

## **DEMOCRACY, PLURALISM AND THE IDEA OF PUBLIC REASON: RAWLS AND HABERMAS IN COMPARATIVE PERSPECTIVE**

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### ***Abstract***

*The notion of public reason, developed by two of the most influential contemporary political thinkers - Jürgen Habermas and John Rawls - as well as the contemporary discussions on the concepts of citizenship, civil society and the public sphere, among others, are all manifestations of the attempt to handle the thorny issue of the relationship between difference and equality. This article analyzes these two conceptualizations of public reason in a comparative perspective and its main contention is that the point where they depart each other is too important to be neglected. Although Habermas himself described his criticism of Rawls as a "familial dispute" and stated that he is engaged in a "friendly and provocative" critique in such a way that Rawls's theory can reveal its strengths, this article insists that the use of public reason is conceptualized radically differently by Rawls and Habermas.*

**Keywords:** Public reason, democracy, pluralism, Rawls, Habermas.

### **1. Introduction**

In a country like Turkey, it is a routine to hear people talking about "co-existence of differences", "a mosaic of cultures" or "differences as richness". As elsewhere in the world, the notion of pluralism is often at the center of the current political debates about democracy. This is mostly related with the rising tides of the Kurdish issue and headscarves affair. Especially nowadays such discussions are once again at the center of the political agenda due to the hot debates over the need for a new a constitution. However, in order to be able to provide an opening

in the real sense of the term, the relationship between democracy and pluralism needs to be considered within the framework of the “problems that are associated with equality in the context of difference.”<sup>1</sup> Turkey and many other countries have struggled and, continue to struggle with questions of this kind. Canada, Germany, the Netherlands, France, Britain and many others have been trying to handle the tension between difference and equality that has been manifesting itself in different ways. Concomitantly, over the last few decades these problems have had a central place in contemporary political thought.

Contemporary discussions on the concepts of citizenship, civil society, public sphere and participatory democracy among others are all related with this query. A particular line of thinking in modern political thought, namely the post-Marxist tradition, has insisted that the relationship between pluralism and democracy should be viewed in terms of antagonism and hegemony.<sup>2</sup> The notion of *public reason*, developed by two of the most influential contemporary political thinkers, Jürgen Habermas and John Rawls, could be considered as another attempt at handling this complex issue. Both thinkers follow the same line of thinking in that they refer to the idea of consent as an important concept in political theory as opposed to the above-mentioned post-Marxist strain of thought that focuses on the idea of conflict. Rawls and Habermas call for public use of reason in finding a common ground, which, according to them, is the prerequisite of living together. This article analyzes these two conceptualizations of public reason in a comparative perspective and its main contention is that the point where they depart each other is too important to be neglected. This claim may seem ironic considering the fact that Habermas himself described his criticism of Rawls as a “familial dispute” and stated that he is engaged in a

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1 Anne Phillips, *Democracy and Difference* (Oxford, Cambridge: Polity Press, 1993), 2.

2 See for instance Ernesto Laclau and Chantal Mouffe, *Hegemony and Socialist Strategy Towards a Radical Democratic Politics* (London, New York: Verso, 1985); Chantal Mouffe, *The Democratic Paradox* (London, New York: Verso, 2000).

“friendly and provocative” critique in such a way that Rawls’s theory can reveal its strengths:

Because I admire this project, share its intentions, and regard its essential results as correct, the dissent I express here will remain within the boundaries of *a familial dispute*...I shall raise objections directed not so much against the project as such but against certain aspects of its execution...My critique is a constructive and immanent one.<sup>3</sup>

Habermas explained in an interview that his discourse ethics approach “is an attempt to reconstruct Kantian ethics with the help of the theory of communication” and that his suggestions “derive above all from Rawls and Kohlberg.”<sup>4</sup> Similarly, McCarthy observes that these two theorists have traveled different paths from their common starting point in Kant’s philosophy and yet despite the differences they have remained close enough to make their disagreements instructive.<sup>5</sup> Notwithstanding these arguments, this article insists that the use of public reason is conceptualized radically differently by Rawls and Habermas. Rawls uses the concept of “public reason as a form of *ex ante* limitation of reasons which can be offered in the public space in order to justify coercive action by the state” whereas “Habermas understands public reason as an *ex post* concept”. Rawls argues that when we are debating on politics we should not take our comprehensive doctrines as a reference point; our justification should be based upon reasons that can be generalizable to the doctrines present in a certain society. For Habermas, on the other hand, the public space should be open to any reason arguing from any comprehensive doctrine. The acceptability of this

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3 Jürgen Habermas, "Reconciliation through the Public Use of Reason: Remarks on John Rawls's Political Realism," *The Journal of Philosophy*, 92 (March 1995): 110. Emphasis added.

4 Peter Dews ed., *Autonomy and Solidarity: Interviews with Jürgen Habermas* revised edition (London and New York: Verso, 1992), 158.

5 Thomas McCarthy, "Kantian Constructivism and Reconstructivism: Rawls and Habermas in Dialogue," *Ethics* 105 (October 1994) reprinted in P. Weithman, ed. *Reasonable Pluralism* (New York and London: Garland Publishing, Inc., 1999), 44.

reason, whether it is public and whether it is generalizable, is to be decided through public deliberation.

This study departs from the contention that this difference is worth thinking about since the two thinkers are suggesting two different ways of dealing with pluralism pervasive in modern society. There would be at least two consequences, one theoretical and one socio-political, of a decision to choose one framework or another. First, it would influence the way we understand justice theoretically: is justice 'comprehensive' or merely 'political'? Second, it would influence the way one answers the question: should the liberal state take binding decisions based on arguments from such issues as religion and metaphysical beliefs or should it attempt strict neutrality between these?<sup>6</sup> Before going into the details of this comparison, however, there is need for an understanding of the three major (and closely related) questions these two theoreticians have reflected upon: the question of the thorny relationship between difference and equality, the question of the relationship between pluralism and democracy, and the question of the relationship between the individual and the community.

## **2. The Liberal Idea of Pluralism**

Contemporary democracies face important questions of justice, equality and freedom due to different ethnic affiliations, religious beliefs, views of morality, ethico-political principles, and ideals of the citizens of the nation-states. What complicates the matters is that in all these areas there is little possibility of convergence while at the same time the individuals and groups having those particularities need to live together politically. This in turn means that there should be some common ground or a reference point from which their political claims can be judged. Consequently, it becomes inevitable to ask what the 18<sup>th</sup> century liberalist motto of "Liberté, Egalité, Fraternité" means in today's societies. Anne Phillips asks a number of important questions in this respect:

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6 I am grateful for these suggestions to one of the anonymous reviewers of CEU PSJ.

How are democracies to deal with divisions by gender or ethnicity or religion or race, and the way these impinge on political equality? What meaning can we give to the political community when so many groups feel themselves outside it? How can democracies deliver on equality while accommodating and indeed welcoming difference?<sup>7</sup>

Although until recently the liberal democratic conception of citizenship remained as the most widely accepted answer to such questionings about equality, difference and democracy, lately it has become the focus of criticism on the grounds that it has serious shortcomings to handle this tension. As is well known, liberal democratic notion of citizenship are grounded on the premise of universality which implies that all individuals are given the same formal/legal rights regardless of gender, race, ethnicity, religion or class which results in an abstract notion of citizen-individual. The rationale behind this formula is that these latter categories are conceptualized and formulated as private matters while the realm of politics, as well as citizenship, is defined in the public sphere. The notion of citizenship in its liberal democratic formulation has tried to solve the problem by creating a homogenous public by relegating all particularity and difference to the private.<sup>8</sup> Liberal democracy has presumed that we can abstract some essential human sameness in people and tried to structure the political public realm on this principle of universality.<sup>9</sup> Consequently, liberal democratic citizenship has

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7 Phillips, *Democracy and Difference*, 2.

8 Chantal Mouffe, "Preface: Democratic Politics Today" in. *Dimensions of Radical Democracy: Pluralism, Citizenship, Community*, ed. Chantal Mouffe (London, NY: Verso, 1992), 7. Emphasis added.

9 The goal of the universality principle is to free people from their differences and to equalize all members in their political rights, independently from the particular human beings they are. It would be unfair to view this goal as narrow-mindedness. It has been fundamentally important in modern history, supporting the emancipation process from the hierarchical societies of the ancient regime. The principle of equality before the law came with the notion of popular sovereignty during the French Revolution. The main target was social hierarchies which used to be the basis of *honor* in the ancient regime sense in which it was intrinsically linked to inequalities. As against this notion of honor, we have the modern notion of dignity in the French Revolutionary ideas, now used in a

taken the form of a legal status where everybody is equal and are possessed of the same political rights. However, both the intensity of the ongoing intellectual debates and problems at the practical level show that this distinction has not been so successful in dealing with particularities.

As Hall and Held point out, "from the ancient world to the present day, citizenship has entailed a discussion of, and a struggle over, the meaning and scope of membership of the community in which one lives. Who belongs and what does *belonging* mean in practice?"<sup>10</sup> In the liberal democratic framework, then, being a member of a political community has come to stand for being the bearers of the same legal rights. In today's conditions, however, it has become increasingly difficult to answer this question largely due to the process that we call globalization. The latter has been going hand in hand with the tension between cultural homogenization and cultural heterogenization which is also known as the tension between universalism and particularism.<sup>11</sup> This tension corresponds to a debate revolving around such questions as:

Can citizens with diverse identities be represented as equals if public institutions do not recognize our particular identities but only our more universally shared interests? Apart from ceding each of us the same rights as all other citizens, what does respecting people as equals entail? In what sense

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universalist and egalitarian sense, where we talk of the inherent dignity of human beings, or of citizen dignity. So, in this sense this universality principle and the public/private distinction has been an achievement, a contribution to political equality. In time, however, it has led to severe criticisms. For this discussion see Charles Taylor, *Multiculturalism and the Politics of Recognition*, (Princeton: Princeton University Press, 1992), 27.

10 Stuart Hall and David Held, "Citizens and Citizenship" in *New Times: The Changing Face of Politics in the 1990s*, eds. S. Hall and M. Jacques (London: Lawrence & Wishart, 1990), 144.

11 Richard Robertson quoted in Fuat Keyman, "On the Relation Between Global Modernity and Nationalism: The Crisis of Hegemony and the Rise of (Islamic) Identity in Turkey", *New Perspectives on Turkey* 13 (Fall 1995): 100.

should our identities as men or women... Christian, Jews or Muslims... *publicly* matter?<sup>12</sup>

In a similar manner, Mouffe asks a crucial question:

How can the maximum of pluralism can be defended –in order to respect the rights of the widest possible groups-without destroying the very framework of the political community as constituted by the institutions and practices that constitute modern democracy and define our identity as citizens?<sup>13</sup>

These are complex questions: if the deeply different perspectives on critical subjects are allowed to dominate political life the result may be disunity; on the other hand, if citizens are told that in politics they should not use their most fundamental beliefs about what is true, that may seem both unreasonable and a serious infringement of full liberty.<sup>14</sup> So, "this conflict is the dilemma and it is a genuine one."<sup>15</sup>

There have been a variety of responses to this dilemma as well as to the above-mentioned questions. This study will consider these questions and will show the way two prominent figures of political theory, Rawls and Habermas, have been trying to answer them. Phillips argues that positions on democracy have fallen broadly into two schools of thought: there have been those who supported liberal democracy and those who regarded it as an impoverished and inadequate form; so that the strengths and the weaknesses of liberal democracy have provided the central axis of the debate.<sup>16</sup> Rawls and Habermas fall into the former category

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12 Amy Gutmann, "Introduction" in Charles Taylor, *Multiculturalism and the Politics of Recognition*, (Princeton: Princeton University Press, 1992), 4.

13 Chantal Mouffe, ed., *Dimesions of Radical Democracy: Pluralism, Citizenship, Community*, (London: Verso, 1992), 3.

14 Kent Greenawalt, "On Public Reason" in Paul J. Weithman, *Reasonable Pluralism*, (New York and London: Garland Publishing, Inc., 1999), 670.

15 Greenawalt, "On Public Reason", 670

16 Phillips, *Democracy and Difference*, 2-3.

being concerned mainly with the democratization of liberal democracy. In that respect, the key to their solutions is the notion of public reason. However, as will be shown below, they follow different paths.

### 3. Rawls and 'Reasonable Pluralism'

The starting point of Rawls's theory of reasonable pluralism and his thesis on the public use of reason is the presumption that moral and religious accounts of human nature, which he calls comprehensive doctrine, cannot constitute the basis for the public culture of a democratic society. The reason for this is that "long-run outcome of the work of human reason under enduring free institutions" is always disagreement over comprehensive doctrines.<sup>17</sup> Since individuals and groups in a free society will hold different and incompatible philosophical, moral and religious views, there will be no comprehensive view accepted by everyone within a society. This, according to Rawls, is a normal condition of the public culture of democracy:

A basic feature of democracy is the fact of reasonable pluralism – the fact that a plurality of conflicting reasonable comprehensive doctrines, religious, philosophical and moral is the normal result of its culture and free institutions... As long as we live in a free society we should expect the diversity of conflicting and irreconcilable ... comprehensive doctrines.<sup>18</sup>

Nevertheless, he still believes that there can be some common ground between those different comprehensive doctrines that he calls as an "overlapping consensus" a notion closely related to his

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17 John Rawls, *Political Liberalism*, 129.

18 As can be seen from this paragraph, for Rawls, the fact of reasonable pluralism is to be distinguished from the fact of pluralism as such: unreasonable, irrational, aggressive doctrines cannot be accepted. A comprehensive doctrine is reasonable if it is compatible with the essentials of a democratic regime i.e. if it acknowledges the freedom and equality of citizens on which political liberalism rests. See Robert B. Talisse, *On Rawls*, (Belmont: Wadsworth Thomson Learning, 2001), 62.

theory of public reason. What unites people in this sense is their sensitivity about political justice. "Since people with different comprehensive views might share similar ideas about political justice, a consensus on the basic political structure of society remains a possibility. It is this possibility that Rawls's theory exemplifies".<sup>19</sup> The term 'political justice' has important implications for our purposes here: according to Rawls, a conception of justice must be political and not metaphysical in order for that conception to be as acceptable as possible. It should not be grounded upon a comprehensive doctrine, instead,

such a conception must allow for a diversity of doctrines and the plurality of conflicting, and indeed incommensurable, conceptions of the good affirmed by the members of existing democratic societies... we hope that this political conception of justice may at least be supported by what we may call an 'overlapping consensus', *that is by a consensus that includes all the opposing philosophical and religious doctrines likely to persist and to gain adherents in a more or less just constitutional democratic society.*<sup>20</sup>

He explains this consensus through an example:

For example, when it is said that citizens are regarded as free and equal persons, their freedom and equality are to be understood in ways congenial to the public political culture and explicable in terms of the design and requirements of its basic institutions. The conception of citizens as free and equal is, therefore, a political conception...<sup>21</sup>

So, an argument should be made in a way that "will be acceptable to a wide range of comprehensive doctrines and hence supported by an overlapping consensus."<sup>22</sup> This in turn requires "skepticism or indifference to religious, philosophical, or moral

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19 Greenawalt, "On Public Reason," 671.

20 John Rawls, "Justice as Fairness: Political not Metaphysical," in *Collected Papers*, ed. Samuel Freeman (Cambridge, London: Harvard University Press, 1999), 390.

21 John Rawls, "The Idea of an Overlapping Consensus," in *Collected Papers*, 428.

22 *Ibid.*, 429

truth" and starting "explicitly from fundamental intuitive ideas regarded as latent in the public political culture."<sup>23</sup> Rawls is aware of the fact that it is not possible to avoid comprehensive doctrines entirely but he insists that "we do what we can to reduce relying on their more specific details, or their more disputed features."<sup>24</sup> Consequently, he puts forward the question: "The question is: what is the least that must be asserted; and if it must be asserted, what is its least controversial form?"<sup>25</sup> In order to answer this question by delineating the requirements of an overlapping consensus, Rawls develops the idea of "original position". In his own words,

this idea is introduced in order to work out which traditional conception of justice ...specifies the most appropriate principles for realizing liberty and equality once society is viewed as a system of cooperation between free and equal persons."<sup>26</sup>

In *A Theory of Justice* Rawls defines the original position as "a purely hypothetical situation" but adds that "we can simulate the reflections of the parties by following the constraints it expresses."<sup>27</sup> In this hypothetical situation, individuals have to choose the principles of justice which are to govern their society, but they are to do this behind "a veil of ignorance" so that no one knows anything about his or her personal identity:

No one knows his place in society, his class position, or social status; nor does he know his fortune in the distribution of natural assets and abilities, his intelligence and strength and the like. Nor, again, does anyone know his conception of the good, the particulars of his rational plan of

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23 Ibid., 429

24 Ibid., 429

25 Ibid., 429

26 Rawls, "Justice as Fairness," 399.

27 John Rawls, *A Theory of Justice*, Revised edition, (Oxford: Oxford University Press, 2000), 104.

life... more than this I assume that the parties do not know the particular circumstances of their own society.<sup>28</sup>

It is assumed, however, that everybody knows the general facts about human society and that they understand political affairs and the principles of economic theory, basis of social organization, and laws of human psychology.<sup>29</sup> The parties in the original position are "not bound by moral ties to each other".<sup>30</sup> One important consequence of this veil of ignorance is that "the parties have no basis for bargaining in the usual sense. No one knows his situation in society or his natural assets, and therefore no one is in a position to tailor principles to his advantage."<sup>31</sup>As a result, the emerging moral principles to govern their society acquire a public character or they become generalizable.

Rawls accepts that this notion of veil of ignorance raises several difficulties. In order to deal with these difficulties, he recommends that the original position should not be thought of as a gathering of all actual or possible persons, but it "must be interpreted so that one can at any time adopt its perspective."<sup>32</sup> What Rawls tries to develop is a tool that everyone can use in various conflicting situations in order to assert the views that are capable of gaining the acceptance of all members of the society.<sup>33</sup> The important thing that needs to be underlined here is that Rawls does not believe in any possibility of reaching a consensus when at stake is the deeply different moral, philosophical and religious views. Therefore, the questions that could be brought to

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28 Ibid., 118.

29 Ibid, 119.

30 Kenneth Baynes, *The Normative Grounds of Social Criticism: Kant, Rawls, Habermas* (Albany: State University of New York Press, 1992), 52.

31 Baynes, *The Normative Grounds of Social Criticism*, 121

32 Baynes, *The Normative Grounds of Social Criticism*, 120.

33 It can easily be observed that this principle is quite similar to the 'categorical imperative' of Kantian ethics and Rawls does not deny this resemblance. However he argues that such previous theories, even contract theories, have passed over the problem of defining the knowledge of the parties and of characterizing the alternatives open to them. See *A Theory of Justice*, pp. 121-122.

the public political life should not be grounded upon these doctrines.

This point regarding the idea of avoidance from controversial claims takes us to the notion of public reason. Rawls argues that once citizens realize that they cannot reach agreement or even approach mutual understanding on the basis of their irreconcilable comprehensive doctrines, "they need to consider what kinds of reasons they may reasonably give one another when fundamental political questions are at stake."<sup>34</sup> Hence, "the idea of public reason specifies...the basic moral and political values that are to determine a constitutional democratic government's relation to its citizens and their relation to one another. In short, it concerns how the political relation is to be understood."<sup>35</sup> The adjective public here specifies that "its subject is the public good concerning questions of fundamental political justice".<sup>36</sup> What follows from this definition is that "in public reason comprehensive doctrines of truth or right [should] be replaced by an idea of the politically reasonable addressed to citizens as citizens."<sup>37</sup> Although Rawls argues that the idea of public reason "neither criticizes nor attacks any comprehensive doctrine, religious or nonreligious", this situation requires that the doctrine in question is not incompatible with the essentials of public reason and democratic theory; the basic requirement is that a reasonable doctrine accepts a constitutional democratic regime and its companion idea of legitimate law."<sup>38</sup> As can easily be seen, for Rawls "the method of avoidance" should always be applied when certain argumentation or concern will be brought to "the public political forum."<sup>39</sup> Nevertheless, this requirement still allows us to introduce our comprehensive doctrine to political discussion. However, this can only happen on the condition that

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34 John Rawls, "The Idea of Public Reason Revisited," in *Collected Papers*, 574.

35 Ibid, 574.

36 Ibid, 575.

37 Ibid, 575.

38 Ibid, 575.

39 Ibid, 575.

in due course we give properly public reasons to support the principles of and policies that our comprehensive doctrine supports. Rawls calls this requirement the proviso.<sup>40</sup> Through the use of the proviso,

...their opinion is no longer just that of one particular party but an opinion that all members of a society *might* reasonably agree to, not necessarily that they *would* agree to. What is important is that people give the kinds of reasons that can be understood and appraised apart from their particular comprehensive doctrines. *So the idea of public reason is not about the right answers to all these questions, but about the kinds of reasons that they ought to be answered by.*<sup>41</sup>

Taken together with other key concepts in Rawls's theory - political justice, the original position, the veil of ignorance and the proviso - his approach to the idea of public reason reflects the way Rawls tries to solve the basic problems outlined at the beginning of this article. He endeavors to solve the dilemma by developing a strategy of self-restraint or a method of avoidance in the sense of insisting that "the public political forum" has to be freed from deeply controversial doctrines.

There are three important points that could be raised regarding these strategies. First, Rawls makes a distinction between two categories: the category of the political on the one hand and the category of the moral, metaphysical and philosophical on the other. He tries to separate them from each other. This distinction is a very controversial topic open to be questioned from different angles. It suffices here to mention the basic question: is it really possible to draw the line separating public reasons and the reasons deriving from comprehensive doctrines? Rawls himself is aware of this problem and attempts to handle it by saying that there may be times that we do not need to separate them,

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40 Ibid, 584. Emphasis in original.

41 John Rawls, "Commonweal Interview with John Rawls," in *Collected Papers*, 617. Emphasis added.

because, there may be points of convergence between the two. In such cases, that is, when they are in accordance with the public reason, the people can use the reasons that their comprehensive doctrine supports. But it seems that the boundary problem still remains. What if a certain group of people insists on using their particular comprehensive doctrines by bringing them to the public political forum? This question takes us to the second important objection regarding Rawls's theory of reasonable pluralism. As one scholar points out, Rawls "tries to construct a theory which can be accepted by anyone who is prepared to take an impartial viewpoint."<sup>42</sup> He assumes that individuals are capable of this self-restraint regarding the arguments that they can bring to public discussion. However, what if they are not prepared to act this way? The third important objection is that Rawls, regarding moral and philosophical viewpoints adapts a "strategy to discount the pluralism in advance, so to speak, by restricting public reason to the ambit of an overlapping consensus."<sup>43</sup> Rawls believes there is no possibility of consensus and even a mutual understanding on such concerns so much so that it would not be unfair to say that he considers such discussions as waste of time. Habermas's critique of Rawls becomes important in its approach to those last points. As we will see below, he has a different standpoint in terms of his approach to the idea of consensus, and to the argumentation process regarding particular comprehensive doctrines.

#### **4. Habermas's Critique of Rawls's Conception of Public Reason**

Jürgen Habermas's theory of communicative action presents an alternative to Rawls's conception of the public use of reason. When we look at this "familial dispute", we see that the differences between the two theses are quite important, even

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42 Robert Sugden, "The Contractarian Enterprise" in *Rationality, Justice and the Social Contract: Themes From Morals by Agreements*. D. Gauthier and R. Sugden (Ann Arbor: The University of Michigan Press, 1993), 7. Emphasis original.

43 McCarthy, "Kantian Constructivism and Reconstructivism," 334.

crucial. In this part, we will try to highlight those points of divergence which are really worth thinking about. Habermas writes extensively on a variety of issues and concepts in political theory. This study will focus on one important part of his project which is the development of what he calls discourse ethics. In this project, Kant's categorical imperative is reformulated in terms of a discursive procedure for moral argumentation.<sup>44</sup> The basic idea of discourse ethics is that "only those norms can claim to be valid that meet (or could meet) with the approval of all affected in their capacity *as participants in a practical discourse*."<sup>45</sup> At first sight this definition is quite similar to the basic argument of Rawls. What creates the difference is the italicized part of this sentence i.e. "as participants in a practical discourse" and hence we can take it as our starting point. "Anyone familiar with Habermas's moral philosophy will be aware that he posits a distinction between moral theories of two fundamentally different kinds: monological and dialogical."<sup>46</sup> This distinction depends upon whether a theory affirms that the identification of the correct principles of morality is a project that must be carried out collectively (dialogically) or not (monologically).<sup>47</sup> A dialogical theory affirms that the true principles of morality are essentially collective acts; they can be revealed only after a certain kind of interaction in which everyone participates.<sup>48</sup> This distinction is of

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44 Baynes, *The Normative Grounds of Social Criticism*, 77.

45 Habermas quoted in Baynes, *The Normative Grounds of Social Criticism*, 77. Emphasis original.

46 Christopher McMahon, "Why There is No Issue Between Habermas and Rawls," *The Journal of Philosophy* 99 (March 2002): 112.

47 McMahon, "Why There is No Issue Between Habermas and Rawls," 112.

48 Ibid, 112. In this article McMahon explains the differences between dialogical and monological theories of morality in detail, but at the end he comes to the conclusion that "the idea that there is an important distinction to be made between the moral theories of Rawls and Habermas –and more broadly between monological and dialogical moral theories- comes to naught." (p.128) There are two reasons that he suggests to enhance his argument. First, for him, "in one sense, all theories that make a place for moral reasoning are dialogical" since "inquiry into what would truly be in everyone's interests will normally take the form of a dialectical alternation between attempts to capture in general terms the essence of moral impartiality" (p.128-9). Second, he argues that

great importance as Habermas constructs his critique of Rawls on this point.

In order to better understand this distinction and its significance we have to be familiar with another basic distinction that Habermas makes between "consent-oriented" (or communicative) and success-oriented (or purposive-rational actions).<sup>49</sup> Communicative action "constitutes an independent and distinct type of social action", because "the goal or the 'telos' of communicative action is not ... to influence others, but ... to reach an agreement or mutual understanding."<sup>50</sup> Baynes points out that "Habermas sometimes refers to communicative action as any social interaction in which the coordinating mechanism is action oriented to reaching understanding or agreement."<sup>51</sup> These two concepts, dialogic and communicative action, are crucial for an understanding of the theory of discourse ethics and the concept of reason in Habermas's theory in a comparative framework with that of Rawls.

It can be seen that Habermas places the most emphasis upon the social interaction among individuals and he uses a different framework from the original position of Rawls. Habermas does not find this approach appropriate and "he lifts Rawls's veil of ignorance and demands that we participate in a discourse where all are fully aware of the other's perspectives and interpretations."<sup>52</sup> In his own words, "as long as we apply this

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although at first sight it seems to be the case that Rawls urges for impartiality whereas Habermas calls for opening up the public space to any reason from any comprehensive doctrine, in the end they come to the same point, that is impartiality: He claims that if we are talking about a mechanism of collective reasoning rather than bargaining (which is a point raised by Habermas) then "the parties [of the public deliberation] become impartial whether individually or collectively, by grasping the force of these reasons... Each individual adopts the perspective of all others by coming to understand their arguments" (p. 129).

49 Baynes, *The Normative Grounds of Social Criticism*, 80.

50 Ibid, 80.

51 Ibid, 80.

52 <http://caae.phil.cmu.edu/Cavalier/Forum/meta/background/HaberIntro.html>

more exacting test (categorical imperative) in a monological fashion, it still remains individually isolated perspectives from which each of us considers privately what all could will. This is inadequate."<sup>53</sup> The reason why Habermas finds this approach inadequate is his emphasis on an interactive mode of reasoning:

The justification of norms and commands requires that a real discourse be carried out and thus cannot occur in a strictly monological form, i.e. in the form of a hypothetical process of argumentation occurring in the individual mind.<sup>54</sup>

We should recall here that Rawls was asking individuals to use a method of avoidance and a strategy of self-restraint before deciding what concerns could be brought to the public discussion. According to him we can bring to public political forum only those concerns that we think will seem acceptable to the others. Habermas rejects this and argues instead that any question can be brought to public discussion and must be submitted to the views of others within an argumentative process. He insists that whether a concern is reasonable to all, or acceptable by everyone can only be decided as a result of (not prior to) an open discursive practice.

Habermas's approach involves an appeal to individuals' posterior, not their prior, grounds of acceptance... It is by reference to the 'generalizable interests' that *emerge from* the discursive criticism that particular normative principles are justified, not to the concrete motives that they *bring into* the argumentative discourse.<sup>55</sup>

Discourse ethics is "a formalistic moral theory" in the sense of specifying "an *argumentative procedure* that any norm must

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Emphasis added.

53 Habermas, "Reconciliation Through the Public Use of Reason," 117.

54 Habermas quoted in Fred D'Agostino, *Free Public Reason: Making It up as We Go* (New York, Oxford: Oxford University Press, 1996), 47-48.

55 D'Agostino, *Free Public Reason*, 49.

satisfy if it is to be morally acceptable.”<sup>56</sup> Habermas contrasts this theory with Rawls’s original position:

Rawls imposes a common perspective on the parties in the original position through informational constraints and thereby neutralizes the multiplicity of particular interpretative perspectives from the outset. Discourse ethics, by contrast, views the moral point of view as embodied in an intersubjective practice of argumentation which enjoins those involved to an idealizing *enlargement* of their interpretative perspectives.<sup>57</sup>

As Baynes states, Habermas puts forward three rules regarding the formal conditions necessary for reaching understanding or communicative agreement:

1. Every speaker with the competence to speak and act is allowed to take part in a discourse
2. a) Everyone is allowed to question any assertion whatever. b) Everyone is allowed to introduce any assertion whatever into the discourse. c) Everyone is allowed to express his attitudes, desires and needs.
3. No speaker may be prevented, by internal or external coercion, from exercising his rights as laid down in 1 and 2.<sup>58</sup>

It can be seen clearly, especially from rule 2, that in principle nothing (no interests, needs, desires, interpretations etc.) can be excluded from a public discussion at least from the outset, which is the case in Rawls’s original position and the veil of ignorance. The important thing here is that it is the process of argumentation will determine whether they are generalizable, whether they are relevant for the public or whether they are acceptable to everyone in the society. Their status must be submitted to the will and opinion formation process in which all take part actively.

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56 Baynes, *The Normative Grounds of Social Criticism*, 109. Emphasis added.

57 Habermas, “Reconciliation through the Public Use of Reason”, 117.

58 Habermas quoted in Baynes, *The Normative Grounds of Social Criticism*, 113.

In argumentation, proponents and opponents engage in a *competition with arguments* in order to convince one another, that is, in order to reach a consensus... In discourse what is called the *force* of the better argument is wholly unforced. Here convictions change internally via a process of rationally motivated attitude change.<sup>59</sup>

As can be seen, this conception leaves the task of finding common ground to the participants themselves and the word 'finding' in this sentence can be changed to creating, expanding, contracting, shifting, challenging, and deconstructing common ground.<sup>60</sup> It should be noted regarding Habermas's argumentation process that "he envisages a process of collective *reasoning* rather than *bargaining*."<sup>61</sup> Reason, in turn, "is defined procedurally in terms of the structure of argumentation and process of communication" and the important thing becomes what interpretations, which views can withstand the challenge of opposition and the threat of defeat:

I have in mind the more open procedure of an argumentative practice that proceeds under the demanding presuppositions of "the public use of reason" and does not bracket the pluralism of convictions and worldviews from the outset.<sup>62</sup>

Here again we see the importance that Habermas attributes to social action. In his words:

Creatures that are individuated only through socialization are vulnerable and morally in need of considerateness. Linguistically and behaviorally competent subjects are constituted as individuals by growing into an intersubjectively shared lifeworld, and the lifeworld of a language community is reproduced in turn through the

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59 Jürgen Habermas, *Moral Consciousness and Communicative Action*, trans. C. Lenhardt and S.W. Nicholsen, (Cambridge, Massachusetts: The MIT Press, 1991), 160. Emphasis original.

60 McCarthy, "Kantian Constructivism and Reconstructivism," 61.

61 McMahan, "Why There is No Issue Between Habermas and Rawls," 118.

62 Habermas, "Reconciliation through the Public Use of Reason," 117.

communicative actions of its members. This explains why the identity of the individual and that of the collective are interdependent; they form and maintain themselves together.<sup>63</sup>

It is also argued that Habermas welcomes the situations of conflict.<sup>64</sup> According to this interpretation, Habermas sees those situations as contributions to the integrative capacity of the identity: when a change in social environment creates a situation in which one's own identity is no longer in equilibrium with that environment, self-identification stabilizes itself. Consequently, situations of conflict are not seen as a threat, but as a contribution in psychological terms. These examples clearly show the main point where Habermas's discourse ethics diverges from Rawls's thesis on the public use of reason. There are two important consequences of this participant-centered conception of public reason. One of them is the emphasis that Habermas places upon the formal rules regarding "the procedures of a discursive process of opinion and will formation in which the public use of reason is manifested".<sup>65</sup> Habermas prefers to develop a theory of public reason in "a strictly procedural manner" and criticizes Rawls for failing to do the same thing.<sup>66</sup> Rather than dealing in a very detailed way with the use of public reason to determine what is relevant for public discussion (which is what Rawls does), his procedural and legal theory

... focuses exclusively on the procedural aspects of the public use of reason and derives the system of rights from the idea of its legal institutionalization. It can leave more questions open because it entrusts more to the *process* of rational opinion and will formation... It leaves substantial questions that must be answered here and now to the more or less enlightened engagement of participants...<sup>67</sup>

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63 Habermas, *Moral Consciousness and Communicative Action*, 199.

64 Stephen K. White, *The Recent Work of Jürgen Habermas: Reason, Justice and Modernity*, (Cambridge: Cambridge University Press, 1988), 80.

65 Habermas, "Reconciliation through the Public Use of Reason," 130.

66 Ibid, 116.

67 Ibid, 131.

At some point, he takes the importance he attaches to procedure to its extreme by arguing that "the correctness of decisions depends solely on the fact that the procedure has actually been carried out."<sup>68</sup> This in turn takes us to the importance that Habermas gives to legislation and its legitimacy. According to him, the legitimacy of legislation "is accounted for by a democratic procedure that secures the autonomy of citizens" and "citizens are politically autonomous only if they can view themselves jointly as authors of the laws to which they are subject as individual addressees."<sup>69</sup> Moreover, "the democratic principle states that only those statutes may claim legitimacy that can meet with the assent of all citizens in a discursive process of legislation that in turn has been legally constituted."<sup>70</sup> As McCarthy observes, in Habermas's thinking "the constitution is viewed as a "project" that is always incomplete and subject to the ongoing exercise of political autonomy"<sup>71</sup>

A major concern of Habermas is the participation of democratic citizens in the law making process and their role as ongoing constitution-makers. He argues that we should conceive "of the constitution as a project that makes a founding act into an ongoing process of constitution-making that continues across generations."<sup>72</sup> Besides the importance Habermas gives to the procedure and hence to the process of legislation, the second important consequence of his formulation of public reason is the

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68 Habermas quoted in Christina Lafont, "Procedural Justice? Implications of the Rawls-Habermas Debate for Discourse Ethics, *Philosophy and Social Criticism* 29, (March 2003): 172.

69 Habermas, "Reconciliation Through the Public Use of Reason," 130.

70 Habermas quoted in Lafont, "Procedural Justice?" 174. Lafont deals with the question of whether to meet the procedural conditions can guarantee the moral rightness of a norm. Her answer to that question is negative: "such a procedure cannot *guarantee* the moral rightness of a norm—nothing can. But it *can entitle us* to claim moral rightness for the norm, as long as no counterarguments appear (whether on the basis of new experiences, consequences, side-effects or learning process in general)."

71 Thomas McCharthy, "Kantian Constructivism and Reconstructivism", 49.

72 Jürgen Habermas, "Constitutional Democracy: A Paradoxical Union of Contradictory Principles?" *Political Theory* 29 (December 2001): 766-781.

questioning of the public/private distinction. Habermas criticizes Rawls for engaging with such a distinction by splitting "the moral person into the public identity of a citizen and the nonpublic identity of a private person shaped by her individual conception of the good."<sup>73</sup> Moreover, he thinks that

...such an a priori boundary between private and public autonomy not only contradicts the republican intuition that popular sovereignty and human rights are nourished by the same root. It also conflicts with historical experience, above all with the fact that the historically shifting boundary between the private and public spheres has always been problematic from a normative point of view...such differentiations must be subjected to the political will formation of the citizens...<sup>74</sup>

As can be seen, what underlies Habermas's questioning of public/private distinction is his conceptualization of the development of the individual and collective identity as an interdependent process.

## 5. Concluding Remarks

For someone living in Turkey, a country with vital problems related with ethnic and religious identities, it is nearly equally inevitable for a man on the street and a political scientist to think about the meaning of democracy. The relation between liberty, equality and fraternity is getting more and more complex not only in Turkey but in many other parts of the world due largely to the pluralism (of ideologies, interests, identities, ethical principles) characterizing social and political realm. Some theorists have argued in favor of seeing this plurality of socio-political life in terms of antagonism and unequal power relations and focused on the concept of hegemony while some others have reflected on this matter with resort to the notion of consensus. Rawls and Habermas, representing the consensual point of view have

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73 Habermas, "Reconciliation through the Public Use of Reason," 129.

74 Ibid, 129.

directed attentions to the public use of reason. While their approaches at first sight may seem to follow the same line of thinking, this article has tried to show that the way Rawls and Habermas understand public reason is very different. A reflection on their theories as well as on the antagonistic point of view can function as analytical tools in our own effort to understand the world around us and can help us answering our own questions, which, in turn, is a project that is, necessarily, always incomplete.

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