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Deliberative Democracy and the Politics of Reason

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CHAPTER ONE: DELIBERATIVE DEMOCRACY THE POLITICS OF REASON

The 20th century might very well be remembered as the time in history where one of the oldest circles of political theory was finally squared: how to combine democratic politics and rationality. And this would be a remarkable achievement, indeed. For democracy has been regarded, ever since the times of Plato and Aristotle, as incompatible with a rational and just rule. For Plato, rationality and order were exclusive of the higher regime that he called aristocracy—the one in which the wisest and better ruled. For Aristotle (always the realist), justice and order might never be achieved, even in an aristocracy, but stability depended of the existence of a republic, or polity.[1] For both, democracy, the rule of the *demos*, or mass, was doomed to chaos, demagoguery, and even descent into tyranny.

Mistrust towards democracy was almost universal until well into the 19th century, and conformed the political common sense of men like Burke, Kant, or the writers of the American constitution. It is striking, however, how in a relatively short period of time—a century and a half to two centuries—most people have become convinced that not only is democratic politics compatible with rationality, but it is in fact the *only* rational form of rule. Democracy and rationality are now seem as mutually reinforcing. Only a democratic regime, it is often said, can be a rational and just one. The enmeshing of rationality and

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[1] It must be noted, however, that for Aristotle the polity included an element of democracy: "[s]imply speaking, polity is a mixture of oligarchy and democracy." Aristotle, <u>Politics</u>. Carnes Lord Translation.

the rule of the demos does not strike any does not strike anybody (with the possible exception of some democratic skeptics educated in the teachings of Leo Strauss) as scandalous, and this is, in itself, an outstanding achievement.

Regarding the matter closely, however, any optimist democrat must acknowledge that to make democracy compatible with rationality it was necessary to alter the concept of democracy, sometimes in radical ways. When a teacher or a political reformer says "democracy" today, chances are she does not mean a radical, participatory direct form self-rule" but the mixed rule of liberal or constitutional democracy. Any politically-minded Athenian from the Classic era would find our "democracies" unrecognizable: instead of the direct self-rule of the polis we have a large-scale, over-institutionalized, bureaucratized, big-party regime that is called "mass democracy".

In fact, and through a process of trial and error, the mixed regime that is liberal democracy was carefully crafted through the trimming its most "democratic" features. The radical democratic potential of liberal democracy is carefully harnessed to balance other two non-democratic goals: political stability and the protection of private rights. Within our current political institutions, the people does not deliberate directly but does so thanks to the proxy of political representation, the powers of the majority are counterbalanced to protect the rights of the minorities and individuals and the powers of the estate are tethered by checks, balances, and the rule of law.

After two centuries of restricting and limiting, of tethering and institutionalizing, it might be in order to ask, then, how much democracy is left in our democracies? And it is

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University of Chicago Press, 1984, ¶1293b1.

not a rhetorical question. In fact, today it is commonplace to speak of the well-documented feelings of disaffection and discontent that plague even the oldest and better established democracies.[2] Seems like nowadays more and more people talk about democratic politics with a mixture and irony and contempt, regarding them as little else than a mimic, a mask that barely covers a reality made of corporate activism, pork-barrel deal-making and spiced up with demagoguery. Democracy, apparently has lost itself on the way; it has became confused with the logics of money-making, and power-grabbing politics.[3]

The number of theorists that want to make the case that while liberal democracy is necessary, it is by no means enough, continues to grow. They argue contemporary democracies need to be re-enlivened, re-sharpened, re-formed. They also argue that, just as democratic praxis must evolve, it is necessary to come up with a new and improved democratic theory. But, the question remains, on which grounds must this new democratic theory be built? On this chapter we will explore one, and maybe the most

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[2] For example, of a report written by experts for the Council of Europe: "Moreover,—at least in Europe— "real existing" democracy seems to face a promising future, although it is currently facing and unprecedented diversity of challenges and opportunities. The issue is not whether the national, sub-national and supra-national polities that compose Europe will become or remain democratic, but whether the quality of this regional network of democracies will suffice to ensure the voluntary support and legitimate compliance of its citizens." Phillipe Schmitter and Alexander H. Trechsel (editors), "Green Paper on the Future of Democracy in Europe", (available online).

[3] "Over the last three decades liberal-democratic societies have been beset by a combination of increasing expectations and exhausted institutional capacities. While the causes are complex, they have much to do with contemporary social developments that have tended to outstrip the conceptual resources of received democratic theories. These include the fact that today's societies are increasingly post-conventional in their culture; pluralized among life-style, religious, and ethnic groups, differentiated between state, markets, and civil society in their structure; subject to globalizing forces that reduce the significance o the state as locus of democratic collective action; and increasingly complex in ways that then to undermine the capacities of the state to plan." Mark E. Warren, Deliberative Democracy, forthcoming, p. 4

promising, of such "second generation" democratic theories: the so-called deliberative democratic theory.

Deliberative democratic theory seeks to rejuvenate democratic praxis through the institutionalization of public deliberation. According to deliberative democrats, contemporary democracies have become prey to two opposite but equally damaging tendencies: a pull towards bureaucratization and rationalization on one hand, and a pull toward irrationality and fanaticism on the other. It is the rationality of democracy that has been lost, clouded by the empirical clout of money, success, or demagoguery. To counterbalance these trends, the theory wants to replace the contemporary concept of power—that links it with economic or ideological domination—with a viable conception of "communicative power"[4] that is based on the empowering effects of rational dialogue and discussion.

Democratic theory wants to recuperate the old dream of constructing power out of *logos*, creating order out of chaos. If rationality and reason must be reintroduced into democratic politics, there is, however, a force already present in day to day life that can be movilized to re-enliven politics again. This force is deliberation:

> The most complete theories of deliberative democracy—Habermas' for example—aim to address the democratic pathologies fomented by these

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[4] The concept of "communicative power" comes from Hannah Arendt: "[w]hen the Athenian city-state called its constitution an isonomy, or the Romans spoke of the *civitas* as their form of government, they had in mind a concept of power and law whose essence did not rely on the command-obedience relationship and which did not identify power and rule or law and command. It was to these examples that the men of the eighteen-century turned when they ransacked archives of antiquity and constituted a form of government, a republic, where the rule of law, resting on the power of the people, would put an end to the rule of man over man, which they thought "a government fit for slaves." Hannah Arendt, On Violence, New York, Harcourt Brace, 1970, 40.

developments, and to identify and deepen the democratic possibilities that have opened as a result. Deliberative democrats hold that democracy can be revived and expanded, *piecemeal*, by utilizing many of the political forms that already exist or have been found by experimentation such as constitutional procedures, associations, social movements, decentered party structures, and public spheres.[5]

Within the field of deliberative democratic theory, a nascent consensus explicates that the best democracy is a regime based on deliberation and participation of the citizens in the decision making processes. The ideal of deliberative democracy is summed up in a few words: "most democrats consider deliberation, as one of many kinds of communication, to be ideal means for making collective judgment." [6]

For deliberative democrats, the best form of politics has to look like a kind of "democratic aristocracy": a regime based on *logos*, but one in which the *logos* is shared, and created, in and by the public dialogue of all. Deliberative democracy links good politics to reason, and in turn anchors reason in communication and deliberation. Deliberative democratic theory promises to reinvigorate politics, not through an appel to emotions or sentiments, but through the introduction into politics of a higher form of rationality. Good deliberation is that form of public communication that is oriented to understanding, as opposed to others forms that are oriented towards intimidation, mobilization, pandering, etc.

The most compelling feature of the deliberative democracy theory is its promise to link *politics* and *reason*. Deliberative democrats' wager is simple: they argue that, when

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[5] Mark W. Warren, <u>Deliberative Democracy</u>, forthcoming, page 4, emphasis added.

[6] According to Mark E. Warren, Warren, Mark E., forthcoming.)

properly institutionalized, public deliberation can produce better public judgments. Communicative reason, created in and through certain procedures of public argumentation, can guarantee the democratic legitimacy and rationality of the political outcomes. To do so, the key is the institutionalization of the kind of public discursive situations that bring forth and maximize the rationality of the speakers, in order to get them to deliberate rationally and, therefore, get to rational conclusions.

The promise deliberative democratic theory, finally, rests on the promise that deliberation creates rational political outcomes. As Jürgen Habermas puts it: "the democratic procedure is institutionalized in discourses and bargaining processes by employing forms of communications that promise that *all outcomes* reached in conformity with the procedure are reasonable.[7]

In short, the ideal of deliberative democracy rests on a strong epistemological claim: that "deliberative democracy is [...] a **more *rational*** means of making political decisions than any other available method."[8] This is a strong claim indeed, one that, if granted, would really show the way to a highest, more promising form of politics. But precisely because of how great the promise is, its foundations call for a closer scrutiny of its foundations. That shall be the task undertaken in the next pages.

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[7] Jürgen Habermas, Between Facts and Norms, p. 304.

[8] Warren, Mark E., Deliberative Democracy, forthcoming, chapter 8, 31.

a) Deliberative Democracy and Procedural/Substantive Definitions of Democracy

The analysis of the foundations of deliberative democracy must being by noting that all it s depart, at least partially, with all of the earlier theories of democracy. Broadly speaking, theories of democracy have tended to fall into one of two camps: they are either "procedural" or "substantive". "Procedural" theorists tend to define democracy in terms of what procedures are best for collective decision-making and for the protection of individual and minority rights, stopping more or less short of defining democracy as "only a system for processing conflicts without killing one another."[9] "Substantive" theorists often regard procedures as secondary to the achievement to a set of substantive political, social and economic goals: equality, universal justice, class-domination elimination. 'Substantive' tend to define democracy in terms of the goods (political or otherwise) that it must make available to all, while 'procedural' democrats argue democracy cannot concern itself with any a-priory set of ends and can only define itself in terms of democratic means.

Deliberative democratic theory attempts to, as it were, synthesize these two paradigms by changing its approach. It focuses on the question of what is the best democracy?, from a different perspective. It does not commence by discussing which goals should democracy distribute—since it is not committed, a priory, with any given set of ends—nor it restricts itself to the purely formal aspects of political procedures—disregarding voting paradoxes and such. Deliberative democracy unties the Gordian knot

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[9] Adam Przeworski, <u>Democracy and the market: political and economic reforms in Eastern Europe and Latin America</u>, Cambridge, New York, Cambridge University Press,1991, p. 95. The "procedural" definition of democracy has come to be nearly hegemonic in political science.

of procedures vs. end goods by assuming that there must be one kind of *procedures* that generates the best *outcomes*. If this is so, the "good" procedures are those that render "good" outcomes, and the separation form and matter is left behind.

The question of what the "best" political outcome is must be, of course, pursued further. We know that a "good" political outcome must be just one, but what does "justice" mean? Deliberative democrats define a just political decision as one that has been achieved using a participatory procedure and in such a way that is reasonable to believe that it was approved by most, if not all, the people that are going to be affected by it. The key issue here, however, is that while a purely procedural understanding of the political process cannot say anything about the substance of the law, norm or decision made, deliberative democrats believe that they can reasonably argue that if the law, norm or decision was achieved through a participatory deliberative procedure, the decision itself must be is a reasonably good one.

Thus explained, deliberative democratic theory sounds highly attractive. It promises to break the deadlock between the neutral but 'contentless' formalistic definitions of democracy and the 'content-filled' but potentially oppressive substantive ones. It does so, moreover, with an apparently non-ideological political outlook that calls for the participation of all groups and individuals in the processes of public deliberation—and, while it is easy to argue against ideology, it is hard to argue against open and free participation. Moreover, deliberative democratic theory sees democracy as a layered and interconnected network of dialogical spaces, ranging from parliamentary institutions to civil society associations and public spheres.

b) Reason, Deliberation and Language

The most fundamental wager of deliberative democracy has been thus analytically isolated: deliberative political institutions render better political outcomes because those outcomes are more rational than those achieved through other means.

Two assumptions back this claim. The first one has to do with the structure of the human mind; in general terms, deliberative democracy assumes at the very least a general human tendency toward reasonableness.[10] The second has to do with the structure of language: the presence of an universal rationality ontologically already present in or "under" natural language and everyday discourse is also presupposed. There is a corollary to these two assumptions about language and the human mind, and this corollary has to do with what publicity makes to people, namely, that public (as opposed to private) dialogue develops in such a way that creates "understanding-oriented" discourse. Public deliberation compels people toward understanding-oriented types of communication. According to this, most people, when participating in public communication, are oriented by the desire to understand others and make themselves understood in return.

These premises form the infrastructure of deliberative democratic theory. Based on such portraits of human reason, language and deliberation, the theory constructs a vision

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[10] "Even the most fleeting speech-act offers, the most conventional yes/no responses, *rely on* potential reasons. Any speech act therewith refers to the ideally expanded audience of the unlimited interpretation community that would have to be convinced for the speech act to be justified and, hence, *rationally acceptable"* Jürgen Habermas, <u>Between Facts and Norm</u>, Cambridge MA, MIT Press, 1999, p. 19.

of deliberation as a process that gently, but relentlessly, compels the participants to compare and contrast their different world-views and arguments, give and hear reasons, and to finally choose among the points of view presented the one that is more rational.

Deliberative democrats are not, however, unreasonable optimists. Understanding-oriented communication does not mean understanding-*reaching* communication. Understanding-oriented communication operates, as it were, within sight of the moving target of consensus: while consensus might never be reached, it operates as an horizon under which understanding-oriented dialogue can take place. Deliberative democratic theory does not ask for factual consensus, but only for a consensus-seeking attitude. If the speakers are oriented toward consensus, then they will linguistically seek it, giving and hearing reasons and arguments. If the deliberating body does not agree on one course of action and is pressed—as it always is—to finish deliberation, maybe an acceptable, legitimate second-best compromise can be achieved using some non-deliberative procedure such as a simple-majority voting. But even this second-best solution might be better than one achieved without deliberation. While consensus might be very well be always over the horizon, it is *the talking* itself that matters. If all the speakers are willing to speak their mind and listen in return, it will be easier to go beyond particular interests and reach acceptable compromises, even in the absence of unanimity.

Underpinning these theoretical architecture, there is a very compelling way of looking at the phenomenon of human communication and, more precisely, the powers of

day-to-day language. Deliberative democrats argue that, in language, ideas and arguments show their self-conveying force:[11]

> This concept of *communicative rationality* carries with it connotations based ultimately on the central experience of the **unconstrained, unifying, consensus-bringing force of argumentative speech**, in which different participants overcome their merely subjective views and, owing to the mutuality of rationally motivated conviction, assure themselves of both the unity of the objective world and the intersubjectivity of their life-world. [...] An assertion can be called rational if the speaker satisfies the conditions necessary to achieve the illocutionary goal of reaching an understanding with al least other participant in communication. [...] From the one perspective the telos inherent in rationality appears to be *instrumental mastering,* from the other *communicative understanding*[12].

There is something immediately engaging in the image of politics as an activity by which citizens engage in the give-and-take of politics and discourse. The reader might find, however, that the way in which I presented deliberative democratic theory's threading of politics, public use of language and reason is tainted with a mild-to-strong Enlightenment flavor. The reader might ask herself if deliberative democracy is just re-stating the Enlightenment's project of grounding political emancipation with the rationalization of life and the complete eradication of irrationality. Deliberative democrats have a nuanced answer to this objection. On the one hand, most, if not all,

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[11] "Corresponding to the openness of rational expressions to being explained, there is, on the side of persons *who behave rationally*, a willingness to expose themselves to criticism and, if necessary, to participate properly in argumentation." Jürgen Habermas, Theory of Communicative Action, 1984, Boston, Beacon Press. p. 19, emphasis added.

[12] Jürgen Habermas, Theory of Communicative Action, pp. 10-11, emphasis added.

deliberative democracy would answer that they see themselves as heirs to the best traditions of the Enlightenment. In the other, most would also answer that they are very aware of the shortcomings of the Enlightenment's metaphysics of reason and that reject it. Deliberative democracy breaks away from classic Enlightenment thinking in at least two key issues. First, deliberative democrats reject any form of the metaphysical dualism. Second, they also reject the Kantian-Hegelian philosophy of a transcendental consciousness. We shall begin by discussing the first and most fundamental break with the Enlightenment philosophy.

i. Deliberative Democracy's Break with the Metaphysics of Reason

In a move boldly initiated by Descartes but more systematically articulated by Immanuel Kant' in his first Critique, Enlightenment thinking severed with one stroke the Aristotelian teleological ontology that related together God, nature, the animal species and the human race—a interconnectedness beautifully expressed in the metaphor of the great chain of being. In the Thomistic-Aristotelian tradition the interconnectedness of the ontological orders mirrored the structures of the epistemological orders: the sciences, philosophy, metaphysics and theology were aligned as steps of the ascending ladder that lead to knowledge of the divinity. The scientific revolution shattered this harmonious if static layered order of knowledge by positing the rigorous separation of fact from value, empiria from ideas and of reality from speculation. Immanuel Kant refers, in the glorious

Prologue to his second edition of the first Critique, refers to the Aristotelian tradition as the "dogmatic slumber" from which Humean English empiricism woke him.

There are, says Kant, two different metaphysical realms: the noumenal and the phenomenical. The phenomenical realm consists of everything that, having factual reality, can be known. The phenomenical realm contains all that presents itself to the senses and, by way of this presentation, can become the object of knowledge. The noumenal realm is composed of all that does not present itself to the senses. The noumenal entities—the "things in themselves"—are of no less importance that the empirical ones. They can even be of *more* important than the noumenal entities, God being, for example, one of them. Yet they cannot be scientifically known, but only *speculated upon.*

Kant's ultimate intent was to disentangle science from metaphysics[13]. For Kant, in fact for the entire Enlightenment project, once the tether of the Aristotelian-scholastic tradition was severed, science would thrive in its newfound freedom of movement, and reason and philosophy could return to the realms of pure speculation. The Kantian epistemological revolution created two very distinct orders: the order of scientific knowledge, ruled by science, and the order of pure thought, ruled by speculative reason. These two orders are ruled by very different criteria. The order of knowledge is ruled by the criteria of truth. Synthetic propositions, because they are based on sensorial experience, can tested to determine their truth value, as one can test experimentally

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[13] Although there is much debate about whether he was ultimately interested in liberating science from the ballast of metaphysics or metaphysics from the burden of science. See Martin Heidegger, <u>Kant and the Problem of Metaphysics</u>, Indiana, Indiana University Press, 1962.

whether the scientific proposition "the water, at sea level, boils at 100 degrees Celsius" is true of false. The problem lies in the fact there is no such clear-cut procedure with which to test the truth-value of the propositions that deal with pure ideas.

The proposition "God created the world" cannot be proven scientifically true, nor false, since the nature of God belongs to an entirely different ontological order, one that will never be known by the human senses. In fact, that proposition is neither false nor true, since its truth-value cannot be judged experimentally. Since metaphysical speculations are neither false nor true, it is only possible to judge them according to the formal adequacy of the line of reasoning that generates the proposition. Metaphysical speculation can never be "false", but its reasoning can be self-contradictory, or constructed with poor logic or based on erroneous premises. The de-linking of pure thinking from knowledge meant that the Enlightenment redefined Reason as formal faculty.[14] Pure reason is formal insofar it cannot apprehend contents but only forms and it cannot judge over the truth of metaphysical statements but only about their formal adequacy.

The formalization of transcendental reason is not, however, without problems. Salient among them is they way in which human agency becomes self-contradictory to

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[14] The formalization of reason was caused by the intention to completely reject the Aristotelian teleological metaphysics. Teleology presupposes the existence of objective reason, that is, the kind of reason that can apprehend metaphysical contents and not of only forms. A substantive teleology presupposes: that an underlying structure of being—a metaphysical order—exists in which both the natural world and the human world partake; (b) that human beings by nature possess an instrument—Reason—that can comprehend this structure and thus set the ground for the disclosure of metaphysical "truths"; and that human life can and must be aligned with these essential truths if a better and more authentic life to be possible. In Max Horkheimer words, "[t]he term objective reason thus on the one hand denotes as its essence a structure inherent in reality that by itself calls for a specific mode of behavior in each specific case, be it a practical or a theoretical attitude. This structure is accessible to him who takes upon itself the effort of dialectical thinking." Max Horkheimer, Eclipse of Reason. New York, New Seabury Press, 1974,

the point of becoming a logical impossibility. It is the possibility of political action itself—that fragile but fundamental activity that the Greeks called *praxis*—the main casualty of the Enlightenment metaphysical dualism.

The logical impossibility of political action caused a great deal of perplexity to Kant, as reflected in his discussion of the antinomy of freedom. Human freedom expresses itself in action, and action operates in the world--Kant reasoned—therefore, action is a phenomenon. But if it is a phenomenon, then it is determined by the laws of nature just like every natural event; if it is determined, then it follows that it is not free.[15] Yet to come to such a conclusion would be, for a thinking human being, unacceptable. Man must be free, or it ceases to be a moral subject. Freedom—Kant interjected—is logically necessary, but it is interior to the mind, and hence unobservable. At such, it belongs to the noumenal realm and cannot be considered a phenomenon. The antinomy of freedom shows that there are equally good logical arguments to prove or disprove the existence of freedom; it signals, then, the limitations of formal reason itself. When faced with problems that deal with pure ideas, formal reason finds itself incapable of passing judgment about their different truth-value.[16]

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p. 158.

[15] The concept of "behavior" follows naturally from the reduction of freedom to causality, and then the birth of political science as we know it and of its quest for finding "political laws" was only a matter of time.

[16] The "Third Conflict of Transcendental Ideas" concerns precisely the antinomic nature of the Idea of freedom. Pure reason is incapable to judge between the two following arguments: "Thesis: "The causality according to laws of nature is not the only causality, from which the appearances of the world can thus one and all be derived. In order to explain these appearances, it is necessary to assume also a causality through freedom." "Antithesis: "There is no freedom, but everything in the world occurs solely according to the laws of nature." See Immanuel Kant. Critique of Pure Reason, [DATOS] "The Antinomy of Pure Reason." §A421 and §A471. The two other antinomies discussed in the first Critique have to do with the existence of

Because moral and politics are neither fact nor metaphysics, political theory after the Enlightenment revolution became growingly incapable of understanding political action in its phenomenical, that is, human, occurrence.[17] This version of Enlightenment rationalism has been subjected to the criticisms of two centuries of post- (or anti-) Enlightenment thinkers, among them G.W.F. Hegel, Friedrich Nietzsche, and Max Weber. Many criticism were laid a the door of Enlightenment philosophy on account of its dualism, formalism and a-historicism. Hegel and Weber criticized the Enlightenment de-linking of reason and teleological metaphysics. Hegel warned that an empty, formal rationalism would eventually lead into the "freedom of the void" that is the "absolute Terror". [18] Max Weber continued this theme arguing against the transformation of reason into the lower capacity of "instrumental rationality". Weber argued that the scientific revolution and its philosophical correlate, the Enlightenment, shattered the unified life-order of pre-modern Occidental civilization. Pre-modern societies inhabited within a life-

God or a 'first cause', and the immortality of the soul.

[17] Kant himself strove Morals to find a general principle that could bring together freedom and determination; one that would make possible to replace the causation of natural law by the autonomous determination of a self-given law of reason. This self-given binding principle is the categorical imperative. However, problems arise because the categorical imperative is itself also a formal rather than a substantive principle. It does not predicate what to do in each particular case, it is "content-less." It is neither a law nor a principle but a rule with which to test empirical moral propositions—presented as "ought to" propositions"—against a formal "measure" given by reason. The categorical imperative and critical reason itself also end up mired in formalism.

[18] "This self-styled 'philosophy' has expressly stated that 'truth itself cannot be known', that only is true that which each individual allows to rise out of his heart, emotion, and inspiration about ethical institutions [….] The result of this leveling process is that the concepts of what is true, the laws of ethics, likewise become nothing more than opinions and subjective convictions. The maxims of the worst of criminals, since they too are convictions, are put on the same level of value that those of laws; and at the same time any object, however accidental, any material however insipid, is put on the same level of value as what constitutes the interest of all thinking men and the bonds of the ethical world." G.W.F Hegel, Philosophy of Right. Oxford, Clarendon Press, 1942, p. 7.

world in which the cultural, religious and metaphysical orders interlocked, forming a unified structure of meaning. The Enlightenment version of modernity caused the disconnection of the religious, the ethical moral, the aesthetic, the scientific and the political spheres. Because of the differentiation of functional spheres, reason becomes unable to adjudicate among conflicting ends. Thus, reason is reduced to the instrumental faculty of calculating means, or instrumental rationality. Unable to anchor itself in metaphysical-teleological contents, reason became both instrumental and subjective.[19]

ii. Deliberative Democracy's Break with the Formalism of Reason

Any theory of political action written after Nietzsche and Weber must be very careful not to repeat the sins en Enlightenement that have been mapped so far: its metaphysical dualism, its formalism, its tendency to confuse reason and instrumental rationality. The theorists of deliberative democracy are, of course, well aware of this fact. They refuse, however, to let go of the brighter side of the Enlightenment heritage: its quest for autonomy, self-actualization and emancipation through reason. They do not believe that reason is the problem but that reason has to be reconstructed. Their answer to the post- and anti-Enlightenment thinkers is, in Jürgen Habermas words, that

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[19] It must be noted that even for Kant metaphysical dualism was eventually unsatisfying. Teleology, the connectedness of man, nature and being, is reintroduced in the third Critique, even if it is called an "hypothesis". But even in the much earlier Critique of Pure Reason Kant argues that reason "finds itself constrained to assume" a future life in which "worthiness and happiness" are properly connected; "otherwise, it would have to regard the moral laws as empty figments of the brain." Cited in Hannah Arendt, Lectures on Kant's Political Philosophy, p. 25.

"modernity is an incomplete project" and that, while it must certainly be re-formulated, it continues to have emancipatory potential.

The first step in the reconstruction of reason is the acknowledgement that we are now living in a post-metaphysical world and the abandonment of any form of metaphysical language. Political theory in the post-metaphysical era must be "non-foundational"; it must avoid the kind of broad generalizations that fall under the rubric of "ontology". Theorists must avoid, or best, reject, ontological foundationalism by constructing their theories in the form of historically situated, and empirically precise principles that do not claim generality. Of course the problem with this state of matters is how to find the theoretical path that will allow rejecting metaphysics while at the same time permitting to continue to pass moral judgments on political matters—to avoid moral relativism as much as moral teleology. The key issue is where to ground such judgments if it is not in teleology or transcendental metaphysics.

In this sense, deliberative democratic theory sees itself as the heir of critical theory, a path first opened by G.W. F. Hegel and later continued by the Frankfurt School.[20] Critical theory seeks to fulfill the Kantian ideal of autonomy by finding firmer grounds for reason than simple empiricism while all the time rejecting any form of philosophy of natural law. The first inspiration for critical theory was Hegel's criticism of the Kantian

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[20] "As vulgar materialism, subjective reason can hardly avoid falling into cynical nihilism; the traditional affirmative doctrines of objective reason can hardly avoid falling into ideology and lies .... The task of philosophy is not stubbornly to play the one against the other, but to foster a mutual critique and thus, if possible to prepare in the intellectual realm the reconciliation of the two in reality. Kant's maxim, 'The critical path is still open', which referred to the conflict between the objective reason of rationalistic dogmatism and the subjective reasoning of English empiricism, applies even more pertinently to the present situation." Max Horkheimer, Eclipse of Reason, p. 174.

formulation of the categorical imperative.[21] Hegel argued that formal principles simply cannot ground morality, since there cannot be a system of morality that is entirely separated from historical ethical insights. "Pure" "formal" morality is something so utterly lacking in meaning that it can never operate as a moral compass if not guided by ethical values that are historically created. Yet Hegel also argued against relativism and subjectivism, warning to the fact that, while all ethical values are historically created, some among offer a better promise for the universalization of reason.[22]

Critical theory aspirates to setting the foundations for an immanent critique of history. It dives into the very ideals that human cultures have created to find there the promises of universality and emancipation that their offer. Against those higher standards critical theory then measures the existent social and cultural structures of power and opportunity. Since every culture has some form of ethical standards underpinning their cultural and social institutions, these standards are not external but that which everybody could agree that they could reasonably aspire within the ethical frames of their own cultures.

In the works developed by contemporary deliberative democrats, especially Jürgen Habermas, the concept of reason is critically transformed, to prevent it from slipping into

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[21] [COMPLETAR]

[22] First and foremost among these is the concept of a "human" right. The concept of right is not empty and it did not descend from the skies: it was created through a process of historical political struggle comprising the English, American and French revolutions and the works of philosophy that reflected upon them. Yet the idea of right is of such a nature that, once it appeared, it caused its own universalization. If some men are granted rights, then other men are suddenly compelled to fight for that very same recognition qua rights-holding subjects. And, by the logical structure of the idea of right, it is impossible to defend limiting the rights to just one group: to argue that one social group must have less rights than another, the only possible argument is that they are, somehow, less human that the others. This argument is indefensible, at least in the long run, as the history of the civil rights and decolonization struggles show.

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either metaphysical stipulation or instrumental rationality. Reason is thus defined, in the light of critical theory, as the capacity to take a reflective stand from which to analyze, comprehend and, if necessary, criticize the conditions within which it exists. In the words of Iris Marion Young, "it intend[s] both to reveal moral deficiencies in contemporary democratic societies and at the same time to envision transformative possibilities in those societies.[23]

Deliberative critical theory is based on the assumption that human beings posses a basic capacity for reason or, at the very least, reasonableness. This capacity is obscured, but no eliminated, by 'distorting' factors such as power relations, ideology[24] and unreflective traditional beliefs.

> *We call a person rational who interprets the nature of his desires and feelings [Bedürfnisnatur] in the light of culturally established standards of value, but specially is he can adopt a reflective attitude to the very value standards through which desires and feelings are interpreted.* Cultural values do not appear with a claim to universality, as do norms of action. At most, values are candidates for interpretations under which a circle of those affected can, if occasion arises, describe and normatively regulate a common interest. [...] For this reason arguments that serve to justify standards of value do not satisfy the conditions of discourse. In the prototypical case they have the form of aesthetic criticism.[25]

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[23] Iris Marion Young, Inclusion and Democracy, p. 10.

[24] Habermas' placing of ideology at the same level than religion or ethnic alliance is especially problematic. Ideology is a purely modern form of political identification; while it is acknowledged that ideologies are largely irreducible to one another, they are supposed to be based on rationally developed premises based on certain fundamental substantive values. Habermasians like James F. Bohman use of the word 'ideological' as synonym with 'irrational', 'disingenuous' or 'manipulative'. Democracy itself was an ideology during the 19th century: the ideology of the democratic-minded working class. It is not clear how, or why, could democracy separates itself of an ideological component. (See James F. Bohman, "Communication, Ideology, and Democratic Theory", in *The American Political Science Review*, Vol. 84, No. 1. Mar., 1990, pp. 93-109.)

[25] Jürgen Habermas, Theory of Communicative Reason, p. 20, emphasis added.

Deliberative democrats want to define critical reason as completely non-transcendental and non-a priori. But even within Habermas's own conceptual framework, *some* form of universal (if not transcendental) reason, or at least reasonableness, is a theoretical precondition for deliberative critical theory. A 'rational person' might desire to engage in self-criticism, but the question is what are the theoretical preconditions that make criticism even possible? These conditions are general reasonableness and the structure of argumentative language.

Religious or cultural values are, according to Habermas, of a different nature than arguments. Because of it, they can be subjected to criticism, reflection and, ultimately, judged upon. For Habermas, the very linguistic nature of arguments, and especially of *public* arguments, sets them apart from self-expressive uses of language or aesthetic criticism. Arguments are linked to reason in a way that other uses of language are not. There is, then, a linguistic reason that is capable of transcending, if not time and space, differences of culture, class, gender, and age. And linguistic reason and the rationality that it creates are bestowed the procedure of deliberation itself.[26]

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[26] "Habermas shifts the focus of the critique of reason from forms of transcendental subjectivity to forms of communication. Kant, moving within the horizon of individual consciousness, understood objective validity in terms of structures of *Bewusstein überhaupt*, consciousness as such in general. For Habermas, validity is tied to reasoned agreement concerning defeasible claims. The key to communicative rationality is the appeal to reason or grounds—the unforced force of the better argument—to gain intersubjective recognition for such claims. Correspondingly, Habermas' idea of a "discourse ethics" can be viewed as a reconstruction of Kant' idea of practical reason in terms of communicative reason." Thomas McCarthy, "Kantian Constructivism and Reconstructivism: Rawls and Habermas in Dialogue" in <u>Ethics</u>, Vol. 1, No. 1, Oct. 1994, pp. 44-63, p. 45.

iii. Deliberative Democracy's Break with the Transcendental Ego

Finally—and following the previous point—deliberative democrats also take charge against the Enlightenment dependence of the notion of a transcendental ego. The thinking ego is a theoretical construct: since it is a disembodied, a-historical, world-constituting consciousness, the other does not exists except as a *datum.* And the the transcendental ego is locked inside its own consciousness: since it cannot communicate with the other, it can only try to *imagine* thinks or feels. Morally, the thinking ego must ask itself, "what would the consequences of my action for the Other?" or "what would the others think about my action?" but it cannot know it for sure. [27]

The need for "public reason" and for the "community of speakers" of a "reading public" is a common theme in Kant's political philosophy; this community of public communication, however, is less a phenomenical reality than a theoretical, though necessary, hypothesis. In the Kantian sense impartiality is achieved by "comparing our judgment with *the possible rather than the actual judgments of others*, and by putting ourselves in the place of any other man;"[28] The experience of intersubjectivity is not rooted in empirical communication but in a self-activated exercise of the mind and the imagination.[29]

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[27] "Thus in Kant the question What I ought to do? Concerns the conduct of the self in its independence of others." Hannah Arendt, Lectures on Kant's Political Philosophy, Chicago, The Chicago University Press, 1992, p. 19.

[28] Immanuel Kant, Critique of Judgment, ¶40, cited in Hannah Arendt, Lectures on Kant's Political Philosophy, p. 43, (emphasis added).

[29] "[C]ritical thinking, while still a solitary business, does not cut itself off from all "others." To be sure, it still goes on in isolation, but by the *force of imagination* it makes the others present and thus moves in a space that is potentially public, open to all sides." Hannah Arendt, Lectures on Kant's Political Philosophy,

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Deliberative democrats find such an indirect approach to intersubjectivity. Political action and moral judgment always happens in the world, among a plurality of peoples, ideologies and cultures. Deliberative democrats, having rejected the ideal of a disembodied transcendental consciousness and affirming, as they do, the preeminence of a non-metaphysical community of speakers composed by individuals with a name, a gender, and a history, come to the conclusion that is necessary not only to imagine the other's position but to go and effectively ask him. In deliberation, the "community of speakers" can become actualized and the thoughts and preferences of others become known instead of merely imagined.

The theoretical 'discovery' of deliberation makes several things possible. Firstly, it permits to advance from the isolation of the transcendental ego to the intersubjectivity of the community of the speakers. Secondly, it relates moral judgment with the historical-ethical circumstances of that particular community in the midst of which deliberation takes place. Thirdly, it avoids the twin dangers of a metaphysic of reason, on the one hand, and the radical individualization of a purely subjective reason on the other. Deliberation brings reason down from the skies, while at the same time rooting it in the 'middle ground' of intersubjective dialogue. Lastly, it redefines impartiality: while no individual can claim to be completely impartial, the community of speakers can moves towards it.[30]

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p. 43, (emphasis added.)

[30] "Validity [in the case of political issues] is a product of procedure, suggesting that institutionalized deliberation can establish the epistemic validity of claims and assertions. Second, like science, politics works at the frontiers of validity, although in a different sense. Political issues emerge precisely when epistemic authority is questioned or has yet to be established. In politics, factual issues are intermingled with normative and expressive issues, so that the authority deriving from knowledge of facts is not as easily

To construct a post-foundational theory that denies the metaphysics of reason but holds on to reason as the source of 'good' politics; that rejects the Enlightenment's transcendental subjectivity in favor of pluralism, historicity and 'embodied' subjectivities but at the same time wants to finds the thread of rationality that is able to transcend cultural particularities: all this accounts for an ambitious, even daunting, theoretical project.

c) 'Thick' and 'Thin' Models of Reason and Deliberation

Deliberative democrats also want to take social differentiation and pluralism seriously, as befits Modern capitalist societies. They also take seriously Marxist, feminist and post-colonial criticisms to the false neutrality, universality and disembodied-ness of the Enlightenment philosophy.[31] Deliberative democrats argue that in modern bureaucratic capitalist societies the differentiation of functional spheres and the separation of ethics for morality are simple facts of life. Even more, differentiation and

achieved within political contexts as within the relatively insulated institutions of science. This is why experts—scientists, economist and the like—do not have the kind of authority they may be able to take for granted in other contexts. In politics, they must argue and convince." Mark E. Warren, <u>Deliberative Democracy</u>, (forthcoming) p. 33.

[31] "Post-conventional societies include a pluralism of moral positions, closely attached to moral identities. These identities are in turn embedded within religions, secular moralities, and life-styles. A hallmark of the post-conventional era is that we choose our moral identities from among an array of possible options—even if this amounts to affirming an inherited identity. Our choices are not, of course, choices in the sense, say, that we choose what to consume. They are *self-constituting*, defining who we are, what we stand for, how we present ourselves to others. They are deeply embedded in personality formations, and are 'choices' only in the sense that (typically) we now are aware that they are not universal: in principle, we could alter our convictions even though it might be psychologically dislocating to do so." Mark E. Warren, <u>Deliberative Democracy</u>, (forthcoming) p. 24.

pluralism are in fact good: they are the social conditions for the kind of liberal regimes and modern civil societies that are the requisites for a deliberative democracy. Pluralism and diversity create the effective conditions for the replacement of reified, un-reflective forms of authority with others based on rationality, autonomy and free communication:. Anything that threats differentiation and pluralism would threaten the prospects of institutionalizing deliberation with the dangers of a "re-totalization" of culture:

> For Habermas, it is this modernization of the cultural spheres of the lifeworld that makes possible (but not necessary) the development of post-traditional, communicatively coordinated and reflexive forms of association, publicity, solidarity, and identity. This cultural modernization, as its results *feed back from specialized institutions into everyday communication, powerfully fosters the transformation of the cultural-linguistic assumptions of the lifeworld and their mode of operation in relation to action.* A modernized, rationalized lifeworld involves a communicative opening-up of the sacred core of traditions, norms, and authority to processes of questioning and the replacement of a conventionally based normative consensus by one that is "communicatively" grounded.[32]

However, differentiation and pluralism are not easy to reconcile with claims to universality—even a potential or hypothetical universality. The reconciliation of a critical reason that wants to retain a universal edge with historicity and cultural pluralism is not an easy task. Deliberative democratic theory wants to argue that its goals are limited in such a way that the problem disappears.

> If modern pluralism seriously means renouncing the idea that philosophy can single out a privileged way of life or provide an answer to the question, How should I (we) live? That is valid for everyone, it does not, in Habermas' view, preclude general theory of a narrow sort, namely, a

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[32] Jean Cohen and Andrew Arato, <u>Civil Society and Political Theory</u>, p. 435, (emphasis added).

theory of justice. Accordingly, the aim of his discourse ethics is solely to reconstruct the moral point of view from which questions of right can be fairly and impartially adjudicated.[33]

However, the problem of how to square pluralism with the need for collectively-binding political decision making will not go away so easily. *Any* broad political discussion—for example, one on taxation on public health expenditures—touches upon how should we live, and most collective decisions are binding for the entire community. And the aspiration of justice is by its very own nature universal. It is never an easy task to articulate the aspiration for universal justice with the equally valid aspiration of respecting the diversity of cultures, religions and moral orientations.

This debate is often framed as a stark but ineludible choice between ethnocentrism and radical relativism.[34] Deliberative democrats want to find a third way between the two. They refuse to choose between "traditions" and "universalism". If they are aware that "the burden of proof on moral theorists who hope to ground a conception of justice in something more than the considered convictions of our political culture is enormous", they also want to "show that our basic moral intuitions are rooted in something deeper and more universal than particularities of our tradition." They see the task of a critical deliberative theory as "reflectively to articulate, refine, and elaborate—that is, to "reconstruct"—the intuitive grasp of the normative presuppositions of social interaction

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[33] Thomas McCarthy, "Kantian Constructivism and Reconstructivism: Rawls and Habermas in Dialogue", p. 46.

[34] One possible theoretical, ethical and political solution is to embrace one unified system of ethics, whether a given religion, nationalism or a given ideology, and fight for its dominance over others. The other might be to embrace an equally radical ethical pluralism, or what has sometimes been called "postmodernism".

that belongs to the repertoire of competent social actors in any society."[35] There are conflicting visions, however, of the way in which this reconstruction must be undertaken, or what the extension of this "common core" of shared moral insights is.

I have spoken so far of 'deliberative democracy theory' as if it were a single, unified theoretical family. It is in fact a large, diverge and often contentious one. There are at least two 'camps', divided precisely on their position on these two issues: the universality of reason, and the exclusivity of culture.

The first sub-family is based on Jürgen Habermas' works communicative action and discourse pragmatics; the other on John Rawls' liberal contractualism. I will call the first theoretical family "thick" deliberative democracy and "thin" deliberative democracy the second. The first 'camp' is defined by its 'thick' conception of deliberation, while the second rejects it in favor of a 'thin' version of it. 'Thick' theories of deliberation contend that hidden inside the structures of public discourse, lies a 'core' of communicative reason[36] and that, because this 'core' is not culture- but species-specific, public deliberation can move towards impartiality and consensus—or at the very least, towards a potential or hypothetical consensus. The 'thick family recognizes the inspiration of the theory developed by Jürgen Habermas in his many works, including, but not only, The Theory of Communicative Reason and Between Facts and Norms.

The 'thin' camp rejects Habermas' idea of a teleological, universal reason and embraces more limited, pluralistic and culture-specific forms of deliberation aimed

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[35] Thomas McCarthy, "Katian Constructivism and Reconstructivism: Rawls and Habermas in Dialogue", p. 47. (emphasis added.)

[36] See Wagner and Zipprian, "Habermas on Power and Rationality", p. 104. [COMPLETAR DATOS]

toward a somewhat more contingent but equally legitimate form of consensus-seeking; they assume that while it is impossible to vouch for the ultimate rationality of the results of deliberation, deliberation continues to be nonetheless the best way of achieving legitimate democratic results. This second family of thought is loosely related to John Rawls' dialogic liberalism, as it was developed in <u>A Theory of Justice</u> and <u>After Liberalism.</u>

d) Habermas' 'thick' concept of deliberation

'Thick' theories of deliberations are defined primarily by their 'thicker' conception of reason. 'Thick' theories of deliberation start from the assumption that there is a non-contingent relation between public deliberative decision making and rational political outcomes; that is, that public and open deliberative decision making renders more rational and more just political outcomes. To justify this posited relation between deliberation and rationality, 'thick' deliberative democrats link reason with the philosophy of language. In a nutshell, they argue that a rational, deliberative politics is possible, or at least thinkable, because reason, as a capability embedded in language, transcends the particularities of interests, culture and history.

If Jürgen Habermas, according to Thomas McCarthy, wants to argue that "basic moral intuitions (…) include an "abstract core" that is not culture- but species-specific,"[37] this is not to say that 'thick' theories of deliberation imply a metaphysic of reason or any

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[37] Thomas McCarthy, "Katian Constructivism and Reconstructivism: Rawls and Habermas in Dialogue", p. 47. (emphasis added.)

kind of transcendental subjectivity.[38] The 'locus' of reason is no longer the consciousness of a transcendental mind but the factuality of the 'language games' played in everyday linguistic communications. Deliberative democratic theory wants to be normative, while stopping short of becoming prescriptive:

> Discourse theory invests the democratic process with normative connotations stronger than those found in the liberal model but weaker than those found in the republican model ... discourse theory reckons with the higher-level intersubjectivity of processes of reaching understanding that take place through democratic procedures or in the communicative network of public spheres.[39]

Jürgen Habermas avoids foundational thinking as well as a metaphysics of transcendental reason—whether in its a-historical Kantian formulation, or the historicist Hegelian one—and he is careful never to make ontological claims about the 'nature' of the human 'mind', 'spirit', or 'consciousness'. There is in his theory neither a transcendental subjectivity nor a teleology of the inherent rationality of the human mind. Rather, key idea is that deliberative politics is a more rational form of politics because public discourse *brings about* or *calls forth* a form of reason that lies beneath, or inside, or within, linguistic communication. The analytic philosophy of language, or what is

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[38] "Once one gives up the philosophy of the subject, one needs neither to concentrate sovereignty concretely in the people nor to banish it in anonymous constitutional structures and powers. The "self" of the self-organizing legal community disappear in the subjectless forms of communication that regulate the flow of discursive opinion- and will-formation in such a way that their fallible results enjoy the presumption of being reasonable." Jürgen Habermas, Between Facts and Norms, p. 301.

[39] Jürgen Habermas, Between Facts and Norms, p. 299.

usually referred to as the "pragmatics of language", clears the way without the need to make strong claims of a teleological nature.[40]

To give a thorough description of the highly technical subfield of contemporary philosophy of language is beyond the goals and capabilities of this project. It will do to say that analytic philosophy of language is built upon the works of modern philosophers, mainly the works of Ludwig Wittgenstein and analytic philosophers such as Gottlob Frege, Carl-Otto Appel and others, and that it presents a description of language that suits deliberative democrats perfectly. For analytic philosophy, language serves primarily a communicative purpose, that is, it is above all a communicative device that employs signs as conventional markers with which men can refer to the world that surrounds them. [41]

Analytic philosophers, of course, do not ignore that there are many possible uses of language and that communication 'oriented towards understanding' always coexists with many other kinds of communications: oriented to self-expression, oriented to community-building, oriented to humor, oriented to manipulation, oriented to deceit. Analytic

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[40] Although one could argue that the ontological claims are simply placed elsewhere: when there used to be a teleology of transcendental reason, or of history, or of the human mind, now lies a teleology of language understood as an impersonal rational-logical structure of communication.

[41] To the analytic of language it is opposed a *phenomenology of language*. Language phenomenologists such as Maurice Merelau-Ponty, Hans-Georg Gadamer and Paul Ricqueur, take offense of the reduction of language to its function of acting as an *information algorithm:* "We must recognize first of all that thought, in the speaking subject, is not a representation, that is, that it does not expressly posit objects or relations. The orator does not think before speaking, nor even while speaking; his speech is his thought. In the same way the listener does not form concepts on the basis of signs. The orator's 'thought' is empty while he is speaking and, when a text is read to us, provided that it is read with expression, we have no thought marginal to the text itself, for the words fully occupy our mind and exactly fulfill our expectations, and we feel the necessity of the speech" Maurice Merleau-Ponty, Phenomenology of Perception, London, Routledge and K. Paul, 1962, p.180.

philosophy asserts that, regardless the variety of possible linguistic uses—or 'genres'—language is, at its core, referential. The 'added' or 'secondary' uses of language—poetic, manipulative, funny—cover a 'core' of assertive power related to the basic function of linguistic reference.

> The important point is that we can read the structure of thought from the structure of sentences; (...) *sentences are those elementary components of grammatical language that can be true or false*. (...) At any rate, the members of a language community must proceed on the performative assumption that speakers and hearers can understand a grammatical expression in identical ways. Every complete thought has a specific propositional content ... but beyond the propositional content, every thought calls for a further determination: it demands an answer to whether it is true or false.[42]

Habermas 'thick' concept of deliberation is based on the assumption that that, among the many different modes of language—aesthetic, expressive, imperative and so on—the original one is *language oriented towards understanding[43]*. Language is oriented towards understanding because language is above all oriented towards reference to the world. Because all language uses share the common reference feature, speakers belonging to a community of language can isolate their "validity claims" and pass judgment about their "truth value".[44]

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[42] Jürgen Habermas, <u>Between Facts and Norms</u>, pp. 11-12, emphasis added.

[43] Jürgen Habermas, <u>Theory of Communicative action</u>, p. 18.

[44] "Although always bound in language, reason always transcends particular languages; it lives in languages only by *destroying the particularities* through which alone it is incarnated." Jürgen Habermas, "Review of *Truth and Method*" in Gayle L. Ormiston and Alan D. Schrift, <u>The Hermeneutic Tradition</u>, Albany, NY, State University of New York Press, 1990, p. 214, emphasis added.

On this fundamental assumption rest a number of related premises: that there is a special force associated with communicative action oriented toward understanding;[45] than individual reasonability or rationality can be defined as the "capacity for and sensitivity to the weighing of reasons in speaking and acting—or as the capacity to discern whether a particular sentence refers correctly to the world or not;"[46] and that there is a distinction between the 'core' validity of a sentence and the 'added' elements such as its aesthetic value or the references to the speaker's place or power.[47]

Habermas wants to thread together a pragmatic of language (also commonly referred to as an "ethics of language") with a theory of political action. The fundamental claim is simple: in deliberation, people talk because they want to convince other people of their views. Their sentences and speeches make certain validity claims, whose "truth-value" can be ascertained trough careful weighing and discussion. Deliberations, then, is the process through which the participants discuss, measure and adjudicate the validity of the assertions made by the different speakers. The movement of deliberation, as it were,

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[45] "Participants in argumentation have to presuppose in general that the structures of their communication, by virtue of features that can be described in purely formal terms, exclude all force—whether it arises from the within the processes of reaching understanding itself or influences it from the outside—except the force of the better argument (and thus it also excludes, on their part, all motives except that of a cooperative search for truth). From this perspective argumentation can be conceived as a *reflective continuation, with different means, of actions oriented to reaching understanding"*. Jürgen Habermas, <u>Theory of Communicative Action</u>, p. 25, emphasis added.

[46] Thomas McCarthy, "Kantian Constructivism and Reconstructivism: Rawls and Habermas in Dialogue", p. 47n.

[47] The conceptual tools for this enterprise is the distinction between illocutionary acts and perlocutionary acts. Whereas a perlocutionary act is defined by "the peculiarly asymmetrical character of concealed strategic actions" , a "speech act composed of an illocutionary and a propositional component is presented as a self-sufficient act". Jürgen Habermas, <u>Theory of Communicative Action</u>, p. 288, cited in Wagner and Zipprian, "Habermas on Power and Rationality", p. 104.

has the capacity to change the speaker's minds, it has "motivational force":[48] In this respect, deliberation has the power to "non-coercively coerce" speakers through the contrasting of validity claims.

> We use the term *argumentation* for that type of speech in which participants thematize contested validity claims and attempt to vindicate or criticize them through arguments. An *argument* contains reasons or grounds that are connected in a systematic way with the *validity claim* of a problematic expression. *The "strength" of an argument is measured in a given context by the soundness of the reasons*; that can be seen in, among other things, whether or not an argument is able to convince the participants in a discourse, that is, to motivate them to accept the claim in question.[49]

Which does not mean saying that deliberation always works smoothly or that understanding occurs. But Habermas' key claim in this respect is that unburdened deliberation works this way. The problem are the *distortions* to communication that take place in contemporary societies. The most common distortions fall into four main categories: power relations, ideology[50], private interests—especially of the economic

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[48] The discursive character of opinion- and will-formation in the political public sphere and in parliamentary bodies, however, also has the practical sense of establishing relations of mutual understanding that are "violence-free" in Arendt's sense and that generative force of communicative freedom. The communicative power of shared convictions issues only from structures of undamaged subjectivity. This interprenetration of discursive law-making and communicative power formation ultimately stems from the fact that in communicative action reasons also have motivational force.

[49] Jürgen Habermas, Theory of Communicative Action, p. 18, emphasis added.

[50] Habermas' placing of ideology at the same level than religion or ethnic alliance is especially problematic. Ideology is a purely modern form of political identification; while it is acknowledged that ideologies are largely irreducible to one another, they are supposed to be based on rationally developed premises based on certain fundamental substantive values. Habermasians like James F. Bohman use of the word 'ideological' as synonym with 'irrational', 'disingenuous' or 'manipulative'. Democracy itself was an ideology during the 19th century: the ideology of the democratic-minded working class. It is not clear how, or why, could

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kind—and traditional beliefs and values. Power, interests, passions and traditions: all these are distortions that need to be suspended to make room for undistorted dialogue in which the validity claims of the different arguments can be compared so that the best, more rational argument can show its convincing force.

Habermas presents the *ideal speech situation* as the purely theoretical model for completely undistorted communication. An ideal speech situation meets the following criteria:

> (a) Processes of deliberation take place in argumentative form, that is, through the regulated exchange of information and reasons among parties who introduce and critically test proposals. (b) Deliberations are inclusive and public (...) (c) Deliberations are free of external coercion. The participants are sovereign insofar as they are bound only by the presuppositions of communication and rules or argumentation. (d) Deliberations are free of any internal coercion that could detract from the equality of the participants. [...] (e) Deliberations aim in general at rationally motivated agreement and can in principle be indefinitely continued or resumed at any time. Political deliberations, however, must be concluded by majority decision in view of pressures to decide. ... (f) Political deliberations extend to any matter that can be regulated in the equal interest of all. ... (g) Political deliberations also include the interpretation of needs and wants and the change of prepolitical attitudes and preferences. Hence the consensus-generating force of arguments is by no means based only on a value-consensus previously developed in shared traditions and forms of life.[51]

This 'thick' model of deliberation rests on four theoretical presuppositions, as follows: that reason is present—at least potentially—in all linguistically able human beings; that reasonable objectivity is achieved by subsuming the particulars into

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democracy separates itself of an ideological component. (See James F. Bohman, "Communication, Ideology, and Democratic Theory", in *The American Political Science Review*, Vol. 84, No. 1. Mar., 1990, pp. 93-109.)

[51] Jürgen Habermas, <u>Between Facts and Norms</u>, pp. 305-6.

universals; that rational arguments have self-evident consensus-forming force; and, lastly, that, while relations of power, of strength, and other inequalities do exist in contemporary societies, they do not make impossible the institutionalization of protected spaces for rationality.[52] The ideal speech situation is of course a theoretical construct that can never be completely realized in the real world. Its utility however is twofold: first, it serves as a blueprint for the political design of real life participatory institutions; second, it can be utilized as a regulatory ideal against which to judge the rationality and openness of existing processes of public communications.

> Once one gives up the philosophy of the subject, one needs neither to concentrate sovereignty concretely in the people nor to banish it in anonymous constitutional structures and powers. The "self" of the self-organizing legal community disappear in the subjectless forms of communication that regulate the flow of discursive opinion- and will-formation in such a way that their fallible results enjoy the presumption of being reasonable.[53]

The 'thick' theories of deliberative democracy present a number of theoretical advantages. They are able to carry on the sense of historical progress that the Kantian/Hegelian philosophies of consciousness had without their heavy-handed historical determinism; they avoid the solipsism of the transcendental consciousness and

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[52] The most crucial among these are parliaments and other legislative bodies, and the public spheres of civil society. The institutional criteria for a well-functioning public sphere are as follows: "First, they [the institutions of the public] preserved a kind of social intercourse that, far from presupposing the equality of status, disregarded status altogether (...) The parity on whose basis alone the authority of the better argument could assert itself against that of social hierarchy and in the end can carry the day meant, in the thought of the day the parity of "common humanity".... Secondly, discussion within such a public presupposed the problematization of areas that until then had not been questioned.... Thirdly, the same process that converted culture into a commodity (...) established the public as in principle inclusive." Jürgen Habermas, The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society, Translated by Frederick Lawrence. Cambridge, MIT Press, 1999, p. 36-7.

[53] Jürgen Habermas, Between Facts and Norms, p. 301.

advances into an intersubjectivity understanding of reason. They are also undeniably solid, thanks to the combination of insights from linguistic pragmatics, discourse ethics and systems theory, among many others.

"Thick" theories are also, at the end of the day, more socially inclusive. Because 'thick' theories of deliberation posit a fuller, more universal concept of reason they are willing to accept the opening up all aspects and dimensions of social and cultural life to deliberation. To put it in an overly-simplified manner, to argue that communicative reason lies in the very structures of natural language and discourse equals asserting that reason is species- and not culture-specific. And, if that is the case, it must follow to say that all cultures, groups, classes, can engage fruitfully in deliberation and that no issue of the political life must be a-priori deemed taboo.

> Political deliberations extend to any matter that can be regulated in the equal interests of all. (...) In particular, those questions are publicly relevant that concern the unequal distributions of resources on which the actual exercise of rights of communication and participation depends. (...) Political deliberations also include the interpretation of needs and wants and the change of prepolitical attitudes and preferences. Here the consensus-generating force of arguments is by no means based only on a value consensus previously developed in shared traditions and forms of life.[54]

"Thick" democratic theories sometimes seem to border on teleology of reason, implying as they do that reason is species-specific. But maybe to rely in a teleology of reason is not so bad after all, if it permits emphasizing the common of people over the differences between them. Because reason is thought to be species- and not culture-specific, there is no need for a stringent "neutrality principle." Thick deliberative

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[54] Jürgen Habermas, Between Facts and Norms, p. 306, emphasis added.

democrats seem to say: let them speak, reason will find a way. More stringent theorists want to define deliberation more narrowly, in order to assure the neutrality of the speakers or to protect the private sphere from the intrusion of the public gaze. But feminist deliberative democrats have discussed the issue of the protection of the private sphere at length, precisely because they fear that the liberal objection against the opening of political discourse is instrumental for keeping "private" forms of abuse and domination against women invisible.[55] In Habermas' view, the "neutrality principle" should apply to the procedure but not the topics brought to the deliberation table. Habermas underscores the distinction between *procedural* constraints on public discourses and *limitations on the range of topics* that the public can discuss.[56] Publics should be free to engage in deliberations about ethically relevant questions about the good life—such as what constitutes "domestic abuse"—without necessarily seeking to regulate them, since "making something so far has been considered a private matter a topic for public discussion does not yet imply any *infringement* of individual rights."[57]

> But neither should deliberation be constructed to narrowly—especially not
> as the classical. 'gentlemanly' give and take or arguments among people
> who respect one another, in spite of disagreements. To be sure, the ideal
> political deliberation might very well look like this, exemplifying, in Seyla

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[55] "Until quite recently, feminists were in the minority in thinking that domestic violence against women was a matter of common concern and thus a legitimate topic of public discussion. The great majority of people considered this issue to be a private matter ... Eventually, after sustained discursive contestation, we succeeded in making it a common concern." Nancy Fraser, "Rethinking: A Contribution to the Critique of Actually Existing Democracy" in Craig Calhoun, ed., Habermas and the Public Sphere, Cambridge, MA, MIT Press, 1992. 109-142, p. 129.

[56] Jürgen Habermas, Between Facts and Norms, p. 312.

[57] Jürgen Habermas, Between Facts and Norms, p. 312.

Benhabib's terms, commitments to the principles of universal moral respect and egalitarian reciprocity. But we cannot *define* deliberation—in terms of individual's prior commitments to reasonableness, nor to their intents to seek consensus, nor even to their respect of opponents. Barring the epistemological and political problems of identifying such commitments, it would in effect de-politicize deliberation, limiting it to the 'easy' kinds of politics that can take place once these commitments are secured.[58]

'Thick' deliberative democrats argue that the very logical dynamic of deliberation is able to push individuals toward a *reflective* position, in which she is able to take a step back, as it were, and reflectively interrogate her own worldviews and positions. Individuals, in this view, do not need to enter the deliberative unencumbered of body and history, but they need to be able to see that their body and history are *one particular* occurrence between a number of possibilities, all of which need to be reflectively explored. Deliberation, in this view, allows the mind to 'go about exploring' and to open up perspectives that allows people to transcend the "provinciality of their spatiotemporal contexts that are inescapable in action and experience."[59]

e) John Rawls and 'Thin' Theories of Deliberative Democracy

However, the last word on the issues of neutrality and the limits of public reason has not been said. They continue to be hotly contested. The main charge against "thick"

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[58] Mark E. Warren, Deliberative Democracy, p. 15.

[59] Jürgen Habermas, Between Facts and Norms, p. 323.

theories comes from authors writing within the liberal tradition. They have criticized the Habermasian model in terms of its being at the same time overreaching and insufficient.

The first objection underscores the paradoxical nature of the Habermasian formulation of the 'non-coercive coercion' that "characterizes the binding force of communication oriented toward reaching understanding."[60] They argue that, in fact, if such a thing exists, there would be no deliberation at all: public discourse would be at best the unveiling of a Truth that would be already-there, always present for the speakers to discover.

The second objection takes aim at the epistemological conditions that are necessary for advancing towards the understanding-oriented communication of the 'ideal speech situation'. For some deliberative democrats, stringent conditions such as the eradication of the 'communication-distorting relations' and the achievement of a state of 'impartiality' in public discourse are just unattainable in pluralist, complex, large societies such as the ones that we live in today.

Most proponents of the 'thin' forms of deliberative democracies want construct simpler, less exacting models of deliberation.[61] These 'thin' models abandon the ideal of impartiality present in the ideal speech situation, and replace this theoretically dense model with a set of minimal conditions of reciprocity, respect and inclusion. The minimalist ideal of deliberation presupposes that the speakers are motivated by a different

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[60] Gerhard Wagner and Heinz Zipprian, Habermas on Power and Rationality, p. 103.

[61] As Gutmann and Thompson put it: "The core idea is simple: when citizens or their representatives disagree morally, they should continue to reason together to reach mutually acceptable decisions". Amy Gutmann and Dennis Thompson, Democracy and Disagreement, p. 2.

set of motives: instead of being motivated by the 'highest' desire to reach a consensus, they are motivated by the 'lower' desire to avoid open conflict while being constrained by mutual respect. 'Thin' models of deliberation seek to encourage speakers to temporarily adopt the other speakers' points of view and to adopt a broader perspective on questions of public interests. Finally, 'thin' models construct deliberation almost as a rhetorical activity, in which the speakers engage in *reciprocal* argumentation, trying to "appeal to reasons that are shared or could come to be shared by [their] fellow citizens."[62] Deliberation, thus, ceases to be the collective "weighting of reasons" or arguments that seek logical validation, and becomes the collective effort to persuade and convince using arguments that are common to that particular community. [63]

Proponents of 'thin' models of deliberation argue that the 'thick' ones are normative, idealistic and even potentially oppressive in their attempts to make 'philosophers out of men' before they even speak. And, first and foremost, 'thin' approaches to deliberation want to reject the very mention of universal reason, or the very mention of anything resembling teleology for that matter. They argue that to speak of a

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[62] Amy Gutmann and Dennis Thompson, Democracy and Disagreement, p. 14. According to Mark Warren, the state of mind that is necessary for deliberation can be best achieved in a "cognitive" and "distant" situation, that is, one in which the speakers have a cognitive rather than an affective disposition towards the matter being discussed and that is situated at a certain distance from the speaker's life-world: the main examples of such "unrestricted discourse" are the theoretical publics, mass print media, and the Internet. Warren, Mark, Democracy and Association. Princeton, Princeton University Press, 2001, p. 115.

[63] 'Thin' deliberative democracy thus abandons the impossible pretension of guaranteeing normatively "rational outcomes" and wants to concentrate on rendering *de facto legitimate* results. As Gutmann and Thompson put it, "[w]e do not assume that deliberative democracy can guarantee social justice either in theory or in practice. Our argument is rather than in the absence of robust deliberation in democracy, citizens cannot even provisionally justify many controversial procedures and constitutional rights to one another." Amy Gutmann and Dennis Thompston, Democracy and Disagreement, Cambridge, Mass., Harvard University Press, 199, p. 18.

universal capacity for judging truth claims—even if it is the more limited reasonability that is embedded in the logical structures of language—is to take a step in the direction of making teleological generalizations and constructing a foundational thought.[64]

The claim that Habermas and the 'thick' theories engage in teleological thinking holds some plausibility, in light of paragraphs like this one:

> Anyone who engage in argument always already presupposed two things: first, a real communication community whose member he has himself become through a process of socialization, and second, an ideal communication community that would in principle be capable of adequately understanding the meaning of his arguments and judging their truth in a definitive matter."[65]

'Thin' theories of deliberation want to do with the theoretical existence of any "ideal communication community" or anything of the sort. In so doing, they acknowledge and recover—at least partially—the criticisms leveled by the communitarians against the universality of reason.

Communitarians such as Charles Taylor,[66] Alasdair McIntyre[67] and Michael Sandel[68] have dedicated a fair amount of work to debunking the twin myths of a

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[64]According to Bruce Ackerman, the goal of Rawlsian liberalism is to design a doctrine that, as much as possible, "does not depend on the truth of any single metaphysical or epistemological system." Bruce Ackerman, The Liberal State, p. 365.

[65] Karl-Otto Appel, quoted in Jürgen Habermas, Between Facts and Norms, p. 322. Habermas himself admits that "...this formulation could mislead one into thinking the "ideal communication community" has the status of an *ideal* rooted in the universal presuppositions of argumentation and able to be approximately realized. Even the equivalent concept of the "ideal speech situation", though less open to misunderstanding, tempts one to improperly hypostatize the system of validity claims on which speech is based." Jürgen Habermas, Between Facts and Norms, p. 322.

[66] Charles Taylor, Sources of the Self : the Making of the Modern Identity, Cambridge, Harvard University Press, 1989.

universal reason and a rational unencumbered self. They have argued extensively that individuals do not enter the 'public sphere' or the 'original position' as unencumbered entities, free of all preexisting moral commitments; in fact, it is not clear that people are even able to achieve the reflective relation with their own preexisting moral commitments that is the necessary condition for impartial deliberation to work. Men and women simply cannot distance themselves from their bodies, their gender, their beliefs, their histories, and their culture. In short, they do not believe in the kind of 'context-transcending claims' such as those proposed by Habermas. We are born, communitarians argue, already-in moral and political communities; these communities of origin do not function as static stages or backdrops against which deliberation takes place: they are part and parcel of deliberation because they are part and parcel of the constitution of the participant's selves. Culture is not the 'context' of deliberation but a part, a dimension, a player of deliberation itself. They are more than "contexts": they are self-constituting.

The communitarian objection to the universality of reason is complemented by a second objection coming from pluralist social theory. In our contemporary society, social theorists argue, social, religious, cultural and ethical differences are too strong and run too deep to even entertain the idea that one 'rational' standpoint exists from which to judge all and each disagreement. Under the conditions of 'radical pluralism' it is

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67 Alasdair MacIntyre, <u>Whose justice? Which rationality?,</u> Notre Dame, University of Notre Dame Press, 1988.

[68] Michael J. Sandel, <u>Democracy's Discontent: America in Search of a Public Philosophy.</u> Cambridge, Belknap Press of Harvard University Press, 1996.

impossible to expect people to agree on the rationality of one argument, even, to agree what reason is. In fact—feminists and postmodernists have also warned about this repeatedly—the mere idea of universal reason is laden with the danger of the potential exclusion of dissident voices through violence or absolute indifference. There is no single Reason to be found out there, but only are multiple reason*s*, embodied in multiple cultural and personal perspectives, each one with its own legitimacy.

Against the backdrop of such debates, 'thin' models of rationality want to argue that they are more realistic, more achievable and more inclusive than the 'thick' kind. Because of this they have an evident appeal. They shy away from any pretensions of universality, reject the theoretical pull of an a-priory or teleological idea of reason, and accept radical pluralism as the condition of contemporary societies. They present a set of conditions for deliberation that seem at the same time normative and within reach. Their goals are more modest: deliberation is no longer thought of as a guarantee for the morality or justice of the outcomes, but only of their *factual legitimacy.* They embraces plurality, diversity, and the empirical give and take of politics.

Problems, however, remain since stepping down from universality into culture and context is a movement with perils of its own. The main among them is the paradoxical closure of reason into cultural exclusivity that is caused by the movement away from universal reason. According to Thomas McCarthy, 'thick' deliberative democrats toe the line between critical theory and a teleology of reason—at the very least, Habermas and others in the 'thick' camp would agree on the statement that communicative reason is an

ergon belonging to the species and not to a particular culture.[69] Counter-intuitively enough, if a theory abandons the teleological grounding of reason it is more, no less, prone to fall back into cultural provincialism: the act of arguing that rationality is exclusive to one particular time and place. One premier place in which to being such a discussion is the work of John Rawls, as his transition from A Theory of Justice to Political Liberalism mirrors the change from a thicker to a thinner notion of rationality.

A Theory of Justice is commonly referred to as a "Kantian", for its positing of the principles of autonomy and universality. In Political Liberalism, however, Rawls seems to have abandoned such principles to concentrate in liberalism as a cultural specificity. In the "last" Rawls, the concept of person that is utilized no longer comes from any philosophical analysis, but is understood as pertaining to a certain type of society. Reason is, in the same vein, constructed as a capability for weighing reasons that is only made possible by an attitude of tolerance and respect that is not species-specific but culture-specific. The (new) Rawlsian theory of justice no longer talks to the totality of the rational and reasonable individuals, regardless of their situation in time and space, but to those that are identified with the public culture that is characteristic of the liberal-democratic societies.

After A Theory of Justice, the Rawlsian interest switched from decision making than with *decision- justification*: the process by which a decision-making power holder

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[69] Reason, as an ideal or a potential, is species- and not culture-specific *regardless of the fact that the conditions for its realization appeared first in one particular culture.* This is pure Hegel, of course: all kinds ideas *appear* in particular contexts; some of them are inherently rational and hence universalizable. An ethical idea can be created in a particular culture but always transcends the cultural boundaries in its journey towards universal realization.

justifies the decisions to the citizens.[70] In this regard, public deliberation is conceived as the process by which constituencies discuss and evaluate the decisions being made in the political arenas. Crucial to this model is the qualified requirement of moral neutrality.[71] Moral neutrality refers to the need that the participants in deliberation avoid appealing to divisive positions or comprehensive moral doctrines.

The theoretical necessity of moral neutrality flows right out of the rejection of teleology. On the one hand, cultural worldviews are both subjectivity-constitutive and comprehensive; on the other, they *cannot be escaped.* Religion and culture are viewed as a threat to the liberal public sphere because it is assumed that there is no common ground from which to criticize these comprehensive moral doctrines from within. In its most extreme formulation, the neutrality principle takes the form much like a vow of moral silence: "[w]e should simply say *nothing at all* about [any] disagreement and put the moral ideas that divide us off the conversational agenda".[72] In less radical formulations, it presents itself as the requirement that all moral reasoning invoke "relatively reliable methods of inquiry".[73]

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[70] "Whenever anybody questions the legitimacy of anyone's power, the power holder must respond not by suppressing the questioner but by giving a reason that explains why he is more entitled to the source than the questioner is." Bruce Ackerman, Social Justice in the Liberal State, New Haven, Conn., 1980. P. 4.

[71] "No reason is a good reason if it requires the power holder to assert: (a) that his conception of the good is better than that asserted by any of his fellow citizens, or (b) that, regardless of his conception of the good, he is intrinsically superior to one or more of his fellow citizens." Bruce Ackerman, Social Justice in the Liberal State, p. 11.

[72] Bruce Ackerman, "Why Dialogue" in Journal of Philosophy, Vol. 81, No. 1, January 1989.

[73] "The other requirement of reciprocity refers to the empirical or quasi-empirical claims on which moral reasoning often depends to achieve its practical purposes. When moral reasoning invokes empirical claims, reciprocity requires that they be consistent with relatively reliable methods of inquiry." Amy Gutmann and Dennis Thompson, Democracy and Disagreement, p. 56.

Central to Rawls' understanding of deliberation is the discussion of what should not be deliberated. Deliberation for Rawls happens only within the limits of a very clearly demarcated public sphere. Contrary to the Habermas—who argues that public and private are the two poles of an organically related continuum of communication—Rawls wants to demarcate public discourse in a more stringent way. In <u>Public Liberalism</u> Rawls defines "public" uses of reason—deliberation—as those "connected with governmental and quasi-governmental venues and functions—for example, with parliamentary debates, administrative acts and pronouncements, and the workings of the judiciary, but also with political campaigns, party politics, and even the act of voting," while "non-public" reason, on the other hand, is connected with nongovernmental venues and functions—for example, with churches, universities, professional groups, and voluntary associations in civil society.[74] The reduction of public reason to governmental or quasi-governmental venues and functions aims at exiling to the "private" realm discussions about comprehensive moral, religious or philosophical doctrines and the radical pronouncements that could potentially criticize current political arrangements.[75]

The reduction of the idea of public discourse to governmental or quasi-governmental decision justification is necessary because Rawls in <u>After Liberalism</u> has shifted his understanding of what a person is. After a Theory of Justice, Rawls begins to rely in a conception of the rational person that identifies rationality with a certain

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[74] Thomas McCarthy, "Kantian Constructivism and Reconstructivism: Rawls and Habermas in Dialogue", p. 50.

[75] Not to mention that the identification of churches and voluntary associations with "private" use of reason would give liberals like Kant and Tocqueville much pause.

conception of society, namely, liberal-secular Western societies. The theory is still Kantian only because the concept of person that is implicit in the culture of the liberal societies coincides in general terms with the concept of person that was delineated by Kant. The (new) Rawlsian theory of justice no longer talks to the totality of the rational and reasonable individuals, regardless of their situation in time and space, but to those that are identified with the public culture that is characteristic of the liberal-democratic societies. This identification of liberal public culture with rationality, moreover, becomes explicitly prescriptive:

> In other words, in public discussions of fundamental issues, the reasons offered on opposing sides should be ones that all might reasonably be expected to endorse in view of their shared political conception of justice. Put negatively, they should not be reasons particular to a particular comprehensive moral, religious or philosophical doctrine.[76]

The condition for deliberation, here, is **culture.** It seems like he preclusion of teleological statements about universal reason or even the pragmatics of language leaves no possible ground for universality, even in the hypothetical sense of somebody *convincing* somebody, or both changing their minds through public discussion. Moral deliberation, or even the "overlapping consensus", is not always or everywhere possible. They are the product of long processes of historical and cultural learning. Moral deliberation is possible in plural and tolerant societies that have been formed in a certain way by certain historical experiences. *Other* cultures, or those groups within cultures that are ruled by different "comprehensive doctrines", cannot deliberate properly.

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[76] John Rawls, Political Liberalism, pp. 224-225. CHEQUEAR, CITADO POR MCCARTHY, P. 50.

'Thin' theories of deliberation add cultural conditions to institutional or procedural ones. These are, according to Amy Gutmann and Dennis Thompson, a common orientation towards reciprocity, mutual respect, and a shared deference to an secularist outlook of public affairs:

> Deliberative reciprocity *expresses two related require*ments, one primarily moral an other primarily empirical. When citizens make moral claims in a deliberative democracy, they appeal to reasons or principles that can be shared by fellow citizens who are similarly motivated (...) The qualifying phrase "similarly motivated" indicates that a deliberative *perspective does not address people who reject the aim of finding fair terms for social cooperation*; **it cannot reach those** who refuse to press their public claims in terms accessible to their fellow citizens. *No moral perspective in politics can reach such people,* except one that replicate their own comprehensive set of beliefs.[77]

The unintended consequence of this definition of deliberation is the argument that people who do not belong to liberal societies are not fit to deliberate publicly. In this version of deliberation, the issue of personal motivation becomes central, while it was only secondary in the 'thick' version. The language, moreover, becomes normative becomes normative: those that have a different view of, say, culture are cast as *people that refuse* to talk to fellow citizens in common terms because they are *outside any moral perspetive*. Deliberation and justice become a matter of *attitude*:

> The principles of accommodation are based on a value that lies at the core of reciprocity and deliberation in democracy—mutual respect. It is what makes possible cooperation in fair terms. Like toleration, mutual respect is a form of agreeing to disagree. But mutual respect demands more than toleration. It requires a favorable attitude toward, and constructive interaction with, the persons with whom one disagrees. It

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[77] Amy Gutmann and Dennis Thompson, <u>Democracy and Disagreement,</u> p. 55, emphasis added.

consists in an excellence of character that permits a democracy to flourish in the face of fundamental moral disagreement.[78]

The main problem with the 'thick' model of deliberation stems out of its definition of culture. In the 'thick' models, culture is a *product* of deliberation, since it is created by and through language, sociability and discourse. Cultures are not fixed or unmovable things that have to be somehow 'protected' from criticism or change: all of them own strong ethical insights that can be taken advantage of, shared, and taught. All of them are works in progress, existing within societies that have inequalities, injustices and power asymmetries that must be addressed and criticized, both cultural and politically. The 'thin' version of deliberation de-historicizes and reifies culture, imagining that somehow criticism is a threat, and not a resource, for deliberation:

> In making these justifications, we are to appeal only to presently accepted beliefs and norms of reasoning found in common sense, and the methods and conclusions of science when they are not controversial… As far as possible, the knowledge and ways of reasoning… are at rest on the plain truths widely accepted or available to citizens generally.[79]

The paradoxical consequence of this theory is true liberal deliberation would only be possible if somebody silences of excludes those members of the community that for some reason reject the widely accepted "plain truths" of the culture. The problem with this formulation is that it too easily fuses is historical-cultural contingency with

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[78] Amy Gutmann and Dennis Thompson, <u>Democracy and Disagreement,</u> p. 79.

[79] John Rawls, <u>Political Liberalism</u>, pp. 224-25.

normative prescription. This theoretical operation forecloses or even negates the possibility of criticism and self-criticism within and between cultures. It also reifies cultural difference: every culture has its own "plain truths" that have been historically constituted but that does mean that cultures do not, or should not, change. To isolate any of them of from criticism would imply that particular one is not perfectible—Western and non-Western cultures alike. It is one thing to post an ideal as a norm to strive towards to, and it is something different to take an already-existing culture as norm.[80] As McCarthy argues, "for to suppose that the stock of shared political ideas and convictions is in some way a given, there to be found and worked up, or that it could somehow be fixed by the theorists, is to hypostatize or freeze ongoing processes of public political communication whose outcomes cannot be settled in advance by political theory."[81]

This outlook, moreover, presents an idea of citizenship that is identical to *self-restraint.* Citizens must internalize the thematic, cultural and political limits to what can be said and argued, even to the point of agreeing to say nothing at all about moral disagreements. The problem, however, is that such an arrangement will always be

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[80] I share Bruce Ackerman's criticism of Rawls eradication of the critical edge that is necessary for liberalism: "Instead he [Rawls] is engaged of Locke and Mill, Kant and Hegel. The power of Rawls's work owes itself entirely to his creative reshaping of abstract philosophical arguments inherited from the Western tradition. Given this fact, it is important to recall that neither Locke nor Kant nor even Mill wrote at a time when liberalism was ascendant in the "public political culture". Instead, they wrote with the intention of changing their cultures in profound ways. So should today's political liberals. No nation on earth has achieved the kind of social justice to which political liberalism aspires. As a consequence, every existing political culture is papered over with thousands of apologetic documents that explain why justice cannot be done. […] Political liberal would turn into provincial rationalization if it followed Rawls's advice. […] The task is to criticize political culture, not rationalize it; to change it for the better, and struggle against authoritarian regression." Bruce Ackerman, "Political Liberalisms", in The Journal of Philosophy, Vol. 91, No. 7, (Jul. 1994), pp. 364-386, p. 377.

[81] Thomas McCarthy, "Kantian Constructivism and Reconstructivism: Rawls and Habermas in Dialogue" p. 61

functional to the existent relations of power and privilege, be them cultural, social or economic.[82] Too narrow or stringent definitions of deliberation present the problem of power. Who, one ask, is going to act as the gatekeeper of deliberation? If people do not restrain themselves—as they surely will not—who is going to do the restricting, the separating, and the gagging? Elected representatives? Civil society? The judges?

f) The problem of "repressed politics"

To recapitulate: deliberative democracy presents itself as the best way to solve the shortcomings of contemporary democracy. The grounds of this promise are its promise to generate better politics by creating more rational politics. Key to the promise, then, is the concept of reason that is utilized. After my analytical description reconstruction of both 'thick' and 'thin' constructions of deliberation and communicative reason, I came to the seemingly paradoxical conclusion that a teleological idea of reason makes room for a more open and inclusive definition of deliberation, while a more narrow, "post-metaphysical" definition can have precisely the opposite effect: to theoretically legitimate the exclusion of cultures and groups and of their political claims from public deliberation.

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[82] "[I]f neutrality were in addition to require that ethical questions be *bracketed out of* political discourse in general, then such discourse would forfeit its power to rationally change prepolitical attitudes, need interpretations, and value orientations. [...] On this premise, however, the neutrality of procedure could be secured only by rules of avoidance (or "gag rules") and would depend on received distinctions between private and public spheres, delimitations that for their part are excluded from discussion. Such a rigid constraint (...) would at least implicitly prejudice the agenda in favor of an inherited background of settled traditions. Jürgen Habermas, Between Facts and Norms, p. 309.

The political extrapolation of the reason/irrationality dichotomy is of course old as thought itself: the entire Republic is dedicated to exploring it. Political theory itself is the result of the project of constructing a just politics through reason. The residue, the irrational, though, remains and shows itself anew: those that refuse to speak the common language, the foreigners, the barbarians, those that do not talk the common language and are therefore a threat to the rational ordering or politics. Contemporary deliberative democratic theory struggles—as we have seen—to fix the boundaries between rationality and irrationality, between democratic inclusion and liberal exclusion, between the right to participate and the danger of totalization.

We know that if the rational politics is the politics of the *logos*, irrational politics is the politics of the *demos*. If deliberative politics is the politics of the mind, populism is the politics of the amassed bodies of the people. Populism is the dark shadow, the other side of the coin of a rational politics and, therefore, its main threat. Populism for Plato was characterized by the leader's appeal to the mass' lesser instincts. Rejection of populism carries on in deliberative democratic theory. Deliberative democrats seem to share a decidedly anti-populist rhetoric. Jürgen Habermas warns us of the eruption of "populist movements" that "blindly defend the frozen tradition of a lifeworld endangered by capitalist modernization."[83] And Gutmann and Thompson point to the danger of populist politics growing within deliberation itself.[84] Most deliberative democrats

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[83] Jürgen Habermas, Between Facts and Norms, p. XX.

[84] [Mention to populism] "The second criticism of deliberative democracy comes from [this] direction: the principle gives too much weight to public opinion and too little to the moral and political expertise of representatives. The danger of excessive populism (...) if representatives must justify their actions not only to one another but also to citizens (...) then their justifications must appeal to the general public. Political

insinuate the hope that the rationalization of politics through deliberation will render the disappearance of populist mobilization:

> Only in an egalitarian public of citizens that has emerged from the confines of class and thrown off the millennia-old shackles of social stratification and exploitation can the potential of an unleashed cultural pluralism fully develop—a potential that no doubt abounds just as much in conflicts as in meaning-generating forms of life. But in a secularized society that has learned to deal with its complexity consciously and deliberately, the communicative mastery of *these* conflicts constitute the sole source of solidarity among strangers—strangers who renounce violence and, in the cooperative regulation of their common life, also concede one another the rights to *remain* strangers.[85]

There are but a few of deliberative democrats that grasp that exclusion in general, and social-cultural exclusion in particular, are threats so grave, if not more so, to the prospects of real democracy than populist mobilization.

The dialectics of inclusion/exclusion are of paramount importance for deliberative democrats in ate least two ways. First, because all theories of deliberative democracy have to discuss forms exclusion, understood as the limits to citizenthip and participation. As we have seen, some of them view exclusion as a *condition* for deliberation: 'thin' models want to *exclude* certain types of doctrines, certain types of themes, and finally, certain types of people from public discussion: people with strong religious convictions, people that do not accept scientific results as the ultimate arbiter of social decisions, or people that share into a "non-liberal" set of "plain moral truths". Such formulations,

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rhetoric of this sort, these critics fear, tends to become simplistic and even demagogic. Amy Gutmann and Dennis Thompson, <u>Democracy and Disagreement</u>, p. 137.

[85] Jürgen Habermas, <u>Between Facts and Norms</u>, p. 308.

however, beg the question of who, exactly, does the "excluding", based on whose authority, and through which means. Second, because the question remains unanswered as to what are the excluded groups supposed to do. People must accept the grounds upon which their exclusion is predicated and 'gag' themselves or they must be kept out of the public arena through some kind of power. Power becomes the gate-keeper of reason in this respect, since self-limitation lacks plausibility.

But the use of power to enact rules of discourse can generate what I shall call "repressed politics". Repressed politics happens when excluded groups have claims that are not recognized as legitimate and then see themselves as progressively cut off from the political system. The danger of "Repressed" politics is that when groups feel completely separated from the democratic political system, many times will choose to simply rise against it.

Deliberative democratic theory argues that the legitimacy of a deliberative political process can be predicated by measuring if everybody affected by the political decision being made participates in the process of decision-making—this imperative is of factual, and not only theoretical, significance. But if there are "repressed politics" at hand, how can we know who should be sitting at the table? How to know, and who can know, whether everybody that should be participating is, in fact, present:

> *The normative legitimacy of a democratic decision depends on the degree to which those affected by it have been included in the decision-making processes and have had the opportunity to influence the outcomes.* Calls for inclusion arise from experience of exclusion—from basic political rights, from opportunities to participate, from the hegemonic terms of the debate. Some of the most powerful and successful social movements of this century have *mobilized around demands for oppressed and*

marginalized people to be included as full and equal citizens in their polities.[86]

If one accepts as a premise that "the normative legitimacy of a democratic decision depends on the degree to which those affected by it have been included in the decision-making" then the necessity to understand the theoretical and factual conditions for inclusion comes to the fore. In fact, in the course of this project I would like to go beyond the mark set by Young[87] and argue that populist mobilization—instead of simply be theorized as the opposite or the threat of deliberative democracy—must be thought of as a different, but dialectically related "democratic moment" that can and often is a valuable resource for democratization and inclusion. [THIS TRANSITION MUST BE COMPLETED]

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[86] Iris Marion Young, Inclusion and Democracy, Oxford, Oxford University Press, 2000, p. 4, emphasis added.

[87] "Democratic discussion and decision-making is better theorized as a process in which differentiated social groups should attend to one particular situation of others and be willing to work out just solutions to their conflicts and collective problems from across their situated positions. (…) I suggest that this misconstrual derives in part from misunderstanding such group-based public expressions solely and entirely as assertions of a group 'identity'. (…) Socially situated interests, proposals, claims and expressions of experience are often an important resource for democratic discussion." Iris Marion Young, Inclusion and Democracy, p. 7.