sup>1501</sup> Soheib Bencheikh, “Foreword,” in Lionel Favrot, *Tariq Ramadan dévoilé*, page not numbered.

<sup>1502</sup> Bruce Bawer, *While Europe Slept*, 67-68. For a historical and comparative analysis of American fundamentalism, see Enzo Pace and Renato Guolo, *I fondamentalismi* (Rome and Bari: Laterza, 2002), in particular 11-28.

reserves) for Tariq Ramadan's contribution toward a new conceptualisation of Muslims' citizenship in Western Europe.<sup>1503</sup>

Importantly, some authors have also recently considered Ramadan's theoretical production from the perspective of Rawls's political liberalism. Note that Ramadan is aware of Rawls's political theory. To my knowledge, however, he cites Rawls only two times and always quite critically.<sup>1504</sup> Hence, Ramadan does not claim to be a Rawlsian. Nonetheless, both Andrew March and Cristopher DeVito have explored some Rawlsian implications of Ramadan's work.<sup>1505</sup> Then, the obvious question is this: what (if at all) is the difference between my research and their analyses? The answer can be found in Figure 5 above: March and DeVito mainly focus on the full Islamic justification of the liberal political conception of citizenship (that is, they are concerned with conjecture),<sup>1506</sup> whereas I try to evaluate whether the conception of citizenship proposed satisfies the requirements of a model of citizenship based on public reason. As I have already said (see chapter two for further details), the two approaches are

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<sup>1503</sup> Olivier Roy, *Secularism Confronts Islam*, 10, 24-25, 44-45, 51, 95, and 97. For Jørgen Nielsen, see his foreword to Tariq Ramadan's *To Be a European Muslim*, xiii. Frank Frégosi, "Les contours discursifs d'une religiosité citoyenne: laïcité et identité islamique chez Tariq Ramadan," notably 207, 210, 216-17, and 218. Ian Hamel, *La vérité sur Tariq Ramadan*, 20-22, 170, 187, 189-190, 299-300, and 312. Ian Buruma, "Tariq Ramadan Has an Identity Issue," 3 and 7, while on pages 4 and 5 Buruma expresses two of the reserves that I have mentioned, about, respectively, Ramadan's criticism of capitalism and his article "Critique des (nouveaux) intellectuels communautaires," (*supra*).

<sup>1504</sup> Tariq Ramadan, *Radical Reform*, 267 and *The Quest For Meaning: Developing a Philosophy of Pluralism*, 147. Actually, Ramadan provides a very concise (and even oversimplified) reading of Rawls's political liberalism, since he limits himself to saying that '[f]or some, like Rawls, pluralism can only exist by stressing the need for public space to be neutral,' while Ramadan underlines the obvious truth that in reality 'no public sphere can be wholly neutral culturally or religiously' (*Radical Reform*, 267).

<sup>1505</sup> For Andrew F. March, see "Reading Tariq Ramadan: Political Liberalism, Islam, and 'Overlapping Consensus'," *Ethics and International Affairs* 21, no. 4 (2007), 399-413; "Review Essay: The Post-Legal Ethics of Tariq Ramadan: Persuasion and Performance in *Radical Reform: Islamic Ethics and Liberation*;" and finally "Law as a Vanishing Mediator in the Theological Ethics of Tariq Ramadan." For Christopher DeVito, see "Who is the Real Tariq Ramadan?" *Al Nakhlah* – The Fletcher School Online Journal on Southwest Asia and Islamic Civilization (Spring 2009), available at URL = <http://fletcher.tufts.edu/Al-Nakhlah/Archives/spring2009>. Incidentally, note that also Nina zu Fürstenberg (in *Chi ha paura di Tariq Ramadan?*, 25) draws a parallel between Ramadan's work and Rawls's political theory (she explicitly mentions public reason). However, she does not elaborate further that intuition, nor does she explain the connection between Rawls's public reason and Ramadan's citizenship theory.

<sup>1506</sup> See for instance: Christopher DeVito, "Who is the Real Tariq Ramadan?" 6. Andrew F. March, "Reading Tariq Ramadan: Political Liberalism, Islam, and 'Overlapping Consensus'," 405-412; "Review Essay: The Post-Legal Ethics of Tariq Ramadan: Persuasion and Performance in *Radical Reform: Islamic Ethics and Liberation*," 254 and 257-263, and the entire "Law as a Vanishing Mediator in the Theological Ethics of Tariq Ramadan."

complementary<sup>1507</sup> but different, and the difference between the two perspectives goes back to the difference between justificatory comparative political theory and justificatory evaluative political theory. Roughly, while JCPT and JEPT are part of the same Rawlsian logical framework, one could say that the centre of gravity of the two is not the same: JCPT revolves around Islamic doctrine and the effort to find (conjecture) Islamically persuasive arguments to fully justify the political conception of citizenship, while JEPT gravitates toward the public perspective expressed through the idea of public reason. In other words, JCPT is more interested in considering the merits of Ramadan's religious reformism, while JEPT is concerned with his conception of the public space (Rawls's public political forum) from the perspective of the public space itself as conceived through public reason.

Therefore, before getting to the heart of the evaluation concerning RR, CR, and CiR, I must explain in a few words the main features of Ramadan's European Muslim paradigm, limiting myself (for the reasons that I have just clarified) to the dimensions related to citizenship. First of all, Ramadan describes the situation of Muslims in contemporary Europe in terms of five facts, listed in *To Be a European Muslim*:<sup>1508</sup>

1. 'There is a revival of Islamic spirituality and practice as well as a feeling of belonging to a religious community;'
2. 'The number of indigenous European Muslims is increasing either through conversion to Islam or through birth;'
3. 'The number of places of worship have multiplied;'
4. 'The number of Islamic organisations in Europe is increasing daily;'

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<sup>1507</sup> For instance, March explicitly acknowledges that it is also possible to consider Ramadan's work from a perspective similar to justificatory evaluative political theory. For instance, he argues that 'we have an obligation to evaluate the political thought of someone like Ramadan from this perspective: Is he endorsing the liberal terms of social cooperation on principled grounds or not? Is Ramadan calling on Muslims to endorse European citizenship or is he peddling an esoteric doctrine of subversion from within liberal societies, which a close reading of his utterances will reveal?,' Andrew F. March, "Reading Tariq Ramadan: Political Liberalism, Islam, and 'Overlapping Consensus'," 403. Note from this statement how the two approaches (JCPT and JEPT) are complementary and connected, to the point that sometimes JCPT tends to fade in JEPT, as the subtle difference between March's two questions suggests.

<sup>1508</sup> Tariq Ramadan, *To Be a European Muslim*, 120-121.

5. ‘At least 80% of Muslims do not practise their religion regularly and do not, for example, perform their daily prayers. Less than 40% attend the Friday gathering at the mosque. About 70%, however, do fast during the sacred month of Ramadan.’

These considerations concern mainly the sociological aspect of the matter. However, from a more substantial point of view, he adds three important remarks about the condition of Muslims in Europe along three pivotal dimensions:<sup>1509</sup>

1. *Concerning their rights and the constitutional and legal framework in which these rights are inscribed*, he says that Muslims are ‘generally allowed to practise their religion in peace, to build mosques (even if they sometimes have to face administrative hindrances) and to found Islamic organisations.’ Crucially, this is, according to Ramadan, ‘*clear evidence that the various European constitutions and laws respect Islam as a religion and Muslims as believers who have the right, as others to enjoy freedom of worship.*’<sup>1510</sup> He also maintains that ‘[o]ccasionally, on a specific issue, one can identify a discriminating decision or a tendentious way of reading the law, but by and large *there is no European constitution which is anti-Islamic per se.*’
2. *Concerning social inclusion*, he observes that Muslims in Europe can generally ‘live in an atmosphere of *security and peace* concerning religious matters.’ He adds that one should not confuse religious discrimination in its proper meaning with political, social, and economic problems such as racism, unemployment, and poverty, as I have underlined many times in the first chapter.
3. *Concerning religious practice*, on the other hand, he complains that ‘[t]he European context –and generally life in an industrialised and modern society– makes religious duties difficult to perform and respect,’ since ‘[r]eligion, spirituality or any manifestation of Faith have almost completely disappeared from the public face [*sic*].’

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<sup>1509</sup> Ibid. 121-122.

<sup>1510</sup> Emphasis added.

This three-layered description of Muslims' conditions of life in Europe is quite complete. Clearly, I will focus on the first two dimensions mentioned above (on the one hand, rights and the constitutional and legal framework and, on the other, social inclusion). However, what is important here is the fact that Ramadan draws the picture of a complex world,<sup>1511</sup> in which 'it is impossible to stick to an old, simple and binary vision of reality,'<sup>1512</sup> such as the one suggested by the traditional distinction in 'Islamic political geography'<sup>1513</sup> between *dār al-ḥarb* (abode of war), *dār al-islām* (abode of Islam), and –possibly– *dār al-ṣulḥ* (abode of truce) or *dār al-'ahd* (abode of treaty).<sup>1514</sup> From the Muslim perspective, he thus suggests to understand European societies in a new way, as *dār al-shahāda* or abode of testimony:<sup>1515</sup> a space in which the Muslim 'as a Believer among human beings [...] has to bear witness'<sup>1516</sup> to her faith and her Muslim identity through her speech but also through her acts. It is all the more important to be willing and able to act as a *shahīd* (witness) in Europe, for 'Muslims settled in the West are at the centre, at the heart, at the head of the system which produces the symbolical apparatus of Westernisation.'<sup>1517</sup> To be sure, Ramadan is entirely aware of the weight of Europe's colonial past on mutual perceptions and on the formation of a European Muslim identity.<sup>1518</sup> Obviously, this past has an impact on the degree to which both Muslims and non-Muslims in Europe are open to a certain kind of discourse. However, the plausibility of Ramadan's approach as paradigmatic of a European Muslim view springs from the fact that his entire work openly tries to answer the question "how to be a European Muslim citizen?," or,

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<sup>1511</sup> Ibid. 127: he describes the world as 'a world which has become a village, where populations are in constant flux and within which we are witnessing a process of increased complexity regarding financial and political power as well as a diversification in strategic allegiances and spheres of influence.'

<sup>1512</sup> Ibid.

<sup>1513</sup> Andrew F. March, "Reading Tariq Ramadan: Political Liberalism, Islam, and 'Overlapping Consensus'," 408.

<sup>1514</sup> See the corresponding entry "Abodes of Islam, war, and truce" by Sohail H. Hashmi in *The Princeton Encyclopedia of Islamic Political Thought*.

<sup>1515</sup> Tariq Ramadan, *To Be a European Muslim*, 145-150 and *Dār ash-shahāda: l'Occident, espace du témoignage* (Lyon: Tawhid, 2002), in particular 63 and 65-73.

<sup>1516</sup> Tariq Ramadan, *To Be a European Muslim*, 146.

<sup>1517</sup> Ibid. 148.

<sup>1518</sup> For instance, see Ramadan in Edgar Morin and Tariq Ramadan, *Au péril des idées: les grandes questions de notre temps*, interview with Claude-Henry du Bord (Paris: Presses du Châtelet, 2014), 15 and 35. See also Ramadan in Orsola Casagrande, *Europa domani: conversazione con Tariq Ramadan*, 50-51.

more appropriately, ‘how can the Muslim identity blossom in European societies, respecting the principles and the framework of existing constitutions, without denying or cut itself off?’<sup>1519</sup> In raising this question, Ramadan addresses the core issue of this research. He summarises the purpose of his project in the following terms: ‘to understand the universality of the message of Islam and to highlight the means we are given to help us live in our time, in the West, with respect for ourselves and for others. The approach I propose is anchored in the Islamic tradition and amplified from within it: in this sense it is both deeply classical and radically new.’<sup>1520</sup> After all, he is optimistic about the fate of this project:

‘We are currently living through a veritable silent revolution in Muslim communities in the West: more and more young people and intellectuals are actively looking for a way to live in harmony with their faith while participating in the societies that are their societies, whether they like it or not. French, English, German, Canadian, American Muslims, women as well as men, are constructing a “Muslim personality” that will soon surprise many of their fellow citizens.’<sup>1521</sup>

Interestingly, Ramadan’s diagnosis of Europe’s predicament with its Muslim citizens is very close to the description of the problem I have drawn in chapter one. I began that chapter by speaking about perceptions, and, more specifically, about the perception of Muslims as a problem and I maintained that, on a first level, it can be said that what makes problem is that perception of Muslims as a problem. In 1.2.a, I then detailed this first formulation of my research problem, saying that, in order to reconcile *politically* the new form of pluralism that characterises contemporary Europe, we need a common discursive platform which is able to provide both a basis for a shared political identity and shared critical standards, so that one can assure both inclusion and compliance with the fair terms of social cooperation (the problem of mutual assurance described in chapter four). Now, it is intriguing to note that he has formulated the problem in a similar way, in particular because this way of framing my research problem came much before my in-depth study of Ramadan’s works. As a matter of

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<sup>1519</sup> Tariq Ramadan, *Les musulmans dans la laïcité: responsabilités et droits des musulmans dans les sociétés occidentales*, 19, my translation. For other examples, see also: *ibid.* 52-53; *What I Believe*, 32-33; *To Be a European Muslim*, 3-4, 11, 42, 118, 153; *Western Muslims and the Future of Islam*, 6; Alain Gresh and Tariq Ramadan, *L’Islam en questions*, interview with Françoise Germain-Robin, new edition (Paris: Actes Sud - Babel, 2002), 304.

<sup>1520</sup> Tariq Ramadan, *Western Muslims and the Future of Islam*, 3.

<sup>1521</sup> *Ibid.* 4.



fact, according to him, the first thing that one should take into account in analysing contemporary European predicaments with Islam and Muslims is precisely the perception of Muslims as a problem. In Ramadan's view, the deep root of such a perception is a double crisis: the first crisis concerns confidence in one's own identity, while the second concerns mutual trust.<sup>1522</sup> In his words, Muslims in Europe are often perceived as 'aliens,'<sup>1523</sup> as 'foreign citizens,'<sup>1524</sup> as 'potential suspects who threaten the stability of the nation.'<sup>1525</sup> This vocabulary should remind us of the problem of mutual assurance just mentioned. He is persuaded that '[t]he question of Islam is above all a problem of presentation and mentality,'<sup>1526</sup> and he claims that Muslims share their part of responsibility for this state of affairs,<sup>1527</sup> and even talks of an 'abdication of civic responsibility.'<sup>1528</sup> But he also thinks that 'a coexistence which rejects both assimilation and isolation is possible.'<sup>1529</sup> Thus, he calls for a better mutual understanding, which is of capital importance for both parties, since 'the manner in which Muslims in Europe are perceived and questioned puts them in a reactive and defensive posture and this prevents them from producing an original and serene attitude.'<sup>1530</sup> Only mutual understanding and knowledge can deconstruct distrustful and fearful perceptions: he insists that '[o]ur enemies, today, are *caricature* and *prejudice*.'<sup>1531</sup> Because of this double crisis, any public affirmation or the simple visibility of Muslims' religious identity and practice can be

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<sup>1522</sup> See in particular Tariq Ramadan, *To Be a European Muslim*, 9, 113-114, 216-217, 234, 250. See also *The Quest For Meaning: Developing a Philosophy of Pluralism*, ix, 45, 76-80; *What I Believe*, 24-29; *De l'islam et des musulmans: réflexions sur l'Homme, la réforme, la guerre et l'Occident*, 184; *Dār ash-shahāda: l'Occident, espace du témoignage*, 53; *Islam, the West and the Challenges of Modernity*, 267-270 and 290-297; and Ramadan in Alain Gresh and Tariq Ramadan, *L'Islam en questions*, 304.

<sup>1523</sup> Tariq Ramadan, *To Be a European Muslim*, 217.

<sup>1524</sup> Edgar Morin and Tariq Ramadan, *Au péril des idées: les grandes questions de notre temps*, 28, my translation.

<sup>1525</sup> Tariq Ramadan, *De l'islam et des musulmans: réflexions sur l'Homme, la réforme, la guerre et l'Occident*, 184, my translation.

<sup>1526</sup> Tariq Ramadan, *To Be a European Muslim*, 234.

<sup>1527</sup> Ibid. 218.

<sup>1528</sup> Ibid. 223.

<sup>1529</sup> Ibid. 234.

<sup>1530</sup> Ibid. 10.

<sup>1531</sup> Ibid. 226, italics in the original.

easily interpreted as a sign of a potential radicalisation or self-isolation.<sup>1532</sup> Moreover, as mentioned above, negative perceptions produce an identity block, that is, a paralysis or stagnation in the process of re-definition of one's own identity. This is exemplified in the reactive construction of a Muslim identity by means of binary oppositions (lawful-forbidden, Muslim-Western, we-they, and so on), above all among young people. With reference to this, Ramadan speaks of a

‘double simplification and distortion [which, first,] makes the youth believe that Islamic identity is confined within cold Islamic rulings defining what is lawful and unlawful (*al-halāl wa al-harām*), and this is a misconception. Second, it leads to an infantile and childish process within which the young generations are imprisoned without being able to turn to good advantage what they have experienced by growing and living in a European society, and this is nothing less than a guilty negligence.’<sup>1533</sup>

What is the solution proposed by Ramadan? From a religious perspective, he calls for a renewal of European Muslims' relationship with Islamic sources, promoting his Salafī (and later radical) reformism.<sup>1534</sup> As I have explained, I am not interested in discussing Ramadan's strategy of religious reform (for instance, the plausibility of his account of the *maqāsid al-Sharī'a*, or objectives of *Sharī'a* law). Rather, I am interested in the goals that this reformism pursues. Indeed, this interest is quite palpable if one considers that Ramadan understands his Salafī (and later radical) reformism as a way ‘to protect [...] Muslim identity and the practice of worship, to recognise the constitutional framework in Europe, to be involved at the social level as citizens and to live in sincere allegiance to the country to which [one] belong[s],’<sup>1535</sup> and to create a new ‘European Muslim identity,’<sup>1536</sup> which can only exist in the dynamic interplay between the revealed sources (Qur'an –Arabic: *al-qur'ān*– and Sunna, or tradition)

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<sup>1532</sup> Tariq Ramadan, *Les musulmans dans la laïcité: responsabilités et droits des musulmans dans les sociétés occidentales*, 96: ‘between the “moderate” Muslim and the “radical” Muslim, the reality of the simply “practicing” Muslim has vanished.’ My translation.

<sup>1533</sup> Tariq Ramadan, *To Be a European Muslim*, 116.

<sup>1534</sup> See the footnote above in which, following March, I reconstruct the three moments of Ramadan's reformism.

<sup>1535</sup> Tariq Ramadan, *To Be a European Muslim*, 242.

<sup>1536</sup> Ibid. 254.

and the European context of life. The ground for this operation is represented by his conception of modernity. While he refuses a notion of modernity as ‘breaking away from tradition’ (which would produce ‘a state of being that has no landmarks, no history, no principles, no vision’),<sup>1537</sup> he acknowledges that the concept of modernisation issued from the historical development of European societies means ‘liberation, the breaking of the chains of all intangible dogmas, stilted traditions and evolving societies. It represents accession to progress. Within this, reason, science, and technology are set in motion. Finally, it is also man brought back to his humanity.’<sup>1538</sup> Without denying the consequences and the results of European modernity, Ramadan claims that the European experience and heritage do not represent the only legitimate path to modernity: ‘[a]nother civilisation can, from within, fix and determine the stakes in a different fashion. This is the case of Islam at the end of this twentieth century.’<sup>1539</sup> However, his call for a modernity reached through (and not in opposition to) Islam as an ethical tradition does not radically depart from what he sees as the original content of European modernity: ‘a claim of liberty [and] a call for autonomy of reason.’<sup>1540</sup> The problem, according to Ramadan, originates from ideological abuses of the concept of modernity, which ultimately lead to a loss of ethical meaning.<sup>1541</sup> Thus, in his understanding Islam can play the role of a liberating force (‘[a]gainst local customs, ancestral traditions, despotic patriarchy and daily alienation [...] more Islam means more rights and more freedom’),<sup>1542</sup> more or less the same role played in European history by the idea of secularism that faced the predominance of the Catholic Church, but in this case without losing the ethical guidance provided by the religious

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<sup>1537</sup> Tariq Ramadan, *Radical Reform*, 27.

<sup>1538</sup> Tariq Ramadan, *Islam, the West and the Challenges of Modernity*, 3.

<sup>1539</sup> Ibid. 8.

<sup>1540</sup> Ibid. 7.

<sup>1541</sup> For Ramadan’s conception of modernity and a detailed account of how he sees the two different historical trends of Western and Muslim societies, see *Les musulmans dans la laïcité: responsabilités et droits des musulmans dans les sociétés occidentales*, 41-54 and 81-93.

<sup>1542</sup> Tariq Ramadan, *Islam, the West and the Challenges of Modernity*, 58. For the idea of Islam as a liberating force, see also *Western Muslims and the Future of Islam*, 160; *Aux sources du renouveau musulman: D’al-Afghānī à Hassan al-Bannā, un siècle de réformisme islamique*, 92; and *Radical Reform*, 152 and 317.

message. Islam is, then, an ‘ethical counter-power.’<sup>1543</sup> In this perspective, remaining faithful to one’s tradition does not mean being stuck on a static past. Rather, it means being projected toward the future with the ethical guidance of eternal Islamic principles. Then, Ramadan’s ultimate goal is not an “Islamisation of modernity,” but the definition of Islamic ethics for the modern condition.<sup>1544</sup> Therefore, in his words, ‘[a]ppplied ethics is [...] the method a religious, spiritual, or philosophical *tradition* gives itself to think out its *modernity*.’<sup>1545</sup> Hence, tradition must represent a horizon of meaning and moral guidance rather than the outer border or limit of what is allowed or conceivable.<sup>1546</sup> Then, as I have said, Ramadan’s project of creating a new European Muslim identity is tightly connected to his conception of Islamic tradition as a source of moral guidance providing ethical principles which orientate the believers’ life in the modern world and in their relationships with other fellow citizens (on this point, see *infra*). This new European Muslim identity is based on four elements:<sup>1547</sup>

1. ‘Living one’s own faith, practice, and spirituality;’
2. ‘Developing a real awareness [in French *intelligence*] of the fundamental texts and of one’s context of life;’
3. ‘Educating and witnessing;’
4. ‘Acting and participating.’

Crucially, the definition of this new European Muslim identity is not an endeavour which involves Muslims alone. This project is not solipsistic, self-isolating or excluding. On the contrary, it takes into account the rest of society and tries to include all contributions in the

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<sup>1543</sup> Ramadan in Edgar Morin and Tariq Ramadan, *Au péril des idées: les grandes questions de notre temps*, 160, my translation.

<sup>1544</sup> Tariq Ramadan, *Radical Reform*, 146-148.

<sup>1545</sup> Ibid. 158.

<sup>1546</sup> Tariq Ramadan, *The Quest For Meaning: Developing a Philosophy of Pluralism*, 152.

<sup>1547</sup> Tariq Ramadan, *De l’islam et des musulmans: réflexions sur l’Homme, la réforme, la guerre et l’Occident*, 188, my translation.

creation of a larger common identity that he calls a ‘new We’ (see below).<sup>1548</sup> To do this, it is first necessary to establish the conditions for a ‘serene dialogue,’<sup>1549</sup> but the most important task is to make ‘accessible for the other one’s own cultural universe and identity in order to better walk together.’<sup>1550</sup>

Ramadan uses a very sharp formula for summarising his final aim: ‘*normalizing [Muslim citizens’] presence without trivializing it.*’<sup>1551</sup> This is, according to him, the only way for building ‘*true civic ethics*’ and for developing in Muslim citizens, not a ‘sense of Otherness but rather [...] an awareness of their *belonging and commitment to society in general.*’<sup>1552</sup>

In conclusion, Ramadan certainly satisfies the principle of plausibility (PP) mentioned above, because, as Olivier Roy puts it, he develops a ‘theory of the legitimacy and practice of a minority Islam.’<sup>1553</sup> Jørgen Nielsen too welcomes Tariq Ramadan’s approach to the question of citizenship in European societies as a serious effort to build a bridge between a commitment to Islamic tradition from a mainstream Muslim viewpoint and the larger European social environment.<sup>1554</sup> Finally, Cristopher DeVito argues that ‘Ramadan is pursuing a rather simple yet undoubtedly challenging mission. He is laying the framework for an authentically European and Muslim identity. [...] And, moving beyond issues of identity, Ramadan is most interested in establishing an ethic of citizenship for Western Muslims.’<sup>1555</sup>

It is precisely Ramadan’s ethics of citizenship for European Muslims that I analyse in the following three sections.

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<sup>1548</sup> Tariq Ramadan, *What I Believe*, 90-95 and Appendix II, but see also 35, 36-37, 57, 69-70 and *The Quest For Meaning: Developing a Philosophy of Pluralism*, 174-175.

<sup>1549</sup> Tariq Ramadan, *Islam, the West and the Challenges of Modernity*, 270.

<sup>1550</sup> Ibid. 272.

<sup>1551</sup> Tariq Ramadan *Western Muslims and the Future of Islam*, 168, italics in the original.

<sup>1552</sup> Ibid. emphases added.

<sup>1553</sup> Olivier Roy, *Secularism Confronts Islam*, 51.

<sup>1554</sup> See Jørgen Nielsen’s foreword to Tariq Ramadan’s *To Be a European Muslim*, xiii.

<sup>1555</sup> Christopher DeVito, “Who is the Real Tariq Ramadan?” 2 and 3.

## 6.2 [RR] Is Ramadan Committed to Political Reciprocity?

As specified in Table 2 (see 5.1), the first question that must be considered in the evaluative stage of this study is the following one: does the European Muslim perspective considered here affirm the criterion of reciprocity of the reasonable? The question can be restated in these terms: *does Tariq Ramadan's conception of Muslims' citizenship in European societies reflect the criterion of reciprocity of the reasonable, which expresses the reciprocal recognition between reasonable, free and equal cooperating fellow citizens who possess the capacity for a sense of justice and a capacity for a conception of the good?* If the answer is positive, then Ramadan's conception of citizenship satisfies the first requirement (namely, the reciprocity requirement, **RR**) specified by public reason citizenship.

To answer this question, I must consider whether Ramadan not only recognises the fact of reasonable pluralism, but also affirms the importance of the distinction between, on the one hand, public or institutional identity, and on the other hand, moral or non-institutional identity (see 3.2.b.1). From there, it would be possible to anchor fair social cooperation in a common conception of citizenship in terms of equal rights and a shared public identity (what, in the previous chapters, has also been called institutional or common political identity). Therefore, this section is articulated in a logical sequence of questions:

1. Does Ramadan recognise reasonable pluralism?
2. Does Ramadan satisfy what in 4.2 I have called the forced conversion test? Remember that satisfying this test means respecting the criterion of reciprocity and avoiding the two kinds of political unreasonableness described in 4.2 (U1 as unreasonableness in the content of non-public reasons, and U2 as unreasonable enforcement upon others).
3. Does Ramadan accept the idea of state neutrality (understood as the recognition of the specificity of the domain of the political and the autonomy of state institutions toward the authority of comprehensive doctrines)?
4. Does Ramadan distinguish between citizens' public identity and their moral non-institutional identity?

5. Is Ramadan committed to a conception of citizenship centred on fundamental rights and liberties and a shared political identity?
6. Does Ramadan make room for fair social cooperation?

Starting from the issue of reasonable pluralism, Ramadan certainly recognises the fact of reasonable pluralism as ‘a permanent feature of the public culture of a democracy.’<sup>1556</sup> First, he acknowledges the specificity of reasonable pluralism as experienced in modern liberal democracies by distinguishing it from other forms of pluralism and tolerance, such as in Muslim Andalusia or in the history of the Ottoman empire. Those historical examples, he claims, were certainly commendable, but they failed to match tolerance with ‘equality in rights’<sup>1557</sup> for citizens. I will return to his conception of citizenship as equal rights later. Moreover, he clearly affirms that in contemporary liberal democracies reasonable pluralism is a fact:

‘[M]ulticultural society is a fact; there is no being for or against it. [...] Whether we want it or not, our Western societies, in the United States or Europe, Canada or Australia are culturally diverse [...] This must be accepted [...] The challenge of diversity requires practical solutions and compels citizens, intellectuals, and religious representatives to develop a balanced critical mind, always open to evolution, analysis, empathy, and of course self-criticism.’<sup>1558</sup>

Such recognition of the fact of reasonable pluralism can easily be found all throughout Ramadan’s work. Indeed, he aims at developing a ‘philosophy of pluralism.’<sup>1559</sup> This project is even announced in the title of one of his last books: *The Quest For Meaning: Developing a Philosophy of Pluralism*. He claims that one should ‘recognize the legitimacy of other people’s convictions [:] not to share them is one thing, but not to recognize, deep in one’s heart,

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<sup>1556</sup> John Rawls, *Political Liberalism*, 36.

<sup>1557</sup> Tariq Ramadan, *Radical Reform*, 268.

<sup>1558</sup> Tariq Ramadan, *What I Believe*, 13-14.

<sup>1559</sup> Ibid. 90.

their right to be is another,<sup>1560</sup> and this for two orders of reasons. First, from a religious perspective, pluralism is a necessity because it is a test: '[d]iversity of religions, nations, and peoples is a test because it requires that we learn to manage difference,' and this difference is of fundamental importance for the believers because 'it is willed by the Transcendent,'<sup>1561</sup> as manifested in the verse '[i]f God had so willed, He would have made you one community, but He wanted to test you through that which He has given you' (Qur'an, 5:48). Thus, religious difference is natural and good, because Nature as created by God only wants what is good for human beings, and for this reason Ramadan includes pluralism among the higher objectives of *Shari'a*.<sup>1562</sup> This is a *comprehensive* understanding of pluralism<sup>1563</sup> which goes in the direction of an overlapping consensus. Second, from a *political* perspective, reasonable pluralism is a necessity because 'without a purposeful policy aimed at managing cultural and religious diversity within democratic societies, the very principles of democracy will be endangered, along with the fundamental assets of political pluralism in which the West justly takes pride.'<sup>1564</sup> This is because he thinks that 'the constitutional community covers both Muslim and non-Muslims,'<sup>1565</sup> as he maintains on another occasion. This amounts to the recognition of the existence of a social political bond among citizens who live under the same democratic public political culture and cooperate within the same constitutional regime (*infra*, section 6.3). In passing, note that he also formulates something similar to the political (epistemological and moral) concept of the burdens of judgment (in the following quotation, with reference to the macro or aggregate level of human communities): 'in the realm of transient cultural, so-

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<sup>1560</sup> Tariq Ramadan, *Western Muslims and the Future of Islam*, 210.

<sup>1561</sup> *Ibid.* 202.

<sup>1562</sup> Tariq Ramadan, *Radical Reform*, 89, 94, 142, and see also 193.

<sup>1563</sup> A textbook example of which can be found in the following formulation, which shows that Ramadan takes part in the overlapping consensus: 'for me it is not a question of relativizing the universal principles of Islam in order to give the impression that we are integrating ourselves into the rational order. In my view, *the issue is to find out how the Islamic universal accepts and respects pluralism* and the belief of the Other [...]: *it is in the very name of the universality of my principles that my conscience is summoned to respect diversity and the relative*' (*Western Muslims and the Future of Islam*, 5-6, emphases added). See also *On Super-Diversity* (Rotterdam and Berlin: Witte de With and Sternberg Press, 2011), 19: '[n]ot only it is necessary to observe and to acknowledge the reality of human diversity, it is necessary to assert this diversity as a fundamental positive dimension of our being, well-being, and peaceful future. [...] We shall try to follow that path from the intimate to the public [...].'

<sup>1564</sup> Tariq Ramadan, *What I Believe*, 90-91.

<sup>1565</sup> Tariq Ramadan, *Islam, the West and the Challenges of Modernity*, 105.



cial, and political realities that correspond to the manifold choices of human communities [... t]he rule is that there is no single rule, no natural law standardizing the historical fates, cultural systems, social fabrics, or collective psychology of human communities.’<sup>1566</sup> He interprets this concept not only in epistemological, but also and mainly in moral terms, because it conveys an attitude of respect.<sup>1567</sup> He also establishes an important and explicit connection between his version of the idea of the burdens of judgement and the idea of reasonableness.<sup>1568</sup> From the very beginning of his work,<sup>1569</sup> Ramadan repeats that Muslim citizens must know and internalise within their cultural and normative horizon the constitutional and institutional framework, the laws, the history, the symbols, the collective memory, and the references of the European societies in which they live because they are at home there.<sup>1570</sup> Consequently, he calls for an ‘age of “post-integration” discourse’, because ‘for those who were born in the West or who are citizens, it is no longer a question of “settlement” or “integration” but rather of “participation” and contribution’.<sup>1571</sup> He thus advocates a ‘deeper mutual knowledge’<sup>1572</sup> between fellow citizens. Ramadan also adds an important remark:

‘[I]f the message of Islam is really universal, many of the values it promotes should inevitably be accessible to and shared by human beings of other traditions who live with other convictions. On the level of values, of morality, of the demand for social justice and resistance to discrimination of all kinds, Muslim citizens find a great number of potential partners in all Western societies. After all, their values are shared by the vast *majority* of the population, even if committed

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<sup>1566</sup> Tariq Ramadan, *Radical Reform*, 95.

<sup>1567</sup> Tariq Ramadan, *The Quest For Meaning: Developing a Philosophy of Pluralism*, 49.

<sup>1568</sup> Ibid.

<sup>1569</sup> Tariq Ramadan, *Les musulmans dans la laïcité: responsabilités et droits des musulmans dans les sociétés occidentales*, 98-99.

<sup>1570</sup> Tariq Ramadan, *Noi musulmani europei*, 14. See also 16. See as well Tariq Ramadan, *What I Believe*, 52.

<sup>1571</sup> Tariq Ramadan, *What I Believe*, 5-6.

<sup>1572</sup> Tariq Ramadan *Western Muslims and the Future of Islam*, 156.

Muslims find themselves engaged on the ground with only the small, actively resistant minority.<sup>1573</sup>

This observation is important because it shows not only that Ramadan recognises reasonable pluralism, but also –at a deeper and more basic level– that he avoids what in chapter two I called ontological unreasonableness. In few words, the notion of ontological unreasonableness conveys the idea that the way in which one’s own comprehensive doctrine assesses the relation between political and religious (or philosophical) values is completely unintelligible to outsiders. In 2.2.b I said that, if other citizens are unable to see why a comprehensive doctrine conflicts with one or more political values because that doctrine is “sealed” and denies the very possibility of being approached in terms of political reasonableness and public justification, then outsiders can only recognise that doctrine as politically unreasonable. I have said that during the stage of full justification we have four possible outcomes: first, full justification may be (1) present or (2) absent. Furthermore, in the case of absence of full justification, we may have three different situations. At first, (2a) outsiders can try to reason from conjecture and, if they succeed and full justification is finally attained, then the comprehensive doctrine is reasonable. But, (2b) full justification may be simply impossible because of a conflict between the political values and the values of the comprehensive doctrine (thus the comprehensive doctrine is unreasonable). Finally, (2c) it may be that full justification is not simply impossible because of a conflict such as this, but more profoundly because it is claimed that the way in which it manages political and non-political values is absolutely unintelligible from a political perspective. Since that specific comprehensive doctrine tries to evade any evaluation from a political perspective open to citizens as citizens, I call this particular instance of unreasonableness ontological unreasonableness. Now, this is precisely the kind of unreasonableness that Ramadan rejects in the aforementioned quotation: according to Ramadan, not only are Islamic values intelligible to non-Muslims, but they are often the very same human values, their political relevance is usually easy to understand, and frequently they can be invoked by Muslims and non-Muslims alike. For this reason Ramadan speaks of a moral ‘majority’ that brings together Muslims and non-Muslims, and says that the relevant difference (crossing religious boundaries) simply concerns the level of political activism (the ‘small, actively resistant minority’).

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<sup>1573</sup> Ibid.

With reference to the second point, the importance of the affirmation that faith must be lived freely in accordance with one's own conscience must be highlighted, thus refusing compulsion in religious affairs (e.g., enforcement of religious morality or habits, particularly active and "aggressive" forms of proselytism, and so on) and making room for conversion from Islam to other faiths or no faith. Indeed, this affirmation openly shows the recognition of the existence of an equal public identity through the acceptance of the fact that citizens can have (and actually do have) different non-public moral identities. It is possible to recognise other citizens as free and equal persons notwithstanding their different faiths only if one does not think that there should be complete congruence between citizens' public identity and their wider (non-public) moral identity. Ramadan fully endorses the political idea of freedom of religion, which –he claims– can be fully justified from the Islamic perspective by relying on the Qur'anic verse 'there is no compulsion in religion' (Qur'an, 2:256). He accepts conversions from Islam to other faiths or to no faith,<sup>1574</sup> and the right to change religion goes with the dismissal of the idea of prosecuting apostates, since apostasy is not a criminal offence punishable by political institutions. The only recommendation is to 'not insult and prejudice' the religious group that one leaves.<sup>1575</sup> In the same vein, Ramadan also claims that the Islamic concept of *da'wa* ("invitation," "call") does not imply a struggle for proselytising and converting others, but 'rather the idea of presenting and expressing the message of Islam, because conversion, which must be a free act, is a matter entirely between God and the human heart.'<sup>1576</sup> Similarly, he even argues that 'the idea of conversion is alien to Islam,' because 'to pass on the message is to call and invite people to a real knowledge of the presence of God,' while '[c]onversion is something that only God can accomplish, through His revelation, with each individual, and no other human being has the right to get involved in it. It is an affair of the heart and so does not lie within anyone else's role or prerogative. This is the real meaning of

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<sup>1574</sup> See for instance Tariq Ramadan, "They Live in a Bleak, Devastated Universe," page 2 of the printable version (emphasis added): 'the prohibition of apostasy arose at a time when the first Muslim followers of the prophet Mohammed were at war with neighboring tribes. At the time, challenging one's faith was tantamount to high treason or desertion. Nowadays this context has changed completely. [...] Even the concept of the infidel is misleading, because the infidel is normally someone with a different faith, someone who refuses to recognize the truth of the words of the Koran [...] *He has every right to do so, as long as he does not question my right to believe in my truth.*'

<sup>1575</sup> See the interview to Tariq Ramadan and Alain Boyer by Sophie Gherardi and Jean-Luc Pouthier in *Le Monde des débats* January 2, 2002, quoted in Caroline Fourest, *Frère Tariq. Le double discours de Tariq Ramadan*, 225.

<sup>1576</sup> Tariq Ramadan, *Western Muslims and the Future of Islam*, 240 note 15.

the expression “bear witness to the message before humankind”.<sup>1577</sup> To this end, he has stressed with great emphasis the necessary relation between freedom and authentic faith in a recent video, which is part of a series posted on his personal website for the month of Ramadan in 2015.<sup>1578</sup> This position emerges frequently in Ramadan’s work.<sup>1579</sup> As I have said, the recognition of freedom of religion is essential for the distinction between public and non-public identities (*infra*), and Tariq Ramadan apparently endorses in an overlapping consensus the idea of political reciprocity and equal civic standing: ‘[a]ny moral teaching, on the part of any religion, spirituality or philosophy, that might lead us to ignore the common humanity of all men, to deny the dignity of some men, or to establish distinctions and an ontological hierarchy between beings must, as we said, be critically evaluated because it can have serious and dangerous implications.’<sup>1580</sup> As the language used shows (‘common humanity of all men,’ ‘dignity,’ ‘beings’), this is not merely a political conception of citizens as free equals, but a view derived from a more comprehensive (religious) perspective. However, since this view is consistent with the idea of political equality, it simply demonstrates that Ramadan believes that an overlapping consensus is possible.

With reference to the issue of state neutrality (as I have said, understood as the recognition of the specificity of the domain of the political and the autonomy of state institutions toward the authority of comprehensive doctrines), Ramadan speaks in terms which are remarkably similar to those adopted by Rawls’s public reason (analysed in chapters three and four) when he says that ‘the separation of church and state [does] not mean wiping out religions but rather regulating their presence in the pluralistic (and more or less neutral) public space to ensure

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<sup>1577</sup> Ibid. 81.

<sup>1578</sup> “Ramadan’s Chronicles: Day 6 – Freedom,” 2015. See URL = <http://tariqramadan.com/english/2015/06/23/day-6-freedom/>.

<sup>1579</sup> See for instance Tariq Ramadan, *De l’islam et des musulmans: réflexions sur l’Homme, la réforme, la guerre et l’Occident*, 65 and 70, and the interview to Ramadan in Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 76-77, 79, 187, 206-207, 216, and 243. See Andrew F. March, “Reading Tariq Ramadan: Political Liberalism, Islam, and ‘Overlapping Consensus’,” 408-409.

<sup>1580</sup> Tariq Ramadan, *The Quest For Meaning: Developing a Philosophy of Pluralism*, 69.

equality.<sup>1581</sup> Here we are very close to the core of the concept of reciprocity of the reasonable as defined above. This proximity is all the more evident in the following excerpt:

‘[U]nable to devise *fair, egalitarian policies on the social and political levels*, politicians justify inconsistencies, contradictions, and sometimes hypocrisies through racial, cultural, and religious considerations that are supposed to explain or justify differential treatment. *What Muslim citizens must urgently demand is recognition of their status and the equal treatment that society has to provide at all levels.* [...] The point is to accept that economic *relationships should be addressed politically: because they are obsessed with identity issues and keep focusing the debate on “values,” “culture,” or “civilization,”* Western societies avoid such issues as the rule of law, equal treatment, objective relations of domination, denigration, and economic and social marginalization, of political discrimination, racism, and xenophobia.’<sup>1582</sup>

This passage is extremely relevant, because it shows that Ramadan believes that political problems must be resolved by political means, that is, within the boundaries of the domain of the political, and that within this domain what is important are citizens’ equality before the law, fair equality of opportunities, and a form of civic friendship that rejects social marginalisation. This passage also confirms a notion that I repeated several times in the first chapter: the solving of these political problems is in the interest of all, in particular of those whose voice has been underrated in public debates so far. Ramadan attempts to awaken Muslims’ awareness of their equal rights as citizens and invites them to make their voice heard in public precisely because too often they have passively suffered political discrimination. However, he also reminds Muslims of their duties as citizens, provided that their equal rights as citizens (including those rights that allow them to fulfil their religious obligations) are respected as well:

‘[S]o long as the two basic rights (freedom of conscience and freedom of worship) are recognized and protected, *as they are in all Western societies*, Muslims *have to respect the law, which is binding on them as it is on all other citizens and*

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<sup>1581</sup> Tariq Ramadan, *What I Believe*, 31-32.

<sup>1582</sup> Ibid. 77, emphases added.

*residents. Muslim Westerners have understood that when secularism and religious neutrality are not instrumentalized by ideologues [...] opposed to any presence of religion, they guarantee religious pluralism in Western societies and protect their legitimate rights.*<sup>1583</sup>

It is noteworthy that this understanding of state neutrality as a common space of equal rights is characteristic of Ramadan's more recent works, while in his first books he advocated a different view.<sup>1584</sup> The latter recognised the significance of the history of secularism and of the process of separation between church and state in Europe.<sup>1585</sup> In fact, in this first phase, Ramadan argues that the new organisation of the public space in Europe relies on 'the birth of a social morality which does not find its legitimacy in the religious field anymore.'<sup>1586</sup> Furthermore, he underscores the fact that in Europe 'secularisation almost invariably corresponds to an acquisition of freedoms'<sup>1587</sup> and that violent struggles have been waged to 'free the social field from an authority which, on behalf of God's right, had muzzled social, political, and scientific action.'<sup>1588</sup> However, he also thinks that this historical account of secularism should not be applied *sic et simpliciter* to Islam: Islam and Europe have two radically different histories.<sup>1589</sup> Consequently, in this first phase Ramadan argues that European secularism should adjust to Muslims' presence, since Muslims were not there when its doctrine was elaborated in the first place.<sup>1590</sup> As a matter of fact, he affirms that Islam –thanks to its internal harmony between faith and reason, the absence of an institutionalised church, and its ability to adapt to different historical, geographical, and political contexts– naturally possesses what in Europe has been painfully acquired by the means of secularisation as a reaction against the worldly

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<sup>1583</sup> Ibid. 52, emphases added.

<sup>1584</sup> Ramadan openly declares that he revised his opinions about this matter, for instance in *ibid.* 97-98.

<sup>1585</sup> Tariq Ramadan, *Les musulmans dans la laïcité: responsabilités et droits des musulmans dans les sociétés occidentales*, 41-54.

<sup>1586</sup> Ibid. 46, my translation.

<sup>1587</sup> Ibid. 48, my translation.

<sup>1588</sup> Ibid. 50, my translation.

<sup>1589</sup> Ibid. 81 and 143-144.

<sup>1590</sup> Tariq Ramadan in *Au péril des idées: les grandes questions de notre temps*, 23.

political power of the Catholic Church.<sup>1591</sup> As long as political rulers were enlightened by divine justice and followed Islamic precepts, freedom of conscience was protected in the Islamic world in virtue of religion itself (as I have already said, here Ramadan quotes the Qur'anic verse –2:256– ‘there is no compulsion in religion’), and not –like in Europe– by means of the socially highly costly concept of secularism.<sup>1592</sup> In other words, according to Ramadan, in the Islamic world there is no need for a political liberation from the religious. Incidentally, it must be noted that he believes that a Muslim majority society *per se* is neither theocratic (for in the Sunni world there is not an official clerical organisation) nor secular (for a Muslim society ‘never empties or cuts itself off from the general finalities of its religious and ethical point of reference’).<sup>1593</sup> Rather, a ‘Muslim society has as a fundamental point of reference the Qur’ān and the Sunna of the Prophet,’<sup>1594</sup> which represent the fundamental sources of moral principles for the believers and the moral framework from which they should judge national legislations.<sup>1595</sup> Having said this, according to Ramadan (both in his first and more recent books) in Islamic history a fundamental differentiation has always been made between the eternal and unchangeable ‘divine authority’ as expressed in the articles of faith (‘*aqīda*’) and in the ‘*ibādāt*’ (matters related to worship), and ‘human authority’ as expressed in the *mu’āmalāt* (matters related to social affairs), which is dynamic by definition.<sup>1596</sup> For Ramadan the distinction between these two epistemological orders corresponds to an implicit and natural conceptual distinction (not a divorce like in Europe) between spheres and authorities.<sup>1597</sup> Thus, from Ramadan’s perspective, a Muslim majority country could be ideally defined as a ‘theocentric’ (here I borrow Massimo Campanini’s definition)<sup>1598</sup> rather than as a theocratic political regime. However, coming back to the central question, the first version of Ramadan’s conception of

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<sup>1591</sup> Tariq Ramadan, *Les musulmans dans la laïcité: responsabilités et droits des musulmans dans les sociétés occidentales*, 55-93.

<sup>1592</sup> Ibid. 88-89.

<sup>1593</sup> Tariq Ramadan, *Islam, the West and the Challenges of Modernity*, 332-333.

<sup>1594</sup> Ibid. 332.

<sup>1595</sup> Ibid. 80.

<sup>1596</sup> This distinction is frequently repeated in Ramadan’s work. See for instance *Islam and the Arab Awakening*, 81.

<sup>1597</sup> Tariq Ramadan, *The Quest For Meaning: Developing a Philosophy of Pluralism*, 35-36.

<sup>1598</sup> Massimo Campanini, *Islam e politica*, 28.

state neutrality is problematic. As a matter of fact, it seems to imply that, if political power were exercised in compliance with Islamic religious justice, there would be no need for recognising the domain of the political and the autonomy of state institutions from the authority of Islam as a comprehensive doctrine, because religion itself could protect the same fundamental rights and freedoms which state institutions' neutrality was originally aimed at guaranteeing. Assuming reasonable pluralism, the problem is that in this case it would be impossible to provide a genuine public justification (that is, a justification addressed to free equals) for the institutions and policies concretely protecting those rights and freedoms, because it would be unreasonable to expect an agreement on the *comprehensive* conception of justice which affirms the necessity of protecting those rights and makes those religiously-justified political institutions accountable for them. However, Ramadan has always been fully aware of the importance of distinguishing what is justified and justifiable from what is unjustified and unjustifiable. For instance, as I have said, with reference to Muslims' life in European societies, he distinguishes their publicly justified freedom of religion (which he appreciates) from unjustified and unjustifiable social and economic discriminations (which he condemns).<sup>1599</sup> Thus, he progressively moves toward the egalitarian and universal conception of state neutrality mentioned above: state secular neutrality should apply equally to all citizens, thus advocating an 'egalitarian treatment of [religious] confessions'.<sup>1600</sup> Therefore, while he remains negatively critical toward a secularist conception of neutrality hostile to religion *per se*,<sup>1601</sup> one can understand the importance of the shift from the earlier differentialist view to the later view of state neutrality as a public horizon of equal rights for citizens. It is in this vein that he condemns what he calls the 'dogmatic mind',<sup>1602</sup> that is, the incapacity to recognise and respect the political (not "metaphysical") specificity of the domain of the political with its reasonable pluralism. Thus, state neutrality protects such pluralism from dogmatism:

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<sup>1599</sup> Tariq Ramadan, *To Be a European Muslim*, 121.

<sup>1600</sup> Ramadan openly underscores this change in his thought: Tariq Ramadan in *Au péril des idées: les grandes questions de notre temps*, 23-24, 235, 261.

<sup>1601</sup> This is a common theme in his work. See for instance Tariq Ramadan *Western Muslims and the Future of Islam*, 70.

<sup>1602</sup> Tariq Ramadan, *Les musulmans dans la laïcité: responsabilités et droits des musulmans dans les sociétés occidentales*, 82; *To Be a European Muslim*, 155; *The Quest For Meaning: Developing a Philosophy of Pluralism*, 21-22; *Radical Reform*, 263; *What I Believe*, 49 and 108-109; *Au péril des idées: les grandes questions de notre temps*, 53 and 81. For the same reasons, he also criticises dogmatic comprehensive liberals: *To Be a European Muslim*, 243 and 247 note 9.



‘There is no religion or spirituality whatsoever that is not in one way or another related to politics, to a conception of politics [...] Similarly, there is no political system [...] that is completely cut off from religious points of reference, even if the latter are only represented in the society’s cultural background –France is culturally Roman Catholic just as China is nurtured by Confucianism– and political systems and politicians cannot neglect or ignore those dimensions. [...] What matters here is not to know whether religion has anything to do with politics – since they are always related– but rather to know what type of relation should be considered and encouraged. The central issue is that of authority [...] The confusion of orders occurs when the mind longing for divine truths turns into a dogmatic mind and wishes to impose its truths on the political and social community. What endangers political pluralism is indeed, on the one hand the imposition of a religious power whose legitimacy is seen as transcendent, and on the other, emergence of a dogmatic mind deaf to other people’s belief.’<sup>1603</sup>

This formulation seems fully consistent with Rawls’s account of reasonableness. Nonetheless, some questions are still open or unclear in his conception of state neutrality. For instance, when he talks of homosexuality, he says that he personally disapproves of homosexuality, because it breaks the harmony and plans of God’s creation, but that he ‘respect[s] homosexuals] and respect[s] their choice.’<sup>1604</sup> He adds: ‘I cannot agree with what they do, but I respect what they are. I know, work, and fight with women and men who are homosexual: their sexual life concerns [only] them and everybody must respect the choice of everybody else, provided that it is not imposed on others.’<sup>1605</sup> So far, political reciprocity is not violated, since Ramadan does what a political liberal can reasonably expect from him: while he is not supposed to support homosexuality from a religious perspective, he defends homosexuals’ rights and freedoms as citizens and accepts to cooperate with them within society. Nonetheless, problems arise immediately after, when Ramadan makes a sharp distinction between the French *hijab* ban in public schools and laws concerning same-sex marriage or civil unions. He maintains that:

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<sup>1603</sup> Tariq Ramadan, *Radical Reform*, 261-263.

<sup>1604</sup> Interview to Ramadan in Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 179, my translation.

<sup>1605</sup> Ibid. 179-180, my translation.

‘In the case of the law on religious symbols, it was a discriminatory restriction of the exercise of individual freedom. The question of homosexuality raises the opposite question of promoting new liberties which demand a reconsideration of existing law. [...] Every citizen has the right and the duty of asking herself about the implications of such reforms. Everyone is free to decide in function of her conception of the life and her relationships, but you cannot impose on people the thought that the only good solution is the institution of same-sex marriage.’<sup>1606</sup>

Now, it seems that this way of framing the question of same-sex marriage is quite controversial. Indeed, one may think that, at least once that some conditions guaranteeing society’s orderly reproduction over time and children’s care and education have been satisfied, preventing same-sex marriage or civil unions (also through a simple *vacuum legis*) is an instance of limiting personal rights and liberties, precisely as in the case of forbidding *hijab* in public schools.<sup>1607</sup> In fact, if one limits herself to what Ramadan says (thus, without taking into account the above mentioned considerations about society’s reproduction over time and children’s care and education), it would be difficult to say that failing to recognise homosexuals’ rights does not amount to a ‘discriminatory restriction of the exercise of individual freedom.’ A law prohibiting same-sex civil unions or marriages (or the mere absence of any legislation on this matter having similarly impeding effects) on these bases would be difficult to justify in public, because the only genuinely public reasons for limiting same-sex marriage or civil unions have not been considered by Ramadan. He limits himself to a religion-driven scepticism about ‘reforms’ introducing same-sex marriage or civil unions, while such reforms may simply represent a remedy to a previous injustice. In the terms that I used in chapter four, here Ramadan apparently fails to provide a public justification for his scepticism not only at the first level of the duty of civility (A), but also at the second level, because he does not present

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<sup>1606</sup> Ibid. 181, my translation.

<sup>1607</sup> I cannot analyse the question of how to balance relevant rights, liberties, and duties with reference to the issue of same-sex marriage. I limit myself to remind the reader of Rawls’s position about same-sex marriages. After having noted that the state has a legitimate interest in family in so far as it must organise ‘institutions needed to reproduce political society over time’ (John Rawls, “The Idea of Public Reason Revisited,” 456) and that ‘reproductive labor is socially necessary labor’ (ibid. 467), Rawls also says that ‘[g]iven this interest, the government would appear to have no interest in the particular form of family life, or of relations among the sexes, except insofar as that form or those relations in some way affect the orderly reproduction of society over time’ (ibid. 457). Thus, he argues that ‘this observation sets the way in which justice as fairness deals with the question of gay and lesbian rights and duties, and how they affect the family. If these rights and duties are consistent with orderly family life and the education of children, they are, *ceteris paribus*, fully admissible.’ Ibid. 467 note 60.

a supportive public reason which goes together with his religious argument (thus, he fails under B1), nor does he respect the spirit of reciprocity of the reasonable when he refuses to recognise other citizens' rights due to his religious values (thus, he fails under B2). The following remark by Christopher Eberle seems then correct: 'laws discouraging homosexual relations are so controversial because there is no credible nonreligious reason to believe that homosexual behaviour is immoral or otherwise aberrant. So anyone who supports a law that discourages homosexual behaviour *must* [...] be relying on some sort of religious rationale.'<sup>1608</sup>

According to Ramadan, a sense of justice, fairness, and contract abidance permeates Muslim identity and limits Muslims' attachments to their religious community (*umma*) and even to their families.<sup>1609</sup> Ramadan is clear about the centrality of justice in Islamic ethics: 'justice has the priority over emotion, be it affection or aversion,' and 'the principle of justice is indeed the parameter.'<sup>1610</sup> This observation may represent the basis for a sincere commitment (via an overlapping consensus) to the Rawlsian idea of social cooperation based on fair terms, thus supporting the notion of reciprocity of the reasonable. It must be noted that Ramadan understands this sense of justice as "belonging to God first" rather than as "seeking fair terms for just social cooperation," that is, in comprehensive rather than in political terms. However, this comprehensive way of conceiving justice is not problematic as long as one remains within the limits of an overlapping consensus. Yet, when there is a conflict between this comprehensive sense of justice as "belonging to God first" and the sense of political justice as willingness 'to act from the public conception of justice which characterizes the fair terms of social cooperation,'<sup>1611</sup> then problems arise and Ramadan is sometimes ambiguous on this point. For example, he claims that there is no contradiction between being a Muslim and being a European citizen 'as long as the Muslim fulfils his engagement to act according to the law and

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<sup>1608</sup> It is interesting to note that this position is expressed by Christopher Eberle (*Religious Conviction in Liberal Politics*, 9), who, as I have said, is an advocate of the public role of religions (*supra*).

<sup>1609</sup> Tariq Ramadan, *To Be a European Muslim*, 155, 159-161. For another approach which uses the centrality of the idea of justice as a cornerstone for an Islamic reform toward democracy, see Khaled Abou El Fadl "Islam and the Challenge of Democracy," in *Islam and the Challenge of Democracy*, ed. Joshua Cohen and Deborah Chasman (Princeton and Oxford: Princeton University Press, 2004), in particular 18-23.

<sup>1610</sup> Tariq Ramadan, *To Be a European Muslim*, 159 and 160.

<sup>1611</sup> John Rawls, *Political Liberalism*, 19.

that *he is not asked to sever himself from a part of his identity*.’<sup>1612</sup> What is the meaning of this condition? To what extent can the preservation of what one perceives as her Muslim identity be relevant for exempting her from binding laws? What are (if any) the limits of what Muslims can do to preserve their religious identity in relation to public laws and institutions? Since Ramadan does not answer these questions clearly, one may legitimately wonder whether he is really committed to the idea of political reciprocity and able to fulfil RR. Doubts to this end have been expressed by Caroline Fourest and Ian Buruma (note, however, that Buruma is much more optimistic than Fourest about the possibility of reading the condition enunciated by Ramadan in a way consistent with the spirit of political reciprocity),<sup>1613</sup> while Andrew March and Paul Landau have touched on this point without explicitly recognising the problem.<sup>1614</sup> Also Franco Cardini has indirectly noted this issue, drawing an interesting parallel between the situation of contemporary Muslim citizens in Europe as described by Ramadan and the condition of Italian Catholics when the Church abrogated the *non expedit* doctrine (no political participation for Catholics in the Kingdom of Italy) in 1919.<sup>1615</sup> Then, for the first time after the unification of Italy, Catholics had to decide how to balance their religious and political identities. However, this clause (I call it the “suspect clause”) is particularly problematic with reference to the consistency requirement (CR), because it may express an idea of suspensive conditionality: in other words, it may suspend the cogency of the idea of public reason when specific conditions are present. Hence, I consider this question in the following section when I analyse PR3. For the moment, it is enough to notice that Ramadan recognises the discontinuity between the religious and the political and makes room for the existence of a public or institutional identity, which can and should include Muslims. This emerges clearly in the following quotation:

‘[F]aith and nationality, as understood within the framework of the current national constitutions, are not of the same nature. To be a Muslim signifies to uphold a trust (*amāna*) which gives a meaning to one’s life. [...] The concept of na-

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<sup>1612</sup> Tariq Ramadan, *To Be a European Muslim*, 196. Emphases added.

<sup>1613</sup> Caroline Fourest, *Frère Tariq. Le double discours de Tariq Ramadan*, 21, 296-300, in particular 299; Ian Buruma, “Tariq Ramadan Has an Identity Issue,” 7.

<sup>1614</sup> Andrew F. March, “Reading Tariq Ramadan: Political Liberalism, Islam, and ‘Overlapping Consensus’,” 411 and Paul Landau, *Le Sabre et le Coran*, 180.

<sup>1615</sup> Franco Cardini, “Presentazione,” in Orsola Casagrande, *Europa domani: conversazione con Tariq Ramadan*, 15.

tionality [...] is a concept of a completely different nature: as an element of identity it structures –within both a given constitution and a given space– the way one is to deal with his fellow citizens [...] Muslim identity is an answer to the question “Why?” while national identity answers the question “How?” [...] All things considered, it all depends on what we are speaking about. Thus, in the context of a philosophical debate, an individual is *a Muslim of British or French or Belgian nationality*. [...] If the discussion is carried out on the social or political level, then this individual is *British, French or Belgian and of Muslim faith*.<sup>1616</sup>

Therefore, Ramadan accepts the distinction between the political and the religious and, like Rawls, thinks that a reconciliation between these two is possible. The two are distinct because they answer different questions and have a different scope: on one side, how to live a good life and achieve eternal salvation and, on the other, how to live in a political society and cooperate with others who do not share our deepest moral, philosophical, and religious beliefs. Ramadan openly says that ‘every society must establish a distinction between the two spheres of the religious and the public, which protects the public space of rationality and debate and which allows public voice not to be stifled under the yoke of dogma or of religious authorities.’<sup>1617</sup> Nonetheless, the political and the religious can be reconciled through an overlapping consensus: ‘[t]here is no confusion between the restraining authority of the religious and the civic independence of the individual.’<sup>1618</sup> From a Muslim point of view, the two domains can be recognised as distinct and yet linked within the Islamic frame of reference thanks to the traditional distinction between *‘ibādāt* (matters related to worship which express God’s absolute authority) and *mu‘āmalāt* (matters related to social affairs which are always contextual and express human authority). It is within the notion of *mu‘āmalāt* and its order of authority

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<sup>1616</sup> Tariq Ramadan, *To Be a European Muslim*, 163, italics in the original. This idea recurs in Ramadan’s books. For instance, in *What I Believe* (36-37) he says: ‘there are different orders within which one will have to define oneself differently. Asking whether one is primarily “Muslim” or “American,” “Australian,” “Italian,” “French” or “Canadian” opposes two identities and affiliations that do not belong to the same realm. In the realm of religion and philosophy, [...] a human being is first and foremost an atheist, a Buddhist, a Jew, a Christian, or a Muslim: her or his passport or nationality cannot answer the existential question. When an individual must vote for a candidate at an election, she or he is first an American, Italian, French, or British citizen involved in national affairs. Depending on the realm or the field of activity, the individual therefore puts forward one identity or another, and that is not contradictory. [...] In other words, you have more than one identity and you give priority to one of those identities or the other depending on the environment or situation, without this affecting your loyalty to one order of affiliation or the other.’

<sup>1617</sup> See Ramadan in Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 200, my translation.

<sup>1618</sup> Tariq Ramadan, *Western Muslims and the Future of Islam*, 145.

that Ramadan retraces a possible Islamic ground for what Rawls calls the domain of the political. This is the essence of the idea of an overlapping consensus (*infra*), and Ramadan makes precisely this point when he says that, even if the opposition ‘between private practice and entry into the public arena [...] seems complete,’ Muslims’ ‘consciousness should build a reciprocity between the state of the heart and the nature of one’s acts. The link, the connection between them must be intimate and personal.’<sup>1619</sup> It is clear that for a citizen of faith the ultimate relationship is the one with God, but, from a political liberal perspective, the question is whether and how such a relationship may support a political relation between free and equal citizens in a society characterised by reasonable pluralism. Thus, Ramadan is extremely close to Rawls when he claims that:

‘In the end, the question is not to know the nature of [one’s] philosophy [of life] (religious, humanistic, atheistic, or other), but how one refers to it and how one is inspired by it in the public space. Does it prevail on the public law? [...] Is it to be imposed on all? Does it prescribe an absolute view, a dogmatic treatment [...] ?] This is the real question. One can rely on a religious teaching and be involved in social debates in a very open and democratic way. On the contrary, one can be an atheist [...] and want to impose [her belief] on others [...] The source of inspiration is not the problem, which is rather in the spirit and the behaviour of the person who refers to it.’<sup>1620</sup>

Elsewhere, he also argues that:

‘[T]he true question is not, from a Muslim point of view, to justify the first attachment of believers –which, naturally, is to God and their faith– but, more specifically, to clarify the nature of the articulation which exists between the prescriptions of the Islamic references and the concrete reality of citizenship in a European country. Do the Islamic sources allow a Muslim to be a genuine European

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<sup>1619</sup> Ibid. 123.

<sup>1620</sup> Ramadan in Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 178. My translation.

citizen, or is there such a contradiction that would make the union “Muslim-European” impossible to actualise?’<sup>1621</sup>

This is a clear reference to what Rawls calls the idea of an overlapping consensus (as I have said, I limit myself to point out the public importance of Ramadan’s affirmation of a possible overlapping consensus, while for the content of the latter as sketched out by Ramadan see Andrew March’s aforementioned articles). Ramadan rephrases the idea of an overlapping consensus when he acknowledges its relevance for achieving legal integration. He says that the latter ‘will succeed only if Muslims will find within their sources elements which are consistent with the legislations of the countries of which they are citizens, because this would resolve the question of [their] double loyalty.’<sup>1622</sup> Moreover, Ramadan invites Muslims to be always constructively critical about their attachments (both political and religious). For instance, he asserts the need for abandoning the Manichaean view according to which what the members of one’s group do is always good (i.e., “Islamic”), while what the others do is always wrong or bad (i.e., “anti-Islamic”).<sup>1623</sup> This is because ‘the criteria for evaluating an action, a production, or a custom are not to be found in the identity of its promoter or its origin but in its respect or lack of respect for the ethical principles we hold.’<sup>1624</sup> This reference to ethical principles is of pivotal importance, since it shows how Ramadan bases moral responsibility for political reciprocity (as for any other human interpersonal relationship) on human responsibility toward God.<sup>1625</sup> This represents a comprehensive anchorage of the political relation between free equals, in accordance with the mechanism of an overlapping consensus. Effectively, Ramadan agrees with Rawls in thinking that something like a mere *modus vivendi* is not enough in a liberal democracy. Talking about toleration, he affirms:

‘[W]e are dealing with equal relationships between free human beings, relations between the citizens [...] Calling upon powers to be tolerant once meant asking them to moderate their strength and to limit their ability to do harm: this

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<sup>1621</sup> Tariq Ramadan, *To Be a European Muslim*, 163-164.

<sup>1622</sup> Ramadan in Alain Gresh and Tariq Ramadan, *L’Islam en questions*, 327, my translation.

<sup>1623</sup> Tariq Ramadan, *Western Muslims and the Future of Islam*, 219.

<sup>1624</sup> Ibid. 219-220.

<sup>1625</sup> He also says: ‘for the human being, to think of God is to think of his individual responsibility.’ Tariq Ramadan, *De l’islam et des musulmans: réflexions sur l’Homme, la réforme, la guerre et l’Occident*, 195, my translation.

actually implied an acceptance of a power relationship, of a potential relationship of authority [...] Deviations, infractions and a few differences could be “tolerated” ... they were “suffered or endured.” But when it is no longer a question of resisting and limiting power, the positive dimension of tolerance is inverted: it becomes a disinterested generosity on the part of those who dominate and hold political, religious and/or symbolic authority, the authority of the majority or of wealth. [...] When it comes to relations between free and equal human beings, [...] w]hen we are on equal terms, it is no longer a matter of *conceding* tolerance, but of rising above that and educating ourselves to respect others. This requires a very different intellectual and emotional attitude. It begins with the recognition that the presence of the other within my own conception of the world is both a fact and a necessity.<sup>1626</sup>

This long passage is essential because it echoes Rawls’s theory leading from a *modus vivendi* to an overlapping consensus in which a spirit of civic friendship and political reciprocity between free and equal reasonable citizens can flourish. Moreover, the last sentence peremptorily demonstrates the acceptance of the fact of reasonable pluralism.

Then, we are led quite naturally to the fifth question, namely the question of citizenship as equal rights and common public political identity. Ramadan also seems to fulfil this requirement. To begin with, he defines citizenship as a status of equality before the law and among free fellow citizens: ‘[e]very individual must be treated equally before the law, without any discrimination as to sex, colour, religion, social status, or anything else.’<sup>1627</sup> He also maintains that ‘in the order of citizenship, of relationship to the law, or of the treatment of individuals, the minority concept is inoperative: there is no such thing as “minority citizenship”!’<sup>1628</sup> He thus advocates a *new public political identity for citizens as citizens*, based on positive ‘con-

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<sup>1626</sup> Tariq Ramadan, *The Quest For Meaning: Developing a Philosophy of Pluralism*, 47-48.

<sup>1627</sup> Ibid. 73.

<sup>1628</sup> Tariq Ramadan, *What I Believe*, 58.



tributio[n] and sharing,<sup>1629</sup> ‘common values,’<sup>1630</sup> and ‘mutual respect and trust.’<sup>1631</sup> According to Ramadan, this involves going beyond a discourse focused on mere “integration.” Rather, this is a ‘post-integration approach’<sup>1632</sup> centred on a new public political identity that he calls ‘a new We.’<sup>1633</sup> Such a ‘new We’ is ‘anchored in citizenship,’<sup>1634</sup> and premised on a ‘revolution of [mutual] trust and confidence.’<sup>1635</sup> In 2006 he even published a “Manifesto for a New ‘We’: An Appeal to Western Muslims and Their Fellow Citizens,” in which he declares:

‘Such a “We” would henceforth represent this coming together of citizens confident in their values, defenders of pluralism in their common society, and respectful of the identities of others; citizens who seek to take up the challenge in the name of their shared values at the very heart of their societies. As loyal and critical citizens, as men and women of integrity, they join forces in a revolution of trust and confidence to stem the onrush of fear.’<sup>1636</sup>

To be sure, while the civic dimension of this idea was fully expressed in 2006, its core was already present in his earlier writings. He then preferred another expression: ‘integration of

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<sup>1629</sup> Ibid. 69.

<sup>1630</sup> Ibid. 70.

<sup>1631</sup> Ibid. 71.

<sup>1632</sup> Ibid. 69.

<sup>1633</sup> Ibid. 90-95. See also the “Manifesto for a New ‘We’: An Appeal to Western Muslims and Their Fellow Citizens,” written in 2006 and available on Tariq Ramadan’s website (URL = <http://tariqramadan.com/english/2006/07/07/manifesto-for-a-new-we/>) and in *What I Believe* as Appendix II (123-133). Finally, for a less political and more ethical and spiritual declination of this idea, see *The Quest For Meaning: Developing a Philosophy of Pluralism*, 172-175.

<sup>1634</sup> Tariq Ramadan, “Manifesto for a New ‘We’: An Appeal to Western Muslims and Their Fellow Citizens,” in *What I Believe*, 131.

<sup>1635</sup> Ibid. 132.

<sup>1636</sup> Ibid. 130.

intimate lives’ (in French ‘*intégration des intimités*’)<sup>1637</sup> The moral political substance, however, was not radically different. For instance, in *To Be a European Muslim* he wrote:

‘[A] Muslim does not simply ask for acceptance or tolerance in its etymological meaning of suffering the presence of someone because there is no alternative. Along with freedom of faith and worship, he or she needs a recognition based on protection that, in itself, is based on respect. Freedom of worship, human respect and the social, economic, and political protection of one’s rights are the three fundamentals of a true recognition of human dignity and integrity.’<sup>1638</sup>

This point is connected both –explicitly– with the previously analysed rejection of a mere *modus vivendi*, and –implicitly– with his conception of citizenship as a status of equal rights that I have just mentioned. Note, however, that in his later formulation of the public identity of citizens he emphasises more the spirit of mutual respect and trust. In the first period, on the other hand, he focuses more on the rights that would allow Muslims’ inclusion. Then, he lists the rights that, if granted, would imply that there is no contradiction between being a Muslim and being a European citizen. They are the following: the ‘right to practise Islam,’ the ‘right to knowledge,’ the ‘right to found organisations,’ the ‘right to autonomous representation,’ and finally the ‘right to appeal to the law.’<sup>1639</sup> He then notes that in all Western European societies those rights are protected.<sup>1640</sup> Since the only condition imposed (that is, the respect of equal rights) is generally respected in Europe, there are no external obstacles to the possibility for Muslims to be European citizens, because through those rights they are also able to affirm and live their Muslim identity.<sup>1641</sup> As I have said, this approach to citizenship is distinctly based on rights. For instance, Ramadan claims that ‘[i]t is essential that the social structure

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<sup>1637</sup> Tariq Ramadan, “Pour une laïcité ouverte,” extended version of an article published in *Le Monde* October 13, 1994 and now included in *Les musulmans dans la laïcité: responsabilités et droits des musulmans dans les sociétés occidentales*, 162-164; *To Be a European Muslim*, 216 (I take the English translation ‘integration of intimate lives’ from here); recently, he has made reference to this early label in the book *Au péril des idées: les grandes questions de notre temps*, 261.

<sup>1638</sup> Tariq Ramadan, *To Be a European Muslim*, 133.

<sup>1639</sup> Ibid. 135-137. Elsewhere, he also specifies seven rights which are fundamental for complying with the ‘social message of Islam.’ They are: the right to a decent life, the right to family, the right to housing, the right to education, the right to work, the right to justice, the right to solidarity (*Western Muslims and the Future of Islam*, 149-152).

<sup>1640</sup> Tariq Ramadan, *To Be a European Muslim*, 135 and *supra*, section 6.1.

<sup>1641</sup> Tariq Ramadan, *To Be a European Muslim*, 138.

guarantees respect for the rights of each person, and this must be expressed in two ways: obviously, judicial power must apply the laws fairly to every member of society, but it is equally important that society stretches itself to meet all the organizational requirements necessary for the provision of the rights we have already mentioned.’<sup>1642</sup> The demand that society is able to arrange within itself what is required to effectively exercise citizen’s rights (think, for example, to the question of building mosques and Islamic cemeteries, or authorising halal slaughter) is combined with the demand that Muslims practice an active ‘civic awareness.’<sup>1643</sup> As I have said, the ground on which reciprocity is based is a religious one (a sense of ‘responsibility before the Creator and among humankind’<sup>1644</sup>), but this is consistent with the idea of an overlapping consensus, for Ramadan says that ‘an awareness of responsibility by each person is the only way to protect the rights of all.’<sup>1645</sup> Thus, although the call for claiming Muslims’ rights and social reform is made on religious grounds (‘in the Muslim mind [the idea of responsibility before the Creator and among humankind] is the root of the idea that Muslims have a mission of social reform to accomplish’),<sup>1646</sup> the same rights are understood in a genuinely public way: ‘[a]ll people as citizens, are responsible for claiming their rights and gaining respect. Society does not hand out rights as one offers privileges: they are a matter of law, respect, even compulsion.’<sup>1647</sup> Muslims seek political and social reform sustained and motivated (also) by their religious pursuit of justice, but they are fully able to recognise the public political dimension of both fundamental rights and social reform understood as civic emancipation, as Ramadan shows in the following passage: ‘if glaring injustices are visible and sometimes institutionalized, then we must say so and reject them and fight, with all the others who are fighting, to demand our rights, and not simply hope for kindness or say compassion.’<sup>1648</sup> This is a Muslim approach to political rights which is fully consistent with the idea of an overlapping consensus and fulfils the requirement RR as expressed by the idea of public reason.

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<sup>1642</sup> Tariq Ramadan, *Western Muslims and the Future of Islam*, 151.

<sup>1643</sup> Ibid. 152.

<sup>1644</sup> Ibid. 153.

<sup>1645</sup> Ibid.

<sup>1646</sup> Ibid.

<sup>1647</sup> Ibid. 154.

<sup>1648</sup> Ibid.

Therefore, we are brought back to the idea of a ‘new We’: it is not by chance, I think, that the last quotations are all from *Western Muslims and the Future of Islam*, which is published in 2004, only two years before the “Manifesto.” Indeed, already in this book there is the idea of a ‘commitment “together” in the name of values held in common by virtue of sharing a citizenship lived in an egalitarian fashion,’ which makes it ‘possible to find areas of agreement.’<sup>1649</sup> This is precisely the essence of what I have called a *public political identity*. According to Ramadan, such an identity is not something natural or obvious. Rather, it is something that citizens should acquire through education and the concrete practice of living together, discussing, and struggling for social justice.<sup>1650</sup> Only in this way can they develop a ‘common sense of belonging,’<sup>1651</sup> a ‘shared citizenship.’<sup>1652</sup> Effectively, moreover, if one compares Ramadan’s definition of education (‘[e]ducation means giving individuals the tools they need if their minds, being and individuality are to be autonomous; this is not simply a matter of acknowledging the power of their will, but of becoming its agent. Education is what allows human beings to become the true “subject” of freedom. It is a necessity, and it is a right’)<sup>1653</sup> with Rawls’s conception of children’s education (which should include the ‘knowledge of their constitutional and civic rights,’ ‘prepare them to be fully cooperating members of society,’ ‘enable them to be self-supporting,’ and ‘encourage the political virtues’)<sup>1654</sup> it should be evident that considerations about enabling children’s future freedom of choice and critical capabilities are equally important in both accounts. Finally, Ramadan states three necessary and sufficient conditions to include Muslims within this public political identity (what he calls ‘the three Ls that should grant [Muslims] recognition as citizens’): ‘respect for the law, knowledge of the language, and critical loyalty.’<sup>1655</sup> If these are the bounda-

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<sup>1649</sup> Ibid. 157 and 157-158.

<sup>1650</sup> For instance, see Tariq Ramadan, *The Quest For Meaning: Developing a Philosophy of Pluralism*, 56 and 172; *What I Believe*, 94; and *Western Muslims and the Future of Islam*, 158.

<sup>1651</sup> Tariq Ramadan, *The Quest For Meaning: Developing a Philosophy of Pluralism*, 175.

<sup>1652</sup> Tariq Ramadan, *Western Muslims and the Future of Islam*, 107 and 157.

<sup>1653</sup> Tariq Ramadan, *The Quest For Meaning: Developing a Philosophy of Pluralism*, 56.

<sup>1654</sup> John Rawls, *Political Liberalism*, 199. See also Rawls’s caveat about the risk of falling into comprehensive liberalism at 199-200.

<sup>1655</sup> Tariq Ramadan, *The Quest For Meaning: Developing a Philosophy of Pluralism*, 171. For Ramadan’s invitation to be always critical of one’s own attachments and affiliations (both political and religious), see *supra*.

ries of the public political identity according to Ramadan, he also emphasises the order of priorities for Muslims as citizens (what he calls ‘the seven Cs’): confidence, consistency, contribution, creativity, communication, contestation, and compassion.<sup>1656</sup>

We come then to the sixth point. Some of the priorities just mentioned (in particular contribution and contestation) are specifically linked to the role of *social and political criticism* which, according to Ramadan, is not only a right, but also a duty for every citizen. In particular, he defines this kind of criticism from a Muslim perspective as a ‘social *jihād*,’ a personal and collective ‘engagement in social reform [and] mobilisation against injustice.’<sup>1657</sup> Note that, even if Ramadan does not exclude *jihād* as violent armed struggle,<sup>1658</sup> he mainly understands *jihād* as a moral notion toward one’s own and society’s perfection, and as the actualisation of one’s moral responsibility toward God, toward herself, and toward the others.<sup>1659</sup> So, it is first and foremost a ‘*jihād* of trust’<sup>1660</sup> (or also a ‘revolution of trust’):<sup>1661</sup> a relentless engagement toward justice which presupposes awareness, confidence, and solidarity. In politics, *jihād* must ‘be carried out in the name of active and responsible citizenship,’ and take the

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<sup>1656</sup> Tariq Ramadan, *What I Believe*, 87-88.

<sup>1657</sup> Tariq Ramadan, *Islam, the West and the Challenges of Modernity*, 66-68. See also *De l’islam et des musulmans: réflexions sur l’Homme, la réforme, la guerre et l’Occident*, 163-167 and the video “Ramadan’s Chronicles: Day 4 – Jihād,” 2015 at URL = <http://tariqramadan.com/english/2015/06/21/day-4-jihad/>.

<sup>1658</sup> In case of ‘military occupation’ (Ramadan makes the examples of Chechnya and Bosnia), he says that a ‘direct confrontation’ is inevitable (*Islam, the West and the Challenges of Modernity*, 68). One can find Ramadan’s just war doctrine in Orsola Casagrande, *Europa domani: conversazione con Tariq Ramadan*, 102. He justifies *jihād* as a violent armed struggle in terms of a proportioned self-defence against an armed attack. He even justifies suicide attacks, but only when three conditions occur: (1) they are legitimate only during formally declared wars, (2) they must be a solution of last resort after that all other means of resistance have failed, and (3) they can be directed only against an enemy’s armed forces and never against civilians. With reference to Palestine, he provides a political interpretation of the conflict and says that Palestinians ‘have the right to fight for their independence from Israel’ (as a part of their right to self-defence and self-determination), but in no way does this authorise terrorist acts: ‘[n]othing legitimizes the killing of innocent civilians. The suicide bomber who blows up Israeli children cannot transform himself into a martyr. The Palestinian problem is not an Islamic problem’ (Tariq Ramadan, “They Live in a Bleak, Devastated Universe,” page 3 of the printable version).

<sup>1659</sup> Ibid. 61: ‘*jihād* is to man’s humanity what instinct is to an animal’s behaviour. To be free, for man, is to be responsible and such responsibility is linked to a choice which always seeks to express the goodness and respect of oneself and others.’

<sup>1660</sup> Tariq Ramadan, *What I Believe*, 114.

<sup>1661</sup> Ibid. 93.

form of ‘a constant and balanced effort [... aiming at] the defense of civil responsibilities and rights and the promotion of pluralism, freedom of expression, and the democratic process.’<sup>1662</sup> Political participation is thus based on religious grounds (as allowed by the idea of an overlapping consensus): ‘there is no Islamic consciousness without social consciousness [... and] there is no social consciousness without political consciousness.’<sup>1663</sup> However, as previously noted with regard to rights, this religiously charged interpretation of social and political cooperation and criticism is not the only one presented by Ramadan. In fact, he is careful in underlying the public dimension of political criticism, such as when he says that ‘social problems should not be “Islamized” and such issues as unemployment, social marginalization, and others should be addressed politically,’<sup>1664</sup> and that ‘Muslims must tackle them by getting involved as citizens and fighting against injustice, racism, discrimination, populist stigmatization discourse, hypocrisies [... and] paternalistic, often neo-colonialist discourse and infantilizing treatment.’<sup>1665</sup> This conception of political criticism is public, because it concerns all the body of citizens (‘with and for their fellow citizens, [Muslims] must raise their voice’)<sup>1666</sup> and because it involves capacities which are properly political (‘demanding consistency, fair social policies, and equal treatment,’ ‘political integrity,’ ‘competence,’ and a ‘civic evaluation of local policies’).<sup>1667</sup> Since this kind of social and political criticism is addressed to citizens as citizens, since it uses the resources of public reason, and since it appeals to their public identity, one can understand what Ramadan means when he states the operating principle

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<sup>1662</sup> Tariq Ramadan, *Western Muslims and the Future of Islam*, 113 and 114.

<sup>1663</sup> Tariq Ramadan, *Les musulmans dans la laïcité: responsabilités et droits des musulmans dans les sociétés occidentales*, 137, my translation.

<sup>1664</sup> Tariq Ramadan, *What I Believe*, 6. Ramadan often repeats the idea that political problems must be solved politically. For instance, with reference to the question of terrorism, he provocatively but appropriately notes: ‘in one of the tapes [circulated after 2005 bombings in London], one of the bombers says: “you are killing our brothers in Baghdad and we will kill you here.” This is wrong, what he says is unacceptable, but he is making a political link [and it] must be answered politically. It is wrong to say that this is a Muslim problem, this is a political problem.’ Ramadan in Orsola Casagrande, *Europa domani: conversazione con Tariq Ramadan*, 100, my translation. See also “They Live in a Bleak, Devastated Universe,” 2 of the printable version: ‘[t]he attempt to Islamicize [*sic*] social issues perverts and falsifies political discourse.’

<sup>1665</sup> Tariq Ramadan, *What I Believe*, 58-59.

<sup>1666</sup> Ibid. 89. See also *To Be a European Muslim*, 229 (emphases added): ‘[a]ll citizens, whatever their beliefs, must take part in this effort towards social reform and justice [...] Fighting unemployment, opposing employment discrimination [...], promoting social welfare, intervening against suburban violence or looking after marginalised persons (the poor and the elderly) are so many challenges that we must take up together, as partners and fellow citizens.’

<sup>1667</sup> Tariq Ramadan, *What I Believe*, 73.

of this kind of criticism in these terms: ‘I criticise the way in which you define yourself and I do that not from the outside but from the inside.’<sup>1668</sup> Crucially, for Ramadan Muslims as citizens can and should adopt this civic internal perspective. Consequently, social cooperation is defined in terms of citizens’ ‘positive contribution’<sup>1669</sup> (or, to use the language of *Radical Reform*, ‘transformation’)<sup>1670</sup> to society as a whole. For Ramadan, then, discourses about Muslims’ *integration in* European societies should be replaced by discourses about Muslims’ *contribution to* European societies, for contribution goes far beyond mere integration. This is the post-integration approach mentioned above.<sup>1671</sup> One can thus understand why I argue that Ramadan expresses something similar to what I have called *shared standards for social and political criticism* when he urges citizens to fight a ‘social *jihād*’ against discrimination and injustice across social, economic, and religious groups.<sup>1672</sup> If we move from Ramadan’s conception of Muslim participation to the activity of political criticism to the broader question of his understanding of social cooperation, we can generally find a similar argumentative structure. Firstly, Ramadan notes that, even though Islam is a communitarian religion,<sup>1673</sup> this does not imply a closed communitarian or ghetto mentality or the demand for special rights,<sup>1674</sup> because what is important for Muslims is ‘access to the equal status of citizenship’<sup>1675</sup> (thus confirming Cécile Laborde’s observations, *supra*). Secondly and in connection with the previous point, he insists that from an Islamic perspective nothing in principle prevents Muslims from

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<sup>1668</sup> Ramadan in Orsola Casagrande, *Europa domani: conversazione con Tariq Ramadan*, 57, my translation.

<sup>1669</sup> Tariq Ramadan, *Les musulmans dans la laïcité: responsabilités et droits des musulmans dans les sociétés occidentales*, 34, 135, and 137; *To Be a European Muslim*, 114, 229, and 230; *Western Muslims and the Future of Islam*, 55 and 110-112.

<sup>1670</sup> Tariq Ramadan, *Radical Reform*, see for instance 3-4, 30-34, 34-38, 119-124, and 153.

<sup>1671</sup> Tariq Ramadan, *Les musulmans dans la laïcité: responsabilités et droits des musulmans dans les sociétés occidentales*, 34; *Western Muslims and the Future of Islam*, 55 and 110-112; *What I Believe*, 68-69; *De l’islam et des musulmans: réflexions sur l’Homme, la réforme, la guerre et l’Occident*, 182-183; *Au péril des idées: les grandes questions de notre temps*, 82.

<sup>1672</sup> For instance, Tariq Ramadan in *Au péril des idées: les grandes questions de notre temps*, 253 and *The Quest For Meaning: Developing a Philosophy of Pluralism*, 74.

<sup>1673</sup> See for instance Tariq Ramadan, *Les musulmans dans la laïcité: responsabilités et droits des musulmans dans les sociétés occidentales*, 56, 58, 59, 60, 63, 65, 66, 67.

<sup>1674</sup> Ibid. 105 and 107-108.

<sup>1675</sup> Cécile Laborde, *Critical Republicanism*, 97.

cooperating in society with non-Muslims, and that these relationships should be based on justice and mutual respect and trust rather than on a simple *modus vivendi*. He also draws upon the example of the Prophet Muhammad, who ‘*worked together* and dealt with non-Muslims *on the basis of trust and competence, not only because he and his community were in the minority* but as an expression of a fundamental principle directing relations between Muslims and non-Muslims. His respect for the latter was high when they excelled in their work and were true proponents of justice and equity.’<sup>1676</sup> This is another instance of Ramadan’s presentation of a full Islamic justification (in this case regarding social cooperation, before regarding rights and political participation and criticism) toward an overlapping consensus. This strategy for anchoring social cooperation in Islamic tradition is also evident in *Radical Reform*, in which among the *maqāsid al-Sharī‘a* (the objectives which are characteristic of Islamic law) he lists some objectives which markedly refer to social cooperation and how it should work: peace, development, equality, justice, love, fraternity, solidarity, diversity, rule of law, deliberation, pluralism, evolution (as change in society), and memories.<sup>1677</sup> Moreover, the religious foundation for social cooperation is also conveyed by Ramadan’s representation of Western European societies as *dār al-shahāda* or abode of testimony.<sup>1678</sup> This understanding of European societies is possible only because freedom and security are granted to Muslims. *Shahāda* has a double dimension: the first is internal (to witness one’s faith in God’s oneness) and the second is social (to explain the universal message of Islam). Within this notion, then, there is enough space for social cooperation, because testimony is based on a commitment to free faith and moral reciprocity (which is deeper than mere political reciprocity). But to say that there is enough space does not specify whether on this account social cooperation can also be understood politically. Therefore, one should ask: on what kind of relation is social cooperation based? According to Ramadan, this relation has two dimensions. First, there is the moral (comprehensive) dimension, that is, a relation between human beings who hold different moral and religious views. Second, there is the *political* dimension, that is, a relation between fel-

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<sup>1676</sup> Tariq Ramadan, *To Be a European Muslim*, 169. Emphases added.

<sup>1677</sup> Tariq Ramadan, *Radical Reform*, 136-144. For the sake of simplicity, here I do not do justice to Ramadan’s distinction of the *maqāsid al-Sharī‘a* both vertically (from the general to the specific ones) and horizontally (on the basis of their referent: the inner being, the individual, or the society).

<sup>1678</sup> Tariq Ramadan, *To Be a European Muslim*, 145-150; *Western Muslims and the Future of Islam*, 70, 73-77; and *Dār ash-shahāda: l’Occident, espace du témoignage*, in particular 63 and 65-73.



low citizens.<sup>1679</sup> Again, this shows Ramadan's closeness to Rawls's distinction between the domain of the political and the domain of our deepest religious and philosophical beliefs. In Rawls's words, Ramadan argues that social cooperation is fully justified from an Islamic point of view, because Muslim identity moves Muslims 'in the direction of participation, which clearly expresses the idea of action with another, in a given society, with the fellow citizens of whom it is composed.'<sup>1680</sup> Therefore, Ramadan justifies social cooperation as 'joint action.'<sup>1681</sup> As before for rights and political criticism, even if Ramadan anchors social cooperation in religious considerations concerning Muslims' moral awareness of the Islamic message, he also offers a properly public articulation of social cooperation. Indeed, for him social cooperation mainly concerns citizens' social participation side by side, the exercise of rights, struggle against injustice (which Ramadan does not clearly define), which can blossom only in an atmosphere of mutual trust and freedom, since '[c]itizens who are afraid do not go out to change the world.'<sup>1682</sup>

To conclude, in this section I have demonstrated that the political liberal evaluation of Ramadan's conception of citizenship answers *positively* to the question *does Tariq Ramadan's conception of Muslims' citizenship in European societies reflect the criterion of reciprocity of the reasonable, which expresses the reciprocal recognition between reasonable, free and equal cooperating fellow citizens who possess the capacity for a sense of justice and a capacity for a conception of the good?* In few words, the analysis developed in this section has shown that Ramadan satisfies the first requirement that I have extracted from the ideal of public reason (RR).

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<sup>1679</sup> Tariq Ramadan, *Western Muslims and the Future of Islam*, 75.

<sup>1680</sup> Ibid. 82.

<sup>1681</sup> Ibid. 211.

<sup>1682</sup> Ibid. 173.

### 6.3 [CR] Is Ramadan's Account of Public Reasoning Consistent with the Idea of Public Reason?

In this section, I consider the second requirement specified by public reason citizenship, namely the consistency requirement (**CR**). The question that I address here is: *is Ramadan's account of public reasoning consistent with the features of public reason as expressed by PR1, PR2, and PR3?* In what follows, I thus analyse in order the three specifications of CR:

1. PR1, which says that to endorse public reason involves a *commitment to political reconciliation*;
2. PR2, which says that to endorse public reason involves the *recognition of belonging to a common democratic public political culture*;
3. PR3, which says that to endorse public reason involves *being committed to its requirements when discussing (i) in a public political forum (ii) political questions involving fundamental constitutional rights and liberties and chief questions of basic justice*. In discussing PR3 I also take into account the question of what I have called the "suspect clause," which apparently suspends Muslims' commitment to the idea of public reason when certain conditions apply. This is a central issue and I will devote greater attention to it than to the other two points.

(**PR1**) I have defined political reconciliation in terms of a respectful political reabsorption of reasonable pluralism, and in particular in terms of a fair political inclusion of citizens of faith compatible with stability for the right reasons. The analysis of Ramadan's work shows that he is committed to a similar notion of reconciliation. Take for instance this telling passage from *What I Believe*:

*'I mean to build bridges between two universes of reference, between two (highly debatable) constructions termed Western and Islamic "civilizations" (as if they were closed, monolithic entities), and between citizens within Western societies themselves. My aim is to show, in theory and practice, that one can be both fully Muslim and Western and that beyond our different affiliations we share many common principles and values through which it is possible to "live together"'*

*within contemporary pluralistic, multicultural societies where various religions coexist.*<sup>1683</sup>

With reference to the theme of Muslims' contribution to Western societies, he also affirms that '[i]f there is a contribution that Muslim Westerners can bring to their respective societies, it is surely that of reconciliation [... T]hey are ideally placed to engage their fellow citizens in reconciling these societies with their own ideals.'<sup>1684</sup> Even if Ramadan does not specify which ideals these may be, one may infer that they can only be public ideals (which, from Ramadan's religious view, should be supported through an overlapping consensus), for he recognises the fact of reasonable pluralism (*supra* and *infra*). Moreover, apparently he also shares the idea that this kind of reconciliation should consist in what I have defined as a "reabsorption without annihilation" of reasonable pluralism, because he promotes a 'coexistence which rejects both assimilation and isolation.'<sup>1685</sup> In this view, avoiding assimilation is tantamount to rejecting annihilation of one's own specificity, while refusing isolation is equivalent to promoting fair social cooperation (*supra*) and, consequently, some form of political reabsorption of pluralism. He then pursues a form of political reconciliation that he also calls 'living together in participation',<sup>1686</sup> which is public in essence, even though it is always endorsed via an overlapping consensus. The duality that characterises the mechanism of the overlapping consensus is exemplified in the following reference to *both* Islam *and* 'democratic reason' (which is more or less equivalent to public reason) in choosing the relevant criteria for voting in elections:

'Participating citizenship should be based on the awareness of one's responsibilities and not on a vague feeling of belonging. [...] For a Muslim European, political choice must be based on the principles to which his conscience and intelligence are attached, rather than on identity considerations alone. It is not enough for a man or for a woman to have an Indian, Pakistani, North African, or more generally Muslim sounding name, to justify choosing him or her. The reference to

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<sup>1683</sup> Tariq Ramadan, *What I Believe*, 20, emphases added.

<sup>1684</sup> Ibid. 129.

<sup>1685</sup> Tariq Ramadan, *To Be a European Muslim*, 234.

<sup>1686</sup> Ibid. 219.

Islam demands of our conscience, just as democratic reason requires it of our intelligence, that the true criteria of a genuine citizen's choice, concerning elections for instance, be founded on the candidate's *honesty* and *competence*, whether he or she be a Muslim or not.<sup>1687</sup>

This quotation is important for a number of reasons. First, as I have just said, it shows Ramadan's recognition of the difference between the religious and the domain of the political (see 6.2) and of something similar to the idea of overlapping consensus. Second, the two criteria –honesty and competence– on which Islamic ethics and 'democratic reason' (that is, public reason) converge via the overlapping consensus are ultimately public criteria, and this fact demonstrates Ramadan's commitment to the idea of public reason in such a matter as voting for representatives, a question that Rawls views as central to the idea of public reason. (As I mentioned above, Rawls says: 'the disposition of citizens to view themselves as ideal legislator, and to repudiate government officials and candidates for public office who violate public reason, is one of the political and social roots of democracy, and is vital to its enduring strength and vigor'<sup>1688</sup>). Third, it implicitly reaffirms the importance of being critical about one's membership to a political or religious community (*supra* 6.2). In addition to this, the model of children's education that he proposes (rather than founding parallel Islamic schools, he defends children's attendance in public schools, plus a 'complementary plan' of religious education in 'after-school schools' –two hours twice a week– organised by single Muslim communities)<sup>1689</sup> also openly goes in the direction of promoting civic awareness and involvement.<sup>1690</sup> Political reconciliation must be accomplished through the development of common political memories and 'synergies' among social and political actors,<sup>1691</sup> because cit-

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<sup>1687</sup> Ibid. 224. See also *Western Muslims and the Future of Islam*, 170: 'it is not about voting for a candidate capable of protecting our interests or of voting only for a Muslim [...] The best candidate, at whatever political level, is the one who brings together the three most *essential qualities when it comes to seeking a political mandate* [...] integrity, ability, and willingness to serve.' Emphasis added.

<sup>1688</sup> John Rawls, "The Idea of Public Reason Revisited," 445.

<sup>1689</sup> Tariq Ramadan, *Western Muslims and the Future of Islam*, 134-137.

<sup>1690</sup> Ibid. in particular 136.

<sup>1691</sup> Ramadan in Alain Gresh and Tariq Ramadan, *L'Islam en questions*, 325.

izenship entails not only a legal status, but also a real ‘feeling of belonging.’<sup>1692</sup> In fact, as long as citizenship concerns only the legal status and not also the deeper aspect of one’s political identity and self-perception (as well as others’ recognition) as citizen, there is only a partial political reconciliation and Muslims can only be ‘foreign citizens [: c]itizens regarding their documents, foreigners regarding their self-identification and others’ perception.’<sup>1693</sup> Hence, political reconciliation has several dimensions at the same time: psychological, social, and political.<sup>1694</sup>

(PR2) In anticipating the results of the analysis developed in this subsection, it is possible to argue that Ramadan also fulfils the second specification of CR. In other words, I now demonstrate that Ramadan is committed to the idea of belonging to a common democratic public political culture, as required by PR2. Not only does he recognise the fact of reasonable pluralism as ‘a permanent feature of the public culture of a democracy’<sup>1695</sup> and the distinction between the religious and the domain of the political (*supra*, section 6.2), but he also defines loyal citizenship as a critical feeling of political belonging.<sup>1696</sup> This feeling is “critical” because it does not prevent citizens from adopting the social and political critical perspective that I have already mentioned so many times. Thus, Ramadan argues that Muslims as citizens have the responsibility to be aware of the democratic public political culture of the society in which they live, and urges them to consider it as a part of their own horizon of life without any further hesitation.<sup>1697</sup> This is part of their duties in developing what Ramadan calls an eth-

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<sup>1692</sup> Ramadan in Edgar Morin and Tariq Ramadan, *Au péril des idées: les grandes questions de notre temps*, 27, my translation.

<sup>1693</sup> Ibid. 28, my translation.

<sup>1694</sup> For example, see *ibid.* 256-257 and 262. Here, he claims that, indeed, those who suffer from social discrimination have the right to want their victim status recognised, but that at the same time they must overcome the victim mentality and become active political subjects (257).

<sup>1695</sup> John Rawls, *Political Liberalism*, 36.

<sup>1696</sup> Tariq Ramadan, “Manifesto for a New ‘We’: An Appeal to Western Muslims and Their Fellow Citizens,” 129, and in Edgar Morin and Tariq Ramadan, *Au péril des idées: les grandes questions de notre temps*, 27.

<sup>1697</sup> Tariq Ramadan, *What I Believe*, 71-72.

ics of citizenship or ‘civic ethics.’<sup>1698</sup> For Muslims, answering the question “where do we live?” means taking into account the European political context ‘*as it is*.’<sup>1699</sup> On many occasions, Ramadan repeats that religious reformism must incorporate the historical and social conditions imposed by the political context in which it is developed.<sup>1700</sup> Moreover, he implicitly presents the grounds for a full Islamic justification of democratic public culture, because he says that the four features that make a political organisation appropriate from an Islamic viewpoint are the following:<sup>1701</sup> choice of rulers and representatives by the people, freedom of opinion, government alternation, and rule of law. Obviously, these Islamic features are fully consistent with democratic public culture, thus for Ramadan this latter can be endorsed through an overlapping consensus. This consistency between the fundamental principles of a democratic public culture and the principles that should shape a political regime according to Ramadan’s Islamic reformism is also explicitly confirmed in the following quotation: [t]he study of the higher *goals of [Islamic] ethics* and their possible categorization on the level of social and political vision bring to light five founding *principles which are also those underlying democratic models* in their diversity: rule of law, equal citizenship, universal suffrage, accountability, separation of powers.’<sup>1702</sup> Similarly, according to Ramadan, in Islam there is enough space for the acceptance of the principle of political legitimacy because –especially with reference to social affairs, *mu‘āmalāt– Shari‘a* law ‘is the work of human intellect.’<sup>1703</sup> If one puts together the emphasis on the role of human reason in Islamic jurisprudence concerning social life with the recognition of the fact of reasonable pluralism, then it is clear that it becomes possible to accept from within an Islamic perspective the idea that –under conditions of political freedom– only the oppressive use of state power could suppress reasonable

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<sup>1698</sup> Tariq Ramadan, *What I Believe*, 73 and *Western Muslims and the Future of Islam*, 168.

<sup>1699</sup> Tariq Ramadan, *To Be a European Muslim*, 122.

<sup>1700</sup> He often reminds the fact that al-Shāfi‘ī (the founder of one of the four main Sunni schools of Islamic jurisprudence or *fiqh*: the Hanafi school, the Hanbali school, the Maliki school, and the Shafi‘i school) would have modified the content of his jurisprudence when he moved from Baghdad to Cairo because the social, and economic ‘realities of Baghdad were different to those of Cairo’ (see for instance *Islam, the West and the Challenges of Modernity*, 17).

<sup>1701</sup> Ibid. 93-94.

<sup>1702</sup> Tariq Ramadan, *Radical Reform*, 273, emphases added. For the same list of principles on which democracy is based, see also *The Quest For Meaning: Developing a Philosophy of Pluralism*, 188 and Ramadan in Edgar Morin and Tariq Ramadan, *Au péril des idées: les grandes questions de notre temps*, 144.

<sup>1703</sup> Tariq Ramadan, *Western Muslims and the Future of Islam*, 34.

disagreement. In turn, this leads to the recognition of the principle of political legitimacy, which says that ‘our exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason.’<sup>1704</sup> Ramadan is extremely clear on this point (which brings us back to the distinction between the religious and the domain of the political analysed in 6.2):

‘[T]here is indeed a difference in Islam between [...] the religious and the political: it is true that the Transcendent one through His Revelation refers to all the areas of life and shows “the Way” [*Sharī‘a*], but the scriptural verses and the Prophetic traditions, which are very precise and compelling (insofar as they refer to our relationship with God and to religious practice), are distinct from those that fix universal and general principles concerning the affairs of the world and the ultimate ideals that the believer must try to achieve [...]. Sustained by faith [...] a believing consciousness must live within his own time, at the heart of his society [...] In practice, the “Way to faithfulness” teaches us that Islam rests on three sources: the Qur’an, the *Sunna*, and the state of the world, or of our society.’<sup>1705</sup>

In these lines we find both the distinction between the religious and the political already mentioned and –in the last sentence– the anticipation of a theme that we will find fully developed only in *Radical Reform*, that is, the idea that the full message of Islam cannot be understood if one refers only to the traditional sources of *Sharī‘a*, even the most fundamental ones (the Qur’an and the Sunna), because they must be “completed” through reference to the ‘context sciences’ (experimental and human sciences), which do not concern the ‘Revealed Book’ (the Qur’an and the Sunna), but the ‘Book of the Universe’ (i.e., the world in which we live).<sup>1706</sup> If the context is so crucial also from an Islamic ethical perspective, then one can realise why Ramadan advocates a form of education (*supra*) which is civically concerned with ‘an in-depth knowledge of the environment [...] mastery of the language, familiarity with the history of the country, knowledge of the institutions, study of the culture, social dynamics,

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<sup>1704</sup> John Rawls. *Political Liberalism*, 137.

<sup>1705</sup> Tariq Ramadan, *Western Muslims and the Future of Islam*, 36-37.

<sup>1706</sup> Tariq Ramadan, *Radical Reform*, see in particular chapter ten.

and the political landscape and so on.<sup>1707</sup> As I mentioned above, this is for Ramadan the basis for developing a true ‘civic ethics,’<sup>1708</sup> which is morally thicker and more demanding than the idea of public reason (for instance, Ramadan speaks of a ‘citizenship that never wants to betray an ethics of life’<sup>1709</sup> based on moral integrity, service to others and the preservation of the Creation), but which is nevertheless consistent with it. Thus, whatever the model of state-religion relations in Europe (*laïcité à la française*, British multicultural approach, and so on), Ramadan insists that Muslims should be (and –by and large– they are already) part of the constitutional culture of their country and honour its constitution and laws.<sup>1710</sup> This recognition of a common democratic public culture represents an improvement with reference to the strategy that Ramadan followed in his first works for justifying law abidance. This strategy consisted in affirming that the bond that originates from settling and living in European countries should be qualified as a binding contractual relationship.<sup>1711</sup> Although he has never disavowed this strategy, in his most recent works (roughly, from *Western Muslims and the Future of Islam* onwards)<sup>1712</sup> he simply shifts the emphasis on such ideas as ‘civic ethics,’ ‘shared citizenship,’ and ‘a common sense of belonging’ to the same social and political community (*supra*). In other words, now he openly draws the attention to a common ‘political culture which means to know how to deal with democratic society and think of oneself as citizen.’<sup>1713</sup>

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<sup>1707</sup> Tariq Ramadan, *Western Muslims and the Future of Islam*, 129.

<sup>1708</sup> For instance, *ibid.* 168-171 and *De l’islam et des musulmans: réflexions sur l’Homme, la réforme, la guerre et l’Occident*, 214.

<sup>1709</sup> Tariq Ramadan, *Western Muslims and the Future of Islam*, 170.

<sup>1710</sup> Ramadan in Alain Gresh and Tariq Ramadan, *L’Islam en questions*, 324.

<sup>1711</sup> See for example Tariq Ramadan, *To Be a European Muslim*, 164: ‘Millions of Muslims –when coming into these countries as workers, students, refugees or after a family reunion– have tacitly or explicitly recognised the binding character of the constitution or the laws of the country they enter into and then they live in. By signing a work contract or asking for a visa, they acknowledge the validity and authority of the constitution, the laws and the state all at once. [...] As for young Muslims of second and subsequent generations, they are either citizens, and as such naturally bound by the legislation, or residents, who are bound by the agreement previously made by their parents.’ See also *ibid.* 162: ‘contracts determine our status, fix our duties and rights and direct the nature and scope of our actions. Once agreed, the terms of a covenant should be respected and if there is a point which seems to work against Muslim rights [...] this has to be discussed and negotiated since Muslims are, unilaterally, not allowed to breach a treaty.’ See also *ibid.* 171-172.

<sup>1712</sup> However, note that a reference to the importance of contractual binds is present also in later books: for instance in *Western Muslims and the Future of Islam*, 92.

<sup>1713</sup> Orsola Casagrande, *Europa domani: conversazione con Tariq Ramadan*, 54. My translation.



Therefore, increasingly commonalities and cooperation seem to become more important than formal and legal bonds.

**(PR3)** The close examination of Ramadan's work has already brought to light several clues as to his commitment to the requirements of public reason when discussing political questions involving constitutional essentials and matters of basic justice in a public political forum. Ramadan repeats several times the need for providing a public justification that others can reasonably accept in public discussions about constitutional essentials and matters of basic justice. For instance, with reference to his own personal experience, he argues that he respected the restraints of public reason concerning public officials (*devoir de réserve*) when he taught in Swiss public schools.<sup>1714</sup> As seen before, Ramadan also grounds this commitment in his comprehensive view, by saying that '*Sharī'a* requires honest citizenship within the frame of reference constituted by the positive law of the European country concerned.'<sup>1715</sup> As usual, however, he also presents a public reason for endorsing such a duty of restraint, because he claims that 'Muslim Westerners have understood [...] that [...] secularism and religious neutrality [...] guarantee religious pluralism in Western societies and protect their legitimate rights.'<sup>1716</sup> With regard to this element, Ramadan's call for turning to 'democratic reason' when voting in elections must also be remembered.<sup>1717</sup> In addition, note that for Ramadan equal citizenship (one of the five pillars of his definition of democracy)<sup>1718</sup> also includes respect for minorities. Thus, one may argue that respect implies addressing those minorities when fundamental political questions are at stake, and that this in turn shows Ramadan's recognition of the need for a public justification. As I have said, in Ramadan's discourse this recognition is tightly connected with the defence of reasonable pluralism and the rejection of dogmatism: '[w]hat endangers political pluralism is indeed, on the one hand the imposition of

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<sup>1714</sup> See Ramadan in Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 104 and in Orsola Casagrande, *Europa domani: conversazione con Tariq Ramadan*, 31.

<sup>1715</sup> Tariq Ramadan, *To Be a European Muslim*, 172.

<sup>1716</sup> Tariq Ramadan, *What I Believe*, 52.

<sup>1717</sup> *Supra*.

<sup>1718</sup> Tariq Ramadan, *Radical Reform*, 273; *The Quest For Meaning: Developing a Philosophy of Pluralism*, 188 and Ramadan in Edgar Morin and Tariq Ramadan, *Au péril des idées: les grandes questions de notre temps*, 144.

a religious power whose legitimacy is seen as transcendent, and on the other, emergence of a dogmatic mind deaf to other people's belief.'<sup>1719</sup> Furthermore, the idea that Muslims must respect the constitution and the law of their country is reiterated on several occasions. As an example among many others, take the following statement:

‘As a resident or a citizen, the Muslim is asked to respect the terms of the constitution of the country he or she lives in [...] He is not asked to like or to agree with every single law or rule which is in force in that country or to do all that is permissible according to the legislation but, more specifically, he is expected both to recognise [...] the legislation and to act within the scope of the law [...] Muslims are bound by the conditions they have accepted.’<sup>1720</sup>

This passage (which belongs to the phase of Ramadan's work in which he stresses the contractual basis for Muslims' allegiance to European societies, *supra*) is of pivotal importance because it explains his conception of the relation between Muslim citizens and the law of their country. Like all other citizens, Muslims are bound by the law, even if they do not approve a specific law or policy. Moreover, since European laws usually only permit but do not mandate behaviours or actions which Muslims object to in virtue of their religious beliefs (such as drinking alcohol or interest on loans, *ribā*), Muslims can simply avoid those behaviours or actions.<sup>1721</sup> It is self-evident, however, that there can be cases in which positive legislation or public policies may *conflict* with Muslims' religious obligations, by requiring Muslims to act or not to act in a way which is inconsistent with their religious views. Think for instance to the case in which a Muslim citizen is obliged to fight in a war against a Muslim majority country,<sup>1722</sup> but also to prohibitions of ritual slaughter (above all for non-stunned animals, on the basis of animal welfare considerations), or compulsory insurance policies with some form of interest. What should a Muslim do in these and other similar cases? Ramadan's answer is

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<sup>1719</sup> Tariq Ramadan, *Radical Reform*, 263.

<sup>1720</sup> Tariq Ramadan, *To Be a European Muslim*, 173.

<sup>1721</sup> ‘[I]f European constitutions effectively allow such transactions or behaviour, they do not *oblige* Muslims to resort to them or to act in such a way. Therefore they must, on the one hand, respect the running legislation –since their presence is based on a tacit or explicit pact– and, on the other, avoid all kinds of activities or involvements which are in opposition to their belief.’ Ibid. 171.

<sup>1722</sup> The literature has devoted great attention to this issue: not only Ramadan in *To Be a European Citizen*, 175-176 and *Western Muslims and the Future of Islam*, 98, but also Andrew March in his book *Islam and Liberal Citizenship*, see for instance 113-127. For this reason, in what follows I have mainly in mind this question.

highly ambiguous and potentially problematic. Consider some of the following examples. With reference to the lawful obligations that can be in contrast with an Islamic principle, '[t]he overall ruling [...] is that Muslims are bound by the terms of their contract *except for* the specific case in which they would be *constrained* to act against their conscience.'<sup>1723</sup> '[A Muslim] is under the authority of an agreement whose terms must be respected *as long as* they do not constrain him/her to act against his/her conscience.'<sup>1724</sup> 'There is no contradiction [...] between these two belongings [i.e., being a Muslim and being a European citizen] *as long as* the Muslim fulfils his engagement to act according to the law and that he is not asked to sever himself from a part of his identity.'<sup>1725</sup> '[Muslims] are bound by the terms of the constitution of the country they live in, *so long as* they are not obliged to act against their conscience. Were they to find themselves in the latter situation, they could [...] resort to "moral objection".'<sup>1726</sup> Furthermore, Ramadan argues that obligations of citizenship are not absolute, since they are limited by a (not very well-defined) conception of justice morally shaped and enlightened by Islamic teachings and principles.<sup>1727</sup> This is what he calls the 'clause of conscience',<sup>1728</sup> and I have renamed the "suspect clause." To be clear, this clause is suspect only from the standpoint of a sincere commitment to public reason, since it may work as a suspensive conditionality of the kind: *if* there is a conflict between a legitimate law which satisfies the requirements of public reason and Muslims' religious obligations, *then* Muslims cannot be expected to feel bound by this law, thus they can (and, from a religious perspective, should) suspend their commitment to the idea of public reason. But if this is so, PR3 risks to become

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<sup>1723</sup> Tariq Ramadan, *To Be a European Muslim*, 171. The first emphasis is added. See also *Western Muslims and the Future of Islam*, 94.

<sup>1724</sup> Tariq Ramadan, *To Be a European Muslim*, 172, emphasis added.

<sup>1725</sup> Ibid. 196, emphasis added.

<sup>1726</sup> Ibid. 213, emphasis added.

<sup>1727</sup> Tariq Ramadan, *Western Muslims and the Future of Islam*, 98 (the last emphasis is added): 'for Muslims the principle of justice constitutes the fundamental criterion, after their faith in the oneness of God, for their social, economic, and political activities. This principle takes precedence over their own interest, their relatives, the rich, the poor, and so on, as far as the *umma* itself. *The same applies to citizenship.*' See also *ibid.* 88. Another reference to a similar point can be found in *Islam, the West and the Challenges of Modernity*, 80: '[i]n the political domain, as also in social and economic spheres, there exists a framework of the Islamic point of reference defined by the Qur'an and the Sunna which corresponds, more or less, to the status of a fundamental law –the constitution (in that it allows its formation)– *vis-à-vis* national legislations. One finds therein the general orientation, and the fundamental principles and laws which should respect the legislative instances of diverse communities.'

<sup>1728</sup> Tariq Ramadan, *To Be a European Muslim*, 175 and *Western Muslims and the Future of Islam*, 96-101.

practically empty. Conceptually, the clause is constantly present all throughout his work. However, it is remarkable that after *Western Muslims and the Future of Islam* this clause apparently becomes less important. Remember that this is also the moment from which Ramadan stresses more strongly the idea of a shared democratic public culture, rather than the idea of a contract between Muslim minorities and their European countries. As with the idea of a contract between Muslims and the larger society, also the idea of the conscience clause fades without disappearing completely, for it occasionally returns. Nevertheless, there is a major change in its relative weight within Ramadan's discourse. Now it is most of the time mentioned only implicitly, and Ramadan tends to emphasise the elements that can reconcile conscience integrity with a sincere commitment to a liberal political society. Notwithstanding this, I must demonstrate that Ramadan's conscience clause does not substantially undermine his commitment to public reason when discussing fundamental political questions in public forums, as required by PR3. To do that, I must consider Rawls's notion of conscientious objection, in order to show that the conscience clause is acceptable from a Rawlsian standpoint.<sup>1729</sup> Due to space limitations, I cannot analyse the entire question of conscientious objection. I limit myself to Rawls's view. Thus, I do not claim that this reconstruction of conscientious objection is complete or even satisfactory. It is just sufficient to answer the question I am dealing with, that is, whether Ramadan's account of conscientious objection is consistent with Rawls's view. To begin with, Rawls distinguishes between conscientious objection ('conscientious refusal') and civil disobedience.

*Civil disobedience* is defined as 'a public, nonviolent, conscientious yet political act contrary to law usually done with the aim of bringing about a change in the law or policies of the government.'<sup>1730</sup> In Rawls's account, civil disobedience may take place in nearly just societies (societies whose basic structure is reasonably just, but in which some deviations from justice may occur),<sup>1731</sup> in order to draw the attention of the majority to a particularly unjust law and

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<sup>1729</sup> To reconstruct Rawls's conception, I relied on: John Rawls, *A Theory of Justice*, chapter six; Kimberley Brownlee, "Civil Disobedience," *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta (Winter 2013), URL = <http://plato.stanford.edu/entries/civil-disobedience/>; David Lyons, "Conscientious Refusal," in *The Cambridge Rawls Lexicon*, eds. Jon Mandle and David A. Reidy (Cambridge: Cambridge University Press, 2015), 139-140; Alexander Kaufman, "Political Authority, Civil Disobedience, Revolution," in *A Companion To Rawls*, in particular 223-228.

<sup>1730</sup> John Rawls, *A Theory of Justice*, 364/320.

<sup>1731</sup> This explains why Rawls says that civil disobedience and conscientious objection fall into the partial compliance part of non-ideal theory. Ibid. 351/309.

to press it to change the legislation. In these situations, then, a minority appeals to the society's sense of justice to reform an unjust law in accordance with the public conception of political justice.<sup>1732</sup> Civil disobedience is a public act because it is done publicly and not covertly: the disobedient informs public authorities about her infringement of the law and tries to explain her reasons to the public. In other words, civil disobedience 'takes place in the public forum.'<sup>1733</sup> It is also a political act for two reasons: (1) because it 'is addressed to the majority' and (2) because 'it is an act guided and justified by political principles, that is, by the principles of justice.'<sup>1734</sup> Hence, the public political conception of justice is the ground for civil disobedience. Nonetheless, thanks to the idea of wide public reason (see chapter four), civil disobedience can also be based on an appeal to non-public grounds (for instance, one's religious beliefs) which satisfy the proviso and the duty of civility: 'so, even when justice figures prominently in a person's decision to use civil disobedience, other considerations could legitimately contribute to her decision to act.'<sup>1735</sup> The example of Martin Luther King Jr is meaningful: 'King was motivated by his religious convictions and his commitments to democracy, equality, and justice to undertake protests such as the Montgomery bus boycott' in 1955-1956.<sup>1736</sup> Finally, civil disobedience must be non-violent because it is a form of address to support political justice and 'any interference with the civil liberties of others tends to obscure the civilly disobedient quality of one's act.'<sup>1737</sup> In conclusion, one must be ready to accept the legal consequences of her infringement of the law. This ensures that, while opposing a specific law as unjust, one is nonetheless committed –on the whole– to the constitution and the legal system of her reasonably just society. For this reason, Rawls claims that civil disobedience 'expresses disobedience to law within the limits of fidelity to law, although it is at the outer edge thereof. The law is broken, but fidelity to law is expressed by the public and non-violent nature of the act, by the willingness to accept the legal consequences of one's con-

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<sup>1732</sup> 'When laws and policies deviate from publicly recognized standards, an appeal to the society's sense of justice is presumably possible to some extent,' *ibid.* 352/310.

<sup>1733</sup> For this reason Rawls adds: '[o]ne may compare it to public speech, and being a form of address, an expression of profound and conscientious political conviction, it takes place in the public forum,' *ibid.* 366/321.

<sup>1734</sup> *Ibid.* 365/321.

<sup>1735</sup> Kimberley Brownlee, "Civil Disobedience," 3.

<sup>1736</sup> *Ibid.*

<sup>1737</sup> John Rawls, *A Theory of Justice*, 366/321.

duct.<sup>1738</sup> However, civil disobedience is not always justified. In fact, '[i]n a state of near justice [...] we normally have a duty to comply with unjust laws in virtue of our duty to support a just constitution.'<sup>1739</sup> Thus, some conditions must be met before one can disobey unjust laws:<sup>1740</sup> (1) since '[w]hen the basic structure of society is reasonably just [...] we are to recognize *unjust law as binding provided that they do not exceed certain limits of injustice*,'<sup>1741</sup> civil disobedience is justified only in order to cope with 'substantial and clear' forms of injustice; (2) civil disobedience must be a solution of last resort when 'the normal appeals to the political majority have already been made in good faith and they have failed;' and (3) if two or more minorities face equivalent or comparable injustices, they must coordinate their efforts, so that, overall, disobedience does not have disruptive effects. When these conditions are met, civil disobedience is justified and works as a stabilising force within society, because '[b]y resisting injustice within the limits of fidelity to law, it serves to inhibit departures from justice and to correct them when they occur.'<sup>1742</sup>

*Conscientious refusal*, on the other hand, is 'noncompliance with more or less direct legal injunction or administrative order.'<sup>1743</sup> In itself, it is neither a public nor a political act, since it does not entail an appeal to the majority's sense of justice in order to change laws that conflict with the public conception of political justice. Since it may be based on religious or philosophical (rather than political) grounds, in conscientious refusal '[o]ne simply refuses on conscientious grounds to obey a command or to comply with a legal injunction [, but she] does not invoke the convictions of the community, and in this sense conscientious refusal is not an act in the public forum,' even though authorities are normally informed about her refusal to obey.<sup>1744</sup> Here I do not need to analyse the differences between conscientious refusal and civil objection in further detail. It is enough to note that Rawls points out a fundamental criterion to

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<sup>1738</sup> Ibid. 366/322.

<sup>1739</sup> Ibid. 354/311.

<sup>1740</sup> Ibid. 371-377/326-331.

<sup>1741</sup> Ibid. 351/308, emphasis added.

<sup>1742</sup> Ibid. 383/336.

<sup>1743</sup> Ibid. 368/323.

<sup>1744</sup> Ibid. 369/324.

settle possible conflicts between one's religious principles and actions required by political justice. Can conscientious refusal always be invoked? In what circumstances does it violate the requirements of justice? Rawls's answer is that conscience cannot grant immunity from the law and policies of the state when such immunity would infringe upon the principle of equal rights and liberties:

*'[T]he legal order must regulate men's pursuit of their religious interests so as to realize the principle of equal liberty; and it may certainly forbid religious practices such as human sacrifice, to take an extreme case. Neither religiosity nor consciousness suffices to protect this practice. A theory of justice must work out from its own point of view how to treat those who dissent from it. The aim of a well-ordered society, or one in a state of near justice, is to preserve and strengthen the institutions of justice. If a religion is denied its full expression, it is presumably because it is in violation of the equal liberties of others. In general, the degree of tolerance accorded opposing moral conceptions depends upon the extent to which they can be allowed an equal place within a just system of liberty.'*<sup>1745</sup>

If one adopts the expression that I proposed in chapter four, one may rephrase this passage (which goes back to the original edition of *A Theory of Justice*) by saying that conscientious refusal can be allowed only within the limits of public reason, and more precisely within the limits of the proviso understood in an extensive way, that is, as grounded in the criterion of reciprocity of the reasonable.

Having clarified the main differences between civil disobedience and conscientious refusal in Rawls's theory, I can now compare this account with Ramadan's views. It is clear that Ramadan's conscience clause cannot be interpreted as a form of civil disobedience. This is because this clause does not aim at addressing the majority's sense of justice in order to change a law which is unjust from the perspective of public principles of justice. Thus, Ramadan's conscience clause is neither political nor public: it is simply a refusal to obey legal injunctions which are in conflict with Islamic principles. Thus, the real question is to see whether it respects the criterion that makes conscientious refusal acceptable according to Rawls. Before considering this problem, however, note that Ramadan also talks about some-

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<sup>1745</sup> Ibid. 370/325. Emphases added.

thing similar to Rawls's notion of civil disobedience when he explains the concept of social *jihād*, defined as an 'engagement in social reform [and] mobilisation against injustice.'<sup>1746</sup> Although he does not openly say whether social *jihād* may include actions against the law aimed at promoting justice (remember that by definition civil disobedience concerns acts against the law and not mere demonstrations or other legal means to achieve social or political reform), it seems plausible to argue that his doctrine of social *jihād* may support a Rawlsian account of civil disobedience. Indeed, it meets the three conditions mentioned above. First, he defines the content of his social *jihād* in terms of questions of substantial political injustice, which should be redressed by the majority through an appeal to the public conception of justice. For instance, he says that citizens (majority and minorities together) should reform public policies and laws for 'fighting unemployment, opposing employment discrimination [...], promoting social welfare, intervening against suburban violence or looking after marginalised persons (the poor and the elderly).'1747 It would be hard to miss that this can be qualified as an appeal to the majority's sense of justice in order to correct social injustices. To be clear, it is evident that Ramadan fluctuates between a political and a religiously inspired definition of justice (remember what I have said about his characterisation of Muslims' sense of justice as "belonging to God first").<sup>1748</sup> It is also clear that only a political definition of justice may represent a ground for addressing the majority and reawaken society's sense of justice. Nonetheless, as I have said, in a wide view of public reason, civil disobedience may also rest on religious grounds if the latter support public reason (remember the Montgomery bus boycott). Second, since he is sincerely committed to respecting the legal system and the constitution

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<sup>1746</sup> Tariq Ramadan, *Islam, the West and the Challenges of Modernity*, 66.

<sup>1747</sup> Tariq Ramadan, *To Be a European Muslim*, 229.

<sup>1748</sup> Add to this observation the fact that in *Au péril des idées: les grandes questions de notre temps* (269), Ramadan qualifies civil disobedience in terms of conforming one's conduct to a superior moral principle in circumstances of substantial injustice. He makes the example of those who saved Jews during World War II and for this reason acted against the law of their country. However, note that this could be hardly qualified as an act of civil disobedience, because it was performed secretly and not publicly, for obvious and very good reasons. Rather, it may represent an example of what Rawls calls 'conscientious evasion,' see John Rawls, *A Theory of Justice*, 369/324. Even more importantly, this example cannot be qualified as civil disobedience in a Rawlsian sense for another reason: societies in which Jews were persecuted were clearly not in a state of near justice: they were patently unjust societies. The superior moral principle which Ramadan appeals to seems to be derived from his comprehensive view and not from a public conception of justice. However, in this example the latter is actually lacking, since those societies are manifestly unjust. Thus, in this case there cannot be an appeal to public principles of justice or to the sense of justice of the majority. However, in these conditions of profound injustice an appeal to religious moral principles may certainly advance and support a political conception of justice and the ideal of public reason in the long run. Thus, it may promote and strengthen a more just basic structure for the future.



(*supra*), one may legitimately infer that he considers civil disobedience as a last resort, and conclude that he also meets the second condition mentioned above. Actually, Ramadan himself confirms this conclusion.<sup>1749</sup> Finally, since he unambiguously formulates the social *jihād* doctrine in terms of coping with injustices which concern the entire citizenry (that is, in general and universal terms),<sup>1750</sup> and since he also says that social *jihād* must include other minorities in a common effort against injustice (for instance, remember that he says that he shared some struggles for justice with homosexuals in the past), also the third condition is met. In conclusion, Ramadan's doctrine of social *jihād* may provide an adequate ground for civil disobedience from a Rawlsian standpoint.

The question is now to see whether Ramadan's conscience clause respects the limits of conscientious refusal mentioned above. In other words, the problem is to consider if Ramadan's conscience clause respects the criterion of reciprocity of the reasonable, which I have defined as the critical threshold for honouring the duty of civility and which characterises an extensive interpretation of the proviso. Clearly, if the "suspect clause" (i.e., Ramadan's conscience clause) respects the limits established by the reciprocity of the reasonable, then it is consistent with the PR3 requirement. To demonstrate this, I will divide the discussion in several points. Observe that:

1. Ramadan minimises the scope of the conscience clause. Indeed, he claims that there are only three cases in which Muslim conscience and state laws may actually conflict. Firstly, there may be cases in which Muslims are requested to fight and kill other Muslims, which is an act prohibited by Islamic teachings. Secondly, there may be cases in which Muslims are obliged to act against other Islamic prescriptions (for instance with reference to burial, compulsory insurance, and slaughter).<sup>1751</sup> Thirdly, it may occur that Muslims are ordered to participate in an unjust war, that is, a war which is 'unfair or based on the sole desire for power and control

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<sup>1749</sup> Ramadan in Edgar Morin and Tariq Ramadan, *Au péril des idées: les grandes questions de notre temps*, 263.

<sup>1750</sup> The quotation above continues: '[these] are challenges that we must take up together, as partners and fellow citizens.' Tariq Ramadan, *To Be a European Muslim*, 229.

<sup>1751</sup> Ibid. 176-177 and *Western Muslims and the Future of Islam*, 98-99.

[.... ,] a war of colonisation or oppression.’<sup>1752</sup> With reference to the last case, Ramadan argues that Muslim citizens should refuse to fight and –if necessary– be willing to accept the legal consequences of their act, because ‘[p]rison is better than committing injustice.’<sup>1753</sup> Ramadan continues by saying that this kind of disobedience really means (in Rawls’s words) ‘resisting injustice within the limits of fidelity to law,’<sup>1754</sup> because refusing to join an unjust war ‘by no means signifies that Muslims are seeking to throw away the foundations of the nation or to appeal to “particular law for the Muslims”.’<sup>1755</sup> Rather, they refuse to obey an unjust legal injunction. Note, moreover, that since such a war is unjust also from the point of view of political justice among peoples,<sup>1756</sup> Muslims can appeal to *political* principles and address the majority to stop the war by calling upon its sense of justice. In this case, then, civil disobedience and conscientious refusal converge. The Rawlsian requirements of civil disobedience are met (fidelity to law, willingness to accept the legal consequences of the refusal, and so on); as Rawls notes,<sup>1757</sup> the only exception is that in this case one does not have to wait until all other legal means have been exhausted before refusing to comply with the law (in this case, conscription laws). This shows that the last hypothesis (Muslims’ refusal to participate in an unjust war) can be already justified in a Rawlsian account of civil disobedience and conscientious refusal. What is more, Ramadan adds that, apart from these three cases, it is not possible to invoke the conscience clause.<sup>1758</sup> Therefore, his intention to limit the scope of the clause is quite evident. It can be argued that this intention proves his willingness to respect the criterion of reciprocity of the reasonable.

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<sup>1752</sup> Tariq Ramadan, *To Be a European Muslim*, 175.

<sup>1753</sup> Ibid. 176.

<sup>1754</sup> John Rawls, *A Theory of Justice*, 383/336.

<sup>1755</sup> Tariq Ramadan, *To Be a European Muslim*, 177.

<sup>1756</sup> See John Rawls, *The Law of Peoples*, in particular 91-92 and 94-97.

<sup>1757</sup> John Rawls, *A Theory of Justice*, 371/326.

<sup>1758</sup> Tariq Ramadan, *To Be a European Muslim*, 178 and *Western Muslims and the Future of Islam*, 100.

2. Moreover, he adopts a much more prudent and flexible approach with reference to the first two cases mentioned in the preceding point. This is so probably because he realises that, in contrast with the third case, the first and the second cannot be justified by an appeal to a *public* political conception of justice. Thus, Muslims should be very careful before invoking the conscience clause.<sup>1759</sup> The favoured solution, according to Ramadan, is to seek a solution that reconciles Muslims' conscience and the law. Indeed, this is not an easy task.<sup>1760</sup> Then, he calls for dialogue and mutual understanding between Muslims and non-Muslims and for knowledge of the legislation, Islamic principles, and the common social context, in order to balance public and non-public priorities in drafting rules and policies.<sup>1761</sup> Furthermore, it must be underlined that in *To Be a European Muslim* he even maintains that Muslims cannot unilaterally refuse to comply with the law when the latter conflicts with their conscience and that a conciliation must be found: '[o]nce agreed, the terms of a covenant should be respected and if there is a point which seems to work against Muslim rights –or *even their conscience as Believers*– this has to be discussed and negotiated since Muslims are, unilaterally, not allowed to breach a treaty.'<sup>1762</sup> It is clear that this formulation must be read within the context of the contract-centred phase of Ramadan's work, a view which is progressively weakened in his later books (*supra*). Notwithstanding this, it can be plausibly argued that this tension (or even ambiguity) between the duty to comply with the law and the conscience clause endures also in later stages. This is because what remains unchanged is the deepest foundation of the duty to comply with the law, which is –according to

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<sup>1759</sup> Tariq Ramadan, *To Be a European Muslim*, 176-177 and *Western Muslims and the Future of Islam*, 98-99. For instance, he affirms that for Muslims citizens 'the prohibition on killing Muslims remains the general rule,' but also that if the country is fighting a just defensive war and the target is a Muslim leader of the aggressive enemy country, then that general rule must be balanced with considerations of justice and with Muslim citizens' duty of loyalty toward their own country (*Western Muslims and the Future of Islam*, 98).

<sup>1760</sup> Rawls himself is aware of this difficulty and says: '[i]t is a difficult matter to find the right course when some men appeal to religious principles in refusing to do actions which, it seems, are required by principles of justice. [...] There is a temptation to say that the law must always respect the dictates of conscience, but this cannot be right.' John Rawls, *A Theory of Justice*, 370/325.

<sup>1761</sup> Tariq Ramadan, *Les musulmans dans la laïcité: responsabilités et droits des musulmans dans les sociétés occidentales*, 23 and *Western Muslims and the Future of Islam*, 95.

<sup>1762</sup> Tariq Ramadan, *To Be a European Muslim*, 162, emphasis added. See also *ibid.* 139.

Ramadan— Islamic ethics itself.<sup>1763</sup> To be clear, this is evidence of an overlapping consensus. This also implies that, if there is a conflict between state law and an Islamic rule (call it *x*), then the conflict is interior to Muslim conscience itself. In other words, in this case there is a conflict between two *Islamic* rules: complying with state law or complying with the other specific Islamic rule (*x*). One can then understand why Ramadan is so concerned with calling for flexibility, balance, and practical solutions: he wants to solve a problem which is internal to Muslims' conscience and the only way to do that is to find a reconciliation (or, in Rawls's terms, a reflective equilibrium). For instance, in case of a just war against a Muslim majority country, the conscience of a Muslim citizen is divided between two Islamic rules: the Islamic rule that forbids Muslims to kill other Muslims and the other Islamic rule that oblige Muslims to be loyal to the country in which they live and to defend it in case of aggression. Thus, it is up to Muslim citizens themselves to find the right balance, that is, the most reasonable or just balance, because for Ramadan 'the principle of justice is indeed the parameter'<sup>1764</sup> and limits one's attachments, even to her own religious community. As I observed above, in virtue of these remarks we are brought back to the idea of an overlapping consensus. The latter presupposes that '[i]t is left to citizens individually —as *part of liberty of conscience*— to settle how they think the values of the political domain are related to other values in their comprehensive doctrine,' and how the latter may support political values.<sup>1765</sup> This is precisely in line with what Ramadan says when he suggests that it is Muslim believers' responsibility to find the right balance between political and religious values and obligations.

3. The third point to consider is that Ramadan firmly declares that one should always defend and promote the achievements of democracy and equal liberties (the funda-

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<sup>1763</sup> Again in terms of a contract, Ramadan argues: 'Islamic law and jurisprudence *order* a Muslim individual to submit to the framework of positive law in force in his country of residence in the name of the tacit moral covenant which already underlies his very presence.' Ibid. 172. In his later less contractual and more moral perspective, Ramadan also counts among the higher objectives of *Sharī'a* the following: rule of law, neighbourhood and (on a higher level) fraternity and solidarity, which —according to him— should also shape Muslims' conduct in society. *Radical Reform*, 142.

<sup>1764</sup> Tariq Ramadan, *To Be a European Muslim*, 160.

<sup>1765</sup> John Rawls, *Political Liberalism*, 140, emphasis added. Rawls continues: 'the history of religion and philosophy shows that there are many reasonable ways in which the wider realm of values can be understood so as to be either congruent with, or supportive of, or else not in conflict with, the values appropriate to the special domain of the political.'

mental criterion pointed out by Rawls), even when the same European societies depart from them or fail to implement them.<sup>1766</sup> One should not be misled by the fact that it may happen (and according to Ramadan it happens frequently) that Muslims defend and promote such achievements and equal liberties on religious grounds.<sup>1767</sup> As I explained in detail in chapters two and four, public reason (with the extensive interpretation of the proviso that I have suggested) is wide enough to include many of these religion-based appeals. First, they may resort to non-public reasons within the scope of public reason (that is, non-public reasons within a public form of reasoning: for instance, religious reasons for justifying a policy). Political liberalism accepts –upon condition– this use of non-public reasons in public reasoning through the formulation of the proviso (which is a *condition for publicly appealing to non-public reasons within the scope of public reason*; see chapter two for this definition and chapter four for my extensive interpretation of the proviso and its boundaries, which correspond to the second level of the duty of civility, that is, B2). They may also resort to non-public forms of reasoning that support their commitment to public reason “from outside.” Political liberalism provides two instruments: witnessing (which is a *dissenting non-public discourse in accordance with the idea of public reason*) and declaration (which is a *confirmative non-public discourse in accordance with the idea of public reason*; for this see chapter two). Finally, they may enter politics out of religious motivation. Political liberalism is also open to this possibility (see chapter five). What is really important is that Ramadan reaffirms the Rawlsian idea that the shared perspective of citizenship is the most relevant one when discussing fundamental political questions: verily, he claims that when it comes to policies which impact on fundamental rights and liberties ‘we should work toward reform not as “Muslims” but as citizens, inspired of course by a message and a morality, but above all aware of our responsibilities and determined that the right of every person to be treated justly and fairly (as the

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<sup>1766</sup> Tariq Ramadan, *Western Muslims and the Future of Islam*, 172.

<sup>1767</sup> Ibid. 145-146.

common law guarantees) should prevail.’<sup>1768</sup> Ramadan thus respects the criterion of reciprocity of the reasonable.

4. In this way, we come quite naturally to the fourth and final point. For Ramadan, the shared perspective of citizenship is the cornerstone for discussing fundamental political questions. This is consistent with his remarks about the importance of the distinction between law and sin. Indeed, he maintains that, from a political perspective, the law should not prohibit and consider as illegal what is simply sinful from a religious perspective.<sup>1769</sup> This is because the two notions of lawfulness and sinfulness correspond to two different orders of authority, and the concept of lawfulness must be consistent with what Rawls calls the liberal principle of political legitimacy. For the same reasons, he is against separate religious courts and defends an equal application of state law, which –he claims– is able to accommodate the moral principles of *Sharī‘a* if rightly interpreted.<sup>1770</sup> Finally, he argues that a law that has been democratically approved –following public reason, I would specify– must be respected even if one disapproves (for whatever public or religious reason).<sup>1771</sup> Legitimate law expressing the democratic *and reasonable* will of the majority<sup>1772</sup> must be politically respected. For instance, while he thinks that the French ban on the *foulard* in public schools is wrong and unjust (on the basis of both religious and public considerations), he says that the ban must be respected and criticised from within public institutions, because girls’ right to education has the priority, both politically and religiously.<sup>1773</sup> Alternatively, consider what he says about same-sex marriage. Whilst he morally disapproves of same-sex unions and is ready to cam-

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<sup>1768</sup> Ibid. 147. The quotation may continue: religious inspiration ‘shows the way, but says nothing about the choices, strategies, and priorities to be applied to social action in a given society. It is for the citizens, in the midst of their own realities to make their choices, work out the stages, and propose realistic and reasonable reforms,’ *ibid.* 147-148.

<sup>1769</sup> Ramadan in Edgar Morin and Tariq Ramadan, *Au péril des idées: les grandes questions de notre temps*, 267-268.

<sup>1770</sup> Ibid. 260-261.

<sup>1771</sup> Ramadan in Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 185 and in Edgar Morin and Tariq Ramadan, *Au péril des idées: les grandes questions de notre temps*, 262-263.

<sup>1772</sup> The respect of public reason is important precisely because it qualifies the majority principle in terms of reasonableness.

<sup>1773</sup> Ramadan in Edgar Morin and Tariq Ramadan, *Au péril des idées: les grandes questions de notre temps*, 263.

campaign against them, he maintains that, if the law recognises them, then in a democratic society Muslims must respect the political decision of the majority.<sup>1774</sup> This is further evidence of Ramadan's willingness to fulfil the criterion of reciprocity of the reasonable.

In conclusion, in the preceding pages I demonstrated that, while Ramadan's doctrine of social *jihād* may represent an adequate ground for a Rawlsian account of justified civil disobedience, Ramadan's conscience clause is consistent with the Rawlsian account of justified conscientious refusal, because the points 1-4 (and especially 3 and 4) show that it respects the criterion of reciprocity of the reasonable. Thus, the conscience clause satisfies the PR3 requirement.

Finally, I would add an important consideration. I argue that Ramadan's conscience clause can be understood as falling between the two Rawlsian notions of conscientious refusal and witnessing. Remember that for Rawls civil disobedience and conscientious refusal can occur in nearly just societies, while witnessing can occur only in fully just societies, in which there is no room for conscientious refusal or civil disobedience.<sup>1775</sup> Since existing European societies are not fully just but only nearly just (see chapter five), and since in nearly just societies public reason indeed allows conscientious refusal (under certain conditions, *supra*), if one wants to meet the requirements of public reason in European societies as they actually are, it would be enough to justify the conscience clause in terms of conscientious refusal. In other words, considering that the ideal of public reason aspires to have normative power also in not fully just and well-ordered societies (see chapter five), Ramadan's conscience clause satisfies the requirements that public reason specifies in such nearly just societies, because I demonstrated that the conscience clause can be justified as a form of conscientious refusal permitted by public reason in nearly just societies. However, there is a further question. Since '*the idea of public reason [...] belongs to a conception of a well-ordered constitutional democratic society*,'<sup>1776</sup> one may wonder whether Ramadan's conscience clause would respect public reason also in an ideally just society. In such a society there would be no case for conscientious re-

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<sup>1774</sup> Ramadan in Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 185.

<sup>1775</sup> John Rawls, "The Idea of Public Reason Revisited," 466 note 57.

<sup>1776</sup> Ibid. 440. Emphasis added.

fusal, thus Ramadan's conscientious clause could not be presented as a justified form of conscientious refusal. What to do with that clause then? In fact, there is a gap: while public reason's requirements are normatively salient both in fully just and in nearly just societies, Ramadan's conscience clause can be justified as conscientious objection only in nearly just societies (like European societies), but not in ideally just societies. Apparently, in a fully just society Ramadan's clause could not be justified and would be at odds with the requirements of public reason. How to fill this gap? Luckily, Rawls's presents a second notion in light of which one can interpret the conscience clause in well-ordered societies in accordance with the requirements of public reason. This is the notion of witnessing. Recall Rawls's definition of witnessing:

‘[In politically well-ordered and fully just societies] it may happen that some citizens feel they must express their principled dissent from existing institutions, policies, or enacted legislation. [...] While on the whole these citizens endorse reasonable political conceptions of justice supporting a constitutional democratic society, in this case they nevertheless feel they must not only let other citizens know the deep basis of their strong opposition but must also bear witness to their faith by doing so. At the same time, those bearing witness accept the idea of public reason. While they may think that the outcome of a vote on which all reasonable citizens have conscientiously followed public reason to be incorrect or not true, they nevertheless recognize it as legitimate law and accept the obligation not to violate it. In such a society there is strictly speaking no case for civil disobedience and conscientious refusal. The latter requires what I have called a nearly just, but not fully just, society.’<sup>1777</sup>

This description fits with the main points of Ramadan's conscience clause that I have just considered. According to Ramadan, Muslim citizens generally accept the legal framework of their European societies as (nearly) just, and are loyal to the constitution and the public institutions of the basic structure of those societies. Nonetheless, if there is a sharp contrast between a law or policy and the dictates of their conscience, they can openly declare their principled opposition to that law or policy. However, they comply with that law or policy, as point 4 above shows. Note that the only case of violation of the law that Ramadan explicitly

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<sup>1777</sup> Ibid. 466 note 57.



mentions –the case of refusing to participate in an unjust war– must be excluded in fully just and well-ordered societies: it is possible only as a case of conscientious refusal in a nearly just society (because the kind of war described by Ramadan is not only unjust from a religious perspective, but also from a political perspective, and for this reason it cannot occur in a well-ordered and fully just society). On the other hand, the other two cases mentioned by Ramadan for invoking the conscience clause do not involve acts against the law (at least in Ramadan’s presentation) and theoretically they may occur also in fully just societies, because they concern a conflict between reasonably just laws or policies and Islamic teachings (i.e., they concern laws or policies which are politically just or at least reasonable, even though they are not true from the Islamic perspective). In these cases, as we have seen, Ramadan calls for practical wisdom but not for non-compliance with the law. This idea of respecting a law even if one thinks that it is not true or good can also be inferred by what Ramadan says when he explains the content of the conscience clause: the latter allows ‘to *state* that certain actions or behaviors are against [one’s] faith.’<sup>1778</sup> In other words, Muslims just ‘state’ that they oppose a specific law or policy on religious grounds; they ‘bear witness to their faith’ by manifesting their conviction that such a law or policy is not true or good, but they do not act against it; they do not violate it. This demonstrates that Ramadan’s conscientious clause shares several important features with witnessing (see chapter two for a more detailed analysis of witnessing): 1) Muslims do not address their fellow citizens on public political grounds, since they simply bear witness to their own faith; 2) Muslims do not expect that their act of witnessing may represent a ground for public agreement; 3) Muslims recognise and respect majority’s reasonable political decisions as legitimate law. Concerning the last point, note that the main difference between conscientious refusal and witnessing is that in the former (but not in the latter) one refuses to obey a legal injunction: only in conscientious refusal is there non-compliance with the law. On the contrary, in bearing witness one recognises the law as legitimate and obeys it. However, as I have just said, there is no inconsistency in saying that Ramadan’s notion of conscience clause can encompass both conscientious refusal (with its idea of non-compliance in a nearly just society) and witnessing (with its idea of necessary compliance with the law in a well-ordered society). In fact, remember that the only case in which Ramadan openly advocates acts against the law –participation in an unjust war– should be impossible in a fully just society, at which point conscientious refusal drifts into witnessing. This is so because the only

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<sup>1778</sup> Tariq Ramadan, *Western Muslims and the Future of Islam*, 97, emphasis added.

case in which non-compliance is justified according to Ramadan is excluded (by definition) from a Rawlsian account of a well-ordered society.

Since witnessing falls within the boundaries of public reason (that is, it is a non-public form of discourse in accordance with the idea of public reason) in fully just societies, and since Ramadan's conscience clause is consistent with Rawls's account of witnessing, then Ramadan's clause would fulfil the requirements of public reason even in fully just societies. In other words, the conscience clause can also be part of a theory of citizenship in fully just and politically well-ordered societies.

This section has conclusively demonstrated that Ramadan's conception of citizenship for Muslims in Europe satisfies the requirement CR of public reason, because it is consistent with PR1, PR2, and PR3 which specify CR. In other words, it expresses a conception of public reasoning which is in accordance with the idea of public reason as specified by PR1, PR2, and PR3.

#### **6.4 [CiR] Does Ramadan Actually Respect Public Reason? The 'Issue of Women.'**

In this section I consider the question related to the requirement **CiR\***: *how does Ramadan honour the duty of civility in practice?* To answer this question, I must consider the three ways in which one can honour the duty of civility. In 4.2 I presented an extensive interpretation of the proviso and I differentiated two levels of this duty (the bifurcate model of the duty of civility). The strictest and purest form of compliance with the duty of civility is to present only public reasons for justifying a law or policy in public (A). The second level of the duty of civility is divided into two parts: the first corresponds to Rawls's original account of the proviso (B1), whilst the second to my extensive interpretation of it (B2). Firstly, one may satisfy the proviso by presenting non-public reasons which support public reasons, directly or even indirectly if the supportive connection between non-public and public reasons is clear enough in the eyes of other citizens (B1; note that I have left and I will leave open the question of how to determine this clarity requirement: like Rawls, I limit myself to calling for practical wisdom and good sense). But one may also fulfil the proviso by offering non-public reasons alone (which are not in conflict with, nor directly supportive of, but simply independ-

ent from any identified public reason), provided that they support the civic spirit of reciprocity and respect the criterion of reciprocity of the reasonable, on which the duty of civility is grounded (B2). To answer the question about CiR\*, then, I have chosen to consider a specific issue: the ‘issue of women,’ as Ramadan calls it.<sup>1779</sup> I will also analyse the related question of his “International Call for Moratorium on Corporal Punishment, Stoning, and the Death Penalty in the Islamic World,” since women are often among the most vulnerable victims of such practices. The choice of a practical example is the most effective way, I think, for studying *how or the manner in which* Ramadan honours public reason. The section is structured around the following problems:

1. Are there genuinely public reasons which fall under the first level of the duty of civility (A) emerging from Ramadan’s conception of the status and rights of women? If the answer is positive, then one can argue that Ramadan concretely honours the idea of public reason in his discourse by presenting reasons that satisfy the first level of the duty of civility.
2. Do the non-public reasons emerging from his conception of the status and rights of women fall within the limits of the second level of the duty of civility (because they support a public reason as requested by B1, or because they support civic friendship and a civic spirit of reciprocity, and thus they respect the criterion of reciprocity of the reasonable as requested by B2)? If the answer is positive, then one can argue that Ramadan also concretely honours the idea of public reason in his discourse by presenting reasons that fulfil the second level of the duty of civility.
3. Can the call for a moratorium be interpreted as an example of “double discourse” that fosters the ideal of public reason? If the answer is positive, then one can argue that Ramadan’s double discourse is different from misleading doublespeak.

Before analysing these specific questions, let me briefly present Ramadan’s general view about the ‘issue of women.’ First of all, he regards it as a central problem for Muslims today.<sup>1780</sup> He argues that Muslim thought has become sclerotic about this subject,<sup>1781</sup> because it

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<sup>1779</sup> Tariq Ramadan, *What I Believe*: this is the title of the eleventh chapter of the book.

<sup>1780</sup> Tariq Ramadan, *La foi, la Voie et la résistance* (Lyon: Tawhid, 2002), 37.

has so far been unable to free itself from reactive, dogmatic, and formalist stances. Indeed, Ramadan draws a sombre picture concerning the status of Muslim women both in European and in Muslim majority societies, in which –he claims– a large number of girls and women ‘still lack a genuine education [, ... others] are obliged to wear the *foulard*, others are completely deprived of their autonomy, others have no access to schools or work ... Once married, many are treated in an outrageous and inhumane way: negligence, insults, and violence are everyday realities.’<sup>1782</sup> For these reasons, Ramadan calls for an ‘Islamic feminism’ (defined as ‘a movement of women’s liberation within and through Islam itself’),<sup>1783</sup> in which the liberation of women passes through the rejection of the customary and paralysing way of conceiving the woman primarily in terms of her family roles (as daughter, wife, mother). On the contrary, Ramadan’s Islamic feminism aims at making it possible to think of the woman as a woman, in terms of her ‘female being before God and among human beings [in the original: *l’être féminin devant Dieu, parmi les hommes*].’<sup>1784</sup> To achieve this objective it is necessary to abandon both, on the one hand, literalist interpretations that disconnect Islamic sources from the context and the social environment, and, on the other hand, approaches based on the uncritical acceptance of Western forms of feminism and women’s liberation.<sup>1785</sup> Islamic feminism presupposes a distinction between the message of Islam and the impact of cultural traditions and social customs and practices on women’s condition (Ramadan calls them ‘cultural projections’).<sup>1786</sup> At the same time, however, the return to Islamic sources and their fundamental message must be combined with a full awareness of the substantial intellectual, social,

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<sup>1781</sup> Tariq Ramadan, *De l’islam et des musulmans: réflexions sur l’Homme, la réforme, la guerre et l’Occident*, 60.

<sup>1782</sup> Tariq Ramadan, *La foi, la Voie et la résistance*, 42-43. My translation.

<sup>1783</sup> I cannot analyse Ramadan’s ‘Islamic feminism’ in depth here. This approach is best described in *Western Muslims and the Future of Islam*, 138-143 (this section has also been translated in Italian and included as appendix in Orsola Casagrande, *Europa domani: conversazione con Tariq Ramadan*, 117-122); *Radical Reform*, 207-232; *The Quest For Meaning: Developing a Philosophy of Pluralism*, 81-95; *What I Believe*, 62-66 and 100-102; and *De l’islam et des musulmans: réflexions sur l’Homme, la réforme, la guerre et l’Occident*, 81-87. For the ‘pedagogical function’ of the Islamic revelation and what Ramadan judges to be the real message of Islam and how to exploit these resources to improve the condition of women in Muslim majority countries, see Appendix IV (“The Question of woman in the Mirror of Revelation”) in *Islam, the West and the Challenges of Modernity*, 335-342.

<sup>1784</sup> Tariq Ramadan, *La foi, la Voie et la résistance*, 40. See also *De l’islam et des musulmans: réflexions sur l’Homme, la réforme, la guerre et l’Occident*, 83-84.

<sup>1785</sup> Tariq Ramadan, *Radical Reform*, 208.

<sup>1786</sup> Ibid. 212, 213, and 215.

and economic achievements of liberal democratic societies with regard to the social status and rights of women.<sup>1787</sup> Both elements (Islamic ethics and democratic accomplishments) must guide Muslim citizens in their active commitment to social criticism and reform. In Ramadan's view, both of them are part of Muslims' conscience as good democratic citizens. For sure, according to Ramadan, Islamic ethics condemns the most blatant violations of women's rights: 'keeping women illiterate and forbidding them to work, reach financial autonomy, or play a social and economic role, as well as such practices as female genital mutilation, forced marriages, the denial of divorce, or restraint against domestic violence, are absolutely contrary to Islam's message as shown through its evolution (over twenty-three years) and the Prophet's own attitude.'<sup>1788</sup> In his view, then, there is a consensus between Islamic ethical principles and the most fundamental tenants of democratic public culture about the rights of women. Therefore, he claims that '[t]o make any reference to Islam today [...] is clearly to call for the liberation of women within and by Islam.'<sup>1789</sup> To be clear, Islamic ethics –once freely accepted– obviously conveys a precise and specific moral order which goes much beyond what a political conception of justice can say about the role of women within the family and society. Such an Islamic moral order may be the ground for what Rawls calls a religion-based 'gendered division of labour within the family.'<sup>1790</sup> What is important from a political perspective, however, is that such a moral order is freely accepted and that it does violate political justice (I will return to this point later). Take for instance the question of the *hijab*. According to the author, from an Islamic perspective it is indeed necessary to wear the veil, which is a symbol of modesty. However, the veil loses its genuine religious meaning if it is imposed. Ramadan criticises those who force their daughters to wear the veil and 'pretend to apply the *Shari'a* [...] starting with sanctions, penalties, and the restriction of liberties.'<sup>1791</sup> This is an error, a confusion between appearance and substance. True religious commitment cannot be imposed, because coercion irreparably corrupts the meaning of a practice that be-

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<sup>1787</sup> Ibid. 209.

<sup>1788</sup> Ibid. 214.

<sup>1789</sup> Tariq Ramadan, *Islam, the West and the Challenges of Modernity*, 55.

<sup>1790</sup> John Rawls, "The Idea of Public Reason Revisited," 471.

<sup>1791</sup> Tariq Ramadan, *Islam, the West and the Challenges of Modernity*, 52.

comes in the end an empty symbol.<sup>1792</sup> However, empty symbols are surprisingly heavy, because they manifest ‘the reality of pressure, and *oppression*, that some Muslim women today are subjected to,’<sup>1793</sup> as Ramadan notes. To be religiously meaningful, the veil must represent the freely adopted visible sign of a profound awareness of the message of Islam. From here, Ramadan comes back to the importance of education and freedom of choice: ‘[women’s responsibility before God and before other human beings] has no sense unless women possess a real freedom to determine and choose for themselves. [...] The worst enemy of the rights of women is not Islam but ignorance and illiteracy, to which we may add the determining role of traditional prejudices.’<sup>1794</sup> One can see in the background the reaffirmation of a theme that I have already pointed out, namely, Ramadan’s critique of the tendency to Islamise political problems (*supra*).<sup>1795</sup> The latter, on the contrary, should be addressed politically. On the whole, Ramadan’s Islamic feminism can be substantially defined as a difference-based egalitarian approach. In few words, he claims that men and women are equal but not identical.<sup>1796</sup> According to Ramadan, men and women are not identical because their identities are different due to biological, psychological, and cultural factors.<sup>1797</sup> However, men and women are equal with reference to two crucial dimensions. First, they are equal before God, because they are created human beings who walk together along the path that Ramadan calls ‘the quest for meaning.’<sup>1798</sup> Second, they are equal as citizens.<sup>1799</sup> Thus, for Ramadan men and women are by their very nature both equal and different (‘they are equal but not the same’).<sup>1800</sup> The onto-

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<sup>1792</sup> Ibid. and 53-54. Here Ramadan quotes again the Qur’anic verse ‘there is no compulsion in religion’ (Qur’an, 2:256).

<sup>1793</sup> Tariq Ramadan, *Islam, the West and the Challenges of Modernity*, 53. Italics in the original.

<sup>1794</sup> Ibid. 54.

<sup>1795</sup> In the same spirit, he contends that, if in many Muslim majority countries women’s life is very difficult, this is not the fault of the Qur’an or the Sunna, but of Muslims (ibid. 342).

<sup>1796</sup> For what follows, see in particular Tariq Ramadan, *The Quest For Meaning: Developing a Philosophy of Pluralism*, 89-92; *Islam, the West and the Challenges of Modernity*, 54-55; and *Au péril des idées: les grandes questions de notre temps*, 37-39.

<sup>1797</sup> Tariq Ramadan, *The Quest For Meaning: Developing a Philosophy of Pluralism*, 91-92.

<sup>1798</sup> Ibid. 94-95.

<sup>1799</sup> Ibid. 92.

<sup>1800</sup> Ibid. 94.

logical equality of men and women before God entails the actual *political* recognition of women's equal rights and their equal status as citizens.<sup>1801</sup> Interestingly, Ramadan contends that many women would defend his view, because they 'want to be free and independent, to have access to work and to earn the same wages as men, but they also want to assume their status as women, their femininity and motherhood and even a family role. They expect more from men, but they are not men and recognise the differences between men and women. They want to be "equal" but have no desire to be identical.'<sup>1802</sup> On the whole, it can be maintained that this difference-based egalitarianism looks quite traditionalist because it reaffirms the priority of the family in Islamic ethics and the fact that women's specific responsibility concerns the family,<sup>1803</sup> but, at the same time, it seems compatible with the idea of citizens' freedom and equality (see what I have said about the veil). I will consider the question of the consistency of Ramadan's views about the status of woman within the family with political liberalism later. For the moment, I would merely underline that some points of Ramadan's Islamic feminism are problematic, or at least controversial and unclear. First, if it is true that in general his view of the role of women within the family is not radically new or liberating, some remarks seem to shift the balance in favour of a more prudent approach, openly winking at traditionalist positions. For instance, one should acknowledge that Ramadan is quite enigmatic when he claims that men and women 'must be aware of their respective rights and determined to defend them ... *but they must always be reasonable*.'<sup>1804</sup> What does "reasonable" mean here? In one plausible interpretation, it seems to suggest that struggles for women's rights should not go too far or break the natural harmony of the family. This is not the only ambiguous passage. In fact, after having said that '[m]en, as well as women, must remember that Islamic commandments emphasize the centrality of the family,' he contends that '[t]he desire for liberty and rights, for men as well as for women, cannot mean forgetting one's individual, familial, and social responsibility.'<sup>1805</sup> Although this phrase is apparently formulated

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<sup>1801</sup> Ibid. 92.

<sup>1802</sup> Ibid. 91.

<sup>1803</sup> For instance: Tariq Ramadan, *Islam, the West and the Challenges of Modernity*, 56. See also *To Be a European Muslim*, 154 and *Western Muslims and the Future of Islam*, 143.

<sup>1804</sup> Tariq Ramadan, *The Quest For Meaning: Developing a Philosophy of Pluralism*, 92. Emphasis added.

<sup>1805</sup> Tariq Ramadan, *Western Muslims and the Future of Islam*, 143. Emphasis added.

in an egalitarian fashion, it is obvious that it affects men and women differently, because traditionally the greatest share of women's responsibility is limited to the family. The result is that this "egalitarian" remark may burden women unfairly, because it restricts their possibilities of emancipation from the family. Finally, I suspect that some may question Ramadan's idea that, at the end of the day, we (men?) must find a clear and unambiguous place for women (i.e., we want to situate them) within the great scheme of the world and society.<sup>1806</sup> Such a pre-definition seems too rigid, no matter how close to men one places women. To be sure, this idea is completely understandable within the framework of a conception of human flourishing as defined from the angle of a religious doctrine. According to political liberalism, there is no obstacle preventing a citizen from believing in a particular conception of the true or good order between sexes (provided that such a view is politically reasonable). However, the question is: why should one pre-define a place and a role for women in the family and in society? Again, this may be a legitimate aspiration for a religious view, but it may sound too paternalistic for an approach that aims at women's liberation, as Ramadan proclaims for his view.

It is now time to examine the first question mentioned at the beginning of this section: are there *public reasons* that fall under the first level of the duty of civility (A) emerging from Ramadan's conception of the woman? The answer is positive. In the first place, he resolutely affirms that the discourse about women mainly concerns their legitimate rights.<sup>1807</sup> To make a concrete example, on the issue of the veil, as I have said, he promotes state neutrality as a common space of equal rights for citizens and argues that '[c]ompelling a woman to wear the headscarf is against Islam, and compelling her to remove it is against human rights'<sup>1808</sup> (note that here I am interested in the nature of the reasons which Ramadan appeals to, not in their soundness). According to him,<sup>1809</sup> then, women must be free from all kinds of compulsion in deciding about the veil (either in wearing or in removing it), because such a decision is part of

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<sup>1806</sup> For example, he says: 'we must determine and identify the feminine universal's role in constructing the universal common to all human beings.' Tariq Ramadan, *The Quest For Meaning: Developing a Philosophy of Pluralism*, 88.

<sup>1807</sup> Tariq Ramadan, *What I Believe*, 65.

<sup>1808</sup> Ibid. 98.

<sup>1809</sup> Tariq Ramadan, *Les musulmans dans la laïcité: responsabilités et droits des musulmans dans les sociétés occidentales*, 130-131. For his demand for equal rights, see also ibid. 107-108 and 128.



their equal rights as citizens and concerns their freedom of conscience and religion. In this sense, Ramadan demands equal rights and liberties, not special rights for Muslims. As I showed in 6.1, Ramadan believes that European constitutions and legislations generally guarantee those equal rights to Muslims and that in most cases real obstacles are not explicit legal discriminations but some form of *vacuum legis* or a prejudiced and discriminatory application of the law.<sup>1810</sup> Therefore, for Ramadan the issue of women is first and foremost a question of political equality. This is also true with regard to the relationships between men and women and the role of the latter in society.<sup>1811</sup> He thus advocates ‘women’s right to autonomy, work and equal treatment as [...] citizens.’<sup>1812</sup> In this sense, he also mentions three specific spheres in which men’s and women’s rights are still too unequal in several Muslim majority countries: education,<sup>1813</sup> family law,<sup>1814</sup> attendance and management of places of worship (because ‘[m]osques today are essentially men’s places’).<sup>1815</sup> All these remarks demonstrate that Ramadan speaks the language of public reason when he discusses the condition of women in public forums. In conclusion, within Ramadan’s conception of citizenship the discourse about women resorts to genuinely public reasons, which respect the first and strictest level of the duty of civility (A).

However, Ramadan does not appeal exclusively to public reasons. The second question on which this section focuses is the following one: do the *non-public reasons* emerging from his conception of women’s status and rights *respect the limits of the second level of the duty of civility*, either by *supporting a public reason* (as requested by B1), or by *fostering civic*

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<sup>1810</sup> ‘Cases of legal clauses which are discriminatory toward Muslims are extremely rare. Rather, one can find juridical gaps because the legal framework has been elaborated without the presence of Muslims. Sometimes, the sentiment of rejection is stronger than the application of the law in its real essence: such a sentiment leads those who are moved by it to a tendentious interpretation... But this is a matter of men, not of legislation.’ Ibid. 97 note 42, my translation.

<sup>1811</sup> Ramadan in Edgar Morin and Tariq Ramadan, *Au péril des idées: les grandes questions de notre temps*, 58. Here Ramadan mentions different dimensions of such equality: social equality, equality before the law, political equality, and equality in wages.

<sup>1812</sup> Tariq Ramadan, *The Quest For Meaning: Developing a Philosophy of Pluralism*, 92.

<sup>1813</sup> Tariq Ramadan, *Radical Reform*, 230.

<sup>1814</sup> Ibid. 228.

<sup>1815</sup> Ibid. 222.

*friendship and respecting the criterion of reciprocity of the reasonable* (as requested by B2)? Surely, I cannot take into consideration every single non-public reason which Ramadan refers to when he discusses the condition of women. Rather, I limit myself to explaining how the clauses expressed by B1 and B2 are fulfilled in some notable cases. Concerning the proviso expressed by B1, one could return to the question of the veil. Ramadan presents two interesting and intertwined grounds for justifying the permission of wearing the veil in public places, and in particular in public schools. First, he argues that the veil should not be banned from public places because the veil, as a visible symbol of submission to God, also expresses women's rejection of any other form of submission, and in particular submission to men. Then, the veil is a form of emancipation which promotes women's equality and rights.<sup>1816</sup> In this case, the *non-public reason* for supporting the permission of wearing the veil in public schools (i.e., the veil expresses submission to God, the only relevant and justified form of submission for human beings) is *supported by a public reason* (i.e., the recognition of women's rights and equal status passes through the rejection of male domination). Therefore, the appeal to this non-public reason meets the condition specified by B1. Furthermore, there is also a second kind of argument, which is similar to the previous one in its non-public part, but it supports a different public reason for allowing the *hijab* in public schools. Again, the veil is presented as a symbol of human equality before God, because it introduces a distance (not necessarily a separation) between women and men, it extracts (from the Latin: *ex trahere*) women from the sphere of male domination, and, in doing so, it publicly affirms both their equal standing and their specific identity. This amounts to the rejection of a male-dominated public sphere and the possibility of participating in it *as a woman*. Of course, "as a woman" here means "according to a particular religious definition of what it means to be a woman with a specific religion-based identity and conscience". Thus, this time the veil –as a symbol of a religion-based affirmation of equality and female identity– functions as a facilitator of women's equal participation in the public space. Ramadan openly puts this non-public reason together with a public reason by saying that '[w]omen must be able to play a social role.'<sup>1817</sup> The supportive

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<sup>1816</sup> Tariq Ramadan, "Le voile islamique," article originally published in *Le Courrier* of Geneva on November 19, 1993 and now included in Tariq Ramadan, *Les musulmans dans la laïcité: responsabilités et droits des musulmans dans les sociétés occidentales*, 155: 'the veil, which is chiefly the symbol of submission to God (literally: Islam), socially should be an element of the liberation of the woman [because] she does not submit her being to male imagination [...] In virtue of these considerations, she is completely coherent when she claims her private and social rights.' My translation.

<sup>1817</sup> Tariq Ramadan, *Islam, the West and the Challenges of Modernity*, 56.

relation between the public and the non-public reason is direct and explicit, because Ramadan states that ‘in the public space [...] many women in the West now indicate their right to be respected in their faith by wearing the headscarf.’<sup>1818</sup> Hence, also in this case B1 is fulfilled. However, in his discussion about the veil, Ramadan also appeals to *non-public reasons which are not related to a genuine public reason through a direct or indirect mutually supportive relation*. For instance, on certain occasions he seems to justify the legal permission to wear the veil in public only on the basis of the fact that the veil is prescribed by Islamic teachings. The question is: does such a reason respect the extensive interpretation proviso? To be sure, obviously there may be a strong connection between this non-public reason and freedom of conscience. However, here I am interested in considering if such a reason *alone* (that is, as a self-standing non-public reason, and leaving aside any supportive connection with a public reason) may satisfy B2. As B2 concerns the respect of the criterion of reciprocity of the reasonable, certainly the answer to the question *depends on how the Islamic prescription of the veil is presented from a political point of view*. It can be shown that Ramadan reconstructs the Islamic obligation to wear the veil *in terms that are consistent with the criterion of reciprocity of the reasonable*.<sup>1819</sup> Indeed, Ramadan observes that the obligation to wear the veil is firstly based on two Qur’anic verses: ‘tell believing women that they should lower their eyes, guard their private parts, and not display their charms beyond what [it is acceptable] to reveal; they should draw their coverings over their necklines and not reveal their charms’ (24:31) and ‘Prophet, tell your wives, your daughters, and women believers to make their outer garments hang low over them so as to be recognised and not insulted: God is the most forgiving, most merciful’ (33:59). For the believing woman, Ramadan claims, the veil functions as ‘a protection and a reminder’:<sup>1820</sup> it protects women’s dignity against men’s concupiscent gaze and it reminds women and men ‘the sacred dimension of her being.’<sup>1821</sup> Moreover, Ramadan emphasises the fact that those verses were revealed to the Prophet only fifteen years after the beginning of the Revelation. According to Ramadan, these circumstances are extremely important and must be taken into account, because they demonstrate that the prescription con-

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<sup>1818</sup> Tariq Ramadan, *Western Muslims and the Future of Islam*, 142.

<sup>1819</sup> What follows is mainly based on Tariq Ramadan, “Le voile islamique,” in particular 152-154.

<sup>1820</sup> Ibid. 153, my translation.

<sup>1821</sup> Ibid, my translation.

cerning the veil was introduced only after a period of time in which Muslim men and women had been educated to the core of the Islamic message. Thus, he claims that such an obligation can only be based on a ‘deep spiritual education’ which ‘ensure[s] that this command [can be rooted] in the convinced hearts of Muslims.’<sup>1822</sup> Consequently, it follows that in no way can a girl or a woman be obliged to wear the veil against her will or disregarding her deep convictions. Ramadan is unambiguous on this point:

‘[M]any Muslims act against the Qur’anic example –and against good sense– when they force their women [...] to cover themselves with the veil. It is appropriate, firstly, to provide girls with a true religious education, a deep and complete one, so that they can understand the meaning and the significance of their rights and duties. This is the least we should do. *This is also the maximum [we can do]*. Beyond that, the relation is exclusive and concerns only the girl and God.’<sup>1823</sup>

In conclusion, this appeal to a religious view is constructed in a reasonable way. It is reasonable both in its content (then U1 is avoided) and in its spirit (then U2 is avoided). It follows that it respects the criterion of reciprocity of the reasonable and meets the condition specified by B2.

Before analysing the third question, it is time to deal with an issue that I mentioned twice in the introduction of this section, in which I presented the main features of Ramadan’s Islamic feminism. There I said that one may legitimately wonder whether the ‘gendered division of labour within the family’<sup>1824</sup> that Ramadan advocates respects political reciprocity. Indeed, this is a central question for a Rawlsian theory, because Rawls claims that the family is part of the basic structure of society,<sup>1825</sup> and thus it is important to understand whether and how a religion-based conception of the role of women in the family fits with the political conception of justice for the basic structure, which must satisfy the criterion of reciprocity. Rawls is clear

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<sup>1822</sup> Ibid. 154, my translation.

<sup>1823</sup> Ibid. my translation and emphasis added.

<sup>1824</sup> John Rawls, “The Idea of Public Reason Revisited,” 471.

<sup>1825</sup> Ibid. 467: ‘[t]he family is part of the basic structure, since one of its main roles is to be the basis of the orderly production and reproduction of society and its culture from one generation to the next.’

about this point: there should be a division of labour between, on the one hand, political principles of justice that apply to the basic structure and, on the other hand, principles that apply to the specific associations in the background culture (churches, universities, clubs, and so on), which ‘is the culture of the social, not of the political.’<sup>1826</sup> Therefore, one may think that political principles of justice ‘do not apply to the family, and do not secure equal justice for women and their children.’<sup>1827</sup> Rawls rejects this view, and not only because the family is part of the basic structure. Actually, he acknowledges that ‘[w]e wouldn’t want political principles of justice –including principles of distributive justice– to apply directly to the internal life of the family,’<sup>1828</sup> as we would not want that they directly apply to the internal life of a church (for instance, by prescribing fair universal elections for the Pope) or other associations in the background culture. In that spirit, Rawls clarifies that within the family the ‘principles [of justice] do not inform us how to raise our children [...], because h]ere those principles are out of place.’<sup>1829</sup> However, what the political principles of justice require is the protection of the equal rights and liberties of the children and women (and of the members of associations in the background culture) *as citizens* (or, with reference to children, as future citizens). Thus, one can understand Rawls’s remarks according to which, ‘[i]n order for public reason to apply to the family, it must be seen, at least in part, as a matter of political justice’<sup>1830</sup> and ‘[e]ven if the basic structure alone is the primary subject of justice, the principles of justice still put essential restrictions on the family and all other associations. *The adult members of families and other associations are equal citizens first: that is their basic position. No institution or association in which they are involved can violate their rights as citizens.*’<sup>1831</sup> Then, for gendered divisions of labour within the family (for instance on the basis of religion) to be acceptable

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<sup>1826</sup> John Rawls, *Political Liberalism*, 14.

<sup>1827</sup> John Rawls, “The Idea of Public Reason Revisited,” 468.

<sup>1828</sup> Ibid. 469.

<sup>1829</sup> Ibid. 470.

<sup>1830</sup> Ibid. 468.

<sup>1831</sup> Ibid. 470–471. Emphases added.

from the perspective of public reason and the criterion of reciprocity, Rawls pinpoints two fundamental requirements:<sup>1832</sup>

1. The gendered division of labour within the family must be voluntarily accepted.
2. Even when fully voluntarily accepted, the division of labour within the family must not ‘result from or lead to injustice;’ that is, for the sake of simplicity, it must not violate fundamental rights and liberties of family members as citizens (or future citizens).

Now the question is: does Ramadan’s Islamic feminism present an account of the division of labour within the family which is consistent with those two Rawlsian requirements? At first glance (as I mentioned in the introduction of this section), there are reasons to be sceptical, or at least to think that Ramadan favours a rather traditionalist view of the family; a view in which the rights and liberties of women are often jeopardised. Not only does he defend the priority of the family within the Islamic conception of the good life (*supra*), which in itself may be a perfectly reasonable view from the perspective of political liberalism, but he also affirms that the responsibility of a woman toward her family *limits* her aspirations for claiming liberties and rights. At least, this is what one could conclude after having read the above mentioned statements according to which: (1) ‘[t]he desire for liberty and rights [...] cannot mean forgetting one’s individual, familial, and social responsibility,’<sup>1833</sup> and (2) women ‘must be aware of their [...] rights and determined to defend them ... *but they must always be reasonable*.’<sup>1834</sup> On other occasions, a conservative, patriarchal, and paternalistic message seems to come to the surface through the language that Ramadan uses. For instance, he defines ‘Islamic femininity’ as ‘a certain way of being and of feeling oneself –and wanting to remain– a woman before God and among other human beings.’<sup>1835</sup> The least (but perhaps also the maximum) that one can say about such a view of Muslim women’s identity is that it lacks dynamism and a developmental perspective. Thus, one may suspect that, with reference to the

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<sup>1832</sup> Ibid. 471.

<sup>1833</sup> Tariq Ramadan, *Western Muslims and the Future of Islam*, 143. Emphasis added.

<sup>1834</sup> Tariq Ramadan, *The Quest For Meaning: Developing a Philosophy of Pluralism*, 92. Emphasis added.

<sup>1835</sup> Tariq Ramadan, *Western Muslims and the Future of Islam*, 143. Emphasis added.

place of women in the family, Ramadan's Islamic feminism is actually too restrictive and does not promote women's liberation as it pretends to do. This suspicion is echoed by Aziz Zemouri, who argues that Ramadan's 'rejection of discriminations based on sex only concerns the life outside the family.'<sup>1836</sup> In other words, Islamic feminism would be consistent with equal rights and liberties for women only at the price of excluding the family from the picture. Arguably, however, it is precisely from the family that women's demands for rights and liberties begin. One could add that such a view of the family as an enclosed space is not plausible, because in the long run women's emancipation in workplaces, in the media, and in public arenas is likely to have an impact on their condition within the family. Nevertheless, what really matters is the respect of the two requirements mentioned above. Does Ramadan's Islamic feminism respect them? Concerning the first requirement, the answer is "yes:" as I demonstrated with reference to the veil, for Ramadan any religious obligation can only be grounded in a sincere and spontaneous commitment. Nobody can force a woman to wear the veil: it must be freely adopted by her on the basis of her conscience. Similarly, it is highly plausible to maintain that for Ramadan a woman cannot be forced to accept an Islamic definition of what it means to be a good daughter, wife, or mother. Only her conscience can determine her appropriate place and role within the family. Therefore, the first requirement is met: any gendered division of labour within the family must be voluntarily accepted. With reference to the second requirement (the respect of fundamental rights and liberties and basic justice within the family), one must acknowledge that Ramadan plainly urges Muslims to recognise women's active engagement in various domains other than the family (places of worship, public institutions, workplaces, the media, and so on), also in executive positions.<sup>1837</sup> Thus, he implicitly recognises a form of "right of exit" *from* the family. Moreover, he contends that women's fundamental rights and basic liberties must also be protected and guaranteed *within* the family. I have already mentioned the importance of education in Ramadan's theory of citizenship (*supra*), but he specifically stresses its relevance with reference to the

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<sup>1836</sup> Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 55. My translation.

<sup>1837</sup> Tariq Ramadan, *Islam, the West and the Challenges of Modernity*, 56: '[w]omen must be able to play a social role. And if Islam clearly stipulates the priority of the family, this has never meant that a woman cannot move out of this space. Priority conveys the idea of a hierarchy, but not the expression of an exclusivity.' See also *Radical Reform*, 221-232.

status of women.<sup>1838</sup> Moreover, in a passage that I have already quoted, he repeats that ‘keeping women illiterate and forbidding them to work, reach financial autonomy, or play a social and economic role, as well as such practices as female genital mutilation, forced marriages, the denial of divorce, or restraint against domestic violence, are absolutely contrary to Islam’s message.’<sup>1839</sup> Furthermore, he openly recognises women’s reproductive rights (with some qualifications),<sup>1840</sup> he categorically rejects any form of domestic violence,<sup>1841</sup> he says that a woman’s free consent to marriage is always required,<sup>1842</sup> and finally he strongly recommends that Muslim women do not content themselves with an Islamic marriage, but also demand a civil marriage so that their legitimate rights can be better defended.<sup>1843</sup> One can then conclude that Ramadan’s Islamic feminism meets the necessary requirements of political reciprocity also with reference to the status and rights of women within the family.

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<sup>1838</sup> Tariq Ramadan, *Radical Reform*, 230.

<sup>1839</sup> Ibid. 214.

<sup>1840</sup> Such as some natural birth control methods and –on some circumstances– abortion. Ramadan in Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 82 and 83-84.

<sup>1841</sup> Ibid. 91-92. In light of this open and clear rejection of domestic violence, it is difficult to agree with those critics (like Nicolas Sarkozy in his 2003 debate with Ramadan, see the transcript of the show “100 Minutes pour Convaincre” in Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 351) who blame Ramadan for having prefaced Asma Lamrabet’s book *Musulmane tout simplement* (Lyon: Tawhid, 2002). In this book, Lamrabet defends some forms of domestic violence (as a ‘*tape légère*,’ a soft tap, see *Musulmane tout simplement*, 71-75). Now, it is irrefutable that Lamrabet does not exclude the possibility of giving ‘soft taps’ to one’s own wife. However, from the general context (the book is a eulogy of what counts as an authentic Islamic femininity in the author’s eyes) and the spirit of the section, it seems that she is trying to minimise the applicability of an explicit Qur’anic verse [(4:34): ‘If you fear high-handedness from your wives, remind them [of the teachings of God], then ignore them when you go to bed, then hit them. If they obey you, you have no right to act against them: God is most high and great.’]. Moreover, she repeatedly affirms in the text that what is really fundamental is respect for women and their free acceptance of the Islamic teachings (ibid. for instance 80-81, 165-168). On the whole, it seems that Lamrabet’s book promotes a very traditional view of the woman and her place in society, but it is generally sympathetic with the moral point of view of Muslim women. Seen from this angle, the permission of giving a *tape légère* represents an awkward attempt to reduce the impact of a textual reference (to be sure, this effort to explain Lamrabet’s intentions does not imply that I support or agree with her view). After all, in replying to Nicolas Sarkozy Ramadan plainly says that he decided to write this foreword not because he entirely agreed upon the content of the book, but because he wanted to welcome the public contribution of a woman to the debate about the status of women in Islam and the contemporary world (in Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 351 and 353). In conclusion, taking into account Ramadan’s explicit rejection of any form of domestic violence, his decision to write a foreword for Lamrabet’s book seems at most naïve, but this does not prove that he agrees with her on this issue.

<sup>1842</sup> Ramadan in Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 89.

<sup>1843</sup> Ibid. 90.



Turning now to the last question of the section, I take into consideration Ramadan's "International Call for Moratorium on Corporal Punishment, Stoning, and the Death Penalty in the Islamic World." As I mentioned above, such a call was brought to the attention of the public during a television show ("100 Minutes pour Convaincre" on France 2) on November 20, 2003, in which he debated in a lively way with the French Minister of the Interior Nicolas Sarkozy.<sup>1844</sup> The proposal was further elaborated in April 2005 both in an article published in *Le Monde*<sup>1845</sup> and in the document just mentioned.<sup>1846</sup> During the 2003 show, the discussion focused on three main topics: antisemitism,<sup>1847</sup> domestic violence<sup>1848</sup> and stoning of adulterers (and particularly of women),<sup>1849</sup> and secularism.<sup>1850</sup> In what follows, I concisely consider the meaning of the call for a moratorium on stoning, death penalties, and corporal punishments (*hudūd* –"limits"– indicate the Islamic penalties prescribed for certain crimes which are considered crimes against God –e.g. fornication or theft– and involves corporal punishments like amputation, lashing, and death penalty including stoning).<sup>1851</sup> Such a proposal reverberated both in the West and in Muslim majority countries: for many observers in the former suspending the application of *hudūd* was too little, while for many others in the latter it was too

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<sup>1844</sup> The transcript of the show is available in French in Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 345-357.

<sup>1845</sup> "Pour une moratoire sur l'application de la charia dans le monde musulman," April 1, 2005 (available online at URL = [http://www.lemonde.fr/idees/article/2005/04/01/pour-un-moratoire-sur-l-application-de-la-charia-dans-le-monde-musulman\\_634114\\_3232.html?xtmc=tariq-ramadan&xtcr=207](http://www.lemonde.fr/idees/article/2005/04/01/pour-un-moratoire-sur-l-application-de-la-charia-dans-le-monde-musulman_634114_3232.html?xtmc=tariq-ramadan&xtcr=207)). An English translation is also available online ("For a Moratorium on the Application of Sharia in the Muslim World," at URL = <http://www.truth-out.org/archive/component/k2/item/53443:tariq-ramadan--for-a-moratorium-on-sharia>).

<sup>1846</sup> Available on Tariq Ramadan's website at URL = <http://tariqramadan.com/blog/2005/04/05/an-international-call-for-moratorium-on-corporal-punishment-stoning-and-the-death-penalty-in-the-islamic-world/>.

<sup>1847</sup> With regard to Ramadan's controversial article "Critique des (nouveaux) intellectuels communautaires," which I mentioned above.

<sup>1848</sup> Sarkozy referred to Ramadan's foreword to Asma Lamrabet's book *Musulmane tout simplement*, a question that I considered in one of the preceding footnotes.

<sup>1849</sup> The French Minister criticised Hani Ramadan's 1991 book *La femme en islam*, see *supra*.

<sup>1850</sup> Ramadan and Sarkozy discussed the issue of state neutrality and the application of the 1905 law on the separation of church and state in France.

<sup>1851</sup> For a concise definition, see the entry "constitutionalism" by Andrew F. March in *The Princeton Encyclopedia of Islamic Political Thought*, 114.

much.<sup>1852</sup> Confining the discussion to the reactions in Western countries, critics have defined Ramadan's call for a moratorium on stoning 'a medieval discourse,'<sup>1853</sup> a 'moment of barbarism,'<sup>1854</sup> or an example of how Ramadan practices *taqiyya* (dissimulation, *supra*).<sup>1855</sup> On the other hand, defenders of Ramadan have maintained that his proposal is meaningful and important. For instance, Olivier Roy argues that:

'The paradox is that Tariq Ramadan's celebrated declaration calling for a moratorium on the application of *hudud* [...] is much more in conformity with the concept of *laïcité* than the requirement that the very principle of these divine commandments be renounced. The state has no knowledge of the heavenly kingdom and legislates only on terrestrial matters; it is therefore important for it that no sentence of corporal punishment be pronounced and even less executed here below. Hell can wait. The moratorium is a good compromise, to be sure a bit hypocritical, but what religion is not when it has to deal with earthly political realities?'<sup>1856</sup>

'When Ramadan proposes a moratorium on the punishments provided by sharia, he is at bottom more secular than the government minister who asks him to declare the veil optional, because he recognizes the distinction between the two orders: public political space and religious space. *The moratorium affects the public space without touching the dogma*. Ramadan, like any other Islamic leader, is required to explain himself only with regard to public space.'<sup>1857</sup>

These quotations (and especially the last one) are of capital importance for what follows, because they disclose the relation between, on the one hand, the methodological intuition underlying Ramadan's call for a moratorium, and, on the other hand, the idea of public reason

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<sup>1852</sup> For example, take the article on the BBC News "Muslim thinker fights death penalty," by Roger Hardy 30 March, 2005, available at URL = [http://news.bbc.co.uk/2/hi/middle\\_east/4394863.stm](http://news.bbc.co.uk/2/hi/middle_east/4394863.stm). See also Nina zu Fürstenberg, *Chi ha paura di Tariq Ramadan?*, 122-130.

<sup>1853</sup> Nicolas Sarkozy in Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 353. My translation.

<sup>1854</sup> Paul Berman, "Who's Afraid of Tariq Ramadan?" 50.

<sup>1855</sup> Paul Landau, *Le Sabre et le Coran*, 137-138.

<sup>1856</sup> Olivier Roy, *Secularism Confronts Islam*, 24-25.

<sup>1857</sup> Ibid. 95. Emphasis added.

and the meta-theoretical approach of political liberalism. On a closer examination of Ramadan's proposal, the first –obvious– thing to say is that it does not concern European countries, but only those Muslim majority countries in which *hudūd* punishments are applied today (e.g., Saudi Arabia). In Western societies, Ramadan claims, 'the infliction of corporal punishments, stoning, execution *in the name of a religious standard that would impose itself on an entire society, cannot be accepted*: these practices must be condemned without any other form of trial or inquiry.'<sup>1858</sup> In this way, he affirms once more that Muslim citizens are part of European democratic public culture and willing to recognise and respect the fact of reasonable pluralism (*supra*). With reference to those Muslim majority countries that apply *hudūd* punishments, his personal position is unambiguous, because he firmly condemns the death penalty and corporal punishments in any form:

'Personally, [...] I'm against capital punishment, not only in Muslim countries, but also in the U.S. But when you want to be heard in Muslim countries, when you are addressing religious issues, you can't just say it has to stop. I think it has to stop. But you have to discuss it within the religious context. There are texts involved. I am not just talking to Muslims in Europe, but addressing the implementation of huddud [*sic*] everywhere in Indonesia, Pakistan, and the Middle East. I'm speaking from the inside to Muslims.'<sup>1859</sup>

The idea emerging from this excerpt is quite clear: according to Ramadan, in order to achieve a real, deep, and enduring change in mentalities and practices, what matters is not only his personal opinion. If one truly wants to see the application of corporal punishments suppressed, she had better try to find an effective way or *method* to produce long-lasting changes, rather than asking obsessively about the personal views of a single intellectual. This is not only a question of numbers and places. There are two other reasons. The first is linked to the question of consensus (*ijmā'*) within the Muslim community, on which I will return in a moment. The second is related to the fact that external pressure often produces the opposite ef-

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<sup>1858</sup> Tariq Ramadan, "Pour une moratoire sur l'application de la charia dans le monde musulman," and "For a Moratorium on the Application of Sharia in the Muslim World," in both cases see page 1 of the printable version. Emphasis added.

<sup>1859</sup> Ramadan in Ian Buruma, "Tariq Ramadan Has an Identity Issue," 5. See also Ramadan in Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 219.

fect to that which it seeks,<sup>1860</sup> a phenomenon that I have mentioned under the label of “reactive identity.” Thus, here Ramadan is not concerned with stating his own views about *hudūd*, but with laying down a method. In itself, the content of the proposal is simple: to suspend immediately the application of *hudūd* punishments all around the Muslim world. The call has a double purpose: first, to ‘open the debate with ‘*ulamā*’ (singular ‘*ālim*’; the term indicates the Islamic scholar, the “learned” or “knowledgeable” in the field of Islamic religious sciences), and, second, to ‘guarant[ee] justice and respect for the dignity of humankind, particularly of the poor and of women in Muslim majority societies.’<sup>1861</sup> These remarks introduce the reader to the core of Ramadan’s discourse. In fact, he bases his call on two kinds of arguments: there are two Islamic arguments and one public argument. The two Islamic arguments are grounded in two values that Ramadan puts at the heart of the Islamic message: the promotion of justice and the protection of the integrity of the person.<sup>1862</sup> On the assumption that these two values are essential in Islamic teachings, he argues that, in the absence of a clear consensus (*ijmāʿ*)<sup>1863</sup> among Muslims and Islamic scholars about the conditions and applicability of *hudūd* punishments, it would be a blatant injustice and a violation of a person’s integrity from the perspective of Islamic teachings themselves to continue to mutilate and kill in the name of Islam.<sup>1864</sup> The second Islamic argument is that it is equally unjust to apply *hudūd* punishments if the victims are in the majority of cases the most vulnerable (the poor and women), as is often the case.<sup>1865</sup> If one believes that ‘Islam is a message of equality and jus-

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<sup>1860</sup> Tariq Ramadan, “International Call for Moratorium on Corporal Punishment, Stoning, and the Death Penalty in the Islamic World,” 3.

<sup>1861</sup> Tariq Ramadan, *Radical Reform*, 275.

<sup>1862</sup> Tariq Ramadan, “International Call for Moratorium on Corporal Punishment, Stoning, and the Death Penalty in the Islamic World,” 5. Ramadan also includes them in the list of the higher objectives of *Sharīʿa* in his *Radical Reform*: see 139, 142 and 143.

<sup>1863</sup> *Ijmāʿ* (consensus) is traditionally considered one of the sources of *fiqh* (Islamic jurisprudence), along with the Qurʾan, the Sunna, analogy (*qiyās*), and the interpretative effort (*ijtihād*) of the legal expert. Sabrina Mervin, *L’Islam: Fondamenti e dottrine*, chapter four.

<sup>1864</sup> Tariq Ramadan, “International Call for Moratorium on Corporal Punishment, Stoning, and the Death Penalty in the Islamic World,” 2 and 4; “Pour une moratoire sur l’application de la charia dans le monde musulman,” and “For a Moratorium on the Application of Sharia in the Muslim World,” respectively on page 1 and 2 of the printable version.

<sup>1865</sup> Tariq Ramadan, *Radical Reform*, 275; “International Call for Moratorium on Corporal Punishment, Stoning, and the Death Penalty in the Islamic World,” 2; “Pour une moratoire sur l’application de la charia dans le monde musulman,” and “For a Moratorium on the Application of Sharia in the Muslim World,” respectively on page 1 and 2 of the printable version.

tice,' then for Ramadan it is logical to conclude that '[i]t is our faithfulness to the message of Islam that leads us to recognize that it [is] impossible to remain silent in face of unjust applications of our religious references.'<sup>1866</sup> Note, however, that these two Islamic arguments are not necessarily consistent with a democratic view. *If* there were an agreement among Muslims concerning *hudūd* punishments, and *if* those punishments were applied fairly to men and women, to the poor and the rich, *then* there would be no reason in this Islamic line of argumentation for rejecting *hudūd* punishments. Here I do not address the question of the place (if any) of death penalty in democratic public culture, for example in the U.S.A. I simply observe that, if the death penalty is intensely criticised in Western democracies with regard to such crimes as murder, then it is all the more reasonable to expect deep disagreement on the qualification of fornication as a crime punishable by death. This is so because fornication and the other crimes punished with *hudūd* are subject to the *hudūd* discipline precisely because they are considered as crimes *against God* and, then, they cannot be publicly justified in conditions of reasonable pluralism (on the contrary, *prima facie* one could try to argue in favour of the death penalty in liberal democracies by appealing to a public reason, for instance by saying that –as an extreme form of deterrence– the death penalty aims at protecting a public good such as the security of society. However, it would be difficult to maintain that adulterers pose a serious threat to the security of society and thus deserve such an exemplary punishment. Therefore, it would be very hard to justify capital punishment for adulterers from a public perspective. However, these considerations by no means imply that I want –or that I think that it is possible– to provide a general moral justification for the death penalty in liberal democracies: nothing could be further from my mind. I can set aside this question, for I do not need to analyse it here). Therefore, Ramadan adds a public argument to those two Islamic assertions, probably because he realises that the latter are not enough from a democratic perspective. Effectively, as I have already mentioned, many Western criticisms to Ramadan's proposal are based exactly on the charge that a moratorium on stoning and other corporal punishments is not enough from a liberal democratic viewpoint. The latter would not be satisfied with anything less than a durable and well-grounded elimination of such punishments, the

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<sup>1866</sup> Tariq Ramadan, "International Call for Moratorium on Corporal Punishment, Stoning, and the Death Penalty in the Islamic World," 1. In *Radical Reform* (276), Ramadan affirms with regard to his call for a moratorium: '[t]he proposal was not directed against Islam's teachings or against the texts –quite the contrary. In the name of the higher objectives of the message that call for respect for the *life* and *dignity* of women and men, *equality*, and *justice*, it was urgent to put an end to an instrumentalization of religion through literalist, formalist implementations that continued to affect poor people, women, and political opponents who have never had the means to defend themselves and who are punished for example's sake and without justice.'

critics continue, whilst a temporary suspension of their application based on something like the two Islamic arguments considered above would not be sufficient. It seems plausible to argue that Ramadan partially agrees with this view and demonstrates his commitment to liberal democratic values by appealing to a public argument *that supports the ideal of public reason*. Ramadan summarises this public argument in these terms:

‘Islam can only be modernized from within. If I stand there and state that I condemn the practice of stoning, that this punishment is despicable, it changes nothing. *My fellow Muslims will say: Brother Tariq, you became a European, a Swiss citizen, so you are no longer one of us. I want to trigger a process of contemplation and thought within the Islamic community.* Critique and attacks from the outside can produce tension.’<sup>1867</sup>

Moreover, he continues: ‘it is not only my personal position that matters, but an *evolution of Muslim mentalities*.’<sup>1868</sup> And: ‘the call for a moratorium is a direct and necessary interpellation addressed to the Muslim world *from its own standpoint* because we are convinced that *reflection and the evolution of thinking is possible only when societies’ endogenous dynamics are the point of departure*.’<sup>1869</sup> All these statements support the same view: the call for a moratorium (through the immediate suspension of the application of *hudūd* punishments) aims at a *decompression of the public space*. In other words, the proposal is designed for creating a space in which the most severe injustices are suspended and mitigated, and in which one can start building a road toward a more just consensus through a debate that is internal to Muslim communities around the world. Crucially, justice is now understood in *political* terms, that is, stoning of adulterers is now seen as a violation of citizens’ fundamental rights as defined by a political conception of justice. Ramadan hopes that Muslim majority societies move in the direction of a full recognition of fundamental rights and liberties: for this reason he speaks of ‘evolution of mentalities,’ ‘reflection,’ ‘modernisation,’ and ‘a process of contemplation and thought.’ This is a public political wish which is fully consistent with and supportive of polit-

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<sup>1867</sup> Tariq Ramadan, “They Live in a Bleak, Devastated Universe,” interviewed by Erich Follath and Romain Leick, 3 of the printable version. Emphases added.

<sup>1868</sup> Ramadan in the transcript of the show “100 Minutes pour Convaincre” in Aziz Zemouri, *Faut-il faire taire Tariq Ramadan?*, 353, my translation. Emphasis added.

<sup>1869</sup> Tariq Ramadan, “Pour une moratoire sur l’application de la charia dans le monde musulman,” and “For a Moratorium on the Application of Sharia in the Muslim World,” on page 1 and 2 respectively. Emphases added.

ical liberalism. In other words, in this public argument for the moratorium, Ramadan advocates the latter on the ground that it is the best *political strategy* for triggering a development of Islamic jurisprudence *toward an overlapping consensus on a liberal political conception of justice*. Ramadan explains the fundamental intuition of such a strategy in another context (he is talking about female genital mutilation): ‘[we should] equip ourselves with the means to change mind-sets progressively, from within, so that people not only abide by [a] legal ban [...], but *fundamentally agree with the principles and objectives of the process*. Denunciation is not enough: [... *we should teach*] people to set aside any practices that do not respect human beings’ integrity, dignity, and rights.’<sup>1870</sup> As Ramadan clearly and plainly maintains in this quotation, a political liberal is not satisfied with unilateral denunciations. Rather, what really matters is an overlapping consensus (or, at least, a progressive advance toward an overlapping consensus) on a political conception of justice. Therefore, the moratorium creates a space for discussing the Islamic foundations of *hudūd* punishments, while at the same time it protects fundamental political rights and liberties. The hope is that such an internal debate finally leads to a full Islamic justification of the conception of justice which secures those rights and liberties. If such an Islamic justification occurs, then the moratorium becomes a redundant shield for the preservation of individual rights and liberties. The final goal is an overlapping consensus and the abolition of corporal and capital punishments. This objective is revealed by Ramadan himself: ‘[i]t is urgent to set in motion a democratization movement that moves populations from the obsession of what the law is sanctioning to the claim of what it should protect: their conscience, their integrity, their liberty, and their rights.’<sup>1871</sup> Although this formulation is quite general, it is clear that it goes far beyond what the two Islamic arguments alone may suggest. Plainly, this is ultimately a call for the search of an overlapping consensus on a liberal political conception of justice. Thus, I argue that the final goal of the call for a moratorium is the promotion of an overlapping consensus on a political conception of justice. If this is so, then *Ramadan’s call for a moratorium is fully consistent with the ideal of public reason*. Whilst Ramadan does not disclose specific Islamic reasons against *hudūd* punishments (i.e., he does not say whether existing rules concerning stoning and other punishments are true or false from an Islamic perspective, and he does not enter into the content

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<sup>1870</sup> Tariq Ramadan, *Radical Reform*, 189, emphases added.

<sup>1871</sup> Tariq Ramadan, “International Call for Moratorium on Corporal Punishment, Stoning, and the Death Penalty in the Islamic World,” 7.

of a possible process of full Islamic justification of a liberal political conception of justice), he nonetheless presents a *political method* for protecting fundamental rights and liberties and for allowing a development of societies that are not well-ordered toward a more politically just conception of justice. Thus, *Ramadan's call for a moratorium promotes the ideal of public reason in societies which are not well-ordered*. Moreover, *it also strengthens the ideal of public reason in nearly well-ordered societies*, such as European societies, because he claims that his proposal cannot succeed without an active involvement of European Muslims and their commitment to equal fundamental rights and liberties in the process of full Islamic justification for a definitive abolition of *ḥudūd* punishments.<sup>1872</sup> Furthermore, note that this call is also a form of double discourse (and not of double speak, since it is not hypocritical, deceptive or misleading), because it appeals *both* to *public* and to *Islamic* reasons for advocating the suspension of corporal punishments, and because it prompts a *full Islamic justification* (whose language is comprehensive and non-public) in the direction of an *overlapping consensus on a political conception of justice*. In other words, it is a form of double discourse both (1) with reference to the grounds on which the moratorium itself is justified (*Islamic* and *public political* grounds, *supra*), and (2) with reference to its normative horizon (a full *Islamic* justification of –and a *public justification via an overlapping consensus* on– a political conception of justice that supports public reason). In other words, the call for a moratorium is a form of double discourse because it is able to speak two languages at the same time and with no contradiction: the language of Islamic thought and jurisprudence *and* the language of public reason. The moratorium makes room for a process of justification of a conception of justice that guarantees fundamental right and liberties and supports public reason, and, in the meantime (pending such an Islamic justification), it concretely protects those rights in accordance with public reason. For all these reasons, I conclude that *Ramadan's proposal is an example of double discourse which fosters the ideal of public reason*.

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<sup>1872</sup> Ibid. 4: '[Western] Muslim women and men who live in spaces of political freedom, who have access to education and knowledge [...] have a major responsibility to attempt to reform the situation, open a relevant debate, condemn and put an end to injustices perpetrated in their name.'



## 6.5 Conclusions.

In this chapter, I have demonstrated that Tariq Ramadan's conception of citizenship for Muslims in Europe is fully consistent with public reason, because it fulfils the requirements of public reason citizenship: RR, CR (as specified by PR1, PR2, and PR3), and CiR\*. I have also demonstrated that Ramadan respects and upholds the two ways in which reconciliation through public reason solves the double problem which this research is concerned with: the lack of a common political identity and of shared standards for social and political criticism (see 1.2.a and 5.2.c). As I explained, Ramadan presents his own version of a common political identity (which he calls the 'new We,' *supra*) and of standards for social and political criticism (which he calls 'social *jihād*,' *supra*). Obviously, these notions are in the middle between the political and the comprehensive (as shown by the label social *jihād*). However, they are fully consistent with the common political identity and the standards for social criticism expressed by public reason citizenship (see 5.2.c for the way in which public reason specifies them and this chapter for the consistency between them and Ramadan's 'new We' and 'social *jihād*'). Therefore, Ramadan's conception of citizenship supports the idea of a reconciliation through public reason and fits into the model of public reason citizenship that I have proposed with regard to the solution of the research problem analysed in 1.2.a. Ramadan's European Muslims are good political liberal citizens, because they respect and support public reason.



## Conclusions

In these general conclusions, I recapitulate the main results of this study by starting from the three specific research questions (Q1, Q2, and Q3) and closing with a final remark about the general question from which my work began (Q).

In the first chapter, I formulated the question Q1 in these terms: *How can we reconstruct the idea of public reason so that we can identify its most salient normative requirements?* I also argued that answering this question would have involved a reconstructive task, and the entire second part of this study has been devoted to the reconstruction of the idea of public reason. The third chapter dealt with the history of the idea of public reason from Kant to Rawls and within Rawls's work. Moreover, it analysed the Rawlsian conception of public reason and from this perspective it identified three specifications for the three normative political liberal evaluative requirements that I considered in chapter two: the reciprocity requirement (RR), the consistency requirement (CR), and the civility requirement (CiR). Furthermore, chapter three also unpacked CR in three different dimensions (PR1, PR2, and PR3). In chapter four, I presented an extensive interpretation of the proviso –defined in chapter two as a general threshold for public reasoning– and I specified two levels of the duty of civility (the bifurcate model of the duty of civility) grounded in the criterion of reciprocity of the reasonable. Then, I was able to restate CiR as CiR\* in accordance with the bifurcate model of the duty of civility, so that the evaluation of civility takes into consideration the two levels of the proviso described in 4.2. With the determination of the three evaluative requirements (RR, CR, and CiR\*) specified by public reason, the reconstructive part of my study was complete.

In the first chapter of the third part (chapter five), I then turned to the second research question, which connects the reconstructive effort with the evaluative analysis: *How can we put together the requirements identified in the reconstructive part into a coherent ideal of citizenship, so that it can effectively represent a 'normative yardstick of evaluation' for considering the issue of Muslims' citizenship in Europe from a public perspective?* I modelled public reason citizenship in light of the three political liberal evaluative requirements specified by the idea of public reason: it is thus a justificatory evaluative model of public reason citizenship. I also reformulated the three evaluative requirements so that they could be referred more directly to the issue of Muslims' citizenship in Western European societies. Having elaborated the justificatory evaluative model of public reason citizenship, in the second part of chapter five I tried to show that such a model is normatively more appealing than rival conceptions of citizenship for contemporary European societies with respect to fair inclusion of Muslim citizens and social stability (I will return to this point in the final part of these conclusions). To do that, I firstly demonstrated that public reason citizenship *could* also be adopted as a regulative ideal of citizenship in existing European societies (which are not well-ordered). Secondly, I showed that public reason citizenship is normatively more attractive than liberal multiculturalism and critical republicanism, because it can provide what they do not provide: namely, a conception of citizenship that both includes Muslims and assures citizens about social stability. This is so because public reason citizenship may represent the ground for shared standards for social and political criticism and for a common political identity for citizens. Then, public reason citizenship solves the problem analysed at the beginning. Therefore, I argued that it *should* be adopted as a regulative ideal of citizenship.

Q3 was addressed in the second chapter of the third part (chapter six). The question asked: *What if we evaluate European Muslims' claims concerning citizenship in Europe from the public standpoint specified by public reason?* It is clear that such a question touches the very heart of the political liberal evaluation of this research. I firstly applied the plausibility principle (PP) articulated in chapter two, according to which "the necessary and sufficient condition for plausibly considering a view x as representative of a European Muslim approach to the issue of citizenship is that x is widespread among Muslim citizens in European liberal democracies." In 6.1 I demonstrated that Tariq Ramadan's views concerning Muslims' citizenship in Europe meet this principle and can be plausibly considered as articulating a European Muslim conception of citizenship to which the evaluative framework can be applied. Notice that the

analysis developed in chapter six has reconstructed Ramadan's conception of citizenship systematically enough to define the latter a citizenship theory. Thus, I considered one by one the requirements RR, CR (PR1, PR2, and PR3), and CiR\* as specified by public reason citizenship and I evaluated Tariq Ramadan's claims and demands concerning citizenship in Europe from such public perspective. The result of the evaluation was that Tariq Ramadan's theory of citizenship for Muslims in Europe satisfies all three requirements expressed by a justificatory evaluative model of public reason citizenship: RR, CR, and CiR\*.

In particular, with reference to CiR\*, I have pointed out that with his call for a moratorium on *hudūd* punishments Ramadan develops a kind of double discourse that fosters the ideal of public reason, because it both promotes such an ideal in societies that are not well-ordered (through a decompression of the public space) and strengthens it in nearly well-ordered societies. Therefore, Ramadan's double discourse is fully consistent with public reason and supports it: as such, it is radically different from a form of dangerous doublespeak. Actually, one may argue that the idea of public reason (especially in the wide view) allows or even requires a form of double discourse for supporting and strengthening public reason itself. Note that Ramadan himself observes that sometimes a form of double discourse is politically necessary and useful.<sup>1873</sup> This use of double discourse by Ramadan is acknowledged by some of Ramadan's supporters and critics, but often confusingly and without further elaboration.<sup>1874</sup> This research has the merit of showing precisely and with reference to a specific example how double discourse may support and foster public reason.

I have also underlined the fact that Ramadan's proposals for a renewed conception of the role of Muslim citizens in European societies (and for facing the challenges that such a new active role implies) on the one hand and the grounds for inclusion and stability for the right reasons provided by public reason on the other hand go in the same direction. Ramadan's

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<sup>1873</sup> See Tariq Ramadan, *What I Believe*, 2 and 37. Here Ramadan talks of doublespeak, because he does not distinguish between doublespeak and double discourse as I do, but he is clearly referring to what I have called double discourse.

<sup>1874</sup> Olivier Roy, *Secularism Confronts Islam*, 15: 'dual language is, in fact, a recognition of two spaces, that of religion and that of the order of the world, even if this is done with a longing for unity.' Ian Buruma, "Tariq Ramadan Has an Identity Issue," 3: '[Ramadan] presents different faces to different audiences. He is trying to bridge a divide and bring together people of diverse backgrounds and worldviews. He considers the opening he finds in his audience. Ramadan is in that sense a politician.' While the fact that Buruma recognises the political role and value of Ramadan's double discourse is interesting, it seems that he stops at the first and most popular (often pejorative) meaning of the word 'politician,' so he misses the connection between double discourse and the idea of public reason. See also Paul Berman, "Who's Afraid of Tariq Ramadan?" 17.

concepts of a ‘new We,’ ‘shared citizenship,’ and ‘integration of intimate lives’ are consistent with the idea of a public political identity grounded in public reason. Similarly, the concepts of ‘social *jihād*,’ citizens’ ‘positive contribution,’ and ‘revolution of trust’ are consistent with the idea of shared standards for social and political criticism expressed by public reason. If a ‘new We’ and a ‘revolution of trust’ are the real objectives of Ramadan’s conception of citizenship in Europe, then the fact that he urges European citizens to stop talking of integration is not surprising, because a discourse centred on mere integration can produce nothing but ‘foreign citizens.’<sup>1875</sup> Effective citizenship entails much more than simple integration but it cannot be based on assimilation.<sup>1876</sup> Rather, it requires something like a public *political* identity, which public reason citizenship can provide together with shared standards for social and political criticism. In other words, Ramadan’s ‘post-integration approach’ allows us to understand the question of Muslims’ citizenship in European societies in line with the formulation of the problem in 1.2.a. Moreover, his answers to this problem are consistent with the answers provided by public reason citizenship.

In turn, reading Ramadan in this way sheds a new light on his work. One can now better understand the real meaning of the claim that his citizenship theory ‘is in fact a theory of the legitimacy and the practice of a minority Islam:’<sup>1877</sup> this study has shown that Tariq Ramadan’s conception of citizenship for Muslims is fully compatible with public reason and, in this sense, it is certainly ‘a theory of the legitimacy [...] of a minority Islam’ in Europe. In addition, thanks to the two-level interpretation of the duty of civility, one can also better understand how Ramadan’s theory of citizenship for Muslims factually does the work of articulating a “civic religiosity” or a “believing citizenship” [in French: *une “religiosité citoyenne” ou une “citoyenneté croyante”*].<sup>1878</sup> For instance, in analysing the civility requirement (CiR\*), I have explained how Ramadan honours the two-level duty of civility in practice with reference to the issue of women by considering the kind of reasons he appeals to (see 6.4). Similarly, the analysis of Ramadan’s conscience clause developed under the third dimension

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<sup>1875</sup> Tariq Ramadan, *Au péril des idées: les grandes questions de notre temps*, 28, my translation.

<sup>1876</sup> Tariq Ramadan, *To Be a European Muslim*, 179-182 and *Western Muslims and the Future of Islam*, 27.

<sup>1877</sup> Olivier Roy, *Secularism Confronts Islam*, 51.

<sup>1878</sup> Frank Frégosi, “Les contours discursifs d’une religiosité citoyenne: laïcité et identité islamique chez Tariq Ramadan,” 207, my translation.

of the consistency requirement (PR3, see 6.3) has clarified the mutual limits of the ‘civic’ and the ‘believing,’ of ‘religiosity’ and ‘citizenship.’ Without such evaluations, the idea of a ‘*religiosité citoyenne*’ or ‘*citoyenneté croyante*’ would remain obscure.

Surely, social criticism and the promotion of social justice are among the central and recurring themes of Ramadan’s work (this is not to say that he is always clear on what he means by social justice): he is profoundly persuaded that ‘[a] peace based on injustice and falsehood is not peace. It is rather a resignation of conscience.’<sup>1879</sup> It is evident that his main motivation and political vocabulary are articulated in religious terms and that he has a morally substantive and “thick” view of democracy and justice; a view that goes beyond the domain of the political. For example, in his persistent defence of the oppressed, he criticises ‘a liberalism without a soul.’<sup>1880</sup> Moreover, he constantly rejects comprehensive forms of secularism,<sup>1881</sup> and firmly affirms the necessity that in their adaptation to European social and political environments Muslims keep the fundamental sources and principles of Islam as stable references of their identity (what Rawls calls citizens’ ‘moral identity’). Accordingly, he is also profoundly sceptical about external calls for a “renewed,” “more modern, progressive, and secular” Islam<sup>1882</sup> (thus, Ramadan would probably refuse the label “European Islam” if it indicates a “new Islam:” for him, the fundamental sources, principles, and teachings of Islam are always the same because they are eternal, what changes is the context in which they are lived). However, these positions are wholly compatible with political liberalism, because they are framed within an approach politically based on equal rights and they are matched with the recognition of reasonable pluralism and of citizens’ freedom and equality. As we have seen, Ramadan entirely acknowledges the specificity of the domain of the political and the distinction, separation, and discontinuity between the latter and the domain of the comprehensive. However, he also believes that there is no contradiction between being pious Muslims faithful to Islamic teachings and duties and being good European citizens. Since citizens have ‘multi-

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<sup>1879</sup> Tariq Ramadan, *Islam, the West and the Challenges of Modernity*, 297.

<sup>1880</sup> Ibid. 295.

<sup>1881</sup> For instance, see Tariq Ramadan, *What I Believe*, 97.

<sup>1882</sup> Tariq Ramadan, *Les musulmans dans la laïcité: responsabilités et droits des musulmans dans les sociétés occidentales*, 126-127.

ple identities,<sup>1883</sup> they can share a public political identity and at the same time they can preserve their different wider moral or non-institutional identities (which include both their political and their non-political commitments and attachments). The commitment to the idea of a political (but, in his view, also of a morally deeper) reconciliation is a deeply-rooted element in Ramadan's thought: such an idea is caught in the concept of '*intégration des intimités*,' which can be found in his major works from *Les musulmans dans la laïcité*<sup>1884</sup> to *Au péril des idées: les grandes questions de notre temps*.<sup>1885</sup>

I have also remarked on the fact that, from *Western Muslims and the Future of Islam* onwards, two themes seem to be less and less relevant in the thought of Ramadan: namely, the conscience clause and the idea of a binding contract. I have noted that references to the first has become less evident and that Ramadan increasingly emphasises those elements that favour a political reconciliation between integrity of conscience of citizens of faith and their political commitments and duties. I have also noted that the idea of a binding contract progressively gives way to a strengthened idea of a democratic public political culture shared by citizens as citizens (so I interpret his stronger emphasis on such ideas as 'civic ethics,' 'shared citizenship,' and 'a common sense of belonging').

Therefore, even though sometimes Ramadan seems to be inclined toward a civilisational and essentialist discourse *à la* Huntington in which a great Islamic civilisation is going through an identity crisis and faces a materialist and consumerist West,<sup>1886</sup> he clearly rejects Huntington's theses and the idea of monolithic and isolated civilisations<sup>1887</sup> and affirms that

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<sup>1883</sup> See for instance *ibid.* 127-132; *To Be a European Muslim*, 163; *What I Believe*, 36-37; *Noi musulmani europei*, 18.

<sup>1884</sup> Tariq Ramadan, "Pour une laïcité ouverte," in *Les musulmans dans la laïcité: responsabilités et droits des musulmans dans les sociétés occidentales*, 164.

<sup>1885</sup> Tariq Ramadan, *Au péril des idées: les grandes questions de notre temps*, 261.

<sup>1886</sup> Tariq Ramadan, *Islam, the West and the Challenges of Modernity*, 57: [w]e cannot be so blind as not to notice the consequences of this "very modern" life [in industrial societies], which makes out of speed a norm and out of meaning a secondary question. *By essence, Islamic civilisation cannot recognise itself in such a strange inversion of priorities.* Emphasis added. See also *ibid.* 290-291: 'the clash between civilisations is not only *theoretically* possible, but we can also say that the signs of potential rupture are visible. [...] The Islamic civilisation, with its reference to the Qur'an and the traditions of the Prophet (peace be upon him) [...] is not reducible to the cultural, terminological or semantic categories of the USA or Europe.' Moreover, see *Aux sources du renouveau musulman: D'al-Afghānī à Hassan al-Bannā, un siècle de réformisme islamique*, 57.

<sup>1887</sup> Tariq Ramadan, *Islam, the West and the Challenges of Modernity*, 290 and *Radical Reform*, 146.



such civilisational representations have more to do with political and geostrategic events and phenomena on the global level than with real cultural entities.<sup>1888</sup> Thus, his own view of the cultural encounter refers to a *dialogue* between cultures *within* European societies and to an ‘*intra* dialogue among Muslims,’ rather than to a global “clash” between civilisations.<sup>1889</sup>

In conclusion, Ramadan comes close to the core of political liberalism because thanks to his conception of the reasonable as connected to the respect of reasonable pluralism and of fair social cooperation (what he calls ‘positive contribution’), and thanks to the distinction between religion and the domain of the political, he approaches the idea of a liberal democratic meta-theory of toleration and political legitimacy:

‘I would like to say one thing about the theoretical character of democracy. [...] Democracy is not about truth because, finally and by the very nature of its principles, it is a structure which manages [political] opinions, not the truth. [...] Managing the diversity of [political] opinions [...] is of a different nature than managing convictions about the truth. With reference to the latter, we cannot be satisfied with the notion of toleration ... or the idea that there would be an “absence of truth.” [...] This means that [...] we accept the truth of the other with “pain” [...] this is implied in the] etymology of the verb “to tolerate.” [...] This is problematic, because the notion of toleration entails a relation of authority, a relation of force between who “suffers” and who “is suffered.” To live out fully mutual social toleration [...] I must have access to the philosophical notion of “mutual respect,” grounded in a horizontal relationship of equality.’<sup>1890</sup>

This quotation shows that for philosophical-moral reasons Ramadan would prefer the expression ‘mutual respect’ to the word toleration, but the political substance of his discourse is clear: politically speaking, the comprehensive and the political belong to two different dimensions and the political (the ‘management of political opinions’) has its own rules and principles that must be acceptable to all because the political relationship is grounded in citizens’ equality. Importantly, also a religious citizen can recognise that such a political distinction is

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<sup>1888</sup> Ramadan in Alain Gresh and Tariq Ramadan, *L’Islam en questions*, 315 and 327-328.

<sup>1889</sup> Tariq Ramadan, *Radical Reform*, 147 and 305; *Western Muslims and the Future of Islam*, 226.

<sup>1890</sup> Tariq Ramadan, *Au péril des idées: les grandes questions de notre temps*, 141-142. My translation.

not grounded in (and does not require) a sceptical stance about the truth. Simply, the political-ly right or legitimate is not defined in terms of the religiously or philosophically good or true. Having said this, Ramadan also thinks that the notion of toleration is morally (philosophically and religiously) insufficient and should be replaced with the notion of ‘mutual respect’ which in his view is a philosophical and not a political concept. Such a notion would mirror the idea of persons’ moral equality in a fuller way than an idea of toleration understood as painful acceptance of something that one dislikes. Since the idea of toleration in Rawls’s political liberalism seems to entail more than mere painful acceptance (for instance, remember that Rawls qualifies reasonable pluralism as the standard condition of human life under free institutions and that he talks of a sentiment of civic friendship that is absent in a *modus vivendi* but that materialises when an overlapping consensus is achieved), I am inclined to think that also for Rawls painful acceptance is not an adequate basis for respect, even though in Rawls’s case the notions of respect and toleration are interpreted politically and not grounded in a philosophical and religious conviction about true ‘mutual respect’ as is the case for Ramadan. However, if these observations are correct, then this is just another example of the fact that Ramadan’s comprehensive view joins the overlapping consensus on a Rawlsian political conception of justice, because his religiously-grounded notion of ‘mutual respect’ is consistent with and supports Rawls’s political understanding of this notion.

So, we should take notice of a final element by connecting the previous considerations with what I have said about the problem of social stability for the right reasons. Let me concisely recapitulate some critical points. As we have seen, according to Weithman the central question for solving the problem of mutual assurance is *making publicly known* the fact that each citizen is ‘better off acting justly when others do’<sup>1891</sup> and that collectively citizens are in a “Nash equilibrium” (a situation in which ‘each player’s strategy is his best reply to the strategy played by the others’)<sup>1892</sup> in which ‘everyone responds justly to the justice of others.’<sup>1893</sup> To secure stability for the right reasons, it is not enough to solve the generalised prisoner’s dilemma (that is, to exclude a generalised non-cooperative temptation to free-ride by showing the individual rationality of compliance with the principles of justice). In addition to this, this

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<sup>1891</sup> Paul Weithman, *Why Political Liberalism?*, 49.

<sup>1892</sup> Ibid. 49 note 9.

<sup>1893</sup> Ibid. 49.

very fact must be *made publicly known* and ‘*each person must be assured* [...] that others will continue to act justly rather than defect.’<sup>1894</sup> This second part of the problem of stability for the right reasons is the mutual assurance problem. While I have not dealt with the first part of the issue (the solution of the generalised prisoner’s dilemma) and I have focused only on the problem of stability from the perspective of *Political Liberalism* (that is, I considered only the account of stability ‘for the right reasons’ and not the account of ‘inherent’ stability stated in *A Theory of Justice*), I have repeated that –in Weithman’s words– solving the problem of mutual assurance means *making publicly known* the fact that ‘[e]ach member of the well-ordered society judges, from within her comprehensive view, that the balance of her reasons tilts in favor of maintaining her desire to live up to the values and ideals [of the political conception of justice], at least when others live up to those values and ideals as well.’<sup>1895</sup> In other words, all citizens must be *assured* that their respective ‘comprehensive views provide them reasons to *maintain* their sense of justice that are sufficiently weighty to counterbalance competing considerations.’<sup>1896</sup> If the problem of mutual assurance is successfully resolved, then:

‘[E]ach person knows that, at least under normal circumstances, no one else’s comprehensive view provides sufficient considerations of the good not to honor what justice requires and, indeed, *each knows* that other comprehensive views normally provide reasons *to* [emphasis in the original] honor what justice requires [...] *E]ach person knows* that not only does no one’s view of what is good in life provides him sufficient incentive to cease being just, but *each knows* that others’ views normally provide them incentives to continue to be just.’<sup>1897</sup>

This research has shown that *Tariq Ramadan provides a public assurance* to European societies’ citizens that Muslim citizens’ ‘balance of [...] reasons tilts in favor of maintaining’ their sense of justice. In other words, *he makes publicly known* the fact that citizens of Muslim faith can (and –from his normative perspective– should) be loyal and politically committed citizens of European societies and continue to abide by fair terms of social cooperation, so

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<sup>1894</sup> Ibid. emphasis added.

<sup>1895</sup> Ibid. 275.

<sup>1896</sup> Ibid. emphasis added.

<sup>1897</sup> Ibid. 280 emphases added.

that preemptive defection from those terms is avoided. For instance, it must be remembered that Ramadan affirms that European Muslim citizens cannot infringe the constitution, laws, and political institutions of the society in which they live and that protects their equal rights and liberties (see chapter six, in particular 6.2-6.4). Ramadan's account of citizenship is consistent with public reason's solution of the mutual assurance problem (see 4.2 and 5.2.c) because it makes known to all citizens in a genuinely public perspective the fact that Muslims citizens can be effectively part of an overlapping consensus, as required by political liberalism.<sup>1898</sup> The justificatory evaluative analysis developed in this study has considered how Ramadan's conception of citizenship honours public reason: more specifically, I evaluated whether Ramadan's conception of citizenship reflects the criterion of reciprocity of the reasonable (RR), whether his account of public reasoning is consistent with public reason (CR), and how it respects in practice the two levels of the duty of civility with reference to a particular issue (CiR\*). Whilst I did not enter into the details of a full Islamic justification of the conception of justice (as a conjecturer would have done), I have observed from a public standpoint that according to Ramadan a full Islamic justification is possible and an overlapping consensus can occur. This fact has important *public* consequences: as I did, one can examine from a public perspective whether and how Ramadan's conception of citizenship fulfils the requirements of public reason and, in this way, can be framed within a Rawlsian account of social stability for the right reasons. The study of Ramadan's citizenship theory in light of the extensive interpretation of public reason that I have presented shows that Ramadan provides citizens with an assurance that disagreement within their society can be understood as 'good faith disagreement',<sup>1899</sup> that is, as a form of reasonable pluralism which is politically reabsorbed without being annihilated.

It is now possible to answer the general research question (Q): *Which ideal conception of citizenship should provide the common normative perspective in contemporary Western European societies, which are characterised by both (1) demands of inclusion of Muslims and (2) the need for solving the problem of mutual assurance concerning citizens' commitment to the fair terms of social cooperation specified by a political conception of justice, so that those societies can be stable for the right reasons?* In 1.1.a.1, 1.2, and 5.2.b I maintained that nei-

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<sup>1898</sup> See *ibid.* See also John Rawls, *Political Liberalism*, 392, where Rawls says that the public justification of a conception of justice requires 'the existence *and public knowledge* of a reasonable overlapping consensus.' Emphasis added.

<sup>1899</sup> Paul Weithman, *Why Political Liberalism?*, 361.

ther liberal multiculturalism nor critical republicanism are able to reconcile the two demands of inclusion of Muslim citizens and of mutual assurance. In particular, critical republicanism does not solve the generalised prisoner's dilemma, for it does not consider the need for Muslims' acceptance on principled religious grounds (that is, *as Muslims*) of the terms of social cooperation proposed by critical republicans. As I have said, from the point of view of Laborde's critical republican theory, it seems that Muslims may endorse or subscribe to those terms only on the basis of strategic considerations (like in a *modus vivendi*), or as critical secular citizens, but critical republicanism does not require a justification of those terms from their religious perspective, because there is not a theoretical mechanism corresponding to the ideas of full justification and overlapping consensus. Thus, critical republicanism is not an adequate conception of citizenship for contemporary European societies, because it does not permit a satisfactory inclusion of Muslim citizens as Muslims. On the other hand, liberal multiculturalism –according to its own supporters– does not solve the problem of mutual assurance, because it does not consider civic trust-enhancing mechanisms that make publicly known the fact that the generalised prisoner's dilemma has been resolved (if it has been resolved). Then, not even liberal multiculturalism is an adequate conception of citizenship for European societies with reference to the question of Muslims' citizenship. Neither critical republicanism nor liberal multiculturalism secure stability for the right reasons (see Table 4).

**Table 4 Public Reason Citizenship as a common discursive platform and the solution of the research problem: Muslim citizens and stability for the right reasons in contemporary Western European societies.**

|                                                                                                             |                  | Liberal<br>Multiculturalism | Critical<br>Republicanism | Public<br>Reason<br>Citizenship                                                                                                                                                                            |
|-------------------------------------------------------------------------------------------------------------|------------------|-----------------------------|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Two dimensions of<br>stability for the<br>right reasons in<br>contemporary<br>Western European<br>societies | Inclusion        | -                           | X                         | ✓<br><br><i>Overlapping consensus and shared standards for political criticism provided by public reason.</i>                                                                                              |
|                                                                                                             | Mutual assurance | X                           | -                         | ✓<br><br><i>Common political identity grounded in the criterion of reciprocity of the reasonable and bifurcate (or two-level) model of the duty of civility (extensive interpretation of the proviso).</i> |

On the contrary, in 5.2.c I have demonstrated that the public reason citizenship secures stability for the right reasons in European societies because it is an adequate ground for political reconciliation: working as a common discursive platform, it provides the bases for a shared political identity and standards of social criticism. Thanks to these two elements, public reason citizenship guarantees *both* mutual assurance (both by respecting the two-level conception of the duty of civility and by grounding a shared common political identity) *and* political inclusion (not only in terms of participation in the overlapping consensus, but also in terms of critical standards available to all citizens).

This research has demonstrated the remarkable potential of the idea of public reason as an ideal of citizenship in societies that are sufficiently (even though not ideally) just, as is the

case in European societies. Public reason provides a common discursive platform anchored in a political ideal of liberal citizenship grounded in a criterion of political reciprocity, that is, in the spirit of civic friendship based on the mutual recognition between reasonable free and equal citizens cooperating on fair terms. Such a political ideal is the foundation for a public political identity of citizenship and specifies standards for social and political criticism available to all citizens. Whether public reason citizenship can play a similar role in different political contexts (e.g., in Muslim majority societies) is a difficult question still to be demonstrated that I do not address here. What I can intuitively say about this point is that for public reason to work in the direction of a political reconciliation of reasonable pluralism (the non-annihilating reabsorption of reasonable pluralism that I have mentioned), two conditions must be met: first, the respect of the necessary and sufficient moral threshold of the criterion of political reciprocity described above and, second, the existence of some minimal background conditions (those described by Rawls in *Political Liberalism* and that I mentioned in 5.2.a).

In conclusion, *the ideal of public reason citizenship is an appealing normative conception of citizenship for European societies, because it can express a common discursive platform that produces a decompression of the public space that makes it politically possible to reabsorb reasonable pluralism without annihilating it.* In this reading, as the analysis of Tariq Ramadan's citizenship theory has demonstrated, *European Muslims can be involved fully and on an equal standing as citizens in political reconciliation through public reason.*





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