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Comparative Political Philosophy and Political Deliberation: An Exploration of Deliberative Practices in Pakistan

By

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Abstract

This thesis attempts to explore deliberative practices in Pakistan. In doing so, it draws on and extends the literature produced under two relatively new academic fields—the fields of deliberative theory and comparative political philosophy—which are gaining prominence in the academic world. Although these two academic fields appear quite different but this thesis argues that they are not only complimentary but can also benefit each other in their further theoretical development. In order to show this complimentary relationship between deliberative theory and comparative political philosophy, this thesis explores deliberative practices in an authoritarian non-Western context. More specifically, it explores the role of deliberation in the democratization of Pakistan. This thesis analyzes the case of Pakistan Lawyers' Movement during the military dictatorship (2007-2009) and how it paved the way to the process of democratization in the country. Although democratization of societies at large has always been at the core of deliberative theory, but comparative studies of democratization have completely missed the deliberative aspect which makes transition to democracy possible. Through Dryzek's concept of deliberative capacity, this thesis investigates the role of Pakistan Lawyers' Movement in building this capacity across different locations in the political system. The concept of deliberative capacity is being used in the larger context of systemic turn in deliberative theory. This latest trend helps us to study deliberation at a macro level and is not specifically tied to liberal institutional arrangements of states in the West. This thesis attempts to interpret Pakistan Lawyers' Movement through the lens of deliberative theory. Pakistan Lawyers' Movement throws new light on the normative aspects of deliberative theory and also helps us to understand the nature of deliberation in Pakistani

context. The case of Pakistan Lawyers' Movement provokes reflection on normative principles of deliberative democracy, helps us understand the nature of deliberation in an authoritarian context, extends current scholarship on the comparative studies of democratization by spelling out the deliberative potential of the regime, and contributes to the ongoing debate on comparative political philosophy as an academic field in the age of globalization.

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Chapter One

Introduction

"Only Connect!"

—E. M. Forster, *Howards End*, 1910

"It is probably true quite generally that in the history of human thinking the most fruitful developments frequently take place at those points where two different lines of thought meet. These lines may have their roots in quite different parts of human culture, in different times or different cultural environments or different religious traditions: hence if they actually meet, that is, if they are at least so much related to each other that a real interaction can take place, then one may hope that new and interesting developments may follow."

—Werner Heisenberg in Capra, 1983

The United Nations Organization (UNO) designated 2001 to be the "year of dialogue among civilizations"[1]. This characterization captures our political predicament in the 21st century and also makes us realize the significance of pursuing inter-cultural dialogue in the current global

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[1] For details see United Nations Resolution 53/22, 4th November, 1998. Also see (Segesvary, 2000) and (Dallmayr, 2002).

age. Globalization has made our borders blurred and fluid. This transformation in boundaries calls for fluid thinking which is mostly possible through the exchange of new and innovative ideas. Through dialogic engagement we do not merely arrive at new ideas but can also connect diverse ideas which may seem unrelated. A genuine dialogue offers an opportunity to critically evaluate and rethink our most basic axioms about the nature of 'self' and the 'other'. The critical moment in the dialogic engagement, which also depicts our global political condition, redefines the relationship between the 'self' and 'other'. Indeed, an act of self-critique not only changes our self-understanding but it also changes our relationship to the unfamiliarr 'other'. It means, an act of reinvestigating the 'familiar' necessarily involves the rethinking of the 'alien'. The phenomenon of globalization requires us to indulge in meaningful communication so that we can renounce the 'clash of civilizations' myth through mutual dialogue and understanding. Academically, the influence of globalization can be seen almost in all spheres of human knowledge. It has also influenced two relatively new academic fields in political philosophy:

(1) Theoretical accounts on deliberation and deliberative democracy which also opens the possibilities of conceiving democracy beyond the familiar institutions of state.

(2) Comparative political philosophy which attempts to bring non-Western political thought into a dialogical conversation with the Western tradition of political theory.

The concept of deliberation is essential to all types of political systems. Some thinkers claim that "as human beings we have a natural cognitive aptitude for deliberation" (Steiner J. , 2012, p. 247) and this "cognitive aptitude for deliberation is much more evenly distributed than one

usually assumes. Ordinary citizens have this aptitude, perhaps even more than professional politicians…this aptitude must be constantly practiced so that it does not erode" (Steiner J. , 2012, p. 248). The concept of deliberation has been an important feature in the history of Western political philosophy. Whether we study key texts in Greek philosophy such as Plato's *Dialogues* and Aristotle's *Politics,* or analyze the Socratic method of posing questions and Sophists' tactics of wining arguments, the concept of deliberation remains central to political theorizing. In the same vein, if we analyze thought experiments in modern political philosophy, specifically key thinkers in the tradition of social contract theories, such as John Locke, Thomas Hobbes, Jean-Jacques Rousseau, John Rawls and David Gauthier, they all exemplify diverse ways of deliberating to conceptualize political theory. It is this primordial nature of the concept of deliberation in political philosophy which lies at the core of this thesis. It draws on and extends the literature produced under two relatively new subfields of political philosophy—the fields of deliberative theory and comparative political philosophy—which are gaining prominence in the academic world. Although these two academic fields appear quite different but this thesis argues that they are not only complimentary but can also benefit each other in their further theoretical development. In order to show this complimentary relationship between deliberative theory and comparative political philosophy, this thesis critically elucidates deliberative practices in an authoritarian non-Western context. More specifically, it explores the role of deliberation in the democratization of Pakistan. In doing so, this thesis analyzes the case of Pakistan Lawyers' Movement during the military dictatorship (2007-2009) and how it paved the way to the process of democratization in the country. Although democratization of societies at large has always been at the core of deliberative theory, but comparative studies of democratization have completely missed the

deliberative aspect which makes transition to democracy possible. Through Dryzek's concept of deliberative capacity, this thesis investigates the role of Pakistan lawyers' movement in building this capacity across different locations in the political system. The concept of deliberative capacity is being used in the larger context of systemic turn in deliberative theory. This latest trend helps us to study deliberation at a macro level and is not specifically tied to liberal institutional arrangements of states in the West.

The Pakistani context throws new light on the nature of deliberative practices in an authoritarian non-Western context. This research also provides an opportunity to study both deliberative theory and contemporary Pakistani politics. It seeks to enrich our understanding of both comparative political philosophy and deliberative theory in a non-Western context. Against Huntington's claim that 'we only know who we are…when we know whom we are against' (Huntington, 2004), this research attempts to explore the possibility of inter-cultural dialogue by juxtaposing non-western ideas on political deliberation with recent Western theories of deliberative democracy.

1- Rationale and Theoretical Framework

Deliberative theorists argue that the notion of deliberation is central to the democratic political order and their analysis is limited to the advanced liberal democracies in the West (Sass, 2018; He, 2006). In their scholary work, they attempt to improve and conecptualize the quality of deliberation in the democratic process.

For political philosphers, the following questions acquire center stage in deliberative theory:

(i)- What makes deliberation democratic?

(ii)- What type of communication is deliberative?

(iii)- What are the possible sites/locations of deliberation?

(iv)- How should citizens deliberate in the political process?

(v)- How can we make deliberation inclusive?

(vi)- What are the conditions of deliberation?

(vii)- What are the possible consequences of deliberation?

(viii)- How can we use deliberation to reach a consensus in the political process?

(ix)- Can we deliberate on global issues, such as climate justice and global justice?

(x)- What is the value of truth in deliberation?

Deliberative theorists propose different answers to these questions. In fact, this thesis also shows that the emergence of the various models of deliberative democracy are indeed different responses to these questions. 'Deliberation' means "mutual communication that involves weighing and reflecting on preferences, values, and interests regarding matters of common concern" (Andre Bächtiger, John S. Dryzek, Jane Mansbridge, and Mark Warren, 2018, p. 2) and 'deliberative democracy' is a type of democracy in which the political process of 'deliberation' lies at the center. In its early formulation, the model of deliberative democracy was understood in contrast to standard liberal aggregative model of democracy. As Habermas writes:

"In the liberal view, the political process of opinion- and will-formation in the public sphere and in parliament is determined by the competition

of strategically acting collectivities trying to maintain or acquire positions of power. Success is measured by the citizens' approval, quantified as votes, of persons and programs. In their choices at the polls, voters give expression to their preferences. Their voting decisions have the same structure as the acts of choice made by participants in a market. They license access to the positions of power that political parties fight over in the same success- oriented attitude"

(Habermas, 1994, p. 3)

According to Habermas, the process of opinion and will formation should be a communicative act. It means, through argumentation and rational justification people should participate in the political process. Deliberative process induces reflection upon preferences and only better arguments, which one can plausibly justify, matter in the political process. The aggregative model of democracy is primarily an interest-based model in which citizens are understood as consumers in the market who are merely concerned about their personal interests and benefits. As Young says, "interest-based conceptions of democracy consider democracy primarily as a process of expressing one's preferences and demands, and registering them in a vote. The goal of democratic decision-making is to decide what leaders, rules, and policies will best serve the greatest number of people, where each person defines his or her own interests. In the process of democratic decision-making, individuals and interest groups determine and vote for policies that will best serve their own perceived interests, including in their calculations the knowledge that others in the polity do the same. Democratic decisions are the outcome of successful completion of ideas and coalitions for self-interested votes" (Young, 1996, pp. 120-1). Deliberative theorists are highly critical of this standard liberal

aggregative model of democracy because it rules out the ethical values of mutual respect and common good, thereby significantly limiting the scope of politics. Citizenship, deliberative theorists argue, is not an act of consumption and citizens are morally responsible for the choices they make in politics because it determines the fate of the millions of other people[2]. Citizens should be motivated by the question, "what is good for the country?", rather than "what is good for their personal benefit?" In contrast to aggregative democracy, the deliberative model "conceives of democracy as a process that creates a public, citizens coming together to talk about collective problems, goals, ideals, and actions. Democratic processes are oriented around discussing this common good rather than competing for the promotion of the private good of each. Instead of reasoning from the point of view of the private utility maximizer, through public deliberation citizens transform their preferences according to public-minded ends, and reason together about the nature of those ends and the best means to realize them" (Young, 1996, p. 121). This is not to say that aggregative and deliberative models are antithetical in nature. In the actual political process, especially in the Western liberal democratic setup, deliberation (talking) and aggregation (voting) are both essential in the practice of democracy. It should be noted that deliberative theory is a normative theory deeply rooted in the philosophical ideas of Aristotle, Rousseau, Kant, Mill, Dewey, Habermas, and John Rawls, therefore, it attempts to answer the question "how politics ought to be done?", rather than a mere explanation of existing politics. The normative dimension of deliberative theory is important to realize the ideal nature of this theory. The ideals of deliberation, like almost all other democratic ideals, are

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[2] For the distinction between citizen and consumer, see (James Fishkin and Bruce Ackerman, 2004, pp. 173-5) and (Fishkin & Laslett, 2003).

aspirational in nature and they cannot be fully realized in actual political practices. It does not mean that deliberative democracy is a "counterfactual thought experiment" (Benhabib S. , 1996, p. 84), rather, it provides us a normative framework to critically evaluate our actual political practices. Deliberation is also central to normative accounts of political legitimacy and many theorists hold that it is also primordial for the functioning of democratic institutions.

The early formulations of deliberative theory and research were only confined to advanced liberal democracies in the West. However, in recent developments of deliberative democrcacy, theorists have also started analyzing its prospects in the non-Western contexts[3]. Particularly, these theorists have analyzed various ways in which deliberation takes place in different socio-political contexts like East Asia (China and Japan) and India[4]. One of the goals of this new trend of deliberative research is to determine democratic potential of non-democratic regimes. This goal is directly relevant to this thesis. This research also attempts to understand deliberative practices in an authoritarian Pakistani context.

This increasing interest in applying the theory and practice of deliberative democracy to non-democratic and non-Western contexts consolidates its global reach. Also, this latest trend in contemporary political philosophy poses a question about the universality of deliberation as a political practice. Although, deliberation manifests

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[3] For details, see (J. Fishkin et. al., 2010); (Sass, J. and Dryzek, J.S., 2014), (Tang, B. and Dryzek, 2014) and (Zhou, 2012).

[4] For the East Asian context, see (He, 2006); (He & Warren, 2011); (Beibei Tang, Tetsuki Tamura, and Baogang He, 2018). For the Indian context, see (V. Rao and P. Sanyal, 2010); (Ramya Parthasarathy and Vijayendra Rao, 2018).

itself as a universal ideal but its actual practice and character varies across space and time. This variation in the practice of deliberation can be understood and explained in cultural terms. We can enrich our understanding of political deliberation by comparing various cases in different historical contexts. Indeed, cross-cultural dialogue and learning can enrich the theory of deliberative democracy, which in turn also contributes to our understanding of comparative political philosophy.

Since political institutions, the medium through which deliberation is realized, are themselves evolved and constituted by cultures, thus, the relationship between culture and political deliberation cannot be ignored. Culture-based comparative studies not only help us to understand the various forms deliberation takes in divergent contexts but also the socio-political conditions under which it can grow and flourish. The culture based contextual study of deliberation raises two important questions:

(1) What can be the cultural particularity of deliberative practices?

(2) Do we need any peculiar conception of culture (for example, inter-subjective concept of culture) to understand political deliberation in different historical contexts?

There are two responses to these questions. The first response, which is given by thinkers like Amartya Sen, stresses on the universality of democracy and justice. According to Amartya Sen, democracy-as-public-reason is some sort of a universal category. His articulation has some affinities with deliberative theory but he avoids the peculiar language used by theorists of deliberative democracy. Sen also pays attention to cultural differences that inform the concepts of both justice

and deliberation. However, Sen speaks of public reason as a singular category and does not recognize the role of cultural differences in shaping the character and significance of public reasoning in various contexts[5]. The second view regards deliberation as a peculiar political practice tied to the Western liberal democracies. Habermas' concept of deliberative democracy is an exemplification of this view. According to Habermas, the practice of deliberation is the outcome and consequence of the process of modernization: "As societies modernize, their denizens become more reflexive with reference to cultural traditions and political power, and they exercise this capacity in communicative practices that are eventually institutionalized" (Sass, J. and Dryzek, J.S., 2014, p. 5; Habermas, 1996). Therefore, deliberation is a temporal concept because it is idiosyncratically a modern phenomenon. Gambetta goes one step further and argues that the practice of deliberation in modern liberal democracies is merely confined to the 'analytical cultures' rooted in Northern Europe (Gambetta, 1998). Lynn Sanders and Iris Marion Young go even further and claim that deliberation is intrinsically a particularistic and privileged speech culture "that of white, well-educated, Western males, one that disadvantages women and minority groups" (Sanders L. , 1997; Young, 1996). It means, for Sanders and Young, deliberation is not a fundamental feature of all societies, rather, it is a practice belonging to particular classes of people in different countries during a small period of time.

This research attempts to respond to such claims by showing the forms deliberation take in non-Western contexts, specifically Pakistani. The appearance of political deliberation in non-Western contexts can also

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[5] For details, see (Sen, Democracy and Its Global Roots, 2003); (Sen, 2009) and (Sen, 2005).

be understood and articulated in relation to comparative political philosophy. This research seeks to demonstrate that deliberation flourishes in a variety of contexts. Moreover, Western liberal democracies could benefit by better understanding various socio-political conditions that contribute to the growth and flourishing of deliberation in different historical contexts.

If the capacity of deliberation is universal but its expressions vary in different contexts then there are plausible reasons to explain this variation in cultural terms. Contemporary deliberative theory supports this claim and regards political culture as one of the crucial categories in the functioning of democracy. Habermas says:

"Democratic institutions of freedom disintegrate without the initiatives of a population *accustomed* to freedom. Their spontaneity cannot be compelled simply through law; it is regenerated from traditions preserved in the associations of a liberal political culture." (Habermas, 1996, pp. 130-1)

Although, Habermas accepts the significance of culture in the practice of deliberation, but his model of deliberative democracy is tied to the Western liberal states. The aforementioned passage also highlights his Eurocentric presumptions about deliberative democracy. However, in the present context, I quote this passage to spell out the relationship between deliberation and culture. Similarly, Seyla Benhabib says that democratic institutions are not legitimized by being logically coherent political systems, rather they always seek a "civic culture of public participation [which] requires the creation of institutions and practices whereby the voice and perspective of others . . . can be expressed in their own right" (Benhabib S. , 1988). Benhabib does not go deep in to explicating cultural foundations of democratic process rather her

concerns are limited to cultural differences and the possible conflict they trigger in various contexts. Likewise, Simone Chambers elucidates the intrinsic relationship between culture and political deliberation. After surveying a wide variety of cases, she contends that it is through "a culture of publicity, modernity offers a new context of criticism and self-reflection. Differentiation and rationalization create a more open universe from which to draw criticism. The result is that criticism of received ideas and dominant principles is both deeper and wider in the modern context than in the pre-modern" (Chambers, 2000, p. 196). She suggests that "revitalizing publicity . . . requires encouraging a deliberative political culture in which citizens have a sense that their participation in the public sphere has meaning and significance" (Chambers, 2000, p. 196). It means, public sphere, which is a condition of political deliberation in modern liberal democracies is inseparable from the culture. The most prominent deliberative theorists recognize the importance of political culture in the democratic process.

The core idea of deliberation in contemporary political philosophy involves the following factors:
(1) Freedom
(2) Equality
(3) Rational political discussion involving both agreement and disagreement through argumentation
(4) Public sphere

This concept of deliberation is stemming from the tradition of Enlightenment, which is based upon values like autonomy, rationality and equality (Cooke, 2000). Such a concept of deliberation raises an interesting question: Are concepts of political deliberation and

deliberative democracy ingrained in Western Enlightenment applicable to non-Western societies like Pakistan that has different cultural assumptions? This research explores the potential of political deliberation in the non-Western contexts, such as Pakistan. There is a need to understand the intrinsic relationship between culture and deliberative democracy. The nature of public and political deliberation cannot be separated from the dynamics of specific culture where it actually takes place

This thesis also argues that comparative political philosophy is also a result of deliberations by different thinkers such as Dallmayr, Euben, March, Parel, Keith etc. about the nature of political theorizing in the age of globalization. In fact, these deliberations[6] among theorists have led to the emergence of a specific moniker called comparative political philosophy in the academia. They are critical of the Western tradition of political theory. They argue that the Western political theory is a kind of monologue because it merely relies on the canons of the Western tradition[7]. From the outset, this mode of political theorizing rules out hegemonic and imperialist understanding of political reality where one part of the world's population tends to determine and monopolize the idiom of the global village. The constitution of global village requires shared meanings and practices. It means basic theoretical and methodological framework of comparative political philosophy is hermeneutical or dialogical. Dialogical approach towards comparative political philosophy mainly relies on mutual interpretation, which disregards the priority of one's point of view over the other.

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[6] These deliberations are internal deliberations among political philosophers in the Western academia who want to expand the scope of political theory through inter-cultural and inter-civilizational dialogues.

[7] For details, see (Dallmayr, 2004); (Dallmayr, 1999); (Dallmayr, 2002); (Euben, 1999); (Euben, 2006); and (Parel, A. and Keith, R.C., 1992).

Comparatively political philosophy departs from 'formal theory' that interprets diverse phenomena in terms of universal standards derived from the European Enlightenment. This is an act of intellectual inhospitality towards other cultures, which excludes the non-Western other and gives rise to Huntington's famous distinction between the West and the rest. Through dialogic engagement, comparative political philosophy attempts to debunk the Eurocentric presumptions of academic research in political theory.

It is precisely in this context that this thesis attempts to understand the nature of deliberative practices in the non-Western context like Pakistan. However, I also argue that in order to spell out deliberative practices in the non-Western contexts, deliberative theory should be combined with comparative political philosophy. In this thesis, I attempt to bridge this gap, which is mostly ignored by both deliberative theorists and comparative political philosophers. The case of Pakistan lawyers' movement is a concrete example through which we can understand the nature of deliberation in a non-Western authoritarian context. The role of deliberation in bringing democracy to the Pakistani context also contributes to the comparative studies of democratization, which until very recently completely ignored its significance. This research provides a unique lens to study the political philosophy of deliberative theory and contemporary Pakistani politics. It seeks to enrich our understanding of contemporary political philosophy and deliberative democracy in a non-Western context. The ideal of deliberation enhances inclusiveness, responsiveness, and recognition. Like comparative political philosophy, it also helps us to integrate otherness and difference in the political process.

2- Research Objectives, Questions and Methodology

This research thesis aims to:

(i)- identify the deliberative mechanisms and understand the role of deliberative practices in conceiving/achieving the 'political' in non-democratic contexts (Pakistan).

(ii)- understand the nature of dialogue in comparative political philosophy.

(iii)- understand the process of democratization in Pakistan through deliberative practices.

(iv)- understand the role of disruptive politics and protests in shaping the practice of deliberation.

(v)- explore the relationship between comparative political philosophy and deliberative theory.

(vi)- explore the relationship between deliberation and local culture.

The key research questions of this project are:

(i)- What is the nature of political deliberation in the non-Western context of Pakistan?

(ii)- What is the role of deliberation in comparative political philosophy?

(iii)- How does deliberation open the political space for democratization in an authoritarian context?

To answer these questions the following more specific research questions can be distinguished:

(i)- What is the nature of dialogue in comparative political philosophy?

(ii)- Is deliberation a universal idea?

(iii)- What can be the cultural particularity of deliberative democracy?

(iv)- Do we need any peculiar conception of culture (for example, inter-subjective concept of culture) to understand political deliberation in different historical contexts?

(v)- Is deliberation instrumental in the process of democratization?

(vi)- How can we interpret social movements in the context of deliberative theory?

The methodology of the dissertation is qualitative in nature. In sum, the overall research methodology will be hermeneutics and discourse analysis focused on primary and secondary texts. The systemic strand in deliberative theory, which I will use to analyze Pakistan lawyers' movement, construes deliberation as a communicative activity which takes place at various locations in the political system. Although this approach is very attractive theoretically, but it raises complex questions concerning the methodology to investigate deliberation in multiple locations. How different sites are connected in the political system requires us to interpret and critically analyze various discourses and diverse forms of communication, such as protests, rational conversation, rhetoric, emotions etc. I believe, the interpretive approach, which lies at the core of hermeneutical method, is more useful to understand different forms of communication and their

possible connections to the political system. Similarly, comparative political philosophy itself is a hermeneutical methodological stance that encourages dialogue in political theorizing.

3- Structure of the Thesis

The thesis consists of seven chapters. A brief description of each chapter is given below:

(i)- Introduction gives the overview of the thesis. It also describes main research questions, objectives and methodology of the research.

(ii)- Chapter one deals with the nature and value of comparative political philosophy in the age of globalization. The process of globalization encapsulates our political predicament in the 21st century in which inter-cultural dialogue is inevitable. Comparative political philosophy is a subfield in political philosophy in which the notion of dialogue is central and it also goes beyond the Eurocentric presumptions of political theory, thereby, paving the way to understand political ideas, for example 'political deliberation' in this thesis, in the non-Western world. Similarly, recent advancements in deliberative theory are also influenced by the process of globalization at different levels. The triad of globalization, deliberative theory and comparative political philosophy provides us with a comprehensive theoretical framework to understand the nature of political theorizing in the 21st century.

(iii)- Chapter two deals with the concept of political deliberation and major normative controversies in the philosophical literature on deliberative theory. In this chapter, I decouple the term deliberative from democracy in order to spell out the minimal definition of political

deliberation. This minimal account is useful to address major normative controversies in deliberative theory. The six normative controversies discussed in this chapter are- (a) equal participation, (b) rational justification, (c) the principle of mutual respect, (d) consensus, (e) the concept of truthfulness and (f) conditions and consequences of deliberation. These normative controversies help us to understand the philosophically complex and methodologically diverse nature of deliberative theory.

(iv)- Chapter three provides a detail description of the systemic strand in deliberative theory. The systemic strand is an attempt to reconcile normative controversies in deliberative theory discussed in chapter two. The importance of systemic turn is necessary to understand the historical development of deliberative theory over the last three decades. The systemic approach expands the reach and scope of deliberative theory in different ways. It also expands the prospects of deliberation beyond the confines of liberal democratic setup. It enables us to locate deliberative practices in a wide variety of contexts, such as authoritarian, non-Western, micro, mezzo and macro. The concept of deliberative system discussed in this chapter will be used to understand the democratic potential of authoritarian regimes.

(v)- Chapter four introduces the case of Pakistan lawyers' movement. This chapter situates lawyers' movement in the historical context to evaluate the past role of judiciary in legitimizing military regimes over the last sixty years in Pakistan. The case of Pakistan lawyers' movement and its various phases from March 2007 to March 2009 are discussed. This movement was instrumental in politicizing the informal public sphere which enabled superior judiciary to assert it deliberative capacity. It helps us to understand the nature of deliberation both within the legal community and civil society at large.

(vi)- Chapter five offers a critical analysis of Pakistan lawyers' movement by applying deliberative theory to this case. More specifically, it spells out the nature of deliberation in the Pakistani context. Although, democratization of societies at large has always been at the core of deliberative theory, but, comparative studies of democratization have completely missed the deliberative aspect which makes transition to democracy possible. Through Dryzek's concept of deliberative capacity, this chapter investigates the role of Pakistan lawyers' movement in building this capacity across different locations in the political system. The concept of deliberative capacity is being used in the larger context of systemic turn in deliberative theory. This latest trend helps us to study deliberation at a macro level and is not specifically tied to liberal institutional arrangements of states in the West. This chapter also highlights the peculiarity of deliberative practices in Pakistan by excavating the relationship between institutional liberalism, local culture and deliberation. Comparative political philosophy and deliberative theory both supplement each other. These two subfields in contemporary political philosophy are complimentary to political theorizing in the age of globalization.

(vii)- The last chapter describes main contributions of this thesis and a few recommendations for future research. The four main conclusions of this thesis are: (a) Reasons for internal skepticism among deliberative theorists (b) The nature of public sphere in the Pakistani context and its politicization (C) The role of deliberative capacity in the process of democratization in Pakistan (d) The missing link between deliberative theory and comparative political philosophy.

Chapter Two

Comparative Political Philosophy

This chapter deals with the academic field of comparative political philosophy and its significance and scope in the age of globalization. As an academic field, comparative political philosophy does not merely attempt to overcome the Eurocentric presumptions in political theorizing but it also highlights the significance of cross-cultural learning in our global age. It provides an inclusive methodological approach to study political practices and concepts in the non-Western world. Political philosophers, working in the tradition of deliberative theory, have not properly engaged with this new academic field. Similarly, most of the comparative political philosophers are ignorant of the recent advancements in the field of deliberative democracy. This chapter delineates the basic theoretical and methodological framework of comparative political philosophy, which is useful to study deliberative practices in non-Western countries like Pakistan. The chapter is divided into two sections. In section one, I discuss the theoretical foundations of comparative political philosophy. Specifically, I explain the role of hermeneutical phenomenology in the development of comparative political philosophy. In this section, I also discuss the theoretical frameworks of Dallmayr and Euben, two prominent thinkers of this new trend in political philosophy. In section two, I discuss the triadic relationship between globalization, deliberative theory and comparative political philosophy. The process of globalization provides the context in which one can understand the significance of comparative political philosophy in the further development of deliberative theory. Moreover, the combination of these

two disciplines, which is one of the goals of this thesis, helps us to understand deliberative practices in the non-Western world in a more comprehensive manner.

1- Theoretical Foundations of Comparative Political Philosophy

Comparative political philosophy is an emerging sub-field within political philosophy, which seeks to "juxtapose non-Western political ideas with existing Western understandings of the political" (Bashir, 2014, p. 15). Comparative political philosophy has been well-received in the academic community primarily because it has allowed political theorists to enlarge their understanding of 'the political', and related issues, with ideas and perspectives that have not, up till recently, been explored. In contemporary philosophy there is an upsurge of cross-cultural dialogues for the articulation of comparative political philosophy. This urge takes us beyond monologue, conventional canons of political philosophy, and opens up the space of cross-cultural or comparative political philosophy. This mode of political theorizing takes seriously the current process of globalization. The phenomenon of globalization does not merely entail growing proximity of different cultures but also the emergence of a global village[8]. The process of globalization more than ever compels people from different cultures and traditions to communicate in order to renounce the myth of the 'clash of civilizations' theory and constructs a horizon for living together. From the outset, this mode of political theorizing rules out

[8] The term 'global village' was coined by a Canadian media theorist Marshall McLuhan in 1960s. See (McLuhan, 2011) and (McLuhan, 2016).

hegemonic and imperialist understanding of political reality where one part of the world's population tends to determine and monopolize the idiom of the global village. The constitution of global village requires shared meanings and practices. It means basic theoretical and methodological framework of comparative political philosophy is hermeneutical or dialogical. Dialogical approach towards comparative political philosophy mainly relies on mutual interpretation, which disregards the priority of one's point of view over the other. Comparatively, political philosophy departs from 'formal theory' that interprets diverse phenomena in terms of universal standards derived from the European Enlightenment. This is an act of intellectual inhospitality towards the other cultures, which excludes the non-Western other and gives rise to Huntington's famous distinction between the West and the rest. Comparative political philosophy can be understood as an antidote to the idea of a "clash of civilizations". It is a counter-move that helps us to develop inter-cultural dialogues and avoids violent conflicts through political theorizations. It's a new mode of inquiry that takes the process of globalization into serious consideration. Indeed, one of the factors that supports this turn in political philosophy is the process of globalization. According to Dallmayr, comparative political philosophy[9] is "a mode of theorizing that takes seriously the ongoing process of globalization, a mode which

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[9] Dallmayr uses the terms comparative political philosophy and comparative political theory interchangeably. The basic theoretical framework that Dallmayr uses is philosophical in nature. His arguments in support of comparative political theory/philosophy are embedded in contemporary strands of philosophy, such as Gadamer's hermeneutics, Derrida's deconstructionism, Husserl's phenomenology, and Lyotard's postmodernism. Dallmayr's theoretical and methodological stances, both stem from contemporary philosophy. In the same vein, in this thesis, I mainly use the term comparative political philosophy. If, on certain occasions, I use the term comparative political theory, then, it is being used interchangeably with comparative political philosophy. For Dallmayr's methodological stance in comparative political philosophy, see (Dallmayr, 2002).

entails, among other things, the growing proximity and interpretation of cultures and the emergence of what Marshall McLuhan called the global village" (Dallmayr, 2004, p. 249). The emergence of this new field challenges Eurocentrism, Western-centrism and various other modes of parochialism in academic research. Due to the process of globalization cross-cultural understanding is taking place in all fields of human sciences. In our global age, inter-cultural dialogue is inevitable. As Lyotard in his classic essay on postmodern culture writes:

"Eclecticism is the degree zero of contemporary general culture: one listens to reggae, watches a western, eats McDonald's food for lunch and local cuisine for dinner, wears Paris perfume in Tokyo and 'retro' clothes in Hong Kong."
(Lyotard, 1989, p. 76)

There is now a vast critique on the traditional canons of doing research. Indeed the cross-cultural turn in human sciences involves the process of 'de-canonization' or at least a rethinking of the canons in academic research. Disciplines like anthropology, cultural-studies, post-colonialism and religious studies are already dealing with other cultures through their methodological frameworks[10]. Political philosophy as an academic discipline is also influenced by this cross-cultural turn in human sciences. Specifically, political thinkers are persuaded by contemporary philosophy. Twentieth century European and Anglo-American philosophy attempts to bring cross-cultural orientation into the very domain of philosophical inquiry. It is "an opening of the West toward the rest" and is made possible through different philosophical

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[10]For anthropology, see (Geertz, 1973); (Sahlins, 1978). For post-colonial studies, see (Bill Ashcroft, Gareth Griffiths, and Helen Tiffin, 1998); (Lopez, 2001). For religious studies, see (Smith, 1991); (Osman Bakar and Cheng Gek Nai (eds.), 1997).

strands like linguistic turn (Ludwig Wittgenstein), phenomenology (Edmund Husserl), hermeneutics (Heidegger and Gadamer), pragmatism (James, Dewey and Pierce), existential phenomenology (Levinas and Ponty) and deconstructionism (Derrida). What is peculiar to all these approaches is their "dissatisfaction with modern Western egocentrism (stylized in Descartes's ego cogito) and its corollary, Eurocentrism" (Dallmayr, 2004, p. 250)

(i)- Gadamer's Philosophical Hermeneutics

Gadamer's philosophical hermeneutics lies at the heart of comparative political philosophy and inter-cultural dialogue, which he develops on the basis of Martin Heidegger's hermeneutical phenomenology. Heidegger's hermeneutical phenomenology is an important strand that informs much of comparative political philosophy, especially its dialogic perspective. Heidegger's formulation of human existence as being-in-the-world (Dasein) rules out Cartesian ego as an Archimedean point for philosophical reflection. He breaks with the Cartesian style philosophy and adopts a peculiar stance that he calls 'hermeneutical phenomenology'. His approach is an interpretive study of human nature and its relationship with the world. It is "a new 'planetary thinking', which, though nurtured by local cultural idioms, would transcend hostile parochialisms through dialogical engagement" (Dallmayr, 2004, p. 250). The extension of European industrial form of life and its intellectual ideas on the non-Western world is self-evident in the current global world. Within the arena of global world a hermeneutics of dialogue between the Western and non-Western world is indispensable.

Hermeneutics, which originated in the German philosophical tradition, has contributed a lot in making this dialogue meaningful.

Heidegger's famous student Gadamer, who is probably the leading philosopher of dialogue in 20th century philosophy, further lays out the implications of hermeneutical phenomenology in human sciences. From the outset, Gadamer stresses the dialogic nature of hermeneutics. The concept of understanding in Gadamer's hermeneutics is intimately linked with dialogue and encounter, between text and reader, between self and the other, between two different cultures or life worlds. Gadamer largely develops his hermeneutic theory in order to bridge historical distance within the tradition, later in his life, he retrospectively evaluates his work in order to bridge cultural differences. Gadamer employs the notion of *Gespräch*[11], which is one of the basic tenets of his philosophical hermeneutics, in order to fulfil this challenging task. Considering the whole intellectual journey of Gadamer's philosophy, we come to realize that his philosophical hermeneutics does not merely deal with a theory of *Geisteswissenschaften* but it also extends to the human situation in its entirety in the global context. What I want to establish is that Gadamer's hermeneutics is not merely confined to the discussion about the foundations and limits of *Geisteswissenschaften.* It also raises the question about the fundamental gesture of twentieth century hermeneutic philosophy, that is, dialogue between different cultures and traditions. Prior to Gadamer, many philosophers employed the notion of dialogue and conversation in different contexts but Gadamer's use of it radically breaks with conventional theorizations. For Gadamer, the moment one starts understanding something, he or she ineluctably

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[11] Gespräch can be translated as both dialogue and conversation.

engages in dialogue, i.e. ontologically understanding occurs only as a dialogical process. This dialogical unfolding of the event of understanding, Gadamer construes, helps us to bridge traditional and cultural differences. Thus, Gadamer's philosophical hermeneutics attempts to provide philosophical-hermeneutical framework for the possibility of a meaningful dialogue between two different traditions which one can also extend to a dialogical model between the Western and non-Western world. Possibility of *verstehen* (understanding) across historical distance is one of the basic tenets of Gadamer's philosophical hermeneutics. Contrary to his predecessors, Gadamer does not conceive of temporal distance as a yawning abyss, something to be overcome, but a positive ontological condition that makes *verstehen* possible. At the time when he was developing his hermeneutic theory in his book, *Truth and Method*, Gadamer did not properly pose the question about the possibility of understanding across different cultures and traditions. However, in an interview on July 1986 Gadamer regarded his philosophical hermeneutics to be perfectly suitable for this broader task. He says:

"That is the essence, the soul of my hermeneutics: To understand someone else is to see the justice, the truth, of their position. And this is what transforms us. And if we then have to become part of a new civilization, if this is our task, then we shall need a philosophy which is similar to my hermeneutics, a philosophy which teaches us to see the justification for the other's point of view and which thus makes us doubt our own."

(Dieter Misgeld and Graeme Nicholson (eds.), 1992)

Prior to Gadamer, hermeneutics regarded historical distance and its concretization in tradition as a problem to be overcome. Understanding of an author's meaning is only possible if one enters the author's world. Such a hermeneutics, Gadamer claims, imposes an impossible task of becoming like the author as the only way to comprehend the meanings of his or her words. From the outset Gadamer rejects this approach on the basis of the model of dialogue which he develops in *Truth and Method.* In his magnum opus, Gadamer argues that in our everyday practices, understanding takes place without having been met with such requirements. Moreover, ontologically understanding is not a "matter of reliving the other's experiences or of getting inside someone else as if one had to transpose oneself into another person" (Gadamer, 1989, p. 383). Thus, for Gadamer, understanding is not an action of one's subjectivity but how one places himself or herself within the tradition. The placement of oneself within a tradition gives rise to hermeneutic experience. Hermeneutic experience, Gadamer contends, is neither monological as science conceives nor dialectical like Hegel's universal history. It is dialogical in the sense that present and past both are fused in the very constitution of it. In the fusion of past and present, which Gadamer calls fusion of horizons, human understanding as an ontological event takes place. Furthermore, Gadamer also characterizes dialogue as analogous to the interpretation of text because in both situations we come across with the hermeneutic experience regarding fusion of horizons. In the interpretation of texts and dialogue our primary concern is to reach an agreement about the matter at hand. In a dialogue "just as each interlocutor is trying to reach an agreement on the subject with his partner" (Gadamer, 1989), likewise is the case with an interpretation of the text where the "interpreter is trying to understand what the text is saying" (Gadamer, 1989). This shows that Gadamer conceives *verstehen* as a kind of *Einverständnis* (agreement).

Thus, there is no necessity to go inside the author's mind. In *Truth and Method*, Gadamer presents a model of dialogue in the form of the "I-Thou" relation. Gadamer contrasts three different modes of experience of the Thou in this model of dialogue. The relationship between "I" and the "Thou" is marked by openness in the third mode of this dialogical model. For Gadamer, such an openness is the condition of genuine relationship between "I" and the "Thou": "openness to the other, then, involves recognizing that I myself accept some things that are against me, even though no one else forces me to do so" (Gadamer, 1989). This can be easily exemplified when Gadamer insists that the Western mind develop tolerance for the Soviet Union: "Always insisting on human rights, insisting that they must accept parliamentary democracy in order to industrialize fully, that reveals only our own preoccupations, which do not reflect their own history" (Dieter Misgeld and Graeme Nicholson (eds.), 1992). In the context of dialogue, Gadamer relates this account of openness to that of hermeneutic experience. When he appeals to the notion of tradition, Gadamer says that one "must allow the tradition's claim to validity, not in the sense of simply acknowledging the past in its otherness, but in such a way that it has something to say to me. This too calls for a fundamental sort of openness. Someone who is open to tradition in this way sees that historical consciousness is not really open at all, but rather, when it reads its texts historically, it has always thoroughly smoothed them out beforehand, so the criteria of the historian's own knowledge can never be called into question by tradition" (Gadamer, 1989). This way, Gadamer's philosophical hermeneutics does not merely provide us a framework for the possibility of a meaningful dialogue among different traditions but also a systemic critique of the objectivistic methodological ideal of historicism. Indeed, on the basis of Heidegger's hermeneutics of Dasein, Gadamer provides us an alternative to historicism. Gadamer

employs the figure of hermeneutic circle in order to reject the objectivism inherent in the historical-hermeneutical *Geisteswissenschaften.* The objective conduct of such sciences, Gadamer argues, presumes the destruction of our primordial relation of belonging (Zugehörigkeit), and this, in turn, is inevitable for our relation to historical as such. For Gadamer, the horizons of past and present are always fluid and understanding remains a dynamic process situated in the tradition. Moreover, the relation between past and present is similar to the "I-Thou" relationship that is characterized by genuine openness. The following passage from *Truth and Method* summarizes the significance of openness in a dialogue:

"In human relations the important thing is, as we have seen, to experience the Thou truly as a Thou—i.e., not to overlook his claim but to let him really say something to us. Here is where openness belongs. But ultimately this openness does not exist only for the person who speaks; rather, anyone who listens is fundamentally open. Without such openness to one another there is no genuine human bond. Belonging together always also means being able to listen to one another. When two people understand each other, this does not mean that one person "understands" the other. Similarly, "to hear and obey someone" (auf jemanden h*ö*ren) does not mean simply that we do blindly what the other desires. We call such a person slavish (h*ö*rig). Openness to the other, then, involves recognizing that I myself must accept some things that are against me, even though no one else forces me to do so." (Gadamer, 2004, p. 355)

The relationship between self and the other, which emerges from Gadamer's concept of openness, is based on non-domination. The concepts of openness, self and the other have been instrumental in the

development of comparative political philosophy. Through its emphasis on non-mastery and non-domination in human relationships, Gadamer's philosophical hermeneutics ultimately goes beyond the orientalist attitudes in political theory. The possibility of understanding the non-Western mind with its peculiarities lies at the heart of philosophical hermeneutics. Since one of the essential goals of comparative political philosophy is to challenge the Eurocentric presumptions of political theory, that's why, Gadamer's thought appears to be attractive for such an intellectual exercise.

(ii)- Fred Dallmayr: The Inauguration of Comparative Political Philosophy as an Academic Field

Dallmayr's appropriation of Gadamer's philosophical hermeneutics is an alternative to Orientalism and political theory's parochialism. A number of comparative political philosophers draw on Gadamer's hermeneutics in order to expand the horizon of political theory by including the non-Western texts and voices in the academia.

Fred Dallmayr is the first major proponent of Comparative Political Philosophy. Dallmayr proposes the inauguration of comparative political philosophy as an independent academic[12] field primarily because globalization and technological advancement in the current age has made it superfluous to think from within geographically determined boundaries. While experts in 'comparative politics' already bring to focus diverse political regions as part of a comparative analysis, such an endeavour relies on the privileged position and perspective of

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[12] Fred Dallmayr is the first thinker who insists on establishing a new academic discipline which he calls comparative political theory or philosophy. For details, see (Dallmayr, 1999, p. 1).

Western political thought and so judges societies and ideas not on their own terms, but "ours". Dallmayr is critical of the explanatory models used by comparative political scientists to understand different societies. Such empirical social sciences, Dallmayr claims, analyze diverse phenomena by relying on the canons of Western research, which ultimately marginalize the other perspectives. In this sense, Dallmayr maintains that comparative political philosophy serve as a new initiative that rather alters the position of the Western perspective by relegating it, in terms of metaphor, to be a fellow student to non-Western perspectives as opposed to the universal teacher, or the global overseer and judge. The aim, however, for Dallmayr is not to relativize the universal but rather to sharpen our understanding of it in an inclusionary manner that broadens and enriches our overall perspective. Bashir states that for Dallmayr, moreover, "this learning… should take place while revolving around the normative status and acceptability of Western modernity" (Dallmayr, 1999, p. 3; Bashir, 2014, p. 17). In this sense, the cultural framework as founded in the Western experience of Enlightenment allows and enables one to partake in an inclusionary and dialogical enterprise such as that of comparative political philosophy.

Dallmayr thus makes the case for comparative political philosophy in two ways:

(1) There is a need to reorient political theory discourse in light of the major cultural and political changes that have been stimulated with the advance of contemporary globalization.

(2) There is a need for political theory, while and in keeping close to the 'universalist' canon of Western political thought, to gain an insight into other ideas so as to sharpen our 'universal' understanding of the political.

According to Dallmayr, Western theories are not able to capture the diversity of human condition in our current global predicament. The process of globalization, he argues, has transformed human condition which one cannot fully understand in the backdrop of theories stemming from the Western world.

Dallmayr is an advocate of founding comparative political philosophy on the dialogical model of Gadamer's philosophical hermeneutics. It is from within this vantage point that, Dallmayr asserts, we can steer a position that avoids the extremes of both Euro-centrism as well as that of Euro-denial, as best exemplified in the much famed theses in Said's *Orientalism* and Huntington's *Clash of Civilizations*, respectively. A dialogue must be found in the midpoint of these two approaches. It is beyond the scope of this thesis to evaluate Dallmayr's interpretation of Gadamer. However, the following passage shows Dallmayr's interpretation of Gadamer's concept of dialogue that he uses to advance his case for the field of comparative political philosophy:

"From Gadamer's vantage point, every dialogue—between readers and texts or between people across distances—has to start from the sedimented 'pre-judgments' of participants, pre-judgements that are meant to function not as prison walls but rather as launching pads for excursions into unfamiliar terrain. Proceeding from this premise, his works develops a philosophical account of dialogue or a perspective that sees human encounters as necessarily dialogical."

(Dallmayr, 2002, p. 3)

Gadamer seems to be particularly convenient in this regard as his hermeneutics sees individual biases and prejudices as sedimented "pre-judgments", in being historical productions and constructs, as an opportunity to venture into, rather than an inescapable end wall for

inquiry into the realm of the unknown. An engagement with the other's perspective entails an experience where individuals continue to make and remake their pre-understandings based on the incorporation of the other, as an existing presence, into one's frame of reference. Similarly, individuals simultaneously transport themselves into the other's way of interpreting and making sense of the world. Getting to know the other and about the other is an enterprise of information gathering that enlarges one's pool of "sedimented pre-judgements" and therefore one's overall understanding of the world. In this light, and in the context of globalization that has made cross-cultural encounter inevitable, Dallmayr believes that Gadamer's hermeneutics offers a "mode of dialogue that is open-ended and hospitable to multiple and expanding horizons." (Dallmayr, 2002, p. 27).

Dallmayr's appropriation of Gadamer has also been evaluated critically. Bashir suggests that if we are to adopt a veritable hermeneutics of the Gadamerian kind then it would have radical implications for the project and practice of political theory as a whole so that it would not suffice to settle for a subfield leaving the overall discipline intact. Gadamer's approach can seriously challenge many of the most widely held assumptions of the discipline. It follows that, says Bashir, "an obvious task for CPT[13] scholarship is to reassess what the West has come to believe as its superior heritage" (Bashir, 2014, p. 19). Civilizations do not get uncontaminated in cross-cultural interactions, and especially so in relation to such a grand event as globalization, yet the focus for theorists such as Dallmayr has barely emphasized cross-cultural borrowing in this actual encounter: how civilizations have actually negotiated their terms of self-understanding in relation to the other. Rather Dallmayr relies overwhelmingly on "inter-cultural

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[13] Bashir uses the short form CPT to denote comparative political theory.

theorizing" (Bashir, 2014, p. 20). A possible critique, or rather suspicion, to Dallmayr's version of CPT from a non-Western perspective could be that it is concerned too much with the late modernity of globalization. In this sense the West is also losing its position of domination vis-à-vis the non-West in an increasingly interconnected world. A political theory perspective that seeks to include the other may be seen as an unavoidable inconvenience that results from the West's concern for negotiating its new position in a world where it cannot keep its hegemony entirely. Why else would CPT still cling on to the superiority of the Western heritage at the very instance when it is seeking an authentic inter-civilizational dialogue?

Bashir also asserts that a globalization-centric lens in relation to non-Western systems of ideas is already a way to impose rules on the latter. The risk here is to see the non-Western in light of those elements that resemble the West the most. Moreover, by seeing what is most relevant to globalization disallows us from seeing the historical, socio-cultural and linguistic complexities that undergird non-Western perspectives: we end up engaging with only that aspect of non-Western thinking that seeks to "define itself in contradistinction to the West". Even in practice through the texts and theorists, such as someone like Mahatma Gandhi or Ali Shariati, nominated by CPT scholars in their comparative studies usually turn out to be those individuals who seem to be most influenced by their encounters with modernity as well as the West. And yet even when *these* individuals are selected for comparative theory, only those aspects seem to be brought forth for analysis that are specifically modern in nature. Even those non-Western thinkers engaged with premodern ideas and contexts as well, which often remain neglected by CPT scholarship, if only to reshape them for modern concerns and conditions. It should be the concern of CPT scholarship to seek out that

premodern element without being misled by many of its modernist distortions.

Dallmayr's appropriation of Gadamer makes us realize that the task of comparative political philosophy is not merely 'comparative' but also 'hermeneutical' in the sense that one needs to indulge in the dialogic engagement in order to build a horizon for living together. Dallmayr contends that academic research in political theory is mostly parochial in its method. In our global political predicament, if we want to understand political practices in the non-Western world, then we must go beyond Eurocentrism presumed in political theory. This very act of deparochialization or rethinking of the canons of political theory paves the way for comparative political philosophy as an independent academic field.

(iii)- Roxanne Euben: Cross-Cultural Learning in Political Philosophy

Other than Dallmayr, Roxanne Euben is perhaps the most prominent theorist for comparative political philosophy as well as the first to write a full-length manuscript for it—one that compares the works of influential religious fundamentalist thinkers in the Islamic world with Western critics of modernity[14]. Specifically, she focuses on the possibility of cross-cultural learning between the Western and Muslim world. Euben's approach towards comparative political philosophy relies on the fundamental assumption that the most basic and essential problems and concerns humanity faces as a whole do not differ substantially across cultural and civilizational lines. In this sense,

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[14] For Euben's analysis of Islamic fundamentalism, see (Euben, 1999).

different cultures already exist in conversation with each other which means the job of a critical comparative theorist is to recover and reorient those conversations by an inclusionary practice of political theory. Such an approach does not assume the inherent superiority of Western heritage as this implies that the West is one, and by no necessity the best, response to the problems confronting humans as such. If we bring to focus variegated traditions in juxtaposition to each other, this can only lead to the mutual enrichment of thought in general and the political in particular. Indeed, according to Euben, the task of comparative political philosophy is to make sense of the nature and value of political practices in a wide variety of historical-cultural contexts.

Euben seeks to challenge a strictly objectivist model, for its un-achievability, in favour of what might be the best alternative: a rigorous "understanding as a reciprocal, transformative and ongoing process" (Bashir 2014). Euben is informed by Clifford Geertz's approach towards cultural analysis that seeks to be an "interpretative science in search of meaning" (Geertz, 1972, p. 5; Bashir, 2014, p. 22), and thus attempting to really capture the inner meanings of cultural practices through a thorough and non-selective method of inquiry that relies on the conceptual world of people under analysis as well as a constant re-engagement and confrontation with one's own. This would mean that Euben is also reliant on a dialogic model of inquiry where the possibilities of learning from the non-West are as open as questioning the Western. Her approach also suggests that political thinkers in the non-West be treated entirely on their own terms without restricting them in terms of relevance that we have set out in advance. Moreover, such a cultural analysis also disallows the analyst from putting aside those aspects of non-Western thought that may be deemed, on the basis

of pre-judgments, to be irrational or unworthy. In this sense a fuller understanding of the non-Western becomes possible.

Euben is also interested in challenging the notion that the philosophical treatise should serve as the chief organizer of theoretical discourse. Rather she defines theory as "a practice of inquiry in which critical distance plays an integral role, thereby shifting the emphasis from 'theory' as a body of ideas subject to domestication or in need of constant chastening to 'theorizing' as a reflective activity engaged in by ordinary people at particular moments in time" (Euben, 2006, p. 11). Euben's critical distance could be achieved not only by engaging with the non-Western other as she exists today but also by engaging with the temporal other, such as the self of the Western past. Euben therefore suggests that the scope of comparative political philosophy be extended to studies of the Western historical 'forgotten' past as well. Current political theory is unequipped to deal with globalization—"the deterritorialization of politics and culture par excellence" (Euben 1999; 2006)—with its exclusionary reliance on the Western canon that centralizes essentially territorial concerns such as the relationship between the sovereign and people or state and society. This in turn transforms political theory into a "presentist" and "provincial" enterprise. While Bashir seems to, by and large, endorse and praise Euben's project concerning CPT, he is critical as to why she does not see why the current practice of political theory as a whole not be reconstructed in its light. Euben's response is that CPT should serve as a reminder to political theorists regarding what their vocation truly entails; regardless, Bashir maintains that the true realization of such an endeavour necessitates that real shifts take place in the very structure of political theory proper—a discipline that remains tied to the western canon almost exclusively, and often at the cost of its others.

For Euben, human beings confront similar dilemmas all around the world and we need to develop a theory which should be sensitive to different cultural contexts. Comparative political philosophy is a systematic attempt to understand the nature and value of political concepts and practices in various historical contexts. No civilization has monopoly over the global village and we can enrich our understanding of political through cross-cultural learning.

2- Globalization, Deliberative Theory and Comparative Political Philosophy

The process of globalization is one of the major causes of the development of both comparative political philosophy and deliberative theory[15]. Before I explain the significance of globalization, I first briefly discuss three other reasons for the emergence of comparative political philosophy:

(i)- The critique of modernity within the Western academia. In the second half of 20th century, there was a rise of new philosophical strands, such as critical theory, existentialism, Foucault's genealogical methods, deconstructionism, and postcolonial studies, which challenged the philosophical foundations of modernity and enlightenment discourse. Many thinkers developed critique of Eurocentrism on the basis of these new strands of 20th century philosophy. Most notably, Edward Said's *Orientalism* was a systematic attempt in which he exposed the Eurocentric bias in the Western

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[15] The role of globalization in the development of deliberative theory is quite recent. Specifically, after the systemic turn in 2000s (see chapter three of this thesis), deliberative theorists realized the significance of globalization in their approaches.

approaches to study Eastern culture (Said, 1978)[16]. As discussed in the previous section, Dallmayr's appropriation of Gadamer is also an attack on the universality of modernity. The skepticism about the universality of modernity was instrumental in the critique of the canons of Western political theory. For this reason, Dallmayr is also critical of Habermasian discourse ethics because it presumes certain notions of Enlightenment rationality which is an impediment to understand the nature and value of political practices in the non-western world[17]. For Dallmayr, Habermas' approach does not fully address the question of the 'other' which is unavoidable in the contemporary world.

(ii)- The disenchantment with the field of comparative politics. This field is one of the compartments of larger empirical social sciences. Comparative politics is a kind of 'formal theory' that does not truly engage with political ideals originating from the non-West. However, when it deals with the non-Western political practices, it imposes the Western yardstick to study them. In her analysis of Islamic fundamentalism, Euben rejects the empirical stance of comparative politics for being biased toward the Muslim world. In her book *Enemy in the Mirror*, she argues that "that comparative politics work on the rise of fundamentalism is too formal; it reduces the appeal of fundamentalist ideas to functional, material motivations rather than taking those ideas seriously on their own merits or even as ideology. In place of the conventional comparative politics approach, she focused on the thought of Sayyid Qutb in order to examine the rise of real-life foundationalist politics at a time when political theory had become on the whole antifoundationalist. Euben juxtaposed Qutb's critique of

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[16] Also see, (Spivak, 1999); (Chakrabarty, 2009); (Chatterjee, 1993).
[17] In chapter three of the thesis, I will also critically evaluate Habermas' deliberative theory for being Eurocentric in its core.

modernity with those of Western critics—Arendt, MacIntyre, Bellah, and Taylor—to show that the parallels prove that Qutb's views are not irrational or regressive but are an other side of modernity" (Vacano, 2015, p. 467). That is why, the main theoretical stance in comparative political philosophy (specifically, that of Dallmayr and Euben) is hermeneutical in nature, which promotes dialogic method to deal with the non-Western world.

(iii)- After the end of cold war, liberal ideology was conceived as the ultimate triumph of the Western political order. In his book *End of History and the Last Man* (Fukuyama, 1992), Fukuyama claimed that after the fall of the Berlin Wall, liberal political order is the only game in town, and no other ideology could challenge it. Huntington's *Clash of Civilizations* (Huntington, 1996) was another response to the end of Cold War. In this book, Huntington claimed that political ideologies would no longer matter in the making of the new world order. Rather, he contended cultural affiliations in terms of different civilizational blocs map the global political space. Fukuyama's and Huntington's approaches informed the early development of comparative political philosophy. Both Fred Dallmayr and Roxanne Euben referred these two books in their respective approaches towards comparative political philosophy. This is not to say that comparative political philosophers were positively influenced by Fukuyama and Huntington, rather, they were highly critical of these two post-Cold War thinkers. Indeed, the emergence of comparative political philosophy can be understood as a systematic response to Fukuyama-Huntington theses.

To some extent, these three reasons[18] were also instrumental in expanding the scope and reach of deliberative theory. Specifically, the strict rational standards for the ideal of deliberation in early deliberative theory (Habermas, Cohen, and Rawls) were heavily criticized for being Eurocentric[19]. The institutional arrangements of liberal democratic setup as a pre-condition of deliberative democracy also confined deliberative theory to the Western world. Fourth generation deliberative theorists argue that one should stretch the ideal of deliberation to understand political practices in the non-Western world. In stretching the ideal of deliberation, theorists also stress on the importance of culture, religion, rhetoric, greeting, acts which are not strictly rational in nature, in the formation of deliberative practices.

Now, I turn to globalization and its importance in the development of comparative political philosophy and deliberative theory. The relationship between comparative political philosophy and globalization can be established at methodological and justificatory levels. Methodologically, as discussed in the first section, the dialogic model lies at the heart of comparative political philosophy. Dallmayr's use of dialogue is a normative stance because "it is driven by the motivation to enhance communication among different cultural traditions in political theory in light of the world's becoming a global village" (Vacano, 2015, p. 469). There is a cognitive dimension in Dallmayr's approach because in the practice of comparative political philosophy we get to learn other cultures and traditions. For Dallmayr, "reciprocal learning and critique" (Dallmayr, 1997, p. 423) is integral

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[18] The three reasons for the emergence of comparative political philosophy can be labelled as (1) Critique of Orientalism; (2) Critical of Comparative Politics; and (3) Fukuyama-Huntington theses. See (Vacano, 2015, p. 468).

[19] For details, see chapter two and three of the thesis.

to this academic field which enhances our knowledge. In the same vein, Roxanne Euben also insists on cross-cultural learning in the age of globalization. For Euben, human beings more or less face the same dilemmas in this global age, thus, learning from each other is indispensable for a shared life with common fate. As she writes:

"The project of comparative political theory involves bringing non-Western perspectives into familiar debates into the problems of living together, thus assuring that political theory is about human and not merely Western dilemmas. It is perhaps best understood as a hybrid of the contemporary disciplines of political theory and comparative politics, for it entails the attempt to ask questions about the nature and value of politics in a variety of cultural and historical contexts."
(Euben, 1999, p. 9)

Despite serious moral and political disagreements, Euben claims, different cultures are not incommensurable and one can always find out the possibility of learning from each other. The dialogic method is the most suitable heuristic device to deal with the problems of global age. At the justificatory level, thinkers who talk about the possibility of global or transnational democracy are also interested in the project of comparative political philosophy. In the age of globalization, Williams & Warren argue, transnational democracy needs 'global publics' and comparative political philosophy is a viable discipline in this regard. In our current political predicament, the pursuit for the globalization of democracy appears to be necessary. They write:

"The link between global civil society and the possibility of democratic agency on the part of new transnational actors is the emergence of new transnational and potentially global public spheres, that is, social spaces

of free communication through which collective opinions may eventually form as a result of the exchange of arguments."
(Melissa S. Williams and Mark E. Warren, 2014, p. 31)

For Williams and Warren, the reason for opting comparative political philosophy for the creation of global public spheres is that the former takes the process of globalization as its starting point. Like Euben and Dallmayr, Williams and Warren also believe in the shared life with a common fate. By virtue of being human, we all face same issues in the global world that we can comprehensively address through the lens of comparative political philosophy. It should be noted that, for Williams and Warren, democracy means deliberative democracy. In the age of globalization, our borders are blurred and fluid. For such borders we need fluid thinking which is possible through genuine dialogic engagements. The following passage summarizes William's and Warren's stance to link comparative political philosophy with globalization and deliberative theory:

"There is a conceptual and practical link between globalization, deliberative democratic theory, and the academic field of comparative political theory. These themes are connected by the idea that the human-scale problems characteristic of intensive processes of globalization can be addressed in a democratic form only under conditions where it is possible for citizens around the world to form, mostly through discourse, shared political imaginaries: to see themselves not only as connected to one another but also as possessing the ethical responsibility and the agent-capacity to render these processes responsive to those whom they affect. Since the formation of imagined communities of shared fate is linguistically mediated, people who seek to assert democratic agency in response to shared problems need

ideational resources that resonate with locally embedded understandings of ethics and politics in order for mutual interdependence and affectedness to generate newly imagined common futures."

(Melissa S. Williams and Mark E. Warren, 2014, p. 48)

So far, I have discussed the significance of globalization in the development of comparative political philosophy. My description suggests that comparative political philosophy should be seen in the backdrop of globalization that defines our current political predicament. The dialogic engagement and cross-cultural learning are indispensable in the age of globalization. Comparative political philosophy provides us an academic platform not merely to indulge in the inter-cultural dialogue but also to understand the nature and value of political practices in the non-Western world.

Now, I explain the relationship between deliberative theory and globalization. However, I keep my description very brief in this section because a detailed analysis of the development of deliberative theory over the last three decades is provided in chapters two and three of this thesis.

There are many reasons for the development of deliberative theory. Unlike comparative political philosophy, whose theoretical-methodological framework stems from the vantage point of globalization, deliberative theory begins with the critiques of representative and liberal models of democracy. It is a normative ideal that stresses on the processes of reflection and communication in democracy (Habermas, 1996; Dryzek J. S., 2000; Forst, 2001). The philosophical foundations of deliberative democracy goes back to Habermas' discourse ethics and Rawls' public reason. The recent

systemic turn in deliberative theory opens up the space to study deliberation in a wide variety of context. In recent deliberative theory, the institutional arrangements of a liberal state are no longer a pre-condition to study deliberative practices (Dryzek J. S., 2010; Dryzek J. S., 2011). The significance of global politics, which is an offshoot of the process of globalization, gives rise to new ways to think about democrcacy. Although, "the social ontology of nation-states, dividing political collective associations into homogenous enclaves of common origins and shared history, has been with us since the historic Treaty of Westphalia" (Schrag, 2009, p. 79), but due to our global predicament "there has been considerable discussion of the demise of the nation-state as a model for political organization" (Schrag, 2009, p. 79). In his book *The Postnational Constellation*, Habermas discusses the limitations of the nation-state to host/organize global politics (Habermas, 2001). Of course, the possibility of electoral democracy appears to be utopian at the global level, but we can still imagine other forms of democracy. As Robert Keohane says, "the conditions for electoral democracy . . . do not exist on a global level", which means, "rather than abandoning democracy, we should rethink our ambitions" (Keohane, 2006, p. 75). If we define democracy in terms of communication and deliberation then we can imagine the prospects of global democracy. The concept of 'deliberative system' transcends the horizon of the nation-state and helps us to find democratic potential in a wide variety of contexts, such as global governance, authoritarian regimes, new and old democracies. As Dryzek writes:

"From a global perspective, a communicative and deliberative approach to democracy has a further advantage over conceptions of democracy for which competitive elections are the sine qua non in that it is not modeled on developed liberal democracies."

(Dryzek J. S., 2011, p. 212)

Another argument that links deliberative theory with globalization is the significance of culture in shaping deliberative practices. According to Jensen Saas, if we want to understand the true nature of deliberation across different traditions, we need to expand the ideal of deliberation. So far, studies on deliberation have merely focused on the Western liberal states. In the age of globalization, he claims, we should also pay attention to deliberative practices outside the Western liberal states. According to Saas, "If collective deliberation is to prevail in global governance, we must fashion political ideals which motivate diverse peoples to come together in discourse, rather than confront their problems, or compound them, by less desirable means" (Sass, 2018, p. 1). It means, the prospects of global governance are only possible if people from diverse backgrounds engage in a dialogue. Saas insists on the expansion of the ideal of deliberation in our global age. Like Dallmayr, Euben, Williams and Warren, Saas also believes that the socio-political issues we face today are increasingly global in nature, therefore, we are obligated to investigate other cultures and traditions for mutual understanding. As he writes:

"In a period of human history defined by political challenges which are transnational, and increasingly global, the need to foster political discourse at new scales, and involving peoples who inhabit radically different states and societies, is more pressing than ever. A prerequisite to such discourse is identifying the different kinds of ideals which might both motivate and regulate it."
(Sass, 2018, p. 2)

Saas also recognizes the limitations of deliberative theory to fully engage with the non-Western world. In order to make deliberative theory more inclusive in its scope, it should come into a dialogue with comparative political philosophy. The latter discipline, both methodologically and theoretically, is already oriented towards other cultures. The turn toward the study of other cultures is quite recent in the deliberative theory and it needs further development. The tirade of globalization, deliberative theory and comparative political philosophy is an important aspect of our current academic discourse. This thesis attempts to bridge comparative political philosophy with deliberative theory to explore the nature of deliberative practices in the context of Pakistan.

Chapter Three

Political Deliberation and Normative Controversies in Deliberative Theory

This chapter provides a theoretical investigation of the concepts of deliberation and deliberative democracy. Specifically, this chapter has the following objectives:

1- To distinguish between the concepts of 'deliberation' and 'deliberative democracy'. This thesis argues that this distinction is necessary for three reasons:

(a) to understand democratic capacity in autocratic contexts

(b) to understand various deliberative mechanisms that strengthen the democratic project

(c) to understand the role of empirical studies in recasting the concept of deliberative democracy.

2- To give an overview of the concept of 'deliberative democracy' and discuss various challenges to its current usage. I will also elucidate how the theory of deliberative democracy has been revised over the last two decades because of empirical studies and critical analyses.

3- To discuss the normative controversies in philosophical literature on deliberative democracy. These normative controversies do not merely draw our attention to the complex diversified political philosophy of deliberative democracy, but they also help us to expand the reach and

application of deliberative theory in the non-Western contexts. This latter aspect is an important development that extends the current scholarship on comparative political philosophy.

The chapter is divided into two parts. In part one, I discuss the minimal definition of political deliberation. The minimal account limits the application and scope of deliberation, which is necessary to avoid the concept stretching of the term[20]. In part two, I deal with normative controversies in philosophical literature on deliberative theory. These controversies unearth the political philosophy of deliberative ideals.

The idea of 'deliberation' has become a central aspect of all major theories of democrcacy. 'Deliberation' and 'deliberative democracy' are two distinct concepts. They do not mean the same thing nor are they always entangled in the democratic process. Depending on the political circumstances "it could turn out that the best decision-making procedures from a purely deliberative point of view are not particularly democratic or that the best decision-making procedures from a democratic point of view are not particularly deliberative" (Lafont, 2006, p. 3). In the discipline of political theory, deliberation has become an appealing ideal for politics. As an ideal, it promotes debate, dialogue, conversation, citizens' engagement, openness, sincerity, mutual respect, and persuasion in the political process. Philosophers who support this ideal also hold that deliberative quality deteriorates if political process merely moves around self-interest, closure, aggregation, fixed preferences and pre-political desires. As a concept, deliberation is a slippery phenomenon and difficult to grasp. Mostly, political theorists conflate deliberation with democracy which creates

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[20] For the dangers of the concept stretching of the ideal of deliberation, see (Goodin R. , 2018).

problems in conceptualizing the various dimensions of political deliberation[21]:

"The contemporary literature, rich as though it may be, has not yet consolidated a comprehensive framework to address political deliberation. In the lack of a set of distinctions, however, it becomes hard to make sense of the controversies surrounding deliberation and of the exact targets at which objections against it are aimed" (Mendes, 2013, p. 13).

Despite its complex nature we can still find a minimal definition of political deliberation within the contemporary literature on deliberative democracy[22]. Such a minimal account would help us to understand basic features of political deliberation.

1- The Minimal Definition of Political Deliberation

In the theory of deliberative democracy, deliberation is understood as a practice of collective decision-making (Mendes, 2013, p. 14). It is an inclusive practice of collective reasoning in the search of a consensus about the common good. However, reaching a consensus about

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[21] In order to delineate the basic features of political deliberation, I navigate into the kaleidoscopic literature produced under the moniker of deliberative democracy. Normally, both concepts, deliberation and deliberative democracy are conflated. I decouple deliberation from deliberative democracy in order to explicate basic features of deliberation. For an analysis of this dichotomy in the literature on deliberative democracy, see (Pettit, 2003), (Chambers, 2009), and (Lafont, 2006).

[22] Within the literature on deliberative democracy many thinkers talk about the existence of a common denominator that can be construed as the minimal definition of political deliberation. For details, see (Dryzek J. S., 1994) and (Dryzek J. S., 2000); (Amy Gutmann and Dennis Thompson , 1996); (Bohman, 1998); and (Goodin R. , 2003).

common good is not necessarily a logical outcome of reasoning together. Participants in the deliberative process are open to transform their preferences in the light of persuasive arguments. Actors attempt to convince others by the force of better arguments and are themselves open to change their position if good arguments are provided. Deliberative encounter is a kind of learning process because actors learn about best arguments in the common debate.

Specifically, there are six elements in the minimal definition/conception of deliberation; they can also be termed as the basic tenets of deliberation:

(i)- The need to make a collective decision directly related to those actors who are deliberating and indirectly to those who are absent in the process.

(ii)- Decision is not an end in itself in the deliberative process. It is a provisional stance arrived on the basis of arguments and subject to change in further deliberative rounds.

(iii)- In the deliberative encounter, participants are engaged in collective reasoning and attempt to justify their positions by the exchange of good arguments.

(iv)- Participants in the deliberative process give reasons of a peculiar kind, one that is not merely unbiased and impartial, but also has a potential to be translatable to the common good.

(v)- Actors in the deliberative process are open to transform their preferences in the light of better arguments which leads to an ethics of consensus.

(vi)- Deliberation involves a moral dimension of mutual respect. It is an inclusive practice that promotes empathy and is responsive to different points of views.

In what follows, I briefly explain the above elements which lie at the heart of the minimal definition of deliberative democracy. This minimal account gives rise to a lot of normative controversies in the philosophical literature on deliberative democracy. After explicating minimal definition of deliberation, I discuss the main normative controversies in philosophical literature.

First, this dissertation deals with political deliberation rather than other types of deliberation. The decisional element in political deliberation compels us to take a practical course of action. Participants need to select a particular course of action because of time restraint and limitation of resources. Political deliberation is different from other sorts of deliberation because it faces the constraints of time and existing resources, thereby compelling actors to pursue a course of action to arrive at a point. Other types of deliberations and inquiries are not subject to such an urgency, for example, science, philosophy and everyday small talk. That is not to say that scientists and philosophers do not take the decision, rather their decisions don't pose the questions of coercive authority and legitimacy. Political deliberation has an element of temporal urgency to it. It should lead to a closure which may be provisional in nature. Moreover, this type of decision also influences its participants both directly and indirectly:

"The effects of such a decision directly impact the lives of the deliberators, and possibly, depending on how the deliberative site is shaped, of people that are outside of it."

(Mendes, 2013, p. 15)

Second, decision is not an end in itself in the deliberative process. It is merely a provisional stance that includes the elements of continuity within it. It means that the argumentative process does not stop after the decision is taken. It remains contestable in light of fresh perspectives and further deliberative rounds may call for new collective decision-making. Deliberative theorists argue that continuity is an important aspect of legitimate politics.

Third, deliberation requires us to provide justification for the collective decision. Participants in the deliberative process need to provide reasons for their particular stance. As Habermas suggests "forceless force of the better argument" (Habermas, 1999, p. 332) provides justification of a decision in the deliberative process. It means, as a political practice, deliberation refers "to the ideal of public reason, to the requirement that legitimate decisions be ones that everyone could accept or at least not reasonably reject" (Bohman, 1998, pp. 401-2). In the process of mutual justification, actors engage in a dialogue before the execution of a collective decision. For Joshua Cohen, deliberative democracy is the institutionalization of the ideal of political justification. He states:

"The deliberative conception of democracy is organized around an ideal of political justification. According to this ideal, justification of the exercise of collective political power is to proceed on the basis of a free public reasoning among equals. A deliberative democracy institutionalizes this ideal" (Cohen J. , 1996, p. 99).

Fourth, there are various types of reasons which stem from different sources. In political deliberation, all types of reasons and sources are not acceptable. Since, decision is of collective nature, therefore, those

reasons which all participants could possibly embrace are acceptable. It means, private interests which are not translatable to the common good are excluded in the deliberative process. Participants should transcend their private interests and orient themselves to the common good. Actors in the deliberative process are constrained in the argumentative chain.

Fifth, in the deliberative process, participants do not merely give reasons that are compatible with the concept of common good, but they try to persuade each other through dialogic engagement. Such a dialogic orientation does not merely improve political decision-making but it also produces a fair system of social cooperation without presuming any consensus. In the process of persuasion, participants are open to all points of view and are willing to revise their perspectives. The transformation of preferences is an autonomous act and free from exogenic forces. Dialogic reason is intrinsically fallible which leaves room for its contestation. Moreover, genuine persuasion also presumes an ethics of consensus and absence of coercion (Mansbridge, et al., 2010, p. 94). This is not to say that consensus is a necessary end of deliberation, rather, it is an aspirational goal that regulates the deliberative conduct. It is an ideal that participants chase in the deliberative process (Cohen J. , 1997). Ethics of consensus means "making aim for consensus" (Ferejohn, 2000, p. 76) and it provides motivation to political actors in the process of deliberative engagement. The lack of consensus is not a failure of deliberative process. Chambers also argues that "consensus centered teleology" is no longer a controversial point in the theory of deliberative democracy (Chambers, 2003, p. 321). Deliberation accommodates both pluralism and agonism in the democratic process. If deliberation produces consensus in the deliberative process then it should not be understood as the final

outcome and it can be reignited again in the political process. Thus, consensus remains an aspirational ideal and it is indispensable because of the temporal pressure to execute the decision and exhaustive nature of the argumentative skills of participants[23].

Sixth, political deliberation promotes an ethical attitude of mutual respect by considering all participants as equal. All actors deserve to be treated equally in the political process, which requires the moral virtue of respect towards their argument. It does not mean that the deliberative "process cannot be heated and conflictive or that it needs to appear amiable and convivial. Neither does it mean that all arguments should have equal weight. It hinges on the recognition, somehow displayed, that there is no hierarchy of status between participants" (Mendes, 2013, p. 17). The element of reciprocity is essential to mutual respect and is an important aspect of political deliberation. According to Gutmann and Thompson, reciprocity involves inclusiveness, empathy, and responsiveness (Amy Gutmann and Dennis Thompson, 1996, p. 53). In order to concretize such a political morality, all participants should be free and able to participate in the deliberative process and no one has privileged access to truth. Habermas argues that all arguments should be considered and good reasoning will eventually prevail in the political process (Habermas, 1996, pp. 305-6).

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[23] As stated in the first point, temporal urgency accompanies political deliberation which compels participants to take a decision. Also, in the deliberative process, when argumentative capacities of participants are exhausted then some points might be rendered irreconcilable. In this regard, Rawls talks about 'stand-off' in his concept of public reason: "A stand-off in some sense may indeed happen, not only in moral and political reasoning but in all forms of reasoning, including science and common sense" (Rawls, 1999, p. 168).

2- Normative Controversies in Philosophical Literature

In political philosophy, the model of deliberative democracy was developed at the normative level. In the history of deliberative democrcacy there has always been a problem between the normative ideals and actual practices of deliberation (Steiner J. , 2012, pp. 1-2). The concept of deliberative democracy has been recast because of this tension. It is exactly this interplay between normative ideals and actual political practices that gives rise to four different generations of deliberative theorists. A genealogical account of four generations helps us to understand the historical development of deliberative democracy[24]. In this chapter, I will not provide a detailed description of the four generations of deliberative democracy, rather, briefly comment upon them along with my analysis of the normative controversies in the philosophical literature on deliberative democracy.

In political philosophy, deliberative democracy is understood as a regulative ideal. Although we cannot attain this ideal in real world politics but it helps us to understand our political practices. As Jane Mansbridge says:

"[The ideal of deliberative democracy] is unachievable in its full state but remains an ideal to which, all else equal, a practice should be judged as approaching more or less closely."

(Mansbridge, et al., 2010, p. 65)

This approach is similar to Kant's concept of 'regulative principle'. In his book, *Critique of Pure Reason*, Kant defines the regulative principle as an ideal "with which we can compare ourselves, judge ourselves and thereby improve ourselves, even though we can never reach the

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[24] A brief account of four generations of deliberative theorists is given in next chapter.

standard" (Kant, 1998, p. 552). The first generation of deliberative theorists were mainly concerned with this ideal and its philosophical justification in the actual political process. In the same vein, Habermas also recognizes practical limits of the ideal of deliberation and states that "even if actual debate deviates from the ideal procedure of deliberative politics, the presuppositions of rational discourse can still 'indirectly steer' the course of actual debate"[25]. John Rawls, another prominent philosopher from the first generation of deliberative democracy thinkers, argues that the ideal of deliberation underlies the concept of deliberative democracy: "the definitive idea for deliberative democracy is the idea of deliberation itself" (Rawls, 1999, p. 138). The ideal of deliberation can also be understood in contrast to the ideal of strategic bargaining. Indeed, historically, the ideal of deliberation emerged as a critique of the ideal of strategic bargaining. In the ideal of strategic bargaining, participants have fixed preferences in the political process. Their political struggle is all about arriving at an outcome which is close to their preferences. This is not to say that political actors in the process of strategic bargaining are just egoistical and they merely look for their own interests; "they may also, for example, care for the well-being of future generations as personal preference" (Steiner J. , 2012, p. 4). It's a kind of mutually beneficial trading where political actors are motivated by their individual preferences.

On the contrary, in the ideal of deliberation, preferences are not fixed and political actors are willing to transform their preferences in the light of better arguments. Participants attempt to persuade others by convincing arguments and are themselves open to be convinced by others. Through the act of mutual dialogue political actors learn about

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[25] Quoted in (Bohman, 1998, pp. 411-2).

better arguments. The following passage spells out the essence of the deliberative model:

"Deliberation is not just any talk. In the ideal, democratic deliberation eschews coercive power in the process of coming to decision. Its central task is mutual justification. Ideally, participants in deliberation are engaged, with mutual respect, as free and equal citizens in a search for fair terms of cooperation. These terms can include the recognition and pursuit of self-interest, including material self-interest, and some forms of negotiation, constrained by the deliberative democratic ideals of mutual respect, equality, reciprocity, mutual justification, the search for fairness, and the absence of coercive power."

(Mansbridge, et al., 2010, p. 94)

In the above definition 'deliberation' is also similar to the original Latin word 'deliberare'[26] which means to ponder, to reflect, to consider (Steiner J. , 2012, p. 4). This type of deliberation is not necessarily a collective act and can also take place in an individual's head. Robert Goodin argues that individual deliberation in terms of inward reflection is beneficial before collective deliberation (Goodin R. E., 2000). Similarly, Flynn and Parkinson, using current research in social psychology, talk about the significance of inward deliberation in terms of an imagined interlocutor. They argue that participants should confront imagined ideal deliberators before group deliberation in order to better comprehend each other's argument. Hence, the basic principle of deliberative democracy is that arguments should matter in the political debate. Deliberative theorists agree on this basic principle but they hold on to different theoretical frameworks for the practical

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[26] For a detailed description of the etymological origin of the term 'deliberation', see (Boniolo, 2012, p. 1).

implementation of this principle. They offer various normative justifications for their disagreements. These disagreements are becoming strong over the last few years and give rise to a lot of normative controversies in the philosophical literature on deliberation. In what follows, I will discuss these normative controversies in detail. In the next chapter, I will specifically argue how the internal deliberation among deliberative theorists paves the way for understanding deliberative practices in both authoritarian and non-Western contexts. Such an internal deliberation among deliberative theorists is akin to the international deliberation already taking place in the academic field of political theory to understand the non-Western world.

The major normative controversies in the philosophical literature on deliberative theory are:

(i)- Equal Participation

Deliberative theorists argue that ordinary citizens ought to participate in the political process of deliberation. Jürgen Habermas contends that all citizens should participate in the deliberative process if decision is directly or indirectly related to them[27]. Since, decision-making, for example, in health care and environment affects everyone, therefore, everyone should deliberate on such issues. He further argues that opinion formation at grass-roots level should be reflective in nature and actors ought to persuade each other by the help of better arguments. Habermas believes that such a deliberative processes among ordinary citizens would influence legislation, election, and administrative power:

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[27] "Inklusion aller Betroffenen (Inclusion of all concerned)", For details, see (Steiner J. , 2012, p. 32).

"The flow of communication between public opinion-formation, institutionalized elections, and legislative decisions is meant to guarantee that influence and communicative power are transformed through legislation into administrative power."

(Habermas, 1996, p. 299)

Habermas' perspective of deliberative democracy distinguishes civil society from economic system and public administration. Civil society provides social basis to autonomous public spheres where ordinary citizens engage in political deliberation. Some political theorists criticize Habermas' account for being unrealistic. They argue that it is impossible for all citizens to participate in the process of political deliberation. However, given the significance of deliberation in the democratic process, they talk about political participation in 'mini-publics'. It is a randomly selected group of ordinary citizens who deliberate on political issues. James Fishkin, a renowned theorist of deliberative democracy, proposes the concept of deliberative polling in order to overcome the shortcomings of citizens' engagement at the large scale. Moreover, the method of "Random sampling offers a means of representing the diversity of viewpoints in the population at large" (James S. Fishkin, 2009, p. 37). For Fishkin, participation in mini-publics will not only promote deliberation at large but it will also produce opinion leaders who will engage with other citizens in various deliberative activities. Like Habermas, other deliberative theorists also believe that citizens' participation in the process of political deliberation should be on an equal level. Thompson holds that legitimacy of a decision in the deliberative process is based upon the equal participation of citizens: "Equal participation requires that no one

person or advantaged group completely dominate the reason-giving process, even if the deliberators are not strictly equal in power and prestige" (Thompson, 2008, pp. 504-505). Similarly, Mansbridge et al. also stress the significance of equal participation: "The deliberation should, ideally, be open to all those affected by the decision. The participants should have equal opportunity to influence the process, have equal resources, and be protected by basic rights" (Mansbridge, et al., 2010, p. 65). Participants should follow the principles of mutual respect and equal concern in the deliberative process. When it comes to real world politics we come to realize that not all citizens are able to and willing to participate in the process of political deliberation. Fishkin considers such an ideal of citizens' equal participation impractical and emphasizes on the quality of participation in the deliberative process. Mansbridge et al. also recognize the limitations of the ideal of equal participation in the actual political process: "in a polity of any size, it is impossible to give everyone a say in the literal sense of having one's individual voice heard by all other members of the polity. Even in extremely small polities, it is almost always counterproductive to design institutions in which each member has a literal equal say, and impossible to design institutions in which what each member says is taken with equal weight" (Mansbridge, et al., 2010, p. 85).

(ii)- Rational Justification

In the deliberative model, participants offer arguments which they can justify in the political process. Justification is of two types: formal and substantial.

In the formal justification, the main controversy is about the nature of arguments accepted in the deliberative process. Do arguments have to be rational in nature? Are personal stories which do not fulfil strict

standards of rationality/logical coherence also allowed in the deliberative model?

In the normative literature, deliberative democracy "is a political practice of argumentation and reason giving among free and equal citizens, a practice in which individual and collective perspectives and positions are subject to change through deliberation and in which only those norms, rules or decisions which result from some form of reason-based agreement among the citizens are accepted as legitimate" (Forst, 2001, p. 346). In contrast to aggregative model of democracy, deliberative democracy "puts emphasis on the role of the reasons behind a given choice; namely, it stresses the need for and the importance of the offered justifications" (Boniolo, 2012, p. 4). Aggregative democracy does not require citizens to justify their choice[28] in the political process. Deliberation is mainly understood as a rational process in which actors make a choice and justify it with argumentation. Habermas introduces his concept of deliberative democracy in contrast to the standard liberal view. He writes:

"In the liberal view, the political process of opinion- and will-formation in the public sphere and in parliament is determined by the competition of strategically acting collectivities trying to maintain or acquire positions of power. Success is measured by the citizens' approval, quantified as votes, of persons and programs. In their choices at the polls, voters give expression to their preferences. Their voting decisions have the same structure as the acts of choice made by participants in a market. They license access to the positions of power that political parties fight over in the same success- oriented attitude"

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[28] Normally citizens express their choices through vote. Citizens are given certain options and they merely vote for their respective choice.

(Habermas, 1994, p. 3)

For Habermas, the justification of arguments should be rational and logical in the political process. Assertions should be critically assessed in the deliberative process through the exchange of reasons. Habermas understands communicative action as an argumentative process in which participants justify their claims through reason (Habermas, 1996, pp. 322-3). Deliberation, in this sense, has a cognitive dimension to it because it deals "with finding the best way of regulating matters of public concern, whereby the best way is judged according to standards of rationality that have a certain objectivity" (Cooke, 2000, p. 952). Democracy, in the deliberative model, is mainly understood as the rule of reasons. Some political theorists go beyond rational argumentation as the only acceptable mode of justification in the deliberative process. They expand the classical ideal of deliberation in the light of empirical research produced over the last two decades. They argue that overemphasis on rational justification is embedded in the tradition of Enlightenment, which limits the scope of other forms of justification in the deliberative process. Contemporary deliberative theorists expand the classic ideal of deliberation by focusing on the process of mutual justification in the political process. In the deliberative encounter, actors advance "considerations" that can be accepted by other participants if found "compelling and persuasive" (Cohen J. , Procedure and substance in deliberative democracy, 1996, pp. 100-4). The standard of "mutual justifiability" is now central to the concept of deliberation. Mansbridge et al. argue that the criterion of mutual justifiability "opens the door to storytelling and the non-cognitive evocation of meanings and symbols that can appeal to actual or imagined shared experiences. Stories can establish credibility, create empathy, and trigger a sense of injustice, all of which contribute directly or indirectly to justification" (Mansbridge,

et al., 2010, p. 67). Dryzek is also critical of the Habermasian position that privileges rational arguments over rhetoric, storytelling and humor in the process of justification. He further argues that real world politics mixes various forms of communication that should not be discarded in favor of purely rational argumentation. He writes:

"Deliberation itself is a kind of communication. In some accounts (e.g., Habermas, 1996), reasoned argument is privileged, but deliberation can be open to a variety of forms of communication, such as rhetoric, testimony (the telling of stories), and humor. Real-world political communication generally mixes these different forms, and those that do not involve argument can be effective in inducing reflection."

(Dryzek J. S., 2009, p. 1381)

It does not mean communication, which involves lies and threats, is also acceptable in the deliberative process. For Dryzek, communication should be intrinsically non-coercive and capable of inducing reflection in the deliberative process. Such reflection helps actors to transform their preferences in the political process which is an essential aspect of the deliberative model of democracy. Patrizia Nanz is also critical of Habermas' insistence on rationality and argues that communication also involves expressing one's socio-cultural identity that is not necessarily free from rhetorical features and personal stories (Nanz, 2006, pp. 35-36).

Now, I move to the substantive aspect of justification in the deliberative process. The main controversy here is about the place of self-interest in the process of political deliberation. In its early phase, deliberative democracy was defined in opposition to self-interest. The rejection of self-interest is an important aspect of the rejection of aggregation and negotiation in the democratic process. That is to say, deliberative

theorists are against self-interest because they think it lies at the heart of aggregative model of democracy. In the following passage, Young distinguishes between interest-based and deliberative models of democracy:

"The interest-based model of democracy also presumes that people cannot make claims on others about justice or the public good and defend those claims with reasons ... By contrast, the model of deliberative democracy conceives of democracy as a process that creates a public, citizens coming together to talk about collective problems, goals, ideals, and actions. Democratic processes are oriented around discussing this common good rather than competing for the promotion of the private good of each. Instead of reasoning from the point of view of the private utility maximizer, through public deliberation citizens transform their preferences according to public-minded ends, and reason together about the nature of those ends and the best means to realize them."

(Young, 1996, p. 121)

Deliberative theorists argue that the consideration of common good lies at the heart of political deliberation. Habermas also insists on overcoming the egocentric inclinations in the democratic process (Habermas, 1989). In their book *Deliberation Day*, both Fishkin and Ackerman argue that the 'good citizen' does not look after his/her 'personal interest' but what is 'good for the country'. They argue that citizens in the public are different from the consumers in market and we should not obfuscate this distinction in the political process. When consumers enter in the market place they merely look after their personal interests and what is beneficial for them. In contrast, citizens are not engaged in the act of consumption when they make political

decisions. They have to be morally responsible for the choices they make in political matters because it will determine the fate of million of fellow citizens. Thus, citizens should search for the 'common good' in the political process (James Fishkin and Bruce Ackerman, 2004, pp. 173-5). It does not mean private interest and common good can never converge. This convergence between private interest and common good is not preordained in political matters and the responsible citizen should rise above his/her personal interest and take into consideration what is the common good in the political decision-making process (James Fishkin and Bruce Ackerman, 2004, p. 175). Mansbridge et al. disagree with such a stance in deliberative democracy model and argue that self-interest should be part of the deliberative process. However, they add that it must be 'suitably constrained' (Mansbridge, et al., 2010, p. 64). They think self-interest is not incompatible with deliberative ideals and it paves the way to good deliberation:

"Including self-interest in deliberative democracy reduces the possibility of exploitation and obfuscation, introduces information that facilitates reasonable solutions and the identification of integrative outcomes, and also motivates vigorous and creative deliberation. Including self-interest in the regulative ideal of deliberative democracy embraces the diversity of human objectives as well as the diversity of human opinions".

(Mansbridge, et al., 2010, pp. 72-3)

This way, Mansbridge et al. expand the ideal of political deliberation. Common good should incorporate all interests that's why participants should take into consideration their self-interests in the deliberative process. However, they also claim that some articulations of self-interests are not compatible with the ideal of good deliberation. As

indicated previously, Mansbridge et al. suggest that self-interest should be 'suitably constrained' in the deliberative process. They rule out those forms of self-interest which are not compatible with deliberative norms of 'mutual respect', 'equality', 'reciprocity', 'fairness' and 'mutual justification' (Mansbridge, et al., 2010, p. 76).

From the perspective of critical theory, Rostbøll also accepts the importance of self-interest in the deliberative process. He states: "we need to know the interests of everybody to determine what is in the equal interest of all. This knowledge can be created only through actual deliberation, where we learn what people with different needs and interests actually (have learned they) want" (Rostbøl, 2008, p. 178). He further argues that political deliberation provokes self-reflection and aims at emancipation. It challenges "uncritically accepted forms of oppression and inequality without being paternalistic or setting up external standards of true and false interests. Because of its requirement of nondomination and its procedural nature, public deliberation cannot impose anything on anyone" (Rostbøl, 2008, p. 220).

(iii)- The Principle of Mutual Respect

Another controversy in the normative literature on deliberative democracy concerns the principle of mutual respect in the political process. Mutual respect is one of the criteria for good deliberation. Mansbridge et al. argue that actors must treat each other with mutual respect and genuine concern. They should be able to listen to each other and provide reasons for their respective stance without any force (Mansbridge, et al., 2010, p. 66). Fishkin holds that an atmosphere of mutual respect makes dialogue possible which is an essential element in the deliberative process: "Trust and mutual respect are usually

thought to be preconditions for deliberative dialogue" (James S. Fishkin, 2009, pp. 128, 166). For Gutmann and Thompson, the principle of mutual respect and reciprocity is intimately connected with the notion of equality. In the deliberative encounter participants interact with each other which requires them to respond to various claims made in the discussion. They consider the principle of mutual respect as a 'political virtue' that fosters moral learning and it "orients the deliberations of citizens and public officials toward a view of the common good" (Thompson Dennis, Gutmann Amy, 1990, pp. 86-7). In the normative literature, there is a disagreement on the definition of mutual respect and its actual practice in the political process. Should we respect all arguments? Are there some arguments which are not worthy of respect? Habermas holds that we should consider all arguments in the political process and eventually good reasoning will prevail in the end. It is "the forceless force of the better argument" which ultimately paves the way to good reasoning in the deliberative process (Habermas, 1999, p. 332). Rostbøll also claims that in the model of deliberative democracy truth emerges in the political process and no one has a privileged access to it (Rostbøl, 2008, p. 103). Italo Testa is critical of the principle of mutual respect and explores its limitations in the deliberative process. He argues that "equal respect, understood as respect a priori conferred on persons, is not and should not be counted as a constitutive normative ground of public discourse" (Testa, 2012, p. 69). He is critical of both Habermas and Apel in presuming respect as a necessary presupposition for entering into a dialogue. For Testa, the notion of respect is a complex one and it intersects with various problems in both political philosophy and argumentation theory. He also distinguishes between respect for the persons and respect for the argument. In some situations, he claims not only arguments but also

persons don't merit respect. He gives the following example in order to explain his point of view:

"In a political context where we listen to an expert about waste disposal (i.e., an information-seeking dialogue), we may later discover that the expert wasn't impartial, as he had concealed having shares in a firm specializing in waste disposal in just the way he proposes: then a personal attack would be rather reasonable."

(Testa, 2012)

That is to say, being a dynamic concept, the principle of mutual respect is contextually contingent in the deliberative process. It depends on the situation when the moral authority of the person impacts the legitimacy of his/her arguments. Bohman and Richardson also set limits to the concept of respect in political discussion. In its ideal formulation, civility requires that one should consider anyone's arguments but in certain situations one can't be civil to the uncivil[29]. In the same vein, Hansen argues that those arguments which go against the norms of equality and freedom should be banned in the deliberative process. Since such norms are a precondition for political deliberation, therefore, arguments challenging these norms should not be entertained in the debate. He writes:

"Deliberative democracy must protect equality and basic civil liberties because otherwise the theory violates its own theoretical foundation as

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[29]Bohman and Richardson state: 'Just as there are thorny problems regarding tolerating the intolerant, there are difficulties about being civil to the uncivil'. For detail, see (James Bohman, Henry S. Richardson, 2009, p. 272).

an unconstrained deliberation, which would limit the opinions voiced during the deliberative process. Furthermore, as part of the core of deliberative democracy is to encourage an outcome based on mutually acceptable reasons between citizens, it seems to be impossible to question equality or e.g. freedom of expression without questioning the entire concept of deliberative democracy."

(Hansen, 2004, p. 105)

The concept of mutual respect remains a controversial point in the philosophical literature on deliberative democracy. Can we extend respect to all arguments and persons? Is confrontation compatible with the principle of respect?

(iv)- Consensus

Habermas argues that "forceless force of the better argument" (Habermas, 1999, p. 332) lies at the heart of deliberative model of democracy. It means, political decisions should be based on good reasoning. Moreover, good arguments are not given a priori, rather, they emerge in the process of deliberation. Dryzek also believes that what prevails in the deliberative process is not individual authority but good reasons (Dryzek J. S., 1990). However, there is a controversy in the normative literature about the possibility of consensus among participants on the nature of what best arguments are. Habermas argues that if the discourse in political deliberation is governed by the idea of impartiality then consensus can be achieved. He writes:

"Parties can agree to a negotiated compromise for different reasons, the consensus brought about through argument must rest on identical reasons able to convince the parties in the same way. The consensus-generating force of such reasons is displayed in the idea of impartiality that governs practical discourses."

(Habermas, 1996, p. 339)

Along with Habermas, some other deliberative theorists also believe that consensus is possible in the deliberative process. For example, Cohen claims that ideal deliberation strives towards rationally motivated consensus (Cohen J. A., 1989, pp. 23-4). However, both Habermas and Cohen do not claim that consensus is the necessary outcome of deliberative process, rather, they express their hope that it should be the case. Consensus is not always based upon identical reasons. Pragmatically, in certain situations and political contexts, it is based on different reasons. Neblo argues that if participants offer different reasons for a specific decision or policy then it means deliberative process promotes both pluralism and a healthy environment for debate and discussion (Neblo, 2015). Goodin also argues that disagreement is intrinsic to the nature of life in complex societies (Goodin R. E., 2006, p. 254). Bohman and Richardson also claim that "the idea of deliberative democracy cannot solve the problem of pluralism by offering up the idea of RACAs (reasons all can accept) as a specification of what it means for diverse people to give reasons to one another" (James Bohman and Henry S. Richardson, 2009, p. 253). In the same vein, Pellizzoni is also critical of Habermasian position concerning the unity of reason. According to Pellizzoni's interpretation, Habermas emphasizes on the cognitive virtue in the communicative process to single out the best argument. For Pellizzoni, because of the relationship between power and communication, one can not provide a

universal reason to resolve deep-lying conflicts (Pellizzoni, 2001, pp. 59, 67). Nonetheless, he believes deliberative process may result in a non-strategic agreement. Rostbøll makes another interesting point regarding the nature of consensus in political deliberation. Following the tradition of critical theory, he argues that sometimes one should break the consensus if it is embedded in ideological domination. He further argues that deliberative democracy should not break with its root in the critical theory tradition and it should always aim at emancipation through the critique of ideology. For Rostbøll, communication in the deliberative process should be free from domination and distortion. He states:

"that deliberative democracy is not merely a call for more communication but a call for a particular structure of communication—namely, one free from distortion and domination… if agreement is the product of ideological domination, then the aim of deliberation is to show that the agreement is only apparent, or that it is not the product of free deliberation. To see this, deliberative democrats should not forget their roots in critical theory and the importance of the critique of ideology."
(Rostbøl, 2008, pp. 148-9)

It means, Rostbøll is not against consensus but it should not reflect mere conformity to dominant ideology and must be based on personal autonomy. Deliberative process should provoke reflection about uncritically accepted policies and institutions and its strength lies in its emancipatory potential.

(v)- The Concept of Truthfulness

For Habermas, truthfulness is a key element in the deliberative model of democracy. He argues that we engage in a conversation with the presumption that others are truthful. For Habermas, in the deliberative process "each speaker may only assert what he believes himself"[30]. Deceptive behavior is detrimental to the deliberative process and it distorts communication. Contrary to Habermas, some deliberative theorists claim that intentions and motives do not matter in the deliberative process. They argue, what counts is the behavior itself in the deliberative encounter. For Warren, in democratic research, theorists should pay attention to deliberative institutions rather than deliberative intentions[31]. In the same vein, Thompson also suggests that "empirical researchers therefore should not worry, as some evidently do, about formulating an independent test for sincerity or truthfulness" (Thompson, 2008, p. 504). There are a number of deliberative theorists who agree with Habermas about the significance of truthfulness in the process of political deliberation and consider it essential to democracy. Bohman and Richardson also believe that sincerity and mutual respect are primordial aspects of the deliberative process (James Bohman and Henry S. Richardson, 2009, p. 270). Niemeyer also stresses on the significance of truthfulness in the deliberative process. He argues that untruthfulness opens up the door for strategic manipulation which impedes the process of deliberation. Mansbridge et al. also claim that lying is a kind of coercive power which is against the norms of deliberation (Mansbridge, et al., 2010, pp. 80-2). Deliberative theorists

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[30] "Jeder Sprecher darf nur behaupten, was er selbst glaubt"; quoted in (Jürg Steiner, André Bächtiger, Markus Spörndli and Marco R. Steenbergen , 2004, p. 20).

[31] For a detailed description of the significance of empirical research on deliberative institutions see (Warren, 2007).

offer different arguments on the nature of truthfulness in the deliberative process.

(vi)- Conditions and Consequences of Deliberation

Empirically, deliberation is a very complex phenomenon and figuring out its conditions is a difficult task for political philosophers. Favorable conditions can produce good deliberation. Habermas imposes high value on deliberative standards in his ideal speech situation. He also recognizes the impracticality of such an ideal speech in real world politics. However, speech acts in real situation, Habermas argues, should be analyzed in relation to the ideal speech situation (Habermas, 2005). Goodin provides a systematic framework in order to investigate the complexity of deliberative practices in real political situations. His sequential account of deliberative moments helps us to understand the decisional process in the act of political deliberation (Goodin R. E., 2005). Habermas argues that the presence of a shared Lebenswelt (life-world) is conducive to political deliberation (Habermas, 1985). In deliberative theory, there is no agreement on the conditions that are conducive to good deliberation. It still remains a challenge and one can contribute to this debate through empirical cases that exemplify real political situations of deliberative encounters. As Claudia Landwehr writes:

"Exploring the context conditions for successful and democratic deliberation thus remains the most important challenge for deliberative theory and deliberative politics."
(Landwehr, 2010, p. 120)

In the philosophical literature, conditions that lead to good deliberation are conceptualized at high level abstraction, and there is a need of real cases to fill this lacuna. This way, the case of Pakistan lawyers' movement provides an empirical example to expand the normative debates concerning the favorable conditions for deliberation. The philosophical literature shows that deliberative theorists are more interested in the consequences of good deliberation, rather than its conditions. Mostly, deliberative thinkers believe that the consequences of deliberation are generally good. According to Claudia Landwehr, deliberative "theory assumes that the exchange of reasons in communicative interaction forms and transforms political preferences, and that if the interaction is sufficiently deliberative, they are transformed to the better. Preferences evolving from deliberation are expected to be better informed and less self-interested: besides the own perspective, they take into account the knowledge, experiences and interests of others" (Landwehr, 2010, p. 101). In the same vein, Habermas also believes that the process of deliberation enhances the quality of decision. For Dryzek, deliberation improves the quality of political outcomes because it tends to resolve issues through dialogic engagement (Dryzek J. S., 2009). Deliberation improves the quality of political outcomes because it enhances the legitimacy of collective decisions. Indeed, the theory of deliberative democracy was initially conceived in order to secure legitimacy in the democratic project. As Dryzek writes:

"This claim is at the heart of deliberative theory, which began as an account of legitimacy … Deliberative legitimacy can either substitute for or supplement other sources of legitimacy, such as the consistency of a process with constitutional rules or traditional practices."
(Dryzek J. S., 2009, p. 1390)

The main consequence of deliberation is to bring about legitimacy in the political process. Another important consequence of deliberative theory is its emphasis on social justice. For thinkers like Gambetta and Krause, political outcomes become fairer if social justice prevails in the political process[32]. If deliberative theory improves the quality of political outcomes then social justice must prevail in society. In short, the favorable conditions and consequences of deliberation, like other main notions in deliberative theory, are not fixed and they need further elaboration through concrete cases. There is an agreement among deliberative theorists that deliberation would lead to good political outcomes because intrinsically this process is oriented towards the search of common good.

The normative controversies in philosophical literature on deliberative democracy help us to understand the conceptual nature of deliberative theory. These controversies make us realize that deliberative democracy is not a unified theory. The theoretical development of deliberative democracy over the last three decades has made it "internally differentiated" and "it can be quite misleading, now, to speak of 'deliberative theory' in monolithic terms" (Neblo, 2007, pp. 530-1). These normative controversies should be taken as an opportunity to expand the reach and application of deliberative theory. The empirization[33] of deliberative democracy has greatly influenced its normative foundations. Moreover, it has brought many "turns" (empirical, practical, institutional, systemic) within the theory of deliberative democracy over the last two decades. These turns have

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[32] For details, see (Gambetta, 1998, p. 24) and (Krause, 2010).

[33] Simon Beste uses the term 'empirization' of deliberative democracy in order to understand the influence of empirical studies in recasting the concept of deliberative democracy. For details, see (Beste, 2013, p. 3).

expanded the scope of deliberative theory and made it a global political project. In the next chapter, I will explain the systemic turn in deliberative theory, which, I argue, is a more comprehensive and philosophically informed approach that deals with the normative controversies in deliberative theory. It also paves the way to understand the nature of deliberative mechanisms in various historical contexts, including authoritarian and the non-Western.

Chapter Four

Systemic Approach

In this chapter, I explicate the systemic approach in deliberative theory. This approach attempts to address the normative controversies in philosophical literature on deliberative democracy discussed in the previous chapter, by expanding the reach and application of deliberative theory. In doing so, it also goes beyond the liberal - Western/Eurocentric account of deliberation found in traditional approaches and opens up the possibility to understand deliberative practices in the non-Western contexts. The chapter is divided into two sections. In section one, I discuss systemic approach in its historical context. Specifically, I explain the theoretical development of the concept of deliberative democracy in terms of four generations of deliberative theorists. In section two, I discuss how deliberative model in the wake of systemic turn helps us to understand various deliberative mechanisms in the non-Western contexts (including authoritarian).

1- Systemic Approach in Deliberative Theory

Systemic approach is the latest phase of deliberative theory. Deliberative democracy understood both as a reformist movement and an academic activity has gone through several phases. Theoretical accounts on deliberative theory differ because of the different responses to the following questions:

(i)- What type of communication is deliberative?

(ii)- What are the possible sites/locations of deliberation?

(iii)- How should citizens deliberate in the political process?

(iv)- How can we make deliberation inclusive?

(v)- What are the conditions of deliberation?

(vi)- What are the possible consequences of deliberation?

Four-generations[34] of deliberative theorists offer different responses to the above questions. First-generation scholars mainly focused on the normative aspects of deliberative democracy (Stephen Elstub, Selen Ercan, and Ricardo Fabrino Mendonça, 2016, p. 141). They developed the normative ideal of deliberative democracy and provided its justification in order to combat the crises of liberal democratic project. They particularly emphasized on the concept of legitimacy. The notion of legitimacy lies at the heart of deliberative model of democracy[35]. The concept of deliberative democracy, according to first-generation scholars, "must be organized around an ideal of political justification requiring free public reasoning of equal citizens" (Jane Mansbridge et al. , 2012, p. 25). Manin considers legitimacy as one of the achievements of deliberative model of democracy. In the same vein, Benhabib also argues that legitimacy in complex democratic societies results from the unconstrained deliberation of citizens (Benhabib, 1996).

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[34] For pedagogical reasons, the generational account of deliberative democracy is useful to understand its development in the last three decades in a more comprehensive way. It also clarifies the various turns (empirical, practical, institutional and systemic) deliberative democracy took since 1980s and makes us understand its present form. For details see; (Stephen Elstub, Selen Ercan, and Ricardo Fabrino Mendonça, 2016) and (Dryzek J. S., 2010, pp. 3-17).

[35] For a detailed description on the role of legitimacy in deliberative democracy, see (Cohen J. , 1989, pp. 17-34).

Although second-generation theorists acknowledged the normative side of deliberative democracy but they raised questions about its application to contemporary societies which are characterized by complexity, plurality, and diversity. Specifically, they criticized consensus and rational justification requirements of deliberative theory. Moreover, political theorists in this second phase also brought deliberative democracy close to emerging trends in contemporary politics such as feminism and multiculturalism (Stephen Elstub, Selen Ercan, and Ricardo Fabrino Mendonça, 2016, p. 141). Many theorists appreciated this trend because it brought deliberative democrcacy closer to real world political issues. For Mansbridge et al., the second phase "saw the proliferation of empirical studies and practical applications of the theory…this practical and empirical turn opened the door for empirical political scientists to study a variety of settings in which deliberative democracy might work well or badly. The empirical studies began to address issues such as the conditions that enable or constrain good deliberative processes" (Jane Mansbridge et al. , 2012, p. 25).

Third-generation scholars of deliberative democracy focused on the institutional design required to conduct empirical analysis of the practices of deliberation. Specifically, they analyzed various participatory practices called 'mini-publics'. They wanted to determine the potential of mini-publics in strengthening the deliberative processes in various political contexts. They utilized the ideal of deliberation in various mini-publics (deliberative polls, consensus conferences, citizens' juries etc.) experiments in order to increase the participation of ordinary citizens in the democratic process. Although, such a micro-level democratic innovation is celebrated by many political philosophers but some theorists are critical of the concept of isolated 'mini-publics' and its practicality in the larger political context. The

concept of 'mini-publics' merely highlights discrete instances of deliberation and does not help us to understand the role of deliberation at the macro level.

In its recent expansion, what we call the fourth-generation of deliberative scholars, the theory of deliberative democracy has started paying attention to various 'sites' other than 'mini-publics' in order to understand the nature of political deliberation. Dryzek states that "the question on what constitutes a 'suitable site' of public deliberation has long been at the core of scholarly debates on deliberative democracy" (Selen A. Ercan & John S. Dryzek, 2015, p. 241). For John Rawls, existing institutions, specifically 'courts', are the appropriate location for deliberation. He considers "supreme court as the exemplar of public reason" (Rawls, 2005 , p. 231). Habermas locates deliberation in the networks of a broader public sphere. Habermasian "discourse theory works instead with the higher-level intersubjectivity of communication processes that flow through both the parliamentary bodies and the informal networks of the public sphere. Within and outside the parliamentary complex, these subjectless forms of communication constitute arenas in which a more or less rational opinion- and will-formation can take place" (Benhabib, 1996, p. 6). The early scholarly debates about the 'suitable site' for deliberation mainly focused on these two formal and informal sites. Moreover, these two sites (formal and informal) were treated in mutually exclusive terms (Selen A. Ercan & John S. Dryzek, 2015, p. 242). The fourth generation of deliberative theorists argue that deliberation is a complex and dynamic phenomenon and we should not confine it to some fixed location. They consider it as a form of communication that takes place in "the ebb and flow of public debate carried on in the media, in private conversations, in formal and informal settings, from pubs to parliaments and back again" (Parkinson, 2004, p. 380). These deliberative sites broaden democratic practices.

The occurrence of deliberation in multiple sites is not merely a theoretical enrichment of the normative literature on deliberative democracy but it also has significant consequences for the practice of democracy.

The current research on 'deliberative systems' widens the scope of deliberative democracy by explicating deliberative practices beyond isolated forums such as citizens' juries, consensus conferences, participatory budgeting and planning cells. Political theorists construe 'deliberative systems' as "as a communicative activity that occurs in multiple, diverse yet partly overlapping spaces, and emphasizes the need for interconnection between these spaces" (Stephen Elstub, Selen Ercan, and Ricardo Fabrino Mendonça, 2016, p. 139). This approach is a macro level analysis of deliberative practices. Systemic approach helps us to understand the relationship between various sites of deliberation. Moreover, it also increases our understanding of both deliberative and non-deliberative practices and their relationship in the political system as a whole (Thompson, 2008, p. 500). The systemic turn in deliberative theory attempts to reconcile theoretical, practical, and methodological insights of the first three generations of deliberative democracy scholars. Systemic approach offers a new perspective to think about the theoretical and practical issues concerning deliberative democracy.

Mansbridge first coined the term 'deliberative system' in order to accommodate complexities of discursive flows in the deliberative process (Mansbridge, 1999, pp. 211-2). She contends that various networks of discursive flows lie at the heart of contemporary societies and they enhance the quality of public deliberation in the actual political process. She does not confine deliberation to face-to-face dialogue (as in mini-publics experiments) and extends it to a larger discursive process of communication in the political system (Mansbridge, 1999,

p. 213). The following passage explains the concept of deliberative system:

"A system here means a set of distinguishable, differentiated, but to some degree interdependent parts, often with distributed functions and a division of labour, connected in such a way as to form a complex whole. It requires both differentiation and integration among the parts. It requires some functional division of labour, so that some parts do work that others cannot do as well. And it requires some relational interdependence, so that a change in one component will bring about changes in some others. A deliberative system is one that encompasses a talk-based approach to political conflict and problem-solving—through arguing, demonstrating, expressing, and persuading. In a good deliberative system, persuasion that raises relevant considerations should replace suppression, oppression, and thoughtless neglect. Normatively, a systemic approach means that the system should be judged as a whole in addition to the parts being judged independently. We need to ask not only what good deliberation would be both in general and in particular settings, but also what a good deliberative system would entail."
(Jane Mansbridge et al. , 2012, pp. 4-5)

System involves various parts which are interrelated and collectively constitute the deliberative process. Such a concept of 'system' can also be found in Habermas' 'two-track model' of deliberative democracy. Habermas relates political deliberation with both democratic opinion and will formation. Opinion formation takes place in the 'informal public sphere' whereas will formation is the outcome of deliberation in the 'formal representative institutions' (Habermas, 2005, p. 388). Habermas emphasizes on the transmission mechanisms between these

two spheres. Informal public sphere is made up of various discursive practices which generates communication in order to influence decision-making processes in the formal representative institutions such as legislature. For Habermas, "deliberative politics depends on a complex system with a nucleus that needs to be open to the peripheries of discursive production. The wild communicative flows of the broad public sphere may be filtered so as to constitute a communicative power, which can be translated through laws into administrative power"[36]. Mansbridge's concept of 'deliberative system' is more inclusive than the Habermasian model because it also attempts to reconcile the normative controversies in philosophical literature on deliberative democracy. She extends the classical concept of deliberative democracy by broadening the various "forms of communication that fall under our conception of 'deliberation'; including the wide variety of forms of 'everyday talk' addressing matters that should be discussed by the public (including societal norms) within the conception of a deliberative system; and, in so doing, moving the field of deliberative democracy beyond its perceived obsession with formal political forums and processes" (David Owen and Graham Smith, 2015, p. 3). For Mansbridge, 'deliberative system' in its totality should exhibit values like 'mutual respect', 'inclusiveness', 'rational consistency' etc. Mansbridge et al. argue that there are several advantages of thinking about deliberative democracy in systemic terms:

(i)- It enables us to conceive deliberative democracy in a larger socio-political context. The systemic approach goes beyond isolated fixed

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[36] Quoted in (Stephen Elstub, Selen Ercan, and Ricardo Fabrino Mendonça, 2016, p. 143).

locations and analyzes deliberative practices in multiple sites. It "does not dictate that we take a nation or large polity as our object of study. Schools and universities, hospitals, media, and other organizations can be understood along the lines offered by a deliberative system approach" (Jane Mansbridge et al. , 2012, p. 2).

(ii)- It enables us to analyze division of labour within different parts of a system. Every part has its own deliberative strength or weakness and "a single part, which in itself may have low or even negative deliberative quality with respect to one of several deliberative ideals, may nevertheless make an important contribution to an overall deliberative system" (Jane Mansbridge et al. , 2012, p. 3).

(iii)- Systemic approach helps us shape effective deliberation by excavating gaps and inadequacies in individual sites. We can enhance deliberative quality of a system if we are aware of the issues which impede the deliberative process: "a systemic approach allows us to see more clearly where a system might be improved, and recommend institutions or other innovations that could supplement the system in areas of weakness" (Jane Mansbridge et al. , 2012, p. 4).

These three advantages help us understand the development of deliberative theory. Deliberative system is not construed in mechanistic terms. There are 'deliberative ecologies' in the 'system' which help us understand various contexts and avenues for deliberation within the 'system'. That is to say, the burden of both decision-making and legitimacy is distributed among the various components of a 'system'. If one part fails to perform its proper function then other parts compensate its shortcomings. 'Deliberative system' is dynamic in nature and includes both micro and macro level practices of deliberation in the polity. For Mansbridge et al, there is a division of labour in the 'system' because of the complexity of political judgments: "political

judgments involve so many factual contingencies and competing normative requirements, and because politics involves the alignments of will, both in concert and in opposition, among large numbers of citizens, it is virtually impossible to conceive of a political system that does not divide the labours of judgment and then recombine them in various ways" (Jane Mansbridge et al. , 2012, p. 5). Robert Goodin develops an idea of sequencing in order to spell out the distribution of deliberation in a 'political system'. He offers the idea of 'distributed deliberation' (also delegated deliberation) as an alternative to the dominant concept of 'unitary deliberation'. He writes:

"I offer a model of 'distributed' (or 'delegated') deliberation—with different agents playing different deliberative roles—as an alternative to the 'unitary actor' model of deliberation. It might be 'good enough', deliberatively, for the component deliberative virtues to be on display sequentially, over the course of this staged deliberation involving various component parts, rather than continuously and simultaneously present as they would be in the case of a unitary deliberating actor." (Goodin R. E., 2005, p. 182)

According to Goodin, the distribution of deliberative task in terms of 'deliberative moments' helps us to understand deliberation in its totality. He further argues that various institutions of representative democracy, such as, caucus room, election campaigns, parliaments and post-election bargaining, may exhibit low quality deliberation if analyzed individually, but they can still contribute to overall good quality deliberation if analyzed together in totality. Parkinson also claims that public deliberation is the outcome of multiples sites and moments. He emphasizes on informal, formal and intermediate discursive networks in the practice of political deliberation (Parkinson, 2006, p. 168). He argues in favor of a sequence of institutions which

play different role in the process of deliberation. For Parkinson, "activist networks, experts, bureaucracy, micro-techniques, media, elected assembly, direct techniques—play different roles" (David Owen and Graham Smith, 2015, p. 4) in the various institutions of a political system. It is quite possible, Parkinson argues, that some elements are not truly deliberative but still they may foster deliberation in the system as a whole. Similarly, in the context of interpretive research, some theorists suggest that 'deliberative system' is constituted by sites, agents and discursive elements (Selen A Ercan; Carolyn M Hendriks; John Boswell, 2017, p. 199). In her integrated model of public deliberation, Carolyn Hendriks argues that a 'deliberative system' hosts multiple sites including informal macro, formal micro and hybrid mini-publics. She further suggests that an integrated model of deliberation diffuses all three dimensions in the 'political system' (Hendriks, 2006, pp. 487-8). In his systemic approach, Dryzek advocates public contestation of discourses as an important aspect of deliberative democracy. His approach is not merely confined to individuals but contestation of various discourses in the public sphere and its influence on the decision-making process. On a mass scale, Dryzek contends that normative conditions for the quality of deliberation pertain to the system, therefore, 'deliberative system' should be evaluated in its entirety (Dryzek J. S., 2011, pp. 226-7). Mansbridge et al. describe three basic functions of 'deliberative system' which they think are relatively less controversial among theorists:

(i)- Epistemic or Truth Seeking:
The epistemic function produces preferences and opinions on the basis of facts, logic and mutual justification. In a healthy 'deliberative system' participants bring about relevant considerations in order to justify their respective positions. Since, "the topics of these

deliberations are issues of common concern", therefore, "epistemically well-grounded preferences, opinions, and decisions must be informed by, and take into consideration, the preferences and opinions of fellow citizens" (Jane Mansbridge et al. , 2012, p. 11).

(ii)- Ethical or Mutual Respect:

Ethical function attempts to promote mutual respect among participants in the 'deliberative system'. It is necessary for effective communication and it "helps keep the deliberative system running" (Jane Mansbridge et al. , 2012, p. 11) . The principle of mutual respect also leads to the realization of other goods such as non-domination.

(iii)- Democratic or Inclusive Egalitarian:

The democratic function makes deliberation inclusive by incorporating various voices, perspectives, and interests in the political process. It creates opportunities of equal participation in the 'deliberative system'. A healthy "deliberative system must not systematically exclude any citizens from the process without strong justification that could be reasonably accepted by all citizens, including the excluded" (Jane Mansbridge et al. , 2012, p. 12).

The realization of these three functions does not merely consolidate the ideal of deliberative democracy but it also determines the terms of social cooperation among participants in the political process. These functions are distributed in various parts of the 'deliberative system' and they also provide legitimacy to the decision-making process. In short, the systemic turn in deliberative theory seeks to accommodate various normative controversies through the expansion of locations that host deliberative practices.

2- Systemic Approach and Deliberative Practices in non-Western Contexts

The ideal of deliberative democracy has been criticized for being Eurocentric in its scope. Indeed, the early formulation of the ideal of deliberative democracy is embedded in the Western model of liberal state and rules out the various deliberative practices which are not compatible with the basic tenets of European Enlightenment. In her article, *Five Arguments for Deliberative Democracy*, Maeve Cooke describes the ideal of deliberative democracy as the political culmination of the project of Western modernity. She argues that the deliberative model "posits the ideal of democracy as a fundamental principle that is in a sense uncircumventable for inhabitants of modern Western modernity and deliberative democracy as the elucidation of this ideal that is most congruent with 'whom we are' " (Cooke, 2000, p. 954). Here 'we' is confined to people who have gone through the experience of European enlightenment, which emphasizes on normative values like autonomy, equality and rational discussion. Such a formulation of the deliberative ideal can also be found in the works of Habermas, Rawls, Benhabib, Cohen, Rorty and Dworkin[37]. According to Cooke, the deliberative model of democracy is essentially an embodiment of the normative concepts of knowledge, self and good life stemming from Western modernity. These normative concepts are not a matter of choice as they constitute the very essence of European self-understanding, thereby, they can't be disregarded in the political process. She gives the following examples for the indispensability of

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[37] For details see, (Habermas, 1996); (Rawls, 1980); (Rawls, 2005); (Rorty, 1996); (Benhabib, 1996); (Cohen J. , 1997); and (Dworkin, 1986).

normative concepts of knowledge, self and autonomy for the justification of deliberative democracy.

(i)- There is no authority outside history and culture, which can determine the epistemic validity of claims in areas like science, law, politics and morality. Moreover, these spheres of knowledge are epistemologically fallible.

(ii)- Human agency is capable of autonomous reasoning that must be valued in ordinary life.

(iii)- Publicity is an important aspect of both law and politics.

(iv)- By virtue of being autonomous moral agents, human beings deserve equal respect with their distinct point of view.

Cooke claims that the ideal of deliberative democracy is compatible with the above-mentioned normative concepts, which are integral to the political development of the Western world. This formulation of deliberative model is Eurocentric in its core because it confines deliberation to the Western secular societies. As she writes:

"If there are no authoritative standards of scientific, legal, political or moral validity independent of history and cultural context, and if knowledge is still deemed possible in these areas, then some alternative means for deciding between rival justifications has to be found. If, in addition, knowledge in these areas is construed fallibilistically, that is, if it is seen as never final and conclusive but always open to challenge and revision in light of new evidence and arguments, unconstrained rational argumentation seems the most appropriate forum for adjudicating rival claims. This 'desacralized' view of knowledge, which goes hand in hand with a secularization of authority and which

is acknowledged to be one of the defining characteristics of Western modernity."
(Cooke, 2000, p. 955)

It means Western societies, which have experienced the European enlightenment, are more conducive to the ideal of deliberative democracy than the non-Western societies. Habermas' theory of communicative action, which provides the basic theoretical framework to deliberative theorists, is also based upon the fundamental assumptions of enlightenment. Delanty criticizes Habermas' theory for being Eurocentric and occidental in its core. He argues that Habermasian philosophy is a kind of eurocentrism and his concept of morality "an evolutionary theory culminating in the discourse of occidental rationalism and thus fails to see that universal morality can be articulated in more than one cultural form and in more than one logic of development" (Delanty, 1997, p. 42). For Delanty, Habermas holds onto a radical distinction between discourse and cultural attachments. On the basis of such a radical distinction, Habermas believes that people can get rid of identity and cultural peculiarities when they enter public communication. Gambetta's distinction between analytical and indexical knowledge also reveals the Eurocentric presumptions of deliberative model of democracy. Gambetta claims that the norms of deliberation are not universal in their scope. He writes:

"Attitudes toward conversation do not originate from democratic arrangements even though they can be shaped and controlled by them. They are likely to be by-products of a preexisting culture and may well be antithetical to deliberation."
(Gambetta, 1998, p. 20)

Gambetta construes Anglo-Saxon culture as analytical culture because it promotes rational discussion and good reasoning, thereby, is conducive to deliberative democracy. Whereas, in indexical culture, where knowledge is taken in holistic terms, people don't raise their voice on political/social issues, thus, such cultures don't provide conditions for deliberative politics (Gambetta, 1998, pp. 25-6). According to Gunaratne, Habermas' concepts of public sphere and deliberation are also ingrained the Western liberal modernity. Habermasian notions like communicative action, speech acts, truthfulness and rightfulness, which are key concepts in the deliberative model of democracy, presume a Western-style modernization (Gunaratne, 2006). Benhabib also says that thinkers like Habermas and Rawls (at least in his book *Theory of Justice*) "share strong beliefs in the normative content of human reason—that is, in the validity of procedures of inquiry, evidence, and questioning that have been considered the cognitive legacy of Western philosophy since the Enlightenment" (Benhabib S. , 2002, p. 27). This normative content (impartiality, argumentation, self-reflexivity) lies at the heart of early formulations of deliberative democracy, which limits its application in the non-Western contexts. In the same vein, Rosenberg also argues that deliberative theory is based upon certain assumptions about the cognitive capabilities of the citizens (Rosenberg, 2006, p. 87). Specifically, deliberative model presumes that:

(i)- Individuals are capable of engaging in rational dialogue with each other that leads to logical inferences in the discussion.
(ii)- Individuals are equal in exercising this rational capacity.

He claims that such a concept of cognitive capabilities is not merely philosophically incorrect[38] but it also confines deliberative democracy to the Western liberal states. Rosenberg further argues that this strictly rational understanding of deliberative model has marginalized the role of emotions in our political thinking. He writes:

"Deliberative democratic theory has focused on the individual's cognitive attributes and, in so doing, remains largely silent on the issues of affect or emotion. At most, it provides a further rationale for ignoring these concerns by either relegating them to the domain of variable personal preferences or by subordinating them to a reason that is capable of denying, ordering, and reconstructing them. However, with its emphasis on constructive communication, deliberative democracy may require not only certain cognitive capacities, but also a certain positive emotional engagement to foster the kind of consideration that democratic deliberation demands. It seems unrealistic to assume that a commitment to consider fairly another's concerns could be based simply on the recognition that another person is a thinking, sentient being that is formally equivalent to oneself and, therefore, equally deserving of attention and consideration. Similarly, it seems unrealistic to assume that a commitment to the common good will emerge solely on the basis of reflections upon what is ethical and reasonable. Not only does this raise the issue of the practicality of institutions constructed with such assumptions in mind, but it also raises issues about the adequacy of a theoretical construction which only explicates human sociality on cognitive grounds."
(Rosenberg, 2006, p. 92)

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[38] On the basis of social psychological and the developmental psychological research, Rosenberg considers such a view of cognitive capabilities, which is presumed in the deliberative model of democracy, as philosophically inadequate.

The above passage clearly indicates the limitations of the deliberative model in non-Western contexts, where people are not always motivated by purely rational concerns in political matters. By prioritizing logical reasoning over emotions, deliberative model relegates other forms of communication, which are necessary if we want to understand the deliberative mechanisms in non-Western contexts. The following points summarize the Eurocentric presumptions of the deliberative model:

(i)- Philosophically, deliberative model is embedded in Western modernity and enlightenment thinking.

(ii)- Norms like reasoning, autonomy, equality and publicity are peculiarly Western virtues, which are essential in the practice of deliberation.

(iii)- The institution of liberal state is necessary in order to concretize deliberative politics.

(iv)- Indexical cultures[39], which are constitutive of the non-Western world, are not conducive to the deliberative model of democracy.

(v)- The deliberative model presumes certain concepts of the self, knowledge and good life that are compatible with those societies which have gone through the process of Western-style modernization. Thus, societies which have taken different paths to modernization lack social/political conditions that are necessary for the practice of deliberative politics.

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[39] Gambetta does not claim that the indexical cultures constitute the non-Western world. Indexical cultures can also be found in the Western world. However, his representation of analytical culture, which is essential for the deliberative model of democracy, is merely confined to the Anglo-Saxon world. By implication, we can interpret that the non-Western world is primarily based on indexical cultures.

Now, I turn to explain how the systemic approach in deliberative model of democracy helps us to overcome the Eurocentric presumption of deliberative democracy. In this thesis, I further argue for the need of expansion of this approach to be more inclusive in order to incorporate the non-Western contexts in its theoretical framework. This interest in the practices of deliberation in the non-Western contexts can be understood in the nexus of comparative political philosophy. The systemic turn is significant in order to understand the nature of deliberation in non-Western contexts in general, and Pakistan in particular. Specifically, I claim that two points are important in this regard:

(i)- Systemic turn rectifies the critique of deliberative democracy for being Eurocentric and opens up the space to find deliberative practices in the non-Western contexts.

(ii)- It also helps us to understand the democratic potential in authoritarian contexts through its macro concerns. In systemic approach, the unit of analysis is the 'political system' which is not necessarily a liberal democratic setup. A vast majority of other political systems like authoritarianism can also be investigated through this approach. Studies on democratization process in authoritarian contexts, which is an important aspect of this thesis, can also be strengthened through this dynamic approach.

Systemic approach opens up the space of various deliberative practices which are not tied to the basic ideals of enlightenment thinking. It makes possible to study deliberation in a large scale political context: This expansion is helpful:

(i)- To study deliberative mechanisms in the absence of liberal democratic setup.

(ii)- It also goes beyond the Eurocentric presumptions of deliberative theory by incorporating the various forms deliberation can take in various historical contexts. The role of culture, protests, and social movements in shaping deliberative practices becomes more prominent in this approach.

In the history of political theory in the West, democracy has mainly been understood in relation to the institution of state. As Dryzek says:

"According to standard and long-established ways of political thinking in the West, democracy was first and foremost an attribute of the state because the state claims final political authority over the citizens of a particular territory."
(Dryzek J. S., 2006, p. 23)

The theory of deliberative democracy broadens our understanding of democracy by excavating various deliberative practices which lie outside the institution of the state. Specifically, I will argue in this section, the systemic approach expands the horizons of deliberative democracy more comprehensively, which helps us to understand deliberative practices in the non-democratic and the non-Western contexts. For example, Mansbridge et al. recognize the fact that a 'deliberative system' is not necessarily democratic and authoritarian regimes can also have practices of deliberations: "it is of course possible to think about a deliberative system independently of democracy. Authoritarian regimes have deliberation. Much deliberation goes on within the Catholic Church. Scientific communities could perhaps be said to have deliberative systems" (Jane Mansbridge; James Bohman;

Simone Chambers; Thomas Christiano; Archon Fung; John Parkinson; Dennis F. Thompson & Mark E. Warren, 2012, p. 8). Similarly, in his recent publication, John Parkinson argues for the applicability of systemic approach in various contexts. Parkinson argues that systemic approach focuses "on 'deliberative' as an adjectival quality of democratic systems, whether small-scale or large, rather than on 'deliberation' as a noun" (Parkinson, 2018, p. 1). Systemic approach opens up the possibility to understand the emergence of democracy from a complex of a multitude of human practices which are not in themselves necessarily deliberative if analyzed in isolation: "as life emerges from the complex interplay of nonliving units, or as a song is made up of elements which are not themselves 'song', so deliberative democracy is a complex and dynamic pattern of human practices which are not themselves deliberative democracy" (Parkinson, 2018, p. 1). Parkinson's approach emphasizes on the main functions of the deliberative system, which can help us understand deliberative mechanisms in the non-democratic and the non-Western contexts. For Parkinson, a deliberative system fulfills the following three tasks:

(i)- It connects claims on the matters of public concerns with justifications, which can be of several forms, for example, narratives, pure syllogistic reasoning, story-telling etc.

(ii)- It involves individuals and institutions, which reflect upon those claims by listening to each other's positions. Agents involved in the process of political deliberation weigh those claims against the competing ones.

(iii)- It induces systematic reflection in individuals' mind who make claims and provide justification for their respective positions in the process of deliberation.

The above characterization of the deliberative system is abstract in nature. For Parkinson, this abstraction is useful if we want to apply deliberative theory "to a wide variety of contexts and not just the familiar institutions of one or other Western state. It is meant to be applicable to both state-focused, substate, and trans-national settings and to highly-institutionalized as well as ad hoc, transient, issue-based systems" (Parkinson, 2018, p. 3). Parkinson further argues that the meaning of deliberation is not fixed and it primarily depends on the peculiar context in which we understand deliberative mechanisms. The early theoretical models of deliberative democracy were criticized because of their limited approach to the meaning of deliberation. Both Sanders and Mouffe criticized deliberative theorists for privileging rational discussion over other forms of communication like protests, story-telling etc. They argue that such a strict concept of rational discussion is oppressive because it marginalizes those who are at powerless positions[40]. In order to combat such a critique, deliberative theorists attempted to extend the concept of deliberation. For example, Mansbridge in her famous essay, *Everyday Talk and Deliberative System*, discusses the importance of 'everyday-talk' in the deliberative encounter. She writes:

"What I will call 'everyday talk' does not meet all of the criteria implicit in the ordinary use of the word 'deliberation'. It is not always self-conscious, reflective, or considered. But everyday talk, if not always deliberative, is nevertheless a crucial part of the full deliberative system that democracies need if citizens are, in any sense, to rule themselves. Through talk among formal and informal representatives in designated public forums, talk back and forth between constituents and elected

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[40] For details see, (Sanders, 1997) and (Mouffe, 1999).

representatives or other representatives in politically oriented organizations, talk in the media, talk among political activists, and everyday talk in formally private spaces about things the public ought to discuss—all adding up to what I call the deliberative system—people come to understand better what they want and need, individually as well as collectively. The full deliberative system encompasses all these strands."

(Mansbridge, 1999)

We can see how deliberative theory has extended the concept of deliberation by incorporating various forms of communication. This expansion makes deliberative theory more inclusive in its reach and opens up the space to study deliberative practices that take place in the non-Western social/political settings. It also allows us to understand the local idiom that shapes deliberative mechanisms in different historical contexts. In expanding the reach of deliberative theory, systemic approach creates new opportunities for the empirical researcher on making sense of various communicative practices, which can induce re-election in individuals' minds. Everyday small talk can also bring about change in the mind of citizens about their political preferences. Mansbridge's emphasis on the 'everyday-talk' also highlights the fact that deliberation should not be confined to designated forums. It means, human activities, which take place in the multitude of discursive networks also matter in the political process. The political system in its totality should be judged for its conduciveness to deliberation. Individual practices, which can be non-deliberative in isolation, may contribute in the deliberativeness of the totality of the political system.

John Dryzek also argues that deliberation should not be confined to institution of the state. Specifically, he suggests that if we want to

understand deliberative mechanisms outside the Western contexts then we need to locate various places for the deliberative practices. In his article *Deliberative Democracy in Different Places*, which he wrote for the book *The Search of Deliberative Democracy in China*, Dryzek suggests that deliberative democracy can exist and flourish at three different locations:

(i)- Institutions of the State: For Dryzek, the most traditional approach to organize deliberation is through state institutions. For example, legislatures and courts are thought be formal institutions for deliberation. That's why, John Rawls considered U.S. Supreme Court as an exemplary deliberative institution (Rawls, 2005 , p. 231). Rawls believes that judges exercise 'public reason' in making their judgments. The content of their argument is framed in such a manner that it exhibits public reason. Legislature is another state institution where deliberation takes place. Unlike courts, legislatures are democratic institutions because representatives are elected here. In this institution deliberation takes place on behalf of the citizens. Ideally, the selection of representatives in legislatures should be a deliberative procedure. But the way political campaigns run these days obviously undermine the deliberative side of legislatures. Administration being an institution of the state also makes deliberation possible through different means. It means, there are various institutions which help us determine the deliberative capacity of the state. There is no universal model for the organization of the deliberative practices within state institutions. Bell's proposal of Confucian democracy in China also exemplifies this point. He gives the concept of 'meritocratic upper house', which is a state institution, for a high quality public deliberation in the Chinese context (Bell, 2006, p. 153). He visions its political role similar to the role Supreme Court plays in the U.S.

(ii)- Designed forums: In order to bring about citizens' opinion in the political domain, various discursive designs have been developed. These institutions foster deliberation among ordinary citizens. There are mainly two types of such discursive designs:

(a)- Lay Citizen Deliberation: Lay citizens are neutral public who raise their voice on matters of public concerns. They do not have any expertise nor are they partisan towards any issue. Being neutral members of the general public they can approach an issue with open mindedness. Institutions designed for lay citizens cannot involve all public but they can involve a representative sample from a population who are affected by a particular decision. These forums provide a space for deliberation on a specific issue that is relevant to the public. Citizens receive information on the issue, they raise questions to various experts, and openly discuss the matter with each other. This whole process helps citizens to reflect upon their preferences. Consensus conferences, planning cells, citizens' juries and deliberative polling are all examples of lay citizen deliberation. According to Dryzek, deliberative theorists can learn two main lessons from these institutions designed to facilitate lay citizen deliberation. First, ordinary citizens are able to deliberate on complex issues if they are given right forums to reflect upon social/political issues. This point is useful to understand the deliberative practices in the authoritarian context of China. Indeed, the Chinese case "strengthens deliberative theory's confidence in citizens' capacity, proving that participants are capable of certain skills, even without substantial access to education and information" (He, 2006, p. 194). Second, citizens in the designed forums change their preferences during the process of deliberation. This point consolidates deliberative theory's basic contention that deliberation induces reflection upon

preferences, which brings about change in the perspective of citizens who are involved in the process of deliberation.

(b)- Partisan Deliberation: In the partisan deliberation, those who deliberate already have a position on a policy issue. It involves "advocates of different positions in a policy dispute with the idea of building an agreement on a policy recommendation sensitive to the interests of all sides" (Dryzek J. S., 2006, p. 28). Designed forums that facilitate partisan deliberation attempt to provide an environment where advocates of different positions come into a dialogue. The whole purpose of such forums is to take out advocates from their adversarial confrontation (where they only fight for their respective positions) and make deliberation (dialogue) possible on a disputed policy issue.

(iii)- The Public Sphere: Designed forums are primarily micro institutions that provide protected environment for deliberation. Public sphere, on the other hand, is a macro level analysis of the deliberative encounter. At a macro level, deliberation can be located in a larger communicative flow within the informal public sphere. Although public sphere involves political associations and the communicative flow is primarily oriented towards public affairs, but actors do not necessarily represent state power. Public sphere includes various kinds of actors such as political activists, people from the academia, social movements, advocacy groups, ordinary citizens, and the media. Ideally, public sphere facilitates critical discussion on social/political issues. But sometimes, discourses in public sphere are manipulated by the media and political organizations. Public sphere is more conducive to the process of deliberation than the institutions of the state. Over the last four decades, Dryzek argues, social issues and political alternatives mainly originated from the public sphere rather than the institutions of the state. Civil rights movements in the U.S, feminist discourse,

environmental politics, and anti-globalization movements all began in the informal public sphere. The notion of public sphere is a historical concept. For Habermas, that first public sphere arose in Europe in opposition to monarchy and theocracy (Habermas, 1989). Indeed, there is a consensus among political philosophers that deliberative democracy cannot be imagined without the public sphere. It also raises the questions about the application of deliberative model in the non-Western contexts. Non-Western contexts may not necessarily have critical public spheres that facilitate deliberative politics. However, Pakistan lawyers' movement (see chapter five) was successful because the informal public sphere facilitated its agenda. It means non-Western contexts may also facilitate political/social activism in the informal public sphere.

Deliberative democracy can flourish on these three locations. And these locations are not mutually exclusive in nature. According to Dryzek, no location has priority in the political system (Dryzek J. S., 2006, p. 34). If we want to search deliberation in the non-Western contexts then we should not limit our analysis to the institutions of state. In authoritarian regimes, where we don't have liberal state institutions, we should look more closely into the informal public sphere in order to understand deliberative mechanisms. This is especially true for the Pakistani case; the lawyers' movement is an exemplification of deliberative moments in the informal public sphere of the country, which ultimately ousted an authoritarian regime and brought democracy in the country.

In his book, *Foundations and Frontiers of Global Governance*, John Dryzek provides the concept of deliberative system, which I believe is more useful to understand deliberative practices in the authoritarian contexts. Although, Mansbridge and Parkinson acknowledge the importance of the systemic approach in understanding deliberative

practices in the authoritarian contexts, their specific analysis of deliberative systems, like Goodin and Hendriks, is "tied to the institutional details of developed liberal democracies" (Dryzek J. S., 2010, p. 10). Similarly, Habermas' two track model of deliberation is also confined to liberal constitutional states. The nature of deliberation in the absence of liberal political order is a complex phenomenon and requires further conceptualization. Dryzek's approach to deliberative theory is not tied to the liberal constitutional model of democratic state. He takes 'system' as the unit of analysis in order to evaluate deliberative potential in any political setting. He emphasizes on the deliberative capacity of a system in order to determine its democratic potential[41]. For Dryzek, "a system can be said to possess deliberative capacity to the degree it has structures to accommodate deliberation that is authentic, inclusive, and consequential" (Dryzek J. S., 2010, p. 10). Dryzek offers a general idea of 'deliberative system' which is not tied to the institutional structures of developed liberal constitutional states. It can be applied to a variety of political settings including those that do not even contain elections, legislatures, different political parties. One such political setting is the autocratic context where we don't have free and fair elections, free speech, etc. For Dryzek, a 'political system' is made up of the following elements:

(i)- Public Space: It hosts a wide variety of communicative practices. It consists of various actors such as the media, political activists, social movements, and ordinary citizens.

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[41] In the chapter on Pakistan Lawyers' Movement, I will use Dryzek's concepts of 'deliberative capacity' and 'deliberative system' in order to analyze the process of democratization in the Pakistani context. Therefore, in this section, I have not given a detailed explanation of these two concepts. I will briefly explain their significance to understand deliberative practices in the non-Western contexts.

(ii)- Empowered Space: Institutions that can produce collective decisions. In this space, deliberation takes place among actors who make collective decision within the institution possible. Legislatures, constitutional courts, policy-making bodies are some of the examples of empowered space.

(iii)- Transmission: It is a process in which public space influences the empowered space. Different deliberative practices in the public space need to be connected with the empowered space. There are various types of mechanisms that can transmit deliberation from the public space to the empowered one. Most notably, political/social campaigns, social movements, and the use of rhetoric and new ideas for social causes are important ways to influence deliberation in the empowered space. Transmission can take various forms like "advocacy, or criticism, or questioning, or support, or some combination of all four" (Dryzek J. S., 2010, p. 11).

(iv)- Accountability: It is a process in which empowered space provides answers to the public space. It helps to secure legitimacy of the collective decisions. Election campaigns can be one of the examples of this process. It may also involve simple justifications for collective outcomes.

(v)- Meta-deliberation: It is deliberation about the deliberative system itself. Meta-deliberation is a kind of deliberative capacity in which deliberative system can examine itself.

(vi)- Decisiveness: The degree to which above five elements (in combination) influence collective outcomes. Decisiveness shows to what extent "five elements together determine the content of collective decisions" (Dryzek J. S., 2010, p. 11).

Dryzek's characterization of deliberative system does not presume any liberal state for its function. It does not require any specific institutional

arrangement and this approach is useful to determine deliberative mechanisms in various political and historical contexts. It means, Dryzek's account opens up the space to understand deliberation in the non-western contexts; first, it is not confined to liberal constitutional states, and second, it also allows us to imagine various types of deliberative systems with different components. As he writes:

"A deliberative system and its component elements do not require any specific institutions, be they competitive elections or a constitutional separation of powers. Many different sorts of deliberative system are possible, with many different kinds of components. So the sorts found, for example, in a transnational network will be different from those that might exist in the European Union (EU), which in turn will differ from those available in an adversarial Anglo-American liberal democracy, which will not resemble those feasible in a consensual Confucian state." (Dryzek J. S., 2010, p. 13)

This also shows that deliberative theory lacks any specific normative framework for the identification of deliberative system. The specification of any political setting in terms of deliberative system is ineluctably connected with interpretive approach. That is to say, we need to define and interpret political phenomena in terms of deliberative system. Any particular system can be interpreted as deliberative if its parts, whole and their interaction meet some deliberative standards.

Mostly, deliberative research has restricted its scope to the Western world. Deliberative mechanisms in the non-Western contexts can enrich the normative theory of deliberative democracy. The following passage from Sass' article, *Deliberative Ideals across Diverse Cultures*, echoes the same shortcoming of deliberative research:

"In the scheme of history, most political deliberation has taken place outside the modern West. But the study of deliberation, however extensive it has become, has largely ignored this wider world. Examining how deliberation manifests across different societies has considerable promise for both explanatory and normative political theory."

(Sass, Deliberative Ideals Across Diverse Cultures , 2018, p. 1)

For Saas, the question "why people deliberate?" is inseparable from the question "how people deliberate?" The second question contextualizes the practice of deliberation. Different comparative and historical contexts provide various answers to the second question. This way, he argues, we can learn about social/political ideals that shape deliberative practices. Indeed, in our global predicament, we ought to understand diverse ways of deliberating through which people come into a discourse. It means, a comprehensive view of political deliberation requires us to investigate its meaning in a wide variety of historical and particular contexts. Sass suggests that there are many advantages of studying deliberative practices outside the Western contexts for the development of political theory as an academic field (Sass, Deliberative Ideals Across Diverse Cultures , 2018, p. 2):

(i)- It helps us to specify the meaning of deliberation in historical contexts. The present study of deliberation is narrow in the sense that it has merely focused on deliberative practices in the Western, developed, democratic and liberal states. It ultimately limits the scope of normative theory and its application in the real world political affairs.

(ii)- Our current political predicament is global and transnational in nature. We need to foster cross-cultural political discourse by making

sense of diverse societies and states. Such a cross-cultural political discourse can be enriched by studying deliberative ideals in the non-Western contexts.

(iii)- The historical, comparative and contextual study of deliberation is not merely one of the topics in the academic world, "Rather, it can be conceived as an explanatory and practical exercise, one aimed at uncovering the most basic causes of deliberation with an eye to reinterpreting and reforming our own imperfect institutions and practices" (Sass, Deliberative Ideals Across Diverse Cultures , 2018, p. 2).

Deliberative democracy being a normative project is always in need of new empirical findings. This way, the non-Western practices of deliberation provide an impetus to the normative theory of deliberative democracy. The crucial role of culture is also an important aspect that helps us contextualize deliberative practices in particular contexts. Local practices of deliberation can be understood in cultural terms. Cross-cultural learning, which is now an important aspect of the systemic approach, broaden the scope of deliberative theory. Systemic approach attempts to overcome the Eurocentric presumptions of classical model of deliberative theory by expanding its scope. The role of culture, protests, social movements, rhetoric, greeting, and language expand the horizons of deliberative research. The case analyzed in this thesis (Pakistan Lawyers' Movement) further consolidates systemic turn in deliberative theory and helps us to understand the role of deliberation in the process of democratization in the Pakistani authoritarian context (non-Western). Deliberative theory, in its systemic formulation, provides us new tools to analyze democratic potential in different political systems, which are not necessarily tied to

the institutional arrangements of Western liberal democracies. As Saas and Dryzek write:

"Rather than take Western practices as a yardstick of democratic performance, we should examine democratic potential wherever it appears, even (perhaps especially) in seemingly unpromising contexts." (Jensen Sass and John S. Dryzek, 2014, p. 20)

This opening of deliberative theory towards non-Western contexts is an important theoretical development in the history of political philosophy. In chapter five, I use the theory of deliberative democracy to understand deliberative practices in a non-Western, authoritarian context. This case study in the authoritarian context not only strengthens the normative claims of deliberative model, but it also extends the current scholarship on comparative political philosophy. The impact of empirical studies on the development of deliberative theory is self-evident now. The case of Pakistan lawyers' movement (chapters four and five) contributes to such a burgeoning field of deliberative theory and consolidates its global reach.

Chapter Five

The Case of Pakistan Lawyers' Movement

This chapter introduces the case of Pakistan Lawyers' Movement in a systematic way. In order to understand the role of Pakistan Lawyers' Movement in the democratization process, this chapter situates it in its historical context. The role of courts in the democratization process has remained problematic in the political history of Pakistan. Historically, courts have always provided judicial cover and legitimized the military rule in Pakistan. The Lawyers' Movement gave an opportunity to the Supreme Court of Pakistan to assert its deliberative capacity. Not only did the movement mobilize the judicial system from its lower echelons, it also paved the way for superior judiciary to contribute to the democratization process in Pakistan. Although some scholars recognize the role of courts and lawyers in the democratization process in authoritarian contexts, these studies just focus on the institutional conditions which lead to the democratization process. I argue that courts and lawyers cannot play a pro-democracy role if they merely struggle within formal institutional structures. They need support from the informal public sphere in order to develop and assert their deliberative capacity which is essential to the process of democratization. The lawyers' movement was not merely confined to lawyers as it also included various civil society actors such as political parties, students, religious groups, women rights activists, and citizen groups. I argue that the success of lawyers' movement can only be understood if we also

recognize the role of these other civil society actors. Civil society actors broadened the scope of lawyers' movement by framing its agenda in the larger informal public sphere. Courts that have historically supported military coups were also able to assert their deliberative capacity because of the transmission process between informal public sphere and formal institutions (Supreme Court). In the next chapter, I will analyze deliberative capacity of the political system under authoritarian rule and how it led to transition to democracy in Pakistan. The existing scholarship on lawyers' movement ignores the role of this movement in the process of democratization and merely limits itself to the restoration of judiciary.

Historical Background

The problem of the independence of judiciary should be understood against the backdrop of political and legal history of Pakistan. In the history of Pakistan, various military coups have toppled different governments. Since its independence in August 1947, Pakistan has been under military rule for more than three decades. There have been three military coups[42] and martial law[43] has been imposed on the country four times: "until March 2013, a civilian government had never completed a full term in office" (Reema Omer and Sheila Varadan, 2013, p. 31). The Supreme Court has been instrumental in justifying and legitimizing

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[42] (a) From 1958 to 1971. In 1958 Major General Iskander Mirza dissolved the Assembly of Pakistan. General Ayub Khan, the army chief, later deposed General Iskander Mirza and appointed himself as the president of the country. (b) From 1977 to 1988. In July 1977 General Zia-ul-Haq ordered the arrest of Prime Minister Zulfikar Ali Bhutto and suspended the Constitution. He dissolved both national and provincial assemblies of Pakistan and imposed martial law on the country. (c) From 1999 to 2008. In October 1999, Army General Pervez Musharraf suspended the Constitution and arrested Prime Minister Nawaz Sharif.

[43] The martial law has been imposed four times in Pakistan. (1) October 1958; (2) March 1969; (3) July 1977; (4) October 1999. Every time the martial law was legally challenged, the Supreme Court was called upon to justify it.

military coups on grounds such as 'state necessity' or 'revolutionary legality'[44]. Such an historical role has rendered apex court a weaker institution, thereby undermining the independence of judiciary. The principle of the separation of powers which lies at the heart of modern democracies could not be effective in the country. After coups, military rulers frequently changed the oath of office of the judges in order to achieve greater compliance from courts. New oaths required judges to swear to the military regime rather than the Constitution and those who refused to take new oaths were removed from their offices.

Pakistan Lawyers' Movement should be understood in this authoritarian context of military power. From 1999 to 2008 Pakistan was under military rule. In October 1999 General Pervez Musharraf, the Chief of Army Staff, suspended the Constitution and overthrew the government of Nawaz Sharif in a military coup. He declared the state of emergency[45] in the country and issued the Provisional Constitutional Order (PCO)[46]. Through PCO, he suspended the federal and provincial assemblies and appointed himself as Chief Executive of the country. Moreover, all courts were disallowed to raise questions about the legality of military regime. After three months, General Musharraf issued an order which asked all judges to swear upon new oaths to the military regime[47]. A majority of judges of the Supreme Court and High

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[44] . IBAHRI report, *A Long March to Justice: A report on judicial independence and integrity in Pakistan*. For details see (Martin Lau, Justice Aly Mokhtar, Siobhan Mullally, Phillip Tahmindjis, 2009, p. 5)

[45] On 14th October, 1999 General Pervez Musharraf issued the 'Proclamation of Emergency' which held the Constitution in abeyance.

[46] Provisional Constitution Order No. 1 of 1999, 15 October 1999, accessed at: http://www. supremecourt.gov.pk/web/user_files/File/JR_Constitution_Petition_No._15_17-24_and_512_ of_2002.pdf

[47] This practice was not new in Pakistan. In 1981 General Zia issued a similar order in which all judges were required to take new oaths and be loyal to the military regime rather than the Constitution.

Courts took new oaths and swore their loyalty to the military regime[48]. A few judges[49] who refused to pledge their loyalty to the military rule were immediately dismissed from their offices. In 2000, the Supreme Court of Pakistan legitimated the military regime on grounds of the 'doctrine of necessity'[50]. As ICJ report states that "the Court's ruling relied on its interpretation of the 'doctrine of necessity,' which it held permitted the Constitution to be suspended when it is deemed 'necessary' in the interest of the State and for the welfare of the people"[51]. This way General Musharraf managed to validate his unconstitutional acts and authoritarian rule in Pakistan. At the cost of judicial independence, favors extended to military rulers by the apex court over the last five decades resulted in the weak legal system in Pakistan. Moreover, it has also rendered military as the most powerful institution in the country which also overwhelmingly intervened in the periods of civilian rule. As Anil Kalhan states:

"Pakistan's military, which has seized power in several coups, has engaged in a recurring, iterative process of transformative preservation, by which its own power and that of its affiliated interests have been extended and entrenched into periods of civilian rule. Historically, law and courts have been central to this process. When the military has seized power, the judiciary has validated those interventions, enabling constitutional shifts that preserve the military's

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[48] The prominent judges who took new oaths included Justice Rana Bhagwandas, Justice Falak Sher, Justice Khalil-ur-Rehman Ramday, Justice Jawwad S. Khawaja, Justice Iftikhar Muhammad Chaudhry.

[49] Judges who refused to take new oaths included the then Chief Justice of the Supreme Court, Saiduzzaman Siddiqui, Justice Nasir Aslam Zahid, Justice Mamoon Kazi, Justice Wajeehuddin Ahmed, Justice Kamal Mansoor Alam and Justice Khalilur Rehman.

[50] For details, see Zafar Ali Shah v. Federation of Pakistan (PLD 2000 SC 869).

[51] See ICJ report, "Authority without accountability: The search for justice in Pakistan" at page 32.

dominance. But even when civilian rule has formally returned, the judiciary has played a comparable role in facilitating the military's continued political influence. The result has been a persistent institutional disequilibrium: a politicized judiciary periodically has been empowered to assert its autonomy from weak representative institutions, but simultaneously has remained largely vulnerable to constraints by a dominant military and its affiliated interests."

(Kalhan, 2013, pp. 10-1)

Pakistan Lawyers' Movement arose in this backdrop of authoritarian dominance when the Supreme Court started to challenge the military rule in the country.

Phase-1: Supreme Court Prior to March 2007

The lawyers' movement started when General Musharraf, the Army Chief, suspended Chief Justice Iftikhar Muhammad Chaudhry on charges of misconduct. General Pervez Musharraf appointed Iftikhar Muhammad Chaudhry as Chief Justice of the Supreme Court of Pakistan on 30th June 2005. It is "ironic that the ultimate challenge that Musharraf faced, which eventually led to his resignation, came from none other than the Chief Justice, Iftikhar Muhammad Chaudhry, who as a judge of the Supreme Court between 2000–2005, sat on the four pivotal benches that actually validated military takeover by General Musharraf, his referendum, his Legal Framework Order and the 17th Constitutional Amendment: that gave General Musharraf additional powers as President, and allowed him to continue as the army chief. Justice Chaudhry voted with the majority on each bench" (Azmat Abbas and Saima Jasam, 2009, p. 149). During Chaudhry's tenure, the

Supreme Court began to assert its independence and created problems for General Musharraf's military rule. It came as a surprise when the Chief Justice, who legitimated Musharraf's unconstitutional acts, used judicial power to confront the military regime. According to Ghias, Musharraf's model of economic liberalization created the space for 'public interest litigation' in areas such as urban development, deregulation, and privatization, which for the first time threatened the authoritarian rule of military in Pakistan (Ghias, 2012, p. 346). The Supreme Court's expansion of judicial power by means of 'public interest litigation' involved Court's original jurisdiction, *suo motu* powers, under Article 184(3) of the Constitution of Pakistan. According to Article 184(3), "the Supreme Court may assume original jurisdiction of any matter of public importance relating to the enforcement of Fundamental Rights enshrined in the Constitution"[52]. The practice of 'public interest litigation' was not new in Pakistan but the way it was executed during the tenure of Chaudhry began to expose the unconstitutional acts of Musharraf, thereby threatening the military rule. Suo motu actions prior to 2007, which attempted to delegitimize the military regime were related to the following issues[53]:

(1) Urban planning and construction

(2) Deregulation of commodity pricing mechanism

(3) Privatization of state enterprises

(4) Illegal detention by security agencies

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[52] See ICJ report, "Authority without accountability: The search for justice in Pakistan" at page 32.

[53] For a detailed analysis of suo motu cases between 2005 and 2007 which challenged the legitimacy of authoritarian rule and provided impetus to the lawyers' movement, see (Ghias, 2012, pp. 345-50)

(5) Constitutional questions concerning the forthcoming presidential elections.

The Supreme Court's use of judicial power was a challenge to the authoritarian rule because it "nullified the actions of the government and caused it some embarrassment at a time when the military regime was gearing up to manage yet another phase of transitional elections" (Cheema, 2016). These factors led to General Musharraf's dislike for both the Supreme Court and the Chief Justice.

Phase-2: Suspension of the Chief Justice: Mobilization of Lawyers for the Independence of Judiciary

Supreme Court's use of 'public interest litigation' and its assertiveness concerning the independence of judiciary became a challenge to the authoritarian rule in Pakistan. On 9th March, 2007, General Musharraf called the Chief Justice of Pakistan to his official residence. He charged the Chief Justice of misconduct and misuse of authority and forced him to resign from his post[54]. The military wanted to install a superior judiciary which could legitimize its extra-constitutional activities. Chief Justice Chaudhry did not accept General Musharraf's allegations and declined to resign from his post because such a demand was not a legal course of action. When the Chief Justice left the Army House, his protocol was taken away and he was detained with his family members in his house. General Musharraf suspended the Chief Justice and started disciplinary proceedings against him: "this was not the first time that a Chief Justice had been removed from the office by a military dictator. The same had occurred on three earlier occasions: Chief Justice of

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[54] According to the Constitution of Pakistan, the President cannot dismiss the Chief Justice of Pakistan. President can only file a reference in the Supreme Judicial Council against the Chief justice which has authority to decide on the suspension.

Pakistan Muhammad Yaqub Ali Khan was removed in 1977 by General Zia-ul-Haq; Chief Justice Sheikh Anwarul Haq was removed from the office in 1981, while in the year 2000, Chief Justice Saeeduz Zaman Siddiqui was removed from office by General Pervez Musharraf" (Azmat Abbas and Saima Jasam, 2009, p. 154). Unlike past judges, Chaudhry Iftikhar retaliated against the authoritarian rule and challenged his dismissal in the Supreme Court of Pakistan. While he was fighting a legal battle with the military rule "the Chief Justice Chaudhry was denied access to legal counsel and his communications were closely monitored. The Supreme Judicial Council issued a public statement 'ordering' Chief Justice Chaudhry to cease functioning in his role as Chief Justice and a judge of the Supreme Court until the allegations of misconduct against him could be investigated"[55]. Chaudhry's refusal to resign was a shudder for a General of the country where the army has enjoyed a high degree of discretion from judiciary and legislative. It was a radical break in the political history of Pakistan. Soon after the forced dismissal of Chaudhry Iftikhar from the post of Chief Justice, the public reaction was negative and the lawyers began to protest immediately after this event against the illegal and unconstitutional dismissal of judges from their positions. Within a very short span of time, Chaudhry Iftikhar, from being just a jurist, transformed into a folk hero and a torchbearer for the people of Pakistan. His principled stance got him popularity among various civil society actors and Pakistani lawyers started to mobilize against military rule. Pakistani lawyers announced a three day protest and complete country-wide strike of the courts in order to condemn the attack on the independence of judiciary. Rallies were organized all over the country

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[55] See ICJ report, "Authority without accountability: The search for justice in Pakistan" at page 34.

to reinstate the Chief Justice. On 13th March 2007, when Chaudhry tried to reach the office of the Supreme Judicial Council to fight his unconstitutional suspension, a large community of Pakistani lawyers gathered at the Constitutional Avenue in his support. Musharraf did not want this to happen and "the police tried to stop the Chief Justice from moving towards the Supreme Court and blocked his way, manhandling him, pulling him by his hair and forcing him in a car. The images were broadcast live on the television channels, and the next day every newspaper carried the picture of an official of Islamabad police pulling the Chief Justice by his hair, on the front page. The live coverage of events drew the annoyance of the government, and the backlash came within days: the police entered the office of a television channel in Islamabad on March 16, 2007, causing huge losses to the infrastructure and injuries to the staff, effectively disrupting the live coverage of the police action on a protest rally" (Azmat Abbas and Saima Jasam, 2009, pp. 154-5). These acts of the military regime brought Chief Justice's suspension to the public attention. Lawyers decided to organize seminars and rallies in order to influence public opinion about the illegitimacy of authoritarian rule. While a legal team was representing Chaudhry Iftikhar in the Supreme Court in order to challenge Musharraf's reference, various bar councils invited Chaudhry to give talks on topics such as the rule of law, supremacy of the constitution, separation of powers, importance of democracy and the independence of judiciary. The military regime was against such a development within the legal community because it was politicizing a legal issue. The Supreme Court[56] also accepted Chaudhry Iftikhar's petition "due to the pressure of events that occurred between 6 March and July 2007

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[56] A full bench of thirteen members of the Supreme Court accepted Chaudhry's petition.

through the highly popular Lawyer's Movement" (Azeem, 2017, p. 243). After getting momentum, the lawyers mobilized for the independence of judiciary in street protests. Although at this time lawyers' mobilization had become a kind of social movement but still it was mainly confined to the lawyers. However, through constant media coverage it also got sympathy from the general public. Due to lawyers' movement and huge public support, on 20th July, 2007, Chaudhry Iftikhar was reinstated by a 13-member bench of the Supreme Court to his post of the Chief Justice of Pakistan[57]. This step was a radical departure from Pakistan's judicial history in which a Chief Justice was restored after getting dismissed by a military dictator. The restoration of the Chief Justice was celebrated in terms of the independence of judiciary and the rule of law in the country:

"It was the first time ever in Pakistan's judicial history that a judge removed by a military dictator was back in office, and that too at a time when the dictator who threw him out of office was still in 'command'. The restoration of the Chief Justice was celebrated jubilantly throughout the country and what pleased people the most was the manner in which the Supreme Court had asserted its independence."

(Azmat Abbas and Saima Jasam, 2009, p. 157)

Phase-3: The State of Emergency

The Chief Justice Chaudhry Iftikhar resumed his duties from 21st July, 2007. The agenda of lawyers' movement was not merely to restore the

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[57] For details see, Chaudhry Iftikhar v. President of Pakistan, Const. Pet. 21 of 2007 (Pak. July 20, 2007), available at http://www.pakistani.org/pakistan/constitution/events/cjp_ref_2007/sc_ref_order.html.

Chief Justice of Pakistan but also to promote political liberalization in the country. It stressed on both independence of judiciary and limits on powers of the executive. That is why, after reinstatement, the Chief Justice "could not abandon the movement that had rescued him and enabled him to stand up to Musharraf. The lawyers and the media were now demanding the Supreme Court's intervention in the forthcoming presidential election in October 2007" (Ghias, 2012, p. 365). The Supreme Court of Pakistan began a phase of 'judicial activism' and it was largely seen as a positive development. According to the Constitution of Pakistan, there are limits on military personnel on holding the public office. Since 2002, General Musharraf held both offices, that is, he was the Chief of Army Staff and the President of the country at the same time. The former is a military post while the latter is a civil post. Previously, General Musharraf managed to amend the Constitution in order to hold these positions. Pakistani Supreme Court had also helped him to make these changes when he became president for the first time. Now, his tenure was going to end in October 2007 and he still wanted another five years to hold both positions. Various civil society actors, opposition political parties and lawyers had already filed petition against General Musharraf concerning the issue of holding dual offices. Out of fear of an unfavorable verdict, General Musharraf imposed emergency on 3rd November, 2007[58]. He sacked all judges of the higher judiciary and issued a Provisional Constitutional Order[59]. According to Provisional Constitutional Order, basic rights were suspended and judges were required to take fresh oath. The judiciary launched a revolt against this PCO and refused to take new oaths. All

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[58] The Emergency was a kind of martial law because it suspended the Constitution of Pakistan. See (Ghias, 2012, p. 369) .

[59] (Proclamation of Emergency Act, 2008, Federal Statutes 108); and (Provisional Constitutional Order 1 of 2007, PLD 2008 Federal Statutes 110).

those judges who refused to take new oaths were dismissed from their positions. It is interesting to note how Musharraf made the point that the judiciary was creating problems for the transition to democracy, which is why PCO was necessary. As Azeem states:

"The Proclamation of Emergency by General Musharraf on 3 November was against the judiciary disturbing law and order in itself, interfering with government policy, affecting economic growth, ordering the release of terrorists and hence outstepping the limits of judicial authority. General Musharraf claimed the judiciary was eroding the trichotomy of power and disturbing his so-called 'third phase of transition to full democracy'."

(Azeem, 2017, p. 244)

Moreover, the judges who refused to take fresh oaths were placed under house arrest[60]. Through proclamation of Emergency, the military regime did not merely target judiciary but also lawyers, journalists, and civil society actors who were exposing the oppressive apparatus of the authoritarian rule. Around five thousands lawyers and activists were sent to the prison; the regime also restrained the freedom of media and closed down a number of television channels[61]. Such a crackdown of the military regime paved the way for a broader mobilization of

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[60] 43 judges refused to take fresh oaths. It is an important fact that over the last four decades the dissent by the judiciary is on increase: "For instance in 1977, only one judge was removed from the office under the martial law, compared to sixteen judges that were removed under the Provisional Constitution Order 1981. In the year 2000, the military government removed thirteen judges under the PCO 2000, and when a state of Emergency was imposed on November 3, 2007, and judges were required to take a fresh oath under the PCO 2007, as many as 43 judges of the High Courts and Supreme Court declined" (Azmat Abbas and Saima Jasam, 2009, p. 161).

[61] For example, see (National Lawyers Guild and LUMS Rule of Law Project 2008); (Human Rights Watch 2007); (Pakistan Electronic Media Regulatory Authority Ordinance 2007); Press, Newspapers, News Agencies and Books Registration Ordinance 2007).

lawyers, journalists, human rights activists, political parties, students, and several other civil society actors. By this time, the lawyers' movement was not merely confined to lawyers and it had become a kind of social movement with the following agendas:

(a) Independence of judiciary

(b) Rule of law

(c) Restoration of democracy

(d) Social justice (The phenomenon of 'public interest litigation' facilitated this narrative)

Some segments of the society criticized this movement for being partisan. In this phase, the lawyers' movement was a "political struggle to the core" and it was not engaged in any kind of partisan politics[62]. Moreover, the Bar Associations are primarily professional organizations "with diverse political opinions and it was argued their unity meant that no political party was backing any of them… Chief Justice Munir stated that the lawyer's movement did not invite political parties but parties joined for their own agendas" (Azeem, 2017, p. 247). Ultimately, pressure built on General Musharraf not only from the lawyers' movement but also from other high officials within the military and US. He was forced to step down from the post of the Chief of Army Staff so that he could remain President of the country. Musharraf's resignation from the post of Army Chief was considered a success of the movement. He subsequently lifted the state of Emergency in December 2007 and assured that general elections will be held as per schedule in 2008.

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[62] Munir A Malik in "Not Motivated by Politics", Dawn (11 May 2007). Munir rejects the allegations of the politicization of judiciary.

Phase-4: Lawyers' Movement during Civilian Rule

On 18th February 2008, general elections were held in Pakistan. Pakistan People's Party won the election and came into power. Before election, Asif Zardari, the Co-Chairman of Pakistan People's Party (PPP), made an agreement with another major political party, Pakistan Muslim League-Nawaz (PML-N), to restore judiciary within a month after the formation of a new government[63]. However, after the formation of federal government in March 2008, Zardari was hesitant to restore the judges because "he was interested in seeing the criminal charges against him removed and to get rid of the condition of graduation for his election to the national assembly" (Azeem, 2017, p. 249). Irrespective of the fact that public sympathy was with Chaudhry Iftikhar, Asif Zardari did not bother to reinstate the judges. Perhaps the fear that after re-joining his office, Chaudhry would declare the NRO[64]—which had actually immunized him from all corruption charges— unconstitutional, prevented him from restoring the judges. Both Pakistan People's Party and the Pakistan Muslim League (Nawaz) supported the lawyers' movement for the independence of judiciary. Moreover, this factor helped them in winning seats in the general election but "time proved that it was not only the military but also the

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[63] Pakistan People's Party and Pakistan Muslim League (Nawaz) were the two main political parties contesting General Elections 2008. The leadership of both political parties was in exile during Musharraf's military rule. This agreement is called Murree Declaration and it was made on 3rd November, 2007. For detail, see (Azeem, 2017, p. 249); (Cheema, 2016, pp. 450-7).

[64] National Reconciliation Order (NRO) was a controversial deal between Benazir Bhutto and Musharraf in October, 2007. In this deal, Musharraf granted amnesty to Pakistan People's Party leaders on corruption charges. This document also facilitated Musharraf's presidential election. NRO was a controversial document and was challenged in the courts. Imran Khan, leader of Pakistan Tehreek-e-Insaaf (PTI) considered it as a betrayal to judiciary. For details, see "The News, 'Democracy Betraying Judiciary for NRO: Imran"

political governments that were not comfortable with the idea of a judiciary independent of executive control. And hence, the struggle for a true democratic set up was far from over" (Azmat Abbas and Saima Jasam, 2009, p. 163). Due to reluctance of the new government to restore the deposed judges, lawyers decided to continue with their movement and struggle for the independence of judiciary. In June 2008, leaders of the lawyers' movement decided to protest in the capital city Islamabad against the democratic government for the restoration of judges. Around 100,000 demonstrators came to Islamabad in order to protest against the government for not fulfilling its promises. At this time, some cracks also began to appear within the lawyers' movement. The leadership of the movement was divided and its main leaders called off the protests on grounds of security: "this proved to be a highly unpopular and controversial decision, and it destabilized the movement by taking the wind out of its sails. The leadership insisted that it had the safety of the protesters in mind, but movement activists had taken the call of a *dharna* (sit-in) till restoration seriously, and were angry at having to go back home empty-handed" (Shafqat, 2017, pp. 8-9). Due to heavy pressure, Musharraf also resigned from his post of President and the Co-Chairman of Pakistan People's Party, Asif Zardari, became new President of the country. After presidential election, the PPP-led government tried to dismantle lawyers' movement. Like Musharraf, it also attempted to constrain judiciary by various tactics. It convinced several judges to take new oaths, thereby dividing the movement for its own benefits. Asif Zardari said that the new democratic government was formed to provide basic necessities to the public and not to restore the judges. Azeem describes Zardari's reluctance to restore the judiciary in the following way:

"Zardari made it clear that the mandate was given to the PPP for Roti, Kapra aur Makan (food, clothes and houses), and not to restore the judges. He called the Murree Declaration a political statement and made clear that he had been in jail for eight years, a victim of the judiciary. He said the Supreme Court reverted back a case against him to the accountability court, though he had already served the sentence. He even denied the fact that the change that took place in the country was due to the historic 'no' of the deposed Supreme Court Chief Justice and the subsequent lawyers' movement, which resulted in lawyers having their legs broken. He even noted that international powers were behind the return of democracy in Pakistan. He reminded the public that Benazir Bhutto was not in favour of restoring the judiciary"

(Azeem, 2017, p. 250)

The government adopted a pragmatic policy by redefining the limits of judicial independence. Rather than reinstating ousted judges to their previous positions, it started their reappointment under new oaths, which curtailed power of the higher judiciary in a significant manner. Although this strategy gave advantages to the democratic government but it still undermined independence of the judiciary under civilian rule. The PPP-led government also offered a package for some constitutional amendments, which would have restored ousted judges but also constrained judicial independence. Such an attitude of the government created a divide between Pakistan People's Party and Pakistan Muslim League-Nawaz. The latter[65] aligned with the lawyers' movement and started to protest against government for its refusal to restore the judges. Lawyers decided to hold a Long March with other opposition political parties and civil society actors to protest against the government until

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[65] Pakistan Muslim League-Nawaz (PML-N) was in opposition.

Chaudhry Iftikhar and other judges were completely restored. Asif Zardari used the same authoritarian tactics to sabotage the lawyers' movement by using higher judiciary to curtail democratic forces. As Zahid Shahab Ahmed states:

"President Zardari soon began to engage in the same authoritarian tendencies that he had earlier condemned. In early 2009, as the lawyers planned another march to Islamabad which this time was promised to end with a mass sit-in in the city centre, Zardari attacked his rival. On 25 February, the Supreme Court, now led by Chief Justice Abdul Hameed Dogar, a Zardari-appointee, issued a ruling that disqualified Nawaz Sharif and his brother, Shahbaz Sharif (Chief Minister of Punjab), from holding or contesting public office on the grounds that they had been earlier convicted of crimes. Zardari, seeking to curtail PML-N control over the powerful Punjab province, imposed the Governor Rule in Punjab, bringing the formerly autonomous province under federal control".
(Ahmed, 2010 , p. 501)

On 12th March 2009, lawyers with other political parties and civil society actors began a Long March to Islamabad. Around 200,000 demonstrators were expected to sit-in until the restoration of all ousted judges. This time, government was put under huge pressure from the army, USA and senior leadership within its own party to accept the demands of the lawyers' movement. The government had no choice but to restore all sacked judges to their previous positions. It was considered the greatest victory of the movement which rendered judiciary an independent institution with its power to implement rule of law in the country.

From the outset, the lawyers' movement was not about the restoration of democracy but about the protection of legal community's professional and institutional interests (Zaidi, 2008). However, the progression of this movement in phase three made the lawyers realize that independence of judiciary was not possible without the democratic form of government. The principle of the separation of powers, which lawyers wanted to protect, is integral to democracy. Moreover, lawyers alone were not able to establish the rule of law and they needed support from the informal public sphere in which people could reflect upon political issues. In the next chapter, I will analyze the role of lawyers' movement in the process of democratization in Pakistan. The case of Pakistan lawyers' movement presented in this chapter will be utilized in order to understand deliberative practices in the autocratic Pakistani context.

Chapter Six

Deliberation and Democratization in the Non-Western Context: An Analysis of Pakistan Lawyers' Movement

Most democratization studies focus on democratization from above and social movements within established democracies in the West. Contrary to this trend, I focus on democratization from below in a non-Western and non-democratic context. The lawyers' movement helps us to understand the process of democratization in an authoritarian context. It makes transition to democracy possible in the Pakistani context. In what follows, I will first discuss the gap in the literature on democratization studies, which mainly focuses on free and fair elections, structural preconditions and elites' role. The mainstream research on democratization ignores the role of both deliberation and social movements in authoritarian contexts, which I argue merits academic attention. The role of social movements and deliberative practices in authoritarian regimes is an important aspect in order to understand the process of democratization in the Pakistani non-democratic context. This chapter is divided into two sections. Section one deals with the mainstream literature on different theories of democratization. In this section, I also discuss how the main theories of democratization ignore the role of deliberative practices in their approach. Section two analyzes Pakistan Lawyers' Movement in the context of recent developments in deliberative theory. Specifically, I

discuss the importance of the systemic approach in understanding the process of democratization in Pakistan. The Pakistani context presents a case study to understand the reach and application of deliberative theory in the non-Western context.

1- Theories of Democratization

The meaning of democratization was presumed in the initial studies of 1970s and 1980s. In these early studies, democratization was understood "simply a transformation of the political system from non-democracy towards accountable and representative government" (Grugel, 2002, p. 3). Moreover, these studies relied on a process-oriented approach in order to explain the mechanisms and conditions that make democratization possible in the political system. They also distinguished between transition and consolidation. Transition marks the beginning of a democratic process in which political activities are fluid and democracy is not fully assured, whereas consolidation is the success of democratic politics in which democracy becomes "the only game in town" (Linz, J. and A. Stepan, 1996, p. 5). The process-oriented approach does not clearly convey the meaning of 'democratization'. Indeed, the literature on democratization suggests that there is no consensus on its definition and it is, like democracy, an essentially contested concept. Grugel, in elucidating the complex and fluid nature of the concept of democratization, states:

"Democratization has been conceptualized as a discourse, a demand, a set of institutional changes, a form of elite domination, a political system dependent on popular control, an exercise in power politics and a demand for global solidarity—and this is by no means an exhaustive list. It has been analyzed from the perspective of political theory,

comparative politics, international relations, sociology, cultural studies and political economy. It has been thought of as a discrete set of sequential changes achieved in a few years, as a series of open-ended struggles and a transformation of deep structures or as an unobtainable utopia."

(Grugel, 2002, p. 4)

Many political scientists construe democratization as a continuum from the lowest level to the highest level. They determine the quality of democratization by positioning the regime on different points on the continuum. According to its minimal concept, democratization is understood as the regular holding of 'free and fair elections'. Normatively, until the end of 20th century, political theorists assumed democracy in terms of liberal democratic order in the comparative studies on democratization.

(i)- The Wave Theory

Wave theory explains the process of democratization in its historical perspective. Democracy unfolded gradually in different countries across the globe. The process of democratization was non-linear and multiple causes gave rise to this phenomenon. For example, the driving force of democratization in the 19th century was class, whereas, social conflict and state-building were the main factors in the 1980s. Wave theory categorizes group experiences in terms of distinct waves over the last two hundred years. There are some common causes in which various countries can be linked together in the process of their democratization. Historically, democratization was a complex phenomenon and various factors contributed to its success and failure.

According to Huntington, in some countries, where democratic consolidation failed or collapsed, waves of democratization were followed by authoritarian rule. The following passage delineates Huntington's concept of wave theory:

"A wave of democratization is a group of transitions from nondemocratic to democratic regimes that occur within a specified period of time and that significantly outnumber transitions in the opposite direction during that period of time. A wave also involves liberalization or partial democratization in political systems that do not become fully democratic. Each of the first two waves of democratization was followed by a reverse wave in which some but not all of the countries that had previously made the transition to democracy reverted to nondemocratic rule."

(Huntington S. P., 1991, pp. 15-6)

From the beginning of 19th century to the 1930s, the long wave to democratization began and democratic states gradually grew across the globe. Although liberal democracy was a dominant form of democracy during this time, nevertheless, it was challenged by socialist democracy in which popular rule was linked with socialist economy. The major challenge to both liberal democracy and communism was fascism. Indeed, the first wave of democratization ended because of the rise of fascism in Europe. Specifically, "Fascist seizures of power in Italy and Germany brought the first wave to a close" (Grugel, 2002, p. 33). Huntington argues that from late 1920s to early 1940s, a reverse wave spread in which new democracies returned "to traditional forms of authoritarian rule or the introduction of new mass-based, more brutal and pervasive forms of totalitarianism" (Huntington S. , 1991, p. 17).

For Huntington, communist, fascist and militaristic ideologies were responsible for such regime changes across the globe.

A second shorter wave of democratization began during World War II. Allied occupation powers started the democratization process by introducing various democratic institutions in Germany, Italy, Austria, Japan, and Korea[66]. After World War II, Turkey and Greece also moved towards democracy and some countries in Latin America, such as Brazil and Costa Rica, also began to consolidate democratic institutions. Moreover, the end of Western colonial rule gave rise to new states, which also became part of the second wave of democratization. For Huntington, the process of "decolonization after the Second World War further enlarged the number of democracies" (Grugel, 2002, p. 33). The second wave was a shorter period of democratization because it was followed by a second reverse wave in the early 1960s. For example, in Pakistan[67], after ten years of independence, military took over the control and democratic institutions began to decline. In the late 1950s, political upheavals led to authoritarian rule. Huntington argues that the regime transition towards authoritarianism "was most dramatic in Latin America" (Huntington S. , 1991, p. 19). In countries like Peru, Brazil, Bolivia, Argentina, Uruguay, and Chile, various military coups took place which ultimately weakened the pro-democracy forces and strengthened authoritarian rule. Similar events of military coups also took place in Asia. The second reverse wave did not merely give rise to authoritarian rule across the globe, but it also challenged the applicability of democracy in the developing world.

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[66] After the defeat of Axis powers in 1945, American, British and French allied powers initiated this democratization process in occupied territories.

[67] In 1958, ten years after its independence (1947), a first military coup took place in Pakistan which threatened the development of democratic institutions. For details, see chapter five on lawyers' movement.

The third wave of democratization began with the end of dictatorship in Portugal in 1974. Authoritarian regimes were replaced by democratic rule in almost thirty countries in Europe, Asia, and Latin America. And in various other authoritarian regimes liberalization took place. Different movements for the promotion of democracy were also strengthened across the globe during the third wave of democratization. For Huntington, the third wave to democratization was a global movement in its scope. Wave theory helps us to understand the causes of both democratization and its reversal. This is not to say that there was one global cause behind democratization, rather, the metaphor of wave delineates global trends and factors which make democratic consolidation possible. Huntington outlines five important factors in the third wave of democratization:

1- The political problem of legitimacy in authoritarian regimes. Authoritarian systems were heavily depended on performance legitimacy. Poor economic performances undermined authoritarian rule in various regimes. Apart from economic performances, military defeat was also another factor which delegitimized various authoritarian rule in countries such as Portugal, Greece and Argentina.

2- Global economic growth in the 1950s and 1960s, specifically in the developing countries[68], raised standards of living and

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[68] The economic boom of the 1960s made transition to democracy possible, especially in developing countries. Huntington states: "The 1950s and 1960s were years of impressive global economic growth, particularly among less developed countries. Between 1950 and 1975 per capita GNP of the developing countries grew at an average rate of 3.4 percent per year, a rate that 'exceeded both official goals and private expectations'. This rate was historically unprecedented for both the developing countries and for the developed countries. In the 1960s, the 'decade of development', the annual GNP growth rates of the developing countries averaged well over 5 percent, generally more than twice the rates of European countries during their comparable phases of economic development." (Huntington S. P., 1991, p. 61)

education. It also paved the way for industrialization which contributed positively in the process of democratization. The supporters of democratization during the third wave were mainly from the middle classes which benefited from the economic boom of the 1960s.

3- Liberalization of the Catholic Church also challenged authoritarianism. After the second Vatican Council (1963–1965), national churches and church leaders acted as advocates of reform.

4- New policies of the European Union and US also endorsed democratization and human rights. The advocacy of democracy became their main agenda, which ultimately strengthened the third wave of democratization.

5- Demonstration effects, or snowballing also contributed in the democratization process. Due to the growth of communication networks across the globe, successful democratization of various countries encouraged others to promote democracy to reach similar benefits, or to address the same political problems in similar manner.

The wave theory situates the process of democratization in the global context and attempts to delineate various factors for its consolidation and reversal. It is a useful way to understand the historical development of both democracy and democratization over the last two hundred years.

(ii)- Modernization Theory

Modernization theory, like other theories of democratization, primarily deals with the identification and explanation of causes and factors, which lead to the emergence of democratic states. According to

Giddens, modernity is essentially a globalizing phenomenon, which creates one uniform culture (Giddens, 1990). Modernization theory attempts to spell out the intrinsic relationship between democratization and globalization. The spread of democracy across the globe is unfolding of the universal ideal of progress stemming from modernity and enlightenment. Modernity brought about socio-economic changes in Western societies, which paved the way for democratization of polities. In his article, *Some Social Requisites of Democracy*, Lipset emphasizes on the intrinsic relationship between socio-economic development and democracy. On the basis of sociological and behavioral standpoint, Lipset's modernization theory attempts to spell out determinants and requisites for democracy. He argues that the positive relationship between democracy and economic conditions goes back to Aristotle. He writes:

"The more well-to-do a nation, the greater the chances that it will sustain democracy. From Aristotle down to the present, men have argued that only in a wealthy society in which relatively few citizens lived in real poverty could a situation exist in which the mass of the population could intelligently participate in politics and could develop the self-restraint necessary to avoid succumbing to the appeals of irresponsible demagogues."

(Lipset S. M., 1959, p. 75)

According to modernization theory, democracy is essentially an outcome of capitalism. Modernity, for Lipset, was a universal experience that would lead to similar societies and states across the globe. In modernization theory, economic growth stands in a causal relation to progress and "all countries will eventually follow the Western itinerary towards prosperity and democracy" (Jørgen Møller

and Svend-Erik Skaaning, 2013, p. 97). There are a number of social conditions leading from economic growth to democracy:

1- Level of education increases with prosperity. Higher level of education in society increases social norms, such as tolerance and rational discussion.

2- Economic development does not merely give rise to middle class but it also strengthens the civil society.

3- The process of modernization, with its global aim for progress, also consolidates secularism and weakens the traditional ideological identities, which are impediments to democracy.

4- Lipset also assumes that capitalism aims to diminish class conflict.

5- Industrialization and urbanization are integral to economic development, which in turn help transform traditional societies into modern ones.

Modernization theory regards above social conditions essential to the democratization process. For Lipset, such conditions do not just lead to the emergence of new democracies but they also help sustain existing democratic states. These conditions also help masses to mobilize for collective actions in modern societies, which in turn sustains the democratic process. Walt Rostow's (Rostow, 1960) work on development economics further strengthens Lipset's modernization theory. He also construes economic development as an essential factor which made transition from traditional society to modern possible. He identifies "a lineal path for economic development along defined 'stages', as they were termed, until capitalism was achieved. These 'stages' were: the traditional society; the pre-take-off society; take-off; the road to maturity; and the mass consumption society (Grugel, 2002, p. 48)". In 1960s, scholars working on the relationship between political

culture and democratization also strengthened Lipset's argument by relating economic growth and democracy with that of modernity[69]. These thinkers relate the development of democracy with a certain kind of political culture, which emerges because of the process of modernization. In short, modernization theory considers economic development decisive to the democratization of a regime.

(iii)- Historical Sociology

Historical sociology, also called structuralism, is another approach to understand the process of democratization. It explains how the institution of state shapes the political system in contemporary regimes. Here state is understood in the Weberian context, as a "human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory" (H.H. Gerth and C. Wright Mills (Translated and edited), 1946). For structuralists, democracies do not emerge overnight, rather, they are the product of "transformation of the state through class conflict over time" (Grugel, 2002, p. 52). Moreover, political economy also plays a significant role in the democratization process, because it helps us understand how the forces of production lead to social and class conflicts in society. However, economic forces alone cannot determine political outcomes, and various other factors are instrumental in bringing about the political change[70]. In his book, *Social Origins of Democracy and Dictatorship*, Barrington Moore comparatively analyzes eight countries in order to study political change responsible

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[69] For details, see (Almond, G. A. and S. Verba, 1963) and (Pye, L. and S. Verba , 1965).

[70] Unlike wave and modernization theories, structuralism attempts to spell out factors and social conditions, which are distinctive to particular cases.

for the process of democratization[71]. Specifically, he expounds on the various historical trajectories that led to modernity in each country. According to Moore, the transformation, from agrarian societies to modern industrial ones, depends on the interaction among three classes, namely, the peasantry, the landed upper class and the bourgeoisie (Moore, 1966, p. xi). He argues that the occurrence of a democratic political order was possible because of the gradual eradication of peasant agriculture, which transformed the peasantry into workers through urbanization and industrialization. Another factor which brought democracy was the defeat of the landed class and the emergence of the bourgeoisie as the most powerful economic and political actor. In his scholarship, Moore is mainly interested in the emergence of first democracies. Rueschmeyer, Stephens and Stephens extend Moore's work by synthesizing the classical sociological tradition with that of Marxist philosophy. Their approach is called 'new comparative political economy' which explains the rise of parliamentary and stable democracies in different countries across the globe. They argue that the political system of any regime should be understood in relation to social power. For them, there are three important power structures:

1- The relative class power
2- The role of the state
3- The impact of transnational power structures

Drawing from the Marxist tradition, Rueschmeyer, Stephens and Stephens emphasize on social class and class conflict in order to analyze the relationship between state and social power. They extend Moore's scheme of three classes (the peasantry, the landed upper class and the

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[71] The eight countries Moore analyzes are Britain, France, the US, Germany, Russia, Japan, China and India.

bourgeoisie) by adding further urban working classes which are essential to the process of democratization. They write:

"The organized working class appeared everywhere as a key actor in the development of full democracy … In most cases, organized workers played an important role in the development of restricted democracy as well. The Latin American working class played a lesser role in the historical events there: the relative weakness of the working class certainly has contributed to the infrequence of full democracy in the region and to the instability of democracy where it did emerge. … In all regions, however, pressure from the organized working class alone was insufficient to bring about the introduction of democracy; the working class needed allies. … Democracy could only be established if (1) landlords were an insignificant force, or (2) they were not dependent on a large supply of cheap labor, or (3) they did not control the state."

 (Rueschemeyer, D., E. Stephens and J. Stephens, 1992, p. 270)

They contend that the emergence of democracy is not an outcome of the capitalist relations of production, rather, it is a kind of reform bring about by working class organizations. They further argue, capitalist states will remain authoritarian if subordinate and urban classes do not impose reformist policies. In addition to this, they hold, transnational political setting is also an important factor in democratization, especially for developing countries. It means, geo-political factors should also be taken into consideration in the study of democratization. However, depending on the case, it remains problematic if transnational factors promote or impede the democratization process (Grugel, 2002, p. 55).

(iv)- Transition Perspective

Transition perspective or transitology is an agency-centric approach, which emphasizes on the role of political actors rather than socio-economic conditions in the study of democratization. In his article, *Transitions to Democracy: Toward a Dynamic Model*, Rustow breaks with structuralist and modernization theories of democratization for being too limited in their scope. He argues both structuralist and modernization accounts merely focus on the structural conditions and ignore the process of transition that leads to the democratization of regime. Both approaches, Rustow holds, mistake causes for the functioning of a democracy with causes which make transition to democracy possible. That is to say the factors which sustain a mature democracy are different from the factors which lead to the emergence of a democracy from a non-democratic setting. Moreover, Rustow argues, socio-economic prerequisites for democracy cannot be identified (Rustow, 1970, p. 342 and 252). For Rustow, the only condition for democracy is a national state: "the vast majority of citizens in a democracy-to-be must have no doubt or mental reservations as to which political community they belong to" (Rustow, 1970, p. 350). Democracy comes into being through a continued political struggle, and it has three stages:

1- Preparatory phase
2- Decision phase: In this phase negotiations among a small circle of leaders play an important role to bring about democratic change.
3- Habituation phase: In this phase, both leaders and ordinary citizens adopt the new system.

Above three phases, latter termed as liberalization, transition and consolidation, are crucial in the emergence of a new democracy. In their four volume edited work, *Transitions from Authoritarian Rule*, Schmitter, O'Donnell and Whitehead develop a transitologist's perspective of democratization (O'Donnell, Guillermo, Philippe Schmitter & Laurence Whitehead (eds.), 1986). Like Rustow, they also claim that political action rather than structural conditions are instrumental in the process of democratization. They analyze "the processes of democratization by examining the interactions, pacts and bargains struck between authoritarian leaders and the democratic opposition" (Grugel, 2002, p. 57). Successful transitions are dependent upon the agreements between elites and various other political actors. Strategic choices and skillful leadership also influence the final outcomes in the political process. Transition can be understood as an "interval between one political regime and another. In this phase, the old political rules of the game no longer apply, while the new rules have yet to be decided" (Jørgen Møller and Svend-Erik Skaaning, 2013, p. 129). Political outcomes are uncertain and contingent because actors are free to make choices that can produce unintended consequences. It means, transitions do not necessarily lead to democracy and political outcomes remain open-ended. Transitions which lead to democratization have the following important phases:

1- Liberalization of the authoritarian regime
2- Actual democratization

In the first phase, political liberties are given and extended to people, and in the second phase, actual democratic procedures such as universal suffrage, multi-party system, and free and fair elections are implemented through various institutions. In contrast to other theories of democratization, transitology emphasizes on the micro-political

aspects of regime change that initiate the transition and lead to democratic construction and consolidation. Moreover, because of its negation of structural conditions, transition perspective helps us to understand the process of democratization outside the Western world and its global reception.

(v)- The Neglect of Deliberation in Democratization and Social Movements Studies

The political upheavals responsible for the collapse of authoritarian rule in Pakistan are important in order to explain democratic transition in the country. The transition in Pakistan from authoritarian rule to democratic government can be understood from both 'top down' and 'bottom up' perspectives. For Flynn and Curtao, transition is a dynamic phenomenon and it does not merely entail change "from one form of government to another" and it also includes "broader social processes and trajectories" (Ian O'Flynn & Nicole Curato, 2015, p. 299). Democracy understood in deliberative terms focuses on the 'deliberative capacity' of the regime under the process of transition. This approach is different from the dominant approaches in the transition literature which mainly focus on 'free election' and 'structural pre-conditions' as the only criteria for transition. Elklit and Reynolds argue that "at the heart of democratization attempts lie competitive elections, which are often held during times of societal stress and under imperfect logistical conditions characterized by administrative unreadiness" (J. Elklit & A. Reynolds, 2002, p. 86). They believe that democratization process in the developing world can be strengthened by the proper administration of the elections. Comparative scholars like Adam Przeworski also believe that

'contested elections' is the only requirement for the transition from authoritarian rule to democratic one: "a regime in which governmental offices are filled as a consequence of contested elections. Only if the opposition is allowed to compete, win and assume office is a regime democratic" (Przeworski et al., 1996, p. 50). I do not deny the importance of election in a democratic process but rather argue that deliberation is a more telling measure for the understanding of transition in Pakistan. In certain respects, deliberation is an essential element to determine democratic quality. Contested elections cannot produce democratic results in the absence of deliberation.

With respect to social movements, there are two issues which I discuss here. First, the role of deliberation is ignored in social movement studies, and second, the role of social movements is also being neglected in democratization studies. As Nancy Bermeo argues that democratization literature mainly focuses on the elites rather than social movements (Porta, 2013, p. 126). A few thinkers, however, for example, Charles Tilly has emphasized on 'a broad correspondence between democratization and social movements' (Tilly, 2004, p. 131). There is a need to address the impact of social movements on the process of democratization. The literature on democratization mostly deals with socio-economic conditions and elite behavior and neglects the role of judiciary, deliberation, and social movements. In the same vein, literature on social movements, until recently, mainly focuses on established democracies where conditions for social mobilization are conducive and tends to neglect the impact of social movements on the process of democratization in authoritarian regimes[72]. As Donatella

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[72] After the Arab Spring, there are few studies on social movements in authoritarian contexts, which attempt to explain the role of social movements in the process of democratization. For example, see (Porta, 2013, pp. 124-49); (Ricardo Fabrino Mendonça and Selen A. Ercan, 2015).

Della Porta puts it: "even in established democracies, the relations between movements and democracy have mainly been looked at in terms of institutional opportunities for protest, rather than of the attitudes towards and practices of democracy by activists and their organizations" (Porta, 2013, p. 132). However, some scholars working on the global justice movement have also emphasized on the convergence between social movements and democratization. In the last decade, there are also a few studies on social movements in authoritarian contexts[73]. As discussed above, within the classical formulation of mainstream theories of democratization, a very limited role is being assigned to social movements and protests. Similarly, the role of social movements in deliberative democracy is also a much neglected area of research. Protests have been understood as antithetical to the ideal of deliberative politics. Conventionally, scholars argue that since protests are adversarial in nature, therefore, they hinder the prospects of deliberative democracy. Some political theorists, for example Chantal Mouffe, associate protests with agonistic view of democracy (Mouffe, 2000). However, the global justice movements provide a pioneering work on this neglected issue of deliberative aspects of social movements[74]. In my analysis of Pakistan lawyers' movement, I extend this scholarship by Dryzek's concept of deliberative capacity.

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[73] For social movements in the Middle Eastern context, see (Gunning, 2007); (Hafez, 2003) and (Wiktorowicz, 2004). And, for the Asian and former Soviet Union contexts, see (Boudreau, 2004) and (Beissinger, 2002) respectively.

[74] For details, see (Porta, 2005a); (Porta, 2005b); and (C. Haug and S. Teune, 2008).

2- Political Deliberation and Pakistan Lawyers' Movement

In this section, I interpret Pakistan lawyers' movement by using deliberative theory. Specifically, I will use systemic strand of deliberative theory to understand deliberative practices and mechanisms in Pakistani context. There are many advantages of using the systemic approach to understand this case:

1- Systemic approach is a macro level analysis of deliberative practices. However, it is not just confined to macro locations of deliberative mechanisms, and it attempts to look into the whole 'political system'. This way, one can combine micro, mezzo and macro levels to understand the deliberative quality and potential of a political system. In the case of Pakistan lawyers' movement all three locations (micro, mezzo and macro) are important. I also believe a more holistic approach towards deliberation, which is an essential aspect of the systemic strand, should combine these three venues of deliberation.

2- The systemic approach does not consider protests and social movements as antithetical to the deliberative model of democracy[75]. Pakistan lawyers' movement involves both protests and disruptive politics, therefore, systemic approach is preferred for its interpretation.

3- The comparative studies of democratization, which have ignored until recently the importance of deliberation, can benefit more from the systemic approach. Democratization understood in terms of broader social processes and trajectories

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[75] There are many studies on social movements and disruptive politics in the nexus of systemic approach. For example, see (Smith, 2016).

(Ian O'Flynn & Nicole Curato, 2015) is a multilayered complex phenomenon, and it requires critical analysis of the regime under consideration. Pakistan lawyers' movement was instrumental in bringing about democracy in the country. The role of this movement in the process of democratization is an essential aspect that made it successful.

4- As described in four, the systemic approach is not confined to liberal democracies in the West. It is also helpful in determining deliberative mechanisms in various historical contexts, such as non-Western, authoritarian, transnational, and global contexts. Pakistan lawyers' movement arose in the authoritarian context. After two years it successfully ousted authoritarian rule and brought democracy back in the country (after ten years of military rule).

5- The systemic approach also recognizes the importance of culture and religion in shaping deliberative practices. For its broader success, Pakistan lawyers' movement used all types of narrative like "Martyred", "Motherhood" (for patriotic love), and "Duty". The Islamic political party (Jamaat-e-Islami Pakistan) also joined this movement for the cause of democratization and rule of law in the country. Pakistan lawyers' movement relied on all possible venues (civil society, academia, political parties, media and international actors) to increase its strength and momentum for the success.

Democratization of societies at large has always been at the core of deliberative theory. From the outset, the concept of deliberation has been employed for the "democratic deepening" (Nicole Curato and Jürg Steiner , 2018). Initially, deliberative democracy was envisaged to overcome the shortcomings of electoral and representative

democracies. The following passage expresses the disenchantment with the traditional form of democracy:

"Democracy is under siege. Approval ratings for democratic institutions in most countries around the world are at near-record lows. The number of recognized democratic countries in the world is no longer expanding after the so-called Third Wave of democratic transitions. Indeed, there is something of a "democratic recession". Further, some apparently democratic countries with competitive elections are undermining elements of *liberal* democracy: the rights and liberties that ensure freedom of thought and expression, protection of the rule of law, and all the protections for the substructure of civil society that may be as important for making democracy work as the electoral process itself. The model of party competition-based democracy—the principal model of democracy in the modern era—seems under threat."

(James S. Fishkin & Jane Mansbridge, 2017)

Deliberative democracy is an antidote to the problems of electoral-representative democracy. It attempts to rehabilitate the political project of democracy by reinvigorating normative concepts, such as legitimacy, participation, equality, mutual respect, and common good. Its basic goal is to empower citizens to achieve legitimacy in the collective outcomes. The prospects of deliberative democracy, however, are not confined to already developed democracies. The deliberative model can also help us to critically evaluate fragile political contexts, such as authoritarian, hybrid and non-democratic regimes. In this section, I attempt to analyze the process of democratization in Pakistani authoritarian context, specifically the role of Pakistan lawyers' movement in the

democratization process. In order to do so, I interpret Pakistan lawyers' movement through the lens of deliberative theory.

(i)- Democratization and Pakistan Lawyers' Movement

As discussed above, the literature on transition has ignored deliberative dimensions in the process of democratization. Democracy understood in deliberative terms provides a unique perspective to study the transition from authoritarian rule to the democratic. The concept of deliberative capacity, which Dryzek introduced in the larger context of systemic approach, can help us understand the role of Pakistan lawyers' movement in the process of democratization.

The deliberative turn in the theory of democracy also helps us to understand democratic potential in authoritarian contexts. That is to say, deliberation in terms of deliberative capacity may exist in non-democratic settings. The study of democratic transitions is one of the important aspects of current academic discourse on politics. The social and political upheavals that delegitimize authoritarian regimes need to be explained in order to understand democratic transitions. The conditions which pave the way for democratic transitions are also significant in comparative studies of the process of democratization. The process of democratization can also be understood in terms of deliberative capacity-building in a political system. As Dryzek states:

"Deliberative capacity proves to be an important determinant of democratic transition and consolidation, such that the concept has substantial analytical and evaluative purchase. The ambit claim is that all democratization studies need to be recalled and reframed in a deliberative light, but even if this claim is resisted by traditional

democratization scholars, the deliberative aspect merits attention. Countries such as China that resist democracy conceptualized in terms of competitive elections, constitutions, and human rights recognized by the state might nonetheless prove susceptible to a deliberative path of democratization."
(Dryzek J. S., 2010, p. 16)

The aforementioned passage indicates the potential of the concept of deliberative capacity to understand the process of democratization in the non-Western context. Dryzek introduces the concept of deliberative capacity in extending the Habermasian critical theory tradition of deliberative democracy. Specifically, it is an extension of the two most important concepts of critical theory, namely, public sphere and discursive democracy. According to John Dryzek:

"Deliberative capacity may be defined as the extent to which a political system possesses structures to host deliberation that is authentic, inclusive, and consequential."
(Dryzek J. S., 2009, p. 1382)

It means, the concept of deliberative capacity is defined in the context of political system. In Dryzek's account, there is no institutional requirement for this capacity to exist in the political system. And a wide variety of political systems (liberal, electoral, authoritarian) can be explained through this perspective of deliberative capacity. Deliberative capacity points out at the capability of a particular political system to be deliberative and democratic. It is instrumental in democratic transition because it can be applied to any political setting. Furthermore, the three elements in the concept of deliberative capacity are:

(1) Authenticity: It means the act of deliberation induces reflection in a noncoercive fashion. It also connects individual claims with general principle and brings about reciprocity in the political process.

(2) Inclusiveness: It makes political system inclusive by accommodating various interests and discourses that are politically significant in the system. The inclusion of different points of view is an important aspect that makes deliberative democracy a viable project in the global world.

(3) Consequential: It means the process of deliberation should directly or indirectly influence the collective outcomes (collective decisions).

For Dryzek, these three elements combined together help us in determining the deliberativeness of a political system: "a polity with a high degree of authentic, inclusive, and consequential deliberation will have an effective deliberative system" (Dryzek J. S., 2009, p. 1382). The process of democratization can be understood in terms of deliberative capacity-building. According to Dryzek, the deliberative system is made up of the following elements[76]:

1- Public Space: It hosts a wide variety of communicative practices. It consists of various actors such as media, political activists, social movements, and ordinary citizens.

2- Empowered Space: Institutions that can produce collective decisions. In this space, deliberation takes place among actors who make collective decision within the institution possible.

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[76] These six elements are also discussed in the chapter on systemic approach. In this section, their role in the process of democratization is discussed in the context of Pakistan lawyers' movement.

Legislatures, constitutional courts, policy-making bodies are some of the examples of empowered space.

3- Transmission: It is a process in which public space influences the empowered space. Different deliberative practices in the public space need to be connected with the empowered space. There are various types of mechanisms that can transmit deliberation from the public space to the empowered one. Most notably, political/social campaigns, social movements, and the use of rhetoric and new ideas for social causes are important ways to influence deliberation in the empowered space. Transmission can take various forms like "advocacy, or criticism, or questioning, or support, or some combination of all four" (Dryzek J. S., 2010, p. 11).

4- Accountability: It is a process in which empowered space provides answers to the public space. It helps to secure legitimacy of the collective decisions. Election campaigns can be one of the examples of this process. It may also involve simple justifications for the collective outcomes.

5- Meta-deliberation: It is deliberation about the deliberative system itself. Meta-deliberation is a kind of deliberative capacity in which deliberative system can examine itself.

6- Decisiveness: The degree to which [the first] five elements (in combination) influence collective outcomes. Decisiveness shows to what extent "five elements together determine the content of collective decisions" (Dryzek J. S., 2010, p. 11)

As described earlier in the chapter on systemic approach, Dryzek's approach is not confined to developed liberal democracies in the West. Indeed, one can use his account for a wide variety of political systems including authoritarian regimes, in case of Pakistan lawyers'

movement. The concept of deliberative capacity is distributed among all the six elements of deliberative system. Specifically, a system is said to have deliberative capacity if:

1- It demonstrates authentic deliberation in the public space, empowered space, transmission, accountability, and meta-deliberation.
2- It demonstrates inclusiveness in the public space and empowered space.
3- It shows decisiveness in terms of the whole political system— the collective outcomes produced during the process of deliberation.

Depending on the context, in real world politics, a deliberative system may fall short on certain elements. These six elements, however, provide a theoretical framework to analyze the distribution of deliberative capacity in any political setting. This way, we can evaluate deliberative systems in real world politics. It is precisely in this evaluative context[77] that "deliberative capacity-building provides the basis for a comprehensive approach to the study of democratization" (Dryzek J. S., 2009, p. 1387; Dryzek J. S., 2010, pp. 138-40). The process of democratizion can be more rigorous if the six elements are present in the political system. Their presence is not tied to any instiutiional specifications and they can be develped during the process of democratization itself, as the Pakistani case demonstrates. The shortcomings of deliberation in one location can be compenstaed through the presence of higher deliberation in other locations. That is

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[77] Dryzek's concepts of deliberative capacity and deliberative system provide a certain criteria for the evaluation of the democratic potential in any regime.

to say, one should pay attention to the whole political system to understand the deiberative practices, which lead to the democratization of a regime.

(ii)- The Emergence of Deliberative Capacity under Authoritarian Rule

As explained in the case study chapter, the authoritarian regime of Musharraf was the result of a military coup. In the political history of Pakistan, this was the third military coup. Unlike previous military coups, Musharraf's takeover faced great challenges, not merely from the superior judiciary but also from the various social segments in the informal public sphere. These challenges were surprising for academic scholars because the legal community, specifically superior judiciary, have always legitimized military dictatorships in Pakistan[78]. The authoritarian regime under Musharraf's rule was different from the previous military takeovers. In this section, I discuss the emergence of deliberative capacity under Musharraf's autocratic rule. I will argue how the emergence of deliberative capacity paved the way for the process of democratization in Pakistan. The success of Pakistan lawyers' movement should be understood in relation to the concept of deliberative capacity.

According to Dryzek, transition to democratic rule is more likely to occur if deliberative capacity already exists in the old regime. He writes:

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[78] For example, see (Oldenburg, 2016).

"Breakdown of an authoritarian regime is more likely to yield a democratic replacement when deliberative capacity is present under the old regime, because such capacity affects the background and capabilities that key actors bring to the political crisis. If opponents of the old regime come from a deliberative public space—as opposed to, for example, a militarized resistance movement or a network of exiles involved in strategic machinations—then they can bring to the crisis some clear democratic commitments that stem from abiding by deliberative precepts."

(Dryzek J. S., 2009, p. 1388)

Dryzek's account merely presumes the presence of deliberative capacity and how it leads to the process of democratization. This thesis argues that the emergence of deliberative capacity in a political system is another important aspect, which helps us to understand the process of democratization in a more comprehensive manner. The authoritarian regime under Musharraf's rule functioned under certain concepts that helped the deliberative capacity to emerge. Pakistan lawyers' movement played a double role in this context: first, it was instrumental in the development of deliberative capacity in the political system; second, it made transition to democratic rule possible. Before going into the details of this double role of lawyers' movement, I first explain important concepts that distinguish Musharraf's autocratic rule from previous military takeovers. These concepts are the preceding events that created a context in which deliberative capacity was likely to emerge in the authoritarian context of Pakistan.

1- Liberalization of the Authoritarian Regime:

As discussed in the preceding section on major theories of democratization, the transition perspective divides democratization into

two phases, namely, liberalization of the authoritarian regime and actual democratization. In the former phase, political liberties are given and extended to people, and in the latter phase, actual democratic procedures such as universal suffrage, multi-party system, and free and fair elections are implemented through various institutions. Unlike previous military coups, Musharraf's regime was celebrated by liberals, or what Akbar Zaidi calls "lifestyle liberals". Akbar Zaidi writes:

"When Musharraf overthrew an elected prime minister and made himself president in 1999, his most vocal supporters came disproportionately from the socially and culturally Westernized segments of the Pakistani elite—the "lifestyle liberals". They embraced Musharraf as one of their own, which he very much was. Prominent activists from various non-governmental organizations (NGOs) also found themselves drawn to the General by his liberal, Westernized air. Some of them—including noted opponents of previous military governments and campaigners for greater democracy during the 1988–99 civilian era—even accepted posts in his cabinet. Employers' associations, certain labor unions, women's groups, and other such entities welcomed Musharraf as a figure whom they felt was intent on modernizing Pakistan. A number of intellectuals and peace and anti-nuclear activists wrote articles arguing that the key project lying before Pakistan had more to do with "liberalism" than democracy, and that here Musharraf could help."
(Zaidi, 2008, pp. 38-9)

By any standards of political theory, Musharraf was not a liberal but a dictator who came into power after throwing an elected government. There were certain Western values that he promoted, which earned him acceptance among liberals in Pakistan. Due to the liberalization policies

of Musharraf's regime, different social forces, such as lawyers, judiciary, civil society actors, and media acquired considerable autonomy that led to the emergence of deliberative capacity in which Pakistan lawyers' movement was able to bring about democracy in the country. Indeed, during his rule, Musharraf tried to promote the project of "enlightened moderation" through various means, including media. After 9/11, Musharraf introduced the political-social project of modernization in Pakistan due to Western pressure, especially as a result of U.S. policy towards War on Terror. Musharraf portrayed himself as Kemal Ataturk and launched policies to combat Islamic fundamentalism in the country (Nasr, 2004). He wanted to reform the country to legitimize his rule both at the national and international level. He also started granting civil liberties within the framework of authoritarian rule in order to liberalize the regime[79]. Pakistan's civil society was instrumental in promoting Musharraf's agenda of modernization (Zaidi, 2008). In his article *A Plea for Enlightened Moderation*, which Musharraf wrote for *The Washington Post*, he argued that Muslims must fight extremism in order to progress in the global world. As he writes:

"I say to my brother Muslims: The time for renaissance has come. The way forward is through enlightenment. We must concentrate on human resource development through the alleviation of poverty and through education, health care and social justice. If this is our direction, it cannot be achieved through confrontation. We must adopt a path of moderation and a conciliatory approach to fight the common belief that Islam is a

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[79] Political liberalization is distinct from democratization. Authoritarian regimes can grant civil liberties in order to get legitimacy. For example, see (O'Donnell, Guillermo, Philippe Schmitter & Laurence Whitehead (eds.), 1986) and (Stepan, 1988).

religion of militancy in conflict with modernization, democracy and secularism."

(Musharraf, 2004)

The above passage summarizes Musharraf's concept of enlightened moderation, which got him legitimacy at both national and international level. As is evident, Musharraf sought to reform Islam to modernize his regime and he took a number of prominent steps in this direction, such as:

1- Crackdown on radical militant jihadi groups was initiated and substantive educational reforms were implemented in Madrasas (institutions for Islamic education). A significant number of these institutions had become the source of militant Islam, which Musharraf wanted to eradicate[80].

2- The Hudood Ordinance[81] was also being debated. A bill to amend Hudood Ordinance was moved "to limit the scope of Islamic laws that had made it virtually impossible for women to accuse men of rape" (Anthony, 2007). When Musharraf tried to amend the Hudood Ordinance, various Islamic forces protested against him. But he insisted that it was a man-made law and one can change it if it is in conflict with equal justice.

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[80] For details, see (Ali, 2004) and (Nasr, 2004).

[81] Hudood Ordinances were controversial laws, introduced by General Zia-ul-Haq, which rendered it almost impossible for women to charge men of rape. According to the law, a rape allegation required a woman to produce four male witnesses in her favor who had 'witnessed' the crime. In the eventuality that she failed to produce these witnesses, the law permitted the courts to charge her guilty for *qazf*, a punishable offence for a false accusation of rape against an innocent man.

3- Musharraf also initiated economic liberalization through the privatization of state-owned enterprises[82].

4- Musharraf changed the policies to promote electronic media. The new policies gave rise to a number of private channels that were relatively free to discuss political issues. The liberalization of media was one the major policies of Musharraf's authoritarian regime. This is a surprising act because the role of media was primordial in the success of Pakistan lawyers' movement that ousted his autocratic rule and brought democracy in the country.

Musharraf's liberalization project softened his image as a dictator among liberals in Pakistan and provided some legitimacy, perhaps perceived, to his regime. People also started to contrast his dictatorship with previous military takeovers. Specifically, they contrasted Musharraf's rule with General Zia-ul-Haq's Islamization policies. They thought Musharraf's regime was truly committed to modern liberal values and he would rectify the political crisis very soon by giving space to democratic forces. Indeed, Musharraf promised that his rule was for a certain period of time and soon (December, 2007) election would be held. From the outset, Musharraf called his authoritarian rule as a form of democratic governance, which would lead to a full-fledged liberal style democracy in a few years. Such a stance was radically different from previous military dictatorships in Pakistan. Although, it helped Musharraf to legitimize his rule for a certain period of time but as soon as the superior judiciary began to assert its power, he unleashed his dictatorial prowess to undermine this judicial activism. his true dictator's colors. The project of 'enlightened moderation' was not only

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[82] For details, see (Bashir Ahmed Khan and Faisal Bari, 2004).

conceived to soften Pakistan's image in the international community, but to also combat Islamic militancy at home. The path to enlightenment, modernization and liberalization created a space in Pakistan where it was difficult for authoritarian powers to theoretically resist values like democracy, rule of law, and equality. It is precisely in this context that Pakistan's Supreme Court achieved considerable autonomy and started creating legal issues for the authoritarian rule, eventually paving the way to mobilize legal community for the supremacy of law. The liberalization of the authoritarian regime ultimately gave rise to the phenomenon of judicialization of politics in Pakistan. The Supreme Court's intervention through "public interest litigation" in various areas of governance started to undermine the legitimacy of the military regime. The policies that the military regime designed to bring about reforms, specifically, "economic liberalization under Musharraf opened the space for public interest litigation in urban development, deregulation, and privatization" (Ghias, 2012, p. 346). Other areas where considerable judicial activism was seen included deregulation of commodity pricing mechanism, illegal detention by security agencies, and constitutional questions concerning the forthcoming presidential elections. Suo motu actions prior to the lawyers' movement were undermining the legitimacy of military regime[83]:

The judicialization of politics through "public interest litigation" changed the Supreme Court's role in the regime. Rather than providing legitimacy to the military dictatorship, the Supreme Court started to challenge the legality of authoritarian rule. The doctrine of the separation of powers, which lies at the heart of modern democracies,

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[83] For details, see chapter number five on Pakistan lawyers' movement.

ultimately began to appear in the political debates in Pakistan. This way, the liberalization of regime under authoritarian rule helped the deliberative capacity to emerge, which I argue, provided the impetus for the success of Pakistan lawyers' movement.

2- Civil Society and the Public Sphere:

In deliberative theory, the importance of public sphere cannot be ignored in any context. Right from Habermasian philosophy to current debates on systemic approach, public sphere remains one of the main locations of deliberative practices. Civil society is also another significant aspect of public sphere. A vital civil society is considered an indispensable element for the constitution of the public sphere that hosts deliberative practices and transmits them to the formal state institutions such as legislatures and courts. In Habermas' two track model of deliberation, public sphere is an essential part of deliberative democracy. According to Habermas, "Civil society is composed of those more or less spontaneously emergent associations, organizations, and movements that, attuned to how societal problems resonate in the private life spheres, distill and transmit such reactions in amplified form to the public sphere. The core of civil society comprises a network of associations that institutionalizes problem-solving discourses on questions of general interest inside the framework of organized public spheres. These 'discursive designs' have an egalitarian, open form of organization that mirrors essential features of the kind of communication around which they crystallize and to which they lend continuity and permanence" (Habermas, 1996, p. 367). It means, in the deliberative model of democracy, both civil society and the public sphere are instrumental in democratic government. In the same vein, other deliberative theorists, such as Dryzek, Mansbridge, Parkinson and Goodin, also believe in the primordiality of public sphere in the

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deliberative model of democracy[84]. Contrary to this trend, the case of civil society in the Pakistani context has been quite different from the developed liberal democracies in the West. As Akbar Zaidi writes:

"The classic, overwhelmingly Western literature on civil society suggests that by virtue of being "against" the state (by which is often implicitly meant the state at its most autocratic and undemocratic) civil society must necessarily favor some form of democratic disposition. Such was not the case in Pakistan for most of Musharraf's reign, however, when what constitutes "civil society" by most definitions of the term laid aside aggressive support for democracy in favor of support for liberalism (or at least its image) in the person of the seemingly forward-looking General, with his dogs, his golf shirts, and his crisply efficient manner. For Pakistani civil society, whether Westernized or Islamized, the issue in short was not democracy versus non-democracy, but rather liberalism versus some variously interpreted set of Islamic symbols and values."
(Zaidi, 2008, p. 39)

It means, the public sphere, during the authoritarian rule of Musharraf, was not conducive to democracy. The main forces in the public sphere accepted the autocratic rule due to the regime's liberalization policies. During the authoritarian rule, the main discourse in the public sphere was not framed in terms of democracy vs. non-democracy. Rather, it was framed in terms of liberalism vs. Islamic fundamentalism. Pakistani civil society supported the undemocratic regime because of its liberal tendencies. Since, the concepts of civil society and public sphere are historical concepts stemming from the Western political

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[84] For details, see chapter number three and four.

theory, therefore, they change their meaning in the non-Western contexts. Moreover, when it comes to Muslim countries the situation becomes more complicated. Indigenous culture and Islamic beliefs influence the fundamental basis of civil society in the non-Western world in general and the Muslim world in particular. The concept of rational public sphere understood in the context of European Enlightenment is no longer helpful to understand the function of civil society and how it impacts the political project of democracy. Although, Muslim countries like Pakistan have embraced the project of modernization at various levels, for example education, politics, the use of science and technology, still local narratives, religious affiliations and indigenous beliefs lie at the heart of everyday life, which are constitutive (at least partially) of the civil society. In the philosophical literature, the concept of civil society is a contested notion and the various meanings of civil society depend on the historical context[85]. However, there is a minimal concept of civil society, which one can point out in order to explain its role in contemporary social-political order. According to Zaidi, "Civil society is necessarily supposed to be outside, and perhaps preferably in opposition to, or in contradiction with, the state. In order to define civil society, it is a requirement that the organisations and actors of civil society not be controlled by the institutions or actors of the state. This 'autonomous' requirement is a necessary condition to distinguish civil society from the state…civil society must necessarily be a democratizing force" (Zaidi, 2008 , p. 14). With Musharraf's authoritarian rule, the role of civil society turns out to be surprising for many political theorists. It also reveals the unsettled contradictory nature of civil society in Pakistani politics. The military

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[85] For the various meanings of the concept of civil society, see (Sudipta Kaviraj and Sunil Khilnani (eds), 2001)

coup of 1999, which created an autocratic regime in Pakistan, was legitimized and supported by civil society. Due to this undemocratic disposition of Pakistan's civil society, it was not possible to contest autocratic rule in public discourse. Indeed civil society changed (or manipulated) the public discourse through framing political issues in terms of liberalism vs. Islamic fundamentalism, rather than democracy vs. authoritarianism. Moreover, the deliberative practices in the Pakistani public sphere were supporting the authoritarian regime. Since, the public discourse was not directed towards democratic ideals, empowered spaces like the Supreme Court had always consolidated military coups in the political history of Pakistan. The status of civil society as an autonomous institution has always been problematic in Pakistan. Different segments of civil society have been partners with the state. For example, "development groups which have emerged as a result of government failure in Pakistan and have become contractors in the form of NGOs in their own right, are often co-opted by institutions of the state to become the latter's 'advisors' winning lucrative contracts and getting the publicity they need to further their credentials. Human rights activists and advocacy groups too become 'partners' with other 'stakeholders', particularly government, and try to redress problems created by the very institutions of the state that they now are partnering" (Zaidi, 2008 , p. 15). Such an uncivil role of civil society should be understood in the peculiar historical context of Pakistani politics. The persistence of authoritarian rule for more than three decades in Pakistan had ushered us in a condition where the discourse on democracy was almost absent in the public sphere. The depoliticization of the public sphere is one of the outcomes of this historical development of civil society, which has, for the most part, helped authoritarian rule to sustain in the country. In short, Musharraf's autocratic regime survived because of the legitimacy it received from

the undemocratic, so called liberal civil society and the depoliticized public sphere in which contestation of political discourses was not possible.

According to deliberative theorists, public sphere is the most fundamental location that hosts deliberative practices, and it should be conducive rather than an impediment to the democratic process. The preceding events prior to lawyers' movement, which I call judicialization of politics during the authoritarian rule, initiated various discourses such as separation of powers and rule of law in the public sphere. The suspension of Chief Justice questioned the legality of the autocratic rule and gave rise to public discourse concerning the powers of military and its role in politics. As discussed in the case study chapter on Pakistan Lawyers' Movement, there are broadly two parts of the movement. In its first phase, the lawyers' movement was merely confined to lawyers and its agenda was to restore the Chief Justice. From the outset, this movement was not for the restoration of democracy but for the protection of legal community's own professional interests (Zaidi, 2008, p. 41). After the restoration of Chief Justice in July 2007, the judicial activism of the Supreme Court did not merely start delegitimizing the military regime but it also created support of the supremacy of law in the public realm. In the second phase, after the "State of Emergency"[86], the lawyers' movement got its real momentum. In its second phase, the movement became a broader social mobilization in which opposition political parties, media, journalists, students, and other civil society actors participated. As Zaidi writes:

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[86] It is a kind of martial law by another name.

"The lawyers' movement has been without question one of the broadest-based and longest-sustained in Pakistan's history. In the press and the popular imagination, it has been heralded as civil society's long-awaited 'coming of age'. Whatever can be said for this view, it should not deter us from considering the interesting challenges and questions that the movement has raised for those who wish to understand what civil society is and how it might work—or not work—on behalf of the rise and consolidation of democracy."
(Zaidi, 2008, p. 40)

The lawyers' movement produced a kind of deliberative culture that was missing in the public sphere. The legal community also realized that the supremacy of law and the prospects of political liberalization of the regime would not be possible without the support from public sphere. For this reason, they were compelled to expand the main agendas of the movement to get public support. In its second phase, the main agenda of the movement included:

(a) Independence of judiciary

(b) Rule of law

(c) Restoration of democracy

(d) Social justice (the phenomenon of 'public interest litigation' facilitated this narrative)

Pakistan lawyers' movement politicized the public sphere that paved the way for the democratization process in the country. Through lawyers' movement civil society actors started to contest discourses on military dictatorship, democracy, rule of law, separation of powers etc. The emergence of deliberative capacity that led to the democratization process was not possible if the lawyers' movement was merely confined

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to the legal community with their professional institutional interests. The motivation of civil society actors was different from that of lawyers. The mobilization of different civil society actors for the broader cause of democratization created an environment in which Musharraf was not able to sustain his authoritarian rule. Despite "huge diversity of ideological interests, including those of women activists, labor unions, students, Islamist groups, professional associations including those of doctors, leftist groups, and others" (Shafqat, 2017, pp. 16-7) civil society was able to organize around a single agenda, that is, breakdown of authoritarian rule for the restoration of democracy. Indeed, the restoration of judiciary, for civil society actors, was a means to bring about democracy in the country. Leadership within the legal community also accepted that their success was not possible without support from other civil society actors, which created a public discourse about the political alternatives in Pakistan during the authoritarian rule.

The liberalization of regime and the politicization of public sphere were both instrumental in the emergence of deliberative capacity in Pakistan. These events occurred due to the diverse policies (often contradictory) of Musharraf's autocratic rule. The first event, liberalization of the regime, helped authoritarian regime to get legitimacy, and the second event, politicization of the public sphere, created an environment in which military rule began to delegitimize itself. The emergence of deliberative capacity can be attributed to these two notions that appeared during the authoritarian rule of Musharraf. The success of Pakistan lawyers' movement lies in its ability to initiate discourses on autocratic rule, democracy, supremacy of law, and separation of powers, although it was not possible without a pro-democracy civil society and public sphere.

(iii)- Institutional Liberalism, Local Culture and Deliberation

Now, I turn to explain the dichotomy of state liberal institutions and the public sphere. Specifically, I discuss how this dichotomous framework shapes the deliberative practices in Pakistan. The role of local culture, narratives, indigenous beliefs and religious attachments are important in spelling out this relationship between state liberal institutions, local languages and deliberation. Pakistan lawyers' movement did not just work for the restoration of judiciary and democracy but also for the institutionalization of political liberalism. In other words, in order to restore judiciary and democracy, the project of political liberalization of the state institutions was inevitable. This political liberalization of the state institutions should not be confused with Musharraf's project of liberalization of the authoritarian regime. The former concerns with the principle of the separation of powers, rule of law and supremacy of constitution, whereas the latter deals with Musharraf's project of enlightened moderation that merely embraces modern values like autonomy, secularism, gender equality etc. without any reference to democracy and the rule of law. In the previous section on the "Emergence of Deliberative Capacity", I have argued about the role of civil society and public sphere in the process of democratization. Here, I extend the notion of public sphere and its relationship with institutional liberalism. In doing so, I discuss the various factors, such as culture, language, indigenous beliefs, and religious attachments, which shape the deliberative practices in Pakistan.

As discussed earlier, Dryzek's concept of deliberative system is not tied to any specification of institutional arrangements and one can use it to understand the democratic potential in the non-Western contexts, which also includes authoritarian regimes. Democratization understood in the context of deliberative capacity-building attempts to search the

democratic potential in the political system. In order to locate democratic potential in the Pakistani authoritarian context, we need to understand the distribution of deliberative capacity in the system. Deliberative system of states and societies consist of the following elements (Dryzek J. S., 2010, pp. 137-8):

1- Public space
2- Empowered space
3- Transmission
4- Accountability
5- Meta-Deliberation
6- Decisiveness

Pakistan lawyers' movement was instrumental in connecting these six elements of the deliberative system. Although lawyers' movement originated in the institution of judiciary but it became successful when it was carried out in the public sphere (Zaidi, 2008; Shafqat, 2017). In the political history of Pakistan, empowered spaces like courts have always legitimized autocratic rule. Moreover, before Pakistan lawyers' movement, there were no effective social mobilizations for the politicization of the public space during both democratic and authoritarian rules. It is due to the persistence of authoritarian rule for more than three decades in the history of Pakistan that the military has successfully managed to keep empowered spaces and public space at a considerable distance. It is beyond the scope of this thesis to explain the history of democracy in Pakistan, which is also a history of the country's military and its failures, to a larger extent. The case of Pakistan lawyers' movement shows that if public space is conducive to various deliberative practices then empowered space is compelled to bring about change in the regime. In deliberative theory, thinkers
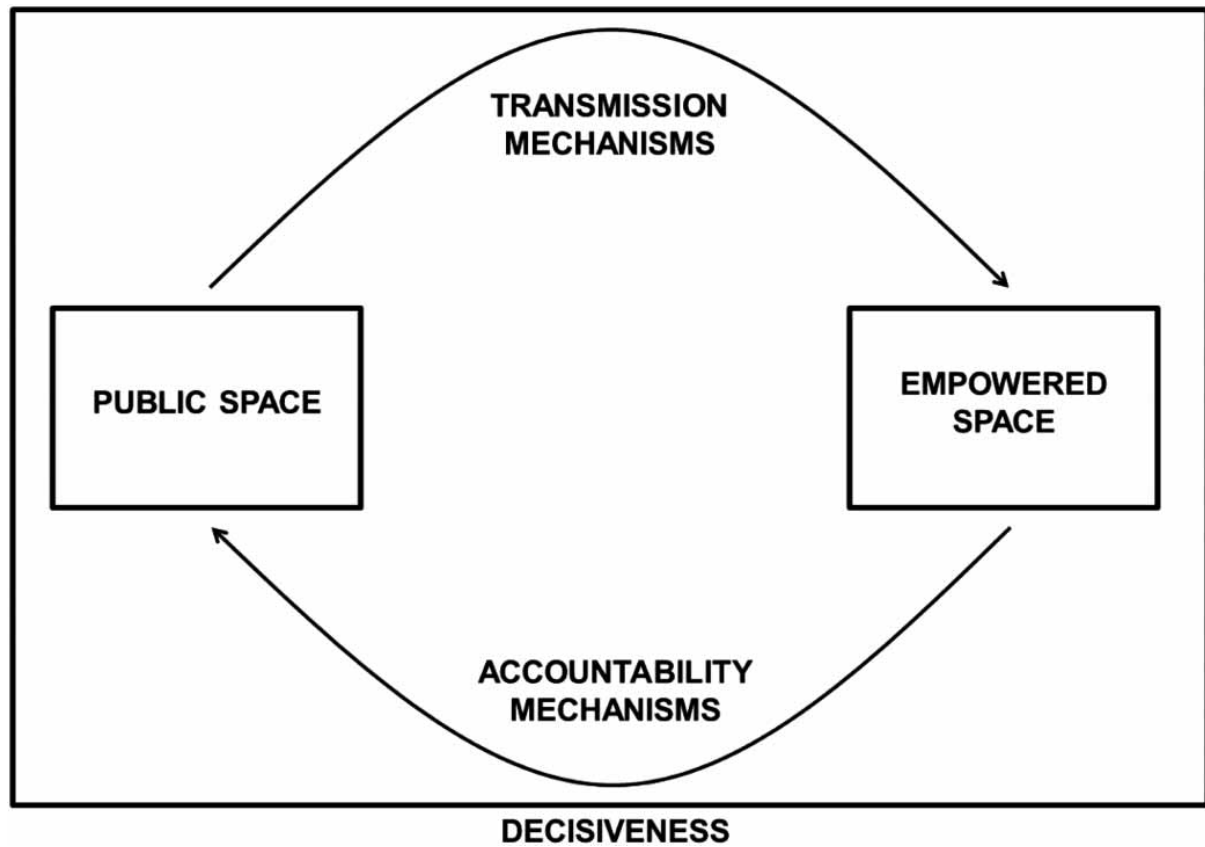
normally argue that the informal public sphere causes deliberation in the empowered spaces such as courts and legislatures[87]. The case of Pakistan lawyers' movement shows that the transmission mechanisms between the empowered space and public sphere are mutually connected and the cause of deliberation is not confined to one location. Specifically, the growing phenomenon of the judicialization of politics[88] is quite helpful to understand the influence of courts on public sphere. Although the function of superior judiciary is always structurally political[89] but the Pakistani case suggests that in order to assert its deliberative capacity, the Supreme Court needs legitimation in the public sphere. The following figure shows how different elements of the deliberative system are connected:

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[87] For example, see (Habermas, 1996); (Jane Mansbridge et al. , 2012) and (Dryzek J. S., 2009).

[88] To understand the phenomenon of the judicialization of politics in the Asian context, see (Dressel, 2012).

[89] According to Cheema, "The Supreme Court's role, like that of any apex court with constitutional and administrative law jurisdiction, has always been deeply and structurally political and will continue to be so in the future" in (Cheema, 2016, p. 447).

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TRANSMISSION
MECHANISMS

PUBLIC SPACE

EMPOWERED
SPACE

ACCOUNTABILITY
MECHANISMS

DECISIVENESS

Deliberative System[90]

Pakistan lawyers' movement enabled empowered space to connect with the public space. This very connection between the two spaces produced deliberation in the overall political system, which paved the way for the democratization of the regime. This missing connection was one of the main causes of the persistence of authoritarian rule in Pakistan. Moreover, the emergence of deliberative capacity during the autocratic rule of Musharraf strengthened the deliberation of the overall political system. The success of Pakistan lawyers' movement lies in its ability to distribute the newly emerged deliberative capacity in the

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[90] This figure is taken from (Ian O'Flynn & Nicole Curato, 2015).

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whole political system. Despite the fact that this movement was not for the restoration of democracy but for the protection of legal community's professional interests, it made transition to democracy possible because of the development of deliberative capacity in the overall political system. Lawyers' demand for institutional liberalism that could sustain the principle of the separation of powers[91] was not possible without the support from the public sphere. The politicization of the public sphere is a necessary condition for the legitimacy of institutional liberalism. Lawyers' movement is an empirical case that helps us to understand the tradeoff between deliberative capacity in the public space and the empowered space. The transition to democracy is likely to occur if the political system is disposed to democratic legitimacy.

According to Dryzek, the following factors are important in the development of the deliberative capacity in the political system (Dryzek J. S., 2009, pp. 1394-6):

1- Literacy and education
2- Shared language
3- Voting system design
4- State structures and institutions
5- Political culture

This thesis argues that the above factors that facilitate prospects of deliberative capacity in the political system also contextualize the practice of deliberation. That is to say, these factors do not merely contribute in the development of deliberative capacity but they also help

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[91] The principle of the separation powers is necessary if judiciary wants to protect their independence.

us to understand the nature of political deliberation in different historical contexts. Literacy and education are necessary in order to develop "the communicative competence of political actors and ordinary citizens" (Dryzek J. S., 2009, p. 1394). The low level of literacy in Pakistan has undermined the communicative competence of citizens. Different types of education (government vs. private) also impede the development of argumentative skills that are required to persuade in the process of political deliberation. In Pakistan, people speak a number of languages that shape their everyday life. Although, Urdu is the national language, the elite use English language to express their opinions. The separation of Bangladesh in 1971 indicates the complex and politically problematic nature of shared language in Pakistan. Various political conflicts are due to the feelings of marginalization pervasive among the linguistic groups in the country. During the lawyers' movement, different groups of Pakistani society were able to express themselves in a single language. Voting system design also shapes the nature of deliberation before, during and after the elections. In Pakistan, many people deliberately don't vote because of their disenchantment with the voting system of the country. The nature of state institutions also impact the deliberative practices in the country. Judicialization of politics during the autocratic rule of Musharraf made the Supreme Court an exemplary deliberative institution in Pakistan. However, the low level of deliberation in most of the state institutions has been a major obstruction in the consolidation of democracy in Pakistan. The case of Pakistan lawyers' movement suggests that authentic, inclusive and consequential deliberation in state institutions may increase the deliberative capacity of the whole political system. The actual practice of deliberation is intimately connected with the political culture of the country: "Deliberation may play out quite differently in different kinds of political cultures" (Dryzek J. S., 2009,

p. 1396). The cultural context is an important factor if we want to understand deliberative practices in different historical contexts. In Asian societies like Pakistan, due to hierarchical order in the society people tend to avoid raising their voice in the public realm. It means respect for authority is an integral aspect in the public domain, which can give rise to certain non-deliberative practices in the system. However, one should look into the various sites to determine the overall deliberativeness of the political system. The low deliberation in one site can be compensated through the high deliberation in other locations. In our global age people use innumerable ways to express their opinions.

The case of Pakistan lawyers' movement shows that the deliberative capacity is instrumental in democratic transition. It can be applied to all kinds of political settings, such as liberal states, authoritarian regimes, and new and old democratic states. While looking for the democratic potential in authoritarian contexts, deliberative theorists ought to pay attention to deliberative capacity and deliberative system.

Chapter Seven

Conclusions

The main objective of this thesis was to investigate the nature of political deliberation in Pakistan. The Pakistani context provides a unique case to study deliberative mechanisms in an authoritarian non-Western context. Deliberation is not merely another form of political participation. Since Aristotle deliberation has been a longstanding element of democratic theory and played an important role in its development. Dryzek's characterization of deliberative turn in democratic theory indicates the significance of deliberation in our current understanding of democracy (in contrast to other features like voting, majority rule, and free and fair elections)[92]. In the last decade of twentieth century, deliberative democracy emerged as one of the strong paradigms in normative political philosophy. Although the idea was coined by Joseph Bessete to criticize the elitist and aristocratic interpretation of the American constitution[93], historically it goes back to John Dewey and Hannah Arendt and then further back to Aristotle. In their political writings these thinkers have always emphasized on inclusive political participation that fosters public discussion, reasoning and judgments. Pakistan lawyers' movement throws new light on the normative aspects of deliberative democracy and also helps us to understand the nature of deliberation in an autocratic and non-Western context. In this thesis, I did not start with some taken for granted philosophical premise to understand the deliberative aspects of Pakistan

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[92] For Dryzek's characterization of deliberative turn in the theory of democracy, see (Dryzek J. S., 2000) and (Dryzek J. S., 1994).

[93] For details, see (Bessete, 1980)

lawyers' movement but proceeded with pragmatic reflections on what this case may mean for the role of political deliberation in an autocratic context. Moreover, given the dearth of empirical research in deliberative theory[94], this research attempted to provoke reflections on the normative principles of deliberative theory and its further development.

Most academic writings on Pakistan Lawyers' movement has focused on its legal and constitutional aspects. There are considerably fewer studies, however, on its relation to the process of democratization and the rule of law (in the form of institutional liberalism) in the country. In this research, I have not merely analyzed how this movement contributed to the process of democratization but also its role to strengthen and consolidate deliberative politics in Pakistan. Normally, deliberation is associated with democracy but they are two distinct notions (Lafont, 2006). In order to spell out the deliberative aspects of Pakistan lawyers' movement I have decoupled the term deliberation from democracy and concentrated on the former. This distinction was also helpful in order to understand the peculiar non-Western contexts of deliberation. Although in this research, I have focused on Pakistani case but my analysis should be understood in relation to comparative political philosophy, a style of political theorizing that elaborates significant concepts that are attentive to contexts, specifically non-Western. This style of political theorizing holds the potential to make comparisons across different cultures and traditions. In what follows, I will discuss main conclusions one can draw from this thesis:

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[94] The role of empirical research in deliberative theory has been instrumental in recasting its concept over the last two decades. However, there are only few studies in which thinkers have analyzed the normative dimensions of deliberative theory on the basis of social movements. See (Porta, 2013)

1- Internal Skepticism of Deliberative Theorists: Ignorance of non-Western Contexts

Due to the Eurocentric biased in delibearive theory, theorists have ignored the non-Western contexts and limited the scope of deliberation to advanced liberal democracies in the West. Such an attitude was an impediment in the development of deliberative theory both at normative and explanatory level. As Saas writes:

"In the scheme of history, most political deliberation has taken place outside the modern West. But the study of deliberation, however extensive it has become, has largely ignored this wider world. Examining how deliberation manifests across different societies has considerable promise for both explanatory and normative political theory"

(Sass, 2018, p. 1)

This passage shows the persistence of internal skepticism among deliberative theorists about the ignorance of non-Western contexts. However, there are few studies on the prospects of deliberation in the non-Western contexts[95], internal skepticism among deliberative theorists about the ignorance of non-Western contexts still persists. This is because these studies do not expose the Eurocentric presumptions of normative concepts in deliberative theory which guide the actual

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[95] For the East Asian context, see (He, 2006); (He & Warren, 2011); (Beibei Tang, Tetsuki Tamura, and Baogang He, 2018). For the Indian context, see (V. Rao and P. Sanyal, 2010); (Ramya Parthasarathy and Vijayendra Rao, 2018). Moreover, these studies of deliberation in the non-Western contexts are relatively new in deliberative research, and they need further refinement at both normative and empirical level. This thesis, in a larger context, contributes to this new trend in deliberative research.

practice of deliberation in the real world politics. In other words, rather than applying deliberative theory to non-Western contexts and verify/falsify its claims, which is the case in most of the studies outside the West[96], I have insisted on studying concrete cases in which deliberation takes place at a local level and then evaluate the normative ideals of deliberative theory in light of those non-Western contexts. In this thesis, I have discussed various reasons which impede the further development of deliberative theory. The ideal of deliberation presumes certain core values - such as rational discussion, critical judgements, open discussion – values embedded in the Western style modernity, it considerably limits the scope and application of deliberative theory. According to Cooke, the deliberative model of democracy is essentially an embodiment of the normative concepts of knowledge, self and good life stemming from the Western modernity. These normative concepts are not a matter of choice as they constitute the very essence of European self-understanding, thereby, can't be disregarded in the political process[97]. Similarly, Habermas' theory of communicative action, which provides the basic theoretical framework to deliberative theorists, is also based upon the fundamental assumptions of Enlightenment. Delanty criticizes Habermas' theory for being Eurocentric and occidental in its core. He argues that Habermasian

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[96] For example, Fishkin's concept of deliberative Polling has been used in many non-Western countries to evaluate preference change in the deliberative process. But such a technique to study deliberation in the non-Western countries merely consolidates already existing normative dimensions of deliberative theory and does not help us to rethink the normative ideals in the light of different historical contexts. For the limitation of 'deliberative polling', see (Gleason, 2011) and (V. Price, J. Cappella and L. Nir, 2002).

[97] For details, see the last section of Cooke's article "Five Arguments for Deliberative Democracy". She claims that the strongest justification for the deliberative model of democracy springs from its commitment to modern values like rationality, autonomy, self-determination - values which constitute self-understanding in the West. See (Cooke, 2000)

philosophy is a kind of eurocentrism and his concept of morality "an evolutionary theory culminating in the discourse of occidental rationalism and thus fails to see that universal morality can be articulated in more than one cultural form and in more than one logic of development" (Delanty, 1997, p. 42). For Delanty, Habermas holds onto a radical distinction between discourse and cultural attachments. On the basis of such a radical distinction, Habermas believes that people can get rid of identity and cultural peculiarities when they enter public communication. In the same vein, Gambetta's distinction between analytical and indexical knowledge also reveals the Eurocentric presumptions of deliberative model of democracy. Gambetta claims that the norms of deliberation are not universal in their scope: "Attitudes toward conversation do not originate from democratic arrangements even though they can be shaped and controlled by them. They are likely to be by-products of a preexisting culture and may well be antithetical to deliberation" (Gambetta, 1998, p. 20).

In order to avoid such Eurocentric biased in deliberative research, I have argued that we need to evaluate the ideals of deliberation in various context. The presence of multiple varieties of political discourse across different traditions enables us to examine the causes which motivate people to deliberate. The diversity of social-political conditions also changes the nature, goal, and consequences of deliberation. In some contexts, for example in east Asian, it helps autocratic rule to sustain, and in some other contexts, like the case of Pakistan lawyers' movement suggests, it paves the way to the process of democratization. Another recommendation that I propose in this conclusion is that deliberative theorists should continue to deliberate, not only on the purpose, goals and effects of deliberation, but also on the normative assumptions of deliberation. Since the project of deliberative democracy is deeply rooted in the critical theory tradition,

that's why, it should be a transformative project directed towards emancipation, even from its own Eurocentric axioms. The critical theory aspect of deliberative theory, I believe, would help it to expand its scope and reach at a global level.

2- Deliberation, Lawyers' Movement and Politicization of Public Sphere

In deliberative theory, the importance of public sphere cannot be ignored in any context. Right from Habermasian philosophy to current debates on systemic approach, public sphere remains one of the main locations of deliberative practices. Civil society is also another significant aspect of public sphere. A vital civil society is considered an indispensable element for the constitution of the public sphere that hosts deliberative practices and transmit them to the formal state institutions such as legislatures and courts. In Habermas' two track model of deliberation, public sphere is an essential part of deliberative democracy because it provides the political space for the formation of collective will, which influences decision-making process in the formal structures of the state. In the Western political philosophy, both civil society and public sphere are instrumental in the democratic government. However, if we look at the political history of Pakistan, specifically its role during the military regime of Musharraf, it legitimized the autocratic setup. The public sphere in Pakistan was not conducive to the democracy[98]. Since, the concepts of civil society and public sphere are historical concepts stemming from the Western political philosophy, therefore, they change their meaning in the non-

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[98] For detail arguments, see chapter number six of this thesis.

Western contexts. Moreover, when it comes to Muslim countries the situation becomes more complicated. Indigenous culture and Islamic beliefs influence the fundamental basis of civil society in the non-Western world in general and the Muslim world in particular.

Deliberative theorists argue that public sphere is one of major locations for deliberation, which means, the possibility of contestation of political discourse is always integral to the public sphere. In contrast, I have argued that the politicization of public sphere creates the environment in which citizens are able to contest political discourses and alternatives. A deliberative reading of Pakistan lawyers' movement suggests that, the one I have proposed in this thesis, this social mobilization was able to bring about democracy[99] because it totally changed the historical role of Pakistani civil society. Indeed, this movement politicized the public sphere of Pakistan by the help of judicial activism. The phenomenon of judicialization of politics is another neglected area in the political philosophy of deliberative democracy. In countries like Pakistan and India, courts have been instrumental in politicizing the public sphere through various means, for example PIL[100] and judicial review. This research suggests that the idea of public sphere is a historical concept[101] and it is an assumption to think its conduciveness to democracy, which is at least true in a variety of non-Western contexts[102]. The contestation of political

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[99] I have also pointed out that Pakistan lawyers' movement was not about democracy in its initial phase, rather, it was about the protection of legal community's interests. For a detail argument, see chapter six of this thesis, specifically the section entitled "Civil Society and Public Sphere". Also see (Zaidi, 2008).

[100] Public Interest Litigation. See, chapter five and six of this thesis. Also see, (Mendes, 2013) and (Dressel, 2012).

[101]

[102] It is in this context, some theorists argue for the new conceptual categories to understand the role of deliberation in the non-Western contexts. For example, He

discourses in the public sphere can also be understood in cultural terms. In Asian contexts, specifically Pakistan, people avoid open discussion because of the hierarchical nature of social order. Open contestation of political discourse is more likely to occur in those contexts in which public sphere is politicized. Deliberative theorists, despite knowing the essential role of public sphere in the act of deliberation, have ignored this aspect. It means, deliberation and protests (moments of contentious and disruptive politics) are not antithetical as some scholars believe[103]. The standard literature, which considers protests as an impediment to deliberative democracy, limits human communication to rational discussion, persuasion, mutual justification, thereby ignores the other mechanisms that can induce reflection, such as rhetoric, greeting, protests, demonstrations, social movements etc. Lawyers' movement produced a kind of deliberative culture that was missing in the public sphere. The legal community also realized that the supremacy of law and the prospects of the political liberalization of the regime would not be possible without the support from public sphere. This research suggests that if we expand the concept of communicative action then we can realize the significance of the other forms of speech acts in the deliberative process. Moreover, when searching the deliberative potential in the non-Western contexts, deliberative theorists should not assume the democratic nature of the public sphere. Communicative acts (movements, protests, demonstrations, even religious argumentations) which politicized the public sphere are constitutive of various practices of deliberation.

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talks about "authoritarian deliberation" in the Chinese context. For details, see (He & Warren, 2011) and (He, 2006).

[103] Protests in Brazil and Turkey (Gezi Park; Jornadas de Junho) in 2013 also consolidate this point. For example, see (Ricardo Fabrino Mendonçaa and Selen A. Ercanb, 2015).

3- Deliberative Capacity, Deliberative System and Democratization

The political upheavals responsible for the collapse of authoritarian rule in Pakistan are important in order to explain democratic transition in the country. The transition in Pakistan from authoritarian rule to democratic government can be understood form both 'top down' and 'bottom up' perspective. Most democratization studies focus on the elites and social movements within the established democracies in the West. Contrary to this trend, this thesis has focused on democratization from below in a non-Western and non-democratic context. Lawyers' movement helps us to understand the process of democratization in an authoritarian context. The mainstream research on democratization has ignored the role of both deliberation and social movements, which I have argued merits academic attention. The role of social movements and deliberative practices in authoritarian contexts was an important aspect in order to understand the process of democratization in the Pakistani non-democratic context. Democracy understood in deliberative terms provides a unique perspective to study the transition from authoritarian rule to the democratic. In this thesis, I have stressed on the concept of deliberative capacity, which Dryzek introduced in the larger context of systemic approach, to understand the role of Pakistan lawyers' movement in the process of democratization. The concept of deliberative capacity is defined in the context of political system. In Dryzek's account, there is no institutional requirement for this capacity to exist in the political system. And a wide variety of political systems (liberal, electoral, authoritarian) can be explained through this perspective of deliberative capacity. Moreover, I have also discussed the significance of systemic approach to understand the democratic potential in an authoritarian non-western context. Since, this strand is

not tied to any institutional arrangements of liberal states, that's why, one can use it to understand the process of democratization in a wide variety of historical contexts. However, Dryzek does not discuss the factors which lead to the emergence of deliberative capacity in the political system. I have argued that the emergence of this capacity can occur in different context. Liberalization policies under autocratic rule helped this capacity to emerge in the Pakistani context. Deliberative theorists should also consider the factors which help deliberative capacity to emerge in the first place, especially if they want to understand the process of democratization in the non-Western contexts. The case of Pakistan lawyers' movement shows that if public space is conducive to various deliberative practices than empowered space is compelled to bring about change in the regime. In deliberative theory, thinkers normally argue that the informal public sphere causes deliberation in the empowered spaces such as courts and legislatures [104]. The case of Pakistan lawyers' movement shows that the transmission mechanisms between the empowered space and public sphere are mutually connected and the cause of deliberation is not confined to one location. The success of Pakistan lawyers' movement lies in its ability to effectively distribute the newly emerged deliberative capacity in the whole political system. Despite the fact that this movement was not for the restoration of democracy but for the protection of legal community's professional interests, it made transition to democracy possible because of the development of deliberative capacity in the overall political system. This thesis argues that deliberative capacity is instrumental in the democratic transition. It can be applied to all kinds of political setting, such as liberal states,

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[104] For example, see (Habermas, 1996); (Jane Mansbridge et al. , 2012) and (Dryzek J. S., 2009)

authoritarian regimes, and new and old democratic states. While looking for the democratic potential in authoritarian contexts, deliberative theorists ought to pay attention to deliberative capacity and deliberative system.

4- Comparative Political Philosophy and Deliberative Theory

The recent developments in the deliberative theory, more specifically the systemic turn, provide an opportunity to debunk Eurocentrism presumed in the normative framework of deliberative theory. Comparative political philosophy, by its very essence, is a deliberative exercise in which thinkers develop a dialogical approach to understand the non-Western world beyond the confines of 'Eurocentric Orientalism' and 'anti- European Occidentalism'. Such advancements in deliberative theory are similar to some of the claims made by comparative political philosophers. Therefore, the neglect of comparative political philosophy among deliberative theorists comes at the cost of inhibiting further development of deliberative theory. On the other hand, comparative political philosophers can also learn from the recent advancements in deliberative theory to understand the role of culture, indigenous beliefs, religion, narratives, and rhetoric in the formation of political practices (or peculiar types of political deliberation) in the non-Western contexts. Both strands, deliberative theory[105] and comparative political philosophy, are stemming from the Western academia to engage with the non-Western world. However, what is still missing, is the internal dialogue between the deliberative

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[105] Here I am referring to the recent advancements after the systemic turn. See chapter four of this thesis.

theorists and comparative political philosophy. And, it is precisely in this context, this thesis attempted to bridge that missing link. The importance of such an intellectual task is unavoidable in our global political predicament. As Jensen Saas writes:

"To date, deliberative democrats have seldom engaged with the burgeoning field of comparative political theory. But the need to do so, in a globalizing world, could hardly be more clear. Meaningful exchange across cultural traditions is predicated on deliberation, so identifying forms that are widely desirable and effective is a pressing desideratum for normative theory".
(Sass, 2018, p. 5)

All in all, the major purpose of deliberation is to induce reflection. If we want to enhance the reach and application of deliberative theory at the global level, I believe the internal dialogue between these two fields is indispensable. It is precisely in this context, this thesis has attempted to interpret Pakistan Lawyers' Movement through the lens of deliberative theory. Such an intellectual endeavor holds a possibility for us to comprehend our global political predicament in a more plausible manner.

Bibliography

Amy Gutmann And Dennis Thompson. (1996). *Democracy And Disagreement.* Cambridge : Harvard University Press .

Reema Omer And Sheila Varadan. (2013). *Authority Without Accountability: The Search For Justice In Pakistan.* Geneva: International Commission Of Jurists .

H.H. Gerth And C. Wright Mills (Translated And Edited).   (1946). *Max Weber: Essays In Sociology.* Oxford University Press.

Ahmed, Z. S. (2010 , June). Fighting For The Rule Of Law: Civil Resistance And The Lawyers' Movement In Pakistan. *Democratization, 17*(3), 492–513.

Andre Bächtiger, John S. Dryzek, Jane Mansbridge, And Mark Warren. (2018). Deliberative Democracy: An Introduction. In J. S. Andre Bächtiger (Ed.), *The Oxford Handbook Of Deliberative Democracy* . Oxford University Press . Doi:10.1093/Oxfordhb/9780198747369.013.50

Anthony, A. (2007, March). Musharraf Vows To Empower Women In Pakistan. Reuters. Retrieved From Https://Www.Reuters.Com/Article/Us-Pakistan-Women/Musharraf-Vows-To-Empower-Women-In-Pakistan-Idusisl23863720070308

Azeem, M. (2017). *Law, State And Inequality In Pakistan: Explaining The Rise Of The Judiciary.* Springer.

Azmat Abbas And Saima Jasam. (2009). A Ray Of Hope: The Case Of Lawyers' Movement In Pakistan. In H. B. (Ed.), *Pakistan –*

Reality, Denial And The Complexity Of Its State (Pp. 140-170). Einrich-Böll-Stiftung.

Bashir, H. (2014). *Europe And The Eastern Other: Comparative Perspectives On Politics, Religion And Culture Before The Enlightenment* . Lexington Books.

Bell, D. A. (2006). Deliberative Democracy With Chinese Characteristics: A Comment On Baogang He's Research. In E. J. (Eds.), *The Search For Deliberative Democracy In China* (Pp. 149-160). PALGRAVE MACMILLAN.

Benhabib, S. (1988). Judgement And The Moral Foundations Of Politics In Arendt's Thought . *Political Theory, 16*(1).

Benhabib, S. (1996). Introduction: The Democratic Moment And The Problem Of Difference . In S. B. (Eds.), *Democracy And Difference: Contesting The Boundaries Of The Political* (Pp. 3-18). Princeton University Press.

Benhabib, S. (1996). Toward A Deliberative Model Of Democratic Legitimacy . In S. B. (Ed.), *Democracy And Difference: Contesting The Boundaries Of The Political* (Pp. 67–94). Princeton University Press.

Benhabib, S. (2002). *THE CLAIMS OF CULTURE: EQUALITY AND D I V ERSITY IN THE GLOBAL ERA*. Princeton University Press.

Bohman, J. (1998). The Coming Of Age Of Deliberative Democracy. *The Journal Of Political Philosophy, 6*(4), 400-425.

Boniolo, G. (2012). *The Art Of Deliberating: Democracy, Deliberation And The Life Sciences Between History And Theory.* Springer.

Chambers, S. (2000). A Culture Of Publicity. In S. C. Costain (Ed.), *Deliberation, Democracy, And The Media.* Lanham: Rowman & Littlefield.

Chambers, S. (2003). Deliberative Democratic Theory. *Annual Review Of Political Science, 6*, 307–326.

Cheema, M. H. (2016). The"Chaudhrycourt": Deconstructing The"Judicializationofpolitics" In Pakistan. *Washington International Law Journal, 25*(3), 447-487.

Cohen, J. (1996). Procedure And Substance In Deliberative Democracy. In S. B. (Ed.), *Democracy And Difference* (Pp. 95-119). Princeton, NJ: Princeton University Press.

Cohen, J. (1996). Procedure And Substance In Deliberative Democracy . In S. B. (Ed.), *Democracy And Difference: Contesting The Boundaries Of The Political* (Pp. 95-119). Princeton University Press .

Cohen, J. (1997). Deliberation And Democratic Legitimacy . In J. B. (Eds.), *Deliberative Democracy: Essays On Reason And Politics* (Pp. 67-92). The MIT Press.

Cohen, J. A. (1989). Deliberation And Democratic Legitimacy. In A. H. (Eds.), *The Good Polity: Normative Analysis Of The State.* Oxford: Blackwell.

Cooke, M. (2000). Five Arguments For Deliberative Democracy. *Political Studies, 48*, 947-969.

Dallmayr, F. (1997). Introduction: Toward A Comparative Political Theory. . 59:3:421–27. *Rev. Polit., 59*, 421–27.

Dallmayr, F. (2002). *Dialogue Among Civilizations: Some Exemplary Voices.* New York: Palgrave Macmillan .

Dallmayr, F. (2004, June). Beyond Monologue: For A Comparative Political Theory. *Perspectives On Politics, 2*(2), 249-257.

David Owen And Graham Smith. (2015). Survey Article: Deliberation, Democracy, And The Systemic Turn. *The Journal Of Political Philosophy*.

Delanty, G. (1997). Habermas And Occidental Rationalism: The Politics Of Identity, Social Learning, And The Cultural Limits Of Moral Universalism. *Sociological Theory, 15*, 30-59.

Dieter Misgeld And Graeme Nicholson (Eds.). (1992). *Hans-Georg Gadamer On Education, Poetry And History, .* State University Of New York Press.

Dryzek, J. S. (1990). *Discursive Democracy: Politics, Policy, And Political Science.* Cambridge University Press.

Dryzek, J. S. (2006). Deliberative Democracy In Different Places. In E. J. (Eds.), *THE SEARCH FOR DELIBERATIVE DEMOCRACY IN CHINA* (Pp. 23-36). New York: PALGRAVE MACMILLAN.

Dryzek, J. S. (2009, November). Democratization As Deliberative Capacity Building. *Comparative Political Studies, 42*(11), 1379-1402 .

Dryzek, J. S. (2010). *Foundations And Frontiers Of Deliberative Governance.* Oxford: Oxford University Press .

Dryzek, J. S. (2011). Global Democratization: Soup, Society, Or System? *Ethics & International Affairs, 25*(2), 211-234.

Euben, R. (1999). *Enemy In The Mirror.* Princeton NJ: Princeton University Press .

Euben, R. (2006). *Journeys To The Other Shore: Muslim And Western Travelers In Search Of Knowledge* . Princeton NJ: Princeton University Press .

Ferejohn, J. (2000). Instituting Deliberative Democracy. *Nomos, 42*, 75-104.

Forst, R. (2001, December). The Rule Of Reasons: Three Models Of Deliberative Democracy. *Ratio Juris, 14*(4), 345-378.

Fukuyama, F. (1992). *The End Of History And The Last Man.* New York: Maxwell Macmillan.

Gadamer, H.-G. (1989). *Truth And Method* . (J. W. Marshall, Trans.) New York: Crossroad.

Gadamer, H.-G. (2004). *TRUTH AND METHOD* (Second Ed.). (B. J. Mars, Trans.) Continuum.

Gambetta, D. (1998). "Claro!": An Essay On Discursive Machismo. In J. E. (Ed.), *Deliberative Democracy* (Pp. 19-43). Cambridge, UK: Cambridge University Press.

Ghias, S. A. (2012). Miscarriage Of Chief Justice. In L. K. Terence C. Halliday, *Fates Of Political Liberalism In The British Post-Colony: The Politics Of The Legal Complex* (Pp. 340-377). Cambridge University Press.

Giddens, A. (1990). *The Consequences Of Modernity.* Cambridge: Polity Press.

Goodin, R. E. (2000). Democratic Deliberation Within. *Philosophy & Public Affairs , Vol. 29, No. 1, 29*(1), 81-109.

Goodin, R. E. (2005). Sequencing Deliberative Moments. *Acta Politica, 40*, 182-196.

Goodin, R. E. (2006). Talking Politics: Perils And Promise. *European Journal Of Political Research, 45*, 235–261.

Grugel, J. (2002). *Democratization: A Critical Introduction.* PALGRAVE.

Gunaratne, S. (2006). Public Sphere And Communicative Rationality: Interrogating Habermas's Eurocentrism. *Journalism And Mass Communication Monographs, 8*, 93-156.

Habermas, J. (1985). *The Theory Of Communicative Action- Lifeworld And System: A Critique Of Functionalist Reason* (Vol. 2). Beacon Press.

Habermas, J. (1989). *Structural Transformation Of The Public Sphere: An Inquiry Into A Category Of Bourgeois Society.* Cambridge, MA: MIT Press.

Habermas, J. (1989). Morality And Ethical Life: Does Hegel's Critique Of Kant Apply To Discourse Ethics? *Northwestern University Law Review 83*.

Habermas, J. (1994). Three Normative Models Of Democracy. *Constellations, 1*(1).

Habermas, J. (1996). *Between Facts And Norms: Contributions To A Discourse Theory Of Law And Democracy.* Cambridge, MA: The MIT Press.

Habermas, J. (1999). Introduction. *Ratio Juris, 12*(4), 329-335 .

Habermas, J. (2001). *The Postnational Constellation: Political Essays, Trans. And Ed.* (M. Pensky, Ed., & M. Pensky, Trans.) Cambridge, Mass: MIT Press.

Habermas, J. (2005). Concluding Comments On Empirical Approaches To Deliberative Politics. *Acta Politica, 40*, 384–392.

Hansen, K. M. (2004). *Deliberative Democracy And Opinion Formation.* University Press Of Southern Denmark.

He, B. (2006). Participatory And Deliberative Institutions In China. In E. J. (Eds.), *The Search For Deliberative Democracy In China* (Pp. 175-96). New York: PALGRAVE MACMILLAN.

Hendriks, C. M. (2006). Integrated Deliberation: Reconciling Civil Society's Dual Role In Deliberative Democracy. *Political Studies, 54*, 486-508.

Huntington, S. (1991). *The Third Wave: Democratization In The Late Twentieth Century.* Norman: University Of Oklahoma Press.

Huntington, S. (1996). *The Clash Of Civilizations And The Remaking Of World Order.* Newyork: Simon & Schuster.

Huntington, S. P. (1991). *The Third Wave: Democratization In The Late Twentieth Century.* University Of Oklahoma Press.

Ian O'Flynn & Nicole Curato. (2015). Deliberative Democratization: A Framework For Systemic Analysis. *Policy Studies, 36*(3), 298-313.

J. Elklit & A. Reynolds. (2002). The Impact Of Election Administration On The Legitimacy Of Emerging Democracies: A New Comparative Politics Research Agenda. *Commonwealth & Comparative Politics, 40*(2), 86-119.

James Bohman And Henry S. Richardson. (2009). Liberalism, Deliberative Democracy, And "Reasons That All Can Accept". *The Journal Of Political Philosophy, 17*(3), 253–274.

James Fishkin And Bruce Ackerman. (2004). *Deliberation Day.* Yale University Press.

James S. Fishkin & Jane Mansbridge. (2017). Introduction. *Daedalus, 46*(3), 6-13.

James S. Fishkin. (2009). *When The People Speak: Deliberative Democracy And Public Consultation.* Oxford, NY: Oxford University Press.

Jane Mansbridge Et Al. . (2012). A Systemic Approach To Deliberative Democracy. In J. P. Edited, *Deliberative Systems: Deliberative Democracy At The Large Scale* (Pp. 1-26). Cambridge University Press.

Jane Mansbridge; James Bohman; Simone Chambers; Thomas Christiano; Archon Fung; John Parkinson; Dennis F. Thompson & Mark E. Warren. (2012). A Systemic Approach To Deliberative Democracy. In J. P. (Eds.), *Deliberative Systems: Deliberative Democracy At The Large Scale* (Pp. 1-26). Cambridge University Press.

Jensen Sass And John S. Dryzek. (2014). Deliberative Cultures. *Political Theory, 42*(1), 3 –25 .

Jørgen Møller And Svend-Erik Skaaning. (2013). *Democracy And Democratization In Comparative Perspective: Conceptions, Conjunctures, Causes, And Consequences.* Routledge.

Kalhan, A. (2013, Januray). "Gray Zone" Constitutionalism And The Dilemma Of Judicial Independence In Pakistan. *Vanderbilt Journal Of Transnational Law, 46*(1).

Kant, I. (1998). *The Critique Of Pure Reason / Edited [And Translated] By Paul Guyer, Allen W Wood.* Cambridge University Press.

Keohane, R. O. (2006). Accountability In World Politics:. *Scandinavian Political Studies, 29.*

Lafont, C. (2006). Is The Ideal Of A Deliberative Democracy Coherent? . In J. L. Samantha Besson, *Deliberative Democracy And Its Discontents* (Pp. 3-25). Ashgate Publishing Limited .

Landwehr, C. (2010). Discourse And Coordination: Modes Of Interaction And Their Roles In Political Decision-Making. *Journal Of Political Philosophy, 18.*

Linz, J. And A. Stepan. (1996). *Problems Of Democratic Transition And Consolidation: South Europe, South America, And Post-Communist Europe.* Baltimore: Johns Hopkins University Press.

Lipset, S. M. (1959, March). Some Social Requisites Of Democracy: Economic Development And Political Legitimacy. *The American Political Science Review, 53*(1), 69-105.

Lyotard, J.-F. (1989). *The Postmodern Condition: A Report On Knowledge.* Minneapolis: University Of Minnesota Press.

Mansbridge, J. (1999). Everyday Talk In Deliberative Systems. In S. M. (Ed.), *Deliberative Politics: Essays On Democracy And Disagreement* (Pp. 211–239). New York: Oxford University Press.

Mansbridge, J., Bohman, J., Chambers, S., Estlund, D., Føllesdal, A., Fung, A., . . . Martí, J. (2010). The Place Of Self-Interest And The Role Of Power In Deliberative Democracy. *Journal Of Political Philosophy*.

Melissa S. Williams And Mark E. Warren. (2014). A Democratic Case For Comparative Political Theory. *Political Theory, 42*(1), 26 – 57.

Mendes, C. H. (2013). *Constitutional Courts And Deliberative Democracy.* Oxford University Press.

Moore, B. (1966). *Social Origins Of Democracy And Dictatorship: Lord And Peasant In The Making Of The Modern World.* Beacon Press.

Mouffe, C. (2000). *Deliberative Democracy Or Agonistic Pluralism.* Retrieved From Reihe Politikwissenschaft, Institut Für Höhere Studien (IHS).

Musharraf, P. (2004, May). A Plea For Enlightened Moderation. Washington Post. Retrieved From Http:// Www.Washingtonpost.Com/Wp-Dyn/Articles/A5081-2004May31.Html

Nanz, P. (2006). *Europolis: Constitutional Patriotism Beyond The Nation State* . Manchester University Press.

Nasr, V. (2004). Military Rule, Islamism, And Democracy In Pakistan. *Middle East Journal, 58*(2), 195-209.

Neblo, M. A. (2007). Family Disputes: Diversity In Defining And Measuring Deliberation. *Swiss Political Science Review, 13*(4), 527-557.

Neblo, M. A. (2015). *Deliberative Democracy Between Theory And Practice* . Cambridge University Press .

Nicole Curato And Jürg Steiner . (2018). Deliberative Democracy And Comparative Democratization Studies. In J. S. Andre Bächtiger, *The Oxford Handbook Of Deliberative Democracy* . Oxford University Press .

O'Donnell, Guillermo, Philippe Schmitter & Laurence Whitehead (Eds.). (1986). *Transitions From Authoritarian Rule: Tentative Conclusions About Uncertain Democracies.* Baltimore: Johns Hopkins University Press.

Parkinson, J. (2004). Why Deliberate? The Encounter Between Deliberation And New Public Managers. *Public Administration, 82*(2), 377–395.

Parkinson, J. (2006). *Deliberating In The Real World: Problems Of Legitimacy In Deliberative Democracy.* Oxford University Press.

Parkinson, J. (2018). Deliberative Systems. In J. S. Andre Bächtiger, *The Oxford Handbook Of Deliberative Democracy.* Oxford University Press.

Pellizzoni, L. (2001, March). The Myth Of The Best Argument: Power, Deliberation And Reason. *British Journal Of Sociology, 52*(1), 59-86.

Porta, D. D. (2013). *Can Democracy Be Saved? Participation, Deliberation And Social Movements.* Cambridge: Polity Press.

Porta, D. D. (2013). *Can Democracy Be Saved? Participation, Deliberation And Social Movements.* Cambridge: Polity Press.

Rawls, J. (2005). *Political Liberalism (Expanded Edition).* Columbia University Press .

Rawls, J. (1999). *The Law Of Peoples: The Idea Of Public Reason Revisited.* Harvard University Press.

Rosenberg, S. (2006). Human Nature, Communication, And Culture: Rethinking Democratic Deliberation In China And The West. In E. J. (Eds.), *THE SEARCH FOR DELIBERATIVE DEMOCRACY IN CHINA* (Pp. 77-112). NEW YORK: PALGRAVE MACMILLAN.

Rostbøl, C. F. (2008). *Deliberative Freedom: Deliberative Democracy As Critical Theory.* Albany: State University Of New York Press.

Rostow, W. (1960). *The Stages Of Economic Growth: A Non-Communist Manifesto.* Cambridge: Cambridge University Press.

Rueschemeyer, D., E. Stephens And J. Stephens. (1992). *Capitalist Development And Democracy.* Cambridge University Press: Cambridge.

Rustow, D. (1970). Transitions To Democracy: Toward A Dynamic Model. *Comparative Politics, 2*(3), 337–363.

Said, E. (1978). *Orientalism .* New York: Vintage .

Sass, J. (2018). Deliberative Ideals Across Diverse Cultures. In J. S. Andre Bächtiger, *The Oxford Handbook Of Deliberative Democracy.* Oxford University Press. Doi:: 10.1093/Oxfordhb/9780198747369.013.2

Sass, J. (2018). Deliberative Ideals Across Diverse Cultures . In J. S. Andre Bächtiger, *The Oxford Handbook Of Deliberative Democracy.* Oxford University Press.

Schrag, C. O. (2009). Comparative Philosophy And The Politics Of Otherness. In J. Y. Park (Ed.), *Comparative Political Theory And Cross-Cultural Philosophy: Essays In Honor Of Hwa Yol Jung* (Pp. 75-82). LEXINGTON BOOKS.

Selen A Ercan; Carolyn M Hendriks; John Boswell. (2017). Studying Public Deliberation After The Systemic Turn: The Crucial Role For Interpretive Research. *Policy & Politics, 45*(2), 195–212.

Selen A. Ercan & John S. Dryzek. (2015, September). The Reach Of Deliberative Democracy. *Policy Studies, 36*(3), 241-248.

Shafqat, S. (2017). Civil Society And The Lawyers' Movement Of Pakistan. *Law & Social Inquiry.*

Steiner, J. (2012). *The Foundations Of Deliberative Democracy: Empirical Research And Normative Implications.* Cambridge University Press.

Steiner, J. (2012). *The Foundations Of Deliberative Democracy: Empirical Research And Normative Implications.* Cambridge University Press.

Stephen Elstub, Selen Ercan, And Ricardo Fabrino Mendonça. (2016). The Fourth Generation Of Deliberative Democracy. *Critical Policy Studies, 10*(2), 139–151.

Testa, I. (2012). The Respect Fallacy: Limits Of Respect In Public Dialo. In L. S. Christian Kock, *Rhetorical Citizenship And*

Public Deliberation (Pp. 69-85). University Park, Pennsylvania: Pennsylvania State University Press.

Thompson Dennis, Gutmann Amy. (1990). Moral Conflict And Political Consensus. *Ethics, 101*(1), 64-88.

Thompson, D. F. (2008). Deliberative Democratic Theory And Empirical Political Science. *The Annual Review Of Political Science 11*.

Thompson, D. F. (2008). Deliberative Democratic Theory And Empirical Political Science. *Annual Review Of Political Science, 11*, 497–520.

Tilly, C. (2004). *Social Movements: 1768–2004.* Paradigm.

Vacano, D. V. (2015). The Scope Of Comparative Political Theory. *The Annual Review Of Political Science, 18*, 465–80. Doi:10.1146/Annurev-Polisci-071113-044647

Young, I. M. (1996). Communication And The Other: Beyond Deliberative Democracy. In S. B. (Eds.), *Democracy And Difference: Contesting The Boundaries Of The Political.* Princeton University Press.

Zaidi, S. A. (2008). *The Political Economy Of Military Rule In Pakistan: The Musharraf Regime.* ISAS Working Paper (NUS).

Zaidi, S. A. (2008, October). Pakistan After Musharraf: An Emerging Civil Society? *Journal Of Democracy, 19*(4), 38-40.