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Justice and Justification in Accounting

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Submitted in fulfilment of the requirements for the Degree of Ph.D.

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Abstract

We are living in a society in which we are all connected in one way or another; bound together in social cooperation. This thesis is primarily concerned with the terms of our cooperation and with how accounting can contribute to the justice, as fairness, of those terms. Accounting practice, and the principles that shape it, make a significant contribution to the regulation of our social relations, in the business sphere and beyond, by dictating what information should be collected and what is to be disclosed in corporate reports and how; who is to give and who is entitled to receive accounts and of what. Such reports contribute to the governance of society by providing information on which action can be taken, and by having inductive effects on the behaviour of managers and others. I maintain therefore, that accounting, has the potential to help support the development of a more just society and, a fairer system of social cooperation. This is the task that I hope this thesis can play a part, albeit an entirely theoretical part, in helping to bring to realisation.

I turn to the work of the political philosopher John Rawls to guide my consideration of justice in accounting. I use what I see as three stages in the development of Rawls thought as a framework for my analysis. The thesis is therefore divided into three main parts: Firstly, his seminal formulation *A Theory of Justice* Rawls develops to approach justice and justification; Secondly, the development of his thinking designed to accommodate his recognition of the implications of reasonable pluralism leading to the development of *Political Liberalism*, and a political conception of justice; Thirdly, the late development of Rawls thinking in response to critique, and in particular his engagement with the critical perspective of Jürgen Habermas, and his turn to a more discursive interpretation of his position.

I find, and show, that Rawls provides us with tools that we can use to improve our thinking about justice in accounting. The potential of these tools including the method of reflective equilibrium and the device of the original position that has been relatively neglected; I show that given a discursive reading these ideas can and should have an important place in critical accounting thinking. I find that strong, but thin, moral foundations are vital to our justification of concepts of justice and to critique, and I show that we can have such foundations without lapsing into traditional metaphysics. I find that following Rawls in this exploration of justice opens a new perspective on accountability, as justification and a practice of equality. He offers us ways to think about justice in accounting that are better than the utilitarian and intuitionist traditions that have held accounting practice thinking about a fair accounting in their conceptual grip; better justified and better able to account for our considered judgements.

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This thesis is dedicated to them.

Authors Declaration

I declare that, except where explicit reference is made to the contribution of others, that this dissertation is the result of my own work and has not been submitted for any other degree at the University of Glasgow or any other institution.

Printed Name: _____ Yingru Li _____

Signature: _____

Abbreviations

- CJ – Forst, R., 2002. *Contexts of justice: Political philosophy beyond liberalism and communitarianism* (Vol. 9). University of California Press.
- F & F – Finlayson, J.G. and Freyenhagen, F., 2011. *Habermas and Rawls: Disputing the political* (Vol. 23). Routledge.
- FASB – Financial Accounting Standards Board
- GRI – Global Reporting Initiative
- IASB – International Accounting Standards Board
- IPRR – Rawls, J., 2001. *The law of peoples: with, the idea of public reason revisited*. Harvard University Press. 129-175
- JF – Rawls, J., 2001. *Justice as fairness: A restatement*. Harvard University Press.
- LHMP – Rawls, J., 2000, *Lectures on the History of Moral Philosophy*, edited by Barbara Herman, Cambridge, MA: Harvard University Press.
- LP – Rawls, J., 2001. *The law of peoples: with, the idea of public reason revisited*. Harvard University Press. 1-124
- MW – Habermas, J., 2011. “Reasonable” versus “True”, or the morality of worldviews, reprinted in Finlayson, J.G. and Freyenhagen, F., 2011. *Habermas and Rawls: Disputing the political* (Vol. 23). Routledge.
- NP – Forst, R., 2015a. Noumenal power. *Journal of Political Philosophy*, 23(2), pp.111-127.
- PL – Rawls, J., 1993 & 1996. *Political Liberalism*. New York: Columbia University Press.
- RH – Rawls, J., 1995. Political liberalism: reply to Habermas. *The journal of philosophy*, 92(3), pp.132-180.
- RJ – Forst, R., 2012. *The right to justification: Elements of a constructivist theory of justice*. Columbia University Press.
- RPR – Habermas, J., 1995. Reconciliation through the public use of reason: remarks on John Rawls's political liberalism. *The journal of philosophy*, 92(3), pp.109-131.
- TJ rev. – Rawls, J., 1971. *A Theory of Justice*. Harvard university press; Revised edition, 1999 (Reference to the latter are preceded by “rev.”)
- CP – *Collected Papers*, edited by Samuel Freeman, Cambridge, MA: Harvard University Press, 1999.

Introduction

“Persons engaged in a just, or fair, practice can face one another openly and support their respective positions, should they appear questionable, by reference to principles which it is reasonable to expect each to accept” (Rawls, 1958, p. 178).

1 Setting the Scene

It has been widely recognized, for many decades and by commentators on all sides, that accounting is political (see e.g., Gerboth, 1973; Solomons, 1983; Cooper and Sherer, 1984; Fogarty et al., 1994; Fogarty, 1998). I take this claim seriously and in this thesis set out to apply some of the insights that can be drawn from political philosophy to the institution and practice of accounting. I concentrate on the work of John Rawls who, by common consent, is the most significant political philosopher of modern times, and on some of the most important critical responses to his work. His remarkable book *A Theory of Justice* (1971)¹ has been described as a “watershed” dividing the history of political philosophy into before and after Rawls (Barry, 1990, p.lxix): We live now in post-Rawlsian times.

My application of Rawlsian ideas to accounting divides into three main parts, which will be reflected in the broad structure of the thesis. In the first part, I refer mainly to Rawls’s early work on the justification of a conception of justice as fairness as set out in his groundbreaking book *A Theory of Justice* (1971). I draw in particular on the methodological aspects of that work’s treatment of justice and justification and analyze their significance for political questions in accounting, in particular for justification of accounting principles, and for the prospects for a conceptual framework for financial reporting. I elucidate my analysis by comparing and contrasting my own reading of Rawls’s work with that of accounting scholars who have previously engaged with Rawls’s early writings.

In the second part of the thesis, I engage with Rawls’s more mature work, especially as expressed in his *Political Liberalism* (1993). This work is known for its attempt to take the fact of reasonable pluralism seriously. Again, I concentrate on the changes made since *A*

¹ *A Theory of Justice* was first published in 1971, with a revised version being published in 1999. In this book, I will mainly rely on the revised version. I will use the abbreviation TJ when referring to *A Theory of Justice* (1971), and TJ rev., when referring to the revised edition.

Theory of Justice, and its implications for accounting principles and our understanding of the possibility for, and role of, a conceptual framework for financial reporting. Relatively few accounting researchers and thinkers have directly engaged with Rawls's *Political liberalism*. I look beyond the accounting literature to critiques of Rawls's thoughts coming from other spheres, for example that made by the legal philosopher Jeremy Waldron, which resonates most strongly with the issues arising from my focus on accounting issues.

In the third part of the thesis, I continue my effort to account for one of the most important critiques of Rawls's work, made by Jürgen Habermas. Habermas's critique is regarded as contributing to the illumination of important features of Rawls's approach and pointing to a need to carry forward Rawls's work but in a more discursive direction. I follow this line in the work of Rainer Forst who takes inspiration from Rawls, but is attentive to the critiques of Rawls's approach made by Habermas and others. Forst allows me to carry forward the Rawlsian tradition in a modified form by bringing to it stronger emphasis on discourse and critique. These aspects are in fact implicit in Rawls's earliest work and throughout his career, but made increasingly explicit in later work and under the prompting of sympathetic critics (see Laden, 2003)

In this thesis I do not have a separate "literature review" chapter. My engagement with the relevant literature will be continuous, extending across the thesis. The secondary literature responding to Rawls's work is immense and much more than I could possibly address within a single thesis. I have drawn selectively on that literature and tend to focus on Rawls's own expression of his ideas and reflection on his own thinking, and on important critiques with clear relevance for the development of my analysis. Nor do I have a separate methodology and methods chapter. I set out with the objective of exploring the potential for the application of Rawls's work in our thinking about accounting regulation and in particular the prospects for and proper role of a conceptual framework for financial reporting. I hope I address all of the accounting literature making substantial use of Rawls's work. My method is to engage with this literature critically and learn from their application of Rawls to draw my own view about the implications of Rawls's work to accounting. The accounting usage of Rawls's work is limited and scattered. I hope that through my own work and engagement with these writings I may draw certain of these apparently disparate threads together and provide a fuller view and understanding of the significance of Rawls's work and arguments for accounting.

I did indeed set out with an interest in finding out what light political philosophy and in particular Rawls's approach to justice might cast on our thinking about accounting regulation and the possibility and nature of a conceptual framework for financial reporting. However, the reader should be clear from the outset that my analysis is directed to a fundamental level and basic principles, the possibility of justification and agreement on such principles, and how Rawls's work can inform our understanding of the possibilities of accountability. I do not deal generally with the details of a conceptual framework or of standard setting. The reader should also be aware that I follow Rawls's lead and focus on issues from the perspective of a single society. Rawls abstracted away from the international scene in most of his work, and only addressed the problem of international politics in his very late work *The Law of Peoples* (2001). Similarly, and for the most part, in this thesis I set aside the international dimension of accounting politics and concentrate on what we can learn from the Rawlsian tradition about the possibility of agreement, justice and justification in accounting at the level of basic principles within a society. I recognize the abstraction but believe that this is the best way to build up a clear picture that might be expanded to take account of international issues at a later date. Hence, it is only until the third part of this thesis when I explore part of this abstraction could be transcendental and universal and how this implicates onto international accounting standard setting.

My own pre-commitments do have substantial impacts on this research and on my methodology and method by firstly inclining me to find certain research questions interesting and by allowing me to put limits on the perspectives on financial reporting and on Rawls's work that I am interested in engaging with.² I will say more about these pre-commitments below in a separate section of this chapter. In the following section, I will outline my research questions, putting them in context of the evolution of Rawls's work and my interests in accounting. My research questions will tend to be primarily addressed in one or other of the three parts of the thesis, and the discussion below will reflect this.

2 Research questions

In *A Theory of Justice*, John Rawls claims that justice is the "first virtue" of social institutions and that any institution, however efficient or well organized, should be rejected or reformed

² I see it as a practical necessity that some limits be established on my consideration of relevant literature, and they need to be relatively tight given the very large secondary literature that Rawls's work has inspired.

if it is unjust (TJ, p.3 rev.). Accounting institutions, with their socio-political nature, are no exception to this requirement of justice. As early as 1980s, there were calls for the development of better understanding of accounting as “intertwined” with the social, and of the role accounting plays in the construction and realization of the social and the political (Hopwood, 1985, p.366; see also Horngren, 1972; Hopwood, 1983; Burchell et al., 1985). There has been steadily growing recognition that accounting principles and techniques act to help constitute and maintain “order(s) in organizations and society” (Ezzamel, 2009, p.348). To view accounting as a socially and politically engaged practice has gradually been accepted as the common starting point for researchers interested in exploring the implications of “accounting constellations” consisting of principles, practice and people (Napier, 2006, p.445; see also Carnegie, 1993; Zeff, 2002; Dillard et al., 2004), for various “arenas”.

Accounting’s role in relation to justice has not always been “positive”. Critics have observed that accounting, in its various activities and forms, has sometimes played a part in sustaining illegitimate power relations and social orders that tend to entrench and deepen social suffering and widen the unequal distribution of income, wealth, and power (Cooper, 1983; Gray et al., 1996; Archel et al., 2009; Sikka, 2015). The growth of injustice and inequality not only leaves us with a “broken economy” and a “broken society” (Wilkinson and Pickett, 2010, p.5) but is also “a key factor preventing recovery” (Lansley, 2012, p.758). Accounting information can be adapted as a means to discipline and control, and for one group or segment of society to dominate and oppress others (Archel et al., 2009; Dillard, 1991).

It is then perhaps a little surprising that few accounting studies pay attention directly to the question of establishing a just or fair accounting institution or practice and fewer still look in particular to justice and fairness in accounting principles (see Williams, 1987; Gaa 1986 & 1988; Flower, 2010). It has been observed that the process of developing accounting principles has never been merely a matter of “technical debate and rational decision making”, instead, it is filled with “interests, politics and bargaining” (Botzem and Quack, 2009, p. 990; see also Fogarty et al., 1994, McLeay et al., 2000 and Young, 2014). Despite the efforts of accounting standard setters to find foundations in accounting theory for their decision making, and the accounting choices they seek to impose, “these choices remain political” (Chiapello, 2016, p.57), and as Chiapello (p. 57) points out, the justifications of those choices all too often appear as little more than “excuses” (see Watts & Zimmerman, 1979). The idea of a conceptual framework for financial reporting has been proposed to improve consistency,

coherence and the justification of the standard setters' decision-making and selections of principles (see Solomons, 1987; Power, 1993).

It is with this concern in mind that I turn in my research to John Rawls and initially to his book *A Theory of Justice* (1971). The history of political philosophy before Rawls was dominated by utilitarianism and that left little space for development as, from the utilitarian perspective everything, including the arrangement of political institutions, the creation of political rules, and the decision making of individuals, can be prescribed by one single and universal rule: maximize the general happiness. The basic idea of utilitarianism is that actions, institutions, laws, and so on, can all be evaluated by reference to their expected impacts on the sum total of happiness, with the happiness, or utility, of all persons counted equally.

Similar profit and utility maximizing rationale observed underlies accounting practice, and encourages a tendency for the justification of accounting decisions to be made by appealing to the calculation of utility (Coase, 1995; Demsetz, 1968; Williamson, 1979; Watts and Zimmerman, 1986; Gray et al., 1994; Ponemon, 1992). The process of developing accounting principles and a conceptual framework for financial reporting both have been observed to be under the domination of utilitarianism (Flower, 2010).

There are often “apparent incongruities” between the implication of utilitarianism, that is, the calculation of utilities, and our “moral sentiments” concerning the good or right thing to do (TJ, p. xvii, rev.). Intuitionist critics of utilitarianism note the “incongruities”, and suggest that we should trust our intuitions. However, our intuitions are likely to be incomplete in their coverage of the issues we face. It is common to find that they conflict, one with the other, in terms of the guidance they give, and that they are liable to be biased, perhaps unconsciously, by our life experience, education, social status, values and interests. Intuitionism often fails to offer any clear guidance, leaving us with a heap of competing intuitions and wondering how to prioritize them³. Rawls argues that, despite intuitionists' challenge to utilitarianism, they have been unable to “construct a workable and systematic moral conception to oppose it” (TJ, p. xvii rev.).

³ Power (1993) suggests that the plurality of our intuitions about good accounting practice may lead us to a “conceptual anarchy” when we attempt to develop a conceptual framework for accounting (p. 59).

Rather than accepting a forced choice between the flawed alternatives of utilitarianism and intuitionism, Rawls offers an “alternative systematic account of justice” that is based on “a higher order of abstraction the traditional theory of the social contract as represented by Locke, Rousseau, and Kant” (TJ, p. xviii, rev.). Rawls is guided by the fundamental question: What “constitutes the most appropriate moral basis for a democratic society”? (TJ, p. xviii, rev.). He sees himself as attempting to overthrow the domination of utilitarianism by offering an account of justice that is based on individual rights. He argues for a fair arrangement of political, social and economic institutions, necessary for productive social cooperation.

In doing so, Rawls defends a conception of “justice as fairness” that takes the basic structure⁴ of society as its primary subject, and which pays attention not to the distribution of goods but to the relationships among citizens. On this view, practices are just when those involved can “face one another openly and support their respective positions, should they appear questionable, by reference to principles which it is reasonable to expect each to accept” (Rawls 1958, p. 178). In his development and defense of a democratic conception of justice as fairness, Rawls provides a basis for a systematic challenge to the intuitively unsatisfactory utilitarianism that has come to dominate accounting regulation. I will focus the study by concentrating on how the approach Rawls takes and the tools he assembles, in his early work, can help inform our understanding of the possibilities of justified agreement on principles for accounting. This brings me to the first research question addressing methodological implications of Rawls’s work:

1. How can Rawls’s approach to justice and justification, as outlined in *A Theory of Justice*, be applied to our thinking about accounting principles?

I will address this question from three different aspects in the Chapter 1. Firstly, I will reflect on Rawls’s device of the “original position” (TJ, p.11 rev.) and his method of “reflective equilibrium” (TJ, p.18 rev.), which seeks to show how we can justify an agreed and accepted conception of justice for the basic structure of society. I will go on to consider whether, and how, these methodological devices might be applied to accounting and in particular to the determination of accounting principles and the development of a conceptual framework for financial reporting. Critical reflection on the attempts previously made by accounting

4. I regard accounting, as an institution, as part of the “basic structure” of society. I will explain the notion of the “basic structure” below.

scholars to apply Rawls's methods will be used to cast light on the issues and make salient my own arguments concerning the potential for application of his methodology, and the modifications that might be necessary.

Secondly, I address the possibility of the implementation in accounting as an institution of a conception of justice, bearing a family resemblance to Rawls's own preferred conception of "justice as fairness" and its principles (TJ, p.27 rev.). In this part, I will proceed through a critical examination of the work of accounting scholars who have attempted to apply the substance of Rawls's conclusions to accounting. I will use that engagement to help to draw out my own view of the issues and the prospects for such an application. I will pay particular attention to the issue of the division of labour that follows from the application of Rawls conception of justice and the approach he recommends for the realization of justice in society. The division of justificatory labour between the institution and the individual, working within the institution, makes it possible to envision the different roles that a conceptual framework, standard setters, and individual accountants might play in the process of realizing justified and just accounting practice. The division of labour is one point where Rawls's work has received strong criticism from Marxist and Feminist critics. In my consideration of this matter, in relation to accounting, I will pay closest attention to the essence of that critique as it is expressed by the Marxist G.A. Cohen (1997).

Thirdly, I will consider Rawls's abiding concern with how society, as a system of fair cooperation resting on a just basic structure, can be stable. A society is stable when it can retain allegiance to the principles constructed to regulate the social cooperation even in times of social change. In a stable society, when there is social disruption, individuals' commitment to the principles is sufficient to restore justice. In *A Theory of Justice*, Rawls proposes a Kantian interpretation of his theory of justice in which the stability of justice is secured through a congruence of the right and the good. He argues that to act justly is in one's own self-interest in being autonomous, which is vital for the pursuit of one's own good and life plan. I end this section by briefly considering the implications of Rawls's approach to the issue of stability, as articulated in *A Theory of Justice*, for how a just framework for accounting might be possible and stable and be part of a "well-ordered society" (TJ, p. 397, rev).

As Rawls comes to increasingly see the significance of the "fact of reasonable pluralism" (Rawls, 1996, p. 36), he recognizes that the Kantian view of human beings that he prefers

and which underlies his conception of justice and its prospect of acceptance and stabilization, in *A Theory of Justice*, is but one “comprehensive doctrine” among others and not one that he can expect other reasonable persons to share with him (1996, p. xviii). He starts to realize, almost shockingly, that “a continuing shared understanding on one comprehensive religious, philosophical, or moral doctrine can be maintained only by the oppressive use of state power” (Rawls, 1996, p.37); and he sees that this applies to his own comprehensive philosophical view too. He starts to face up to the consequence of pluralism and to the fact that consensus on a conception of justice cannot reasonably be built on one comprehensive doctrine in a pluralist society.

In *Political Liberalism* (1993&1996)⁵, pluralism becomes his central concern: “How is it possible that there may exist over time a stable and just society of free and equal citizens profoundly divided by reasonable though incompatible religious, philosophical, and moral doctrines?” (PL, p. xx). As his appreciation of the fact, in modern societies, of “reasonable pluralism” grows, his efforts to show how a conception of justice as fairness can be justified, appearing as “the defense of the possibility of a just constitutional regime” (PL, p.101) for a plural democratic society. This leads him to the pursuit of the “stability for the right reasons” (PL, p.xliii). This crucial development in Rawls’s work goes entirely unremarked in the accounting literature. This raises the importance and potential contributions to accounting thought of looking carefully at Rawls’s later work to evaluate what accounting can learn from the way he responds to pluralism. The change in his thinking represents an important “political turn” in Rawlsian theory (Laden, 2003, p.384; see also Chambers, 2012), marked especially by the publication of *Political Liberalism*.

So, the second research question is:

2. How can the way Rawls modifies his approach to justice and justification, as expressed in the *Political Liberalism*, in order to take account of the fact of pluralism,

⁵ The paperback version of *Political Liberalism* published in 1996 can be viewed as a second version of the hardback version published in 1993. It contains a new introduction that explains the changes and it also includes the “Reply to Habermas”. In this thesis, I am not aiming to distinguish the versions of PL. I will rely on the latest version 1996 (with abbreviation of PL). In addition, Rawls expands on the idea of public reason, discussed in PL and makes some modifications and develops a new argument on public reason, in *The Law of Peoples with The Idea of Public Reason Revisited* published in 2001 (which I abbreviate as IPRR).

be applied to accounting and in particular to the justification for accounting principles?

I will address this question in the Chapter 2. Firstly, in *Political Liberalism*, Rawls is looking for an acceptable “political conception of justice” as fairness with principles developed purely on the basis of political values that are shared by citizens of a liberal democratic society (PL, p.12). Rawls argues that, despite our different comprehensive views, it is possible to find and reach an “overlapping consensus” when it comes to political questions of justice and the fair ordering of our social cooperation. It is therefore possible, he argues, that such a political conception of justice and political principles of justice can be endorsed publicly. In this part, I will put efforts into considering whether in the face of various comprehensive doctrines, a conceptual framework for accounting, constructed on the foundation of a publicly endorsed political conception of justice, could be developed to express an overlapping consensus concerning our conception of fair accounting practice. Such a framework might then constitute the ground of “public reasons” to which accountants as well as standard setters could appeal when asked to make justification for their choices (PL, p.62).

Secondly, I consider Jeremy Waldron’s suggestion that Rawls gives insufficient consideration to the political reality of disagreement, which he sees as going all the way down to fundamental questions of justice. Waldron’s argument seems to undermine the prospect of finding an overlapping consensus on justice, and therefore, the fundamental assumption upon which Rawls relies for his argument for a publicly endorsed political conception of justice and political principles of justice. Critics like Waldron seem to think that the fact of disagreement undermines the entire Rawlsian project.⁶ Yet, this reflects a particular reading, arguably a misreading (See Laden, 2003), of Rawls’s work as “developing a theory”, which if logically developed on the basis of sound premises “can claim a kind of rational authority over us” (Laden, 2003, p. 374). Rather than seeing Rawls’s project as the development of a theory that imposes itself, if successful, on reasonable

⁶ Laden notes that Waldron and like-minded critics, sharing what he calls the “standard blueprint” understanding of Rawls’s project as being one of the construction of grand theory holding authority over its subjects, see real disagreement about justice as evidence of the fatal failure of the project. They “point to the inevitable disagreements that will arise about what is the proper conception of justice as if this would be fatal to Rawls’s approach, because it would shake the well-groundedness of his premises in an overlapping consensus” (2003, p. 374).

persons by force of reason,⁷ an alternative reading sees his work as essentially intending to reveal the structure of adequate public justification in respect of the fundamental terms of our social cooperation in a pluralist democracy: “Justice as fairness aims at uncovering a public basis of justification on questions of political justice given the fact of reasonable pluralism” (PL, p. 100). This reading emphasizes the significance of real public democratic procedures of justification, and the working out of justified and thus legitimate principles in various areas of the public life, including those such as accounting. On this alternative view the importance of the original position mechanism, is not that it enables the generation of authoritative principles that can somehow be dropped into the public space as if from above,⁸ but rather, “that it is one possible route by which to justify principles of justice publicly” (Laden, 2003, p. 379).

The critical accounting community, it seems to me, has tended to neglect Rawls’s work labelling his approach as overly deliberative and consensus-seeking. With the rise of postmodern and post-structuralist theories and perspectives on accounting, many critical accountants have found themselves drawn towards theorists who argue more explicitly for the value of dissensus and the importance of a dynamic and disruptive politics (Brown, 2009 & 2017; Cooper et al. 2010; Farjaudon and Morales, 2013). The influential radical democratic theorist Chantal Mouffe, whose thinking has had considerable impacts on critical accounting research (see Brown, 2009), is highly critical of Rawls’s approach, including his “political conception of justice”. She is critical of what she sees as a displacement of politics in his work (Mouffe, 2000, pp. 17-35). She suggests that to imagine a final agreement in basic political matters such as questions of justice, as she understands Rawls to be aiming for, is like dreaming of a “society without politics” (Mouffe, 1993, p.50). She thinks that Rawls reduces politics, in so far as he makes room for it at all, to a “politics of interests”, that is, “the pursuit of differing interests defined prior to and independently of their possible articulation by competing alternative discourses” (Mouffe, 1993, p.48).

⁷ Those critics who follow the standard blueprint reading tend to understand Rawls’s project, even in *Political Liberalism*, “as if it were designed to argue that only appeals to the two principles of justice and their surrounding machinery can be made legitimately in political deliberation within a constitutional democracy, and to argue for this conclusion in a way that is itself not subject to legitimate political challenge” (Laden, 2003, p. 374).

⁸ An overlapping consensus, an agreement, but one “in whose production hardly anyone was involved” (Forst, 2014, p. 4).

I find useful provocation in Mouffe's critique of Rawls. However, I ultimately take an alternative view of Rawls's work, and with Laden (2003) I will argue that he "aims to help us, as citizens, engage in democratic politics reasonably and reflectively", and that he needs not to be read as intending to 'displace politics with theory'" (2003, p. 384). I read Rawls as ultimately offering a democratic conception of justice (see Laden, 2003) that puts the emphasis on just social relations rather than on the finding of a just distribution of goods according to some conception of human interest. Furthermore, I read him as providing a thin but strong moral foundation (See Larmore, 2008; Forst, 2007) in something like a universal human right to justification (Forst, 2007), which, contra Mouffe, I welcome and embrace. These features give substantial critical purchase to Rawls's position.

Whilst Mouffe's criticism of Rawls is of some significance for the critical accounting community, Habermas's engagement with Rawls is of considerably more significance for the development of Rawls's thought in the late stages of his work. In the third part of the thesis I will look carefully at the key aspects of Rawls's debate with Habermas. I will read this debate in part through the analysis provided by contemporary theorists including Anthony Laden and most especially by Rainer Forst. I see Forst as inheriting the key Rawlsian insights and carrying them forward into the critical and discourse theory traditions. This takes me to my third research question:

3. What are the implication for our thinking about accounting and accountability, of the late developments in Rawls's work in response to critics, and of the way in which his ideas have been carried forward by a later generation of critical theorist?

I will address it in the Chapter 3. The objective of this part is to explore the implications for accounting of the radical and critical aspect of Rawls's thoughts. This will mainly be done through the lens of the work of the fourth generation critical theorist Rainer Forst whose theory of justification picks up and puts emphasis on the critical dimension in Rawls. As I noted above, the ultimate task for the conception of justice as fairness is to "uncover a public basis of justification on questions of political justice given the fact of reasonable pluralism" (PL, p.100). It is this focus that makes the utilitarianism and intuitionism unsuitable, for neither can serve as a sound basis for public justification, and neither is based on reasons that we could reasonably expect all to endorse as free and equal persons. Forst sees that, at the centre of Rawls's work, is the demand for practices of justification with the principle of justification at its core.

Forst takes this idea of justification seriously and carries forward the Rawlsian project by providing us with a critical and reflexive account of justice and justification. He conceives of a fair society discursively constructed by its members on the foundation of a reconstructed principle of justification and a corresponding universal human right to justification. In order to establish a just, or fair, practice in which participants can “face one another openly”, normative orders and social arrangements of all kinds, should be made free of “arbitrary rule or domination” (Forst, 2011b, p. 39). They should be established and justified on the basis of the participants’ exchange of arguments which they can reasonably expect others to accept and endorse.

Putting emphasis on the implicit moral foundation in which Rawls firmly grounds his work,⁹ Forst directs us to a clearer appreciation of the essence of accounting practice in the asking for and giving of justifications. Moreover, it allows us to better appreciate the radical nature of Rawls’s thinking, which is often neglected in accounting applications of Rawlsian thought. Rawls’s approach is radical in that it demands - and shows - how we might give justification with an objective¹⁰ basis, for challenging unjust social relations. It aims not at a palliative redistribution of goods but at radical social change; a fact that is too often neglected by “critical” accountants’ readings of his work. Far from being fixated on consensus, it starts with dissensus, challenge to dominations and inequalities. It makes challenge to injustice, and to the power that holds it in place, the first task and question of justice (see Forst, 2015a).

Such a critical theory of justice/justification is able to help us identify and possibly confront those arrangements that impede the discursive construction of a fair society. It thereby helps us face up to the old question of “why a modern society is not able to establish rational forms of social order. ... While nevertheless critically scrutinizing the concept of reason employed with regard to its ‘unreason’ and its potential for supporting domination” (Forst, 2013b, p. 6). We can then think of a conceptual framework for corporate reporting, in these terms; as having a role in helping to establish and restore justice in accounting, fair reporting, and as subjecting to a “‘principle of justification’ which says that all actions, norms or rules one is

⁹ Forst makes the moral foundations explicit, where Rawls allows them to remain implicit, and in his efforts to stress that his political conception of justice is not based on any one comprehensive doctrine, moral or otherwise, leaves some ambiguity about the moral foundation of his work. See Larmore (2008) for discussion of the moral foundation of Rawls work and the ambiguity. I will return to this issue later in the Chapter 3.

¹⁰ A certain objectivity emerges through Rawls constructivist method. I will explain and justify this claim to objectivity in Chapter 1 and 2 in this thesis when I consider Rawls constructivism and its significance for the possibility of objectivity in accounting.

subject to must be justifiable to those affected (or subjected) by reasons that are reciprocally and generally sharable” (Forst, 2011b, p. 39). On that foundation we could hope to build a just normative order for accounting practice, one constructed and justified in real discourses, real exchange and testing of reasons. Critique and justification may then be brought into the heart of accounting practice and international standard setting process.

3 “Precommitments” and Theoretical Position

Certain pre-commitments prescribe the scope of this thesis and the ideas and literature I engage with here. In the thesis, I essentially work within the paradigm of liberal democracy, and its core values. The thesis is substantially about the implications, for accounting, following from those value commitments in society understood as a system of, ideally fair, cooperation.¹¹ Virtually all the theorists I engage with in the thesis share a commitment to the radicalization of liberal democratic values, and can easily be placed under the banner of radical democracy, so that the divisions between them might be characterized as family quarrels.¹² These quarrels concern for example the possibility of reasonable consensus in our pluralist society.

I take reasonable pluralism to be a fact of modern society, and personally hold a constructivist view of moral and political issues. I hold an essentially non-metaphysical position on such matters,¹³ and rather than seeing morality as determined by god, reason, or human nature, I see it as a matter of our own construction. I am committed to the view that such constructions can have a certain objectivity. Rawls’s own view is constructivist and that, of course, is one of the reasons I am drawn to his work. In *A Theory of Justice*, Rawls

¹¹ While the various theorists I deal with tend to agree on liberal democratic values, they differ in terms of the weights to be attached to each value.

¹² I appreciate that there are more radical still conceptions of the political that I might have addressed in the thesis but space and focus argued against drawing the boundaries any wider than I have. In Li & McKernan (2016) we discuss the work of Jacques Rancière and use it to inform a critical reflection on accountability for business and human rights. This gives an indication of direction that a widening of scope might have taken my study.

¹³ Non-metaphysical aside, arguably, from my deep commitment to equality. Rawls claims that his position is “political, not metaphysical” (Rawls, 1985). Some may have disputes around his position in TJ. Yet, as I accept Laden’s democratic reading of Rawls, which suggests that his method of reflective equilibrium enables him to avoid metaphysical commitment, even in his early work: “what ultimately grounds the view about what justification consists in is not a view about what we are or the underlying structure of reason, or any other position in epistemology, the theory of meaning or the philosophy of mind, but rather a grasp of the appropriateness of treating others with whom we live according to this ideal of recognition and respect, of striving to be able to face them openly” (Laden, 2014, p.64).

makes his argument by claiming a “priority of right over the good” and develops a Kantian interpretation of his conception of justice as fairness. Following this line, Rawls expands on his conception of Kantian constructivism in “Kantian constructivism in moral Theory” (1980) and “The Independence of Moral Theory” (1974),¹⁴ and later develops a “political constructivism” in *Political Liberalism* (1993&1996). Rawls is deeply influenced by his understanding of Immanuel Kant, specifically, the moral philosophy of Kant (Freeman, 2007; Forst, 2012). Rawls takes up Kant’s view of “respect or of the inherent worth of persons” (TJ, p.513 rev.) and takes it so seriously that the conception of justice as fairness and principles of justice essentially lay out his understanding of this respect for persons, as free and equal and living with fair terms of cooperation (Freeman, 2007, p.21; Larmore, 2008, p.140).

Constructivism in moral philosophy stands in sharp contrast with moral realism, which contends that moral principles can be decided by a priori facts or values that are not subjected for practical reasoning. It also disagrees with moral skepticism that does not see the potential of moral statements as true or objective. It is not arguing for a moral relativism in which moral principles only apply to a particular group of a society (Freeman, 2007, p.291). Quite the opposite, constructivism supports the possibility of finding a universal conception, with principles can be applied to all people, principles that can be objectively justified. The objectivity of judgement is put prior to the notion of truth: thus, moral judgements are true if they are made via a “procedure of construction” that incorporates “all the relevant requirements of practical reasoning” (PL, p.90). In other words, the procedure bestows the truth.

I take seriously the conception of persons and citizens as free, equal, and sovereign. I am committed to a view of human person as finite and rational; one with the capacity to be reasonable and rational, but always vulnerable and limited in our powers, and having an awareness of those limits and their significance. I view human beings, above all, as subjects who are able to ask for and to provide justifications to one another. I view the authority of reasons and justification as given by reason itself, and as needing no further authority.

¹⁴ Both “Kantian constructivism in moral theory” and the “Independence of moral Theory” are reprinted in *Collected Paper* edited by Samuel Freeman (1999).

Nevertheless, I see the finitude of reason and the need for continual reflexive and recursive testing of our reason and its limits in processes of public justification.

I see human beings as social and as having the power, the capacity to be reasonable and rational, and the will to cooperate. I recognise that we develop in social situations shaped by power relations. Furthermore I recognise that often we are constituted as subjects in circumstances of oppression and domination. I am however committed to the possibility that the processes of socialization leave space for autonomy. I accept that the first question of justice is power, and that a primary task must be the development of our capacity to use our powers of reason, together, to distinguish legitimate from illegitimate social arrangements and distributions of power, especially justificatory power.

While I am committed to a non-metaphysical constructivist view, I do recognize that critique and the practice of justice itself need a moral foundation in the right to justification (See Li and McKernan, 2017). I am committed to a view of justice as bound up with justification. In both Kantian and Political constructivism, at the centre of Rawls's argument for a conception of justice as fairness, is the need to find and secure a "public basis of justification". In Forst's analysis of Rawls, he keeps the core of justification and develops it into a transcendental moral foundation, the right to ask and give justification. This right calls for justification to be given for actions, rules and structures that we are subject to. This right with its principle of justification provides a context-transcendent foundation for a challenge to what has been constructed or taken for granted. Forst therefore manages to build in a capacity for self-scrutinizing reflexivity in his constructivist position. I am convinced by Forst's understanding of "society as an ensemble of practices of justification" (Forst, 2013b, p. 5). The significance of these commitments will emerge as this thesis develops.

4 Thesis Outline

There is a vast amount of literature commenting, responding or inspired by Rawls's work. Some of these interpretations could be piecemeal and misleading for they may take Rawls's scattered remarks as definitive and make a comment following some standard "structure" to approach Rawls's work "without settling on the details of its contents" (Laden, 2003,

p.378).¹⁵ I want to avoid this in my thesis. The thesis is organized into three main chapters. I will take time and spend significant efforts in these chapters to explain and elaborate Rawls's work and arguments so that we can have a comprehensive grasp of his theory before drawing any remarks or comments.

In Chapter 1, I review the most substantial prior efforts by accounting researchers to make use of Rawls's work. In this chapter, I will engage with Power's (1983) application of the method of reflective equilibrium, Gaa's (1988) construction of an original position and Flower's (2010) application of division of labour and principles of justice. I make a critical examination of their interpretations of different concepts and tools drawn from Rawls especially his book *A Theory of Justice* (1971).

On the one hand, the use of Rawls's work made by accounting scholars tends to be rather piecemeal with relatively few closely engaging with Rawls's thought. None of these works is wholly satisfying. They are rather partial and unsystematic, with authors tending to draw selectively on particular ideas and concepts in Rawls's work to suit their purposes. I find that they take the selected ideas and apply them to bolster wider arguments they are developing without careful consideration of the appropriateness of the application. They borrow terminology, and methodological devices, and the occasional concepts, without questioning the appropriateness of the application to accounting as a site of justice, and without consideration of the broader Rawlsian framework and its underlying rationale and premises.

On the other hand, I appreciate their provocative attempts in engaging with Rawls's work and in dealing with some classical and long-standing questions in accounting, such as "what is accounting?" and "what accounting should be?" Rawls's work from *A Theory of Justice* onwards provides us with a systematic account of how we might to approach justice, and public justification, in relation to the most fundamental aspects of our social cooperation which allows us to account for our considered judgements about justice. He thus gives us "guidelines for how to go on in addressing other, related matters", such as accounting and conceptual framework (Laden, 2003, p.382). His work restores our faith in the potential of

¹⁵ Laden (2003) refers to the standard dominant reading of Rawls's work, which he challenges, as the standard blueprint. It includes four elements: "(1) Rawls is engaged in a grand philosophical project; (2) in particular, he is developing a theory in the traditional sense of that word; (3) that theory is Hobbesian in that it starts from an account of human rationality; and (4) it aims to show the rationality of justice via its centerpiece, the argument from the original position in favor of the choice of the two principles of justice" (2003, p. 371).

a “just constitutional regime” and confidence in our considered judgements about justice. I end Chapter 1 with consideration of Rawls’s Kantian constructivism and the corresponding argument for stability. I construct a thought analogy by comparing Rawls’s argument for a constitutional democracy with Solomons (1978)’s argument for a conceptual framework as a constitution. This analogy will allow me to develop and propose an alternative reading of Solomons’s proposal from a Rawlsian perspective.

In Chapter 2, I address the evolution of Rawls’s work as he responds to an increasing appreciation of the significance of the fact of reasonable pluralism. I pick up the difference between, Rawls’s *A Theory of Justice* (1971) and *Political Liberalism* (1993), and between his respectively Kantian constructivism and Political constructivism. Although there is no accounting research taking up Rawls’s work on Political Liberalism, I use Rawls’s thinking concerning a political conception of justice and the notion of an overlapping consensus to guide me in evaluating the theoretical potential and practical possibility of uncovering or achieving consensus on accounting principles. I will relate my analysis to the disputes and disagreements around the objective of accounting and of the project of conceptual framework, as exemplified in the work of Pelger (2016). I end with consideration of Waldron (1999)’s critical reflection of the possibility of reaching an overlapping consensus on a conception of justice and connect that critique with Macve’s (1988)¹⁶ comment on the difficulties of finding agreement on fundamental matters in accounting and his criticism of attempts to construct a conceptual framework for accounting.

In Chapter 3, I examine the evolution of Rawls thinking in response to Habermas’s critique. I show that how Rawls work is carried forward and radicalized in the critical and discursive theory of Rainer Forst. I read Forst as carrying forward a democratic and critical reading of Rawls. He takes forward the Rawls’s core interest in public justification and makes it the centre of his own project. His analysis of contexts of justification bring clarity to issues where Rawls allows a certain level of ambiguity to persist. For example Forst clarifies the moral and political contexts of justification in a way that Rawls leaves blurred, and he brings out the necessity of moral grounding which is so strong but implicit in the later Rawls.¹⁷ Forst, like Rawls, is a constructivist, but highly conscious that justice starts with dissensus

¹⁶ This is reprinted in Macve, R., 2015. *A Conceptual Framework for Financial Accounting and Reporting: Vision, Tool, Or Threat?*. Routledge.

¹⁷ One of the reasons Forst’s work excites me is that it seems to brings the moral dimension into the foundations of critical theory (see McNay, 2017).

and challenge to oppressive institutions. We can trace this focus on the dissensual moment and radical change back to Rawls, despite the fact that he is so often misunderstood as a theorist of seeking for consensus and agreements on distributions. Forst simply gives greater emphasis to features already present in Rawls.

Forst like Rawls ties justice to justification, understood as freedom from arbitrary, that is, unjustifiable rule, and he provides a reconstruction of the norms, both procedural and substantive, which govern justification and make justice possible. This justice is not merely immanent to society but has transcendent dimension: “Here justice is not only what counts as just in a society but what could hold in it in a reciprocal and general manner if those subject to the norms were their free and equal authors” (Forst, 2013b, p. 5). Forst manages to uncover that Rawls, despite his later change into political constructivism, still commits himself to Kant’s respect of person as ends in themselves. Forst argues that ultimately we need to locate such respect on a Levinasian ground, that is, our recognition of our responsibility to the other facing us. A responsibility having and needing no further explanation than that we recognize it.¹⁸ For Forst this essentially includes a responsibility to give justifications, reasonable justifications: He brings Levinas powerfully together with Kant in his approach.

I use Forst’s work, with some emphasis on his position on moral foundations to respond to, Mouffe’s critique, and especially to critically engage with to some of the applications of Levinasian thinking to accounting, including discussion of morality and accountability, and the limits of the latter, provided by Shearer (2002), and Messner (2009). I argue that Forst shows the value of a rational and reasonable supplement to such applications of Levinas’ ideas. In doing so I aim to show the need for an approach to accountability, which whilst having firm moral foundation, has a strong grounding in practical reasons which allows it to justify its limit. I end the thesis by reviewing the journey taken and identifying what seem to me to be the key lessons that can be taken.

¹⁸ Forst argues that we need to see this responsibility as having a ground beyond our self-interest, and in particular beyond any interest we might have, in a Kantian spirit, in a building a world in which we and others are always treated as ends and not merely means.

Chapter 1 Moral justification for accounting principles

1.1 Introduction

At the preface of *A Theory of Justice*, Rawls sees the problem that he attempts to address in his book is as follows:

“During much of modern moral philosophy the predominant systematic theory has been some form of utilitarianism. One reason for this is that it has been espoused by a long line of brilliant writers who have built up a body of thought truly impressive in its scope and refinement. . . . Those who criticized them often did so on a much narrower front. . . . But they failed, I believe, to construct a workable and systematic moral conception to oppose it. The outcome is that we often seem forced to choose between utilitarianism and intuitionism. . . . What I have attempted to do is to generalize and carry to a higher order of abstraction the traditional theory of the social contract as represented by Locke, Rousseau, and Kant. . . . My ambitions for this book will be completely realized if it enables one to see more clearly the chief structural features of the alternative conception of justice that is implicit in the contract tradition and points the way to further elaboration. Of the traditional views, it is this conception, I believe, which best approximates our considered judgments of justice and constitutes the most appropriate moral basis for a democratic society” (TJ, p.xvii-xviii)

The primary aim of this book¹⁹ is, therefore, to justify how his conception²⁰ of justice as fairness with its principles can serve as the “most appropriate moral basis for a democratic society” (TJ, p.xviii rev.). Following his work in the chapter, I will attempt to address my first research question, that is, what can be learned from Rawls’s systematic and alternative approach to justice and justification in *A Theory of Justice* (originally published in 1971, and revised in 1999) to help us deal with choices and justification about accounting principles. I will look from four main aspects. Firstly, I will look at Rawls’s remarks on utilitarianism and intuitionism, and how his social contractual account of justice sit in between them.

¹⁹ My reflection and analysis of Rawls’s work is greatly indebted from Lovett’s Rawls’s ‘A Theory of Justice’: a reader’s guide (2011) and Freeman’s Rawls (2007).

²⁰ Rawls distinguish between the “concept” and “conception” of justice with that the former refers to “the meaning of a term” and the latter elaborates the concept and includes “principles required to apply it” (TJ, p.5 rev.).

Secondly, I am interested in exploring how the device of original position, accompanied with the method of reflective equilibrium, help to select and justify accounting principles, which takes me to the work by Michael Power (1993) and James Gaa (1986,1988). Thirdly, I look to the way in which Rawls's principle are deliberated in the process of institutional implementation and how that could apply to the deliberation of accounting principles, which leads to my engagement with John Flower (2010)'s application. Finally, I will explore the way in which society and institution is stabilized in Rawls's framework and how that could have implication to shed some light to a stable accounting institution, and it is where I attempt to provide a reinterpretation of Solomons (1983)'s proposal of a constitutional conceptual framework on that basis.

A significant part of Rawls's work in *A Theory of Justice* is to show that the author's approach is superior to certain theories, in particular to utilitarianism and intuitionism, standing as significant competitors to his. Rawls observes that "much of modern moral philosophy" has been dominated by "some form of utilitarianism" (TJ, p.xvii rev.). In developing his view, Rawls begins with two assertions on social justice. These two assertions are crucial for Rawls to distinguish his work from utilitarianism. The first assertion is:

"Justice is the first virtue of social institutions, as truth is of systems of thought. A theory however elegant and economical must be rejected or revised if it is untrue; likewise laws and institutions no matter how efficient and well-arranged must be reformed or abolished if they are unjust" (TJ, p.3 rev.)

The second assertion he made is that:

"Person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override. For this reason justice denies that the loss of freedom for some is made right by a greater good shared by others" (TJ, p.3 rev.).

From the first assertion, we can learn that justice is the common good for a society. Any institution, including accounting, should be reviewed and re-arranged if it dismisses the essence of justice. The second assertion reflects Rawls's natural right position on social contracts, that is, one's basic rights and liberties should not be sacrificed for the claim of greater benefits. Starting with these two assertions, Rawls expresses a strong opposition to compromise individual rights and freedoms to economic benefits. This stands sharply against with some of the views, quite dominant in accounting, that interests in economic

efficiency, productivity, and utility maximization are prevailed than any other interests (Horngren et al. 2002). Accounting has been observed for its implicit commitment to provide information tailored to the aim of profit maximization, or utility maximisation, which has become so dominant in justifying accounting practice (see Flower, 2010), and any research, comment, or criticism that does not conform to this dominant discourse will generally “fail to win credibility” (Cooper, 1995, p.202).

Society itself Rawls conceives of as “a system of cooperation” (TJ, p.4 rev.), ordered by certain “rules of conduct” (TJ, p.4 rev.), for the promotion of the good of the participants, which we generally accept as binding. Rawls argues for a concept of justice, one that people can easily agree upon, that is: “institutions are just when no arbitrary distinctions are made between persons in the assigning of basic rights and duties and when the rules determine a proper balance between competing claims to be the advantages of social life” (TJ, p.5 rev.). His own conception of justice, “justice as fairness”, is quite radically egalitarian, and injustice means “simply inequalities that are not to the benefit of all” (TJ, p. 54 rev.).

The primary subject of justice as fairness is the “basic structure” constituted by the main institutions of a society, such as economy and law. The “basic structure” should conform to principles of justice setting out the basic terms of cooperation. Rawls contends that the principles of justice for the basic structure of society are those on which we would freely and rationally choose to agree behind “a veil of ignorance” in what he calls an “original position”. An original position is designed as a place wherein citizens are equally represented to make a rational selection of the “most reasonable” terms of social cooperation among other alternatives. The “veil of ignorance” prevents us from knowing who we are and what status that we will occupy in a society so that we will make the selection under great uncertainty.

Rawls suggests to find such an “initial position of equality” in an act of imagination; in a hypothetical situation where persons are expected to act rationally and to “decide *once and for all* what is to count among them as just and unjust” (TJ, p.11 rev., emphasis added). Those principles selected and agreed in the original position are used to guide the design of institutions and act as regulating terms of cooperation when the “veil of ignorance” is lifted. Principles of justice generated on the basis of the features of this initial position are to be tested against our most considered judgements, and that test may lead us to reconsider the terms of the initial position or to revise some aspects of our considered judgements. Rawls’s

method of reflective equilibrium offers a way of reflecting and reaching equilibrium between our considered judgements and principles of justice. Thus, original position, in accompanied with this method, enables us to deal with intuitions and reduces influence of unreliable and biased moral intuitions.

The agreement, or social contract, reached in the original position is a hypothetical one, not a real one. This is what he learns from Locke, Rousseau and Kant, all of whom regards social contract as a hypothetical thought experiment to reveal the “most reasonable terms of cooperation” among free and equal rational beings. That a political constitution or a government is historically accepted does not necessary make it a legitimate and just institution. The question of legitimacy is a philosophical question that requires assessment of existing constitutions, governments and legislatures according to the hypothetical contractual criterion. Therefore, for the justification of principles or institutions, there is no need for the agreement or the contractual terms to be actually agreed in a real world.

The purpose of such a hypothetical thought experiment is to find out the initiative and motivation that drive us to think and act justly. It then specifies the principles of justice that fit with our judgements of justice and our desires to behave justly. To further his argument that justice as fairness is superior to utilitarianism, Rawls has to prove that rational participants in the original position behind a veil of ignorance will choose justice as fairness rather than utilitarianism. Rawls provides us with different decision criteria that participants in the original position will adopt to facilitate the comparison.

I will look into two pieces of accounting research that are related to the device and the method of justification. Michael Power (1993)’s work applies the method of reflective equilibrium to the process of standard setting. James Gaa (1986, 1988)’s research explores the possibility of designing an original position for market participants and principles for accounting are therefore selected. I will provide an understanding and evaluation of their usage of Rawls.

The principles of justice, justified in original position and reflective equilibrium, are applied to the basic structure of a society. Rawls proposes four stages to implement the principles. Rawls introduces a division between individuals and institutions and applies it to the institutional implementation of his principles of justice. I will explain his argument in institutional implementation and in particular will focus on the division of labour, which is criticized by Cohen for locating justice only at the level of institution than at the level of

individual. John Flower (2010) takes up this critique and attempts to reconcile this with his support of Rawls's two principles of justice. I will evaluate Flower's work by looking to the dispute between Rawls and Cohen.

Rawls spends a lot of efforts in justifying how institutions designed according to his principles of justice can be stable and sustained over generation. I will look at Rawls's argument on stability and his Kantian theoretical basis. Rawls, with his Kantian inheritance, manages to argue for the congruence between the requirement of acting justly, and individual self-interests. I will draw upon Solomon's proposal of a conceptual framework in accounting and use it as an analogy to a possible envision of accounting institution following a systematic reading of Rawls's framework.

1.2 Rawls's remarks on utilitarianism and intuitionism

1.2.1 A Challenge to utilitarianism

Rather than dealing with utilitarianism comprehensively, Rawls mainly concerns with the utilitarianism at the level of the basic structure²¹ of a society, the level in which institutions and government are designed. The classic utilitarianism²² that Rawls engages with in *A Theory of Justice* then is the view that "society is rightly ordered, and therefore just, when its major institutions are arranged so as to achieve the greatest net balance of satisfaction summed over all the individuals belonging to it" (TJ, p.20 rev.). As an account of justice, the internal structure of utilitarianism is "teleological" such that "the good is defined independently from the right, and then the right is defined as that which maximizes the good" (TJ, p.21-22 rev.). The "good" here refers to happiness, with happiness itself defined in various ways including preference satisfaction (TJ, p.23 rev.).

²¹ The emphasis on basic structure, as I will come back in discussion of division of labour, is key to distinguish utilitarianism from justice as fairness. For that, the former is applying one single moral principle to all levels of moral assessment, to question of justice of actions, rules or institutions. Rawls however sees that "different principles for different kinds of subjects" (PL, p.262) and thus principles of justice may not appropriate to apply directly to associations, such as family or university, or to global society (Freeman, 2014).

²² Rawls makes it clear that he is not aiming to survey all the forms of utilitarianism in his work and nor is he going to "take account of the numerous refinements found in contemporary discussions" (TJ, p.20 rev.). What he attempts to achieve is to provide an alternative account of justice to "utilitarian thought generally" (TJ, p.20 rev.). The kind of utilitarianism that he compares with his justice as fairness is "the strict classical doctrine which receives perhaps its clearest and most accessible formulation in Sidgwick" (TJ, p.20 rev.). Thus, Rawls opposes the utilitarian tradition that can be traced back to Bentham and its development through Sidgwick.

This form of utilitarianism is impartial towards the contents of happiness. It treats equally the happiness resulting from the enjoyment of hard work and the happiness arising from the enjoyment of racial or gender discrimination. The source of happiness, whether it is to be found in an activity we intuitively approve or disapprove of, is of no significance to the calculation of utility. This makes the question of whether to distribute more to the poor or to allow the rich to accumulate more becoming irrelevant. What matters is to maximize the aggregation of such pleasure as a result of various satisfaction.

From this perspective, Rawls sees, people wearing an utilitarian spectacle will commonly imagine the organization of society as carried out by an impartial spectator with the sympathy and imagination necessary to understand the intensity of the desires and wants of all the others in the society “as if these desires were his own” (TJ, p.24 rev.). The function of this impartial spectator is to organize “the desires of all persons into one coherent system of desire” (TJ, p.24 rev.). It is to find the rules of the social system that maximize utility: “On this conception of society separate individuals are thought of as so many different lines along which rights and duties are to be assigned and scarce means of satisfaction allocated in accordance with rules so as to give the greatest fulfilment of wants” (TJ, p.24 rev.). Under this view, all persons are conflated into one by imagining an impartial sympathetic spectator: a view of “society as a whole the principle of rational choice for one man” (TJ, p.24 rev.). This leads Rawls asserting that utilitarianism, in its tradition, fails to take the individual seriously.

Some difficulties arise when the increase of sum total happiness is in conflict with “sentiments of justice”, such as the intuition that each member of society has “an inviolability founded on justice or, as some say, on natural right, which even the welfare of everyone else cannot override” (TJ, pp. 24 -25 rev.). Taking the definition of happiness as the satisfaction of preference, for example, it is unpredictable whether the pleasure arising from one’s preference to discriminate against others will be outweighed by unhappiness of one who is subjected to such discrimination, or the other way around. If racists enjoy discrimination sufficiently, then perhaps utilitarianism will permit it, on the basis that the aggregation of their enjoyment outweighs the pain. The basic rights and liberties become contingent on the overall balance of preferences and utilities. Perhaps even slavery might be reintroduced for the sake of greater utility. To avoid this, we might modify utilitarianism so that certain fundamental individual basic rights should not be violated in pursuing of a greater happiness. Nevertheless, Rawls contends that even if utilitarian can incorporate this

argument for the inviolability of rights, the argument is instrumentally justified as “a socially useful illusion” because of its usefulness in enhancing the sum total happiness (TJ, p.25 rev.). Individual rights are not taken seriously.

At the core of utilitarianism, it is a principle of choice, preferring greater happiness or utility over smaller happiness or utility. Similar utilitarian logics can be observed in certain theories that tend to be dominant in accounting standard setting and decision making process. Flower (2010), for example, points out that existing standard setting board are based on a “wrong paradigm” (p.11), which unduly focuses on the “production” of information that may be useful for maximizing utility and profit. This idea of maximizing utility orientates our focus towards profit maximization and cost minimization. Accounting decisions are easily drawn into a calculation of benefits and costs, comparing foreseeable consequences of choices made, which constitutes the core of “transaction cost economics” that dominate our view about what is accounting and what accounting is for (Coase, 1995, Demsetz, 1968 and Williamson, 1979).

This transactional thinking underlies the flourish and popularity of the development of “positive accounting theory”, which encourages the rise of “decision usefulness” as the primary objective for the provision of financial reporting and information. This theory also inherits the basic logic of utilitarianism, a “rational exercise of utility maximization”, that is, to “produce the greatest good for the greatest number within a pristine neo-classical framework” (Gray et al., 1994, p.62). It encourages the provision of accounting information in the aim of being useful to shareholders’ decisions of investment (Williams, 1987). Accounting principles and choices are justified only if they are helpful in providing information for “explaining and predicting security prices” (Chabrak, 2012, p.456).

Just like Rawls’s remarks on utilitarianism, such understanding of accounting faces similar problems and critiques. Hoskin and Macve (2000) point out that to calculate “transaction cost” of accounting principle or accounting choice, we are in fact lacking of means to quantify related cost (p.106-107). Some contend that to view accounting as a “calculative practice” is problematic and that the claims of utilitarian approach to reduce accounting into instruments should be challenged (e.g. Wickramasinghe and Alawattage, 2007, p.53). Windsor (2006) also points out that utilitarianism will constrain company as well as professionals to the “protection of investor property rights” (p.96).

Utility-driven accounting principles and accounting decisions may also result in dehumanizing “the social” and treating individuals no differently from resources and thereby “it reduces person” (O’Boyle 1986, p.39). For it encourages a consequentialist logic that we could compare and add up all potential consequences of an action and choose the one that seems to have the best result even at the expense of one’s welfare or even human rights (Sikka, 2011; Cooper et al., 2011). Shweiker (1993) also points out that because it cannot get away from the problem of seeking for one single “calculus” to secure the forthcoming consequences to meet the criteria of maximizing the aggregated, this displays “the fragility of life counts against precision” (p.243). Some note that utility calculation undermines accounting’s potential to provide explanation of how things happen (Armstrong, 1991; Neu, 1992). As DiMaggio states, this may result in assuming organization and people as “more plastic, calculating and manipulable than they usually are” (DiMaggio 1988, p.5). Even worse, it may lead to a “metaphysics of death” in that accounting is dehumanized and created by markets not people to deal with the accumulation and distribution of wealth and income (Chwastiak, 1999, p.434).

The dominated utilitarian logic may end with a “progressive narrowing of the research agenda in accounting” (Wilkinson & Durden, 2015) and only “institutionalized financial economics as the only rigorous, and thus acceptable, source discipline” prevailed in both accounting research and normative thinking about accounting principles (Dillard, 2008, p.896). Some see this as a transformation of accounting from “autonomous discipline” into a “sub-discipline of a neoclassical economics” (Ravenscroft & Williams, 2009, p. 775). Ravenscroft and Williams (2009) point out that such transformation “signify...a conceptual shift in the focus, assumptions, and discursive practices used to characterize, explain, and speak about accounting practice” (p.775). It seems to, Murphy et al. (2013) contend, turn us against what accounting has been historically and should be, that is, to given an account and take accountability for what is generated. Flower (2010) also calls for a shift from a utility-driven “production” paradigm to a “distribution” paradigm that gives stakeholders access to information in related to social justice.

1.2.2 Rawls’s remarks on intuitionist alternative

Before I look into Rawls’s own position, it is worth to note intuitionist responses to utilitarian approach, which are characterized by Rawls as having two main features. The first feature is that intuitionism “consist[s] of plurality of first principles which may conflict to give

contradictory directives in particular types of cases” (TJ, p.30 rev.). These first principles may include basic sentiments such as fidelity, equality, benevolence etc. The second key feature, in fact the weakness, of intuitionism, is that it offers “no explicit method, no priority rules for weighing these principles against one another: we are simply to strike a balance by intuition, by what seems to us most nearly right” (TJ, p.30 rev.). Intuitionism can be understood as “pluralism” in that it values our intuitions, yet it offers no guidance in which one should come first and which one should come secondary (TJ, p.31 rev.). Yet, in accompanied with its pluralist feature, intuitionism would always give rise to concerns around validity, subjectivity and foundationalism.

Accounting researchers seldom explicitly label their research as intuitionist. Yet, when we start to discuss about what is accounting and how accounting should be, different understandings and intuitions emerge informed by different worldviews, be it neo-classical, be it utilitarian, be it Marxist or post-modernist. These intuitions may stand as competing arguments with one another, as exemplified the dispute around objectivity, or the indeterminacy between decision usefulness and accountability. Similar concerns could be observed in the methodological debate around subjectivism and objectivism in accounting research²³. We are in need of a systematic account or approach that can help us to make a balance among competing intuitions and convictions about accounting. We are in need of a structure to allow us to justify one principle better than the other, or one judgement better than the other.

The problem of intuitionism is that it is unable to settle the conflicts among different intuitions. We may be capable to distinguish yet not to adjudicate among the plurality of competing principles without a rule telling us what should be prioritized. The role in the resolution of disputes within basic structure is the most important role for a theory of social justice. Rawls observes that, when conflicts in our basic moral principles arise, intuitionism offers no way out but to fall back to our intuitions regarding to their relative weights. This

²³ This debate is fuelled by a discussion upon the study produced by Burrell and Morgan (1979). This study distinguish between two incommensurable positions, subjectivism and objectivism, with different underlying ontological assumptions. Subjectivism refers to a position acknowledging that knowledge are relative and judgements are unavoidable in accounting (Lukka and Modell, 2010; Kakkuri-Knuuttila et al., 2008). The study starts with a number of accounting researchers who takes the methodological exploration on the nature of reality. Objectivism tends to view reality as an objective, and observable entity and accounting thus as an “objective mirror of reality” (Modell, 2005). It also encourages a methodological debate around positivist/objective approach, interpretative approach, critical theory research etc. (Kakkuri-Knuuttila et al., 2008; Roslender and Dillard, 2003; Modell, 2017)

is precisely where we tend to disagree with each other significantly. The substance of these various principles is drawn from our intuitions, which may be given by our own morality, or by divine order as God. Another problem of intuitionism is these foundations for intuitions are regarded as self-evident, with no need for justification. This raises the question: How are we to know that we can trust our intuitions? How can we prove the validity of our judgements made based on these intuitions to our fellows?

1.2.3 Rawls and social contract tradition

Intuitionism may allow us to approach questions through the exercise of our moral common sense, but, as we have seen, it becomes problematic when intuitions conflict one with another, and when we realize that our intuitions are “strongly coloured by custom and current expectation” (TJ, p.31 rev.). We may ask how we know that our intuitions are trustworthy, and wonder whether a method could help to identify reliable intuitions to work with.

In his *A Theory of Justice*, Rawls observes that “the several variants of the utilitarian view have long dominated our philosophical tradition and continue to do so” and this is so much the case “despite the persistent misgivings that utilitarianism so easily arouses” (TJ, p.46 rev.). Classic utilitarianism is championed by Jeremy Bentham and John Stuart Mill. Bentham proposed the bare-bones of utilitarian thought, that is, that the proper purpose of morality and legislation action is to help bring about “the greatest happiness of the greatest number” (Bentham, 2005, p. 15). Both Bentham and Mill are hedonistic about value and the good and maintain that we ought to maximize the good, understood as the excess of pleasure over pain.²⁴ Bentham’s version is later classified as act-utilitarianism that involves examination of the pleasurable and painful consequences of individual actions. Actions are evaluated by appealing to the criterion of general happiness.²⁵ An act-utilitarian dimension is also evident in Mill’s version of utilitarianism. It can, however, be argued, that Mill

²⁴ The hedonistic calculus of pleasure and pain is, for them, the ultimate arbiter of right and wrong: “Nature has placed mankind under the governance of two sovereign masters, *pain* and *pleasure*. It is for them alone to point out what we ought to do, as well as to determine what we shall do. On the one hand the standard of right and wrong, on the other the chain of cause and effects, are fastened to their throne” (Bentham, 2005, p.11). For John Stuart Mill too, utility, the sum of happiness becomes the measure of right and wrong: utilitarians are “those who stand up for utility as the test of right and wrong” (Mill, 1863, p. 8).

²⁵ One of the attractions of utilitarianism is its egalitarian aspect. In terms of the famous maxim attributed to Bentham by Mill, “everybody is to count for one, nobody for more than one” (Mill, 1863, p.91). We should note, however, that it is generally accepted that this maxim is not a foundation for individual rights: it is “only a weighting principle, to be used in calculating what will maximize aggregate happiness (Hart, 1982, p. 98). Bentham is, of course, vehement in his opposition to any idea of natural (non-legal) rights, he refers to as “nonsense upon stilts” (2002, p.317).

proposes a rule-utilitarianism in which moral rules are measured against the criterion of general happiness, and individual actions are measured against moral rules.²⁶

There are many contemporary variations of utilitarianism, for example the utilitarianisms defended by Hare, Harsanyi and Mirrelees varying in the definition of utility and the source of authority²⁷ in utility (see Sen et al., 1982). Hare's view of utility is different from Benthamite view of utility of it as consisting simply in pleasure and pain but he keeps close to the classic utilitarian tradition of viewing utility in terms of desires and fulfilment. Instead of proposing a new form of utilitarianism, Hare defends the tradition with new arguments. Harsanyi and Mirrelees depart from the tradition and define utility in terms of choice.

Rawls makes it clear that he is not aiming to survey all the forms of utilitarianism in his work and nor is he going to "take account of the numerous refinements found in contemporary discussions" (TJ, p.20 rev.). Rawls explicitly rejects the utilitarian tradition that runs forward from Bentham to the present day.²⁸ He does not do so, however, without first having carefully considered the value of the approach. In his early work on ethics he develops, in prototype, his method of reflective equilibrium,²⁹ which he uses in his paper "Two Concepts of Rules" (1955) to try to justify the most plausible version of utilitarianism he can identify. Rawls tries to make utilitarianism plausible by connecting it to practices, understood as systems of rules, rather than to acts. The most plausible version of utilitarianism, as Rawls sees it, is effectively rule based and operates on two levels. Rather than requiring individuals to act so as to maximise utility directly, practice rules are selected to maximise utility, and individuals are required to follow the rules strictly even when more utility would be generated by the breaking of the rule. Ultimately, however, he could not accept the validity of the practice, or institutional, variety of rule-based utilitarianism that he himself developed:

"He could not, in the end, bring himself to accept happiness as the source of all moral value. And he found himself unable to explain how someone who takes happiness to

²⁶ Mill apparently takes an act utilitarian line when, introducing the proportionality principle, he argues "that actions are right in proportion as they tend to promote happiness; wrong as they tend to produce the reverse of happiness" (Mill, 1863, p.9). Urmson (1953) interprets the proportionality principle and Mill's recommendation of secondary principles, to facilitate the application of the fundamental happiness principle, in rule utilitarian terms.

²⁷ The moral force of the utilitarian approach is variously located in intuitions that it must be good to increase the net sum of human happiness, or to meet human preferences and to satisfy want, subject perhaps to improving human well-being.

²⁸ In *A Theory of Justice* Rawls concentrates his attention on classic works of the utilitarian tradition which he sees as having "perhaps its clearest and most accessible formulation in Sidgwick" (TJ, p.20 rev.).

²⁹ The method of reflective equilibrium emerges very early in Rawls work, and is already present in "Outline of a Decision Procedure for Ethics" (1951).

be the sole ultimate moral value can have a moral reason to comply with the rules of an optimal practice even when doing so leads to suboptimal results: If the authority of the rules is based solely on happiness, then it makes no sense to sacrifice some happiness for the sake of honoring the rules” (Pogge, 2007, p.30)

On the other hand, Rawls did hold to the important distinction between the justification of institutions and the justification of action within institutions. This later develops into his notion of “division of labour”, as we will see in section 1.4.2. Rawls accepts and in his subsequent work aims to go beyond deficiencies of his best effort to establish a plausible utilitarianism, his institutional utilitarianism. The challenge he sets himself of finding a plausible and superior alternative to utilitarianism for assessing the institutions of the basic structure of society is a formidable task.

Utilitarianism has certain significant attractions. It offers a strategy for differentiating reliable intuitions from unreliable ones. If any conflict then arises between our utility calculations and our moral intuitions, Rawls sees that utilitarianism would regard those intuitions as wrong and accordingly to be dispensed with. It argues that conflicts of interest can be solved by aggregating expected happiness and counting everyone’s happiness equally and choosing the option that generate the greatest sum. Finally, it promises that we can easily, in theory at least, work out the right answer by simply calculating and comparing the sum total happiness generated by different options and choose the one that gives the greatest sum.

What Rawls attempts to achieve in his *A Theory of Justice* is to provide an alternative account of justice to “utilitarian thought generally” (TJ, p.20 rev.). The bare-bones of utilitarianism, despite its forms and types, all share some similar attributes, the general utilitarian thoughts that Rawls attempts to address in his theory of justice, is that society should be arranged to maximize (total or average) aggregated utility or expected well-being (TJ, p.20 rev., 140 rev.).

Rawls wants to offer an alternative view of justice, justice as fairness; a view that can, among other things, provide us with a way of testing and disciplining our intuitions. *A Theory of Justice* is developed on the basis of social contract tradition. Rawls claims that his primary objective is to “generalize and carry to a higher order of abstraction the traditional theory of the social contract as represented by Locke, Rousseau, and Kant” (TJ, p.xviii, rev.). Thus, contractualism has been proposed as an alternative to utilitarianism.

Rawls draws upon Locke's insistence that all humans have some inalienable liberties to be protected and assured by the government. Rawls's conception of justice, justice as fairness, is a liberal conception in the sense that by prioritizing certain basic rights and liberties, individuals are free to express themselves and free to choose the life they want to pursue. It is liberal in the sense that institutions and governments organized by such a conception of justice will respect and allow the development of different life plans, as well as religious, philosophical and moral beliefs. It is also liberal in the sense that it endorses free market and pricing systems to allocate factors of production, provides individuals with equal opportunities to work occupations, and offers a social minimum to the least advantaged group within a society.

He indebted his own understanding of democracy to Rousseau's deliberative democracy and Mill's representative democracy. Rawls argues that human beings can develop a sense of justice and that equal rights of political participation is utmost in individual freedom. This does not mean that Rawls is hoping a society in which citizens could all have direct participation in every social and political decision. Nonetheless, the guarantee of this right is significant for one to be free and equal and therefore provides the basis for one to realize her own good. In addition, Rawls contends that legislators are expected to vote and make decisions on the basis of common good, that is, by what is required by justice: "the legislative discussion must be conceived not as a contest between interests, but as an attempt to find the best policy as defined by the principles of justice" (TJ, p.314 rev.). He sees his conception of justice as fairness is democratic in the sense that individuals all have equal rights to political participation and equal opportunities to education and career.

As we will see, Kant's social contractual position is considered to have the most significant influence³⁰ upon Rawls's work more than the other two philosophers (Lovett, 2010, p. 9; Freeman, 2007, p. 44). Rawls's conception of justice as fairness attempts to carry Kant's ideas of "respect or of the inherent worth of person" through his view of "respect for persons as free and equal moral person who are both reasonable and rational" (Freeman, 2007, p.21). On this basis, Rawls develops a Kantian constructivism to justify his conception of justice

³⁰ It is noticeable how Kant affects Rawls in his Kantian interpretation of justice as fairness (TJ, sect, 40) and Kantian Constructivism (KC) published after TJ. As we will see in PL, Rawls starts to distinct his work from Kant, in particular, arguing for a replacement of Kantian Constructivism with political constructivism (PL).

as fairness and its principles, and argue for a society that is stabilized by principles expressing the respect of individuals as free and equal and one's desire to be free and equal.

Last but not least, Rawls is aware of Karl Marx's criticism of liberalism and capitalism. It is worth noted that Rawls's conception of justice as fairness is not an inheritance of capitalism but something more radical. Rawls argues that a conception of justice needs to be made aware publicly and his focus upon the "basic structure" of a society reflects his response to Marx's critique upon structure of property relations and of capitalism, as I will come to this in section 1.4 (TJ, p.229, 271-272, rev.). Rawls distinguishes his distributive justice from an understanding of justice as allocation. Correspondingly this would assign different role to market and pricing system in a framework of justice (TJ, p.239-242 rev.). Under Rawls's distributive justice, the market will have an allocative role if it is to allocate factors of production. Under allocative justice, the market is only used for the distribution of wealth and income, which is the result of production. The latter, a distributive role of market, would not make a society just but rather to widen the gap between bourgeois who control the means of production and working class who do not. The distributive justice that Rawls argues for is one that wants to protect and guarantee workers with equal opportunities to their work and sufficient means of production, through the allocative role of the market. Thus, his conception of justice as fairness is egalitarian in maintaining the "fair value" of political liberties, the material sources that allow one to be the master of her labour.

The goal for a conception of justice is to assure that institutions are just so that "no *arbitrary* distinctions are made between persons in the assigning of basic rights and duties and when the rules determine a proper balance between competing claims to the advantages of social life" (TJ, p. 5 rev., emphasis in italics added). By "arbitrary", it means that whether one born into a poor family or a country with bad economy is an arbitrary fact. The way in which a society is structured will have large and systematic impacts on our lives, and sometimes these impacts outweigh any individual efforts we can make. We should avoid any arbitrary influences of this over our moral judgements of justice, which partly explains Rawls's attempt to construct an original position and a veil of ignorance, as I will come to in next section 1.3.

It is crucial to get the basic structure of a society just. From the viewpoint of utilitarianism, the most just basic structure that one could possibly think of is an arrangement of institutions designed to maximize the sum total of the happiness of all persons within a society. As we

have seen, a dominant utilitarian rationale may create an institutional culture that may legitimate and naturalize accounting systems that overlook the social justice and legitimate the generation of profit at expense of others (Sikka, 2015). It may also discourage the potential of developing a critical, democratic and participative system in responding to corporate social impacts (Bessire and Onnee, 2010).

Rawls is fundamentally concerned about the “basic structure” of a society, which is defined as “the way in which the main political and social institutions of a society fit together into one system of social cooperation, and the way they assign basic rights and duties and regulate the division of advantages that arise from social cooperation over time” (TJ, 6 rev.). The basic structure includes major legal, economic, social and cultural institutions and practices that constitute a society. The influence of basic structure on the life prospects of individuals is fundamental and pervasive, within which the members live and shape their lives at best they can. Since it specifies the basic terms of cooperation within a society, it becomes the “primary subject of justice” (TJ, p.6 rev.).

In Rawls’s view, the inequalities typically supported by the basic structure of society and the social advantages conferred on some, cannot be justified by “an appeal to the notion of merit or desert” (TJ, p.7 rev.). They are unjust in so far as they are founded in “arbitrary distinctions made between persons”. This focus on the basic structure is consistent with Rawls’s view that “(w)hat the theory of justice must regulate is the inequalities in life prospects between citizens that arise from social starting positions, natural advantages, and historical contingencies” (PL, 271). A society is “well-ordered” when its basic structure conforms to the principles of a conception of social justice and when this conception is “public” in the sense that “everyone accepts and knows that the others accept the same principles of justice” (TJ, p.4 rev.). Thus, the basic structure is the main battlefield for the competition between justice as fairness and utilitarianism and any other alternative conception of justice.

1.3 Rawls’s method of justification

1.3.1 Reflective equilibrium and Kantian constructivism

At the core of *A Theory of Justice*, Rawls attempts to offer a proper justification and defend his conception of justice as fairness an alternative to utilitarian and intuitivist account of justice. The idea of justification is an epistemological concept entailing “how we come to

know or at least can claim to know what we do, and our reasons for our beliefs and judgments regarding what is true” (Freeman, 2007, p.29). It pertains to the idea of objectivity of judgements. Rawls believes in the objectivity of moral judgements and he sees the potential of identifying truth amongst these judgements for the decision-maker.

The idea of reflective equilibrium³¹, together with original position, constructivism and public reason (as we will see in the next chapter), constitute Rawls’s conception of justification. Reflective equilibrium is the most general and fundamental one (Freeman, 2007, p.29). He contends that the justification for a conception of justice is “the matter of the mutual support of many considerations, of everything fitting together into one coherent view” (TJ, p.19 rev.). The “mutual support” stems from a completion of “general and wide reflective equilibrium” between principles of justice and our “considered convictions” of justice at all levels of generality, ranging from the most particular to the most abstract ones. Justification, thereby, “rests upon the entire conception and how it fits in with and organizes our considered judgements in reflective equilibrium” (TJ, p.507 rev.). Considered judgements, for Rawls, refer to “those rendered under conditions favourable to the exercise of the sense of justice, and therefore in circumstances where the more common excuses and explanations for making a mistake do not obtain” (TJ, p.42 rev.).

The method of reflective equilibrium proceeds in three stages. The first stage is to identify “considered judgement” about justice. Reflective equilibrium requires considered moral judgements at all levels of generality, from the most abstract moral judgements to the most particular ones. Some of them may be more or less “considered” than the others. We start with those that are most considered, that is, ones that we are most confident in, ones that we feel our judgements are not distorted by the circumstances of judgements: “judgements in which our moral capacities are most likely to be displayed without distortion” (TJ, p.42 rev.). The second stage entails the generation of principles that would account for these judgements. Based on these well-considered judgements, some highly abstract principles or theory can be identified and generated. The principles that we are seeking for are those which, “when conjoined our beliefs and knowledge of the circumstances, would lead us to make these judgements with their supporting reason were we to apply these principles conscientiously

³¹ In particular, Rawls claims that reflective equilibrium offers an account of justification for moral philosophy (Freeman, 2007, p.31)

and intelligently” (TJ, p.41 rev.). This means that when we apply these principles, we are going to make the same set of judgements conscientiously and intelligently.

The third stage of this process is to deal with any discrepancies arising in the process of reflection. If we then take these principles and test them against our intuitions, those well-considered as well as those less well-considered ones, we could expect discrepancy arising from situations in which our principles do not fit with some of these intuitions. We are facing a decision. We can either drop or revise the intuitions to make them fit with the principles, or we can revise the principles so that they can take account of a wider range of our intuitions. This process of reflection and revision reiterates until we reach an equilibrium between our intuitions of justice and our agreed set of principles.

But reflective equilibrium is not a variation of intuitionism. Instead, Rawls sees his reflective equilibrium as an alternative: “a conception of justice cannot be deduced from self-evident premises or conditions on principles” (TJ, p.19 rev.). Reflective equilibrium, thus, is “non-foundationalism” i.e. it is not grounded or derived from any higher principles or convictions that are not open for justification. All convictions and judgments are subjected for examination. Rawls opposes to the view of “philosophical intuitionism”, which seems to automatically give priority to abstract considered judgments in the process of reflection. “It is a mistake to think of abstract conceptions and general principles as always overriding our more particular judgements” (PL, p.45). Within the reflective equilibrium, all moral considered judgements, despite of its generality or particularity, are taken into account and given equal weight in the process of reflection.

Some may have doubts about our moral judgements that may be biased or constrained by the context in which we are living. Judgements may be simply a product of the customs and social expectation of the society we are living in. This recognition must surely leave us asking “by what criteria are we to judge the justice of custom itself and the legitimacy of these expectations?” (TJ, p. 31 rev.). Rawls contends that “it is obviously impossible to develop a substantive theory of justice founded solely on truths of logic and definition” (TJ, p.44 rev.). It is unavoidable to refer to some existing upheld moral convictions if we are asked to make considered moral judgements. It is also unavoidable that these convictions or judgements could be biased by one’s capacity of moral reasoning or by social or political situations. But we should start with something, and Rawls thinks that given that we are living under a constitutional democratic society, there must be something that we can rely upon

and sufficient to start and proceed a moral conception that represent the most reasonable terms of social cooperation. Rawls does not think that by deconstructing what we believe or uphold in a society would be of much help to work towards justice.

Rawls argues that we can rely on our capacities for moral reasoning and that the reflective equilibrium allows us to critically review and revise moral convictions and our moral judgements. Rawls suggests a Kantian interpretation of reflective equilibrium for that “we may suppose that everyone has within himself the whole from of a moral conception” (TJ, p.44 rev.). We are not just to find the one that “best fits” with our considered judgements but also able to critically examine them with certain abstract moral principles or considerations. These moral principles do not exist as prior moral “facts” but are results of practical reasoning. As I will come to this with more details in section 1.5 and next chapter as well, this connects Kant’s view of moral agency, autonomy and practical reasoning with reflective equilibrium. It involves exercise of practical reasoning and moral principles are a result of such practical reasoning. This Kantian reading would make reflective equilibrium incompatible with intuitionism or other views that conceive moral principles as existing prior to or independent of our moral reasoning (TJ, p.507 rev.). The reflective equilibrium, together with original position as a “procedure of construction”, allows us to uncover and justify principles within our moral capacities to practical reasoning.

Peter Singer follows R. M. Hare in his adoption of preference utilitarianism. He starts with the intuition that living by ethical standards essentially entails being able to justify oneself, that is, give reasons for one’s behaviour, and reasons that go beyond self-interest to the universal: “Ethics takes a universal point of view” (1993, p. 10). He sees this intuition behind, for example, Bentham’s “everybody is to count for one, nobody for more than one” (Mill, 1863, p. 91), and Rawls’s imaginary device of the veil of ignorance. He then moves on to develop his own utilitarian moral theory on the foundation of this intuition of ethical universalism: “In accepting that ethical judgments must be made from a universal point of view, I am accepting that my own needs, wants and desires cannot, simply because they are my preferences, count more than the wants, needs and desires of anyone else. Thus, my very natural concern that my own wants, needs and desires ... be looked after, must when I think about it be extended to the preferences of others” (1993, p. 11).

Because Singer shares in the core classical utilitarianism tradition that Rawls addresses, and because he engages directly and critically with Rawls’s theory of justice, his approach merits

some careful consideration in the context of this thesis.³² I find Singer's criticism of the method of reflective equilibrium most interesting, and therefore I will give special attention to it. The consideration of that critique allows me to understand and test Rawls's approach from a fresh critical perspective. In what follows, I will briefly discuss Singer's critique of Rawls's approach of reflective equilibrium and, in particular, the role of practical intuitions within the method and in the development of moral theory. I will show how the epistemological approach of reflective equilibrium can be defended from a Rawlsian perspective.

Singer observes that a dominant debate in normative ethics over many decades has been between those who argue for systematic ethical theory, and in particular utilitarianism, and those who think that normative ethics should be based on consideration of our moral intuitions and common moral judgements. In this debate the main challenge to utilitarianism picked up "examples intended to show that the dictates of utilitarianism clash with moral intuitions that we all share" (Singer, 2005, p. 343). The goal to demonstrate the failure of utilitarianism as an ethical theory, therefore, is depending on the belief in the validity of the moral intuition or judgement involved in the examples. Singer challenges such reliance on moral intuitions, and argues that we should not assume that our moral common intuitions are a sound basis for the development of moral theory³³: we cannot assume "that our moral intuitions are some kind of data from which we can learn what we ought to do" (p. 346).

Singer argues that, before Rawls, the appeal to common intuitions to challenge consequentialist theory, was essentially ad hoc, but that Rawls "took the crucial step towards fusing this argument with an ethical methodology when he argued that the test of a sound moral theory is that it can achieve a 'reflective equilibrium' with our considered moral judgments" (2005, p. 344). As Singer describes it, on Rawls's approach, the validation of

³² Singer is in the tradition but in *Practical Ethics* (1993) as he explains that his utilitarianism, is not the version of utilitarianism defended by classic hedonistic utilitarians like Jeremy Bentham, John Stuart Mill and Henry Sidgwick: "They held that we should always do what will maximize pleasure or happiness, and minimize pain or unhappiness. ... In contrast the view I have reached is known as 'preference utilitarianism' because it holds that we should do what, on balance, furthers the preferences of those affected" (p. 13). He argues against a strict act-utilitarianism: "there are utilitarian reasons for believing that we ought not to try to calculate ... consequences for every ethical decision we make in our daily lives, but only in very unusual circumstances or when we are reflecting on our choice of general principles to guide us in the future" (p.12).

³³ Singer draws on advances in evolutionary theory and experimental psychology, addressing moral decision making and behaviour, including the work of Haidt (2001) and Greene et al. (2001), to lend weight to his view that intuitions, sometimes developed through evolution over millennia, are not reliable foundation for moral theory. Singer accepts that evolutionary theory can explain much of our common moral intuitions, and insists that "there is little point in constructing a moral theory designed to match considered moral judgements that themselves stem from our evolved responses to the situations in which we and our ancestors lived...we should, with our current powers of reasoning and our rapidly changing circumstances, be able to do better than that" (2005, p.348).

moral theory “is not determined by the internal coherence and plausibility of the theory itself, but, to a significant extent, by its agreement with those of our prior moral judgments that we are unwilling to revise or abandon” (p. 345).³⁴ Singer challenges this approach, arguing that we can perfectly well develop moral theory that guides us to “ignore all our ordinary moral judgments, and do what will produce the best consequences” (p. 346).

Singer himself insists that our moral theory needs to be grounded in reason alone, and he turns to Kant for a solid grounding for morality: “Kant thought that unless morality could be based on pure reason, it was a chimera. Perhaps he was right” (p. 351). Like Hare (1981), Singer believes that utilitarianism and Kant can be reconciled and that reasons alone should guide the development of our moral theory. Pure reason, then, should be used to distinguish those intuitions that we “owe to our evolutionary and cultural history, from those that have a rational basis” (p. 351), on which we can properly rely. Singer’s worry about reflective equilibrium is that this seems to rule out his proposed approach from the beginning “because it assumes that our moral intuitions are some kind of data from which we can learn what we ought to do” (2005, p.346). He understands that Rawls treats common moral intuitions as facts “out there” to be explained by moral theory. As we have seen, this is a misreading and I will come back to this point soon.

Singer also has an issue about Rawls’s constructivism, which for Singer represents a denial of “moral truth”. Singer, quite reasonably, reads Rawls as arguing that the objectivity of moral judgements is relative and subjected to social and cultural constructions. Indeed, for Rawls, “what justifies a conception of justice is not its being true to an order antecedent to and given to us, but its congruence with our deeper understanding of ourselves and our aspirations, and our realization that, given our history and the traditions embedded in our public life, it is the most reasonable doctrine for us” (Rawls, 1980, p. 519). Singer himself, in contrast, is in search of a transcendental moral truth, and he thinks it embedded in utilitarianism. I will not dwell on this issue of moral truth, here, as it will be addressed in the section 1.5.1 and the section 2.2.2. Suffice to say that I would argue that for Rawls any construction of a conception of justice, in fact rests on “a concept of justice as distinct from

³⁴ This process, as Singer sees it is dubiously analogous to the development of scientific theory on the basis of raw data. In science, he suggests, scientists generally accept the theory that gives the best fit with the data, but that they do not demand that it fit all the data. They recognise that there may be errors in the data and keep open the possibility that there may be a need to modify the theory to take account of factors not yet incorporated. The scientists are prepared therefore to work in both directions, between theory and data seeking the best balance. The analogy is dubious, Singer argues because whereas scientific theory seeks to explain the data “out there” (Singer, p. 345) in the world, normative ethical theory does not aim to explain our common ethical intuitions.

the various conceptions of justice” (TJ, p. 5 rev), that can be understood in terms of a universal right to justification, that is a right not to be treated arbitrarily, that is in ways that cannot be justified.³⁵ Forst, whose work I will discuss more fully in Chapter 3 as the third stage of Rawlsian thoughts, essentially follows Rawls, when he identifies a moral principle of justification, a right to justification, as the one “fundamentum inconcussum that is indispensable even in a postmetaphysical age” (RJ, p. 5); the foundation for construction that is not itself constructed but rather necessarily “reconstructed in an analysis of our normative world” (RJ, p. 5). Here I mainly concentrate on Singer’s basic “objection to any method of doing ethics that judges a normative theory either entirely, or in part, by the extent to which it matches our moral intuitions” (2005, p. 346).

Singer is aware, of course, that his reason-based approach to the development of moral theory can itself be seen to be based on intuitions; the intuition for example that “five deaths are worse than one” (2005, p. 350). Singer argues that, if this is an intuition, it is of a different kind to the intuitions that the experimental psychologists such as Haidt and Greene et al. generally deal with. It might be more accurate, he suggests, to refer to it as a rational intuition; that is a moral intuition that, in contrast to those emotion-based moral intuitions that the psychologist typically deal with, is essentially abstract and theoretical. Singer clearly thinks of rational intuitions in foundational terms: “something like the three ‘ethical axioms’ or ‘intuitive propositions of real clearness and certainty’³⁶ to which Henry Sidgwick appeals in his defense of utilitarianism in *The Methods of Ethics*” (p. 351). That is, as a foundation for a true moral theory; something solid and universal. For Singer, moral constructions, coming out of a reflective equilibrium that places weight on a broader set of intuitions, reflecting our evolutionary and cultural heritage, and deriving from emotion rather than pure reason alone, are challengeable and problematic, and therefore open the door to “moral scepticism” (2005, p. 351).

Sandberg and Juth (2011) argue that we can indeed usefully distinguish two kinds of intuitions: practical and theoretical. Practical intuitions we can think of as our intuitive judgements concerning right and wrong in particular cases. In the classic trolley car case,³⁷ for example, most people, considering one version of the trolley problem, have the practical

³⁵ Rawls is clear that “those who hold different conceptions of justice can, then, still agree that institutions are just when no arbitrary distinctions are made between persons in the assigning of basic rights and duties and when the rules determine a proper balance between competing claims to the advantages of social life” (TJ, p. 5 rev).

³⁶ See Sidgwick (1907, p. 373).

³⁷ In its modern form the trolley car moral dilemma is generally traced back to Foot (1967), in this context for detail of the problem see Haidt (2001) and Greene et al., (2001).

intuition that it is wrong to push a heavy man off a footbridge causing his death to save five others. Whilst on the other hand, and considering another version of the problem, most people have the practical intuition that it is acceptable to throw a switch leading to the death of one man in order to save five. Theoretical intuitions are those intuitions we have concerning more or less abstract moral issues; the kind of thing that Singer refers to as a rational intuition.³⁸ Most people share the common theoretical intuition that human life is valuable and that the death of five people is worse than the death of one. When we speak of intuitions, whether we refer to practical or theoretical intuitions, we mean of course those automatic judgements we make without need of significant reflection.

Singer's argument seems to rest, we might say, on the intuition "that theoretical intuitions are more robust and reliable than practical intuitions" (Sanberg and Juth, 2011, p. 215). However, the distinction between theoretical and practical intuitions is in fact problematic: it is not clear that they are as different as Singer seems to assume:

"On Singer's view, what seems to be the problem with practical intuitions is (1) that they are automatic, thus partly beyond our control; (2) that they are the outcome of evolution; and, we guess, (3) that they are conflicting, i.e. that different people may have different practical intuitions. But we suggest that these properties characterize theoretical intuitions as well." (Sanberg and Juth, 2011, p. 215)

The final point here is particularly significant. Sandberg and Juth point out that we simply cannot assume that theoretical intuitions are in fact generally shared by all; often they are not.³⁹ This rather undermines Singer's foundationalist approach to the justification of moral theory. Recall that Singer grounds his justification of preference utilitarianism in an intuition that ethical theory must take a universal perspective. However, many people, including "the many proponents of agent-relative reasons in ethics" (Sandberg and Juth, 2011, p. 220), simply do not share the intuition that ethical theory must take a universal standpoint. Moreover, many of those, like Kant, who do agree on the universal character of ethics, draw moral conclusions that are very different from Singer's. Kant's deontological ethics, and the categorical imperative itself, follows quite directly from a similar intuition of ethical

³⁸ Sanberg and Juth (2011, p. 216), persuasively challenge Singer's use of the term "rational" for those abstract intuitions in question. They argue that Singer fails to provide a good ground for our accepting that such intuitions are in fact more rational than our common practical intuitions. One way in which we might reasonably say a belief is rational is that the truth of the belief is part of the reason why we hold it. However, Singer's rational intuitions have, no particular advantage in this respect, "since there are plausible explanations to why we have these rational intuitions that need not assume anything regarding the truth of them" (p. 216).

³⁹ See Sandberg and Juth (2011, p. 217) for examples of disagreement concerning theoretical intuitions.

universality. Their conclusions are so different, that whilst they might just disagree about what logically follows from an assumption of universality, it may be, on the other hand that they actually “have different conceptions of universality in mind” (Sandberg and Juth, 2011, p. 219). That people can and do have different theoretical intuitions, on such fundamental and basic ethical issues, calls Singer’s foundationalist approach of using such intuitions as reliable foundations for the development of true moral theory into question. In short he relies on contentious intuitions, no matter what we call them, rather than intuitions that we can consider axioms of “clearness and certainty” (Sandberg and Juth, 2011, p. 351).

I end this discussion of Singer’s utilitarianism, by returning to his characterisation of the method of reflective equilibrium. Recall that Singer presents the process of reflective equilibrium as one in which our initial practical intuitions are given priority as the raw data for the development of moral theory. Singer offers a somewhat reductive reading of Rawls’s method of reflective equilibrium which makes acceptability of moral theory depend on “*initial*” (2005, p. 344, emphasis added) or “*prior* moral judgements” (p. 345, emphasis added). I agree with Sandberg and Juth, that Singer’s presentation of Rawls’s reflective equilibrium is somewhat “unfair” (2011, p. 221) and that he “overemphasizes” the difference between his approach and that of reflective equilibrium.

As we have seen, Rawls’s reflective equilibrium is a methodology that works to bring our *considered* moral judgements into equilibrium with moral principles, such as principles of justice. Considered judgements refer to those that we have thought carefully about and in which we have confidence. Information concerning the evolutionary origins of particular judgements, inter alia, could well affect our confidence in an initial judgement. Our considered judgements are those we reach in favourable circumstances for judgement and taking account of available information, the consideration is intended to correct for the distortions caused by our interests, including emotions, such as envy.

Rawls’s reflective equilibrium is a continuous process of reflection and examination of both principles and intuitions, including those practical intuitions that Singer has little faith in, and our theoretical, we might say, rational intuitions are also included and subjected to this process of justification. Rather than the reductive process Singer imagines, every part of the process of reflective equilibrium, practical and theoretical intuitions or judgement, and the emerging moral theory, is open to reflection consideration and reconsideration. In the process, “no separate statement is in principle immune to revision: there is no rock-steady,

once and for all settled, ‘indubitable’ point of departure for normative theory” (Sandberg and Juth, 2011, p. 223).

Rawls’s reflective equilibrium opens all of our moral judgements, our practical and theoretical intuitions, to question, revision and potentially rejection. It is wide enough to potentially allow the rejection of all of our practical intuitions. Such a wide version of reflective equilibrium is effectively immune to Singer’s criticisms: “If the interpretation is truly wide enough to countenance the rejection of all our ordinary moral beliefs, then I have no objection to it” (Singer, 2005, p. 222). Singer mistakenly suggests that such a wide version of reflective equilibrium would tend to lose its distinctiveness, and, in particular, that in the limit case, where all of our initial practical intuitions are rejected, and ground our moral theory in our theoretical intuitions, we are left with something indistinguishable from his foundationalism. We lose the “contrast between the method of reflective equilibrium and ‘foundationalist’ attempts to build an ethical system outward from some indubitable starting point, now foundationalism simply becomes the limiting case of a wide reflective equilibrium” (Singer, 2005, p. 222).

Singer is mistaken on two counts: firstly Rawls’s reflective equilibrium would keep open the possibility that on reflection, there may be practical intuitions on consideration or reconsideration, which reliance and some moral significance might be placed. Secondly, and crucially, Rawls’s reflective equilibrium would keep the theoretical intuitions open to reflection and critique. Here we have the basic difference between coherentism and foundationalism: “the latter seeks self-evidently rational statements as its point of departure in constructing normative theories, while the former denies that there are any such statements to be had. In principle, according to coherentism, any separate statement is disputable” (Sandberg and Juth, 2011, p. 223).

The manner of Singer’s appeal to theoretical, or rational, intuitions makes his approach essentially foundationalist: Rational intuitions are to be the self-evident and solid basis for the derivation a moral theory. In comparison, reflective equilibrium does not assume any intuitions or principles to be self-evident: all are subject to justification, and all are “disputable” (Sandberg and Juth, 2011, p.223). Finally, it should be clear that Rawls’s reflective equilibrium is not, as Singer implies, conservative, which is aiming to favour or reinforce the status quo of our settled common practical intuitions. We should also note that reflective equilibrium’s insistence that everything is open to dispute and potential revision, which does not open the door, as Singer suggests, to moral scepticism. Reflective

equilibrium, as an ongoing process, implies an acknowledgement that people's moral convictions could be biased or distorted by their cultural, social and political backgrounds; it implies a certain scepticism and refuses to take our theoretical intuitions beyond dispute. However, Rawls, whilst not denying the need for this kind of scepticism, wants to show us that some of our considered moral judgements are sufficiently, and even highly, reliable, such as those made under conditions of the acceptance and affirmation of freedom and equality. There is no ultimate truth but the core of morality is always subjected to revision and changes. Careful consideration of the extremism of Singer's rationalist position, in fact, reinforces one's appreciation of the value of Rawls's nonfoundationalist and nonmetaphysical approach.

At the core of reflective equilibrium, it lies a Kantian constructivism. Traditional constructivism in ethics addresses metaphysical questions about "the possibility and nature of moral truth or similar standards of correctness" (Freeman, 2007, p.291). Constructivism means that moral principles, such as principles of justice, are constructed, not given by God or other authorities. Constructivism believes that there is possibility to establish conditions to work out truth in morality. Constructivism also believes that what is established through these conditions should be universally applicable to all cultures and societies. The constructivist view rejects the realist and intuitionist suggestions that moral statements can be made true by moral facts or values that are "prior to and independent of our conceptions of person and society, and of the public and social role of moral doctrines" (CP, p. 511).

Rawls carries forward these features of constructivism into his Kantian constructivism⁴⁰. What Rawls attempts to achieve is a "procedural interpretation of Kant's conception of autonomy" (TJ, p.226 rev.). Within Kantian constructivism, the justification of principles works within the process of practical reason, that is, through the process of finding a better fit between principles and considered judgments, in the reflective equilibrium. The principles are then products, or constructs, of practical reason, they do not exist as facts, or "given", before the action of practical reasoning. Rather, they are "constructed", through the

⁴⁰ I will draw from three papers reproduced in *Collected Papers*, edited by Samuel Freeman, Cambridge, MA: Harvard University Press, 1999, abbreviated as CP. In this CP, it contains both publication before and after *A Theory of Justice* but before *Political Liberalism*: Rawls, J., 1974, January. The independence of moral theory. In *Proceedings and addresses of the American Philosophical Association* (Vol. 48, pp. 5-22). American Philosophical Association. Reprinted in *Collected Papers* (236-302). Rawls, J., 1985. Justice as fairness: political not metaphysical. *Philosophy & Public Affairs*, pp.223-251. Reprinted in *Collected Papers* (388-414); Rawls, J., 1980. Kantian constructivism in moral theory. *The journal of philosophy*, 77(9), pp.515-572. Reprinted in *Collected Papers* (303-358).

“procedure of construction”, that is, the original position. The original position incorporates “all the relevant requirement of practical reason”, which includes an ideal of person as free and equal, an ideal of society as well-ordered by a public accepted conception of justice, and the principle of reasonable and rational. Kantian constructivism for Rawls is to show how moral principles of justice are constructed out of these relevant ideas and principles of practical reason. They are constructed out of practical reason, out of our capacities for the good and the right; they are not given by God or culturally construed. Thus, a constructivist position is built into the idea of reflective equilibrium. The original position, as I will see soon in section 1.3.3, substantiates the idea of how considered judgements are fit with principles.

In *Political Liberalism*, Rawls appears to offers a more “moderate” view of reflective equilibrium in the sense that it becomes a “methodological” justification for moral conceptions (Freeman, 2007, p.33). In this “moderate” view, reflective equilibrium still works through the original position with certain constructivist procedure at its core, as I will explain fully in Chapter 2, which refers to “political constructivism”. Yet, Rawls accepts that original position is not the only constructivist procedure and that constructivist may not be the only way to give content to the idea of bringing our considered judgements fit with principles. Under this moderate view, those who uphold foundationalist or philosophical intuitionist perspectives, which are prevented from participating the reflection in the TJ’s version of reflective equilibrium, are not explicitly precluded. Yet some perspectives are explicitly denied by Rawls. Those purely metaphysical perspectives (such as naturalism in morality) are considered as incapable of providing justification, “too slender a basis” (TJ, p.44 rev.). Naturalism⁴¹, in particular, is rejected for that this view tends to take the fact, the way it is, to justify its principles. The fact that someone, or a company, is observed to pursue profit maximization or utility maximization does not necessarily imply that this is what one, or a company, should do.

Thus, principles are given by reasons, nothing else. Rawls claims that reflective equilibrium is “a point at infinity we can never reach, though we may get closer to it in the sense that through discussion, our ideals, principles, and judgments seem more reasonable to us and

⁴¹ Naturalist perspective obtains its popularity in management accounting research aiming to uncover the context in which accounting practice is operated (Hopper, Storey and Willmott, 1987; Tomkin and Groves, 1983; Dent, 1991 etc.; also see Baxter and Chua, 2003 summarization)

we regard them as better founded than they were before” (PL, p.385). We are working back and forth until there is no conflict arising.

1.3.2 The device of Original Position

A conception of justice with its principles that “best fits” with considered judgements is not simply an equilibrium with one’s judgement but rather a result of a constructivist procedure of deliberation, through original position. The original position describes an initial choice situation wherein the free and equal participants are considered to be sufficiently informed, and can make decisions rationally and reach agreement on the fair and equal terms under which they want to cooperate. Its nature is a hypothetical “thought-experiment” that models fair conditions for the birth of the fair terms of social cooperation for basic structure (TJ, p.103 rev.). It is conceivable that in a real society, some factors that are irrelevant to justice, such as who is in power and who is not, would bring their affects into the bargain process when they reaching an agreement to principles of justice. The original position attempts to abstract from these irrelevant facts by imposing a “veil of ignorance”. This removal of individuation by one’s religion, race, gender, ethnicity, social class and other, is a critical part of the veil of ignorance, including only reasons that are morally relevant for justification of principles of justice. According to Rawls, this fairness of the original position will transfer to the principles agreed within it and a fair procedure as original position will result in fair principles (TJ, p.11 rev.). The agreement is fair in the sense that the parties are represented in the same way as free and equal moral persons who have been abstracted from individualized characteristics that make them different from each other. Thus, the original position “incorporates pure procedural justice at the highest level” (CP, p.310-311). “What is just is defined by the outcome of the procedure itself” (CP. P.311).

Individuals are understood as human beings who would take advantage of opportunities and would prefer choices that may help to develop and advance their own goods. However, participants in the original position are expected to make decisions “solely on the basis of general considerations” (TJ, p.118 rev.). This means that they have knowledge about “the general facts about human society”, for example, “political affairs and the principles of economic theory” and “the basis of social organizations and the laws of human psychology” (TJ, p.119 rev.). These “general facts” express “the circumstances of justice”, the general knowledge which participants are expected to know and take account in their decision-making. These participants are aware that society is a system of cooperation wherein people

are brought to work together by “an identity of interests” in winning the benefits of cooperation, and set apart by “conflict of interest” (TJ, p.109) over how the benefits of cooperation are to be distributed. They know that humans are finite and vulnerable creatures. They are also aware of that resources are limited. Apart from these objective facts, they are able to appreciate that different people will have their own life plans directing them to different ends and making conflicting claims to limited resources. This is because people all have different conceptions of good. They can “assume that persons in the original position know that these circumstances of justice obtain” (TJ, p.111 rev.).

But they do not know “the particular circumstances of their own society”, including “its economic or political situation” (TJ, p.118 rev.). Thus information available is not particular tied up with one’s conception of good nor one’s social position nor natural endowments. Participants know that they are choosing principles for a well-ordered society and also that these principles will be used to assess and potentially reform the basic structure of society. In addition, a veil of ignorance would provide a fair and equal situation for all the participants. They are equipped with same and equal knowledge and no one has more facts or knowledge about the society, thereby, they are “situated symmetrically”.

In the original position, what participants have in mind is a society wherein they will work in a mutual cooperative way with limited resource and appreciate that everyone is allowed to have their own life plans, which may end up in conflicts of interests regarding social and economic resources. They compare and select among a number of principles based on whichever realizes the goals that are consistent with they own conception of the good. The good for a person, in Rawls’s understanding, means that he or she can develop and choose a rational plan under conditions of “deliberative rationality”. They are “mutually disinterested” as they “take no interest in others’ interests”. The “veil of ignorance” has been specified to “nullify the effects of specific contingencies which put men at odds and tempt them to exploit social and natural circumstances to their own advantage” (TJ, p.118 rev.).

Rawls excludes the sentiments of envy and self-sacrifice from the original position. The original position excludes the possibility that a person might be “ready to accept a loss for himself if only others have less as well because of envy” (TJ, p.124 rev.); Equally excluded is the possibility that a person might be willing to accept a loss to ensure that others get more. Thus, they are not motivated by being jealous of other’s position, nor they are moved by the

affections for each other. They will “not seek to confer benefits or to impose injuries on one another” (TJ, p.125 rev.).

The purpose of this assumption is to “ensure that the principles of justice do not depend upon strong assumptions” (TJ, p.111 rev.), such as altruism. But this does not mean that individuals are purely self-interests driven or egoists. Individuals will develop their capacity for reasonableness and a sense of justice (TJ, p.125 rev.) on the one hand, and a capacity for a conception of the good on the other hand. The capacity for reasonableness and a sense of justice refers to the idea of right or truth. It involves moral duties and requirements for institutions and individuals to be just and right. This capacity for a sense of justice assures a duty of fair play: “the parties can rely on each other to understand and to act in accordance with whatever principles are finally agreed to”⁴² (TJ, p.125 rev.).

A sense of justice will tell a difference between choices that are rational but not reasonable and ones that are rational and reasonable. It is something that “would appear to be a condition for human sociability”, an attribute that people will naturally have and develop (TJ, p.433 rev.). People are not just motivated by self-interests. Because people live together as social beings, they need to behave reasonably so that they could all benefit from the social cooperation. Thus, for an individual, to develop a sense of justice seems to be a rational choice for one if she wants the collaboration to be mutually beneficial. It embeds in one’s conception of good; the reason to develop a sense of justice is that this would contribute to the realization of the good. Rawls contends that it is one’s “highest-order interest” to develop and exercise our capacity for a sense of justice and capacity for a conception of the good (TJ, p.475 rev.).

Rawls lists some “primary goods” that are necessary to help developing these capacities. On the list, there are rights and liberties, powers and opportunities, income and wealth, and the bases of self-respect. This list refers to the conception of good assumed to be accepted by all parties in the original position⁴³. For rights and liberties, income and wealth, are captivated by his two principles of justice. “Powers and positions of office”, are referred to one’s capacity of engaging with institutions and laws. The “social bases of self-respect”

⁴² “Their capacity for a sense of justice insures that the principles chosen will be respected” (TJ, p.125 rev.).

⁴³ In fact, parties can “rely on primary goods” even when they “do not know the determinate conceptions of the good which they attempt to satisfy” because “they (primary goods) serve a wide variety of ends, including fundamental ends that they assume they might have and, most importantly, their higher-order interests associated with full participation in a scheme of cooperation” (Mandle and Reidy, 2013, p.136).

characterizes an institution in which individuals are respected and their good are respected. These bases are necessary for one to be respected as equal with one another.

The agreement on the contractual terms made behind the veil of ignorance are hypothetical. It is not an actual agreement and there is no need for an actual consensus. This makes Rawls's social contract different from those who contend for "historical" contracts "not in the sense that they actually took place but rather in that they transpire under hypothetical historical conditions where the parties know their circumstances and personal characteristics and histories" (Freeman, 2007, p.155). This is what the veil of ignorance attempts to avoid. You may find it as a matter of fact that people may be discriminated or treated differently because of their race, ethnicity or gender. But these are contingent facts that are not morally relevant to the question of finding an agreement upon principles of justice among us, and they should not be relevant.

Original position is a thought experiment that would contain certain features or conditions that are not possible in real life: "no society can, of course, be a scheme of cooperation which men enter voluntarily in a literal sense...each person finds himself placed at birth in some particular position in some particular society" (TJ, p.12 rev.). But its value lies in offering a society in which its members "can say to one another that they are cooperating on terms to which they would agree if they were free and equal person whose relations with respect to one another were fair" (TJ, p.12 rev.).

The role of the veil of ignorance is to filter the reasons and information that are relevant for a decision on principles of justice. "Whether or not it is psychologically possible for a person to enter into the original position is inconsequential to the validity of the argument" (Freeman, 2007, p.160). People can still reason about what principles that they would come to in that situation as described by the original position, given the general facts provided to the parties. It offers a way to prospect "a society satisfying the principles of justice as fairness comes as close as a society can to being a voluntary scheme" (TJ, p.12 rev.).

Both original position and reflective equilibrium help to find out a conception and principles that "best fit" with our considered judgements about justice. On the one hand, the original position provides substance for a conception that "best fit" with considered convictions through practical reasoning; on the other hand, reflective equilibrium brings considered judgements and the conception into process of reflection. Working forward the pursuit of reflective equilibrium we consider how well our intuitions about justice fit with the

principles emerging from the original position, and we perhaps modify and, in the extreme, drop some of our intuitions about justice. We can also work backwards and modify our conception of the original position and in particular the intuitions we hold concerning the fair design of the original position.⁴⁴

1.3.3 Justifying Principles of justice in the original position

Once set up the conditions that facilitate fair choices, what options, or rather interpretations of basic structure, do we have in the original position? For it to be permissible as an option in the original position, any conception or principle of social justice need to satisfy five “formal constraints”: generality, universality in application, ordering of conflicting claims, publicity, and finality. These are constraints that parties need to take into account when they are making the decisions.

For a conception and its principle to be “general”, it means that its understanding should not require any particular knowledge: that is, “it must be possible to formulate them without the use of what would be intuitively recognized as proper names, or rigged definite descriptions” (TJ, p.113 rev.). “Universal in application” means that principles “must hold for everyone in virtue of their being moral persons” (TJ, p.114 rev.). It also means that principles or conceptions are applied and implemented deliberatively.

“Ordering” refers to the capacity of the selected principles of justice in solving conflicting claims and of which should be prioritized. Recall that intuitionism cannot offer a priority rule to distinguish between different intuitions, it is unable to offer an order of potential interpretations of basic structure. In addition, intuitionism refers us to our basic moral intuitions as the ultimate ground for reasoning, which cannot provide a publicly basis of justification, as required by the condition of publicity and finality.

“Publicity” means that the parties are aware that the principles they choose will be made publicly available and regulate social relations. There is no story or “noble lies” around the principles. People should know how their social and political relations are arranged and

⁴⁴ Rawls does not present us with an account of the working through of the process of reflective equilibrium, rather he presents us with the outcome of a rational process: “I shall not, of course, actually work through this process. Still, we may think of the interpretation of the original position that I shall present as the result of such a hypothetical course of reflection” (Rawls, TJ, p. 18 rev.).

justified. This constraint is important for Rawls to argue that his principles are superior that that of utilitarianism. “Finality” means that an acceptable conception of justice and its principle should be as the “final” court in resolving conflicts so that “no higher standards to which arguments in support of claims can be addressed; reasoning successfully from these principles is conclusive” (TJ, p.116 rev.). It is “to regulate all subsequent criticism and reform of institutions” (TJ, p.12 rev.).

As all parties are represented and, in fact, depicted in the same way with same amount of knowledge of the facts of society and with equal amount of information about what decision they are going to make, some may object that the process lack of bargaining and it is a rational choice as if it is made by one person. From his social contract tradition, the conditions and terms for a social contract should not start from negotiation and bargaining. Rather, it starts from some sort of shared understandings or commitment. It is on this basis in which the agreement is grounded. There is a commonly shared objective to achieve through the social contract.

1.3.3.1 Rawls’s Two Principles of Justice as Fairness

Before we have a look at other options, I want to look at the principles of justice as fairness that Rawls contends. The principles of justice identified by Rawls are, he argues, those that “free and rational persons concerned to further their own interests would accept in an initial position of equality as defining the fundamental terms of their association” (TJ, p.10, rev.). They are to govern further agreements that can be made, and “specify the kinds of social cooperation that can be entered into and the forms of government that can be established” (TJ, p.10, rev.) The two principles defended by Rawls are, firstly:

“Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all” (TJ, p. 266 rev.);

And secondly:

“Social and economic inequalities are to be arranged so that they are both:

(a) to the greatest benefit of the least advantaged, and

(b) attached to offices and positions open to all under conditions of fair equality of opportunity” (TJ, p. 266, rev.).

The first principle of justice has lexical⁴⁵ priority over the second, and clause (b) has lexical priority over clause (a). The second principle of justice is usually understood as two different sub-principles: the Difference Principle (clause a) and principle of fair equality of opportunity (clause b). Clause b has lexical priority over clause a. The difference principle is probably the one that contribute most to Rawls’s fame as well as critique of Rawls.

Rawls offers a justification for his two principles of justice as fairness in the sense of how they are selected among other optional conceptions of justice and its principles of justice by the participants in the original position⁴⁶. How the principles of justice as fairness are selected in original position?

1.3.3.2 Selecting and justifying the two principle of justice

I start with the choice of the first principle of justice as fairness. The main idea of the first principle is to prioritize certain basic rights and liberties of an individual and these rights and liberties are necessary for one to be free and equal. There are five basic liberties that Rawls sees more important than others: liberty of conscience and freedom of thought; freedom of association; equal political liberties; the rights and liberties that protect the integrity and freedom of the person (including freedom of occupation and choice of careers and a right to personal property); and finally the rights and liberties covered by the rule of law (PL, p.291).

Rawls contends that basic liberties are “liberties of equal citizenship” (TJ, p.173, p.178 rev.). They are selected “from the standpoint of the representative equal citizen” who decide the most reasonable and rational terms of cooperation for free and equal citizens (TJ, p.179 rev.). Underneath, it explicates an ideal of citizens, an ideal⁴⁷ of free and equal moral persons with

⁴⁵ This means that the first principle of justice should be satisfied first and the second principle proceeds only on the basis of the satisfaction of the first principle. So with the clause b in the second principle.

⁴⁶ The competition is among: Justice as fairness, with democratic equality interpretation of the second principle; Libertarianism with natural liberty interpretation of the second principle; Utilitarianism; Perfectionism; and mixed conceptions with justice as fairness as first principle and a principle utility maximization as the second principle. My main focus in this section will be the comparison between Rawls’s principle and principle of utility.

⁴⁷ This ideal has a crucial role in Rawls’s work. It provides the basis for equality, constitute parts of the argument in Kantian interpretation of justice as fairness, and serves as the basis for the argument for stability, and later becomes the reason for the priority of liberty (TJ, p.474-476 rev.).

a sense of justice and a freely adopted conception of the good. The two “moral powers”, as I mentioned in the original position, refer to a capacity to be “reasonable”, a sense of justice on the one hand, and a capacity to be “rational”, a conception of the good on the other hand. These two capacities are basic capacities for practical reasoning. In his later Kantian interpretation, Rawls parallels them with Kantian’s term as the capacities for the Right and the Good, the Reasonable and the Rational.

These basic rights and liberties cannot be alienated, even given one’s consent; any conception or principles of justice that allow this to happen fail to take account for the ideal of free and equal citizen. He says: “These [basic] liberties have a central range of application within which they can be limited and compromised only when they conflict with other basic liberties” (TJ, p.54 rev.).

Rawls argues for the priority of liberty. This priority expresses “the force of justice as fairness” and differentiates his conception of justice as fairness from “intuitionism and teleological theories” such as utilitarianism (TJ, p.220 rev.). His conception and principles of justice as fairness seeks to secure equal basic liberties unconditionally regardless of utilitarian considerations and the particular situation of the society now or in the future. A rational person would want to have her basic liberties secured unconditionally and directly, rather than “have them depend upon what may be uncertain and speculative actuarial calculations” (TJ, p.138 rev.).

No institutions or governments are supposed to infringe these basic liberties; nor should individuals trade them off for economic benefits: “any undertakings to waive or to infringe them are void *ab initio*; that is, it has no legal force and does not affect any citizen’s basic liberties” (PL, p.365-366). There is no order among these basic rights and liberties. They are all equally important to one person. If there is a conflict, basic liberties can only be limited “for the sake of liberty itself” (TJ, p.214 rev.; see also PL, 295). No one should be granted more or less liberties than the rest. In other words, inequality in the distribution of basic liberties is not permitted under any circumstances. Inequality is only allowed in the distribution of social and economic goods, and then inequality need to be justified on the basis that it enhances everyone’s prospects.

Why would participants in an original position behind a veil of ignorance prefer a principle that guarantees equal basic liberties unconditionally (justice as fairness) over a principle that

aims to maximize sum total happiness (utilitarianism) but does not guarantee equality of basic liberty?

Behind the veil of ignorance, participants make decisions under uncertainty. The veil of ignorance prevents participants from knowing particular circumstances of the society in which they will live. They are also prevented from knowing their particular position in such a society. It is uncertain that whether this society will turn out to be one with slavery and whether they may turn out to be a slave. The veil of ignorance in effect prevents any “knowledge of likelihoods” and thus it becomes difficult for them to obtain any information on the probability of each outcome. In such case, the calculation of the probability of each potential outcome is not of much use here. In addition, if the measurement requires to know everyone’s preference beforehand, the calculation of the general happiness is difficult here for that participants are not allowed to excise their own conceptions of good and their preferences are unknown accordingly.

Rawls contends that rational persons would reject utilitarian calculation in the original position because “persons who view themselves as equals” would hardly agree to “a principle which may require lesser life prospects for some simply for the sake of a greater sum of advantages enjoyed by others” (TJ, p.13 rev.). A rational man would not accept a basic structure just because it may maximize sum total happiness without taking consideration about any “permanent effects on his own basic rights and interests” (TJ, p.13 rev.). Why someone would risk being end up in a society allowing slavery than choosing the justice as fairness that seeks to give one a basic guarantee of certain rights and liberties? Rawls argues that for anyone who would choose to take such risks and in effect “gamble” with their basic liberties only if they did not take their “religious or moral convictions seriously” (TJ, p.181 rev.).

Rather than calculating expected gains and losses and choosing the principles expected to yield the largest net gains, Rawls suggests that a “maximin” rule would be the preferred method for choosing principles when individuals come to consider their basic liberties. When addressing the territory of the first principle of justice as fairness, participants do not know their positions in society, high or low. Rawls suggests that they will be risk averse and seek a principle that will maximize the minimum that they might get in any state once the veil is lifted. This conservative attitude toward risks will guide them to choose the option that minimize the risk and maximize the situation of the worst outcome if they may end up

with such outcome when the veil is lifted. For Rawls, there are certain bad outcomes unacceptable.

The choice made in the original position, for Rawls, is irrevocable and decided once for all. Then it would be rational for them to avoid the worst outcome and select one that would be acceptable for them to live with. In the original position, apart from the two principles of justice, all the other alternatives may have a worst outcome that they are trying to avoid. In particular, the principle of utility would put them into a situation in which they may subject to great loss if required by a greater sum of utilities.

Thus, a plain utilitarianism will be excluded from the competition of principles, not only for that the veil of ignorance prevents any calculation of probability and general happiness, but also for that maximization of utility may give rise to some worst and unacceptable situations. This makes it fail to attempt to the constraints required, such as publicity. The maximin rule draws a rather clear-cut distinction between principles that will guarantee the basic liberties unconditionally and principles that may achieve this with contingency.

Nevertheless, the first principle of basic liberties is not unique to Rawls' principles of justice. Rawls still has to justify the superiority of his second principle of justice. In fact, if we only have the first principle, then Rawls offers nothing different but some empty and abstract claims for liberties. Basic liberties are not real liberties if they cannot be accessed, exercised and realized. Individuals need powers, opportunities and resources in order to fully exercise the rights and liberties that they are entitled to.

The goal of the conception of justice as fairness is to assure the worth of basic liberty for everyone by maximizing the worth to the least advantaged group (TJ, p.179 rev.). The second principle, particular the difference principle, determines and contextualizes the "worth". The "worth of liberty" means "the usefulness to person of their liberties" (PL, p.326). Thus, economic liberties and rights give "worth" to one's basic liberties. In other words, they make the development and realization of first principle possible.

Rather than aiming for an equal worth, the difference principle aims for a maximization of the worth for the worst off: "this defines the end of social justice" (TJ, p.179 rev.). People appreciate different styles of living and have different objectives and thereby would assign different weights to different liberties they value. An absolute equal worth may be necessary and urgent for some whilst not for others. Some may not care or want to engage in political

decisions. Some however, for example indigenous group, may require more resources and assistance to access and realize their demands for basic rights and liberties. A truly free individual should be one that “responsible for their ends” (PL, p.33-34). “It is not fair to expect others to underwrite one’s religious way of life no matter how expensive its requirements may be in order to achieve an elusive equal worth liberty of conscience” (Freeman, 2007, p.62).

For example, a mine worker may have the institutional (basic) liberty to quit the job if he feels that he is not paid enough; yet he cannot afford to quit the job for the economic or social situations preventing him from exercising this liberty. He may be afraid of not finding another job or he cannot leave because he will be required to pay a lump sum for terminating the contract and he cannot afford that. This is not a true liberty for Rawls. A true liberty, for Rawls, means to act free from institutional constraints (TJ, p.177 rev.). It is not a liberty that we act in absence of institutional constraints. It is a liberty that given the constraints, we are still be able to act freely. What difference principle does is to assure the “fair value” of the basic liberties for everyone, to guarantee that each would have adequate means to exercise his or her basic liberties (PL, p.5).

The decision criterion that Rawls appeals to in selecting the second principle⁴⁸ then is “strains of commitment”. The consideration of the strains of commitment implies “general acceptability of a conception of justice by free and equal persons with a sense of justice in a well-ordered society”, which is connected with Rawls’s argument for the stability of justice (Freeman, p.184). It means that principles agreed in the original position need to be those to which people who will be subjected in a “well-ordered society” would accept and agree. A well-ordered society refers to a society in which it has a publicly accepted conception of justice that guides the design of laws and government and the arrangement of institutions, and everyone who have a sense of justice would be willing to act from the requirements of this conception of justice and its principles. This suggests that if we are aiming for a well-ordered society, then we are seeking for a coherence among a conception of justice, its principles that orientate the design of laws and institutions, the possibilities of human capacities and social cooperation, and individuals’ self-interests. If any of them do not fit

⁴⁸ The available options that Rawls compares in the choice for second principle of justice. The options that Rawls effectively deals with are utilitarianism, libertarianism and his own justice as fairness; that is, a utility maximizing principle, a system of natural liberty treatment of social and economic goods, and the difference principle.

with one another, it means that we need to rethink about the conception we support in the original position and even deny it potentially.

The original position represents our “precommitment” to justice, the common good of a society (Freeman, p.182). This precommitment means that once the principles of justice are contextualized through law and institutional rules, we accept and agree to be bind by these laws and rules. We know what consequences would be, as a result of entering into this precommitment. Thus, at its core, we can observe that Rawls is relying on our capacity in developing and generating something, which are acceptable and justifiable, for ourselves⁴⁹.

Rawls contends that someone would be rational to think through the requirements by principles of justice and know that if the veil is lifted, he will not attempt to break his precommitment nor to overthrow what he has agreed. It also implies that we all enter into the agreement with good faith. This consideration of one’s future willingness of compliance is what Rawls means by “the strains of commitment”. People choose and agree on certain principles not in the aim of disregarding the principles. Principles are selected in the aim that everyone will accept and act from them. Rawls thinks that if we take this into consideration, then the second principle of justice would be preferred than any other options, such as mixed conception with second principle as principle of utility. Individuals, if they are rational, according to Rawls, should be able to identify that the second principle facilitates them with means and resources of which they make use to develop their moral powers, including their life plans and their conception of good, their self-respect as a free and equal person. It would be overly demanding to ask someone, who know from the very beginning, to sacrifice herself in order to make the rest of a society better off. For someone who is rational and act in good faith would not agree into such an agreement.

This also implies an argument for stability, meaning that the parties in the original position are aware that they are choosing principle that will be coherent with their own goods and also the requirements of which will not be overly demanding of them. In Rawls’s envision, it is about to hold a just society to be stable. It is stable because we all share the same common objective of having a just society and establishing fair terms of social cooperation. A conception of justice is stable when “those taking part in arrangements acquire the

⁴⁹ If we read from a Kantian perspective, Rawls elaborates how we could be creating a universal law for ourselves.

corresponding sense of justice and desire to do their part in maintaining them” (TJ, p.398 rev.). In PL, Rawls argues for a conception is stable for the right reasons. At this point, for the purpose of choosing principles, this argument of stability suggests that we need a conception of justice that is the most stable among other alternatives, such as utilitarianism.

Rational participants need to consider whether a conception of justice agreed in the original position would be able to retain the support of the members society when the veil is lifted. They realize that they “cannot enter into agreements that may have consequences they cannot accept” and thus they “will avoid those that they can adhere to only with great difficulty” (TJ, p.153 rev.). The participants in the original position are to make an original agreement on the principles of justice, which will be final and have enduring effects on their lives and the lives of their descendants. It is necessary that they consider carefully whether a proposed agreement will be able to command commitment in the long-run, in various circumstances of real social life that might prevail in future years: They must consider the “strains of commitment” (TJ, p.153 rev.). The finitude of one’s capacity for justice marks the importance of finding agreement on principles of justice that will bear the “strains of commitment”, principle to which ordinary people will be able to sustain commitment in the long run. If the strains of commitment associated with a particular conception of justice are so significant, it will demand too much of real people, and possibly require coercion and force to hold it in place when the veil of ignorance is lifted. Principles that can be anticipated to be unable to command a commitment from real people will lose the competition to alternative principles of justice behind the veil of ignorance.

In the selection of second principle, the option such as utility principle may “demand that some should forgo advantages for the sake of the greater good” (TJ, p.155 rev.). It thus appears to be quite demanding for some individuals and groups who will be asked to accept the fact that they are to suffer or be sacrificed for the sake of broader interests. The idea that the disadvantaged should accept their suffering, perhaps over a whole lifetime as a member of a disadvantaged group, voluntarily “for the sake of the greater good” cannot anticipate to be persuasive. If one wants to hold to this principle, it seems that coercion and force would be needed to assure the acceptance of a social system based on such a principle. In short, such a principle would impose intolerable strain of commitment. Participant in the original position, concerned to promote their own interests, would appreciate that a society built on such a principle could not command the long-run commitment of ordinary people like themselves, without coercion and force, and would in fact be essentially unstable.

Consequentially, it would be irrational for individuals in the original position to agree on utility maximization as the second principle of justice, with regard to social and economic primary goods; they would not opt for this because they know enough of humanity and human psychology that ordinary people could not hold to such an agreement.

A libertarian, natural liberty interpretation, basis for justice with regard to social and economic primary goods fares no better than the utilitarian option. A libertarian view would put us into complete competitive environment without the constraints of regulation. Recall that people can be disadvantaged simply for the fact that they may be born poor, or because they have bad luck or are endowed with few competitive talents. It is difficult to be persuasive to people who are made disadvantaged for something that are out of their control. Such involuntary disadvantages cannot be justified and also demand higher strains of commitment if this principle aims to be adopted by real people. Behind the veil of ignorance, it is unlikely for participants who attend and make their choices in a fair and equal condition would agree upon certain principles that will expose them to certain inequalities that they cannot control, something that they born with. It is difficult to justify that government and institutions will not be of any help to those who may turn out to be poor or less competent⁵⁰. It lies in our nature that we always “prefer more of”, be it basic liberty or social and economic primary goods.

How does Rawls's own difference principle address the strains of commitment? Under difference principle, inequalities in the distribution of social and economic primary goods are justified because they are contributing to everyone's advantage, and in particular improving the condition of least advantaged group. The improvement on the least advantaged group will tend to be to advantage of intermediate groups as well as more advantaged group, thus, to all groups (TJ, p. 70 rev.).

In addition, we should always keep in mind that principles of justice will be finally made public to real citizens. For Rawls, the public agreement on inviolable basic liberties is out of question. What is usually at dispute is the second principle of justice. Rawls admits that, at this stage, “mixed conceptions (i.e. a combination of Rawls's first principle of justice and a principle of utility as second principle) are much more difficult to argue against than the

⁵⁰ In fact, Williams (1987) sees that accounting principles that generated on the basis of such libertarian interpretation of justice cannot help to solve this initial inequality and thus “past violations... are perpetuated” (p.181).

principle of utility” because “the strong arguments from liberty cannot be used as before” (TJ, p.278 rev.). Rawls expects that, the other options, once made public, seem to be unable to convince participants in the original position to agree on to be disadvantaged voluntarily when the veil of ignorance is lifted. They should know why they are disadvantaged and whether this disadvantage would be justified. The difference principle, however, can provide such justification. For Rawls, it contains an element of reciprocity and respect: “by arranging inequalities for reciprocal advantage and by abstaining from the exploitation of the contingencies of nature and social circumstances..., persons express their respect for one another in the very constitution of their society” (TJ, p.156 rev.).

The idea of reciprocity means that we all mutually benefit from the social cooperation rather than one group takes advantage of another group’s disadvantage. This means that under difference principle, although we all have self-interests to pursue, we are not achieving our ends by treating other people as means. Any departure from equality would require justification, justification to be made to those who are affected. It can only be justified when the consequence of such departure would contribute to everyone’s welfare, to improve all not just one particular group. In particular, this improvement should be made to the least advantaged group. If there is a principle that would make everyone benefit a margin by allowing inequality, such as Pareto efficiency principle, difference principle would be the one that make the most improvement to the least advantaged group.

1.3.4 Justifying accounting principles through a reflective equilibrium

The method of reflective equilibrium requires us to check whether there are any conflicts between the principles agreed in original position and our considered moral intuitions. If a conflict emerges, we need to decide whether we will adjust the original position and thus principles it generates or drop the conflicting intuitions. Eventually, we arrive at an agreement on an original position and set of principles that is consistent with all the remaining intuitions. It is a state “reached after a person has weighed various proposed conceptions” and after deciding “either revised his judgements to accord with one of them or held fast to his initial convictions” (TJ, p.43 rev.).

Michael Power reads this process of reflective equilibrium and the device of original position as helping Rawls to “develop a conceptual framework for the moral political domain” (1993, p.49). Power (1993) suggests that we are in need of a similar process in accounting. Power argues that Rawls’s “methodological structure”, and in particular his method of “reflective

equilibrium”, could be used to help enhance “our understanding of the idea of a conceptual framework (CF) for financial reporting” (1993, p.45). He contends that, despite the fact that a lot of debate has gone on around the CF project developed by FASB and others, “little attention” has been paid to “the idea” of a CF, that is to “what kind of thing a CF could be” (1993, p.44).

Power suggests that the understanding of the CF for accounting held by both its primary architects and its critics has implicitly built on a deeply “scientific conception of the CF” (1993, p.57). He suggests that there has been a tendency for those developing a CF for accounting to look to science for a model of what a CF can be and how it can command legitimacy and authority. The notion that accounting can be like science, or at least “sufficiently like science” (1993, p.57) to justify a scientific model for the development of accounting, has stimulated the construction of accounting theory and methods according to a “scientific image”. This has above all incubated a “dream of objectivity” in accounting (Power, 1993, p.53), and an image of good accounting as a neutral tracking of reality.

This scientific image of accounting has implications upon our conception of a CF in accounting. According to him, much of the criticism of CF projects at that time, particularly those concerning their lack of operationality, implicitly presuppose a conception of what a CF is and an associated view of what operational effectiveness would be. However, in the absence “any meta-theoretical enquiry”, the conception upheld by “a particular model of what it would be like for a CF to be operational” may lack validity and require further examination.

Power is opposing to such a scientific image of accounting and its implications for thinking about a CF. Power suggests that, in order to have a proper debate about the CF, we need some “conceptual agreement” about what a CF is; just as before we can meaningfully disagree about how many apples there are on a table in front of us, “we must agree upon the concept of ‘apple’” (p. 45). He argues that we need a “meta-theory” of a CF, “an examination of the conditions of possibility” of a CF. Thus, the quality of debate around a CF for financial reporting can be improved if some of the implicit conceptions of a CF for financial reporting held by participants and commentators were made explicit and critically examined.

Power recommends the model of reflective equilibrium with its working forward and backward in the testing of the fit of principles and considered judgements. Power suggests that the method of reflective equilibrium would support the “rational reconstruction” (1993,

p. 54) of the principles underlying our accounting intuitions and sense of what accounting is, that is, it will help to make explicit the principles implicit in our accounting practice. As he sees it the process of reflective equilibrium then starts with our intuitions about accountability and accounting. Those intuitions come at different levels of generality, some as general ideas we have about accounting and accountability and some as quite specific intuitions we have about how particular items should be treated. They reflect our fundamental view of what accounting is.

In Power's envision, reflective equilibrium should work like this: We can then take some of those intuitions, presumably ones that we feel most confident in, intuitions that represent our most considered judgements about accounting; and begin to work forward to generate a conceptual framework (CF) as a set of accounting principles capable of guiding the development of accounting standards and practice. We may find that the principles generated at this initial stage indicate accounting standards and practice which would conflict with some of our other intuitions and judgement about accounting and accountability, more or less well considered. We would then face a choice: we might either drop or amend those judgements to make them compatible with the emerging CF and the standards that flow from it, or we could work backwards from those judgements and revise the CF and the standards it supports to make it a better fit with those aspects of our accounting judgement and practice. The backward and forward movement can go on indefinitely an iterative fashion with the fit continually improving.

The whole process, as Power describes it, effectively depends on our understanding, whether implicit or explicit, of what accounting is and the intuitions and considered judgements that follow from that: "The dual 'forward' and 'backward' argument structure (corresponding loosely to deductive and inductive type theories of accounting) can be seen to depend upon the intuitive grasp of what accounting is, i.e. which deep theory drives the whole process" (Power, 1993, p. 56). The process can be thought of as one of making explicit and coherent our understanding of what accounting is as it emerges in our intuitions refined in the process of reflective equilibrium: "A CF for accounting now emerges as an explication of those intuitions" (Power, 1993, p. 56). Power stresses that this process is "not a purely descriptive exercise" (1993, p.54). The process of refinement achieved through the reflective, backwards and forwards movement, ensures that the CF eventually emerging is no mere deduction from the pool of intuitions we start the process with. Through the process of reflection, it should allow us to eliminate ambiguous or inconsistent intuitions and judgements and find

agreement on a coherent set of principles to guide the field; at least this is the implicit “procedural ideal” (1993, p.54). Thus, the CF could emerge as not only as an “explication of those intuitions” but also offer “boundary conditions” for accounting standard-setting (1993, p.56).

Recall that Rawls’s process of reflective equilibrium works “from both sides”, in the sense that it works from our intuitions about justice and from our intuitions about the original position as the favoured basis for making an original agreement about the basic structure of society. In the process of reflective equilibrium as Power imagines it applying to accounting, which we have just described, we work backwards and forwards of course, but essentially we work from one side, that is, the side of our accounting intuitions. In his scheme, both the CF, on the one side, and the generally accepted accounting practice, on the other side, are informed by our accounting intuitions. In Power’s scheme there is no obvious “original position” or anything like Rawls’s sense of that term, despite that he does have a preference for what accounting should be.

But let’s first look at what he means by accounting intuitions, that is, what is included as the starting point for the reflective process. They are intuitions about what is CF, and what principles it generates, and what the role it should occupy. All of such should be answered based on “deeply embedded views of what accounting is” (Power, 1993, p. 55), and they should “*precede* the articulations of a CF” (Power, 1993, p. 55). In other words, the basis for intuitions about CF is constituted by our intuitions about accounting. To have a properly rational and meaningful dispute” over a CF, he argues that we need “some deep form of agreement” (1993, p. 44). Different intuitions of what accounting is, will lead to different types of CFs: “we can have different ‘deep’ conceptions of accounting (serving investor needs, mapping economic reality, providing a basis for levying taxation) and for each of these a CF is possible” (Power, 1993, p. 55).

But how we could differentiate among these different CFs and select a better one? Power wants to leave it open deliberately for future research. This is confusing when he does show his opposition against “objective” and “scientific” conceptions of accounting and encourages for something different. When Rawls claims that his conception of justice as fairness is superior than utilitarianism, Rawls has a point in that some utilitarian considerations are unable to guarantee the inviolability of certain rights and liberties, given our shared resistance to slavery. When Power rejects the scientific thinking of accounting and its

implication on CF, he is, in fact, rejecting the general accepted way of doing accounting at that time. If this is the case, without an original position alike that would offer a systematic alternative, it is unlikely that we will arrive at something that is not relying on the objectivistic understanding of accounting when we only have considered judgements in the process of reflective equilibrium. In other words, Power offers his conclusion without providing sufficient justification.

Let me now return back to his attempt of equating CF with the original position. Power wants to retain the idea of an original position in his scheme, but without giving it the kind of substance that an original position would need if it were to play a part in the generation of principles envisaged by Rawls. He claims that the CF, in his scheme, is “loosely analogous to” the original position in Rawls’s model (1993, p.53).⁵¹ He defends the need for a CF conceived as an original position, by arguing that a “CF is part of a ‘constructive methodology’, a reconstruction of the basic categories underlying a particular set of intuitions of what financial accounting is” (Power, 1993, p. 56). Of course it makes sense to see a CF as a set of principles for accounting in dynamic reflection with a pool of intuitions. This does not make the CF plausibly analogous to Rawls’s original position.

Power suggests that if we were to conceive of a CF for financial reporting following the Rawlsian original position, we would not be inclined to expect it to serve a directly deductive role, but instead would see it in terms of principles in dynamic relation with action. Let me make it clear. For Rawls, there is a clear deductive relation between the procedure of construction and the outcome of this construction, that is, between original position and the principles of justice. The original position is hypothetical situation incorporating assumptions concerning, for example, the beliefs, interest, and options of the participants, from which the choice principles of justice can be derived by “strictly deductive reasoning” (Rawls, TJ, p. 103 rev.).

We can understand original position as “a sort of computation machine that takes specified inputs and mechanistically converts them into principles of social justice” (Lovett, 2011, p.77). On the one side, they are our intuitions about what conditions should be used to set

⁵¹ In his schema, Power (mis)identifies the CF for accounting as the “original position” and makes accounting standards analogous to the principles of justice in Rawls’s model. It is difficult to see however that the accounting standards can be seen as analogous to anything other than law in Rawls’s model, and the CF, which carries the principles of accounting, analogous to anything other than the principles of justice.

up original position so that we can decide fairly. On the other hand, they also include our considered judgements about “what must be true of any acceptable theory of social justice”, such as the opposition to slavery or racial discrimination (Lovett, 2011, p.77). For Rawls, these judgements represent “fixed points which we presume any conceptions of justice must fit” (TJ, p.18 rev.). It means that no any form of institutions or government should be organized in a manner infringing these “fixed points”. They serve as some kind of “data” so that principles of justice need to conform (Freeman, p.31). If they are not matching, we either adjust the conditions, thus principles changes correspondingly, or our judgements, or both; this matching process is iterative until we can reach an equilibrium.

If CF is the original position, then the “inputs” should include not only our considered judgements about what good accounting is but also judgements about fair conditions to set up such an initial situation in which we can then make rational choices. They may reflect some kind of fixed points in our intuitions about accounting. The “outputs” are then the accounting principles and then Power is confusing in claiming that the relationship between a CF and the principles are not a deductive one. Power is also confusing as he only include half of the inputs into the original position, which will result into an equilibrium between accounting judgements on the one hand, and accounting principles informed by the same accounting judgements on the other hand. But if CF is not an original position, then what is it?

Some of our moral intuitions are “ill-formed” and, Power understands, the original position would offer a chance of making them consistent with some “deeper” theory (1993, p.52). He conceives that the role of the original position is to “interpret our moral intuitions” and then it develops a construction (of principles of justice) that is “not objective in the sense of existing independently of real practices but is grounded in, and serves in turn to ground them” (1993, p.52). A CF for accounting, in Power’s view, “is more like a system of moral and political concepts than a geometric architectonic” (Power, 1993, p.53). It is “not an ultimate foundation in any classical sense but a point of reference in the network of accounting standards and practices that serves to ‘organize’ thinking about them” (Power, 1993, p.53). But in what insight does it to “organize” accounting thinking? This should attribute to the lack of explaining basis of selecting and constructing accounting principles. By contrast, Rawls is very clear that there will be a “unique solution” (Rawls, TJ, p. 103 rev.), a unique outcome in terms of principles of justice for the basic structure, to the problem set by a particular configuration of the original position emerging in the reflective process.

But more problematic, Power is fluctuating between conceiving CF as original position and as principles for standard-setting, the principles of justice for Rawls. First, he argues that the relationship between a CF and the standard-setting process is “more like the relation between a legal constitution and particular legal judgements”, or “the relation between our deepest moral convictions and our many particular actions” (Power, 1993, p.51). This means that particular rules (of standard-setting) do not derive deductively from the general concepts (held in a CF); rather opposite, the particular rules “presuppose” the existence of these concepts and they constitute as a practice in which our actions are constrained. A CF, from a principle interpretation, for accounting should be able to provide “boundary” conditions for the standard-setting process.

Second, he is against the “operational” critique of the CF because this critique is made on the assumption that a CF for accounting is essentially understood as a deductive device providing a set principles from which can be deduced standards for application to particular accounting issues. Under “operational” view, the CF is criticized for not being able to properly constrain our decision making and choice in standard setting, and thus fail to be “operational”: “in other words, to be operational in the required sense is to provide a set of axioms from which the standard setters can logically derive standards without appeal to processes of debate” (1993, p.48). Power understands that this seems to demand a CF as an aid for decision making in accounting. A CF may fail its role as being operational for different reasons. It is unfair, according to Power, to criticize a CF for not fulfilling its role when a standard setter is deliberately putting it aside and acting accords to his self-interests. For Power, this should not be count as a “defect” for CF but rather is “a product of the influence of other facts” (Power, 1993, p.48). This understanding of CF implies a CF more close to a constitution of principles than to a hypothetical experiment.

Power contends that the method of reflective equilibrium can help us to go beyond the polemic between objectivism and relativism, a continuous and enduring divide in ontology, epistemology and methodology in accounting research. Rawls’s attempt to overcome the problem of intuitionism and offer an alternative to utilitarianism, in Power’s reading, sends out an important message for accounting researchers and practitioners. That is, it makes no sense to fall into an either/or logic. A reflective equilibrium can prevent us from making such a choice just like Rawls attempts to prevent us from making a non-sense decision between utilitarianism and intuitionism. Although the difference in our deep conceptions of accounting will give rise to different CFs, this does not mean that we end up being

“conceptual anarchy” (Power, 1993, p.58). Power implies that we can figure out which CF is better reflecting our intuitions about accounting and which one is less.

But there are questions that Power leave unanswered. That is, above all these the “deep” conceptions of accounting (serving investor needs, mapping economic reality, providing basis for levying taxation), are they all equally important or whether there is an order among these objectives? Are they all valid intuitions that we can trust in developing accounting principles and a CF? Power cannot offer any guidance on this account for his dismissal of the constructivist core of reflective equilibrium and his confusion of original position with principles of justice. Yet, he provocative attempts illuminate a promising prospect of applying reflective equilibrium, with a proper understanding, to justify accounting principles.

1.3.5 Justifying accounting principles from original position

James C. Gaa (1986, 1988) provides some thoughts in applying Rawls’s original position and the maximin selection rule to the question of constructing an original position for market player and justifying accounting standards. Gaa suggests that in the field of financial reporting we face issues, in related to distributional justice and the need to set principles and standards in ways that can be justified as being fair, that are in some ways analogous to the issues addressed by Rawls in relation to social justice generally. In this section, I will mainly focus on his methodological application of the original position.

Similar to the competition between the principles of justice as fairness with other alternatives, Gaa identifies two distributional principles with support in the accounting literature; the Neutrality Principle and User Primacy Principle. For Gaa, these alternatives describe how a standard-setter should address conflicting interests and competing preferences (Gaa, 1988, p.49-50). He shows that they have the potential to significantly affect the decision-making of standard-setters as well as the production and distribution of financial information.

The Neutrality Principle is derived from the thought that standard-setter should treat all affected parties (here referring to only to capital market participants, users and managers as

preparers)⁵² equally. In other words, their interests are counted “equally as input” information by a standard-setter. Gaa suggests two ways in which standard setter might approach the equal consideration of interests. One is to organize a voting system so that each individual’s preference might be expressed and used to guide the decision-making of standard setters.⁵³ Another might be for the standard setters themselves to calculate the benefits and costs to all affected parties and select the standard that maximize the aggregate net benefits (Gaa, 1986, p.436, 1988, chap 5). The rationale behind this principle is to maximize general (or aggregate) social welfare whilst paying no attention to the distribution of outcomes across different groups and individuals. On this approach, Gaa sees that, no group is privileged, and it may result in accounting standards that disadvantage investors because on this view they count just as one group among others, and their interests may be outweighed by those of other groups.

By contrast, under the User Primacy Principle, a subset of the general population, and in particular the investors as primary users, will be given “preferential treatment” (Gaa, 1986, p.436). The interests of that group would then be satisfied by the standard setter prior to, and in preference to, those of other groups. We may end up with less efficient outcome, a lower aggregate social welfare, in comparison to what would be achieved under the Neutrality Principle. According to User Primacy Principle, the goal of standard setter is to set up standards that are in line with the interests of investors (and in particular the naïve investors). It calls for a “systematic bias” to favor the interests of those users who are considered to be at a disadvantaged position in the production and consumption of financial information (Gaa, 1986, p.436). For Gaa, this is a variation of Rawls’s difference principle which, in Gaa’s understanding, is to maximize the welfare of the least advantaged group.

He also identifies two versions of User Primacy Principle that are accepted in accounting practice then: a basic version privileges “those who have limited authority, ability, or resources to obtain information and who rely on financial statements as their principle source of information about an enterprise’s economic activities” (Gaa, 1986, p.440, quoting from Objectives of Financial Statement by American Institute of Certified Public Accountants,

⁵² The interests of other users are treated by Gaa as externalities, and excluded from his analysis. This exclusion, in itself and all else aside, undermines the potential of his approach to contribute to the identification of a just basic structure for accounting standard setting.

⁵³ Such an approach would need to consider whether the preferences of individual participants should be given equal weight or somehow be weighted in the decision aiming to reflect the participant’s stake.

1973, p.17); and an extended version which prioritizes the informational needs of those users “who have a reasonable understanding of business and economic activities and are willing to study the information with reasonable diligence” (Gaa, 1986, p.441, quoting the Conceptual Framework of FASB, 1978, p. vii). Both versions are concerned about whether users of financial statement will have sufficient information and thus power to protect and advance their interests. Gaa argues that investors have a right to financial information. (Gaa, 1988, p.50).

Gaa borrows the device of “original position” and mimic the “veil of ignorance” to set up a hypothetical space to offer theoretical justification for the choice between the Neutrality and the User Primacy Principles. Within this hypothetical space, security market agents, as participants, who do not know their own position (whether they are a manager or an investor) in the market, are to agree upon a basic structure for standard setting, and in particular to make a firm agreement on whether standard setters are to follow the neutrality model or the User Primacy model. But we should be clear that, for Rawls, there are two principles selected in the original position, one is the principle of basic liberty and the other is principle of equal opportunity and difference principle. In Gaa’s simulation, there is only one principle to be selected and this principle is more close to Rawls’s second principle of distributive justice than the first one.

In Gaa’s original position, he also imposes the veil of ignorance and lists four assumptions concerning the knowledge of securities market agent before they are expected to make their choice, behind the veil of ignorance, between the two distributional principles of User Primacy and the Neutrality (1988, p.55). First, all securities market agents are assumed to be rational and risk-averse so that they will make investing and financing decisions based on the criterion of maximizing expected utility. Second, they are assumed to have adequate understanding of how capital market works and the desirability of Pareto-efficient securities markets. Third, they are aware that accounting rules and requirements may change to fit with the changes in politics and technology. Fourth, there are only two kinds of securities market agents involved here, investors and managers.

These assumptions, indicated by Gaa, cast these agents as rational decision makers with some knowledge about the market that they are operating. He assumes that participants know that resources, such as capital or accounting information, are limited and thus they are aware of the importance of allocation. They foresee the possibility of changes to the market when

the veil is lifted. The point of the veil of ignorance here is to create a condition of “radical uncertainty” for these participants insofar as all information that would enable them to identify their position in the social structure affected by their choice has been taken away. It eliminates special interests of any market agent, “interests which depend on the actual endowment and specific social economic position of individual market agents” (Gaa, 1986, p. 438; 1988, p. 51). Hence, the possibility that the choice would be affected by consideration of private interests, as specific personal advantage, diminishes. In addition, these agents are “disinterested individuals” so that their decision will not be influenced by psychological emotions such as envy or altruism. They are expected, therefore, behind the veil of ignorance to select “the structure of the securities market with a view to what is in the common interest of all securities market agents” (1986, p.438).

The purpose of having a veil of ignorance is to reach “unanimous agreement” on principles that governs social cooperation in respect of the basic structure of standard setting (1986, p.439, footnote.7; 1988, p.52). The agreement made behind the veil of ignorance is then to have binding force on real participants of securities market. Gaa sees the standard setters as having a role in the maintenance and enforcement of that agreement (1986, p. 437).

There are several problems with Gaa’s design of original position. First, the veil of ignorance is not thick enough. It is rather thin. Gaa’s original position is, in fact, more close to Harsanyi’s view of original position than that of Rawls. It is more close to a rational choice made by the participants than a social agreement reached collectively among members of society. What Rawls argues is a “thick” rather than a “thin” veil of ignorance. A thin veil would allow the parties to know about that people may be treated differently by their race, gender, religion or wealth but they would not know who they are going to become. This would allow certain degree of impartiality because I do not know who I am going to be, to be poor or to be rich.

Gaa’s veil of ignorance seems to allow the participants to have knowledge about the interests and desires of everyone and the only ignorant part is her identity when Rawls’s participants are ignorance of any of these facts. This means that to some extent, the participants in Gaa’s original position, in compared with that in Rawls’s, are already clear about what type of society which they are going to construct behind the veil of ignorance. He seems to labour his participants with a presupposition of them being risk averse and whom therefore would go for the principle that would minimize the risks. These assumptions are much narrower

and particular than those invoked by Rawls's in setting up his original position. This may be unavoidable since Rawls's focus is on the general level of basic principles of justice whilst Gaa's aim is to conduct a thought experiment focusing on the fair distributional principles accounting standard setting for capital market.

In addition, Gaa's design involves only two types of participants, investors and managers. If I am not a manager, then I must be the investor. They are risk averse. If they are standing behind a thick veil of ignorance, their risk attitude will not affect the final agreement as their decisions are made under radical uncertainty when risk or utility calculation is unavailable. Yet, because they are standing behind a thin veil, their risk orientation then will have great impacts on the decisions they are going to reach. If I know that only a small percentage of people are suffered from poverty then I may gamble for a policy that may exploit this group of people for a better society for the rest. For Rawls, these information should be completely eliminated from the knowledge of the parties. This also means that only the interests of these two groups of agents are taken account behind the veil of ignorance.

Gaa sees that "the non-identity of interests" between investors and managers as marking the difficulty of his model (Gaa, 1986, p.442). Whilst investors would want a perfect efficient capital market, managers may display different preference for a less efficient market which may leave room for discretion. The "non-identity of interests" between investors and managers drive their preferences into two opposed form of market structure. One structure would favor the interests of investors and another one may favor the interests of managers. Under the former, since investors are protected, the information asymmetry is removed and the market is efficient. Neither investors nor managers suffer from potential loss of being lack of information. Under the latter, when managers have the opportunity to make benefit and such benefit is obtained at the price of investor's, it means that market become inefficient. Under this circumstance, Gaa sees that investors are very likely to be informational disadvantaged (1988, p.54).

Their interests are not, however, stands sharply against each other as Gaa attempts to depict. They are not "diametrically opposed" as both of them still want to benefit from the security market (Gaa, 1986, p.443). If they are completely unaware of their position-to-be, they will prefer a structure that prevent any information asymmetry, one in which they can all benefit from that. Society is a "cooperative venture for mutual advantage" (TJ, p.4 rev.). It is because

of our desire for a stable institution in which we can benefit from our agreed principles to regulate our relation.

Given this conflict of interests and information asymmetry, Gaa wants to explore whether a structure that protect investor from being deceived and that both investors and managers could benefit from will be selected voluntarily by both all behind the veil of ignorance; where individuals are unaware of being investor or a manager. In other words, how could these representative agents enter into a unanimous consent on a particular distributional principle?

Gaa considers two kinds of decision criteria that participants behind the veil of ignorance might adopt when agreeing on a basic structure for standards setting, and deciding specifically on whether they should commit to the User Primacy distributive principle or the Neutrality principle. One basis for choice, behind the veil, is to choose principles so as to aim to maximize expected aggregate utility. Gaa takes his inspiration here from utilitarian such as Harsanyi (1953, 1975). The alternative criterion for choice, considered by Gaa, is the Rawlsian principle of “maximin”. On this basis behind the veil, we would choose to agree on the basic structure likely to lead to the best outcome for the least advantaged group.⁵⁴

We have seen, from section 1.3.3.2, that the “maximin” is a method of choice, which focuses on the worst outcome in the case of uncertainty and provides a basis for selecting first principle of justice as fairness out of its competitors. Without providing us with any serious justification for his choice,⁵⁵ Gaa seriously considers the maximin criteria, in its leximin⁵⁶

⁵⁴ Gaa focusses on a variant of the maximin principle, called leximin, which conceptually makes a lexicographical ordering of groups working from the most disadvantaged to the advantaged. The idea is that the choice would first be made with the most disadvantaged in mind so as to maximise their minimum, and subject to the effects of that choice, the focus would move to the next group with the aim of maximising their minimum, and so on. The variation has little significance for our analysis.

⁵⁵ He takes the expected utility approach as his criteria for choice between basic structures for standard setting, because it “appears to be more consistent on balance with economic approaches to corporate financial reporting issues already in the accounting literature” (Gaa, 1986, p. 440). He assumes that its main competitor is leximin and argues that it would yield the same result: “the outcome in this case is relatively insensitive to the choice of decision rule” (1986, p. 440).

⁵⁶ Gaa’s primary focus is on the leximin variation of maximin, understood in terms of a “lexicographical ordering of individual utility” (1988, pp. 49-50). The maximin rule is obviously liable to lead to outcomes that are not Pareto optimal. Take for example the following example provided by Sen (1970, p. 138), where in state x individual A has welfare 10 and individual B has welfare 1; in comparison to state y where individual A has welfare 20 and individual B still has welfare of 1. The maximin rule will be indifferent between states x and y and the worst off individual B has the same welfare in each. However, state y is clearly superior in Pareto terms to x: in x the welfare of A is improved compared with state x, without any reduction in the welfare of any other party. We can get round this problem, without losing

variation, as a basis for selection of distributional principle.⁵⁷ Gaa recognizes that as a basis for choice behind the veil of ignorance, the leximin approach has the advantage of requiring less information than does the utility maximization criteria. The criterion of maximizing expected utility requires that “the welfare of individuals must be adequately measurable as a single real number” (Gaa, p. 440). The leximin requires information only suffice to allow us to make an “ordinal” (Sen, 1970, p. 136) comparison between individuals or groups, for basic structures or states of the world, and identify the worst off. For the leximin variation, Gaa considers, we only need to be able to determine the “lexicographical ordering” (1986, p.440) of individuals and or groups in terms of welfare.⁵⁸

It seems that Gaa, with his emphasis on utilities, works with an economist’s version of Rawls. The focus, for Gaa seems to drift towards a general ordering of social states, and the narrower problem which Rawls addresses of “finding just institutions” (Sen, 1970, p. 140) is dominated by the concern for welfare maximisation as utility maximisation. This marks the second problem with his original position. In compared to Gaa’s understanding, the leximin criteria, in effect, takes account not only an ordinal of utility but also the general aggregation of utilities. Gaa implies that it is easier to obtain an order of utilities of different individuals or groups than calculating the actual weight of them. However, he does not give any justification about why this is the case: without knowing the exact weight of each utility, how can one work out an order? I think this also explains the reason that he ends up incapable of making a decision between his version of difference principle and the principle of average utility.

Following Rawls, it is not the maximin criteria that leads people to choose his difference principle, which maximizes the welfare of disadvantaged group. Maximin is used for justifying the first principle of justice in the sense that justice as fairness fixes and settles equal basic liberties unconditionally, regardless of the particular circumstances of society

the point of the maximin, if we follow a leximin approach and the following lexicographical ordering: “(1) Maximize the welfare of the worst-off individual. (2) For equal welfare of the worst-off individuals, maximize the welfare of the second worst-off individual.... (n) For equal welfare of the worst-off individuals, the second worst-off individuals,..., the (n - 1)th worst-off individuals, maximize the welfare of the best-off individual” (Sen, 1970, p. 138). Looking back to the example, y is clearly preferable to x in terms of leximin.

⁵⁷ Gaa sees “social welfare” as “a function of the utilities of the individuals making up the group” (1988, p.50, ff.9). For Rawls the focus is of the distribution of primary goods, not utility as such.

⁵⁸ Rawls’s interest in the maximin approach is as a possible decision criterion for the identification of the just basic structure behind the veil of ignorance. However, maximin can be used more generally “to order social states based on individual orderings” (Sen, 1970, p. 137).

now or in the future. This is to cap the potential of preferences shifting towards slavery or something we would not want it to. This reflects the fundamental core of justice: we all agree to respect one another as equal. Gaa is muddling the decision criteria, maximin, for deciding and selecting principles for the basic structure, with the difference principle that would give priority to the disadvantaged group's welfare. He uses the wrong method in sorting out the principles.

Third, Gaa thinks that participants should have knowledge about Pareto market efficiency. This kind of principle of efficiency is usually one of the competitors of difference principle. This implies an implicit competition between this principle of efficiency and the difference principle, the User Primacy principle in Gaa's term. In fact, Rawls's difference principle includes a principle of efficiency (Pareto efficient) and goes beyond that. The main underlying idea for Rawls to argue in favour his difference principle than the principle of efficiency is the idea of reciprocity embedded in his difference principle: that is, the gains to those better off are justified if and only if they also benefit the least advantaged, and benefit them maximally. Difference principle is not satisfied with not harming them, or prosper not at expense of them.

Thus, under Pareto efficient principle, it is allowable to have the most advantaged to gain a lot whilst the least advantaged may gain only minimally. Under difference principle, it requires that the rich may not gain unless it benefits the least advantaged; it is to benefit the least advantaged maximally, or better than any other alternative arrangement. Difference principle thus has a strong and strict view of reciprocity for that it requires the degree to which everyone benefits is conditioned by maximal gains to the least advantaged: "the requirement is not simply that incremental changes to laws and policies within existing economic systems (such as the U.S.) be designed to benefit them more than alternative laws and policies; also the economic system as a whole must be designed so that they fare better than the least advantaged would in any other economic system." (Freeman, p. 191). This marks a significant departure of Gaa's understanding of difference principle as User Primacy principle and Rawls's view of difference principle.

In addition, the principle of efficiency reflects a classic liberalist view of the relationship between distributive justice and the market. For Rawls, this is to rely exclusively on the distributive role of market in distributing income and wealth. This is what Rawls refers as

“allocative justice”, which means that the wealth and income is divided based on certain division rules. Principle of utility is one of them.

The problem of allocative justice is that it ignores the important question of production, by whom and how. The question of how they should be distributed is the very last question of Rawls’s distributive justice. The primary focus of difference principle is the basic structure of society, the question of how basic institutions should be designed in a way of giving “worth” to the basic liberties entitled by everyone and maximize the benefits of the least advantaged. What Rawls concerns is the distributive justice. The role of market is to allocate the factors of production efficient and effectively, rather than the wealth and income. It is more than a method of redistribution as Gaa seems to conceive of.

The difference principle seeks to establish “pure background procedural justice”⁵⁹ (JF, p.50). It is a result that comes from what they see as legitimate and just. This demands our attention to the production, to the question of who produce and whether he or she has sufficient means to participate in this process. We cannot take them for granted and make the distributive decisions independent of these questions. In fact, Rawls says that “there is no criterion for a just distribution apart from background institutions and the entitlements that arise from actually working through the procedure” (JF, p.51; TJ, p.76 rev.).

Thus Rawls’s distributive principles are seeking for a fair distribution of certain resources, i.e. primary goods, such that individual are equipped with sufficient means to develop their moral powers and exercise basic liberties. Rawls’s distributive justice is aiming for a relational picture of justice, “to face one another openly”⁶⁰. For example one can claim her right to information if it is an institutional liberties that stay in line with principles of justice. But this right to information will not have its worth if it cannot be really exercised. For example, clearly, shareholders who have capital would have more say in company policy than a worker who works in the manufacturing department. Gaa seems to misunderstand difference principle as a division rule that would allocate more to the least advantaged, the

⁵⁹ “Pure background procedural justice” means that the basic institutions and rules are organized in a way that people will accept whatever result generated by complying and respecting these rules and institutional requirements as a just distribution of wealth and income.

⁶⁰ Here I am following Forst and Laden categorization of Rawls as aiming for a relational view of justice, in contrast with a distributive view of justice that pays attention to the distribution of goods. Both of them observe that Rawls’s view of justice devotes much to justification offered to one another (Laden, 2014; Forst 2014, in *Justice, democracy and the right to justification: Rainer Forst in Dialogue.*)

investors, deliberately after the production of wealth. To make it more confusing, as I have explained earlier, he deploys difference principle to justify his “difference principle”, the User Primacy principle.

Fourth, Gaa seems to dismiss the first principle of justice, and the clause b of second principle, the principle of equal opportunity. If we understand accounting as an institution that make up the basic structure and this basic structure is designed in line with the principles of justice, it is fine not to mention the first principle because, we will see in next section, it may have already been embedded in the institutional design through the four-stages implementation, if we accept Rawls’s principles. But in the absence of clause b, the principle of equal opportunities, difference principle cannot function properly. Rawls says that “we cannot possibly take the difference principle seriously so long as we think of it by itself, apart from its setting within prior principles” (JF, p.46, footnote 10.). We should not forget that it is the principle of equal opportunity that specify the requirement for assuring the “fair value” of the basic liberties and guarantee the fair equality of opportunity.

In fact, the role of difference principle together with the principle of equal opportunities and the first principle is to impose institutional requirements to the design of basic structure: principles set up the “rule” of rules and the market works within the “rule”. Thus, the difference principle can only make sense if it works with other principles: “the role of the principle of fair opportunity is to insure that the system of cooperation is one of pure procedural justice” (TJ, p.76 rev.). This means that market players are supposed to engage the process of construction with equal footing.

But we know that market players are not just investors and managers. If the ultimate objective for original position and the veil of ignorance is to work out a proper justificatory basis for accounting standard setting body (Gaa, 1988, p.53), why standard setters are not part of the process? How about those who are affected by business activities? In Gaa’s model, they are not accounted, or in Rawls’s terms, they are not allowed to participate with equal rights. This ignorance goes against with Rawls’s attempt to be as representative as possible in the original position, in which each citizen has a representative and all these representatives reach an agreement about principles of justice.

Last but not least, Gaa contends that investors become the disadvantaged group when there is information asymmetry. For manager, in either an efficient or inefficient market, Gaa does not think that they will be at a disadvantaged position. In his view, it is only a matter of gain

less or more. This is quite a strange view and different with Rawls's. For Rawls, the "least advantaged" is not fixed to a particular group of people. The actual subject of this group is flexible. Any group can be "least advantaged" if it is considered as least advantaged group relative to a particular basic structure of a society. It is a least disadvantaged position and anyone can move in or out of this position. Gaa's version of only including managers and investors is too narrower from nowadays. For researchers who understand accounting from a social perspective would not agree with such a narrow inclusion at all (Hopwood, 1985; Burchell et al. 1985).

Yet, the value of Gaa's work should not be dismissed. It lies his actual attempt of imagining an original position, though with flaws due his misunderstanding of Rawls, for market players and therefore principles for accounting. His simulation reflects a mechanical application of original position to the context of accounting. He seems to expect that by mimicking the conditions in the procedure of construction, participants can arrive at rational choices, choices that will put the interests of investors in prior to that of managers. His application is superficial that may explain why he has to admit his failure in justifying his preferred principle following Rawls's tools for justification. He dismisses the essence of justification that requires principles to be justified publicly than simply between two groups of people. He is also captivated by a utility-driven understanding of accounting and therefore incline an utilitarian reading of Rawls's original position.

1.4 Levels of justification in Accounting

1.4.1 Institutional design and Individuals of a just society

For Rawls, justice is the first virtue of institutions. The idea of fair terms of social cooperation among free and equal people is embedded in his principles of justice as fairness. Rawls argues that a just distribution of the benefits of social cooperation should not depend upon arbitrary factors outside of the control of the individuals concerned. Ideally, the share we receive should not depend on whether we are born into a rich or poor family, born female or male, born to be more or less talented, or born to be a member of this or that religion. These features should not be accepted as the reason entitling individuals to more or less of the benefits of social cooperation. The rejection of arbitrary grounds for differential distribution does strip away social status, political power, talent or race and leads us back to

a ground on which we are all free and equal. Yet, it does not in itself specify how social goods should be distributed.

Rawls's starting point is a presumption that we are all equal, as moral persons, and a general idea that justice requires all cooperatively generated goods to be distributed equally. Inequalities, then as Rawls sees things, can be justified if and only if they make the least advantaged group better off. Furthermore, inequality, is allowed only with respect to the distribution of socio-economic goods; No inequality is to be permitted in respect of fundamental basic rights and liberties. In this section, I will explain the way in which principles are applied to the basic structure. It is important to understand that the justificatory and methodological priority that Rawls assign to the basic structure of society, through division of labour.

Rawls introduces a "four-stage sequence" to implement the agreement reached in the original position. This sequence is proposed for the deliberation of the two principles of justice. It does not mean that this would be the way that politicians and representatives should pick up and use it to make the law. Freeman notes that, it is a "hypothetical inquiry which you and I can reflect on now, individually or jointly, to judge and assess the justice of existing constitutions, laws, and judicial decisions"(Freeman, p.202-203). It provides a basis for assessment and critique of existing institutions. The first stage is the original position. This is the stage where participants choose principles that express their conception of social justice behind the veil of ignorance. This has been covered in previous section.

The second stage is to design a constitution and a government in line with the principles selected in the first stage. The first principle of justice as fairness, the principle of equal basic liberties, is implemented here. Citizens view themselves as "delegates" in determining what kind of constitutional framework would serve the best to assure the manifestation of justice as fairness (TJ, p.173 rev.). At this stage, the veil of ignorance is partially lifted. These delegates are still not allowed to know any information about themselves but they are permitted to know the particular circumstances of their society including "natural circumstances and resources, its level of economic advancement and political culture and so on" (TJ, p.173 rev.). This information is relevant for them to be aware of the requirements of justice and formulate a constitution that achieve these demands.

What does the first principle "specify" in the constitutional stage? The abstract basic liberties are given substances in the form of constitutional rights. For example, freedom of thought

could be specified and institutionalized as freedom of speech and expression, freedom of discussion and inquiry and so on (Freeman, p.210). In the process of specification, one unique point of Rawls is his emphasis about the “significance” of a right or liberty, which is judged against its role in one’s development and exercise of moral powers. If one basic right or liberty has little to do with that, the specification of it may not be that detail or demanding. For example, the political expression, Rawls argues, is more “significant” and required more protections than free “commercial speech”, which may not be necessary for one’s development and exercise of moral powers. Other advertise or information, such as financial statements, information that are necessary for shareholders and the public to be informed, is regulated by the difference principle, and the fair equality of opportunity, not the first principle of justice. Another unique part of Rawls is his argument about public reasons as the basis for interpreting “constitutional essentials”, which I will come back with more details in Chapter 2.

Rawls specifies that this constitutional design should be guided by two considerations. The first one is that the principle of equal basic liberties should be guaranteed unconditionally within basic political and legal institutions. If they fail to reflect this principle, it could be the case that either some people are granted with more liberties than others; or people are granted with insufficient liberties in general (TJ, p.178 rev.). The second consideration that Rawls has in mind is related to the implementation of the second principle of justice. He contends that among all feasible constitutional configurations satisfying the first consideration, we choose the one that is more likely to result in a “just and effective” public policies in both securing the fair equality of opportunity and maximizing the prospects of the least advantaged (TJ, p.194 rev.). Rawls does not exclude the possibility that a society may not be able to guarantee the unconditional equal basic liberties to its citizens, such as a “less fortunate society”; but any departure from the priority of liberty, as he claims, “must be acceptable to those with the lesser liberty” (TJ, p.220 rev.). In other words, it is not a decision of majority vote but one that should be agreed and accepted by all, which implies that all are granted with same and equal basic liberties, in particular, equality in political participation.

The third stage is a process of generating policies and designing institutions within the boundary set by the constitution and government. It is a legislative stage. This is where the second principle of justice as fairness, the principle of fair equal opportunity and the difference principle, is to be implemented. At this stage, participants who set policies and

socioeconomic regulations are still under partially lifted veil of ignorance, a “thin” veil of ignorance. Then why the implementation of principles of justice need to be divided into two stages if the available information is assumed to be the same? If we can implement the first principle of justice reasonably in our design of constitution, why cannot we implement the second principle in the constitutional design?

As “the first principle of equal liberty is the primary standard for the constitutional convention. Its main requirements are the fundamental liberties of the person . . . The second principle comes into play at the stage of the legislature” (TJ, p.174–75 rev.). A “division of labour” surfaces in between the constitutional stage and legislative stage in order to deal with “different questions of social justice” (TJ, p.174 rev.). Rawls argues that it is relatively easy to implement the first principle as it is “often perfectly plain and evident when the equal liberties are violated”; by contrast, “this state of affairs is comparatively rare with social and economic policies regulated by the difference principle” (TJ, p.174 rev.). This marks the difficulty of putting the second principle of justice to be entrenched in the constitutional law of second stage. We need a separate stage for addressing it individually. Rawls sees that if not separated, it will give courts a chance to intervene and review economic decisions, which is not a kind of constitutional constraint that Rawls wants. In addition, by putting economic rights and social goods secondary to the basic liberties, it will prevent the situation when the court will violate the priority of basic liberties for economic reasons.

This division of labour may end up with indeterminacy about the interpretation and understanding about the second principle: “on many questions of social and economic policy we must fall back upon a notion of quasi-pure procedural justice: laws and policies are just provided they lie within allowed range” (TJ, p.176 rev.). This is to do with Rawls’s assumption that we may have more agreement upon basic rights and liberties and their violation than that of economic rights and liberties. Although indeterminacy and vagueness around the application of the second principle is unavoidable, it is a matter of “pragmatic” indeterminacy: “justice is to that extent likewise indeterminate” (TJ, p.176 rev.). For Rawls, principles of justice appear to be less vague and indeterminate than the estimation of aggregate utility. Ultimately, “this indeterminacy in the theory of justice is not a defect. Indeed it is what should expect” (TJ, p.176 rev.). Rawls contends that a “political settlement” on such principles of justice is needed and it is within our capacity to achieve it (TJ, p.176, 318 rev.).

The last stage is a stage in which ordinary citizens and public officials observe and respect the institutional rules and policies proposed in the second and third stage. This is the “judicial stage” wherein laws and policies are applied in particular cases. In this stage, the veil of ignorance is completely lifted so that everyone knows who she is and what society and institution she is caught into. Citizens comply and respect principles of justice and the instructed constitutions and laws in this stage. They are also bound to “principles for individuals”, including natural duties of justice and principles of fairness, which are necessary to operationalize the two principles of justice (which are themselves “principles for institutions” applied to the basic structure) in one’s decision making and action. Everyone “has complete access to all the facts” of society and oneself and thereby could help substantiate the duty of justice.

Another division of labour emerges in between principles for basic structure, and principles for individuals (PL, p.262)⁶¹. The two principles of justice in Rawlsian framework are the “first principles” for the basic structure and they are the “earliest agreement” that we can possibly achieve. Each institution will develop and form its own “first principles” which will be subjected to the “first principles” for basic structure, the two principles of justice. “First principles” for basic structure have “regulative primacy” over any later agreements made within an institution (PL, p.257-258). It means that the two principles of justice are regulative in scope and content of subordinate “first principles” of a particular institution.⁶²

Thus, principles for basic structure are applied in a hierarchical order: they are applied “step by step” so that “the principles of each later agreement are to be subordinate to those of all earlier agreements, or else adjusted to them by certain priority rules” (PL, p.262). The two principles for basic structure are to be decided first yet do not prescribe the substance of the “first principles” of different institutions. The “first principles” for institutions apply directly to the determination of the rule of a practice within an institution and indirectly to the regulation of individuals’ conducts through institutional rules for individuals. Principles for

⁶¹ “It is the distinct purposes and roles of the parts of the social structure, and how they fit together, that explains there being different principles for distinct kinds of subjects. Indeed, it seems natural to suppose that the distinctive character and autonomy of the various elements of society requires that, within some sphere, they act from their own principles designed to fit their peculiar nature” (PL, p.262). There is no difference in terms of the deliberation of principles of justice between *A Theory of Justice* and *Political Liberalism*.

⁶² “The initial objective of the theory is to find a conception, the first principles of which provide reasonable guidelines for the classical and familiar questions of social justice in connection with this complex of institutions... There is no attempt to formulate first principles that apply equally to all subjects. Rather on this view, a theory must develop principles for the relevant subjects step by step in some appropriate sequence” (PL, p.258).

institutions provides basis for deriving and justifying rules for institutions and rules for individuals.

Principles for individuals, on the other hand, include natural duties and the principle of fairness. The relationship between these principles for individuals and principles for institutions is that: for example, for the institution of property, our compliance to the rules of property institution is decided by obligatory duties in the light of principles for the property institution on the one hand; and by moral duties in the light of principles for individuals on the other hand.

The principle of fairness refers to an obligation that one need to “do his part as defined by the rules of an institution” if “the institution is just” and he “has voluntarily accepted the benefits of the arrangement or taken advantage of the opportunities it offers to further one’s interests” (TJ, p.96 rev.). For example, security market participants establish certain rules of capital market to advance mutual benefits. When I voluntarily agree to engage in such a market, I would benefit from who else attend the market will comply with the rules of market. It is fair for other market participants only if I also do my part to maintain these rules. In the case of justice as fairness, it means that we are to maintain and follow the rules established in the second and third stage. This requirement of individual is grounded in the assumption that we cooperate and benefit together: “we are not to gain from the cooperative efforts of others without doing our fair share” (TJ, p.301 rev.).

In addition to this obligation⁶³, Rawls also argues for a natural duty of justice that apply universally. It is our universal duty “to support and to comply with just institutions that exist” and “to further just arrangements not yet established, at least when this can be done without too much cost to ourselves” (TJ, p.99 rev.). On this reading, individuals should attempt to build up just institutions when there is none and comply with what they have established. The just institutions constructed here are those established in the second and third stage.

Rawls argues that these two principles for individuals, together with principles of justice, will be agreed in the original position. The main concern here is whether they are able to ground sufficient moral obligations so that individuals can be motivated to act upon

⁶³ This obligation of fairness seems to limit its application to “those who assume public office, say, or those who, being better situated, have advanced their aims within the system” (TJ, p.100 rev.).

principles of justice. From a social contract perspective, the reason that we are obliged to certain responsibility and show allegiance to political authority is coming from our consent (either explicitly or implicitly) to the terms of social contract. For Rawls, given that original position is hypothetical, the agreement we have made in the original position is a result of imagination that is not the same with entering into a business contract and thus constrained by contractual obligation.

The “natural” duty of justice seems to ground in something more fundamental as moral commitment than simply relying on consent. This means that participants of the original position seems to have recognized that they are bound by such a natural duty of justice even before they attempt to enter any negotiation or agreement on principles of justice. This understanding underlies his claim that a conception of justice should be able to “public express men’s respect for one another” (TJ, p.156 rev.). Put it in another way, the principles of justice should be able to carry forward “men’s desire to treat one another not as means only but as ends in themselves” (TJ, p.156 rev.). It reflects a Kantian notion of “treating people as ends in themselves”. I will come to this Kantian influence more details in section 1.5.

If we are subject to unjust institution, do we still need to hold up to the obligation of fairness and the natural duty of justice? Rawls claims that “it is not possible to be bound to unjust institutions, or at least to institutions which exceed the limits of tolerable injustice” (TJ, p.96 rev.). Rawls allows the potential of individual to have a right to show his disobedience in a nonviolent way if the institution is severely unjust so that “militant action and other kinds of resistance are surely justified” (TJ, p.323 rev.). This is a relative extreme case of society. If we are in a society that only a few institutions or policies are unjust, is there any possibility for individual to display his resistance or disobedience?

Rawls thinks that we can resist but should not. After the original position stage of the four-stage sequence, a constitutional design that manifest the principles of justice is built up in the second stage. This design should be able to assure the implementation of first principle of justice, the equal basic liberties; and once guaranteed, we choose the most feasible configuration of basic structure that assures the fair equality of opportunity and maximizes the prospects of the least advantaged. Given the finitude in our ability on institutional designs, we may not be able to reach a “perfect procedural justice” in choosing the best configuration. Rawls acknowledges that and admits that “there is no feasible political process which

guarantees that the laws enacted in accordance with it will be just” (TJ, p.311 rev.). It is very likely that we will generate some laws or policies that are unjust, no matter how just a society we envisage in the original position.

But Rawls argues that we should not do that. The obligation of fairness and the natural duty of justice are the principles that should constrain us to respect outcome of a political system. There is a permissible exception that Rawls defines as “civil disobedience” that is a “public, nonviolent, conscientious yet political act contrary to law” so as to bring changes to the law or policies (TJ, p.320 rev.). The act of “civil disobedience” is, in effect, an act “guided and justified” by the principles of justice (TJ, p.321 rev.). It is an act that invokes the underlying commonly shared conception of justice. It is this common sense of justice that grounds the basis of civil disobedience as “minority force” to challenge against the “majority” so as to rethink whether the design of constitution and institutional arrangements fits with the two principles of justice (TJ, p.321 rev.). In addition, it is a public act that tends to take non-violent form. Although the act aims to challenge the law, it still operates within “the limits of fidelity of law” (TJ, p.322 rev.). It means that although the law is unjust, we are still willing to “accept the legal consequences of one’s conduct” (TJ, p.323).

Instead of being disruptive, civil disobedience can help with stabilization of a just society. It offers “a way of addressing the sense of justice of the community, an invocation of the recognized principles of cooperation among equals” (TJ, p.337 rev.). It has an important role allowing the minority to engage with the majority on the reflection of the principles. It discourages adoption of unjust laws from the beginning. Principles for individuals are crucial to maintain the stability of the institutions on the one hand, and to legitimate the potential “disobedience” and resistance when it is necessary on the other hand.

Rawls is influenced by Rousseau’s conception of deliberative democracy and common good within a democratic society, that is, in a society wherein the common good is justice, each individual is regarded as free and equal citizen who has equal power and rights in political participation. For Rawls, in TJ, a conception of justice “constitutes the most appropriate moral basis for a democratic society” (TJ, xviii rev.). Everyone in this society are born free and equal and should conceive of him/herself in this way.

The form of constitution is a “constitutional democracy” that is a restricted form of majoritarian democracy. Individuals under corresponding social and economic system will have access to necessary means to pursue their goals freely and no one will need to

subordinate oneself for economic benefits. The institutional implementation is important for the deliberation of principles of justice such that the common good and public interests of all citizens could be advocated. Deliberation of principles of justice means that in the constitutional and legislative stage, legislators would see everyone as free and equal and protect and promote individual's freedom and take account the possible effects of legislation upon the interests of minorities, or the least advantaged people. "Government is assumed to aim at the common good, that is at maintaining conditions and achieving objectives that are similarly to everyone's advantage" (TJ, p.205 rev.).

With this view of justice as common good and of individual as free and equal moral person, we could tell that Rawls is not opt for a laissez-faire capitalism in which the market mechanism will decide the distribution of income and wealth whilst government will not make further redistribution or extra care for the less and least advantaged group. But he is neither opt for a welfare-state capitalism, which argues the role of government in providing basic necessities and provisions, and assistance for people who are less advantaged from the market economy. Rawls argues for some assurance for private property so that individuals would all have access to social and economic capitals on which they can rely to develop their goods. He also argues for the importance of market, not a central planning one, to allocate factors of production.

Rawls rejects classical capitalism for it allows infinite accumulation of means and powers that would undermine the "fair value" of political liberties, the fair equal opportunities and the fair distribution of economic powers. He is also not favouring communism because Rawls still wants the market to serve its role in allocation of factors of production, which would appear to be more efficient and effective.

On the one hand, Rawls is liberal in the sense that he includes a role of market and pricing system in the implementation of principles of justice. There is a need for a free market for labour and equal opportunity. If no free market is allowed, then some people could end up of being forced to do work and individual's freedom of choosing one's job is constrained. In addition, allocation of labour and factors of production is more efficient than prescribed planning of labour. Thus, the allocative part of distributive justice is market based.

On the other hand, the distributive part is not determined by market. The distributive aspect of social justice would usually involve question about taxation that deal with distributions of income and wealth and question about the shares that people could have. Under liberal

view, in an extreme case, it is possible that one could have monopoly right to all the income and wealth generated from the markets. Rawls's difference principle, however, aims to prevent this happen. Thus, the distribution will attempt to maximize the welfare of the least-advantaged group. Although a welfare-state capitalism does provide a basic social minimum, Rawls still objects it because it does not realize that the cause of social and economic inequalities is that policies are not made in recognizing that people are born free and equal and all should have equal access and certain control of property. In a welfare-state, "the control of the economy and much of political life rests in a few hands" (JF, p.138). This means that it permits inequalities in social and political liberties, the political power to participate the policy and politics. It destroys Rawls envision of everyone with equal political liberties, and fair opportunities. Workers do not own their labour, and they do not have access to decisions about corporate policy. The control of the factors of productions is concentrated in few hands.

Thus, Rawls shows his concerns about class struggles and he wants to correct the classes division by giving each, particular the working class, sufficient means and fair opportunities. Under the view of this interpretation, any gains generated by increasing productivity should not be achieved by reducing the prospects of the less advantaged. The economic system that implied by the difference principle is either a "property-owning democracy" or "liberal socialism".

Rawls argues for a property-owning democracy. It means that ownership of property and the means of production are widespread. Workers will have control of their labour, and become part of those deciding working related decisions. The extent of one could share the largest portion of income and wealth is constrained; and the gap between the most advantaged and the least advantaged is controlled and limited. There is a limitation upon how private wealth could have to the political decisions makings. Worker owned more about their work, not work to survive.

1.4.2 Division of Labour in institutional implementation

The division of labour is crucial to Rawls's argument for the four-stage implementation of principles of justice. With it, we can deal different questions of justice at different stage; and we can distinguish principles for institutions from principles for individuals. It concentrates our attention to the primary subject of justice, the basic structure of a society. The reason for maintaining the division is that it allows us to "abstract from the enormous complexities of

the innumerable transactions of daily life and frees us from having to keep track of the changing relative positions of particular individuals” (JF, p.54). In addition, this allows individuals to freely pursue their own plans of life with the knowledge that a pure background procedural justice is maintained: “the knowledge that elsewhere in the social system the necessary corrections to preserve background justice are being made” (PL, p.269). Rawls contends that we should leave enough free spaces for individuals in their pursuit of life plans rather than imposing unduly moral duties to individuals in behaving compliance to the difference principle.

It establishes a “division of justificatory labour” in between the justification provided for institutions and that for individual’s action (Laden, 2003, p.385). The earlier version of this “division of labour” first appeared in Rawls’s paper “Two concepts of Rules” (1955). In that paper, Rawls attempts to show the significance of a distinction between the justification of a practice and the justification of action within that practice. The blindness to the significance of the “rather obvious distinction” (Rawls, 1955, p.18) between justifying a practice and justifying action within a practice tends to be associated with a misunderstanding of the “logical status” (1955, p.19) of the rules of practices. He distinguishes two types of rules: summary rules and practice rules.

We could derive, by induction, a “rule” from previously directly decided cases to assist in the efficient treatment of future case of the same kind. On this view, cases always have priority; rules are ad hoc response to recurring cases: “decisions made on particular cases are logically prior to rules” (Rawls, 1955, p.22). On the summary view of rules, we describe a particular case and deal with it directly, whether or not we have a rule to facilitate our deliberations. The justifications of rules are subjected to our application of them: “in principle (we are) always entitled to reconsider the correctness of a rule and to question whether or not it is proper to follow it in a particular case” (Rawls, 1955, p.23). Rules on this view are guides, or aids, to decision making. They are defeasible and should be set aside if they are not helpful.

In contrast, the practice view contends that rules have logical priority over particular cases. Rules are no longer regarded as inductions from decisions made in previous similar cases. Rather they are conceived of as means by which the practices are constituted. For example, the practice of chess, as a system of rules, has a logical priority over moves made in any particular game of chess. Engagement in a practice thus “necessarily involves the abdication

of full liberty to act” (Rawls, 1955, p.26). It requires us to act in accordance with the definitive rules of the practice. It makes no sense, at the level of action within a practice, to question the rules of the practice⁶⁴. “Rules of practices are not guides to help one decide particular cases correctly as judged by some higher ethical principle” (Rawls, 1955, p.27). If a particular action defined by a practice is challenged, the justification offered should be by reference to the rules of the practice: “Only by reference to the practice can one say what one is doing” (Rawls, 1955, p.26).

From Power’s analysis in the last section, he claims that the relationship between a CF and accounting standards setting is similar to that between a constitution and the legislation. He, through his example of promise practice, hints that his understanding of principles in CF are like practice rule, setting up constraints but not necessarily determining subsequent decisions on accounting standards. In fact, as we have explained, Power’s conception of CF is less related to the original position but more to the role of principles of justice.

In Rawls’s four stage sequence, accounting as an institution comes into scene in the third stage when principles of institution are generated. In Power’s case, the principles in a CF are the “earliest” agreement that we could possibly achieve in accounting and that any subsequent decisions are made within the boundary conditions set by these principles. For Power, implicitly, there is a division of labour between the generation of principles in a CF and the development of accounting standards in the light of a CF. His practice-rule understanding of principles in CF suggests that the actions of standard setter are justified by appealing to the practice, that is, accounting standards are evaluated by appealing to the CF. The evaluation of accounting principles then need to appeal to whether they are constructed in line with the constitutional arrangement in the stage 2 and also whether they are designed within the constraint of the second principle of justice, implemented in stage 3. This would suggest that principles of justice are embedded in the generation of accounting principles. When moving to the stage 4, does that mean individual accountant should and can justify their actions by claiming their compliance with the standards made in the light of principles

⁶⁴ “In a game of baseball if a batter were to ask “Can I have four strikes?” it would be assumed that he was asking what the rule was; and if, when told what the rule was, he were to say that he meant that on this occasion he thought it would be best on the whole for him to have four strikes rather than three, this would be most kindly taken as a joke” (Rawls 1955, p.26).

in a CF? Unfortunately, Power did not say much on the deliberation of accounting principles and how they are justified at the level of institution and the level of individual accountant.

Gaa's understanding of the relationship between a CF and accounting standards is similar but differs in a nuance manner. Gaa argues that accounting standard setting involves collective choice, unavoidably involving compromise and conflict. The process is political, with winners and losers, with some groups preferences entrenched in standards and those of others rejected (see AAA, 1977, p.24f; Beaver and Demski, 1974, and May and Sundem, 1976, p.750; Solomons, 1978, p.65). He contends that such collective choice involves two levels of decision-making (Gaa, 1988, p.74). The first is a "constitutional" level (Gaa, 1988, p.75). This is a level, for Gaa, wherein a basic structure of market is decided. At this level, distributional principle is selected for standard setters to resolve conflicts of interests around accounting standards. If we parallel this with Rawls four-stage sequence, this level equates to the first stage of the sequence, the stage of original position.

The second level of decision is to decide and determine financial reporting standards or policies in the face of conflicts of interests. For Gaa, this is a level in which standard setters only deal with the interests that pass through the "filter" of the first level (1988, p.75). One possible approach is to look to the economic consequences of accounting standards and choose the one that maximize the general utility ("preference aggregation"). Another possible approach is to develop a theory or a CF from which accounting standards are generated and justified ("theory-based"). Gaa argues that the choice of standards should be made, either logically or rationally, on the basis of some basic principles (Gaa, 1988, p.13). By having a conceptual foundation, it is possible to avoid that standards are made arbitrarily or that standards are chosen on the basis of "nose counting" (FASB, 1981, quoted by Gaa 1988, p.20).

Rawls'S theory of justice therefore is attractive to Gaa to help select distributional principle at the first level and then formulate a foundation for, such as a CF for accounting, to guide our decision making of standard setting at the second level: "There should be some rational or logical foundation for the choice among reporting alternatives" (Gaa, 1988, p.11). Under theoretical approach to standard-setting, "standardsetter is more a theoretician or logician than an empirical scientist (as the preference aggregation view might suggest)" (Gaa, 1988, p.71-72). The conceptual framework, for Gaa, is "some system of general principles (that)

forms a logical basis for the rational choice of financial accounting standards” (Gaa, 1988, p.93).

Gaa’s second level of decision making, then, seems to parallel to a simplification of the three stages after original position. It includes not only a construction of a CF based on certain theory (or principles), generation of accounting standards on the basis of a CF, but also an application of these standards in accounting practice. Gaa understands the “essence” of financial accounting, in particular financial reporting, is “a rule-governed activity” and the purpose of standard-setting is to make such rules (Gaa, 1988, p.98). In other words, the position of a CF is subordinated to the distributive principles selected for the market, in Gaa’s perception.

For both standard setting and standard application, Gaa views, a CF and accounting standards are serving as a basis for decision making. Gaa differentiates three types of conceptual foundation to act as such a basis: deliberation, explanation and justification. Explanation is similar with justification as both of them are made after a choice of a standard has been made, *ex post facto*; deliberation involves finding reasons before the choice is made and it is *ex ante* justifications made “more or less” private to the decision maker. Explanation and justification are made to public, to anyone who wants to understand or to evaluate the choice; the former is differed from the latter as the former only look to actual reasons while the latter is seeking for “best reasons” (Gaa, 1988, p.95). Gaa wants to argue for a combination of explanation and justification for a CF and accounting standards to serve a basis for conclusion (1988, p.95).

Drawing upon Rawls’s distinction between summary rules and practice rules, Gaa understands both principles in a CF and accounting standards as practice rules. First, “accounting theory (meaning a fundamental and logically sufficient foundation for justifying financial reporting practices) explains how accountants are to perform” (Gaa, 1988, p.99). Accounting theory should be “a coherent set of concepts explaining and guiding the accountant’s action in identifying, measuring, and communicating economic information” (AAA, 1966, p.2; quoting by Gaa, 1988, p.99). Thus, the principles in a CF should be able to provide a basis to explain choices of accounting standards and justify those choices. Thus decisions about accounting standards are justified within the constraints of a CF, the rule for standard setting practice.

Second, for Gaa, “the mere fact that some accountants perform action A in conditions C and that accountants perform B in C, does not count in itself as a reason for (i.e., a justification) the next accountant to do S or anything else in particular” (Gaa, 1988, p.98). Accounting standards thus cannot be summary rules because they “lack the ethical content required of financial accounting standards” (Gaa, 1988, p.98). Gaa understands practice rules as providing reasons for a particular way of performance or a result of decision making in accounting. Thus, the logical priority of financial accounting standards to actions that are performed accordingly marks the nature of the standards as practice rules (Gaa, 1988, p.112).

From this observation, we can tell that both Power and Gaa share the view of accounting principles in a CF as practice rule and agree to certain division of labour between the construction and the deliberation of principles. The essence of such division lies in that different justifications are made and directed to people at different positions. There are certain advantages and disadvantages in related to such a division.

On the summary view, rules are always guides. Their purpose is to help the agent find the ideally rational treatment for the particular case. The agent is always free, in principle, to dispense with summary rules if she feels that they are not helping in the particular case. On the summary view of things, an agent’s position remains the same whether or not she makes use of the rules to guide her action. Summary rules are a means to an end, which is independent of them. The rules are essentially optional aids, and the agent is ultimately answerable in terms of whether or not she achieved the end of a correct treatment of a particular case.

On the practice view the agent’s position is defined by the practice and the office she holds within it. Any questions concerning her action in that office can only be answered by reference to the rules that specify it. On the practice view, the office-holder within a practice is under a logical obligation to maintain the rules that specify the practice. If these rules are to be questioned it can only be from a position external to the practice and the offices it creates. On the practice view there is a clear conceptual division between the officer as applier of rules within a practice, and the maker of rules, the office of the legislator, situated

outside the practice and empowered to make, criticize, and change its rules. The summary conception of rules has no place for this distinction.⁶⁵

This practice rule view could possibly be problematic for thinking obligations of individual accountants. It seems to encourage an idea that as long as the practice rules are just and reasonable, the task for individual accountant is to comply with those rules. This would encourage a problematic attitude, which can be observed in the phenomenon of “creative compliance” (see McBarnet & Whelan 1992a, 1992b & 1999, and Shah 1996). The term “creative compliance” refers to the “effective” avoidance of accounting regulation paradoxically carried out via a strict but “creative compliance” with the letter of the regulation; a strict compliance with the letter of regulation that manages to evade or frustrate its spirit. The deliberative avoidance of such regulation does not seem to stir any moral compunction and attract public attention with its manifestation into business scandal (See Low et al., 2008; Clarke et al., 2003). It is somehow unsatisfactory for professionals, and accountants in particular, to define their obligations, and limit the justification of their actions, by reference to practice rules. Rawls has been criticized for not paying much attention to individual but more on the arrangement of institutions.

We can recall that the principles for individuals, suggested by Rawls, imply a strong sense of compliance for individual action. This requirement for compliance echoes the understanding of rules as practice rules. Is it sufficient to just to construct just principles and rules? To what extent, individual accountants can make their judgements on the basis of morality? In the previous section, we mentioned about the consideration of “strains of commitment” in generating principles in order to create a sustainable and stable basic structure. But if we do take account this criteria, does it mean that the principles we produced will demand less efforts to comply with? In other words, does this mean that individuals are, just as in the case of creative compliance, complying with regulations in letters not in spirit? If we want to avoid such problem, we need principles that have a ground in justice morality and that would invoke people’s moral consciousness. But is it going to be self-contradicted

⁶⁵ Problems arise, as Rawls sees it, when the summary view is maintained in circumstances where it is inappropriate, that is in circumstances where we have a practice. If the summary conception of rules is retained in circumstances where we are dealing with a practice, the significance of the crucial distinction between the justification of a practice and the justification of action within it is liable to be obscured. He insists, however, that “relatively few actions of the moral life are defined by practices and that the practice conception is more relevant to understanding legal and legal-like arguments than it is to the more complex sort of moral arguments” (Rawls, 1955, p.32).

when the principles are selected on the basis of considered judgments about justice and morality on the one hand and when people who apply these principles are unlikely to invest too much ethics, which could be exhausting and demanding? This leads us to the next section looking at site of justice in order to examine whether or not we should sustain a division of labour in accounting.

1.4.3 Site of justice in accounting

Cohen (1997) makes a challenge to Rawls's division of labour. In particular, Cohen challenges the application of difference principle to institutions and the justification of individual actions by appealing to the rules of practice. He argues that Rawls's division of moral labour between institution and individuals would create a "double-minded modeling of implementation" scheme. Cohen sees a potential when the requirement of justice goes against one's self interests, individuals will comply with the requirement in letters. Because the difference principle regulates and applies directly to the design of institution, Cohen observes, individuals may not necessary pick up the essence of difference principle and take into their daily decision making.

This is quite similar to the phenomenon of creative compliance in accounting. In effect, creative compliance is probably worse than Cohen's "double-minded" implementation for Cohen would agree that one could pursue self-interests at expense of other's interests, or in a dishonest way as in creative compliance cases. Cohen (1997) argues that Rawls does not pay much attention on whether people who comply the rules are sincerely for the social just. Because Rawls assume that people who participate are "equal and free" with basic morality power and therefore should acknowledge and understand what they have agreed and would like to sustain these fair terms of social cooperation for reciprocity. For Cohen, this assumption is not sufficient. He argues for an "ethos of justice" to supplement Rawls's difference principle. People, who are motivated by this "ethos of justice", will take account for the least advantaged group in their actual decision making.

In similar vein, in a recent study on distributive justice and accounting, Flower (2010) takes up Cohen's critique and reject a division of labour in the deliberation of accounting principles. The title of "site of accounting" has dual meaning. On the one hand, Flower accepts Rawls's two principles and boldly attempts to sketch a CF at the stage three, at the same level with the implementation of the second principle of justice (including difference principle). He sees accounting principles, principles in a CF, as principles for accounting as

an institution, which therefore, are subjected to the constraint of the two principles of justice for basic structure. Flower sides with Rawls arguing that material inequality should not be accepted unless it will benefit the least advantaged group in the society. The greater wealth or higher material standard of life is not essential for a just and fair society. Instead, it can be “a positive hindrance” or “meaningless distraction” (TJ, p.257 rev.).

Flower argues, after carefully examining different theories of justice, that Rawls’s theory of justice as fairness offers “the best compromise between egalitarianism and libertarianism” (2010, p.40). Flower is avowedly pluralist in his approach to justice in accounting, in the sense that: “in working out my own views on justice, I take the best element from different theories, where ‘best’ means that which most closely reflects my deeply held intuitions” (2010, p.41). The “best” element of Rawls’s theory of justice, for Flower, is the two principles of justice that remain the “egalitarian roots” arguing that some basic rights, including property rights, should be respected. For Flower, the critique of Rawls does not undermine Rawls’s argument but rather “suggest to me (Flower) that he got it about right” (2010, p.41).

This starting point seems to stand in opposition with where Power and Gaa seems to start from scratch and to apply Rawls’s methodology in constructing and justifying accounting principles. This certainly brings out the first level of the meaning behind the “site of accounting”, that is, where accounting should be staying. Whether we should construct our own original position and construct accounting principles in the same way as Rawls does for social justice, or we should, following the four-stages of implementation, view accounting as an institution that comes into consideration at level three after the original position and the design of constitution and government.

If we start with accepting accounting as an institution which should be subjected to the two principles of justice, we are starting with certain propositions and assumptions laid out by Rawls. From Rawls, the difference principle imposes two institutional requirements: one is to organize the market and economy to make the worst off better off; the other is to maximize the poor’s position within this “most effective system” (Freeman, p.121). Rawls believes that a market system, as I have discussed earlier, would be “preferable to any non-market alternatives” (Freeman, p.121). Rawls would endorse a free market in economic relations and respect individuals’ freedom in deciding who they want to be and what career they want to pursue (Freeman, p.44). Principles of accounting institution then are expected to be

developed within the requirements of difference principle. This would call for principles to support and facilitate the allocation of the means of production efficiently and effectively.⁶⁶

Market alone cannot assure everyone having same access to information and opportunities. Rawls's difference principle in together with the principle of equal opportunities is arguing for fair equality of opportunity to correct social class differences (TJ, p.63 rev.). The principle of equal opportunities also implies at least two institutional requirements: "preventing excessive accumulations of property and wealth" and "maintaining opportunities of education for all" (TJ, p.63 rev.). Rawls assumes "a right to compete" which is not about to give a preferential treatment to the disadvantaged group. Rather, as I will come back in next chapter, he is arguing for a potential of bring everyone in equal status so that all can engage in construction and justification through a practice of equality (Laden, 2011). The underlying rationale is to assure that individuals are respected as equal citizen and whoever deprived of such equality are "debarred from experiencing the realization of self" (TJ, p.73 rev.). Accounting principles, made in line with this, are expected to take this respect into consideration.

If society is properly arranged in line with Rawls's principles of justice, then such a well-ordered society can provide a just background within which accounting principles can then developed on that basis. Yet, Flower does not "believe" that current basic structure of Britain or of the USA is capable of providing a background justice society so that firms could behave justly and fairly by following the laws⁶⁷ (Flower, p.68). It is not sufficient for firms to "restrict their actions to obeying the law", something more is needed, he insists. This brings out the second level of meaning behind the "site of accounting", that is, where justice should be located within accounting. Therefore, he borrows the criticism made by Cohen against Rawls's division of labour and extends the site of justice to individual (firms) actions. Flower views firms at the level of the individual, the level where actions take place. He sees that the principles that apply to basic structure seems do not have power to regulate the level of individual/firms. By extending the site of justice, the firms will not be left freely in pursuit of maximizing profit but will acknowledge the importance of taking account for the least

⁶⁶ In fact, Rawls argues for a well-ordered society "that tries to preserve competition and to remove market imperfections" (PL, p.365).

⁶⁷ "In these countries, the state has not intervened with sufficient force to assure distributive justice; it has made few laws of the obligations that the state imposes on firms relate to the justice of its activities" (Flower, p.68)

advantaged group. But on what basis does this care or acknowledge rely? Can it be Cohen's ethos of justice? What are the implications of removing division a labour?

First, Cohen's suggestion of extending the site of justice to the level of individual seems to assume that individuals would give up to be self-seeking and interests maximization but to be more responsible and more of "ethos". So, does Cohen's suggestion result in a non-market distributive mechanism? Cohen probably would agree that a market system may appear to be more effective and efficient than a non-market economy. Thus, what Cohen really proposes is that even in such competitive market economy, people will still have "ethos of justice" just like those in Swedish social democracy. People are not driven by self-interests but by the effects they may bring to the least advantaged. Freeman notes that it is maybe true that the worst off will be better off if the difference principle applies both to the institutions and to individuals. Thus the main critique Cohen has about Rawls is that Rawls does not impose any duty to individuals and their economic choices.

Following Cohen, Flower ends up with rejecting Rawls's division of labour and sides with Cohen's critique and argues for increasing moral obligations born by firms and accountants for their role in contributing to distributive justice. Flower agrees with the substance of difference principle and in fact, translates Rawls's second principle of justice into a call for attention to issues of distribution. Flower's classification of stakeholders, secondary stakeholders (including local community) are regarded as group who suffer from injustice and harm caused by the firm's activities. Flower challenges existing financial reporting lacking of information about aspects that related to justice, such as working conditions or safety of employees, and costs or harm that generated by the firm's activities (p.110-111). He sees no prospect in reforming financial statements to contemplate these demands. Flower sees that none of the GRI reports would help facilitate such assessment of justice.

Flower calls for a conceptual shift in making conceptual framework and standard setting in accounting. Flower argues that the FASB and IASB has based their conceptual frameworks and accounting standards on what he terms as the "wrong paradigm" (2010, p.11). In particular, he challenges the focus of accounting on the "production problem", that is, the problem of providing information and developing techniques that maximize production output and profit. He argues that the focus should be on the "distribution problem", on the achievement of distributive justice. He argues that rather than striving to increase the size of the cake, we should be refocusing our efforts, and financial reporting, to ensure that we are

“cutting the cake” fairly (2010, p.12). Flower agrees with some researchers who argues for a “crisis of overproduction” especially when there is a limit in resources (Bryer, 2006b).

To hold company accountable for its actions, Flower suggests that we should generate information that is “relevant to assessing justice” (Flower, p.87); that is, accounts that allow users to assess the justice of the firm’s activities “according to his (the user’s) chosen theory” (Flower, p.85). Apparently, information is regarded as, according to Flower, the main resource or means that empowers the disadvantaged group in making their claims against inequalities and injustice.

Flower also criticizes a lack of information about distributive aspect of market, accounts that relate to taxation or dividends. Flower seems to suggest that maybe in the future, it is possible to calculate “just shares of the different stakeholders” and thus accountants become “the dispenser of justice”. Accountants, in Flower’s expectation, seem to take an important role in deciding what, how and why some information are included or excluded from the presentation of financial statements. To act justly and fairly, Flower contends that this requires us to agree upon certain principles behind the “veil of ignorance”: the consensus of good accounting practice as “truth, objectivity, equal consideration for all stake holders, justice in exchanges, and prevention of harm” (Flower, p.176).

Flower admits that he is being “rather pessimistic” in the prospect of developing a report that would enable users, especially secondary stakeholders, to use in assessing whether the treatments or harm from the firm is just or not (Flower, p.111). This lack of information is still the case. Pelger (2016) observes that the Discussion Paper of a new CF advocated by IASB claims that “providing information for the specific purpose of helping to decide what constitutes excessive remuneration or unjust enrichment is not the purpose of financial reporting” (DP, BC 1.41, quoted by Pelger, 2016, p.60).

Second, is this extension plausible, in considering of human nature, or firm’s nature? It seems that Cohen, as well as Flower, has a misunderstanding of the division of labour. For Cohen, the division of labour is understood as: On one hand, justice rests on constructing a just basic structure and individual actions are left out of the scope of discussion; on the other hand, the institutions of the basic structure can be resilient and robust when individuals commit themselves to and act from the principles of justice. In Cohen’s view, the commitment and respect envisioned here is to the rules of the just institution. This does not push the individual to go beyond those rules to examine the justice of their actions within

the rules. This commitment, from Cohen's understanding, is unable to require the executive to ask whether it would be just for her to take the bonus without thinking of the effect the least advantaged group.

Rawls's primary concentration is on the basic structure but this does not mean that he neglects the role of the individual. He argues that in a just system individuals will develop a growing commitment to the principles of justice embedded in its basic structure and will respect those principles as they are reflected in the rules of the just institutions. This commitment and respect will be expressed in individual behaviours and will be the basis for the stability and resilience of the whole basic structure. A basic structure that cannot win the commitment of the people in their spirit and behaviour is in fact deficient in its justice, in Rawls's view.

Rawls sustains the division of labour by arguing individuals will develop a sense of justice. This sense of justice means that someone will act from the principles of justice and comply and respect the laws and rules that are generated in line with the principles. For Cohen, however, he thinks that the sense of justice should be informed by the "ethos of justice", which is not only about complying and respecting laws and institutions but also about applying to their daily life and to their choices that may have impacts over the poor. In other words, the executive who is rewarded by big bonus would see the bonus not as a reward for his excellent management but would contribute to make the poorer better, for instance, donate them. This reflects that for Cohen, a sense of justice would require one to take account of the poor in individual economic decisions.

Freeman sees that Rawls could response from two aspects. First, Rawls's reliance on market does not mean that he is supporting a capitalist view of distributive justice. What he assumes is "that in a well-ordered society of justice as fairness, where the principles of justice are effective and all are motivated by their sense of justice to comply, there will not be 'high-flying' 'buccaneer' capitalists who seek to exploit people or to game the system so that it maximally benefits people with acquisitive attitudes" (Freeman, p.122).

Secondly, an individual with a sense of justice will have a desire to act upon a "natural duty" of justice, mutual respect, mutual aid, and so on and the principle of fairness. For someone who has developed and endorsed a natural duty of justice, she would prefer economic decisions that ultimately would contribute to make the least advantaged better. The duty of mutual respect means that she will "take into account the consequences of their actions on

other's well-being" (PL, 49n), such that she will not make use of other's disadvantage or misfortune. One who has a sense of justice will see that "mutual respect is shown...in our willingness to see the situation of others from their point of view...and in our being prepared to give reasons for our actions whenever the interests of others are materially affected" (TJ, p.297). These are reasons that one can reasonable accept. It implies considerations for taking account of others, and taking account for our actions by being prepared for providing justifications. This suggests a similar kind of "ethos of justice" that will be developed and shared by all just persons of a well-ordered society.

Cohen may "underestimates the depth of commitment that comes with sincerely accepting principles of justice, even if these principles are institutional in Rawls's sense" (Hodgson, 2017, p.11). But this is not the same "ethos" that Cohen has in mind. Someone whose sense of justice is informed by Rawls ethos will still make decisions that maximize his or her self-interests for economic concerns; she may not always act for "reasons of benevolence" or always avoiding decisions that may disadvantage the least advantaged (Freeman, p.123). How is it possible to presume that we will all be motivated to act in advocating and helping the poor when we are so different in our religious, philosophical and moral doctrines? How is it possible for someone who is thinking about negotiating her salary with her manager to have the poor in mind and to donate the increased portion to help out unemployed and homeless people? Similarly, from a corporate's perspective, it demands a strong justification for sacrificing their profit for something more responsible, or with more ethos. What is the source for such claim?

To put it differently, this "ethos", Cohen views it, for example, will remind me whenever I make any economic decisions and ask me to prioritize it before my individual interests and preferences. For Rawls, this seems redundant in a well-ordered society of which institutions and laws are already arranged in line with the two principles of justice, which are designed to insure everyone with equal political liberties and fair share of full adequate means to realize and exercise those rights and liberties. "What could be the point of requiring everyone in society, not just in their political choices, but also in their daily economic decisions to take into account the effects of their choices on the least advantaged, when the least advantaged are already sufficiently provided for, and when there are so many other worthy aims and activities to pursue in life?" (Freeman, p.124). Cohen's demand imposes overly duties and obligations to individuals to prioritize the concerns of the least advantaged, which undermine one's freedom in choosing his or her ends. "Why should a person always be concerned with

the least advantaged in economic transactions, such as salary negotiations with an employer” (Freeman, p.124). I agree with Freeman that Cohen is putting too much burden onto individuals. The same applies to Flower’s extension of site of justice to individual firms.

In addition, by taking site of justification down to the level of individuals, it gives rise a plurality of justification, which is exactly the division of labour attempting to eliminate. If every firm and every accountant can decide for oneself whether or not they want to follow the requirement of accounting principles, how do we know their decision is reasonable? How do we know that we are not taking advantage of this and making decision in favour of our self-interests?

Recall that in section 1.4.1, I discussed about two principles for individuals, one of which is the obligation of fairness. In fact, Rawls sees this obligation, in particular, applying to “those who assume public office, say, or those who, being better situated, have advanced their aims within the system” (TJ, p.100 rev.). Our role as accountant elevates us from being ordinary citizens at stage four to public officials who are designing basic principles of institution of accounting at stage three. It becomes more urgent that we are justifying our actions and decision by appealing to something that is commonly shared or agreed and accepted rather than personal interests, which will not be accepted as legitimate and valid justifications.

As I will show in the following section as well as next chapter, it is necessary for us to ground the justification on something that is universal, public available and acceptable, that is, public reasons, or other deep moral foundation. Thus, the essence of Cohen’s critique is a matter of justification. How should individual accountant justify her decisions and actions? How should individual company justify its policy and business activities? How they manage to command a sincere compliance and respect from each individual, if we are keeping the division of labour? What is the source of Rawls’s natural duty of justice? How is it possible to sustain a society well-ordered by two principles of justice from generation to generation? This leads us to the final section of this chapter, the stability for a theory of justice and principles of justice as fairness.

1.5 The Stability argument for principles

1.5.1 The stability argument- coherence between the right and the good

The practicality of *A Theory of Justice* is not restrained to the contextualization of those concepts and methodological device in the form of accounting. For Rawls, *A Theory of Justice* is not just a theory that offers some idealized thoughts proposed by a theorist about a society, but also it has a “practical task” of generating public agreement so that it can go beyond the desk of philosopher and step into the reality (CP, p.305). We have explained “how” Rawls justify his principles of justice to the parties in the original position and how the justification is deliberated through the application of principles to the basic structure of society. In this section, I will look at the ground for Rawls’s justification.

Assuming that reflective equilibrium has worked back and forth to bring the principles of justice into equilibrium with our considered moral judgements. A question remains as to how a reflective equilibrium can be effective at the individual level. In other words, how these expressions of a publicly shared view about justice can be part of, or play a role, in the individual’s motivations and desires. I will explain it from two aspects. First, why should individuals care about justice? Second, why should they care about it so much that they will bend their own ends, their conceptions of the good, to satisfy the requirement of justice?

To answer the first question, we need to recall what Rawls contends as a sense of justice. In a well-ordered society, governed by principles of justice as fairness, people will develop “a sense of justice”, a regulative disposition and desire to apply and act upon principles agreed in the original position (TJ, p.275 rev. and 418 rev.). The sense of justice requires individuals to give priority to the principles of right and justice in one’s actions (TJ, p.503 rev.).

Rawls contends that its emergence is founded on a deep human inclination towards reciprocity “a tendency to answer in kind” (TJ, p.433 rev.). It is a type of reciprocity that “leads us to promote just schemes and to do our share in them when we believe that others, or sufficiently many of them, will do theirs” (TJ, p.236 rev.). If I believe that others will act justly, then my sense of justice will incline me to do my part. Rawls’s idea is that as people grow up in a well-ordered society, which is arranged in respect to justice as fairness, they will come to develop a sense of justice and an inner drive to act justly. It is not attached to a

specific person or a result of sympathy: “it is an independent acceptance of and attachment to public moral principles of justice” (Freeman, p.258).

For example, the owner of a business could aim for profit maximization for his business; but he will pursue this objective without exploiting other people’s interests or infringing other people’s rights. He should approach in a fair and just way. Then in a well-ordered society organized by justice as fairness, Rawls expects that members of this society would have an effective sense of justice. As all members would agree upon justice as fairness and the principles of justice to regulate their social cooperation, the question to be solved is whether people would act according to these principles given their sense of justice.

Even if everyone has an effective sense of justice we are still face two potential threats to a stable well-ordered society. One threat is that individuals may lack confidence in that others will act justly and this may reduce their own willingness to do so. Individuals may be concerned that if they were to act from their sense of justice consistently, others may not act with reciprocal and equal requirements of justice. Rawls argues that in a well ordered society, based on the principles of justice and fairness, corrosive envy and anxieties of the kind just described would be avoided or to some extent mitigated by, for example, the fact that it would be publicly appreciated that any inequalities if any were to the benefit of all.

The second threat is that even if he or she knows that everyone else will act their part justly, an individual may be tempted to behave unjustly. Having a sense of justice may not, in itself, be sufficient to ensure that the claims of justice exercise a real regulative force in an individual’s life and on his or her life plans, especially in the case where the individual’s own desire or conception of the good is in conflict with the requirements of social justice. This is possible even after we have implemented principles and designed our institutions to be “collectively rational and to everyone’s advantage from a suitably general perspective” (TJ, p.497 rev.). It is not enough for someone to have a desire to act upon social justice. To act on and from the requirements of justice, such as two principles of justice as fairness, would demand us to override any desires or goals that may destroy a well-ordered society in the light of principles of justice. This is also why Cohen has a concern about the way in which difference principle is deliberated. From a self-interested point of view, it may seem to an individual that, for example, when everyone else is complying with the law and paying their taxes, he or she may be better off if they cheat and evade paying their due. Such temptations to defect from the requirements of justice, Rawls contends, are “hazards of the

generalized prisoner's dilemma" (TJ, p.505 rev.). Rawls argues that such temptations are avoided when we have a congruence of the good and the right, when the good of all individual includes acting with justice and contributing to the production of a stable well-ordered society; they "are removed by the match between the right and the good" (TJ, p.505 rev.).

Thus, for the second question, it is a problem about whether the conception of justice as fairness can sit comfortably with the individuals' conceptions of the good, that is, whether the theory of social justice and the theory of the good can be congruent with one another. This "congruence of the right and the good" reflects Rawls indebtedness to Kant in justifying his position. The stability issue, understood in terms of congruence, becomes a question of how rational people pursuing their own good can be motivated to affirm and support the conception of justice as fairness and institutions developed on the bases of it. He tries to show that justice as fairness has the force of reason at the level of the individual, and specifically that it is rational for the individual to take respect for justice into their conceptions of the good, so that the pursuit of their own good and of justice become congruent.

Rawls argues for a thin theory of the good, "goodness as rationality". Rawls defines the good in terms of what is rational for a person to want under certain deliberative conditions. Rawls recognizes that there is a plurality of ideas concerning the good: Different people appreciate different values, develop different life plans, and engage in different activities to approach their ends. In developing his thin theory of the good Rawls looks not to the differences but rather to what is shared, and what he sees as the shared element running through different life plans, carrying conceptions of the good, is rationality, reflected in the value of internal coherence, and robustness in the face of critical reflection, of life plans⁶⁸. A "plan of life" constitutes part of one's good. It refers to objectives and values that one would like to pursue over her lifetime. It is always good for an individual to ground his or her particular conception of good in "the most rational plan of life" (TJ, p. 347 rev.).

⁶⁸ Just like in Gaa's analysis, a manager would certainly want to maximize own managerial earnings whilst a shareholder would prefer a higher share price or a higher dividend. In pursuit of their own interests or ends, they may adopt different activities or means. That commonality among their different conceptions of the good, and that is dismissed by Gaa, according to Rawls, is rationality.

The most rational plan of life would be one made under conditions of “deliberative rationality”, which are hypothetical conditions where individual would have full knowledge about the consequences of her choice and then make the choice correspondingly. Such an account of plan of life, which one selects in deliberative rationality, makes part of one’s good. At this point, Rawls avoids the particularity of human’s good and transforms the question of coherence between the right and one’s good, to the coherence between the requirement of justice and one’s plan of life under the condition of deliberative rationality. This account of plan of life forms the basis for a thin theory of the good, which is presupposed as human nature in the original position.

On the one hand, we have original position as an ideal basis for judgements of justice; on the other hand, deliberative rationality is an ideal basis for judgement of one’s good. In the original position, we are prevented from knowing any particular information about ourselves and make decisions upon principles of justice. In deliberative rationality, all this information become available for one to make a judgement of one’s plan of life. Thus, in the original position, agreement are reached collectively whilst in deliberative rationality, decisions are individualized and personal: “the parties are described as rational in that they reason according to the principles of rational choice and deliberative rationality, have a rational plan of life, and desire an adequate share of the primary social goods as all-purpose means for promoting their plan of life” (Freeman, 2007, p.302).

In other words, it is a question about whether it would be a rational choice, from the perspective of deliberative rationality, for someone to choose and affirm the judgements of justice that generate in the original position. If yes, then the judgements of justice would be compatible with one’s rational choice of her plan of life and thereby forms a part of one’s own good. Thus, if we say that a sense of justice will arise in a well-ordered society governed by justice as fairness, to complete the argument, we also need to show whether the thin theory of goodness as rationality, in such a society, will support peoples’ commitment to this sense of justice.

Following a Kantian interpretation of his theory of justice as fairness, Rawls argues that human beings as moral agents, qua noumenal selves, have an innate desire to realize their nature as free and equal rational beings. Rational persons of a well-ordered society are “primarily moral persons” (TJ, p.493 rev.). For Kant, we realize our true nature when we express it by acting autonomously from the moral law we give ourselves, rather than

allowing our actions to be determined by heteronomous contingencies. Rawls takes the same line and argues that the person who desires to realize his or her true self “will choose to act from principles that manifest his nature as a free and equal rational being” (TJ, p.224 rev.). To act from principles of justice implies a sense of justice. To put it simply, for individuals to achieve their desire to realize their nature as free and equal rational beings would demand them to act in according with their sense of justice (TJ, p.503 rev.).

Rawls argues that it is rational for us to embrace a system of cooperation regulated by two principles of justice. It is in living together by the principles that we would give ourselves in the original position that we can individually and collectively express our autonomy, our nature “as free and equal moral persons” (TJ, p.462 rev.). This nature of free and equal rational beings is considered as “moral personality” which is defined by two moral powers, the capacity to the right and to the good, the sense of justice and the conception of the good.

Under Kantian interpretation, this moral personality will constitute the “fundamental aspect of the self” (TJ, p.493 rev.). Rawls think that people are autonomous if they are acting from principles that they choose for themselves and the principles express their nature of being free and equal rational being (TJ, p.511 rev.). Autonomy is crucial for self-good for that “this sentiment (of justice) reveals what the person is, and to compromise it is not to achieve for the self free reign but to give way to the contingencies and accidents of the worlds” (TJ, p.503 rev.). To be autonomous has nothing to do with our particularity or specific ends or interests (TJ, p.452 rev.). It “expresses our freedom from contingency and happenstance” (TJ, p.503 rev.). When the principles of justice are “affirmed and acted upon by equal citizens in society, citizens then act with fully autonomy” (PL, p.306).

It is in these conditions of autonomy rationality, in a well-ordered a society, that individuals are best able to achieve their own conception of the good, express their natures and realize their innate capacities⁶⁹ and life plans. Individuals will take account of this fact in developing their rational life plans and in pursuing the good, they will affirm the right. By affirming such a system, in our own life plans and actions, we are able to realize, individually and collectively, our autonomous nature as moral beings, which Rawls sees as the “fundamental human good” (TJ, p.390 rev.). In other words, we are able to express our autonomy, in the

⁶⁹ The good of mutual cooperation also refers to the Aristotelian principle that “other things equal, humans enjoy the exercise of their realized capacities (their innate or trained abilities) and this enjoyment increases the more the capacity is realized, or the greater its complexity” (TJ, p.374 rev.).

Kantian sense of choosing to live by principles we have given ourselves: “When all strive to comply with these principles and each succeeds, then individually and collectively their nature as moral persons is most fully realized, and with it their individual and collective good” (TJ, p.462 – 463, rev.).

Thus, for Rawls, we express our freedom when we act in accordance with the principles of justice identified in the original position: “men exhibit their freedom, their independence from the contingencies of nature and society, by acting in ways they would acknowledge in the original position” (TJ, p.225 rev.). Rawls objects to the view that people are motivated by “the desire to do what is right and just simply because it is right and just, no other description being appropriate” (TJ, p.418 rev.). Instead, there is an appropriate description for this desire, that is, the desire to act on principles that are a result of rational choice in the original position (TJ, p.275 rev.). It is a desire “to live with others on terms that everyone would recognize as fair from a perspective that all would accept as reasonable” (TJ, p.418 rev.).

When we do accept justice as part of our good, then why should it supersede than other values and interests? There is something unique and special about a sense of justice that render its regulative priority over other desires:

“This is a consequence of the condition of finality: since these principles are regulative, the desire to act upon them is satisfied only to the extent that it is likewise regulative with respect to other desires...This sentiment cannot be fulfilled if it is compromised and balanced against other ends as but one desire among the rest. It is a desire to conduct oneself in a certain way above all else, a striving that contains within itself its own priority. Other aims can be achieved by a plan that allows a place for each, since their satisfactory is possible independent of their place in the ordering. But this is not the case with the sense of right and justice” (TJ, p.503 rev.).

From this quote, we could infer that to act upon and from the requirements of justice is an independent desire for individuals and stands in an absolute prevailing status in related to other desires. This is the requirement of finality condition. The fulfilment of a sense of justice cannot be compromised for other desires. It is a desire that all our other desires and ends are pursued within the requirement of justice. If we do not do so, then we cannot “express our nature by following a plan that views the sense of justice as but one desire to weighed of against others” (TJ, p.503 rev.). “Therefore in order to realize our nature we have no

alternative but to plan to preserve our sense of justice as governing our other aims” (TJ, p.503 rev.).

1.5.2 An accounting illustration of Rawls’s Theory of Justice

Recall that the problem of intuitionism lies in its incapability of settling the conflicts among different intuitions. It is Rawls’s desire for a constructive and principled reply to address this problem of intuitionism, in a different manner from utilitarianism. In compared with utilitarianism, Rawls envisages his theory offers a deontological perspective to individual’s basic liberty and equality, which are guaranteed unconditionally. With a Kantian constructivism, Rawls manages to claim that individual act upon and from principles of justice in a rational desire to express one’s nature of being free and equal moral person.

People enter into an agreement voluntarily in the original position, agreeing that their life and conducts will be regulated by the principles generated out of their agreement. Implicit in this agreement reached in the original position is that the principles of justice and the social cooperation they give rise should be stable. This is an important reason for us to revisit Rawls and explore his theory in the time of crisis. For example, the financial crisis of 2007-2008, which is also known as global financial crisis or sub-prime crisis, has been described by many accounting scholars as “shocking” and “eye-opener” (Richard, 2015, p.34, see also Cooper 2015, Sikka, 2015, Arnold, 2009). In the context filled with uncertainty, some researches have explored the implication of accounting techniques and audit practices during financial crisis (Arnold, 2009; Cooper, 2015; Neu, 2000; Sikka, 2009). Accounting standards, some contend, are considered as complicit in this financial crisis for that the development and proliferation of financial instruments is accompanied with accounting assistance (Arnold, 2009, Cooper 2015; Power, 2010; Krumwiede, 2008; Laux and Leuz, 2009).

The outbreak of financial crisis has raised significant concerns in areas of financial accounting, auditing, management accounting and accounting regulation and standard-setting body (Pinnuck, 2012; Arnold, 2009; Gup and Lutton, 2009; Hatherly, 2013; Magnan and Markarian, 2011; Sikka, 2009; Whittle et al., 2014; Richard, 2015). It has been both a challenge as well as an opportunity for a reassessment of accounting practice and accounting research (Hopwood, 2009). Some sees that “there will be another crisis” with certainty (Cooper, 2015, p.80).

The question of stability becomes important for our thinking about accounting principles. Drawing upon Rawls, a stable society or institution should be able to adjust and maintain its allegiance to the principles of justice, in the time of disruptions. In other words, even in the time of crisis, the society or institution would be back to function given our sense of justice and our allegiance to the principles of justice. The idea is that when we make the choice of principles of justice, we would think about whether they will be achievable and sustainable when the veil of ignorance lift and everyone are subjected to the principles in real life. Whether a society with such a conception will be endorsed by every member of the society and whether it can restore to a just status from disruptions are examples of questions that the parties would take into consideration.

The stability requirement is necessary for setting up an institution. It calls for a test of whether the proposed principles for the basic structure (or for an institution) are compatible with human nature; whether they are compatible with our moral psychology so that we can be motivated to act justly; whether they can cope with the general fact of social and economic institutions; and whether they are able to help realize individual's good (Freeman, 2007, p.164). If the requirements of the principles of justice are beyond our capacities, then it is unlikely that we can hold up to the principles in the long-run.

Just as people generally have various conceptions of the good and different life plans, they have different interests and objectives to be promoted in the realm of accounting. They have different views about what "good" accounting is. How is it possible for us to work out well justified rules and principles for accounting in the face of conflicts between competing interests and how can these rules and principles claim un-coerced allegiance from accountants?

I want to start with a seminal idea of accounting and CF advocated by Solomons (1983, 1991a) in the 80s and 90s, which is around the same time when Rawls's theory is spread and becomes widely debated. Although Solomons does not cast his approach to a CF for financial reporting in an explicitly philosophical light, it is useful for us to read it in terms of Rawls's approach as set out in *A Theory of Justice*.

David Solomons was an important figure in the history of accounting regulation and the development of a conceptual framework for financial reporting. He was influential both as a member of various committees and study groups such as, the AICPA Study Group on the Establishment of Accounting Principles (see AICPA, 1972), which had a seminal influence

on accounting standard setting, and as a highly respected academic whose thought, regarding for example the political nature of accounting and accounting standard setting, won respect and attention from both the professional standard setting and the research communities. He was instrumental in drafting Statement of Financial Accounting Concepts No. 2 (SFAC 2), *Qualitative Characteristics of Accounting Information* (1980), for the FASB. This statement, in which Solomons introduced the term “representational faithfulness”, was admired and influential and exerted considerable influence on subsequent conceptual framework projects including the IASB’s. For details see Stephen Zeff’s (1999) appreciation of Solomons’ life and contribution to accounting. Perhaps because of the rhetorical flair in some of his writing, including his powerful use of metaphor in promoting his vision of the possibility of representationally faithful accounting, one particular reading of Solomons’ work as a naïve metaphysical realist, realism about accounting, and as defender of the status quo, has been more or less standardized. I suggest an alternative reading of Solomons as what following Charles Taylor we might best think of as a proponent of an “ordinary everyday inescapable realism” (Taylor, 2003, p. 177), as well as a constructivist when it comes to think about the development of legitimate principles of financial reporting.

Despite the wide acceptance of the standard reading of Solomons, explicit attempts to justify or hold it up for critical examination have been rare and weak. A failure to challenge the standard reading, I suggest can lead to a too quick dismissal of interesting and valuable parts in Solomons’ work, and lose us the opportunity to learn from such a prominent and important figure in the development of accounting. In this section, I attempt to sketch the key points discussed in the standard reading of Solomons’ work. I will then offer an alternative reading of Solomons’ work. In doing so, I will make an analogy with standard and alternative readings of Rawls’s work, and in particular of *A Theory of Justice*, which has also been subject to a stifling standardization of reading. I find inspiration of Laden’s (2003) exposition of what he calls the “standard blueprint” and an “alternative” reading of Rawls.⁷⁰

In my, alternative, reading of Solomons’ work, we can find a project for making of accounting principles, bearing distinct traces of the guidance provided by John Rawls for the construction of principles of justice and just institutions generally. Insofar as I can establish Solomons makes no direct reference to Rawls’s ideas. I venture, however, to suggest that it

⁷⁰ Whilst I am tempted to call the standard readings, of Solomons and Rawls, mis-readings, with Laden, I refrain from doing so in acknowledgement of the fact that Solomons and Rawls in their own expression of their ideas do much to make the standard reading possible even plausible.

should come as no surprise that an academic and regulator deeply interested in the legitimization of accounting as an institution in a context of a plurality of interests and increasing pressure for its politicization, should attend to John Rawls. At the time of Solomons' writing, Rawls's work had, of course, recently made an enormous impact on political philosophy generally and on thinking about the legitimacy of institutions particularly. I suggest that it is by no mere coincidence that we can find in Solomons' arguments, concerning the institutionalization of standard setting, something resembling an experiment in the application Rawls's thought to the site of accounting. Lastly, I will argue that Solomons' work appears to be more systematic and complete than the efforts made by Power's, Gaa's or Flower, to apply Rawls thought to accounting.

The standard reading of Solomons is given high profile, and widely influential, expressing in Tinker's (1991) critical reading of Solomons. The standard reading includes four key points/criticisms. First, that in terms of ontology Solomons is a realist, and more specifically that he "believes that economic reality exists, independent of our apprehension of it, and that this is the ultimate touchstone of truthfulness and accuracy for accounting symbols" (Tinker, 1991, p. 297). Second, that in terms of epistemology Solomons is a representationalist. This is reflected in quote immediately above, and no doubt is encouraged by Solomons' insistence on the importance of accounting being representationally faithful to "the underlying economic phenomena" (Solomons, 1989, p.32), and then strengthened by his usage of metaphors to explain his view of the role of accountants as mapmaker, speedometer, or journalist etc. Third, Solomons is regarded as oblivious to the political nature of accounting, so that he is criticized for being "difference-blind" to the "value judgements underpinning accounting technologies" (Brown, 2009, p.316). Solomons is criticized for accepting "pre-given" values and assumptions yet focusing on the provision and supply of capital, discouraging alternative thinking and squeezing out disagreements (Brown, 2009, p. 316). Fourth, his proposal of conceptual framework is regarded as legitimating the power of professionals and privileging expertise over the public. My attempt here is not to be exhaustive but to provide a general sketch that captures the general reading and critique researchers have over Solomons' work, and thus to make it possible to see how the alternative reading departs from it.

I want to contextualize what follows, by attempting to locate Solomons' work philosophically in terms of ontology and epistemology. Whilst I see little evidence that Solomons is interested in presenting any explicit philosophical thesis in his work, and certainly no evidence of an advocacy of metaphysical realism, it seems to me that the

position implicit in his work fits well with the “unproblematic realism” (2003, p. 168) that Charles Taylor defends. I will begin by briefly explaining that position and its fit with Solomons’ perspective. For brevity and clarity I will draw on just Taylor 2003. I recommend that readers interested in Taylor’s defence of his position, and the surrounding philosophical debates, should consult Taylor (2003) and/or Dreyfus and Taylor (2015).

The representationalist vision essentially consists in the idea that our grasp of the world consists entirely of representations. What this view tends to dismiss is the “background” of inarticulate coping and understanding on which our representations rely. It overlooks the way in which our ability to make representations at all, and we do of course make representations, depends on our various capacities to get around in and cope, physically and socially, with our world. These capacities are not in themselves representations: “they are rather what allows the representations we do form, the sentences we do articulate, the words and images we exchange to make the sense that they do” (Taylor, 2003, p. 159). Once we appreciate that all our explicit thinking and belief are embedded in a background of more or less inarticulate coping and understandings, it follows that our grasp of the world cannot simply be thought of in terms of the sum of our representations, and that the Cartesian dream of building a reliable picture of the world, out there, in terms of representations and on the foundation of some particular and especially secure representations is illusory: We need to give up the representational, or mediational, understanding of “our grasp of the world as something that is in principle separable from what it is a grasp of” (Taylor, 2003, p. 162). We must understand our grasp of the world as holistic, and appreciate that the representations we can form are constrained by, and embedded in, the copings and preunderstandings of our “background” which themselves reflect the relevance of things for us: “Living with things involves a certain kind of understanding (which we might also call “preunderstanding”). That is, things figure for us in their meaning or relevance for our purposes, desires, activities” (Taylor, 2003, p. 163).

Foundationalism was, of course, developed as a response to the challenge of scepticism. The hope was to persuade that a true picture of the world can be founded and built up on the basis of particular pieces of knowledge that we can be quite sure of. Recognition of the importance of the background as a whole to the articulation of any particular representation means that we must think of particular representations as only being possible in context of a whole picture of our emerging engagement with the world. This recognition, however, clearly undermines the fundamentalist response to scepticism. One possible reaction to the failure of foundationalism is to make room for the fear that somehow we cannot get beyond our

representations, and test them against reality, for many it opens the way to the fear that our representations might be “out of touch with reality” (Taylor, pp. 168-169). Taylor argues convincingly that once we get beyond our attachment to the representational picture, and think in terms of our knowing as embedded in our engagement with the world, it becomes obvious that this response is really quite misguided:

“Of course, we check our claims against reality. “Johnny, go into the room and tell me whether the picture is crooked.” Johnny does as he is told. He doesn’t check the (problematized) belief that the picture is crooked against his own belief. He emerges from the room with a view of the matter, but checking isn’t comparing the problematized belief with his view of the matter; checking is forming a belief about the matter, in this case by going and looking.” (Taylor, 2003, p. 170)

This example reminds us that in many contexts “we can make perfectly good sense of checking our beliefs against the facts” (p. 171). I suggest that Solomons holds the kind of “unproblematic realism” that Taylor (p. 168) recommends, and that it is indeed reasonable to believe that in the context of accounting we can make good sense of checking statements against the facts. The audit industry relies on this, generally unspoken background understanding, and concentrates its attention on the problem of how best to carry out the checking.

The truth of statements within our linguistic, or representational schemes, clearly depends on the scheme, on the meaning of the statement, and on the state of the world. On the one hand the statement that an entity’s has an asset of 10,000 gallons of oil in a tank will be true or false at a particular time depending on the state of the world. If tomorrow 4,000 gallons are removed from the tank the statement that there are 10000 gallons in the tank would no longer be true.⁷¹ On the other hand the truth of the statement depends on the scheme being employed and the meaning of the terms. If we change the meaning of the term “asset” such that the oil no longer meets the definition, then a statement that was true before we changed the scheme may be false after the change. Clearly scientists, and accountants like Solomons, can and do, in their different spheres, compare and attempt to improve on, our schemes “in terms of their ability to cope with, allow us to know, describe, come to understand reality”

⁷¹ Here we are assuming relative stability of the conceptual scheme being applied in terms categories and the meaning of terms and so on. We would not want to deny the value of the insights provided by poststructuralist thinkers, and we recognise that deconstructive strategies may be used to help overcome stability and facilitate change.

(Taylor, 2003, p. 174). As I see it, this is central to Solomons' efforts to construct a better, more adequate, conceptual framework for financial reporting.

The reality that scientists deal with tends to be relatively independent of our descriptions of it, and while we may have no way of grasping reality other than through our schemes of understanding framed against our background coping, some schemes may clearly enable a "better"⁷² grasp of that reality than others: "There are very important features of the way things work in our galaxy that you can't get a handle on unless you can distinguish stars from the planets (in our sense) that orbit around them. A way of talking that puts the sun and Mars in the same category is going to be incapable of dealing with these distinctions. So it has to be replaced" (Taylor, 2003, p. 173).⁷³

There are other spheres, in particular those dealing with human behaviour and self-understandings, wherein the relation between scheme, description and reality is somewhat complicated. For example, when a person comes to recognise a change in their emotional relations, it is not a simple matter of identifying a change in an independent reality, here we have a situation where a change of description, for example describing oneself as being in love, "also alters what is being described" (Taylor, 2003, p. 175). In such contexts, things may be complicated, but that does not mean that it is impossible for us to rank schemes in terms of the descriptions they facilitate. Furthermore, our schemes need to deal not only with independent realities, but with questions of human value, interest, and different "takes... on nature and the human condition" (Taylor, 2003, p. 174). We can compare, criticize and improve our schemes in relation to these matters too. Rawls undertakes such a programme at the fundamental level of the basic structure of society. Solomons' project is narrower and he takes his task as an accountant, as distinct from his position as a citizen within a democracy, to be the improvement of the conceptual scheme for financial reporting within the existing broader basic structure of society. Solomons of course recognizes that accounting is "enactive" (1991b, p. 312), that accounting description has social effects and consequences, in describing it changes what it describes. He appreciates, however, that this

⁷² It makes sense to rank schemes when they attempt to deal with the same thing, for example alternative schemes for understanding the cause of disease.

⁷³ Readers who are interested in how Taylor deals with the challenge to the very idea of "scheme and content" should refer directly to his work, including the 2003 paper I have been using in this section.

complicating fact is not reason to stop trying to improve our conceptual schemes for financial reporting – far from it.

The first element of the standard reading is that Solomons is a naïve realist, who holds that economic reality is independent of our grasp of it. It seems really quite clear, however, that Solomons does not believe, as Tinker and a standard reading of his work suggest, that economic reality exists independently of our apprehensions of it.⁷⁴ He recognizes that our grasp of economic reality through accounting is “enactive”. The “economic consequences” of accounting are a primary concern for Solomons and other accounting theorists of his generation (see for example Zeff, 1978). In fact, he sees fears and uncertainty concerning the “magnitude and direction of the economic consequences” (1991a, p. 292) associated with a proposed accounting change, with its enactive power, as one of the primary factors, promoting reactionary responses from groups king to defend their interests, as one of the main threats to good accounting and impediments to desirable change in the accounting scheme.

Solomons, never explicitly, in so far as I can establish, spells out his ontological position. Nevertheless, the image of Solomons as naïve metaphysical realist, constructed by his critics, continues to have an impact on the reception of his work. It promotes the assumption that Solomons assumes an independent economic reality and argues for accounting as a “passive representation of reality” (Tinker, 1985, p.28). Even in his response to this aspect of Tinker’s critique, Solomons says nothing about realism, and concentrates on the issue of representation, assuming I suggest an unproblematic realism, but not the philosophical position, of metaphysical realism, that Tinker imposes to him. In relation to representations and the accounting schemes employed, I find that Solomons maintains a constructive perspective on accounting principles and regulations. He sees this as “a constant state of construction” and that we “never shall see a finished product” (Solomons, 1983, p.111). There is no suggestion that an independent reality does or should impose a particular scheme on accounting.

For Solomons accounting principles are results of human construction. That construction does not, of course, go “all the way down”. Solomons seeks to show how an improved accounting scheme might be constructed, but the foundations of the construction are not

⁷⁴ The idea that anyone, let alone someone as plainly reasonable as Solomons, believes this, stretches the imagination. The idea seems little more than a caricature.

themselves constructed. Instead he works on the basis of a background of semi and utterly inarticulate understanding, and some explicit understandings which he refrains from putting into question. The latter consist of understandings of the features of our social system which he considers as framing or background for the work of those tasked with shaping an accounting scheme for society. He believes that it is a task for citizens generally and not accountants, as such, to criticize and change society. He therefore accepts as frame, for example, the existing capitalist society, and the institutions of property ownership and market. These assumptions, for Solomons, are taken as requiring little explicit consideration; they are quite reasonably treated as the basic background facts from which, as accountants, we can work to design an accounting that better serves the society we have, accounting that is able to better “facilitate” productive social and economic activities (Solomons, 1991a, p.287).

Similarly, for Rawls, there are some things taken as the unquestioned starting point, background, and ground for construction:⁷⁵ that is, the idea of liberal democracy, as we will see more frequently in next chapter. For Rawls, this is not something to be argued about with those who do not believe in liberal constitutional democracy. Dreben notes that “you do not argue in political philosophy over the benefits of constitutional liberal democracy; what you try to do is see what that concept leads to, what it entails, what it demand. As he (Rawls) says again and again, you start with the implicit notions and work them out...You do not argue for it. You do not ground it. You see what it leads to” (Dreben, 2003, p.323). Neither Rawls nor Solomons is offering a conception of “what is real” nor about “how it is so” (Weber, 2010, p.38), what they provide are alternative schemes which we can brought into contact with reality.⁷⁶

From the first point of standard reading, it is natural for someone to infer the second point that Solomons is a representationalist. After all, Solomons not only uses analogies about cartography, speedometers and journalism to express his view of the role of accountant but also argues for neutrality as the key value for both accountants and accounting standard setters. Although Solomons acknowledges the fact that information could be biased by accountant’s decision and that standards could be affected by political interference and

⁷⁵ For Rawls the constructive, whilst for Solomons, operating in a different context and level, the scheme to be constructed is a mix of normative and descriptive, both schemes are intended to be enacted in that both are expected to change things.

⁷⁶ As we have seen both are aiming for a certain objectivity though the method of construction.

powerful politician or government, Solomons maintains the importance of neutrality to standard setters and the significance of faithful representative as crucial value for practitioners.

Solomons analogizes the practice of financial reporting as “financial cartography” (Solomons, 1978, p.70). Solomons contends that a map is judged by “how well it represents the facts” not by the reactions to it (Solomons, 1978, p.71). It is the job of accountants to “make the best maps” whilst it is for others “to use those maps to steer the economy in the right direction” (Solomons, 1978, p.72). Maps are of course descriptive schemes very often carrying implicit normative values, maps have consequences and affect behaviour, they are enactive and the descriptions potentially affect what is described. Nevertheless, I would argue with Taylor that we do not have to be representationalist to think that we can test our maps against the facts, and that some maps may be better than others given our interests and concerns. It seems to me that perhaps the emphasis that Solomons puts on the idea that we shouldn’t judge a map by its consequences encourage some misunderstanding of his position. A map is only useful if it helps us get around, if it helps us cope with our environment: A “map becomes useless, indeed ceases to be a map in any meaningful sense for me, unless I can use it to help me get around” (Taylor, 2003, p. 166). Solomons’ idea seems to be that a map can only help us get around, and be useful, if it accurately represents what we understand it to be representing. More particularly the discussion of the map-making analogy occurs in the course of a discussion of the dangers of politicization of accounting, and under the fear that if the map, accounting in this analogy, is manipulated for political purposes, its credibility and usefulness will be lost. Furthermore if a map as a descriptive scheme is deliberately distorted so that it does not accurately reflect what it purports to map, it is in effect no longer a map, it is no longer useful for getting around. It may retain a usefulness to the politicians who want to engineer a certain effect, but in that case it is not operating as a map, a descriptive scheme, but as a manipulatory device. Just as, if a speedometer is manipulated it is in a sense no longer a speedometer, it no longer tells me my speed and helps me cope in my driving. Furthermore, to the extent that a map is not designed to give attention to those feature that have relevance for the map user it is no longer capable of helping that person cope and get around, it is less of a map.

Solomons therefore insists on the importance of neutrality in financial reporting, and argues that we should resist the temptation to change our accounting scheme with the object of encouraging or discouraging particular behaviour. We should rather, design the scheme on the basis of our context, our background assumptions and understanding, and our

appreciation of what in the commercial environment is relevant, and we should design it to facilitate our getting around, our coping in that context in various ways, and in relation to various decisions, and problems. Solomons then associates neutrality with “representational accuracy” (Solomons, 1978, p.70). If a map, the accounting scheme, is to help us cope and get around in face of various issues and decisions, it must reliably reflect what it purports to represent, and the features it picks out, its classification and so on, must be relevant to us and concerns. The idea of “representational accuracy” does not contain any suggestion that we might not at some stage recognise that our map, our accounting scheme, might be improved, generally work better for us, if we changed it.

Neutrality in accounting complements the principles of justice as fairness in institutions generally, both are essential to the credibility and legitimacy of the institutions concerned: “without it, accounting ceases to be believable” (Solomons 1983, p.114). Just like people can never be perfectly rational, Solomons is very clear that a “perfect neutrality of information can never be achieved” due to different interests and desires (1991a, p.295). For Solomons, this should not be the excuse for one to “stop seeking fair-minded judges on the ground that no human being is entirely free from bias” (1991a, p.295). It should not be a reason to stop trying to improve our accounting scheme to make it more representationally faithful. Solomons is no friend to the status quo in accounting, and he ends his response to his induction into the accounting hall of fame, in 1992, by lamenting the difficulty of making change in the stubbornly conservative accounting environment of his time: “I wish that I could have been more persuasive in my own writing and more successful in helping to change that environment” (1993, p.113).⁷⁷

Thus Solomons exhibits confidence in reality, and in the possibility of representing it. He believes that we can, with some objectivity, work out and construct accounting principles (in a conceptual framework) on the basis of certain preunderstandings, which will yield a scheme that maps faithfully to economic reality which is, in turn, affected by the descriptions we have of it. Furthermore he argues that we can test our scheme based accounts against the facts of that reality. He makes no claim, nor does he imply, that the economic reality is “independent”, or that we can ultimately disentangle our scheme and the reality, and therefore he is not a classic “representationalist”. As I will present in next Chapter, Rawls

⁷⁷ He sees political interference as one of the forces entrenching the status quo. He notes that often the direction of interference from government will be to seek to “prevent a change, to maintain the status quo, by trying to block an improvement in financial reporting that the standard setting body is trying to introduce” (Solomons, 1991a, p. 292).

displays his constructivism as one that affirms the potential of working out standards and conditions for objective moral judgements. For Rawls, principles are correct in the sense that they are result of a deliberative process that takes account of “all the relevant requirements of practical reasoning” (PL, p.90). The objectivity comes in prior to truths. Likewise for Solomons, truth in accounting comes through and after the objective, reasonable and unbiased, construction and application of an accounting scheme.

The third element of the standard reading of Solomons portrays him as being blind to the political nature of financial reporting and a defender of the status quo in accounting. I have already explained that Solomons was a tireless fighter for change and improvement in accounting, and I will not develop that point further here. Solomons does not accept that it is the proper role of the accountants to seek to engineer radical social change. The accountants’ task is to play a part in “making our free enterprise system work” (1993, p. 112). Solomons then follows Rawls in taking seriously the idea that we ought to respect the various contexts, or levels of deliberation and decision-making, and that those shaping institutions ought to work within the principles and parameters set at a “higher” level.

Solomons is very far from blinding to the political nature of accounting, and much of his work is directed to addressing that problem. Solomons’ efforts to come to terms with the politicization of accounting, and plurality of competing interests at play in accounting debate is analogous to Rawls’s efforts in dealing with the problem of pluralism at the level of the basic structure of society. Both seek to establish justifiable schemes, justifiable basic principles, that can expect to win agreement and guide future institution building – in the shape of accounting standards for example. The call for neutrality, is Solomons’ way of approaching the problem of possible conflicts between individual/corporate interests or desires and the requirements of good accounting practice. His attempt of developing a conceptual framework for accounting is an attempt to address and cope with the political context of accounting and the standard setting process, per third point of standardized reading of Solomons. Contrary to this, Solomons is fully aware of the fact that accounting has political implications and of the sensitivity of accounting to economic concerns and political objectives. He takes the view that accounting policy questions can only be answered with “value judgements” (Solomons, 1983, p.112). It is difficult to prove that one value judgment is better than another. Given the diversity of interests in accounting, an accounting standard body cannot expect to be able to satisfy the wishes of every interest group in the development of any particular financial reporting standard. Solomons thinks that instead of keeping asking question, “what we needed now was some answers” and that standard setters

should not be content with merely asking questions (1983, p.111). This takes us to his appreciation of stability and legitimacy of an institution.

What he wants to achieve is the insulation of the setting of standards from the vagaries of politics, so that bias is avoided and financial reporting proceeds on a consistent basis and as “accurately as possible represent what it purports to represent” (Solomons, 1978, p. 70). In his view, standard-setting process for financial reporting should be an arena that is freed from any forms of interferences. Standard setters are making decisions based merely on knowledge about what economic phenomenon they are dealing with and the way in which they can measure the phenomenon. Their decisions will not favour the interests of any particular group. In other words, Solomons is not rejecting the political; rather, he thinks that we can deal with the political in the context of plurality of interests through the objective construction of a well justified scheme, that is, a justified set of basic principles for financial reporting; a conceptual framework.

If we borrow Mouffe’s terminology here, and accept that, in Mouffe’s terms, Solomons tries to “domesticate” and “overcome” the political, and respond to the plurality of interests with certain deliberations. It involves a construction of “we”, whom, for Solomons, refer to professional accountants and standard setters, against “they” whom refer to those try to influence standard setting process for political or economic interests. What Solomons attempts in accounting then appears similar to what Rawls attempts to do in political philosophy. Both are aware of the plurality of interests and the effects of the political. Both work show how in the construction of principles of justice (as in Rawls), or in the establishment of a constitutional-like conceptual framework (as in Solomons), conflicts and differences could be reconciled and resolved, through the device of the original position, or through a process of immunisation of accounting convention making from the day-to-day pressure of competing interest claims, that is to insulate the construction from bias and keep it “neutral”. The pursuit of neutrality for Solomons has a close affinity to the means Rawls devises for avoiding distortion of power and influences in the construction of principle of justice.

Thus, based on the conception of accounting as cartography, Solomons proposes a conceptual framework (CF) for accounting to guide accounting standard setting. He regards the idea that accounting should become a device to be manipulated for the furtherance of government’s economic plans as destructive and infeasible (Solomons, 1978, p.70). He sees

this as inappropriate and as bound to have a detrimental impact on the integrity and credibility of accounting.

Suppose at this point, we have envisioned an accounting institution whose basic structure reflects and conforms to his conception of accounting and the notion of neutrality. For such a deliberation to be stable, how come we would be assured that our fellow accountants would support and endorse such a deliberation? How is it to be stable when it is presented not just an idea but as a way of commanding other's commitment or compliance? This leads us to the final element on legitimacy of standard setting.

The CF for Solomons ought to be normative for financial reporting bringing consistency and coherence, some equilibrium, to accounting theory and practice: "for if a standard is not derived from a conceptual system, how can it be shown that one standard is better than any other?" (1983, p. 115). The objective for Solomons, as for Rawls, is to establish a well justified set of logically coherent principles that are stable and in equilibrium with what is generally accepted, and able to act as a sound base for deductive prescriptions (1983, p.117).

Given the impossibility pleasing everyone every time they set a standard, Solomons contends that a standard setting body "can hope to do is to convince its constituents that they will be better off if they accept its constraints than if they do not" (1983, p.112)⁷⁸. This is a similar expectation with Rawls who sees a stable well-order society is one in which people accept and follow a fair term of cooperation which will make them better than not in the longer run. It points to an important feature of accounting practice: accounting as a system of cooperation. Accounting principles in a CF is to specify the terms of cooperation so that we can all benefit from working together.

Solomons contends that there is a "general agreement" about limiting, in accounting, the "area of political disagreement" (1983, p.114), the variability in practice arising from interests of the preparers. There is general consensus in accounting about the value of consistency. He specifically points out: "nothing is more likely to undermine the credibility

⁷⁸ This actually reflects that Solomons sees the justification for accounting principles is taken place among a group of professionals, which I will come back later in this section: "it would be for philosophy to yield a kind of technical knowledge, with its own particular standards for successful justification, that was, in a given society, in the hands of some group of properly trained practitioners, who themselves serve as arbiters of the employment of those standards. In such a case, the rest of us (here could refer to the general public) would be well advised, on matters within the domain of philosophy, to defer to their expertise" (Laden, 2011, p.146)

of financial reporting than the suspicion that the results reported were predetermined and that the accounting methods used were selected to produce the results desired by the preparers of the report” (1983, p.114). In other words, Solomons argues that any forms of interference, either from individuals, from particular groups, or even from government, should be prevented. A CF can be a bulwark against such interference. If all agree on this then, as Solomons sees, it would be much easier for the various parties to accept rules consistently set by a standard setting body even though the rules, sometimes, may seem to be less optimal than their own views.

A theoretical foundation, such as a CF, according to Solomons, is “indispensable” in preventing political interference (1983, p.115). Solomons contends that it is necessary to have a normative theoretical foundation to which accounting standard setters can appeal when they are subject to challenges from powerful groups who see a proposed standard as detrimental to their interests. Without a theoretical foundation, we can hardly have answers to questions like “how can it be shown that one standard is better than any other” or “why should I accept your standard if I think it is going to harm me” (Solomons, 1983, p.115). Without it, it is also difficult for standard setting body to claim public authority: “A board or a committee setting standards without a conceptual framework is like a legislature making laws without a constitution to protect citizens from arbitrary acts of government” (Solomons, 1983, p.115).

In this analogy, the rationale for a constitution is to set up the basic parameters of institutional rule or standard making, the rights and principles that cannot be violated by any rules of the associated institutions. In other words, it represents a way of protecting people from the coercion of arbitrary rules that may violate on basic rights, freedoms, and legitimate expectations. This may coincide with Hines (1988, 1991) suggestion, apparently critical, that the real purpose of a CF for financial reporting seemed to be to construct some legitimacy for the accounting standard setting bodies concerned. Solomons sees such legitimacy as vital to support standard setting institutions and the social function of financial reporting in an essentially cooperative society, from the arbitrary influences of powerful interest group.

The legitimacy of accountants and accounting standard setting then is closely, Solomons contends, tied with his take of a neutralist stance and opposition to any proposals that would advocate or allow political or governmental interference or influences on accounting standard setting. Solomons thinks that we can “depoliticise” accounting by specifying one

policy to be adopted in accounting judgements. Solomons suggests that one way of doing this by making standards consistent with “an agreed set of objectives of financial reporting” (Solomons, 1983, p.113). A CF is vital, he suggests, to secure a coherent theoretical base for standard setting, and as “an essential weapon in the armoury that can defend accounting from political interference” (Solomons, 1983, p.112). A CF works by assuring all of us. Solomons agrees that there are political aspects of accounting, in fact, “very few areas of human knowledge which are devoid of political significance” (1978, p.66). However, it is not necessary for such political significance to be accounted in the generation or interpretation of knowledge.

Solomons effectively suggests that financial reporting standard setting be placed in a political vacuum and that it be designed to take place so far as possible free from political pressure, governmental and interest group, especially that arising at the level of particular issues. Solomons conceives of the institution of standard setting as operating within the protecting limits of a “constitution”, a CF for financial reporting reflecting the objectives set in the public interest. The space for politics is then much curtailed and essentially confined to working out the implications of the CF for particular accounting issues: “If the derivation of different standards from different reporting objectives is what is meant by 'political activity', there is nothing wrong with it. It is important, however, that the objectives be defined to serve the public interest and not some sectional interest.” (Solomons, 1983, p. 113).

Rawls’s social contractual tradition avoids a normal course of generating contract. In common sense, participants would bargain with one another based on their expertise, positions, or political powers, the facts which they bring to the negotiations and take advantage of. For Solomons, these are the facts that he attempts to avoid in the generation of a CF or the setting of accounting principles. He thinks that no accountant would agree to give up or sacrifice his or her credibility as an accountant. This is as important to an accountant or to a standard setting body just as the basic liberties to an ordinary person.

Solomons keenly appreciates that accounting decisions are made at various levels: “Decisions about the manner and matter of financial reporting are made at two different levels, namely the level of the firm and at the legislative level” (Solomons, 1989, p. 3). At the legislative level, it can be divided between the level of establishing the CF as a constitution, and standard setting. At the level of the firm, it is a stage where actual

accounting judgements are made in related to particular cases. Solomons is expecting that a CF is constructed by abstracting from those unnecessary considerations of its impacts, that is, behind a “thin” veil of ignorance. It is not a thick veil because participants are aware of their role of being accounting standard setters.

There is a division of labour between principles in the CF and judgements made in related to standards or more particular situation. Both the stage of standard setting and the level of the firm, from Solomons’s view, require standard setters and accountants to make their judgements, within the constraints of the constitution, the principles in the CF. Solomons thinks we must think about the consequences of our decisions and shape financial reporting accordingly. Solomons admits that a concern with the economic and social impact of a proposed standard is unavoidable. Such a concern is unproblematic “so long as the standard is designed to bring about a better representation of the facts of a situation, with whatever behavioural results flow from that, and not to promote some preselected economic objective or mode of behaviour” (Solomons, 1978, p.71).

Information cannot be neutral if its selection and generation is a result of certain objectives and will have certain impacts on human behaviour. A standard made neutrally may lead to unfavourable results. Nevertheless the temptation to interfere the process of standard-setting is in fact the “gravest threat” to standard setting (Solomons, 1978, p.69). For Solomons, if we are trying to reduce traffic accident by making the speedometers overstate speed so that driver would think they are driving fast then they actually are, this is in fact destroy the “faith” in speedometers and driving behaviours are changed by some falsifications.

Solomon seems to propose an obligation to each accountant: “they should see that they may have more to lose from the sacrifice of accounting credibility than they have to gain by forcing some change in a general rule or some exemption from a general rule that may seem to serve a special interest in the short run but to have little to command it to the rest of the community” (1983, p.114). Recall that the criteria of reciprocity is embedded in the Rawlsian terms of just and fair social cooperation. If the policy is made to achieve certain goodness in accounting, as a socially cooperative activity, then it is reasonable to expect the terms of cooperation will be applicable to all participants and those who comply with the terms would expect the rest follow them as well. The principles of accounting, as with that of justice, are generated for the benefit of all, in the public interest (Willmott, 1990), rather than for the interest of a particular group.

Thus, on the one hand, the political environment, policies, and objectives are always changing. If we attempt to incorporate change in political policy into accounting rules, the accountant will lose her independence and neutrality in providing financial information. On the other hand, for Solomons, accounting rules have impacts on human behaviour (1978, p.65). One such example is accounting for pension or employee benefits (1991a, p.292). Standards on this topic are controversial because they involved consideration of the treatment of large liabilities subject to considerable measurement uncertainty. Due to the opposition of its constituents, FASB delayed a standard requiring for recognition of full gain and loss. Solomons sees this an example of a standard setting body bending its standard to “subordinate faithful reporting of financial information to what is politically acceptable to the Board’s constituents in industry” (1991a, p.293). Solomons criticizes the arbitrariness of such an approach as “a standard setting body wetting its collective finger and holding it up to the wind to see if it is blowing hot or cold, and then formulating a standard accordingly” (Solomons, 1991a, p.293).

In the long run, for Solomons, this compliance and respect for one set of standards benefit more to our welfare than allowing people to decide how they account by themselves. This is how an institution with CF as its constitution can sustain its stability. Our commitment to fair terms of cooperation supersede our temptation of bending or subordinating the principles to interests of particular individual or a group. There is a real intent that a conceptual framework for accounting should be well justified if it is to serve as an effective base for the construction of standards that need to be “acceptable to those who must observe them” (Solomons, 1983, p.113).

We can tell that, at the core of his proposal, Solomons wants to construct accounting principles, in the form of a CF for accounting, to be justifiable and acceptable to those “who must observe them”. Here Solomons mainly refers to those who are engaged in accounting practice. Ultimately he is aiming for a basis that could justify accounting principles in the face of different view and understandings towards some classical accounting questions, such as, what accounting is and what accounting ought to be. He is aware that this will be “a constant state of construction” and we “never shall see a finished product” (Solomons, 1983, p.111).

In above, I manage to read Solomons’s by compare it with Rawls and offer an alternative reading of Solomons’s work in compared to the standardized one. But what, exactly, does

his work give a fuller and more comprehensive illustration of Rawls's framework than what is done by Power, Gaa or Flower? To unpack this claim, I decide to look back to Rawls's approach to justice and justification from four aspects: its methods, its standards, its reach and its authority⁷⁹.

Rawls's method of justification includes his appeal to Kant's view of human being as free and equal and his argument of stability. The former allows him to claim the priority of liberty and the significance of equality as two basic values for human beings and therefore informs him to construct the "initial situation of equality", that is, the original position. The latter is reflected through his commitment to reflective equilibrium, in searching for principles that people can agree and accept. Solomons, in compared with Power who muddles up between original position and the principles, presents a separate phase for construction of principles under certain conditions. The conditions are established in the light of certain values that Solomons contends are crucial for accounting practice, such as the value of neutrality. In compared with Gaa, Solomons does not seem to limit the participants of this construction to only two groups of market agents. It gives Solomons some degree of flexibility and a democratic edge in the sense that this process of construction could involve as many different interested groups as possible. One important feature of Rawls's method is that as a philosophical method, it allows philosophical claims that are of universal nature (Laden, 2011). Even though Solomons is not making a philosophical claim for accounting principles, yet he would not disagree that these accounting principles are not constrained by a particular transaction and should be applied generally.

The standards of a form of justification refers to the criteria used in deciding between what is justifiable and what is not, and will also give an account of who is involved in making such a judgement. This is related to the validity of judgements and the truth of premises. In *A Theory of Justice*, the ultimate justification of the principles of justice lies in Rawls's commitment to reflective equilibrium, which embodies his interpretation of Kant's ideal of moral person, that is, to respect one as free and equal moral agent (Laden, 2014, p.68). Rawls appeals to the facts⁸⁰ about human nature and social cooperation to ground his justification.

⁷⁹ Here I am drawing upon Laden's approach to Rawls's position on justification (Laden, 2011, p.145)

⁸⁰ Habermas, as we will see in Chapter 3, criticizes this reliance on these factual truths, which are not appropriate for the justification for moral principles. But I am with Freeman's reading that these facts are "relevant to the justification of principles of justice in so far as we are to conceive of justice as achievable by us, and as compatible with, if not part of the human good" (Freeman, 2007, p.252)

At this phase, Rawls deploys a philosophical justification for his principles yet subjected them to an ideal “political” standard. A “political” standard for a justification means that justification of a principle includes acceptance by fellow citizens through a political deliberation. His constructivist position does not prescribe truth or facts in moral judgements. He believes, since the early stage of his career, that “a practice is just or fair, then, when it satisfies the principles which those who participate in it could propose to one another for mutual acceptance under circumstances” (1958, p.59). Justice for Rawls is about relationship among citizens and thus, the justification should be made to them.

Yet it is an ideal one because we can recall that a significant part of the deliberation of the principles, as we have seen in section 1.4, is casted behind a veil of ignorance, or at least a partially lifted one, apart from the last stage of the four-sequence implementation. Even in the argument of stability, Rawls makes his justification to imagined citizens who are brought up and live in a well-ordered society, which itself is an idealization of a society. This makes Rawls’s justification sit, dubiously, in between a pure philosophical justification and a philosophical justification with a proper political standard.

Similar issue could be observed in Solomons. On the one hand, Solomons sees the necessity of accounting principles and a CF to be observed by fellow accountants. I read Solomons as one taking political issue in accounting seriously. He makes a strong political claim that “a principle or a practice would be declared to be ‘right’ because it was generally accepted; it would not be generally accepted because it was ‘right’” (Solomons, 1983, p.109). He notes that in the face of disagreement, what accounting principles and its standard setting body “can hope to do is to convince its constituents that they will be better off if they accept its constraints than if they do not” (1983, p.112)⁸¹. He sees public acceptance as necessary condition for the “continued existence both private and public sector” (1986a, p.241). “No standard-setting body can enforce a standard for long that does not have wide acceptance” (1986a, p.244). Thus, principles comes in “convincing” us (Laden, 2011, p.146). Power is also observed to agree with this for his argument of a continuous reflection between theory and practice and rejection against one-way relationship between the principles and the actual judgements, which also implies that principles need to find their acceptance in the practice.

⁸¹ In Laden’s reading, this is very much close to a political justification “if you, acting reasonably, accept this, then it can serve as the basis for our future conversations about how to live together”, made to those who may disagree with a philosopher’s view (2011, p.148).

On the other hand, for Solomons, there is limit of breadth: that is, this is still a question to be addressed within accountants, who are likely to be the experts here. Solomons would see that the justification for accounting principles is helpful in building up expertise and contributes to knowledge, in the hands of accounting experts. It is possible that the public, non-experts, could have disagreement about what good accounting ought to be. Yet, Solomons sees that it is necessary to “ward off” some political interferences so as to protect the credibility and authority of accounting principles and accounting expertise (Solomons, 1983, p.112). The deployment of division of justificatory labour as a method to deliberate accounting principles may point to the same conclusion. In this reading, Power and Gaa are on the same page with Solomons. Flower seems to have some issues with the division of labour and therefore is more open to various views from stakeholders.

The lack of “political” justification in *A Theory of Justice* is affecting in the other two axis of justification: the reach and the authority of it. In terms of the reach for justification, Rawls already makes it clearly in the criteria that participants need to take account in selecting principles of justice, that is, universality in application. Laden takes Rawls’s aim in dealing with some classic and enduring political questions and his hopes to provide guidelines that may turn out to be “universal in reach” (CP, p.532) as evidence indicating universality embedded in Rawls’s approach. To say a justification of principles is “universal in reach” means that it attempt to make it acceptable to all (Laden, 2011, p.150). This is valid despite Rawls’s indeterminacy in the standard for his justification.

This captures Rawls’s view of political philosophy having a “practical” task. Similar practical essence is observable in all of the accounting research I analysed in this chapter. None of them is making a claim or justification without taking account of the practice of accounting. Yet, whether they are all looking for principles that are “universal in reach” is a qualified yes. On the one hand, Power, Gaa and Solomons, are all limited by the time when their works are produced, that is, the initiative stage of developing a conceptual framework and accounting principles for accounting practice. There was little concern around distinctions between the universal and the particular, when the understanding of the impacts of globalization was in the rudimentary stage. There is a lack of appreciation upon the pluralism and democracy in the accounting research. This is why, Flower, whose work is produced in a much later time, on the other hand, in his application, appears to be more open and democratic in the public engagement in the making and justifying accounting principles.

In addition, the reach of justification is closely tied with the nature of its authority. It begs for questions, such as, the force of justification, what kind of justification can command our compliance and respect, and what justification that cannot. These are important issues that I will follow up and hopefully to draw up some illuminating thoughts to accounting justification in the next two chapters. Laden summarizes two possible insights could be drawn from this axis of justification: one is the source of the authority; the other is the form of the authority⁸² (Laden, 2011, p.151). The “practical” aspect of political philosophy makes it inevitably limiting its justification to the actual acceptance and engagement of citizens. This means that it awaits to be contextualized and therefore limit to the context. Yet, because Rawls does most of his justification in a hypothetical condition in *A Theory of Justice*, we can infer that he is in fact reaching a philosophical justification for his principles, which has its advantage in offering something that has general and properly grounded authority. However, Rawls’s fourth stage of deliberation and his social view of justice imply that his justification is not a pure philosophical justification.

Yet, this does not mean that we need to give the philosophical part up and therefore dismiss its value. “For whether or not there is an external truth out there, and whether or not it is one that has things to say about justice, we cannot produce justice, cannot even begin to argue about it amongst ourselves, unless we can say things that others will find convincing, worthy of their consideration and apt to change their own perspectives” (Laden, 2011, p.151-152). The point of philosophical exploration lies in its potential of giving guidelines and conceptual insights that can be brought into practices. In similar vein, most of the papers I engaged and analysed in this chapter as well as throughout the thesis are looking at normative aspect of accounting practice, like Solomons, like Power. This is why we need Rawls’s philosophical perspective in our thinking about justification in accounting.

Nevertheless, the recognition of the political, as well as the practical, aspect of justification is necessary and significant. As we have seen, no matter what justification we come up with, or what philosophical basis we ground our justification in, the ultimate authority still lies in the acceptance of the people who are subjected to it. It is a matter of whose acceptance and

⁸² For example, for the first one, it could be a choice “between a constitution as the source of the authority...and the principles of logic or reason as the source of the authority”; for the second one, it could be a choice “between an authority that commands in a final way (like a general) with one that commands in a revisable way (like a legislature) with one that does not command at all but rests on something like the shared norms of our common endeavour” (Laden, 2011, p.151).

what counts as accepted. Solomons, together with Power, Gaa, and Flower, are benefited from Rawls's thoughts either directly or indirectly. Nevertheless, they also inherit the problems of Rawls at this phase, that is, his ambiguity in between an aim for a philosophical, universal acceptable justification and an aim for a political, practical acceptance. "Insufficient numbers of people in a well-ordered society will be motivated to comply with justice for the Kantian reason that they realize their nature as free and equal rational moral beings and are thereby morally autonomous" (Freeman, p.322). It is true that the actual acceptance of a justification does not necessarily defer a universal acceptability of this justification; vice versa⁸³. It is very likely that not everyone would accept the normative proposals from Gaa, Power, Flower or Solomons. Rawls acknowledges this problem and attempts to reconcile it by arguing for a political justification for a "political" conception of justice with "political" principles of justice, which are elaborated in his more mature work *Political Liberalism*, as I will come to in Chapter 2.

1.6 Summary

In this Chapter, I explain how Rawls posits his work in compared with utilitarianism and intuitionism. Rawls sees his social contract tradition would avoid him to take individuals as indifferent and put individual's basic liberties and rights at stake. It is observed that utilitarian and calculative logic has predominantly affected the way we think about accounting practice and the way how accounting principles are justified. Intuitionist approach may offer a particular and contextualized interpretation of how thing is. Yet, it is incapable of providing answers to how thing should be, and therefore, failing to generate a proper public basis of justification. By turning to Rawls's work, we could possibly envision an alternative path to understand accounting practice and accounting principles, embodying moral judgements and considerations about justice and justification.

On the one hand, I engage with accounting usage of Rawls's work looking at three different perspectives. First, Power's application of reflective equilibrium takes us to imagine accounting principles as a result of reflection and exchange between theories and practice. But Power's reflective equilibrium develops without a constructivist core which leaves accounting principles lacking of a proper critical examination. Second, Gaa's application of

⁸³ This is one of the critique made by Habermas of Rawls's later argument on legitimacy and public justification, as we will come to with more details in Chapter 2.

original position invites us to imagine a veil of ignorance and principles are selected behind it. Because Gaa misunderstands Rawls from a utilitarian perspective, the conditions of his original position are ill defined. Their incompetent in applying Rawls's work should not stop us from thinking about how Rawls, methodologically, could help us with the construction and justification for accounting principles.

If we combine Power's application and Gaa's envision together, it may offer a systematic path of how we can apply Rawls's method of justification and construction to our thinking of accounting principles. We could reasonably defer a set of accounting principles as a result of original position and finding its fit with our considered judgements in the reflective equilibrium. In such an original position, participants may not talk about accounting in particular, behind a veil of ignorance, but surely, they want to know how property is accounted, how labour is accounted, and how business relations are arranged so that they can fair and just. Surely, they would not want an accounting system that would not respect their individual rights and liberties. They would neither go for an institution that would support injustice and domination. To be fair requires that all who are the addressees of accounting principles need to participate and make the choice collectively.

Third, Flower starts with accepting Rawls's two principles and takes up the deliberative aspect of the framework. He, following Cohen's critique, argues against Rawls's division of labour and claims justification of principles not stopping at the level of institution. He wants to encourage morality and judgements in standard setting as well as applications. But the dispute between Cohen and Rawls is not that Rawls discourages individuals to act morally. The issue at the dispute is that Cohen think that we are in need of an ethos to motivate us to act in line with distributive principle. He sees that to properly implement distributive principle, we are in need of social ethos. Yet the ethos requires individuals to think overly and becomes too demanding that starts to constrains individual freedom. Cohen's ethos is vague and general. It does not give an idea about to what extent one could make a decision that allow one to deviate from the requirement of institutional rule if she thinks it is not appropriate. Rawls's division of labour is attempting to establish a background justice so that on the one hand, individual can free pursue their own self-interests, on the other hand, their actions are constrained by the principles and institutional rules. Flower inherits Cohen's vagueness on ethos and thus fails to provide a proper grounding to the extension of the site of justice to the level of individual.

This invites a question concerning about the moral grounding that Rawls provides for individual respect and compliance with principles of justice. This also takes me to have a look at Rawls's argument of stability and his appeal to Kant's view of human beings as free and equal moral agency. In this chapter, I only look at his initial account for stability, the argument of the congruence between the right and the good, between the requirement of justice and the individual pursuit of life goal. In others words, Rawls attempts to argue that to act justly will be beneficial for oneself in her pursuit of life plan. Here, Rawls incorporates a Kantian interpretation to reinterpret his conception and method in a Kantian sense. Rawls, following Kant here, respects individuals as ends not means. That an individual is autonomous means that she makes rules for herself and follows what she made and the rules expresses her nature as free and equal. Given that the principles construed in the original position expresses individual's nature, to act in line with institutional rules, which are designed in line with the principles, is necessary for one to live in a society and benefit from social cooperation. It is in her rational interests to comply with the rules. In a business context, we could see this arguing that business and accountants need to act justly so that both business, individuals and the society can all benefit from it, and that to act justly is in the rational interest of business and individuals.

On the other hand, the accounting engagement allows me to develop my own reading of Rawls. With that reading at the back of my mind, I find Solomon's work, although not using Rawls at all, appear to be an accounting illustration of Rawls's work from all these aspects. My Rawlsian reading presents me a different understanding of Solomons's work, whom was prominent in the development of accounting practice and accounting principles. The commonalities shared between Rawls's project and Solomon's project offer a historical image, which is often dismissed by contemporary critical accounting researchers, an image in which political philosophers and accounting researchers both start to cope with politics and morality in judgements. Solomons sees the necessity of an original position so that accounting principles can be constructed without political influences. He also shares that the principles need to enter into a process of reflection with particular accounting judgements and decisions. He implies a similar division of labour in the deliberation of accounting principles.

Yet, Solomons shares the good and evil of Rawls. Although Rawls sees a "practical" task and a "social" role of political philosophy, he offers a philosophical justification for his principles of justice which are not really in the hands of real citizens. His advice and

suggestion still limit to a form of philosophical knowledge and expertise, which are not really subjected to fellow citizen's challenge. Rawls acknowledges that he is not "political" enough in *A Theory of Justice*.

The problem of Rawls's work is also a problem that makes Solomons's suggestion constrained to its time. Solomons acknowledges the politics in accounting practice and he attempts to "depoliticize" them so that we could establish a commonly shared and agreed set of accounting principles. Yet, the public interferences are not the only factor that makes accounting political. Solomons' view is certainly constrained by the concurrent view and concerns around accounting standard setting as a privately owned body. Solomons is on the side of encouraging a separation of standard setting from government control in order to restore an image of accounting that seems to be just for him, that is, standard setters are making standards for accounting practice to reflect business relationships rather than twisting and bending accounting practice to serve the interests of government. Even with a desire to act neutrally, it is still difficult to assume that individual accountant would put this requirement in prior to one's self-interests or other desires.

Without a theoretical foundation, Solomons cannot justify this priority of the requirement of accounting principles over personal interests. It does not mean that by reading his work from Rawlsian perspective, I would suggest to mimic Rawls's appeal to Kantian conception of person to justify his priority of "the right over the good" to add a similar Kantian foundation to Solomons's argument. In fact Rawls becomes more firmly about the claim that principles of justice need to be "justified to all citizens" with publicly acceptable reasons. This pushes his development into a "political" conception of justice and a "political" justification for his principles of justice in *Political Liberalism*. I do not see that we should stop with Rawls's *A Theory of Justice* as the final answers, especially when he develops his thought and work by taking account of his problem and vulnerability exhibited in this early book. Thus, in the next chapter, I will explore what changes Rawls has made in *Political Liberalism* and what implications we can draw from these changes.

In similar vein, I draw upon Solomons's proposal and illustrate whether it could be the case for accountants, one could comply and follow the rules because the rules will express her nature or consistent with her own self-interest. Solomons's argument provides us some thoughts. He argues that given the political nature of accounting, it is important for accountant to remain neutral in the process of standard setting and in the decision process.

If this is the rational choice of an accountant, Solomons contends that accountant will comply and respect the conceptual framework as if it is a constitution for accounting. Just like Rawls's division of labour, Solomons expects that standard setters could set up and design a conceptual framework and then accountants could explain and justify their actions by appealing to the conceptual framework.

In Solomons's envision, standard setters will set a conceptual framework and make accounting standards that will allow accountants to act neutral. It is not the accountant's role to consider how the information produced is used or the impacts of that. Solomons wants a stable accounting institution with a constitutional conceptual framework that will guide and orientate any subsequent development of accounting standards, which will be made in the same spirit with the framework. Since the framework is constructed with an embodied goal of being neutral, Solomons thinks that whoever follow the principles of the framework and the standards in line with the framework will be able to remain neutral as well. In a pragmatic way, Solomons presents how the requirement of conceptual framework or accounting standards become congruent with accountant's rational interest to be neutral.

One thing that draws our attention is whether act neutral can be equivalent to justice. On the one hand, justice does require impartiality so that no one's interest is privileged and no one's interest is ignored. This is why Rawls asks for a veil of ignorance to blind participants from knowing factors that could affect their judgement yet are irrelevant for deciding fair terms of social cooperation. Solomons's demand is under the same logic, requiring standard setters to be impartial about various interests and potential consequences in related to their decisions. On the other hand, being impartial does not mean that one should be ignorance about the consequences of his or her decision. Rather, the consequences need to be taken account and decisions are made by comparing and choosing the one that will be beneficial for all, so that no particular ground is discriminated or sacrificed without even giving an explanation.

Solomons's understanding of neutral contains an element of realism. It is not so much a realism that there is an objective truth or fact out there. It is rather a more methodological realism that believe in the possibility of obtaining some sort of objectivity in judgements, which, he sees, lies in representation and portray. Solomons does not see accountant's role as social changer but as mapmaker and journalist who make the report without any individualized input. This is the neutrality that Solomons wants to achieve in accounting. He is afraid of accounting decisions and standards influenced by biased interests or concerns.

Rawls's constructivism in fact, shows that this does not need to resist accountant's role of being constructive. Accountants can be constructive and revolutionary while make accounting standards that are meeting the requirement of justice. Solomons creates a dilemma for himself for that on the one hand, he implies his belief in the possibility of accountants as a reporter to represent the business reality and his belief that accounting could be distinguished from public policy; on the other hand, the public interferences are not the only factor that makes accounting political. Individual accountant for Solomons seems to immune from their individual self-interests as long as we manage to prevent the influences of public government. The innate nature of accounting as political make it impossible not to take a constructive view of accounting. Solomons' view is certainly constrained by the concurrent views and concerns around accounting standard setting as a privately owned body. Solomons is on the side of encouraging a separation of standard setting from government control in order to restore an image of accounting that seems to be just for him, that is, standard setters are making standards for accounting practice to reflect business relationships rather than twisting and bending accounting practice to serve the interests of government. This explains his attempt of viewing conceptual framework as constitution. His attitude is provoking yet his approach is constrained and limited to his pragmatic concerns.

Chapter 2 Political justification for accounting principles

2.1 Introduction

In this chapter, I continue my exploration of Rawls's approach to justification, and my discussion of its application to our thinking about the justification of accounting principles. Here, I follow Rawls as he modifies his approach to justification in *Political Liberalism* (PL), and as he adopts a political approach to justification, in order to take account of the fact of reasonable pluralism and the problem of stability.

As we will see in this chapter, Rawls takes pluralism very seriously. This is evident in his view that an account of the stability of justice cannot presume all reasonable people to share the same, Kantian, comprehensive doctrine and in particular its conception of the highest good. Yet he thinks that justification made between citizens always presuppose some shared commitments: "Justification is addressed to others who disagree with us, and therefore it must always proceed from some consensus, from premises we and others publicly recognize as true" (Rawls, 1985, p. 229).

In *Political Liberalism*, Rawls aims to show how we can achieve agreement on a political conception of justice for a democratic society as a system of cooperation for mutual advantage between free and equal citizens. Accordingly, the principles of *justice as fairness* best express the implications of the commitments to our liberal democratic culture and tradition, and in particular our commitment to the ideal of the citizen as "free and equal persons capable of being fully cooperating members of society over a complete life" (PL, p.369). Rawls's political philosophy and the conception of justice it offers are intended to be "realistically utopian" (JF, p. 4). It adapts to human nature and social facts, including the fact of reasonable pluralism, whilst recognizing that those facts are not entirely fixed: "the problem here is that the limits of the possible are not given by the actual, for we can to a greater or lesser extent change political and social institutions" (JF, p.5).

This chapter is structured as follows. In section 2.2, I will first explain the fact of reasonable pluralism, which Rawls sees as the feature of modern democratic society. Then I will explain Kantian constructivism, or moral constructivism, and consider the reason for Rawls's move to Political constructivism, which is crucial to the theoretical development of his thought. I

will also reflect upon the implications of the constructivist perspective and its transition from moral to political constructivism to strengthen our understanding of justification in the field of accounting.

In section 2.3, I will first describe the “political” and “freestanding” conception of justice and how it is justified politically independent from values and reasons belonging to a comprehensive moral, religious and philosophical doctrine. Secondly, I will explain how citizens with different but reasonable comprehensive doctrines can be expected to come to accept and endorse the political conception of justice in an “overlapping consensus”. Thirdly, I will address the institutional implementation of the principles of justice, and explain the idea of “public reason”, and why decisions concerning constitutional essentials and matters of basic justice need be decided by appeal to political values and be justifiable to fellow citizens in terms of public reason. With the realisation of these three elements, we would achieve what Rawls calls a well-ordered society. A well-ordered society is organized by a political conception of justice and “stable for the right reasons”. This means that principles of justice are publicly accepted and socially embedded, thus the desire to act them is rooted not just on a “freestanding” sense of justice but is also embedded in persons’ comprehensive doctrines.

So far, the field of accounting has not acknowledged the ideas of Rawls presented in *Political Liberalism*. This is odd especially given that the political nature of accounting has been widely acknowledged since the 1970s (Solomons, 1978; Gerboth, 1978). Rawls’s political contribution has been neglected in accounting research. In section 2.3.4, I will attempt to make some prospective discussion about how accounting principles could be justified politically, with respect to the idea of public reasoning and the argument of overlapping consensus. I will look into Pelger’s (2016) exploration of how an agreement on accounting principles is constructed and justified politically and will discuss whether this agreement can be justified from a Rawlsian perspective.

In the section 2.4, I will provide a critical reflection on Jeremy Waldron’s (1999) critique of Rawls’s insistence that it is reasonable to expect agreement on a political conception of justice, if not on matters of ethics, in a pluralist democratic society, and of his critique of Rawls’s commitment to constitutional democracy. Based on my examination of Waldron’s defense of the dignity of legislation, and the consequent legislative establishment of agreement in the face of disagreement, I will examine Macve’s (1983) challenge to the possibility of agreement on a conceptual framework for accounting. I will look into Freeman

(1990) and Laden (2003)’s defense of Rawls’s insistence on certain kinds of agreements on the basic questions about justice.

2.2 Political Changes to Rawls’s theoretical underpinnings

2.2.1 The Fact of “Reasonable Pluralism”

For Rawls, the establishment of a conception of justice, for example justice as fairness, has a very practical function. That is:

“to enable all members of society to make mutually acceptable to one another their shared institutions and basic arrangements, by citing what are publicly recognized as sufficient reasons, as identified by that conception. To succeed in doing this, a conception must specify admissible social institutions...so that they can be justified to all citizens, whatever their social position or more particular interests” (CP⁸⁴, p.305).

The increasing plurality of society generally, in recent decades, in terms of culture, religion, and conceptions of the good only increases the challenge. This diversity is unavoidable due to our “limited powers and distinct perspectives” (CP, p.329). For a conception of justice to fulfil its social role, the content of the conception of justice needs to be acceptable to all citizens; and it needs to be acceptable for good reasons that justify the conception despite the fact that citizens will hold differing religious, moral and philosophical convictions. This means that it needs to take account of the fact that various “conceptions of the world can plausibly be constructed from different standpoints” (CP, p.329). Rawls contends that his conception of *justice as fairness* should be able to assume “deep and pervasive differences of religious, philosophical, and ethical doctrine remain” (CP, p.326).

On this account, Rawls sees his account of *justice as fairness*⁸⁵ as suggesting a conception of justice that takes account for such “deep and irresolvable differences on matters of

⁸⁴ Collected Papers, edited by Samuel Freeman, Cambridge, MA: Harvard University Press, 1999. CP. In this CP, it contains both publication before and after *A Theory of Justice* but before *Political Liberalism*. In particular, I will draw from three papers reproduced: Rawls, J., 1974, January. The independence of moral theory. In *Proceedings and addresses of the American Philosophical Association* (Vol. 48, pp. 5-22). American Philosophical Association. Reprinted in *Collected Papers* (236–302). Rawls, J., 1985. Justice as fairness: political not metaphysical. *Philosophy & Public Affairs*, pp.223-251. Reprinted in *Collected Papers* (388–414); Rawls, J., 1980. Kantian constructivism in moral theory. *The journal of philosophy*, 77(9), pp.515-572. Reprinted in *Collected Papers* (303–358).

⁸⁵ In PL, Rawls highlights his distinction between a concept of justice and a conception of justice. The “concept” refers to “the meaning of a term” and “conception” elaborates the concept and includes “principles required to apply it” (TJ, p.5 rev.). So in TJ, Rawls works from a concept of justice, a concept that people

fundamental significance as a permanent condition of human life” (CP, p.329). A conception thus “needs to be appropriately impartial among those differences” (CP, p.329). For it to be justified, such conception of justice will be based not on the whole truth of any comprehensive perspective, religious, moral, or philosophical, but “on our present commonly based and shared beliefs” (CP, p.329). It will be based, one might say on a shared “part of the truth” and shared ways of identifying that truth: Such that “ways of reasoning and rules of evidence for reaching true general beliefs that help settle whether institutions are just should be of a kind that everyone can recognize” (CP, p.326).

Rawls recognizes the inevitability of “reasonable disagreement” (PL, p. 55) about moral, religious, and philosophical matters. He appreciates, what he refers to as “the burdens of judgement” (PL, p. 55), that is the fact “that many of our most important judgments are made under conditions where it is not to be expected that conscientious persons with full powers of reason, even after free discussion, will all arrive at the same conclusion” (PL, p. 58). He argues, nevertheless, that we can have agreement about justice, and that we can, in fact, expect agreement on something like the conception of *justice as fairness* which he develops in TJ and which, throughout his life, he remains convinced is philosophically justifiable.⁸⁶ He comes to appreciate, however that, even in a well-ordered democratic society that embraces the principles of justice as fairness, we cannot expect that people will agree on the justification of those principles; that is, we cannot expect that they will agree for the same reasons. The reasonable Christian, for example, may fully endorse the principles of justice but would see these justified as God given natural law, whereas, the Kantian, might rather see these as autonomous construction of a human community.

In TJ, *justice as fairness* is proposed as a “comprehensive, or partially comprehensive” philosophical and moral doctrine⁸⁷ (LP, p. xviii) to be stabilized with the help of the congruence of the right and the good, so that all member of society will observe and affirm same principles of justice, the same comprehensive doctrine. The congruence argument, as I explained in 1.5, treats moral autonomy as a human good for all and therefore, the pursuit

can easily to agree upon, to a particular conception of justice, *justice as fairness*: “I put this phrase [*justice as fairness*] in italics because it is the proper name of a particular account of justice and it is always to be so understood” (PL, p.xxxv-xxxvi, fn.2). I will follow Rawls and use italics when referring to the particular conception of justice developed by Rawls in TJ: *justice as fairness*.

⁸⁶ He eventually concedes that he cannot expect a publicly justified political conception of justice to include the difference principle.

⁸⁷ The term “doctrine”, as Rawls notes, refers to a comprehensive view whereas the term “conception” stands for political conception and its components (IPRR, p.131, fn.2).

and realization of moral autonomy motivates an active respect for justice as fairness. A well-ordered society based on the principles of *justice as fairness* can be stabilized by the individual who are motivated to comply with the requirements of justice. The motivating rationale for compliance is that in doing so, they not only sustain the principles of justice, which they have given themselves, but also realise the good of being autonomous.

The burdens of judgement, however, suggests that many will not recognise or accept the value of autonomy or be appropriately motivated by it, and thus the congruence argument and Rawls argument for stability becomes untenable. Rawls comes to see the “serious problem” (PL, xvii) internal to the account of stability developed in *A Theory of Justice*. He comes to acknowledge that, given the burdens of judgement, the uniting and stabilizing of any society in conformity with a comprehensive doctrine would demand the exercise of state power.

Thus, in *Political Liberalism*, Rawls starts with a powerful statement: “A continuing shared understanding on one comprehensive religious, philosophical, or moral doctrine can be maintained only by the oppressive use of state power.” (PL, p. 37). A society united in acceptance of a comprehensive doctrine, no matter whether utilitarian, Kantian, or any other comprehensive philosophical and moral doctrine, reasonable or not, would “require the sanctions of state power to remain so” (PL, p.37). It may be that we can continue to argue that the right, in the form of the principles of justice, is indeed congruent with the good of rational and reasonable individuals in a well-ordered society. But we cannot expect that individuals in a well-ordered society accepting *justice as fairness* will recognize the good of justice for the same reason; for the reason expressed in Kantian constructivism that act justly expresses their autonomy as free equal and rational moral persons. The congruence argument for stability fails if the majority in a community cannot recognize the good of justice for the “right reason” (PL, p. 391). In other words, a comprehensive theory of justice can be stabilized within a society by “the fact of oppression”; such a doctrine can be stabilized, but for the “wrong reasons”.

The unavoidable “fact of reasonable pluralism” begs the question of whether a well-ordered society can endure and be stable for the “right reasons” (PL, p. 391). Rawls makes it clear that the central problem that needs to be addressed in *Political Liberalism* is whether and how we can justify a common normative basis of public reason covering questions of constitutional essentials and basic justice, in context of a plurality of ethical conceptions:

“Given the fact of the reasonable pluralism of democratic culture, the aim of political liberalism is to uncover the conditions of the possibility of a reasonable public basis of justification on fundamental political questions” (PL, p. xix).

His basic strategy is to recast his theory of justice as fairness as a “political conception of justice as opposed to a comprehensive doctrine” (LP, p. xix). Despite the fact of reasonable pluralism about comprehensive doctrines, Rawls, nevertheless, presupposes that, among citizens, living in liberal democratic societies like ours, we may find shared ideas and values formulating a common ground to which we can appeal when we come to questions of basic justice. The agreement, he hopes, constitutes an “overlapping consensus” on a political conception of justice that can be endorsed by all reasonable persons for philosophical and moral reasons, dependent on the comprehensive doctrine they hold. Thereby we can hope to achieve some stability in the acceptance of a political conception of justice, acceptance for moral and philosophical reasons, backed by the motivational power of the comprehensive doctrines to which individuals are committed: “stability for the right reasons”.

2.2.2 From moral to political constructivism

After the publication of *A Theory of Justice*, Rawls further develops his Kantian interpretation of justice as fairness in a collection of lectures entitled: “Kantian constructivism in Moral Theory” (CP, p.303-358) and later renamed as “Kantian constructivism in Political Philosophy”⁸⁸ (CP, p.389). Kantian constructivism begins with a conception of the person as free, equal and rational, and on that basis, through practical reason uncovers principles of justice: As Rawls writes, it “specifies a particular conception of the person as an element in a reasonable procedure of construction, the outcome of which determines the content of the first principles of justice” (CP, p.304).

Rawls incorporates “all the relevant requirement of practical reason” into his procedure of construction (PL, p.90). The Kantian and Political versions of his constructivism differ mainly in the details of what the requirements of practical reason are taken to be and in how those requirements are incorporated. Rawls contends that the “relevant requirements of practical reason”, include the idea of persons as free and equal, the idea of society as well-ordered by a publicly accepted conception of justice, and the principles of reasonable and rational social cooperation. These ideals, then, need to be incorporated into his “procedure

⁸⁸ In fact, Rawls claims that the title of “Kantian constructivism in Moral Theory” was misleading and it should have been “Kantian Constructivism in Political Philosophy” (CP, p.389)

of construction”; the original position. Kantian constructivism therefore illustrates how moral principles of justice can be “constructed” out of these relevant ideas and principles of practical reason.

The idea of a free and equal moral person is crucial to Rawls constructivism. Moral persons are taken to be equal in the sense that they see one another as having an equal right to reflect on and determine “the first principles of justice by which the basic structure of their society is to be governed” (CP, p.309). Moral persons are free in the sense that they all possess effective moral power to set, revise and pursue their own conceptions of the good. They can decide what terms of social cooperation they want to live with and what plans of life they want to pursue. They can form and be responsible for their own conceptions of the good.

In addition to the features of equality and freedom, Rawls contends that moral persons have the capacities for being reasonable and rational, that is, they possess the two moral powers/capacities, as I have shown in Chapter 1. In particular, Rawls adopts Kant’s “the Reasonable”⁸⁹ and “the Rational”, as nouns, to refer to two different types of practical reasons that people may invoke in their reasoning practice (CP, p.316). He follows Kant in associating a person’s capacity of practical reason with her entitlement to be respected as free and equal. The possession of the moral powers, Rawls suggests, warrants a minimal degree of respect: “The minimal requirements defining moral personality refer to a capacity and not to the realization of it. A being that has this capacity, whether or not it is yet developed, is to receive the full protection of the principles of justice” (TJ, p.445-446 rev.).

For Kant, there are “hypothetical imperatives” that tell us what to do in order to achieve our ends, providing theoretical reasons. In Rawls’s work, these imperatives belong to the Rational, the principle of rational choice and the deliberative rationality. Similarly, Kant’s “categorical imperatives” provide the foundation for asking questions about what should be done, in the sense that it gives a basis for a “form of reasoning that submits both the ends of action and the means to justification *before others* as those morally affected” (Forst, CJ, p.

⁸⁹ In TJ, reasonable is used to describe “reasonable claims”, “reasonable conditions on agreement”, “reasonable agreement”, “reasonable persons” and “reasonable terms of social cooperation”; in PL, he uses it to refer to “reasonable pluralism”, “reasonable political conceptions”, “reasonable comprehensive doctrines” “reasonable moral psychology” and “political reasonable” (Freeman, p.296). The Rational refers to each person’s rational good, about what he or she attempts to achieve or obtain through the engagement in social cooperation, the “deliberative rationality” we have seen in Chapter 1.

15). For Rawls, it is the Reasonable and the principles of justice that serve this role in relation to question of the basic structure of society.

Rawls incorporates these ideas and principles of practical reason into the original position⁹⁰ such that principles of justice are constructed out of practical reasons, rather than be given by any other authority. With the help of the Reasonable and the Rational, it becomes easier to understand why certain conditions are established in the original position. The conditions are set up following the idea that “the reasonable constrains the rational”. It means that one’s rational choice are made within the constraints of moral conditions. Reasonable conditions include “the veil of ignorance, the five formal conditions of right (generality, universality, ordering of principles, publicity, and finality), and finally the condition that principles of justice are to apply to regulate the basic structure of society” (Freeman, 2007, p.302). Rational conditions pertain to the fact that, in the original position, all parties are acting rationally and following the principles of rational choice to make decisions under deliberative rationality⁹¹.

The requirement of equality among moral persons is given effect by the veil of ignorance. Everyone is represented equally by participant parties, with each human having the same status, and no one knowing particular information about her or himself. These moral parties have their own conceptions of the good and a “highest-order interest” in realizing and exercising their moral powers. The interest is of “highest-order” in the sense that it is “supremely regulative as well as effective” and that “whenever circumstances are relevant to their fulfillment, these interests govern deliberation and conduct” (CP, p.312). Our highest-order interest are not themselves final ends, ends for their own sake, but rather they are fundamental and necessary means for the realization of our final ends. Thus, such highest-order interest becomes “intrinsic” and “essential goods” for a free and equal moral

⁹⁰ After TJ, Rawls is observed for not to input any metaphysical assumptions into the design of original position and thereby, nor into the principles of justice as fairness. So instead of referring to our nature, he argues that it is our “self-conception” of being free and equal. This makes this idea of being free and equal becoming a social fact, which constitutes the basis for “constructing” a conception of justice (Freeman, 2007, p.301). But at this stage, this change of terminology does not mean that Rawls would offer an answer different from one by referring to self-conception originating from our nature of being free and equal moral agents when he attempts to answer the question of why we would think ourselves as free and equal in the first place. It means that he still attaches this ultimate ground to his Kantian constructivism. It is only when he turns to political constructivism that he stop to use any Kantian conception of moral agency.

⁹¹ Recall that individuals are regarded as rational when he or she is trying to advance his or her own good by engaging in social cooperation.

person (Freeman, p.299). Whatever one's final ends would be, these interests are necessary and essential.

One kind of freedom of moral persons as “self-originating sources of claims” is reflected in the original position where there is no mechanism asking persons to justify their ends or claims in either prior moral or rational terms (CP, p.334). This means that the parties see themselves as free to evaluate and justify their ends not by some prior moral standards. Another kind of freedom as independence pertains “how the parties are moved to give priority to guaranteeing the social conditions for realizing their highest-order interests, and in their having grounds for agreement” (CP, p.335). To elaborate, the motivation to give priority to the reasonable and to seek an agreement, for Rawls, is not tied to a particular final end or a conception of the good. In other words, moral persons are motivated by “considerations other than those given by their particular conception of the good” (CP, p.335). The two kinds of freedom contribute to one's rational autonomy.

Thus, principles of justice are constructed – not accepted – as antecedent facts or truth by the participants in the original position. For Rawls, “there are no such facts” apart from the reasoning process (CP, p.354). In his Kantian constructivism, Rawls contends that “moral objectivity is to be understood in terms of a suitably constructed social point of view that all can accept” (CP, p. 307). This objectivity allows no measure of truth beyond the constructive procedure itself:

“Whether certain facts are to be recognized as reasons of right and justice, or how much they are to count, can be ascertained only from within the constructive procedure, that is, from the undertakings of rational agents of construction when suitably represented as free and equal moral persons” (CP, p.307).

For Rawls, the objectivity of the principles of justice as fairness then rests entirely on the correctness and objectivity of the procedure: on whether there is correct reasoning, one that “all the relevant requirements of practical reasoning” are incorporated (PL, p.90) have been applied. He suggests that moral judgements can be validated without appeal to any a priori metaphysics or philosophical grounding⁹². Thus, Rawls claims for an independence, a

⁹² When Rawls wrote *A Theory of Justice*, it seemed to many that questions of moral philosophy were inextricably tied up with problems in “the theory of meaning and epistemology, metaphysics and the philosophy of mind” (CP, p. 287). This meant that moral theory was effectively subordinated to other forms of philosophy. In arguing for the independence of moral theory, Rawls suggests that we can deal

Kantian autonomy, for his theory of justice (See CP, pp.236–302). This moral theory does not correspond with any prior realm of moral facts or values, and has an objectivity and universality arising from the practice of practical reason. The Kantian interpretation of justice as fairness makes no “strong” assumptions about human good. It presupposes that people have an interest in realizing and exercising their two moral powers. The way in which how people are connected are based on a moral conception that is achieved socially (CP, p.301). Thus “there is no degree of connectedness (that is, the terms of social cooperation) that is natural or fixed”, nothing about the moral conception is beyond the construction as result of exercising the two moral powers (CP, p.300). Rawls claims that his version of Kantian constructivism, thus, has a practical role by allowing citizens to affirm and justify claims about justice to one another.

“to enable all members of society to make mutually acceptable to one another their shared institutions and basic arrangements, by citing what are publicly recognized as sufficient reasons, as identified by that conception. To succeed in doing this, a conception must specify admissible social institutions...so that they can be justified to all citizens, whatever their social position or more particular interests” (CP, p.305).

By claiming this, Rawls assigns “primacy to the social” and makes the basic structure of society and the terms of cooperation between citizens the first subject of justice and fairness. Kant’s account of the categorical imperative, by contrast, “applies to the personal maxims of sincere and conscientious individuals in everyday life” (CP, p.339). Rawls sees Kant’s constructivism invoking only individual audiences for practical reasoning as everyone is reasoning on his or her own. Kant works from the individual case towards social justice, while Rawls moves in the opposite direction. This social focus of Rawls’s Kantian constructivism allows it to target questions of social justice and to set some limits to its concern: “justice as fairness, as a constructivist view, holds that not all the moral questions we are prompted to ask in everyday life have answers” (CP, p.350).

Publicity, i.e. the idea that the assessment of a conception of justice, should consider the consequences of the fact that it is public knowledge that everyone knows and holds the

with moral questions separately and first. He argues for a “methodological reordering of inquiry into the traditional problems of moral philosophy” (Freeman, p. 314). This idea of the independence of moral theory is then taken further to the independence of political domain with a freestanding conception of justice as if there is an independent realm for the political, and related political reasoning, which I will come to in the next section.

conception (CP, p. 292), is quite essential to Rawls's Kantian constructivism. This concept is already expressed in TJ. When Rawls talks about a "public conception of justice" (TJ, p. 397 - 398 rev.), the "publicity" embedded in this claim suggests that members of a society, well-ordered in light of principles of justice, will not only be aware of the principles but will also be aware of their justification from the original position, and that there will be public awareness of the idea of moral person as free and equal and the principles of the rational and reasonable.

In Kantian constructivism, Rawls takes this idea further and elaborates three levels of publicity. The first level is the public knowledge of the principles of justice and of the part they play in regulating social cooperation. The second level concerns the rough public agreement on "the general beliefs in the light of which first principles of justice themselves can be accepted" (CP, p. 325), that is beliefs concerning "the theory of human nature and of social institutions generally" (CP, p. 325), that can be supported by the ways of reasoning, including the methods of science which are defining public culture of modern democratic society. Third, there is public knowledge of "the complete justification of the public conception of justice as it would be presented in its own terms" (CP, p.325).

For Rawls, a well-ordered society would satisfy "the full publicity condition" when all three levels as exemplified are met (CP, p. 325). Participants in the original position with the task of deciding on principles of justice should then assume that all members of society will know and endorse the principles of justice and understand and accept how they are justified. When full publicity is satisfied, "citizens can fully account for their beliefs and conduct to everyone else with assurance that this avowed reckoning itself will strengthen and not weaken the public understanding" (CP, p.327). Publicity puts people in a position "to know and to accept the background social influences that shape their conceptions of themselves as person, as well as their character and conception of their good" (CP, p.327). It enables citizens, in a well ordered society, to understand the basis on which the principles governing social cooperation are grounded, and to appreciate that the "maintenance of the social order does not depend on historically accidental or institutionalized delusions, or other mistaken beliefs about how its institutions work" (CP, p.327). Publicity allows citizens to know the truth about their social relations and how these relations shape who they are. This knowledge is "a precondition of freedom; it means that nothing is or need be hidden" (CP, p.327). To be fully autonomous, citizens need to know the principles that ground their social relations endorse them and act upon them from their own practical reasons. Without information about the basis for these principles, citizens cannot reason from their own perspective.

Under Kantian constructivism, the question of stability is solved by arguing for the congruence of the right and the good. Hence, rational moral agents will be inclined to act in accordance with their sense of justice, as expressed as justice as fairness, in order to realize their good, and express their nature as autonomous beings. This nature, on this Kantian view, demands that we act as the principles of justice require of us; That is, our nature as free and equal beings who “reveal their independence from natural contingencies and social accident” by acting in accordance with autonomous justified principles of justice (TJ, p.255). Ultimately, our nature requires us to give justice priority over our other interests: “in order to realize our nature we have no alternative but to plan to preserve our sense of justice as governing our other aims” (TJ, p. 574).

Rawls believes that his conception of justice as fairness is the “most reasonable” option, but realizes that he cannot expect that other reasonable persons, who may not share his Kantian view of the world, will agree with him. With “the burdens of judgement”, it becomes untenable to command members of a well-ordered society to agree upon the same philosophical (Kantian) justification of the principles of justice. As Laden (2011) points out, in its essence, the justification Rawls offers in TJ is a philosophical justification, not a political one.

In his Kantian constructivism, Rawls is not trying, as a relativist would, to justify a set of principles for a particular community. He is aiming for a conception of justice that will provide a standard of justice against which any community might properly be judged. Rawls’s Kantian constructivism, along with other varieties of moral constructivism, aims at truth. They share the idea that the objectivity and truth of moral principles does not depend on their correspondence with any prior moral order, but is rather an effect of the quality of the deliberative procedure through which the principles are constructed. In Kantian constructivism, principles of justice are “a product of pure procedural justice at the highest level” (Freeman, p.292); a product of a “truth-bestowing” process (Freeman, p. 292). Thus, moral realism, which assumes a truth before construction, is positively rejected in Kantian constructivism.

As Rawls develops *Political Liberalism* and comes to terms with reasonable pluralism, he modifies his constructivism and moves from Kantian, or moral constructivism, to a political constructivism. The aim of political constructivism is comparatively modest: The ambition is no longer to work out a conception of justice for “universal” application (TJ, p. 114, rev), “once and for all” (TJ, p. 29, rev), it is rather to develop a conception of justice for the basic

structure of a modern democratic society. In addition in political constructivism, pains are taken to avoid truth claims for the products of the construction process. Rawls settles, in PL, for a claim of “reasonableness”, and avoids claiming of moral truth which may require to reject other reasonable views on justice as “false”. It is possible, he recognizes, other reasonable citizens may agree on principles something like those of justice and fairness and hold considered judgements about questions of basic justice that can be brought into reflective equilibrium with such principles, which may not be necessary a product of construction instructed by the autonomy and reason in Kant. Rawls wants a method that can join such reasonable citizens in consensus, overlapping consensus, on a conception of justice for the basic structure that they can endorse for different reasons. Rejection of, for example, realist views of the principles of justice, appears unreasonable from the perspective of political constructivism, as given the burdens of judgement, we cannot reasonably expect that everyone will agree that the principles are “given” to us by our practical reasoning and that by acting upon these principles we realize the “essential” good of moral autonomy. Rawls realizes that such a Kantian constructivist view relies on controversial assumptions about human nature, society, morality, and moral objectivity and truth.

Given the controversial nature of constructivism, it might seem tempting to abandon the position entirely and perhaps simply develop a conception of justice by induction from the overlap of the views of “reasonable” citizens. Whilst Rawls modifies his constructivism considerably in his transition to political constructivism, he does not give up on constructivism. One reason is that Rawls wants to maintain the notion of full publicity and argues for a public justification for a conception of justice. To achieve a public justification, it would require a basis of justification that will be shared and accepted by all of us. For example, when public officials or standard-setters in accounting need to justify their decisions, they need something other than their own moral, religious and philosophical views. This means one cannot justify his decision by appealing to his own conception of what is good accounting. It needs to be a shared and common understanding or agreement to serve the public basis for justification, which should be socially constructed.

Another reason for keeping a constructivist position is that Rawls believes that the approach can be valuable in helping us to work out and justify a “freestanding” political conception of justice. Rawls limits political constructivism to the working out of a political conception of justice for a democratic society, and grounds it in the ideals and values widely shared in

democratic societies, including a conception of free and equal citizens, and the value citizens' political autonomy.⁹³

Moral autonomy is achieved when principles of justice are constructed out of practical reasoning and are understood to originate in the moral powers of the person, and nothing more. In other words, principles of justice are constituted by the principles of practical reason, principles constituted by ourselves autonomously giving principles, we might say the law, to ourselves. The idea is that free and equal persons, with moral powers, will desire above all else to realize this self and the procedure of construction, can be understood as a means to find the principles of justice that will most effectively enable this realization in society. Kantian constructivism is designed to identify and show "which principles, if any, free and equal rational persons would choose" (TJ, p. 224, rev). Rawls's Kantian constructivism generally, and the original position in particular can therefore be understood as "a procedural interpretation of Kant's conception of autonomy" (TJ, p. 226, rev).

By contrast, Political constructivism aims for a "doctrinal autonomy" of a political conception of justice (PL, p.99). To elaborate, the political values it relies upon are independent from all comprehensive doctrines. This is necessary to make the "political autonomy"⁹⁴ of citizens possible: "In affirming the political doctrine as a whole we, as citizens, are ourselves autonomous, politically speaking" (PL, p.99). This means that political principles of justice may be "represented" as the outcome of a procedure of construction based on principles of practical reason (PL, p.98-99). This poses a sharp contrast with Kantian constructivism's claim that principles "are" the product of practical reason. In other words, political constructivism, does not insist that the political conception of justice, identified through the procedure of political constructivism is the autonomous product of the procedure; there is no insistence that the principles of justice are truly "given" by practical reason. What is claimed is that a political conception of justice can be "represented" as a political construction, as an autonomous product of practical reason. It may be that constructivism is indeed true and that there is no reality of moral and political

⁹³ The procedure of political constructivism Rawls has in mind retains the familiar constructivist structure; it "embodies all the relevant requirements of practical reason and shows how the principles of justice follow from the principles of practical reason in union with conceptions of society and person, themselves ideas of practical reason" (PL, p. 90). Yet, "resemblances of structural features and content are not to be mistaken for resemblances with Kant's views on questions of epistemology and metaphysics" (CP, p.389)

⁹⁴ "An autonomous political conception provides then an appropriate basis and ordering of political values for a constitutional regime characterized by reasonable pluralism" (PL, p.99).

principles outside that construction, but political constructivism does not claim this. It avoids challenging the possibility that the true origin of principles of justice may lie elsewhere, in some independent moral reality. It refrains from denying rational intuitionism or any other form of moral realism, including natural and divine law theories:⁹⁵

“To be consistent with rational intuitionism, we do not say that the procedure of construction makes, or produces, the order of moral values. For the intuitionist says this order is independent and constitutes itself, as it were. Political constructivism neither denies nor asserts this. Rather, it claims only that its procedure represents an order of political values proceeding from the values expressed by the principles of practical reason, in union with conceptions of society and person...” (PL, p. 95).

Given the fact of reasonable pluralism, this “represented order” (PL, p.95), a political conception of justice, is the most appropriate for a democratic society as it provides the “most reasonable” focus for an overlapping consensus:

“Rational intuitionists can also accept the argument from the original position and say that it displays the correct order of values. On these matters, they can agree with political constructivism: from within their own comprehensive view, they can affirm the political conception and join an overlapping consensus. Justice as fairness does not deny what they want to assert: namely, that the order of values displayed by constructivism is backed by an independent order of values that constitutes itself.” (PL, p. 95)

The process of reflective equilibrium retains a central role in the procedure of political constructivism. For the intuitionist, reflective equilibrium operates as a means for checking their account of the moral order against their considered judgements. For the constructivist it is a way to test the procedure of construction by testing its outputs against considered judgements:

⁹⁵ Rawls has a broad view of what he will accept as “reasonable”, and reasonable comprehensive doctrines will include certain religious, philosophical and moral views that in some more or less coherent way “express an intelligible view of the world” (PL, 59), it will exclude fundamentalist view lacking in flexibility and the capacity for reflection and change.

“since we are using our reason to describe itself and reason is not transparent to itself, we can misdescribe our reason as we can anything else. The struggle for reflective equilibrium continues indefinitely, in this case as in all others.” (PL, p. 97).

Thus, Rawls sees practical reasoning as a process that expresses what is acceptable and “will be affirmed by us on due reflection” (LP, p.87). At the same time, the process of reflection, the search for reflective equilibrium is one that we can expect to go about in a discursive fashion indefinitely.⁹⁶ In other words, the ultimate source for principles of justice is nothing more than our considered convictions and the validity of the principles is contingent upon the reflective equilibrium of practical reason with these convictions.

In constitutive autonomy, the constructive approach rejects that moral principles are given by any prior conception of the good or moral values. It contends that the origin of moral principles of justice is nothing more than practical reason. Thus, Kantian constructivism rejects rational intuitionism and moral realism and other forms of doctrines that assume a pre-existing standards, truth, or values. The doctrinal autonomy argued in PL, by contrast, does not exclude people who believe in realism to participate in this constructive process.

There are three fundamental intuitive ideas that are said to be shared by citizens of a democratic society⁹⁷: that is, the idea of a society as a fair system of social cooperation, the idea of free and equal citizens, and the idea of a well-ordered society. The agreement on these ideas will not invoke one’s comprehensive doctrines, religious and nonreligious, rather it expresses what is shared and embedded in a democratic culture. These ideas are then built into the “procedure of construction”, and then the principles, as a result of this procedure, are, in effect, originated from public values and ideas shared by democratic citizens. The ultimate foundation for political principles, thus, is not a particular comprehensive view, but rather the shared values of democracy, supported, justified, by the overlap of different

⁹⁶ In *The Law of Peoples* (1999), Rawls explains that his claims in *Political Liberalism* (1993) that a procedure of construction should be designed to “express the principles of practical reason” (PL, p.114) or that it ideally “embodies all the relevant requirements of practical reason” (PL, p.90) were misleading (Law of peoples, 86n; Freeman, p.363). Misleading, insofar as they might incline some readers into thinking that he clings on to a Kantian constructivism and that he is committed to a Kantian account of practical reason or that principles of justice are constitutively derived from practical reasons. And misleading, if they incline readers to think that principles are to be determined by practical reason in a vacuum without the need for the involvement of citizens in active discursive reflection. Rawls explains that: “Practical reasoning as such is simply reasoning about what to do, or reasoning about what institutions and policies are reasonable, decent, or rational and why. There is no list of necessary and sufficient conditions for each of these three ideas, and differences of opinion are to be expected” (LP, p.87).

⁹⁷ These ideas are the starting for Rawls in both his TJ and PL, and I share some of them, as I explained in the introduction, such as viewing society constituted of social cooperation and that citizens are free and equal.

reasonable comprehensive views. The doctrinal autonomy of political constructivism could then make a “neutral” political conception of justice possible: “it is only by affirming a constructivist conception - one which is political and not metaphysical - that citizens generally can expect to find principles that all can accept. This they can do without denying the deeper aspects of their reasonable comprehensive doctrines” (PL, pp.97 – 98).

In Kantian constructivism, talking about truth is unavoidable (CP, p.355). On that approach, the justification of a conception of justice and its principles relies on us having true beliefs about human nature and society. However, given the “deep and irresolvable differences” that characterize modern society we need to find a conception of justice that is neutral between the competing reasonable comprehensive views. Kantian constructivism therefore seeks to develop a conception of justice “on but a part of the truth, and not the whole, or more specifically, on our present commonly based and share belief” (CP, p.331). Justice is constructed then on the truths we share. In political constructivism, Rawls deliberately avoids talking about true or truth, which appear to be metaphysical and disputed philosophical expressions. The constitutive autonomy of Kantian constructivism assumes a sort of truth in moral reasoning and moral values under the shadows of Kant. This is what PL attempts to avoid. It also begins from what we share, but avoids inquiring into its truth.

In Kantian constructivism, equality and freedom are fundamental values that describe our status as persons, and which ought to be reflected in our social relations and protected by the constraint of justice, as required to realize freedom and equality in social cooperation. With this view of the person, as an essentially free and equal member of a socially constructed cooperative scheme, it is vital for the constraint of justice to be accepted freely by all who are subject to it. Otherwise, justice becomes an impossible arbitrary imposition. Thus, the motivation for an agreement on justice in Kantian constructivism, rests on a, rather Kantian, view of the respect due to free and equal moral persons.

But in PL, because of the fact of reasonable pluralism, a “freestanding” political conception cannot be taken to originate in or be justified by controversial Kantian views of human nature, views that part of a comprehensive Kantian doctrine. Rawls needs to distinguish a set of political values, underlying the features of our social cooperation. Rawls argues that any reasonable person within a democratic society, no matter what comprehensive doctrine she holds – provided that it is reasonable – will place significant value on the idea of the free and equal citizen, and that it will have a place within any reasonable comprehensive doctrine in democratic society. In spite of different comprehensive doctrines, we can expect

agreement that equality and freedom are vital to our self-respect and to our capacity to pursue her own conception of the good. We may no longer uphold a “highest-order” interest in realizing and develop our moral powers because we may not understand ourselves in such Kantian terms. Nevertheless, in democracy, we can be expected to agree that we have a “higher-order” interest in “preserving our equal status and self-respect as free citizens, and in maintaining the moral powers that enable us to take part in social cooperation” (Freeman, pp.330-331). As long as we are still living together and subject to terms of social cooperation, we would want a conception of justice that can be accepted without external coercion.

The question then is: how is the existence of a just and stable society of free and equal citizens possible, to the extent that these citizens remain profoundly divided by reasonable religious, philosophical, and moral doctrines? ⁹⁸ (PL, p.4). To answer this question, Rawls posits that we need to first realize, whether there is a political and freestanding conception of justice upon which we could all come to agree, despite the differences in our comprehensive doctrines. In PL, Rawls starts from the assumption that a liberal democratic society⁹⁹ is more just than the others and that a conception of justice is to sustain this justice (Freeman, p.327). The aim of PL, then, is – working within a democratic and liberal view of justice – to find out a conception of liberal democratic tradition that will endure and sustain the justice of a liberal democratic society. I will unpack this conception and the new argument for stability step by step in section 2.3.

2.2.3 Accounting reflections upon this transition

In this section I will discuss whether and how Rawls’s transition from Kantian constructivism to Political constructivism can have implications for accounting. Recall that I previously drew parallels between Rawls’s project in *A Theory of Justice* and Solomons’ (1983, 1991a) proposals for accounting regulation.

⁹⁸ It is a combination of two questions: first, “what is the most appropriate conception of justice for specifying the fair terms of social cooperation between citizens regarded as free and equal, and as fully cooperating members of society over a complete life, from one generation to the next” (PL, p.3); and second, “what are the grounds of toleration so understood and given the fact of reasonable pluralism as the inevitable outcome of free institutions” (PL, p.4)

⁹⁹ A liberal society is one that free and equal citizens should strive for. Rawls does not account for those who do not appreciate freedom and equality, which should be universal from Rawlsian perspective. Freeman observes that this is a “comprehensive doctrine” that Rawls never give up through TJ to PL (p.327).

When Rawls acknowledges the problems associated with justifying principles of justice by appealing to a Kantian view of moral agency, and moves to a “nonmetaphysical”¹⁰⁰ view of justice and justification, his work becomes more applicable as a guide to our thinking about accounting regulation. I want to stay with Solomons’ work in this section and show how the position Rawls’s develops in *Political Liberalism* can help us to make better sense of, see the value of, and critically respond to the position on accounting regulation Solomons (1983) developed. In particular, I will look again at the debate between Tinker and Solomons on the basis of the alternative reading of Solomons’s work. My attempt here is to argue that, given their different starting points, they display different attitudes towards other comprehensive views.

Solomons is aware of pluralism when he expressed it in his book (1986a) that “at international scene, (we) remind ourselves that not everyone does things our way” (p.20). In fact, he criticizes that the FASB’s statement is narrow focused for it “substantially confines its attention to the needs of investors and creditors, barely recognizes the needs of managers, and ignores altogether the interests of other groups with an interest in enterprise productivity, such as labor and the tax authorities”¹⁰¹ (Solomons, 1986b, p.118 cited in Zeff, 1999, p.108). Solomons’ views of accounting regulation as a political activity, is more compatible with the ideas expressed in *Political Liberalism*, than with Rawls’s earlier work since Solomons calls for a development of “an explicit coherent body of accounting theory” whilst not appealing to any metaphysical foundations (Solomons 1983, p.110).

Previously, in chapter, I have shown two readings of Solomon’s work, a standardized reading and an alternative one argued through my Rawlsian lens. The former is popularized by Tinker’s (1991) critique of Solomons’ position. Later researchers often put Solomons’s and Tinker’s work in comparison. My attempt here is to argue that first neither of them are talking to each other given their different starting points. They both tend to intellectual intolerance in their different ways and on different points. Second Tinker’s post-structuralist position is in tension with his Marxist approach, which undermines his revolutionary

¹⁰⁰ Rawls claims that his political conception is not “metaphysical” or epistemological and he declares that “philosophy as the search for truth about an independent metaphysical and moral order cannot, I believe, provide a workable and shared basis for a political conception of justice in a democratic society”(JF, p.230)

¹⁰¹ See also “especially regrettable because of the message transmitted to standard setters in other countries, especially in the less developed ones. In a country like India, for example, private investors play a much less important role than they do in the United States; government and other public agencies play a larger part. The financial reporting needs of the public sector are more important there, and the objectives of financial reporting in those countries should reflect those needs.” (Solomons, 1986a, p.118)

initiative with a determinist perspective. Solomons, on the contrary fully accepts that economic reality and our apprehension of it in accounts are deeply entangled: “It is unnecessary for Tinker to assert that accounting measures are ‘socially constructed and socially enactive’. Of course they are. That is why it is important to make them, to the best of our ability, representationally faithful” (Solomons, 1991b, p. 312).

Solomons has been read, in my view misread, as a metaphysical realist, committed to a correspondence theory – truth; “a quintessential correspondence theory of accounting knowledge” (Tinker, 1991, p. 297). Responding to Tinker, Solomons rightly notes that the issue of representational faithfulness in accounting is “at the root” (1991b, p. 312) of their differences.

Solomons is indeed committed to representational faithfulness; he insists that accounts must strive to represent what they purport to represent” (Solomons, 1991b, p. 312). Tinker on the other hand dismisses the accounting quest for representational faithfulness as “futile because there is nothing to seek!” (Tinker, 1991, p. 303). Tinker associates representational faithfulness with metaphysical realism, and mistakenly assumes that Solomons’ commitment to faithful representation in accounting entails a commitment to a metaphysical realist view of economic reality: “Solomons believes that economic reality exists, independent of our apprehension of it, and that this is the ultimate touchstone of truthfulness and accuracy for accounting symbols” (Tinker, 1991, p. 297). Solomons, on the contrary fully accepts that economic reality and our apprehension of it in accounts are deeply entangled: “It is unnecessary for Tinker to assert that accounting measures are ‘socially constructed and socially enactive’. Of course they are. That is why it is important to make them, to the best of our ability, representationally faithful” (Solomons, 1991b, p. 312).¹⁰²

Solomons is nonmetaphysical in his approach, and contends that we prepare accounts in terms of the phenomena we have access to, i.e. market values (1991b, p. 289). Tinker is in fact much more of a metaphysician, hoping for access to the noumenal realm, the thing in itself of an “underlying social reality”: “The idea that accountants should take on the task of looking beyond “market appearances” to the “underlying social reality” is, to say the least, farfetched. It is difficult enough to get consensus as to what constitutes “economic reality”,

¹⁰² It is difficult, in fact, to imagine that anyone would seriously want to endorse the idea that “economic reality is independent of our apprehension of it” (Tinker, 1991, p. 297). Tinker seems to make something of a philosophical straw man out of Solomons’ rather free use of representational imagery in efforts to make his position vivid.

a concept derived from the fabric of market phenomena. What hope could there possibly be of finding a consensus as to the nature of “social reality” that is somehow different from market realities?” (Solomons, 1991b, p. 289).

Solomons shows a deep appreciation of the impact on accounting of pluralism, intensified by conflicts of interest and political interference, taking form of different judgements and understandings of accounting concepts and measurements. This seems to parallel Rawls’s recognition of the “burdens of judgements” (PL, p. 54), I discussed in 2.2.1. Rawls recognizes the challenge of finding agreement on a liberal political conception justice, even among persons holding commitment to reasonable comprehensive doctrines (see Freeman, 2007, p. 351).¹⁰³ Likewise, Solomons, recognizes the difficulty of finding consensus on accounting principles for the faithful representation of “economic reality” even among reasonable persons, committed to the values of liberal democracy as they have come to be expressed our commercial world. Much as Rawls thinks we cannot expect that reasonable persons will all agree on a political conception of justice, for the same reasons Solomons accepts that reasons for agreement on accounting principles may vary. Some may endorse a set of principles that support faithful representation because of an interest in stewardship and good corporate governance; others because of an interest in resource allocation and investment; others because of broader social concern and their interest in seeing full taxes collected; and so on.

Solomons urges standard setters to “disavow the Macve Report” (Solomons, 1983, p. 115) and Macve’s conclusion that we cannot hope for agreement on a conceptual framework for financial reporting. Solomons’ contention is that reasonable persons with an interest in accounting, and a commitment to the values of liberal democracy as expressed in our commercial world, will be able to reach an overlapping consensus on basic principles for financial reporting. Solomons thinks that it ought to be possible for reasonable persons to reach an agreement that is “neutral” among different interest groups, within the limits explained above; they can agree we might say on a political conception of accounting. There is a parallel here with Rawls effort to show how we might establish, and achieve overlapping consensus, on a freestanding political conception of justice; a conception with “doctrinal autonomy” (PL, p.98). Just as Rawls has little to say to the unreasonable persons, those, for

¹⁰³ As noted by Laden, “Readers who think that Rawls is begging his own question by limiting himself to finding common ground among *reasonable* citizens fail to see just how hard it is to even do that” (2003, p. 381).

example, who do not have a commitment to the freedom and equality as essentiality of being citizens; Solomons seems also has little to say to Tinker who he sees as an unreasonable person, to change Tinker's view of accounting "beyond my help" (Solomons, 1991, p. 311). Tinker, in his rhetoric at least, does not want to work within the limits of the liberal democratic society that Rawls and Solomons are committed to, but he wants to see it overthrown in revolution.¹⁰⁴

Tinker makes some strong claims. He insists, for example, on the "independence (autonomy) of signification from economic reality". This seems to suggest a radical skepticism that locates him paradoxically as still caught in the representationalist imaginary. We have signification and reality, scheme and content, but refuse to accept that they are securely in touch. As I explain in the previous chapter Solomons avoids such scepticism, though what we see as his unproblematic realism, his recognition that our schemes, and in particular our accounting, is entangled with our being in the world. Again, a little paradoxically, Tinker goes on to tell us that pursuing representational faithfulness is futile "because there is nothing to seek", but is able to compare historical cost and current cost schemes and make the statement, scare quotes notwithstanding, that "historical cost is clearly a more accurate record of "what actually happened" (p. 312).

Tinker displays a strong constructive perspective maintaining that "the object (reality) is changed by the results of the subject's analysis and theorizing" (Tinker et al., 1982, p.173). Tinker believes that everything is constructed, including the objects of knowledge: "the world has be made to mean" (Levi-Strauss, 1977, quoted in Tinker, 1991, p.303, fn.14). The assumptions that Solomons uses as starting point, for Tinker, thus, should be problematized and contested. For Tinker, nothing is "pre-given" and all are socially constructed and social enactive (1991, p.301). Any stabilization or legitimation would be a result of hegemonic power.

Tinker insists that accounting and the accountant are inevitably partisan, on one side or another, of political dispute. Solomons' approach, for Tinker, is a partisan one serving as

¹⁰⁴ Tinker criticizes accountant's obsession with marginal theory ignoring other possible theories and deplores the fact that marginalism has become part of "intellectual affiliations" of accounting (Tinker, 1985, p.111). These "intellectual affiliations" ground the basis for accounting's failure to be truly accounting for society. Tinker points out the importance of "accounting theory", but not as medium for a "passive representation of reality", but in its active role as "an agent in changing (or perpetuating) a reality" (Tinker, 1985, p.28). Tinker argues that "marginalism provides accounting with a slanted picture of reality" (1985, p.28). Tinker clearly goes beyond the existing society or a liberal society that Solomons attempts to work with. Tinker appears to be revolutionary.

support and apologist for the existing social order (Tinker et al., 1982). Yet again paradoxically, while Solomons is criticized as seeking to depoliticize accounting, he in fact presents us with a method that remains liberal and open with a vision of ongoing change and development of accounting through debate and the search for consensus. Tinker, on the other-hand, presents, it seems, a dogmatic partisanship that valorizes antagonism, and essentially seeks to destroy its enemies and eliminate politics. This reflects his commitment to a socialism that holds out the determinist dream that the capitalist market¹⁰⁵ will one day be dissolved and that we will eventually all share one common and collective will in a communist utopia (Honneth, 2013); having no need of democracy or politics. Tinker, makes clear his uneasiness with critical accounting research that does not adopt a Marxist approach to understanding accounting as an institution. He intolerantly dismisses such research and the underpinning comprehensive views that inform it as “flawed”, “poorly specified” or as having “false starting points” (Tinker, 2005). This kind of approach to political issues, and accounting thought, seems consistent with the aim for a depoliticized construction of a “we” without a “they”.¹⁰⁶

Nevertheless, Solomons and Rawls respond similarly to disagreements and the fact of pluralism, in compared with Tinker’s. Rawls’s Kantian constructivism, as we have seen, flatly denies the truth of moral realism and moral skepticism. Rawls realizes that it is unreasonable to expect that his comprehensive Kantian view could be public justified to everyone. In *Political Liberalism*, Rawls wants to justify his view not by denying other’s views but by tolerating different philosophical, ethical and religious views, whilst finding a core of agreement on justice, agreement for different reasons. Solomons follows a similar approach in looking for agreement on a political conception of core accounting principles, whilst appreciating the plurality of views on accounting. Both see their approach to justice or to accounting principles as methodological claim, that is, to find something that all can

¹⁰⁵ The reader of Tinker (1991) might be forgiven for wondering whether she ought to think of the capitalist market as a reality, one we can find the facts about and critically report on, or whether we need to confine ourselves to conceiving of it as an “imaginary relation” (1991, p. 303).

¹⁰⁶ In fact, both Solomons and Tinker are intolerant of those who do not share their perspectives. Their debate is fundamentally unsatisfactory and their arguments quite incommensurable, so that there is no development through the debate. Scapens (2005), who is clearly more sympathetic to Solomons’ starting points, criticizes Tinker’s partisan advocacy of his position and his tendency to destructively reject and denying the value of rival theories (p.148).

accept even with different reasons. There is a limit to the toleration of both Rawls and Solomons.¹⁰⁷

Political constructivism offers a principle of toleration. It presents a political approach that shows how legitimate terms for a basic structure of society can be “justifiable to all citizens”, and how such justification is to “appeal only to presently accepted general beliefs and forms of reasoning found in common sense, and the methods and conclusions of science when these are not controversial” (PL, p. 224). This is an important transition, for Rawls, from addressing the issue of justice as a philosophical question to a question of pluralism as political problem to be worked out among citizens (Chambers, 2012, p.20). Rawls’s approach to justice and justification, in PL, is political not metaphysical. He aims to show how we can have a justification for a stable conception of justice, without relying on any metaphysical foundations.

Rawls contends that we are reasonable persons¹⁰⁸. It means that reasonable individuals are “ready to propose principles and standards as fair terms of co-operation and to abide by them willingly, given the assurance that others will likewise do so” (PL, p.49). Reasonable persons do not force other reasonable persons to accept terms of cooperation that they may reject from their perspectives (PL, p.55). They appreciate and acknowledges the “burdens of judgements” (PL, p.54-58). People may end with different judgements even if they attempt to be neutral or are provided with similar information or evidences (PL, p.56-57). Being reasonable contributes to build one’s self-image, in order to be seen as reasonable. Reasonable persons not only have a capacity of toleration but also uphold a principle of reciprocity “so that each benefits along with others” (PL, p.50). They recognize the validity of other’s claims (PL, p.52). They take account “the consequences of their actions on others’ well-being” (PL, p.49, fn.1).

What Rawls’s political liberalism and political constructivism offers us is a “defence of the possibility of a just constitutional democratic regime” (PL, p. 101). His work is sometimes read as offering us philosophical prescriptions handed down by experts, ideals to be taken up and simply applied by citizens. There are clearly elements in Rawls’s work, especially in

¹⁰⁷ Neither is prepared to tolerate the unreasonable, and for Solomons, Tinker’s views seem to fall beyond the limits of toleration.

¹⁰⁸ “Being reasonable...is part of a political ideal of democratic citizenship that includes the idea of public reason...the reasonable, rather than the rational, addresses the public world of others” (PL, p.62).

the early work that lend themselves to such an interpretation.¹⁰⁹ In his later work, however, he takes pains to emphasize the democratic and discursive aspect of his liberal democracy. In his *Reply to Habermas* he insists: “citizens in civil society do not simply use the idea of justice as fairness ‘as a platform [handed to them by the philosopher as expert] from which to judge existing arrangements and policies.’ In *justice as fairness*, there are no philosophical experts. Heaven forbid!” (RH, p.174). He insists that citizens must exercise their moral autonomy, they must work out for themselves the justice they will live by, and they must have a role in developing the norms by which they are governed. And if they are to do that effectively they must have the necessary tools and mechanism to support their reasoning: “citizens must, after all, have some ideas of right and justice in their thought and some basis for their reasoning” (RH, p.174). Philosophers, like Rawls himself, have a part to play in developing such tools, but that gives them no privileged position, they are “always as citizens among others” (RH, p.174).

We can see then that the purpose of Rawls’s political constructivism, and his effort to offer a systematic alternative to utilitarianism, is not, finally, the generation of a moral or political theory to be handed over to citizens as a once and for all guide for the organization of their social cooperation. His intention is not to essentially to show how we can deduce moral theory from certain premises concerning practical reason, human nature, and society, it is “the more modest one of developing the tools necessary to think about justice without either relying on utilitarianism or settling for intuitionism” (Laden, 2003, p. 382). Rawls shows that despite reasonable pluralism, our irresolvable differences of religion, philosophy, and morality, the citizens of a democratic society can have public justification and agreement on principles of justice for the basic structure of a democratic society. He thus gives us reason to have faith in the possibility of political legitimacy,¹¹⁰ and the regulation of cooperative social life on the basis of a public reason that everyone can endorse. Rather than provide us with expertly packaged theory, what Rawls gives us is an idea of public reason that we can

¹⁰⁹ The “standard blueprint” reading of Rawls as set out by Laden (2003) captures this view clearly. I suggest that Mouffe and Waldron tend to follow this reading. Even a sympathetic reader such as Rainer Forst seems to share this view, when with Rawls work evidently in mind he talks of the philosophy of a “pre-democratic era”: “It accords priority to teleological values which are supposed to ground a just or good social order, where those who are subjected to this order do not feature in it as authors. ... It resorts to figures of justification which invent “overlapping” or other reconciliatory agreements in whose production hardly anyone was involved” (Forst, 2013b, p. 4).

¹¹⁰ As I have previously explained, the principles of political legitimacy require that “matters of constitutional essentials and basic justice, the basic structure and its public policies are to be justifiable to all citizens” (PL, p. 224).

have confidence in, he shows us how public justification is possible. It is a tool for public reasoning and justification, rather than a means to the end of a theory which considers the original position and reflective equilibrium as important.

As we put the tools and approach that Rawls offers to work, we can reasonably expect to find that our understanding of our own considered judgements and what justice requires of us will grow. We can expect to “see more clearly the chief structural features” (Rawls, TJ, p. xviii) of the conception of justice most appropriate for the liberal democracy, and implicit in the social contract tradition, and our considered judgments. The faith in the “possibility of a just constitutional democratic regime” (PL, p. 101), that Rawls’s work supports, “we manifest (or not) in our ordinary dealings as citizens, in the way that we approach political matters of the day and justification that we offer to one another for our positions” (Laden, 2003, p.384). This faith is not a matter of commitment to the right philosophical theory; in fact, the philosophers’ search for the right theory is all too often motivated by the desire to abolish the need for this faith in the possibility of a practice of political legitimacy.

There are crucial lessons here for accounting regulators, theoreticians, and practitioners. We can have reasons to have faith in the possibility of a politically legitimate institution of accounting. But that faith cannot be properly manifest in a simple acceptance of theory offered by experts “trying to establish once and for all the superiority of a particular system” (Laden, 2003, p.384), it cannot stop at a confidence in a political conception accounting offered by experts no matter how diligently or intelligently they have sought to pursue the right answer. The faith we can have in the possibility of a politically legitimate accounting “is manifest (or not)” in the way that contentious accounting issues are approached and justifications offered and taken, in the pursuit of legitimate accounting framework. One might say in pursuit of “a just constitutional democratic regime” (PL, p. 101) for accounting; a possibility that Rawls gives us reason to have faith in.

In *Political Liberalism*, Rawls’s intention is not, finally, to assume the position and authority philosopher or a theorist seeking to justify his theory to his fellow experts, for ratification and delivery to a waiting public. He aims to show how a theory of justice can be politically justified, that is to have a public justification and acceptability to everyone. We can understand Rawls as taking up a position of a citizen of a democratic society, among other citizens, addressing his ideas to his fellow citizens (Laden, 2003, p. 384 - 385). With the idea of justice as fairness, Rawls offers a conception of justice that can be shared by all, and thus

serve as a foundation of a shared public reason; a conception which “may be shared by citizens as a basis of a reasoned, informed, and willing political agreement” (PL, p. 9).¹¹¹

In similar vein, the justification of accounting principles or accounting judgments cannot stop with philosophical, or theoretical, justification, addressed to experts, to accounting theoreticians, standard setters and other accounting professionals. Rather, accounting principles need to win public justification. Rawls work leads the way in showing how such political justification can be achieved even in the context of reasonable pluralism. We manifest faith in the possibility of a politically legitimate accounting by the way we approach the establishment of principles and the treatment of contentious issues, in the quality and kind of the justifications we give and who we offer justification to: They need to embrace all affected, with and without accounting expertise. The justifications need to be of a kind that we can expect others, as reasonable and rational participants in the accounting community broadly defined, to accept. Accounting theoreticians and policy makers should follow Rawls lead and position themselves as participants in debate along with other participants, rather than assume the authority of the expertise. The acknowledgement of the fact of pluralism should motivate us in “uncovering a public basis of justification” on questions of good and right accounting. The justification of accounting principles is typically formulated as an expert logical deduction of theory from premises concerning for example the objectives and desirable qualities of accounts. When looking at Solomons’ work on the justification of accounting principles, we found certain resonances with Rawls’s approach to the justification of a political conception of justice. However Solomon emphasizes what we might think of as the first phase of justification i.e. the application of practical reason to generate a consistent and coherent set of principles. Less emphasis is given to subsequent stages of justification through reflective equilibrium and public response.¹¹² This makes it more urgent to explore how Rawls proceeds in articulating the stages of political justification in *Political Liberalism*.

¹¹¹ Rawls argues that we must apply “the principle of toleration to philosophy itself” (CP, p.396), and that that justice as fairness should present itself as acceptable to all reasonable citizens, irrespective of what comprehensive doctrine they might hold (PL, p. 9).

¹¹² As we will see, for Rawls, below, full political justification requires public endorsement in which “all the reasonable members of political society carry out a justification of the shared conception by embedding it in their several reasonable comprehensive views” (PL, p.100).

2.3 Political conception, political principles and political justification

2.3.1 A Freestanding conception of justice

A freestanding political conception of justice is characterized by three features. First, it applies directly to the basic structure, which retains the same meaning and function as in TJ. Second, it is “freestanding” of any comprehensive doctrines¹¹³, and it stands free of philosophical views concerning, for example, matters such as the nature of moral truth¹¹⁴ (PL, p. 154-158). Third, it is constructed on the basis of ideas implicit in democratic public culture. These are intuitive ideas shared by members of a democratic society: the idea of a society as a fair system of social cooperation, the idea of free and equal citizens, and the idea of a well-ordered society. These ideas are of course similar to those underpinning Rawls’s Kantian constructivism. The “political constructivism” that Rawls advocates in PL is meant to give meaning to the idea of fair social cooperation among free and equal persons, to generate a political conception of justice that which can be argued to “best fit” with our self-perception as citizens in a democratic society (CP, p. 291).

How are the ideas that underlie the development of a political conception of justice in Political Liberalism, different from those behind Kantian constructivism? In making the transition from the comprehensive, or partly comprehensive, conception of *justice as fairness* to the freestanding political conception of justice, “Rawls pours new wine into old wineskins” (Freeman, 2007, p.331). First, Rawls proposes a “political conception of the person”, which refers to an ideal conception of free and equal citizens with two moral powers (PL, p. 29). This is a variation on the Kantian account of free and equal moral persons. But Rawls no longer relates this ideal to a Kantian interpretation of the human nature as a moral agent; instead he sees the ideal of free and equal citizens as reflecting values implicit the culture of democratic society and its members.

As justice as fairness starts with the idea – implicit in the tradition of democratic thought – of a “society as a fair system of cooperation” (PL, p. 14), a fitting conception of the person is adopted, as a citizen, capable of playing an active part in society. And because it starts

¹¹³ “Comprehensive doctrine”, for Rawls, covers every aspect of one’s life, including what is good and of value in one’s life and the meaning of life. For Rawls, metaphysical doctrines and epistemological doctrines all belonged to comprehensive doctrines; natural or social science does not.

¹¹⁴ Rawls hopes, that whilst claiming the reasonableness of his political conception of justice, he can avoid making any claim regarding its truth, and that he can therefore also avoid treating other reasonable comprehensive doctrines as false. Rawls wants extend the principle of toleration to philosophy, and thus avoids making any fundamental challenge to reasonable comprehensive doctrines (see, RH, p. 136).

with the democratic tradition, citizens are conceived of as free and equal: “The basic idea is that in virtue of their two moral powers (a capacity for a sense of justice and for a conception of the good) and the powers of reason (of judgment, thought, and inference connected with these powers), persons are free. Their having these powers to the requisite minimum degree to be fully cooperating members of society makes persons equal” (PL, p. 19).

Rawls’s concept of social cooperation carries the idea of voluntary engagement in social activities on terms that citizens can accept and see as basically fair. This does not mean that the social cooperation will be optimal for all, but it does imply that all will benefit and therefore have reason to cooperate. The concept therefore entails the idea that cooperation will be conducted on terms that are fair or “reasonable”, and that it will be to the benefit of all; that it will be “rational”. The idea of society as a system of fair cooperation then requires that its terms be reasonable and rational for all. The two moral powers are therefore necessary for social cooperation.¹¹⁵ A capacity for a sense of justice enables citizens to be reasonable. Persons are reasonable when they are ready to propose and abide by, given the assurance that others will do likewise, terms of cooperation that “they view as reasonable for everyone to accept and therefore as justifiable to them; and they are ready to discuss the fair terms that others propose” (PL, p. 49) With the idea of society as a fair system of cooperation and persons as citizens with the powers they need to be fully cooperating social participants, we can have a clear view of the basic question of political justice: “what is the most appropriate conception of justice for specifying the terms of social cooperation between citizens regarded as free and equal, and as normal and fully cooperating members of society?” (PL, p. 20).

In *Political Liberalism* we have a view of citizens as free and equal moral person with the capacity to be reasonable and rational. Rawls has retained the view of the person developed in his earlier work, but with a crucial difference. The argument put forward in *A Theory of Justice* and Kantian constructivism hinges on acceptance of a view of the nature of the free and equal person with an interest in realizing and developing her moral powers. Rawls realizes that in conditions of pluralism this view of the person is controversial and not accepted by all. In *Political Liberalism* there is no need for a commitment to a view of human nature: no “metaphysical doctrine of the person is presupposed” (PL, p. 29). Rather, in *Political Liberalism*, the citizen is “represented” (PL, p. 29) as a free and equal moral person

¹¹⁵ The Reasonable and the Rational are “complementary ideas” and neither “can stand without the other” (PL, p.52).

with powers of reason. Rawls's position in *Political Liberalism* is that the ideal conception of the citizen as free and equal with moral powers is the best way to "represent" citizens engaged in social cooperation in democracy. He finds empirical grounds for this in the self-conception of citizens in democracy, and that fact that the moral powers, reasonableness and rationality, are required to enable cooperation.¹¹⁶

In *A Theory of Justice*, there is commitment to the truth of a view of the person and their good. In *Political Liberalism*, Rawls aims to avoid any such commitment. The reflections on the empirics of the self-understanding of citizens and what is required for engagement in social cooperation, does not commit us to such truth claims. Rather, the ideal of citizen as free and equal with two moral powers, emerges from those reflections¹¹⁷ as the most appropriate way to "represent" citizens, as persons, engaged in social cooperation in a democratic society. Rawls no longer claims that freedom and equality are the fundamental values, a final end to be pursued by an individual. Rawls cannot appeal to the argument of "full autonomy" that he claims as the intrinsic and essential good for human beings under Kantian constructivism. Rather, Rawls argues that freedom and equality is of political importance for someone who may not see rational autonomy as part of her good. Rawls is thus able to retain much of the detail of his conception of the person he takes to the original position, yet there is a fundamental change of perspective. There is no longer any need for metaphysical commitment to Kantian ideal of human nature and moral person, and in its place we have a pragmatic view of the appropriate way to "represent" the citizen when we come to address the question of the justice in social cooperation. This representation seems "empirically" to fit with the way citizens think of themselves in democracies and the capacities needed to participate in social cooperation within a democratic society: "Thus in *Political Liberalism* Rawls resourcefully converts the Kantian conceptions of the person and the nature of agency into what he regards as non-controversial claims about how citizens in fact conceive of themselves in a democratic society, and the natural capacities they need to

¹¹⁶ The Reasonable and the Rational are still the two moral powers that are necessary, not for the reason of expressing human nature, but for taking part in social cooperation such that people can observe the terms of social cooperation and respect and act from them. Rawls explains his position by engaging with a social fact that we all want to be part of the cooperation and therefore the ideas and reasoning are shared by us as members of a democratic society. It is an "empirical fact", a pragmatic necessity to be socially connected and enjoying the benefits of cooperation (Freeman, p.334). This provides empirical basis for the acceptance of the ideal of citizens as free and equal persons with two moral powers.

¹¹⁷ We might say that it is "reconstructed" out of those reflections.

effectively participate in society” (Freeman, p. 335). This constitutes what Rawls means by a political, as distinct from a metaphysical, conception of the person.

The idea of a well-ordered society, “as a society effectively regulated by a public political conception of justice” (PL, p. 35), is a companion idea to that of fair social cooperation: “any conception of justice that cannot well order a constitutional democracy is inadequate as a democratic conception” (PL, p.35). Thus the primary goal is to find a conception that would serve this role. One reason why a conception of justice may fail is that “it cannot gain the support of reasonable citizens who affirm reasonable comprehensive doctrines” (PL, p. 36). Rawls sees that given the diversity of comprehensive doctrines in pluralist society, a comprehensive, or partly comprehensive, doctrine as developed in TJ is likely to fail for this reason. Rawls sees that it is unrealistic to hope that a well-ordered society could be achieved by citizens all coming to endorse the same comprehensive doctrine and the same conception of justice as fairness derived from it (PL, p.xviii). Rather than giving up this ideal of social cooperation, Rawls redefine the conditions for endorsement by incorporating the condition of “the fact of reasonable pluralism”.

As no single comprehensive philosophical, moral, or religious doctrine can expect to win the endorsement of all citizens, Rawls argues that the conception of justice endorsed in, and capable of effectively regulating, a well ordered society must be limited to what he calls “the domain of the political and its values” (PL, p. 38). A conception of justice limited in this way, and developed on the basis of the values implicit in democratic society, he hopes can “gain the support of a reasonable overlapping consensus” (PL, p. 36). He argues that the overall views of citizens in a democracy have two parts, “one part can be seen to be, or to coincide with, the publicly recognized political conception of justice; the other part is a (fully or partially) comprehensive doctrine” (PL, p. 38), which if reasonable we can expect to give support to the political conception.

The role of original position, for Rawls, is to “elaborate a political conception of justice”; it is to work out what we conceive of justice and what we already commit ourselves to. The original position is to bring those ideas and ideals that we share and endorse to the fore, such that it can incorporate “all the relevant requirements of practical reason” that will generate a proper political conception of justice, which will clarify our now understanding and belief (PL, p.90). It expresses the “ideas of practical reason” that are implicit in our understanding of being a citizen of a democratic society (PL, p.107).

Our capacity to live a life that we can choose and revise by ourselves, and the capacity to act upon and from a sense of justice that affirms our self-respect, are still two important capacities for one being respected as a reasonable being, despite for whatever comprehensive doctrines one may uphold, according to Rawls. Instead of arguing, as he does in *A Theory of Justice* (as discussed in section 1.5), that we have a “highest-order interest” in the realization and development of our moral powers, Rawls, in *Political Liberalism* casts our desire to develop and exercise our moral powers as “higher-order interest” that will preserve our equal status and self-respect as free citizens. Because of such a “higher-order” interest, we would endorse the conception from our own comprehensive doctrines, such that acting from the requirement of the terms would not contradict with our own conception of the good. This is a “political autonomy” or “full autonomy”, a political value that substitutes, in *Political Liberalism*, for the moral value of “moral autonomy” in *A Theory of Justice* and Kantian constructivism. The main difference between political autonomy and moral autonomy is that while moral autonomy requires that we act on, and for the sake of, the principles of justice, political autonomy requires that we act on, but not necessarily for the sake of the principles of justice. Political autonomy allows us to be motivated to act on the principles of justice by our comprehensive doctrines, and for example by our religious, moral and philosophical views.

2.3.2 Overlapping consensus

Given the fact of reasonable pluralism, and the concomitant diversity of conceptions of the good, it is not immediately clear why even reasonable and rational citizens would endorse a freestanding political conception of justice and endorse it, ahead of their own comprehensive doctrines and their associated conceptions of the good, as supremely regulative of their pursuit of the good in cooperation. In Kantian constructivism, the problem of stability is addressed by claiming a congruence between the right and the good. That is, by assuming that reasonable and rational persons would have an intrinsic interest in acting upon the requirements of justice, as in doing so they would realise and exercise their capacities for autonomous moral agency; the assumption being, then, that people will be motivated by her own rational interests to act justly. Rawls comes to accept that, since people may not see moral autonomy as their final-end, and may therefore lack this motivation, we need to recast the stability problem. Even if a freestanding political conception spelled out the implicit shared ideas of a democratic public culture, we are still uncertain whether each individual, given their different comprehensive views, would also find it rational to endorse this conception of justice and put it ahead of their other goods.

The argument of overlapping consensus is designed to help overcome the problem of stability. The basic idea is that in well-ordered society a political conception of justice will be endorsed, and thus acted on, by citizens for different reasons, given by the various comprehensive doctrines and conceptions of the good that they hold. Freeman points out that overlapping consensus “is essentially a hypothesis about the kinds of conceptions of the good that predominantly will be fostered by a well-ordered society” (Freeman, p. 366-367). Based on an idea of reciprocity (recalled that explained in congruence argument TJ, p.429-430 rev.), overlapping consensus is assuming that within various comprehensive doctrines that capture our conceptions of the good, a doctrinal perception of justice will gradually evolve and form to endorse liberal political values and liberal political conception of justice. In return, those doctrines that are able to evolve towards a liberal conception of justice and its principles, essentials for a democratic and liberal society, will become dominant and thrive; those that cannot will be dropped and diminishing gradually (Freeman, p.367). In other words, it is an overlap among “reasonable” comprehensive doctrines, doctrines that do not reject liberal principle of justice and liberal political values.

Overlapping consensus attempts to show for individual, it is both reasonable and rational, as part of her own conception of the good, to endorse and accept a political conception of justice to regulate her conducts. Compared with the congruence argument we discussed in previous chapter, overlapping consensus does not argue for a conception of justice, such as *justice as fairness*, as a public accepted truth. Our deep and irreconcilable difference in comprehensive doctrines imply that issues like moral truth, moral standards or human nature are issues that cannot be addressed or resolved with a political conception of justice; rather, they belong to the “background culture” that contains all the non-public moral and political disputes.

To act justly is one’s rational decision, either for sake of maximization of self-interests or as a result of individual morality. In either way, society will be stable for the right reasons. “Stability is not then simply everyone’s second-best choice, growing out of a rational compromise of each person’s fundamental moral, religious, and philosophical values. It is the best choice for everyone given the moral, religious, and philosophical principles implicit in their reasonable comprehensive views” (Freeman, p.368).

Rawls also retreats from arguing that the consideration of justice are the final court for any disputes and should “trump” all other reasons, which is the requirement in the finality condition in TJ. Requirements of justice may or may not be considered as “supremely regulative” over other ends. If conflicts arise between the requirement of justice and one’s

self interests, Freeman notes, reasons of justice will override “all other considerations within public reason and the public political domain” (Freeman, p.369). The conception of justice, and reasons of justice will have a “political finality” within political and public domain (Freeman, p.369).

Sometimes, overlapping consensus could be confused with “modus vivendi” (PL, p.392), a temporary consensus reached after negotiation and compromise among different interest conflicts. Modus vivendi is like a second-best option that we could arrive upon disagreements of political issues. For Rawls, overlapping consensus represents the best possible agreement we could ever achieve. It is not a compromise. This is how overlapping consensus can allow institutions’ stability for the right reasons. Thus, consistent with his social contractual tradition, Rawls still argues for the necessity of reaching an agreement on a political conception. The expectation is that the political conception will win the endorsement from the overlap of all of the reasonable religious and philosophical comprehensive doctrines within democratic society. A freestanding political conception of justice then becomes a “module” that can fit in with different comprehensive doctrines: “an essential constituent part, that fits into and can be supported by various reasonable comprehensive doctrines that endure in the society regulated by it” (PL, p.12, p.145). The basic ideas of the political conception can expect to win the support of an overlapping consensus in democratic society, precisely because the conception is itself constructed on the basis of the shared ideas of the democratic tradition referred to above, and through “their common practical reason” (PL, p. 90).

2.3.3 Public Reason and The Liberal principle of legitimacy

The idea of public reason, for Rawls, does not simply refer to reasons that are commonly shared within a society. Rather, it is “characteristic of a democratic people; it is the reason of its citizen, of those sharing the status of equal citizenship” (PL, p.213). It is possible that only one set of reasons is available or shared within a society because of a common religious belief. For example, this could be the case of a religious community wherein all political questions and issues are resolved by appealing to religious explanations. For Rawls, this is not public reason; rather this is comprehensive reason that excludes the possibility of public reason.

The idea of public reason is relatively complicated¹¹⁸. Rawls articulates his view of public reason by making several comparison and through the explanation of necessity of having public reasons in a democratic society. Rawls compared public reason with non-public and comprehensive reasons. Comprehensive reasons are reasons that derive from comprehensive views of the world. Non-public reasons include comprehensive reasons and other considerations that do not count as public reasons. He also distinguishes the notions of “public reason” and “public reasons”. The latter refers to considerations and values that are used in public political questions. The former refers to a kind of reasoning process that officials and citizens enter into when they are dealing with political questions. The idea of “public reason” only applies to political questions and it should not restrict our liberty of conscience and freedom of thought (which we recall as basic liberties from the previous chapter): “its limits do not apply to our personal deliberations and reflections about political questions” (PL, p.215).

But when some fundamental political questions are at stake, citizens are in need of some reasons that they can provide to one another (IPRR, p.132). In particular, Rawls highlights that public officials are expected to act from public reason. Public reason generally “applies in official forums and so to legislators... and to the executive in its public acts and pronouncement” (PL, p.216). They may use non-public reasons only when “constitutional essentials and questions of basic justice” are not at stake (PL, p.214). But generally, they are expected to make explanation for the laws they enacted by appealing to public reason.

There are two kinds of public reasons. There are “guidelines of public reason” (PL, p.225). They “fall under the guidelines for public inquiry, which make that inquiry free and public” (PL, p.224). This means that anyone else who uses these guidelines should be able to reach

¹¹⁸ Rawls has different explanation about public reasons. Here I rely on Freeman’s summarization of the characteristics of public reason (Freeman, p.383-384): “Public reason is characteristic of a democratic people; it is the reason of equal citizens (PL, p.213)”; “public reason’s subject is the good of the public; its content is a political conception of justice (PL, p.liii)”; “public reason’s constraints apply in the ‘public political forum’, not in the ‘background culture’ (IPRR, p.134)”; “public reasons is ‘complete’: it is capable of providing reasonable answers to all questions regarding constitutional essentials and matters of basic justice (IPRR, p.144)”; “Public reason aims for public justification and as such is reasoning addressed to others in their capacity as reasonable democratic citizens (IPRR, p.152)”; “public reason and public justification meet the ‘criterion of reciprocity’; they proceed from reasons and premises we reasonably think others could reasonably accept, to conclusions they also could reasonably accept (IPRR, p.137-138)”; “when government officials act from public reason, legal enactments by a majority are politically legitimate even when they are fully just (PL, p.427-428)”; “in a constitutional democracy within judicial review, public reason is the reason of its supreme court...the supreme court is the branch of government that serves as the exemplar of public reason’ (PL, p.231)”.

the same conclusions, despite their different comprehensive doctrines. These guidelines are referring to the rules and standards of argumentation and justification. The other kind of public reasons is the “political values of public reason”. Rawls proposes a list of political values¹¹⁹ that relate to the democratic society he envisions. These values are moral values and they provide “public reasons for all citizens” (IPPR, p.164). It also includes expectation of one to behave reasonably, with a fair mind, and willingness to exercise the duty of civility (PL, p.224). The criteria to decide whether it is or not a guideline or value of public reason is based upon the ideal of citizens as free and equal with two moral powers and their interests (Freeman, 2007, p.388).

Reasonable persons understand society as a cooperative enterprise in which “each benefits along with others” (PL, p. 50), and “desire for its own sake a social world in which they, as free and equal, can cooperate with others on terms all can accept” (PL, p. 50). When particular terms of social cooperation, laws and so on, are proposed, “those proposing them must also think it at least reasonable for others to accept them, as free and equal citizens, and not as dominated or manipulated, or under the pressure of an inferior political or social position” (IPPR, p. 136-137). This implies a criterion of reciprocity.

Rawls claims that “the criterion of reciprocity is normally violated whenever basic liberties are denied” (IPPR, p.138). The idea of reciprocity¹²⁰ is not new. Rawls discusses about principles of reciprocity in TJ where he uses the principles to explain one’s sense of justice and the willingness to be abide by the principles of justice. It requires that the terms of social cooperation are fair and reasonably acceptable to everyone who considers oneself as free and equal. No one is forced to accept them because she lacks of power or is unable to express her opinion. This reciprocity is a “reciprocity of justification” so that the use of political power is legitimately and publicly justifiable to those who will be subjected (Freeman, p.375). The reasons to justify the terms of social cooperation, that is, the principles of justice,

¹¹⁹ They are not peculiar to any comprehensive views but are ones that attach to the characteristics of democratic society and citizens of such a society. They includes but not exclusive to values of justice as equal political and civil liberty, equality of opportunity, social equality and economic reciprocity, the common good, the social bases of self-respect, and the necessary conditions for these values (Freeman, p.388 summarizes of PL, p.139).

¹²⁰ It is sometime confused with “reciprocity of advantage” that falls between mutual advantage and altruistic impartiality (PL, p.16-17). Terms of social cooperation that fall under mutual advantage often mean that, on the basis of assuring a basic level of resources that everyone would benefit, it is impossible that some parts may benefit more if the other parts cannot be benefited with similar material advantage. The criterion of reciprocity, however, is more than reciprocity of advantage.

should be reciprocally and generally accepted by people who conceive themselves as free and equal.

It should be noted that a generally accepted or democratically enacted law does not automatically render legitimacy to the law. Certain laws that follow a democratic procedure may end up being unjust. Thus legitimacy and justice becomes two different things to be addressed: “democratic decisions and laws are legitimate, not because they are just but because they are legitimately enacted in accordance with an accepted legitimate democratic procedure” (PL, p.428). This segregation has been noted in TJ already: “there is no feasible political process which guarantees that the laws enacted in accordance with it will be just” (TJ, p.311 rev.).

Rawls seeks for a balance between justice and legitimacy: “laws cannot be too unjust if they are to be legitimate” (PL, p.429). A democratic procedure is not enough to guarantee just results; nor can a just constitution warrant a just law out of it. This gives rise to “the liberal principle of legitimacy”: “our exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason” (PL, p.137, also p.139-140).

Legitimacy is essentially significant when public officials are trying to deliberate a set of principles whilst citizens are all upholding different comprehensive doctrines. “Being legitimate says something about pedigree” (PL, p.427). The principle of legitimacy puts constraints over public officials. They have to be really certain that these principles they are advocating are meeting the criterion of reciprocity; they have to be prepared to justify these principles in terms of the public reasons. Otherwise, their power has been wrongly exercised. For example, the conception of *justice as fairness*, as it in the TJ, could be the most reasonable and just outcome we could reach in the original position. But its reliance on moral autonomy, or the Kantian conception of human nature, makes it unable to be justifiable to those who uphold a different comprehensive doctrine. This public justification is necessary as if “each citizen is to have an equal share in political power” (JF, p.90).

The separation of legitimacy and justice suggest that liberal principles of justice are applied to a non-ideal context. In TJ, principles are just and apply to a well-ordered society that assumes compliance of citizens. That is an ideal of theory and an ideal of application of the theory, and an ideal of compliance. In PL, it provides conditions of “partial compliance” with the ideal theory. It no longer requires a general affirmation of the same political

conception of justice, justice as fairness. That constitutions and laws should be justified in terms of the most reasonable conception is no longer required. There are a family of liberal political conceptions that are conceived of equally to one another. Rawls no longer insists upon the truth of the conception upheld by citizens. It does not need to be the most reasonable in the sense that it is true, but it is the most reasonable that we can possibly support and endorse as a free and equal citizen with various comprehensive views. But there is still a duty to support and comply with laws and regulations that individuals could reasonably accept and endorse as free and equal citizens.

This is a moral “duty of civility”, that is, a duty “to be able to explain to one another on those fundamental questions (which refers to constitutional essentials) how the principles and policies they advocate and vote for can be supported by the political values of public reasons” (PL, p.217). The duty is applied to ordinary citizens but it applies, in particular, to public officials who make the laws. Public officials not only have a duty to generate laws that others can reasonably accept as free and equal citizens, but also have a duty to justify their decisions that are in line with political values of public reasons. In companion with the duty, there is a willingness to listen and a fair mind.

For citizens, this duty infers that they are not only having a duty to comply with what is required by a legitimate law but also to support and vote for laws that are justifiable on the basis of public reasons. The idea of public reason offers basis for enactment of laws, compliance and applications of the laws, and explanation and justification in related laws. By this, it fulfills the practical role of a liberal political conception of justice for it providing basis for public political justification. The use of public reason also avoids that a peculiar comprehensive view is proposed and advocated to force whoever reject it to comply and follow. Since the content of public reason is consistent with the democratic ideal of the person, it does not advocate for a particular kind of good.

The idea of public reason thus allows citizens to achieve political autonomy, “the legal independence and integrity of citizens and their sharing equally with others in the exercise of political power” (IPRR, p.146). Political autonomy, as I have explained, is a political value. “We are politically autonomous when we act on laws enacted through democratic deliberation on the common good on the basis of public reasons under conditions of equal political rights of participation” (Freeman, p.401). People who dislike or rejects moral value as moral autonomy would find way to agree and endorse political autonomy, which requires

“citizens act upon laws fairly and legitimately enacted on the basis of public reasons under conditions of equal political power” (Freeman, p.401).

I have distinguished between Rawls’s usage of public reasons and public reason. He also makes a distinction between the idea and the ideal of public reason. As I have explained, the idea of public reason refers to the feature of a democratic society in which the exercise of political power¹²¹ is examined in terms of political values of public reason. The ideal of public reason is, in fact, contained in the ideal of a well-ordered democratic society. Within this ideal, citizens are agreeing and accepting a reasonable political conception of justice, which, for Rawls, provides substance for public reason. This implies that public reason is impossible without establishing and finding a political conception first: “A feature of public reasoning is that it proceeds entirely within a political conception of justice” (PL, p.453).

Rawls also claims that: “it is crucial that public reason is not specified by any one political conception of justice, certainly not by justice as fairness alone. Rather, its content – the principles, ideals, and standards that may be appealed to – are those of a family of reasonable political conceptions of justice and this family changes over time” (PL, p.451,453; p.lii-liii). What he implies here is that conceptions can change over time, and these conceptions provide substance for public reason; yet he does not mean that the content of justice will change dramatically but rather public reason may change to remain legitimate.

The conceptions that are eligible for providing content for public reasons are all types of liberal conceptions in so far as: they guarantee basic rights, liberties and opportunities for each free and equal citizen; they give priority to these basic rights, liberties and opportunities; they assure that all citizens are provided with all-purpose means to have sufficient resource to develop and exercise their own conception of the good. Otherwise, a conception that fails to meet these guarantees is considered as unreasonable.

The advocate of “public reason” replaces the argument of “comprehensive doctrines of truth or right” with “an idea of the politically reasonable addressed to citizens as citizens” (IPRR, p. 125). What this means is that for the most basic political questions, the notion of truth or the notion of right cannot be some sort of governing notion. “Public reason is not a view

¹²¹ How the idea of legitimacy is related to public reasons: “Our exercise of political power is proper only when we sincerely believe that the reasons we would offer for our political actions – were we to state them as government officials – are sufficient, and we also reasonably think that other citizens might reasonably accept those reasons” (IPRR, p.137)

about specific institutions or policies, but a view about how they are to be argued for and justified to the citizen body that must decide the question” (PL, p.liv, fn.28). Rawls wants it to be replaced by a notion of “reasonableness” (PL, p.305): it is a notion that do not prescribe what is true or right but commit us to the seeking of fair principles of cooperation.

Public reason does not refer to a set of answers that settle questions in advance: “Whether public reason can settle all, or almost all, political questions by a reasonable ordering of political values cannot be decided in the abstract independent of actual cases” (PL, p.liii). This implies a contextualization of political reasoning. Even if there is an answer generated by appealing to the political values of public reason, it does not mean that all reasonable citizens would accept this instantly. This is subjected to the extent to which citizens prioritize the political values of justice over the values from their own comprehensive views. Rawls recognizes, however, that it would be unreasonable for a citizen to expect that particular laws or policy decisions should, in general, be fully just according to a citizen’s own lights¹²². Reasonable citizens will “recognize the familiar distinction between accepting as (sufficiently) just and legitimate a constitution with its procedures for fair elections and legislative majorities, and accepting as legitimate (even when not just) a particular statute or a decision in a particular matter of policy” (PL, p. 393). This, as I will come back in next chapter, creates a dilemma for Rawls.

Does this mean that one cannot enter into the public debate by appealing to some comprehensive reason? Rawls describes this appeal to comprehensive reasons as the “*proviso*” (PL, p.lii). There are two conditions for such appeal: first, it will be defensible in the face of public political values and, second, it will be a public justification in terms of public reason. Then such appeal would not violate the duty of civility. This also produce more cohesion between doctrinal reasons and public reasons so that one’s “allegiance to the democratic ideal of public reason is strengthened for the right reasons” (PL, p.463). What it asks for is that despite our reliance upon different comprehensive views, we are conscious that our actions and votes can be justified upon public reason and that we are ready to explain to others. What it prevents is a lack of compatibility between our decisions based on comprehensive reasons and the political values of public reason.

¹²² Rawls puts it this way: “It is unreasonable to expect in general that human statutes and laws should be strictly just by our lights” (PL, 393 n. 30).

2.3.4 Accounting principles and political legitimacy

Recall that Rawls makes a claim of how his principles are deliberated following a sequential order, a four-stage sequence, as I discussed in Chapter 1. There is a certain degree of indeterminacy in which constitutions, or economic and social arrangements, would be selected in this process: “it is not always clear which of several constitutions, or economic and social arrangements, would be chosen” by reasonable and rational citizens, and in such cases “justice is to that extent likewise indeterminate” (TJ, p.176, rev.).¹²³ And in particular, Rawls sees that this indeterminacy applies to social and economic arrangements, including the arrangement of accounting as part of them, than to basic rights and liberties.

The way in which political principles of justice are deliberated, in PL, remains the same with that in *A Theory of Justice*. In the process of applying principles of justice institutionally, accounting as an institution stands at the third stage of Rawls’s four-stage sequence (see TJ, p.171, rev).¹²⁴ This is a level after the implementation of the first principle of justice and the level in which the second principle of justice is implemented. Yet, this does not mean that I am suggesting that the shape of a just accounting can be dictated by reasoning at higher levels of this four-stage sequence. That is to say, accounting principles, even in a well-ordered society, should not be a direct product of deduction or translation of the principles of justice.

The main institutions of a society, and “their accepted forms of interpretation, are seen as a fund of implicitly shared ideas and principles” (PL, p.14). For Rawls the main task of political philosophy is to work out a coherent liberal political conception of justice from this fund. Accounting, as one of these main institutions, may have its own “accepted forms of interpretation”. Informed by Rawls’s political liberalism, I want to argue the potential of working out a freestanding conception and public reasons for accountants at the level of accounting as one of the basic institutions within Rawls’s basic structure. Following Rawls, a freestanding conception of accounting should be able to demonstrate that its content is

¹²³ The indeterminacy of justice does mean, that on many issues “of social and economic policy we must fall back upon a notion of quasi-pure procedural justice” (TJ, p. 176, Rev). Such cases “are not instances of pure procedural justice because the outcome does not literally define the right result” (TJ, p. 318, Rev).

¹²⁴ The stages are not intended by Rawls to be understood as an account of how law and policy makers do or should proceed in practice. The stages, as theory, represent a series of “points of view” (TJ, p. 176, Rev) from which justice and in particular the problems of its application can be represented. We can think of it as part of a “framework of thought” (RH, p.151), sketching the kinds of information available for applying principles of justice, at various stages, as the veil of ignorance is progressively raised: “This framework extends the idea of the original position, adapting it to different settings as the application of principles requires” (RH, p.152).

derived and justified by appealing to “accounting” values that are independent of any particular view of accounting on the one hand; and that its principles can prove to be publicly supported and endorsed by reasonable accountants, on the other hand. By assuming this, it then could offer public reasons for both standard setters and accounting practitioners to justify their decisions or judgements.

Following Rawls, principles for the accounting institution should be generated within the boundary of principles of justice. Accounting principles are not to violate basic rights and liberties, nor are they to undermine the prospect of equal opportunities. In the process of working out principles of justice, we work back and forth between our considered judgements and principles of justice. We can hope that this process will help define a set of options that better reflects the political values implicit in our democratic culture, and enable us to see more clearly the injustice of options that should be avoided.

Thus, I suggest that we can “work from both ends” (TJ, p.18, rev.).¹²⁵ Working towards justice at the level of an institution such as accounting¹²⁶ we can contribute towards a clearer appreciation of the significance of our considered judgements and our values, which can have broader implications in the long run such as helping to clarify and develop our political conception of justice and our understanding of how it ought to be applied generally in the basic structure. As a result, though there is no deductive relation between principles of justice and principles of accounting, we may observe an endless reflective and recursive process among our considered judgements of justice and principles of justice, and our considered judgements about accounting and principles of accounting. Our view about justice will shape and impact the way we respond to accounting questions; in return, our accounting judgements and thoughts will feed back into our view about justice and then refine the principles of justice. A general and wide reflective equilibrium is completed by bringing these reflections from different levels into equilibrium. Hence, I agree with Rawls, that the “indeterminacy in the theory of justice is not in itself a defect” (TJ, p.176, rev.), and I see the project of justice in accounting as an open and discursive process of reflection, ultimately relying on public justification rather than a mere a process of deduction.

¹²⁵ In using Rawls’s famous phrase, differently, I want to evoke something of the idea of a reflective equilibrium, entailing a testing of one end against the other in an iterative process.

¹²⁶ As will become clearer below, accounting is in my view, potentially at least, a special institution. The close connection between accountability and justification, suggests that working out the requirements of just accounting and accountability can potentially yield lessons regarding the institutionalization justice and justification more generally.

Whilst accepting that the project of justice is a work in progress and that we can hope to progress through reflective equilibrium towards fuller agreement, the fact that legitimacy becomes so clearly tied to public justification and consensus, in a context of reasonable pluralism, forces consideration of the actual level of public agreement achieved, and achievable, in respect of the principles of justice, whether for application to the basic structure generally or to accounting in particular. Thus, what is just in accounting is not independent of one's actual acceptance of accounting principles: "There is no criterion for a just distribution apart from background institutions and the entitlements that arise from actually working through the procedure" (JF, p.51). This leads me to examine the actual accounting principles agreed and legitimated in accounting. In the following, I will look into Pelger's (2016) observation of the IASB accounting standard board making decision on the objective for conceptual framework in accounting. My aim is not to recast Pelger's work from a Rawlsian perspective. His analysis and results serves his theoretical basis in Flyvbjerg. What interests me is some of the interview he conducted with board members and his implicit preference for stewardship as a result of an ideological reaction against decision usefulness.

Pelger (2016) examines the process through which IASB reaches an agreement upon the objective for accounting. The process involves a comparison between stewardship and decision usefulness, which are regarded as alternatives. Instead of viewing stewardship and decision usefulness as potential accounting objectives, I suggest to see them as two principles for financial reporting that contribute to the design of accounting as an institution. Drawing on Rawls, any principle, once agreed as such, should be able to serve as a public basis of justification for standard setters to explain to the constituents why accounting should be designed in that particular way. I am looking particular to Pelger's attitude towards agreement on principle of decision usefulness.

IASB final agreement appears in the final version of IASB conceptual framework (IASB 2010), and centers on decision usefulness only. According to Pelger (2016) the absence of stewardship from the conceptual framework implies, on the one hand, the incapability of stewardship to provide a systematic alternative to replace decision usefulness. On the other hand the prevalence of decision usefulness reflects the dominance of a neoliberalist rationalization in accounting.

Pelger (2016) sees the prevalence of principle of decision usefulness as unsettling for the development of global accounting standards. Though it is becoming a "widely accepted or

taken-for-granted” principle in accounting, the principle is featured with ambiguity and vagueness (Pelger, 2016, p.68). He interprets the agreement as a result of a compromise, an unavoidable outcome of the dominant neoliberalist view of accounting.

Pelger (2016) points out that the staff who drafted the IASB proposal were reacting to the former conceptual framework, i.e. the FASB framework, which is noticeably dominated by the idea of decision usefulness popular amongst U.S academics and researchers (2016, p.56). He notices that the academic preference for decision usefulness has been carried forward to the design of conceptual framework and the standard-setting discourse¹²⁷ (2016, p.59).

The idea of decision usefulness is proposed by Staubus (1961) who suggests that accounting aims at providing information useful to investors (Zeff, 2013). The fact that this idea emerged and developed at the same time neoliberalism spreads in economics via the Chicago School is of no coincidence (Chabrak, 2012). Neoliberalism spreads from economics to finance and accounting and encourages a view of accounting as aiming at contributing to the market and the pricing system. Thus, the economic aspect of neoliberalism transposes itself beyond economics and maps into accounting decision-making as expressed by the principle of decision usefulness (Pelger, 2016; Barker and Schulte, 2015; Ravenscroft and Williams, 2009).

Under this view, the rise of decision-usefulness is represents a transformation of accounting from an “autonomous discipline” into a “sub-discipline of a neoclassical economics” (Ravenscroft & Williams, 2009, p. 775, see also Cunningham, 2005; Fleming, Graci, & Thompson, 2000; Williams & Rodgers, 1995; Reiter, 1998; Reiter & Williams, 2002; Whitley, 1986). The neoliberalist view of accounting becomes “the most effective form of power” that command consent and force acceptance in public (Merino et al., 2010), and is so powerful that “makes it very difficult to imagine alternatives” (Cooper et al., 2010, p.209). The agreement on decision usefulness is simply a product of power that defines the reality (Pelger, 2016, p.62). In other words, according to Pelger, the agreement on decision usefulness may not prevail without its US-based economics underpinnings. Pelger thinks that limiting the focus of accounting to mere resource allocation is “controversial” and the

¹²⁷ For example, Katherine Schipper (FASB) and Mary Barth (IASB), sitting in the board of joint project, are committed to this decision usefulness view and acted as “carriers” of this view to the standard setting process (Power, 2010, p.203). Pelger (2016, p.56), Interviewee Whittington, express that: “But nevertheless of course they were trained as FASB people, they thought like FASB people so there was a tendency to adopt a lot of FASB ideas. This came through not only in the framework project but in all sorts of projects.”

agreement on decision usefulness is nothing but an expression of US hegemony, which obscures confrontation and dissensus (2016, p.67).

It is unsurprising to find that Pelger is among with other critical accounting researchers who contend that it is necessary and “natural” to be “critical of” neoliberalism in order to provoke critical audiences (Chiapello, 2016, p.43). The rejection of the ideologies and rationalities of neoliberalism has been accepted unquestioned as a way to allow researchers to make their way to claim that they are critical. The result of this give rises to some kind of ideological reaction against neoliberalism, as Chiapello (2016) points out: neoliberalism is bad and it should be opposed. And the principle of decision usefulness is regarded as a product in the development of neoliberal discourse in accounting (see Ravencroft and Williams, 2009; Williams, 1987; Chabrak, 2012). Hence, the unsettling of decision usefulness, for them, could be tied to their uneasiness with neoliberalism, and therefore, equipped them with critical vocabulary.

Rawls guides us that, rather than spending efforts on rejecting or denying a given doctrine, we should pay our attention to work out a freestanding and political justified conception of justice that can be endorsed and supported by the overlap among these various comprehensive doctrines. In similar vein, rather than falling into an ideological reaction against decision usefulness, which would dismiss it *in toto*, we can strip off its ideological layer and sustain the part that may be compatible with different comprehensive doctrines in an overlapping consensus on guiding principles.

The principle of decision usefulness, defined generally as “to provide useful information for economic decisions” (Pelger, 2016, p.53), implies that the generation of accounting information, the justification of accounting decisions and accounting standards, all appeal to usefulness to users or to the market. In the context of market, a decision usefulness oriented accounting should facilitate economic decision in the aim of “more efficient allocation of resources” (Williams, 1987, p.172), and hence in contributing a more efficient “free market mechanism” (p.179).

An efficient market is necessary for a just society to allocate means of production. Following Rawls, it is “essential to distinguish between allocative and distributive efficiency” (TJ, p. 241 rev.). Allocative efficiency relates to the market’s function of efficiently allocating production resources and minimizing waste. For Rawls “any rational and just economic system ... should endorse the allocative role of markets and prices” (Freeman, 2007, p. 27-28). The ideal scheme Rawls sketches in TJ relies on markets and prices for allocative

purposes. Rawls suggests that we must make use of markets and their pricing mechanisms: “It is only in this way, I believe, that the problem of distribution can be handled as a case of pure procedural justice. Further, we also gain the advantages of efficiency and protect the important liberty of free choice of occupation.” (TJ, p. 242 rev.).¹²⁸

Supporting an allocative efficient market contributes to our path in pursuit of justice and fairness in social cooperation. Imagine that we have a range of economic systems to choose from, ranging from libertarian laissez-faire capitalism (where all properties are privately owned, and allocations and distributions are decided under an unregulated market), through classical liberalism, a mixed economies, and to a central planned economic (where allocation and distribution is decided according to a central plan, and people are not free to decide their career path). Among these options, Rawls, as instructed by the difference principle, would suggest one with mixed economic system, a property-owning democracy or market socialism, so that the least advantaged are empowered to be better off (JF, p.138). It is unlikely that one would obtain all the information regarding supply and demand to allow an effective planning for market allocation of resources. A market allocation would be better in utilizing available resources in compared to non-market allocation and distribution (Freeman, p.100).

Competition is not intrinsically bad. But when it rules out other possible social relations, it become an issue. Rawls’s attitude towards market is that: “there is nothing wrong with a little healthy competition” as long as its results are “within an appropriate range” (Hodgson, 2017, p.9). In context of market allocation of factors of production, Rawls sees the difference principle works the best to advocate the welfare of the worst-off whilst allowing people to exercise their liberty and autonomy to act in their own interests and in pursuit of their own life plans. Someone who sincerely accept Rawls’s difference principle would not see herself as entitled to whatever earnings she could obtain “in an all-out competition with others, but

¹²⁸The crucial feature of pure procedural justice, as we have already seen, is that “what is just is specified by the outcome of the procedure, whatever it may be” (PL, p. 73). There is then no prior criteria against which outcome should be judged, no external standard of just deserts, or fair shares of the fruits of cooperation. The idea is that fair distribution can only be achieved only by the working out over time of a fair social process in accordance with publicly known rules which include the honouring of entitlements earned in accordance with the rules. The principles of justice are to be applied to the basic structure, to ensure that we do have a fair social process out of which just distribution can emerge; they are to be applied to fiscal and economic policy, to income and property taxation and law generally: “not to particular transactions or distributions, nor to the decisions of individuals and associations, but rather to the institutional background against which these transactions and decisions take place” (PL, p. 283). I previously considered GA Cohen’s (1997) critique of the division of responsibility implicit in Rawls approach.

only to what she can earn under a scheme of institutions constraining the operations of the market so that they work to everyone's advantage" (Hodgson 2017, p.10). Hodgson (2017) sees these conditions assure that "there is no inescapable rat race in a Rawlsian society" (p.9).

This would inform one to avoid an economic system that relies on market distribution of income and wealth, one that would tend to widen the gap of shares between the most advantaged and the least advantaged. Those who worry that accounting would be part of injustice and inequality are understanding accounting as part of such an economic system that distribute income and wealth (see the critique by Cooper, 1995; Dey, 2007). But, if the market is to serve an allocative role, then the principle of decision usefulness will aim at the generation of valuation-useful information to establish pricing mechanisms that faithfully reflect market values and stock prices and will enable the market to identify the most efficient ways for allocating factors of production so as to ensure efficiency in production.

Justice for Rawls involves more than simply finding a correct algorithm to allocate share to the products of social cooperation. Rawls's distributive justice is not "market-determined" (Freeman, 2007, p.222). The shares of economic products are not decided by economic efficiency, but by the difference principle. The shares are not just shares of income and wealth, but also include shares of economic powers and occupations. Basic institutions¹²⁹, to which difference principles are applied, are arranged and designed so that "the final outcome is one that maximally benefits the least advantaged" (Freeman, 2007, p.126). Hence, a "pure background procedural justice" can be expected (JF, p.50). The distribution of wealth and income is but the last stage of the deliberation process.

Rawls's gives priority to justice over efficiency, however "holding firm to the priority of the basic liberties and fair equality of opportunity", does not mean that efficiency should be neglected and the design of social institutions "should take into account economic efficiency and the requirements of organization and technology" (TJ, p. 130, rev). Rawls supports an efficient and effective market for which "a well-ordered society [that] tries to preserve competition and to remove market imperfections" (PL, p.365). For Rawls, efficiency and effectiveness are amongst the political values that ground the basis for public reasons (CP,

¹²⁹ This may include but not exclusive to "legal institution of property; the structure of markets; the relations between capital and labour including the role and powers of labour unions within firms; the law of contracts, sales, securities, negotiable instruments, corporations, partnerships, and so on" (Freeman, 2007, p.127).

p.584). Principles of decision usefulness, relying on these values, should be consistent with principles of justice and public reasons in a just society. And because an allocative efficient market is compatible with various societies as well as with various theoretical position, the principles of decision usefulness should be compatible with various understandings in accounting.

Considering the indeterminacy, the task of establishing a pure procedural background justice is an open discursive project, always under construction and open to critique: “On many questions of social and economic policy we must fall back upon a notion of quasi-pure procedural justice: laws and policies are just provided they lie within the allowed range” (TJ, p.176 rev.). Justice is always a work in progress and in my view there is work to be done, beyond mere implementation, at the level of accounting as an institution. This is particularly true as the democratic society we live in is far from well-ordered. Whereas *A Theory of Justice* describes principles that regulate a well-ordered society and offers an ideal theory that assumes general compliances by citizens and an ideal of a society that all societies should strive for. There are non-ideal conditions and circumstances, as we have seen, conditions of reasonable pluralism, burdens of judgements that may give rise to partial compliance by citizens. The principle of legitimacy is, therefore, proposed to cope with the partial compliance with the ideal and *Political Liberalism* describes a non-ideal theory that assumes partial compliance.

There is nothing wrong with having an agreement on decision usefulness yet we should not let it be the only way of thinking about justice. Pelger reports on an interview with Sir David Tweedie, where he suggests that “If we are going to have an objective chapter, I don’t want to have a partial view in that which cuts out the whole rest of the world” (Pelger, 2016, p.60). If we can still form a public agreement on decision usefulness after taking account of other views, the actual agreement on decision usefulness may do reflect something that is “widely accepted or “taken-for-granted” principle in accounting (Pelger, 2016, p.68). For it to be legitimate in a Rawlsian sense, it requires that it should be justified and supported by the political values of public reason (PL, p.217). Thus, the principle of decision usefulness, with its public acceptance and its role in allocative efficiency, can be legitimated in line with Rawls’s procedure of political justification. Hence, the principle of decision usefulness constitute the public reason for accountants in the context of market. This means that, in the public forum, justifications and arguments about accounting are not made as a result of self-interest or on the basis of a particular comprehensive doctrine. Only justifications that appeal to such public reason are allowed.

The principle of stewardship, always regarded as an alternative to the principle of decision usefulness, emerges after the separation of management and capital providers¹³⁰. It points to “the responsibility or obligation owed to someone who has entrusted another with possessions to manage on their behalf” (Ravencroft and Williams, 2009, p.772; see also Beaver, 1981, O’Connell, 2007). Dividing accounting into different contexts may offer us some insights on this principle. If we accept that in the market context, decision usefulness is adopted and reflecting the public reason for this context, then we may find evidence showing that the principle of stewardship seems to blur into this context. For example, some argue that this principle has an informational function of providing useful information to investors, creditors and others (Beaver, 1981; Bushman et al., 2006; Lennard, 2007). It also refers to an efficient management stewardship of corporate assets (Watts, 2006, p.54).

Yet, Cascino et al. (2014) observe an overlap between the two principles “but are far from identical” (p.190). Some view it as a separate principle to valuation usefulness (Ijiri, 1975, Williams, 1987) or as interchangeable with the notion of accountability (See, Williams, 1987; Ravencroft and Williams, 2009; Pelger, 2016; Murphy et al., 2013). Accountability is understood and elaborated differently in accounting. For example, in Gibbins and Newton (1994), it is a “relationship, driven by social, contractual, hierarchical, or other factors, between the source (e.g., the principal) and the accountable person (e.g., the agent) in which the latter has incentives to behave as the former wishes” (p.166). This conceptualizes a relationship of hierarchical accountability.

It could be defined as “answerability” as to provide justification for how resources are allocated and used. For example. Milligan and Witek (1992) note a “social accountability” of a firm to internal and social expectations (p.7, quoted in Oakes and Young, 2008, p.769). Or it refers to a practice or a process in which choices are explained and justified and reasons are provided, a discursive and reflective process (Oakes and Young, 2008). In spite of its various definition, this aspect of stewardship, or rather accountability, suggests that we can no longer rely on efficiency as the only criteria for public justification. Murphy et al (2013), for example, suggest the potential for a principle of stewardship/accountability stepping into

¹³⁰ Initially, stewardship was proposed as part of “public accountability” in the discussion paper, The Corporate Report (Accounting Standards Steering Committee (ASSC), 1975). When it was released as the Statement of Financial Accounting Standards No. 1: Objectives of financial reporting by business enterprises by FASB, the primary role is to provide information that are useful for decision making and the stewardship become secondary as useful means to provide decision useful information (Pacter, 1983; O’Connell, 2007; Whittington, 2008).

a moral context of accounting. Different contexts then may have its own way of justification, public reasons and overlapping consensus. It would be unfair to put decision usefulness with accountability as pair of comparison when they are not positing on the same context. I will come back to the idea of accountability in Chapter 3.

2.4 Disagreement, democracy and Accounting

2.4.1 Agreement and Disagreement

“There are many of us, and we disagree about justice” (Waldron, 1999a, p. 1).

Rawls’s ground-breaking work did much to reinvigorate political philosophy, inspire and stimulate theorizing about justice and rights. However, Rawlsian strategy does not dispel disagreements at all. In Rawls’s view, in fact, “the *range of reasonable disagreement within public reason is rather narrow*” (Freeman, 2007, p. 396).

There is an acceptance, that is, of the ideal of public justification: an acceptance of the need, when it comes to fundamental political questions¹³¹, for justification in terms of public reason understood as expressing values that we can truly endorse in good faith and which we can reasonably expect others will accept. We must therefore be prepared to justify our views concerning what justice requires employing principles and values we can, with good cause expect others to accept. Rawls suggests that we must have criterion for testing such justifications and he recommends “the values expressed by the principles and guidelines that would be agreed on in the original position” (PL, p.227).

Rawls thinks that it is “inevitable and often desirable” that there will be some disagreement among citizens regarding “the most appropriate political conception” (PL, p. 227), particularly at the level of “detail” (PL, p. 226). He sees the process of establishing a widely accepted, well developed, and stable political conception, from competing alternatives, as an ongoing and essentially discursive project involving the exchange and testing of reasons¹³²: “An orderly contest between them over time is a reliable way to find which one, if any, is most reasonable” (PL 227). Rawls does not lose his confidence in his preferred conception of justice, *justice as fairness*. Nevertheless, he recognizes that he cannot at this

¹³¹ That is, matters of “constitutional essentials and basic justice” (PL, 214).

¹³² Rawls comes to see the progress towards the realization of justice as an endless one of “long-term political reform”, citing Habermas he describes it as “a project to be carried out” (PL, p. 398).

time expect all reasonable democratic citizens to endorse that particular and rather demanding conception of justice.

Jeremy Waldron (1999a&b) encourages us to look beyond our theories of justice and rights, important though they are, to consider the political choices we make about justice and how we make them; how we are able to agree in society on decisions and institutions with profound impact on matters of justice, even when we disagree about justice. He asks for a redirection of some of the energy of political philosophy to the task of theorizing about politics itself: “I believe that philosophers of public affairs should spend less time with theorists of justice, and more time in the company of theorists of authority and theorists of democracy, reflecting on the purposes for which, and the procedures by which, communities settle on a single set of institutions even in the face of disagreement about so much that we rightly regard as so important” (Waldron, 1999a, p.3). He wants us to consider how we can best proceed in situations where for practical reasons we need to find “agreement” in the face of pluralism and disagreement, including fundamental disagreement about justice and rights.

For Waldron, law finds its justification in its capacity to give direction on how a community should operate in contexts of disagreement:

“The authority of law rests on the fact that there is a recognizable need for us to act in concert on various issues or to co-ordinate our behaviour in various areas with reference to a common framework, and that this need is not obviated by the fact that we disagree among ourselves as to what our common course of action or our common framework ought to be.” (Waldron, 1999a, p.7)

He argues that the fact of disagreement is central to the function of law: “the point of law is to enable us to act *in the face of disagreement* - it is *normal* for law, in ... ‘the circumstances of politics’, to make claims that are at odds with the sense of justice of some or many of those who are under its authority” (1999a, p. 7). As Waldron sees things, then, it is precisely because of the experience of disagreement at a fundamental level that we can readily agree on the need to maintain respect for the authority of our institutions, and their rules, even in circumstances where we are not in full agreement with those rules and even where we see them as not entirely just.

In the challenge to Rawls’s political liberalism, which Waldron develops in *Law and Disagreement* (1999a), he poses two different ways of thinking about the relationship

between disagreement concerning our conceptions of the good and justice. On one view we can see our understanding of justice as derived from our ideas about the good life: “Disagreement about justice, on this first model, then, is just another aspect of disagreement about the good” (1999a, p. 150). On an alternative view, conceptions of justice are not tied to particular ideas of the good, but rather “on this second model, are viewed as rival attempts to specify a quite separate set of principles for the basic structure of a society whose members disagree about the good” (1999a, p. 150).

It “*seems obvious*” (Waldron, 1999a, p. 150) that Rawls’s conception of justice follows the second model identified by Waldron. Waldron argues that whilst Rawls recognises that people may disagree about what justice might require in particular cases he gives little consideration to disagreement about justice itself. On Rawls’s view, questions of constitutional essentials and basic justice are to be addressed through the use of public reason, by “appeal only to a public conception of justice” (Rawls, 1993, p. 216), and not by appeal to “the whole truth” (p. 216) as particular citizens might see it in terms of the comprehensive doctrines they happen to affirm.

It is therefore implicit in Rawls approach to fundamental questions of justice that reasonable people can be expected to find common ground in public reason, and that they can be expected to agree on the “fundamental political ideas ... implicit in the public political culture of a democratic society” (Rawls, 1993, p. 223), in terms of which public reason is to be elaborated.¹³³ Public reason is to serve as a basis for public justification in relation to fundamental matters and therefore it needs “to rest on the plain truths now widely accepted, or available, to citizens generally” (Rawls, 1993, p. 225). Nevertheless, Rawls recognizes that acceptance of the fundamental ideas leaves room for some disagreement about the elaboration of public reason and its application. Rawls also sees that “accepting the idea of public reason and its principle of legitimacy emphatically does not mean...accepting a particular liberal conception of justice down to the last details of the principles defining its content” (PL, p.226). We may accept the substance of the idea of public reason, the liberal principle of legitimacy and the duty of civility, yet disagree on the details of the most reasonable political conception of justice.

¹³³ Public reason for Rawls is formulated as a “political conception” comprising substantive principles of justice and guidelines for inquiry and the application of the principles of justice. Rawls own preferred formulation of the principles of justice as fairness represent one variety of a liberal conception of justice: there are many liberalisms (PL, p. 223).

Waldron sees things differently, and insists that our disagreement about justice go all the way down to the fundamentals: “disagreement is not just about details but about fundamentals” (Waldron, 1999a, p. 153). Waldron suggests that even if we were to accept Rawls’s assumption that at some level of abstraction reasonable people will agree on fundamental ideas about justice, we can infer nothing from that about politics “in the real world” (1999a, p. 158). Waldron insists that in modern democratic society, we need to come to terms with not just pluralism of comprehensive doctrines and the good, but also with “justice-pluralism” (p. 158). Waldron accepts that, as a theorist of justice, Rawls is quite reasonably committed to defending the view of justice that he believes to be correct: “He is simply claiming truth for his theory and the falsity of any theory that contradicts it” (1999a, p. 159). His concern arises when we turn to politics and to the politics of justice. Waldron understands politics as “an arena in which the members of some group debate and find ways of reaching decisions on various issues in spite of the fact that they disagree about the values and principles that the merits of those issues engage” (1999a, p. 159).

To engage in politics, for Waldron, is to affirm the need for procedures, such as decision by majority voting, that may produce outcomes that are contrary to one’s own convictions about what justice requires: outcomes that one’s “own substantive convictions condemn” (1999a, p. 160). For Waldron, this does not entail that we prioritize political procedure over justice. Rather, it acknowledges our need to agree, to reach decision together on important issues, in circumstances where we disagree about what is the right or just thing to do: “To say that in such a case *justice* is being subordinated to procedural values in political decision-making would be to beg the question of which of the positions competing for political support is to be counted as just” (1999a, p. 161).

If Rawlsian strategy would require that at least, there is an agreement over certain fundamentals in accounting, something which may spell out the truth that we may all share or agree, what can we draw from Waldron’s approach to disagreement? In the following section, I discuss Richard Macve’s challenge against conceptual framework in accounting to see whether an anti-consensus oriented approach would be more appropriate for settling accounting matters.

2.4.2 Precommitment and disagreement in accounting

In his seminal study¹³⁴ on the feasibility of an agreed conceptual framework for accounting and financial reporting, Macve (2015¹³⁵) grounds his critique of the constitutional model favoured by the FASB (1976)¹³⁶ on the issue of disagreement. Macve challenges the ideas that developing a conceptual framework that would provide “a basic structure” for organising thinking about the objectives and means of financial reporting. He also doubts that such attempt would offer an agreed set of answers, to key questions, which, in turn, would give “a consistent approach for making decisions about choices of accounting practice and for setting accounting standards”(2015, p.45).

Similar to Rawls, Macve recognizes a “burden of judgement” in accounting. Macve argues that there are inherent difficulties associated with assessing the usefulness of accounting information, and uncertainty regarding its costs and benefits, which are bound to lead parties to form their own rather subjective views regarding the kind of accounting that would be best, that is, most useful. According to Macve, the “diversity” of views associated to accounting reflects the plurality of comprehensive views about issues observable in other social institutions, such as justice and politics (2015, p.92).

Macve suggests that the differences lying behind the disagreement between the various users of accounts, preparers and auditors, and disagreement about for example disclosure and the economic consequences of alternative policies, run deeper. These disagreements reflect differing “fundamental attitudes about ‘accountability’ and the balance of freedom of information and respect for confidentiality, which in turn reflect different and changing

¹³⁴ The Macve report which was commissioned by the Accounting Standards Committee in the UK, is generally credited with holding back the pursuit of a conceptual framework by UK authorities for many years: “In the light of my 1981 study the ASC decided not to seek to develop a conceptual framework of the kind undertaken by the FASB in the USA (Ernst & Young, 1994, 4.4). However, by the end of that decade the pressures to demonstrate the coherence of the British standards programme, as articulated in the Dearing Report (CCAB, 1988), led the new Accounting Standards Board to begin the development of its draft *Statement of Principles* (ASB, 1995)” (Macve, 2015, p. xi).

¹³⁵ The quotes will be mainly drawn from a collection of Macve’s papers including a reprint of Macve, R.H. (1981). ‘A conceptual framework for financial accounting and reporting: the possibilities for an agreed structure’. Reprinted in Macve (1997). Macve, R.H. (1983). ‘The FASB’s conceptual framework –vision, tool, or threat?’. Reprinted in Macve (1997). Macve, R.H. (1997). *A Conceptual Framework for Financial Accounting and Reporting*, New York, NY & London: Garland. Reprinted in Macve, R., 2015. *A Conceptual Framework for Financial Accounting and Reporting: Vision, Tool, Or Threat?*. Routledge.

¹³⁶ Macve carried this critique through to recent work on the conceptual framework by the joint project (IASB/FASB 2010) and the IASB (2013).

social and political attitudes” (2015, p.69)¹³⁷. Furthermore, Macve suggests that the difficulties of reaching an agreement will be compounded by the “different needs, and conflicts of interest between, different parties” (2015, p.62), so that there seems to be little prospect of finding agreement on what kind of accounting would be best.

The recognition of various comprehensive views about what accounting is and the various needs and interests involved make the search for an agreement in accounting a “political”¹³⁸ process (2015, p.70). Altogether, like Waldron, Macve suggests that disagreements, technical and political, are deeply-seated and likely to be quite incorrigible. Thus, he concludes that it “therefore seems idle to hope for an ‘agreed conceptual framework’ or general accounting theory of a type that will give explicit guidance on what is appropriate in preparing financial statements, or on what will improve accounting practice” (2015, p.92).

Macve is clearly not following a Rawlsian strategy for dealing with disagreements in accounting. In fact, he argues: “given that the theories of politics and social choice themselves have no ‘agreed conceptual framework’, then by implication accounting, in this respect, has to cope without one as well” (2015, p.70).

Macve (2015) sees a conceptual framework for accounting serving as both an “intellectual enquiry” and a “legitimizing process” for standard setters to retain their role and authority. He emphasizes the political significance of accounting issues and the difficulties in resolving accounting disagreements. A “technically correct” conceptual framework cannot solve the political problems involved in accounting, that is, the problem of different interests and demands emerging when one standard is advocated whilst the other is rejected (2015, p.xxii). Macve rejects the view that the conceptual framework can provide final answers to accounting questions, and prefers the view that a conceptual framework might be best thought of as posing questions: “that the main value of thinking about the conceptual framework of accounting lies in developing of what questions need answering and how they

¹³⁷ Macve suggests that his views on the difficulties of achieving agreement on a conceptual framework for accounting as a constitution, echo the findings of the *Statement on Accounting Theory and Theory Acceptance* “SOATATA”, (AAA, 1977), but notes that he puts a rather less emphasis on the notion of “paradigm conflict” as a explanation of the root of disagreement than does the SOATATA report..

¹³⁸ Macve sees that “It may be political both in the wider sense of being to do with people’s rights and interests in society, and sometimes also in the more ordinary sense of being a matter where support will be canvassed for one view or another; lobbies formed; and occasionally governments asked (or themselves see a need) to intervene.” (2015, p.70)

may be approached. In other words, a conceptual framework must be seen as a framework for investigation and research into solutions; not as a package of solutions”¹³⁹ (2015, p.81).

Macve contends that accounting theory cannot provide complete and precise answers to the problems occurred in the practice (2015, p.90). For him – as for Waldron – if a theory cannot help with a precise problem¹⁴⁰, an agreement that is abstracted from particular problems does not have real impacts in helping issues such as disclosure or methods of measurements (2015, p.38, p.197).

The public agreement, sometimes, may appear to be neither just nor legitimate. The agreement expressed in conceptual framework, in Rawlsian strategy, may become a constitutional constraint, as much as a “precommitment” we bind ourselves to. Such constitutional arrangements can be viewed as the model of Ulysses having himself tied to the mast to resist the temptations of the sirens “as precautions which responsible right-holders have taken against their own imperfections” (Waldron, 1999a, p. 257). Having a conceptual framework in accounting, in this view, is like to set up a precommitment so that in the future when something is at dispute, we appeal to what is agreed in conceptual framework rather than going through a society-wide public discourse.

This, however, creates a dilemma for the conceptual framework. On the one hand, it needs to be abstract enough so as not to “foreclose options” that may be needed in a more concrete situation (Macve, 2015, p.193). The abstractness will make it easier to achieve agreement. On the other hand, this abstractness will limit its capability of addressing concrete problems which may induce more disputes. The eagerness to reach a conceptual framework would cause a danger, Macve argues, a danger of “glossing over conceptual problems” (2015, p.198). As we cannot tackle them at the beginning, these conceptual problems “will have to be faced in the end” and thus cannot offer a valid and stable precommitment, an unstable mast that we tie our hands to (2015, p.198).

¹³⁹ In fact, recall that, Rawls stresses that public reason is not aiming to provide answers beforehand but rather to provide how we can debate and discuss about the issue at stake and he also emphasizes the importance of contextualization of public reason, both of which seems to be dismissed by people who read Rawls from a standard blueprint, as I will come to it soon.

¹⁴⁰ “I find one of the most fascinating aspects of accounting theory to be how little can be rigorously explained of the “technical” usefulness of a process that is such an important feature of modern economic life (and for which its practitioners are very well remunerated), and how difficult it is to show even what would be a “technical” improvement, apart from the political difficulties that plague all recommendations, scientific or unscientific, in any area of public policy. The danger lies in pretending that such ambiguities about accounting do not exist.” (2015, p.197)

Can we then leave these conceptual debates as they are? Macve contends that, although we may not be able to reach agreement on final answers, we can still promote accounting by progressive amendments and changes, replacing a less optimal answer with a better one. The kind of conceptual framework Macve argues for is a progressive framework, one “that is more realistic about what can be achieved and which focuses on identifying the key questions that IASB must ask when considering a new standard, including why it would be better than existing conventions” (Macve, 2014, p.2). The nature of a conceptual framework is a result of compromise, “agree to agree” (Macve, 2015, p.92). For him, it is important that efforts have been made, and questions have been asked and answers have been attempted. He sees that, instead of replacing existing conventions of accounting, it is better to “understand reasons for existing conventions and then critically evaluate whether they are still useful for the objectives of financial reporting”¹⁴¹ (Macve, 2014, p.2). For Macve, what is important in the process towards a conceptual framework, is precisely the process, where in “bits of evidence, knowledge and new ideas are accumulated” (2015, p.92) so that changes, either gradual or all of abrupt, are then shaping the way in which people think about accounting and therefore encourage new questions to be asked (p.93).

Macve has been investing overly efforts in proving the existence of the fact of pluralism. However, he does not really offer a way for us to deal with disagreements, except from rejecting the usefulness of reaching an agreed conceptual framework for accounting. Macve admits that there are important questions that need to be answered in accounting (2015, p.92). The conflicts between “different interests and different rights” makes accounting a political process to find acceptable principles to be accepted by all parties who will be affected (2015, p.70). Even though efforts have been made, agreements are not warranted. Yet for Macve, the importance of these efforts is that they allow a public justification for these important questions. Without such justification, decisions or actions are “arbitrary” (2015, p.92). In the absence of any agreement, how can we justify that an option is better than its alternatives? If everyone seems to have her own subjective understanding and view, does it mean that we then content with “agree to differ”?

“So simply saying, ‘Let the right answer prevail about individual rights; let the truth about rights prevail,’ will not settle our differences” (Waldron, 2002, p.6). Our disagreements on

¹⁴¹ Similar points have been expressed in Bromwich et al. (2010), Hicksian income in the conceptual framework, “Instead of seeking to replace conventions with concepts, the Boards could seek a better understanding of how and why accounting conventions work, and which of them could be adapted to the current financial reporting environment in the light of relevant conceptual considerations” (p.362-363).

multiple issues in accounting cannot be the excuse of not developing a conceptual framework within our community. On the contrary, it is the fact of disagreement that amplifies the importance of a conceptual framework. A conceptual framework should not simply raise questions demanding attention; rather, it should contain something more substantial that reflects and represents the underlying values and convictions within accounting community. Accounting is not something that we are content to “agree to differ” about; rather, it is one of those important issues that “we can agree to differ in our opinions, but it is necessary, all the same, that we arrive at some proposition on the issue to be upheld and enforced as the community’s position” (Waldron, 1996, p.1538).

Macve may have his point in stressing out that the conceptual framework is regarded as collecting and gathering effort in the “search for accounting principles” rather than providing explicit guidance (2015, p.92). It is a search for “criteria for deciding what is ‘better accounting’” (2015, p.45); i.e. criteria, that would provide a consistent basis for appropriately addressing accounting issues, solving problems, and setting better standards. Nevertheless, he does not suggest any structure or procedure to help us devising how we can “search” for these criteria. Nor he provides any suggestions upon deciding which criteria lead to better accounting and which does not.

We need a process, a political one, that can handle inputs from different positions, and whilst producing answers that can guide action, is able to maintain a respectful attitude to the competing views¹⁴². We need to have something settled. For Rawls, the more we disagree about the good, the more we need to agree at least at the level of right and the level of justice. Waldron reminds us that the need for, and realisation of, such a settlement would not remove the underlying fact of disagreement. We are committed to rights, yet disagree about rights. We are in need of a settlement and we know there is little prospect of agreement. Waldron regards such kind of commitment as “a common basis for action has to be forged in the heat of our disagreements” (Waldron, 2006, p.1370).

¹⁴² “Because we disagree about which position should stand and be enforced in the name of the community, we need a process - a political process - to determine what that position should be. And we need a practice of recording, respecting, and implementing positions of this sort by individuals and agencies acting in the name of the community - a practice that is resilient in the face of disagreement with the community position on the part of those entrusted with its implementation. If we call the position that is identified as the community’s position the law of that community, then the resilience of the practice to which I have just referred is what we mean by the rule of law” (Waldron, 1996, p.1538)

Waldron offers a model of “opinionated disagreement”. He describes it as “a noisy scenario in which men and women of high spirit argue passionately and vociferously about what rights we have, what justice requires, and what the common good amounts to, motivated in their disagreement not by what’s in it for them but by a desires to get it right” (Waldron, 1999a, p. 305). Waldron draws our attention to the fact that, despite our disagreements about justice, social decisions are, and must be, made, and institutions and frameworks of legislation are established. There must be something holding us together and commanding our loyalty in the face of the disagreements. For Waldron what holds us together is, and ought to be, legislation, positive law, established through the legitimating procedures of majoritarian democracy; legislation that we have had a part as sovereign citizens in establishing.

Waldron’s approach to politics and democracy is essentially majoritarian. For him legislation established through majority decision is the right response to pluralism. Such an approach he believes has the great merit of preserving a respectful attitude towards those whose views are not accepted by the majority. The legislative approach does not treat the views that do not prevail at a particular time as mistaken or wrong. He invokes fairness, procedural fairness, “the elaboration of respectful procedures for settling on social action *despite* the stand-off” (1999a, p. 196), rather than justice, as effectively the first virtue of politics. Waldron argues, that whilst in matters of science, the scientific method guides us in how to proceed in the face of disagreement, on moral matters and questions of justice, we have no equivalent epistemological path: “Although there *may be* an objective truth about justice, such truth never manifests itself to us in any self-certifying manner; it inevitably comes among us as one contestant opinion among others” (Waldron, 1999a, p. 199).

Given the political nature of financial reporting, and the pervasive existence of disagreement in the field, what Waldron’s argument calls for is a procedurally adequate legislative process capable of establishing legitimate law, or quasi-law in the shape of financial reporting standards. We need legitimate standards that can command respect, and procedures to ensure that those standards, as the position adopted by the community, are recognized, respected and followed, and if necessary enforced. Well-functioning law and standards must be resilient, robust, in the face of honest disagreement. Waldron recognizes that no matter how reasonably and carefully designed and well-functioning they are, our “legislative” procedures will sometimes come to what some of us are inclined to see as the “wrong decision” (2006, p. 1372). This is a political “fact of life”, as he sees it, and one that we need to face up to: “Everyone must concede that there will sometimes be a dissonance between

what they take to be the right choice and what they take to be the choice yielded by the decision-procedure they regard as legitimate” (2006, p. 1372).

Rejecting precommitment, Waldron is prepared to leave everything “up for grabs” (1999a, p. 303) in democracy, including the rights associated with democracy. More precisely, he suggests that everything should be “up for grabs which is the subject of good-faith disagreement” (1999a, p. 303). In suggesting things should be up for grabs, he is not advocating a politics of brute conflict of interests: “Reasonable men and women will quite properly be alarmed by the prospects for rights in a society where each citizen and interest group is attempting to grab as much as it can” (1999a, p. 304). His model of “opinionated disagreement” is very much reliant on “the premise that democratic politics need not be like that, and that it is in fact much less like that than the denigrators of popular majoritarianism tend to claim” (1999a, p. 304).

My concern with Waldron’s approach is that it is essentially over-optimistic. Waldron seems to overly rely upon the good faith of disagreement and the fairness of procedure whilst Rawls argues for a constitutional arrangement in addition to the procedural justice. I would not want to go so far as to argue that “politics just is a clash of interests”, but certainly in areas of political life infected by the individualist ideology, such as accounting and finance, I believe there is a need for the protection of a constitutional constrain. Contra Waldron, I see a need for “an immunization against madness” (Waldron, 1999a, p. 306); the madness of descent into unprincipled and unrestrained pursuit of self-interest.

Freeman (1990) urges us to think of democracy as more than a fair procedure for determining law and social policy, in a way that gives equal consideration to everyone’s preferences. He argues, in the Rawlsian tradition, for a broader, constitutional, conception of democracy. He suggests that we should think of democracy as not merely a mode of government, but as a form of sovereignty. We can then understand the establishment of a constitution, and mechanisms to protect it, such as judicial review, not as interferences that tend to undermine fair majoritarian democratic procedure, but as “shared precommitment by free and equal citizens to maintain the conditions of their sovereignty” (Freeman, 1990, p. 329).

Freeman notes that “appeal to the common interest is a convention of democracy” (1990, p. 331). Government is then justified by its advancement of the interests of all of its citizens, not by a merely procedurally equal consideration of preferences. On Freeman’s view of democracy, its focus ought not to be narrowly “upon individuals’ unconstrained preferences and their equal consideration in (maximizing) the aggregate satisfaction of interests, but

upon the capacity and interest of each person to rationally decide and freely pursue his interests, and participate on equal terms in political institutions that promote each person's good" (Freeman, 1990, p. 331). While the democratic value of equality of participation is central for Freeman, he insists that we cannot properly understand it simply in terms majoritarian proceduralism.

The proceduralist account concentrates attention on one aspect of democracy and neglects others. It neglects the values and ideals that underpin commitment to democracy and enable its stability. These are ideals concerning persons as free and equal persons, sharing sovereignty as citizens in reasonable social cooperation: They "provide the reasons for holding equality of political rights to be of such importance" (Freeman, 1990, p. 336). For Freeman then, like Rawls, the sovereign citizen carries certain basic rights and liberties in addition to the right to equal political participation. These rights are so much a part of a person's autonomy and sovereignty that they are rationally inalienable: "To freely give up any of these rights and liberties would be to sell part or all of one's independence and equal status as a sovereign citizen, an act so excessive and contrary to reason as cannot be imputed to anyone" (Freeman, 1990, p. 347). They are so essential, that they need constitutional protection from any encroachment by a majority¹⁴³. For example, when imbalances of power prevent weaker parties from forcefully challenging the stronger, the descent into anarchy or the lack of conceptual basis will lead to situations wherein the weak, lacking the capacity to enforce their demand for information, or having no legally enforceable right, will simply be at the mercy of the powerful. Less powerful stakeholders, or parties whom are significantly affected by corporate decisions, are passive recipients of financial information, which are primarily tailored to fit the demand of major capital providers.

Waldron reads Rawls's work as if Rawls is attempting to claims certain authority of his theory¹⁴⁴, which depends upon the premise of overlapping consensus. He sees that Rawls's attempt to combine political liberalism and democratic disagreement will be undermined if

¹⁴³ Freeman is guided by the implications of Rawls's first principle of justice in arguing that among "the basic rights and liberties that are a part of the freedom of sovereign democratic citizens are liberty of conscience and freedom of thought, freedom of association and of occupation, such rights and liberties as are necessary to maintain the independence and integrity of the person, and the rights and liberties implicit in the rule of law" (Freeman, 1990, p. 347). These basic liberties and requirements of justice are not guaranteed by procedures of equal political participation, majoritarian or otherwise. Rawls himself would include principles of equal opportunity and the guarantee of a social minimum.

¹⁴⁴ Recall that, Waldron says that "He(Rawls) is simply claiming truth for his theory and the falsity of any theory that contradicts it" (1999a, p. 159)

this premise cannot stand by itself. Waldron puts disagreement at the core of his argument against Rawls because he thinks real disagreement about justice as evidence of the “fatal” failure of the project (Laden, 2003, p.374). He reads Rawls, together with other critics¹⁴⁵, as “developing a theory” (Laden, 2003, p.374). The critique around the overlapping consensus is produced in light of viewing Rawls as offering a theory, which features a “standard blueprint” to approach Rawls’s work.

If we are led by a “standard blueprint”, then we are likely to be drawn into examining Rawls’s argument of original position, the selection of two principles and the premises it relies on. In fact, if we recall the accounting literature I have analyzed in Chapter 1, it is not difficult to find that these literatures are taking up these elements of Rawls’s work, as if they were guided by such standard blueprint, and would apply it to accounting. Such a reading of Rawls would make us to evaluate the value of his work based on the success or the failure of Rawls’s argument on these aspects. Laden suggests that such reading of Rawls’s work tends to constrain us to a particular structure to his thoughts without appreciating the actual details of its contents.

Laden promotes an “alternative blueprint”¹⁴⁶ to approach Rawls so that the value of his other arguments could be brought to light. Both *A Theory of Justice* and *Political Liberalism*, in this alternative reading, reflect different projects that Rawls undertakes yet under a larger project, that is, “looking for a publicly justifiable basis for social unity in a democratic society, rather than trying to show the rationality of justice” (Laden, 2003, p.380). Rawls is not aiming for a grand philosophy that attempt to address all political questions but rather argues for a conception of justice “focusing on a few longstanding classical problems should be correct, or at least provide guidelines for addressing further questions”¹⁴⁷ (PL, p.xxxi). It is not a theorizing project but a provision of “appreciation of the structure and content of our considered judgements and a renewed faith in their coherence and plausibility” (Laden,

¹⁴⁵ Waldron, and whom I will come to soon, Habermas and Mouffe all read Rawls from the same “standard” reading of Rawls (Laden, 2003).

¹⁴⁶ The alternative blueprint is: “(1) Rawls’s project are focused and narrower than is generally thought; (2) he is engaged in philosophy as defense rather than philosophical theorizing; (3) his arguments are meant to serve as public justifications rather than as deductions from premises about human nature or rationality; and (4) the central idea and high point of his achievement is the idea of public reason and its accompanying picture of political deliberation, and the importance of the original position argument is that it is one possible route by which to justify principles of justice publicly” (Laden, 2003, p.379)

¹⁴⁷ Similar remarks could be found in *A Theory of Justice* when Rawls claims that “my ambitions for this book will be completely realized if it enables one to see more clearly the chief structural features of the alternative conception of justice that is implicit in the contract tradition and points the way to further elaboration.” (TJ, p. xviii)

p.384). It provides us conceptual tools to understand the “the chief structural features” of a possible alternative conception of justice and “points the way to further elaboration” (TJ, p.xvii-xviii). The value of Rawls’s project lies in his modest attempt in providing us guides to think about the basic questions of justice, and of society.

Rawls’s argument for the conception of justice as fairness could be read as “the defense of the possibility of a just constitutional regime” (PL, p.101). His defense restore our faith in the potential of a democratic constitutional regime and allows us, as citizens, to engage in democratic society “reasonably and reflectively” (Laden, 2003, p.384). The “alternative blueprint” allows us to appreciate Rawls efforts made in justification¹⁴⁸, justification providing to parties in the original position, citizens of an imagined well-ordered society and flesh and blood citizens as us. It allows us to pay attention to his remarks on the nature of justification and the justification that we can provide to one another in a plural and democratic society. The role of justice as fairness is to help us to discover “a public basis of justification on questions of political justice given the fact of reasonable pluralism” (PL, p.100).

Yet, Waldron’s critique and Macve’s pragmatic reflection points to the importance of democratic disagreement. This brings out a longstanding political concern for modern democratic society. The development of modern democracy could be drawn from two traditions, or principles: “the rule of law (associated with liberalism, individual liberty and human rights) and popular sovereignty (associated with democratic participation, citizen equality, and majority rule)” (Tully, 2002, p.863). If in *A Theory of Justice* what Rawls offers is nothing more than a philosophical justification, in *Political liberalism* he presents a philosophical justification with a political standard (Laden, 2011). Yet it is still not real political justification, as Waldron observes, there is little room for the actual engagement among citizens and therefore limit space for democratic disagreements. This leaves me the opportunity to introduce the work by Rainer Forst. Conscious of this issue, Forst’s thought offers the possibility to make claims that can be politically justified by the actual acceptance

¹⁴⁸ The exercise of public justification is already embedded in TJ in the argument of stability, when asking whether flesh and blood citizens with their own capacities would agree and accept the principles of justice. “What changes from Theory to Political Liberalism, then, is not the aim of finding principles of justice that could be publicly justified but the understanding of what such justification would require” (Laden, 2003, p.387).

from our fellow citizens but also retain a philosophical justification at their core grounded in their universal reach. I will come to this in Chapter 3.

2.5 Summary

As we have seen in Chapter 1, Rawls offers a philosophical justification¹⁴⁹ for his conception and principles of justice as fairness. Rawls realizes that he needs to provide justification to his fellow citizens, fresh and blood citizens: A political justification is required. In *Political Liberalism*, therefore, Rawls offers a philosophical justification with a political standard, which means that his proposed conception and principles of justice will be subjected to real citizen's acceptance¹⁵⁰ (Laden, 2011).

Our understanding of accounting, its purposes and values, and its ontology and epistemology could count, at least by analogy, as comprehensive doctrines¹⁵¹ of accounting. The disputes between them reflect "burdens of judgements", disagreement among reasonable and rational accountants about philosophical and normative questions: "In philosophy questions at the most fundamental level are not usually settled by conclusive argument. What is obvious to some persons and accepted as a basic idea is unintelligible to others" (PL, p.53). Above I suggested that we can see Solomons, on the model provided by Rawls's political constructivism, as offering a political conception of accounting grounded in the values of liberal democracy and the ideal of faithful representation, which could be accepted by all reasonable comprehensive accounting doctrines, in an overlapping consensus, forming the foundation for a stable accounting .

¹⁴⁹ I follow Laden's distinction between philosophical and political justification. Philosophical justification means that justification is given by "techniques of philosophy and to the satisfaction of other philosopher, that a given claim can be grounded in the truths (in our case about justice) that philosophy uncovers"; Political justification is "justification that we offer to our fellow citizens" (Laden, 2011, in F and F, p.136-137). Rawls's argument in Kantian constructivism is a philosophical justification for that he shows how his principles can be justified by his Kantian philosophical justification. Yet, there will be citizens who do not believe in Kant. This would make it a philosophical justification than a political justification. If a policy is publicly accepted by citizens, yet lacking of philosophical support, the success of it could be a "matter of mere acceptance and not a properly grounded acceptability" (Laden, 2011, p.137). This would be a political justification without a proper philosophical justification.

¹⁵⁰ In the famous exchange between John Rawls and Jürgen Habermas, Habermas criticizes Rawls of failing to distinguishing between justified acceptability and actual acceptance (RPR, p.122). In response to this, Rawls explains three level of justification involved in justifying a political conception of justice, including pro tanta, full and public justification, I will come back with more details to this in next Chapter.

¹⁵¹ Freeman notes that comprehensive doctrine is defined as including "conceptions of what is of value in life and gives life its meaning" (Freeman, p.337).

In this Chapter, I explored Rawls's second major publication i.e. *Political Liberalism* and focused in particular on the difference between this work and *A Theory of Justice*. I started with an important distinction between Rawls Kantian constructivism and Political constructivism. The growing awareness of the fact of reasonable pluralism motivates Rawls to publish PL and to shift from Kantian constructivism to Political constructivism. Rawls is regarded as pouring new wine into old bottles. Much of the content of *A Theory of Justice* "survives" in new guises in *Political Liberalism* (F&F, 2011, p.14).

He keeps the conception of *justice as fairness*, the original position, his two principles of justice and the method of reflective equilibrium. The role that original position plays in PL is almost the same apart from the fact that original position is no longer modelling Kantian's assumption as setting up conditions for construction. This implies that principles of justice are not product of principle of practice reason, but are represented as generated from principle of practice reason. It is still a result of construction, but the origins of construction or the method of construction do not need to be Kant's. This pushes Rawls to distinct between concept and conception of justice. His idea of *justice as fairness* is one of many potential conceptions of justice, and there are other possible conceptions of justice that may be suitable. Rawls retains his preference for *Justice as Fairness* as the "most egalitarian" (LP, p.14) conception of justice, however its status changes: It becomes "a political conception anchored in the fundamental ideas of modern democratic societies, not a universally valid theory of moral rightness for the basic structure of society" (F&F, 2011, p. 15).

But we will have a political conception of justice, which could be justice as fairness or other suitable options. Rawls insists that despite the pluralism, reaching agreement on a political conception is necessary and important for that political decisions need to be justified not from one's own views but from something shared and common. To make it realizable, Rawls contends that it is possible that we may reach an overlap consensus that will render support for political conception of justice. With such an overlap, Rawls thinks that we can establish public reasons, which are consisted of public political values. When we come to fundamental question of justices, we explain and justify by appealing to public reasons so that we do not reason from our own interests or religion. This provides a more advanced model echoing Solomons' call for a constitutional conceptual framework that protect and shelter accountants from public political pressure. The constitutional conceptual framework is closer to providing public reasons for accountants. This allows one who may not agree with Kant to still be able to appeal to these public reasons when engaging in public debate about justice; or one who probably do not agree with Solomons's neutrality argument could still

make appeal to conceptual framework to justify her decisions. For Rawls, the possibility of reaching an overlapping consensus relies on our perception or imagination of what a citizen would be like in a democratic society. The public reasons, thus, are drawn upon public political values that are shared, but implicit in the public culture of a democratic society. Thus, the possibility of finding certain overlap is critical for this second stage of stability argument.

Despite the fact that we may disagree with each other about particular details of what should be accounted for, how and why, and to whom an account should be given. The Rawlsian model, articulated in *Political Liberalism*, suggests that we may still be able to find just and stable common ground of accounting, working through the right representational model based on the idea of the original position, and working towards a reflective equilibrium in an overlapping consensus. If we could construct a theory to deal with the politics in justice, then can we do this with accounting? This theory should be able to provide both a basis in which we could think of the agreement in accounting substantially, and a structure in which we could establish the legitimacy of accounting rules procedurally. That is, through public reason and the principle of legitimacy. The idea of public reasons then offers a commonly shared ground for political justification, for argument and debate concerning the development of a just basic structure of society.

I used Pelger's work as an example to illustrate the actual agreements reached in accounting and how such agreements can be justified based on Rawls's view of public reason and principle of legitimacy. It is a decision to be made upon objective of accounting, which researchers always have disputes and disagreements about. It is not "unrealistic to hope" (PL, 148) that, in accounting, all reasonable accountants, despite their different comprehensive doctrines, might be able to reason about questions of accounting by reference to the same and commonly shared principles and values within each context of accounting. It takes us to appreciate the principle of decision usefulness without the need to connect it to an ideology. It allows me to dare arguing the possibility of this principle to constitute public reasons for accountants in the context of market. It also allows me to acknowledge the fact of accounting having different contexts, the distinction of which will be helpful to understand the difference of public reasons offered in the context of market, for example and that in the moral context of accounting.

Rawls takes pluralism and disagreement seriously, yet he hopes that there can be agreement on justice as a subset of the moral domain, and in particular agreement on a political

conception of justice. He thinks that reasonable persons, and in particular reasonable democratic citizens, can achieve an overlapping consensus on the justice of a basic structure of society; a legitimating agreement, held for moral reasons without all needing to agree for the same reasons.¹⁵² The idea is that various comprehensive doctrines will give different moral reasons for reasonable persons to agree on a liberal conception of justice as the best possible conception, which will therefore be “stable for the right reasons” (PL, p. 1).

Waldron’s critique highlights that Rawls’s argument on public reason may discourage disagreements. Waldron sees Rawls’s constitutional arrangement and public reason as tying our hands to the mast, as making a precommitment. He sees that disagreements around justice are not just disagreements about applications, but also reflect disagreement about the justice. Waldron claims that disagreements should go all the way to the fundamental question of justice. Similar concerns could be found in accounting. The core argument of the Macve’s report is that it is difficult to reconcile our disagreements in accounting. Just like Waldron Macve presents his concerns on the plausibility of an overlapping consensus around a conceptual framework. Macve thinks that it may be not worthwhile to develop a conceptual framework but should rather put efforts in developing accounting standards.

Yet, Macve creates a dilemma for himself: on the one hand, he still sees the necessity of having accounting standards to regulate accounting decisions and actions; on the other hand, he cannot justify why one standard is made and preferred and the other is not. In other words, Macve calls for a pragmatic view of standard setting yet what is commonly accepted may not be the right way to do things. Without a rationale, or a common ground, we cannot justify and explain our choices one another.

¹⁵² As we have previously discussed, whilst in mathematics and the hard sciences we can reasonably expect, through inquiry, to progress towards ever greater agreement, in fields such as morality, ethics, politics, philosophy, and religion, disagreement is ineradicable, an intrinsic feature. In *Political Liberalism* (1993), Rawls addresses head on this fact of reasonable pluralism, and in particular the fact that rational and reasonable people will disagree on the foundations of justice. He tries to show that agreement, for the right reasons, on a conception of justice is possible through an “overlapping consensus” (PL, p. 133) of various “reasonable comprehensive doctrines” (PL, p. 58) on a “freestanding political conception of justice” (PL, p. 145, see PL p. 11 ff.; Reasonable people can agree on a political conception of justice, without coercion or resort to a modus vivendi, but on foundation of the sense of justice carried by their various reasonable comprehensive doctrines. In *Political Liberalism*, Rawls, “locates a basis for reasonable agreement within the sources of reasonable disagreement themselves, in the different and conflicting moral, philosophical, and religious views affirmed by reasonable citizens” (Freeman, 2007, p. 342). It is vital to the Rawls’s political liberalism that he is able to give a convincing account of why we might realistically hope that the “overlapping consensus he envisages can be attained (see Rawls, 1995, *Political Liberalism: Reply to Habermas*, p. 148).

Nevertheless, I see Waldron's critique making two relevant points. On the one hand, he puts emphasis on a democratic procedure to work out what we agree to comply with; on the other hand, he highlights that the common ground we are in need of should not be a precommitment, a mast we tie our hands to. It should be something that is more fundamental and basic than that. We are in need of something that allows us to distinguish amongst different options and justify choices in standard setting, both substantially and procedurally. This leads me to the exploration of a conception of justice that is thin enough to offer substance yet also provides a procedure for public discourse and construction.

Chapter 3 Justification and Critique in accounting

3.1 Introduction

In this Chapter, I extend my analysis of Rawls's work and its significance for accounting into the final period of his own writing "and beyond". I follow Rawls, and what I see as the Rawlsian tradition, as it becomes more explicitly discursive, radical and critical, and I consider the implications of those developments for our thinking about accounting. For me a crucial part of the critical value and force of the Rawlsian approach comes from the moral foundation it provides. I uncover that moral foundation, with Rainer Forst's help, and consider the implications for critical accounting thought.

I will frame my consideration of the final developments in Rawls's thinking in terms of key issues raised by the famous exchange between Jürgen Habermas and Rawls (See Finlayson and Freyenhagen, 2011). Without much delving into Habermas's work, I will mainly examine how Rawls responds to the criticisms raised by Habermas. There are strong theoretical affinities between Rawls's approach and Habermas's, as both hold an "autonomous", non-or post-metaphysical, constructivist account of justice.

Throughout his work, Rawls presents a deep appreciation of Marx's as well as other socialist criticisms of liberalism, constitutional democracy, and of capitalism and markets. Rawls is alert to the possibility that a conception of justice can function ideologically to entrench domination and oppression and to impede change (See Freeman, 2007, p. 27). His own account of justice responds to this danger. A concern for the "background justice" of society, the justification of the basic structure, is always at the centre of his concern: "the first subject of justice" (PL, p. 265). For Rawls, then, the first question of justice is the justification of core structures and institutions. This leads him quickly to see the need for, and to urge, radical change in distribution of power. The power he is interested in, ultimately, is, to use Rainer Forst's term, the "power of justification" (Forst, 2012, p.4). He suggests property-owning democracy¹⁵³ as a way of redistributing power in society to enable an undistorted

¹⁵³ Rawls is critical of welfare state capitalism, with its palliative retrospective redistributions income, which he sees as leaving the problem of power imbalance untouched insofar as it "permits a small class to have a near monopoly on the means of production" (JF, p. 139). He argues that property owning democracy can avoid the problem by instead "ensuring the widespread ownership of productive assets and human

functioning of the power of justification, of justice.¹⁵⁴ His view on market takes us to concern about the injustice caused by a reliance of market on distribution of income and wealth: “We might say: in this case the invisible hand guides things in the wrong direction and favours an oligopolistic configuration of accumulations that succeeds in maintaining unjustified inequalities and restrictions on fair opportunity” (PL, p. 267). The redistribution of power through taxation and the development of a property owning democracy, is Rawls’s favoured, and clearly radical, suggestion as to how we might keep the basic structure in balance (see O’Neill and Williamson, 2012). Rawls does not prescribe a precise system,¹⁵⁵ yet emphasizes that we need to be able to identify and dismantling the distortions in the basic structure that stop it being an effective base for free and fair agreement. All of this points to Rawls’s interests in critique, armed with the normative yardstick of justice, and it is not surprising that Habermas describes his exchange with Rawls as a “familial dispute” (RPR, p. 110).

In his response to the criticism raised by Habermas, and in his later work more generally, Rawls moves “closer” to Habermas and the critical tradition (Forst, in F & F, 2011, p. 157). In his later work, Rawls offers a more obviously discursive interpretation of the key aspects of his theory, including a clarification of the role of the original position and reflective equilibrium in the process of justification. Whilst clarified and given increasing emphasis in later work, the discursive element is, as Laden (2003) shows, presented in Rawls’s thinking since *A Theory of Justice*. Laden challenges the dominant reading of Rawls, which sees him as trying to deduce a grand philosophical theory of justice, from premises about human nature, which as a complete package can then be handed over by the philosopher, as expert, to citizens for mechanical application (Laden, 2003, p. 371). Laden shows that, on the

capital (that is, education and trained skills) at the beginning of each period, all this against a background of fair equality of opportunity” (JF, p. 139).

¹⁵⁴ The first question, then, is one of the justification of social relations. Starting with the idea that our relations, the terms of our social cooperation, “should develop over time in accordance with free agreements fairly arrived at and fully honoured. Straightaway we need an account of when agreements are free and the social circumstances under which they are reached are fair” (PL, p. 265-266). An additional complication is that even if social relations at some point are a fair basis for free and fair agreement, the processes of wealth accumulation in unrestrained market conditions eventually tend to undermine the conditions for free and fair agreement: “Unless this structure is appropriately regulated and adjusted, an initially just social process will eventually cease to be just, however free and fair particular transactions may look when viewed by themselves” (PL, p. 265-266).

¹⁵⁵ Rawls’s recognizes socialism as a potential alternative. Precisely which approach would be most appropriate he sees as dependent on a society’s history and tradition: “depending on the tradition and circumstances of the society in question, one can consider whether socialism in some form is justified” (PL, p.8). Forst sees that we can read Rawls as holding a position of “institutional agnosticism”; leaving questions concerning the precise shape that the basic institutions of a just society might take relatively open (2013, p.27, fn.33).

contrary, we can confidently read Rawls's work as a "modest" attempt to develop alternative ways and "tools" for "thinking about justice" (Laden, 2003, p. 382). That is, to think about justice together, discursively, in ways which allow us to escape the lure of utilitarianism and intuitionism and embrace a superior alternative, something like justice as fairness, that can provide a better account of our considered judgements (Laden, 2003, p.382).

Whilst Rawls becomes more discursive in his approach and generally moves in the direction of critical theory, there are, nevertheless, important differences between his position and that of Habermas and the critical school. Most notable for me, is the fact that Rawls's conception of justice, and therefore implicitly his conception of the foundations of critique and the identification of injustice, has a firmer moral foundations than Habermasian, or Frankfurt school, critical theory generally allows. As Lois McNay notes, one of the defining premises of the Frankfurt school is that "given the situated nature of all thought, emancipatory political critique necessarily has immanent foundations (2016, p. 1).¹⁵⁶ I will argue that, on the contrary, effective critique needs transcendent, moral, foundations. Furthermore, these foundations, the very ground of practical reason, are given in Rawls's approach to justice as justification and well-articulated in Rainer Forst's principle of justification, which will be discussed below.

I find universal, moral, foundation in Rawls approach to justice and justification, despite the fact that Rawls argues that he is able to avoid any reliance on the "prepolitical" (RH, p.179) or "universal" (RH, p.179) foundation in the justification of his political conception of justice. I suggest that Rawls, in his concern to stress the autonomous nature of his political conception of justice, "misses its underlying moral foundations" (Larmore, 1999, p. 599). In *Political Liberalism*, Rawls works hard to recast his essential ideas as "political"; stripped, he thinks, of moral commitment. Rather than ground his justification of justice in a conception of the free and equal moral persons who see autonomy as the ultimate good, in *Political Liberalism*, Rawls works with political conception of the citizen in democracy with a self-understanding of themselves as free and equal. There is, he suggests, nothing mysterious, nothing metaphysical, about this and it is, he insists, simply part of our tradition of democracy: "we have to come to see our social world as a form of life in political and social institutions that realizes our essence – that is, the basis our dignity as persons who are

¹⁵⁶ Rainer Forst presents an exception, in bringing Rawlsian insights to critical theory. He argues, as we will see, for a transcendent moral foundation for critique.

free” (LHMP, p.331). With Rawls’s political turn, just as the citizen displaces the moral person, the notion of political autonomy replaces that of moral autonomy in the justification of Rawls’, and hence, now “political”, conception of justice.

I find in the work of Rainer Forst, who is well-known as a preeminent figure of the contemporary Frankfurt School, a reconciliation of Rawls’s insight with discourse theory. Forst’s work, as it seems to me, preserves and sharpens the critical and moral insight of Rawls whilst taking forward, towards its logical conclusion, the embrace of a more discursive approach evident in Rawls’s later writing.¹⁵⁷ Through Scanlon (1998)’s concept of justification, Forst manages to locate his view of justice and justification aside with the critical and moral core of Rawls’s. I will then use Scanlon’s definition as a bridge to connect the later Rawls’s and Forst’s, contributing to my justification for Forst’s work being a continuation of Rawls’s. Thus, I see Forst’s constructivist theory of justice, and his conception of a right to justification, as effective extensions of Rawls’s theory of justice. I find it particularly exciting that the reconciliation brings strong moral and universal foundation, which is ultimately drawn from Rawlsian insights concerning the nature of justice as justification, into the theory of justice and justification and critique.

The making explicit of the connections between Rawls and critical theory, through the mediation of Forst’s work, gives me a chance to explore the critical potential of Rawls’s work and to draw critical insight from it, for accounting. I argue for the importance of moral foundation, to justification and critique, and therefore to critical accounting.

The moral, and universal, dimension has tended to be marginalized in much critical accounting theorizing, including and I suggest especially by that inspired by Chantal Mouffe’s version of radical democratic theory, and the associated work on counter-accounts. I suggest, following Rawls through Forst, that critique needs and can have a strong, but thin, moral foundation, that is, it needs a universal, and transcendent, basis for challenge to the status quo of injustice.

¹⁵⁷ From early in his career, Forst has sought to “‘radicalize’ Rawls by connecting his insights with those of discursive and deliberative democracy” (Forst, 2014, p. 193). Rawls’s approach is in my view critical and radical in its implications from the outset. I think especially of the consistent emphasis throughout the development of Rawls work on the justice of basic structure of society, and the first question of justice as the question of the justice of social relations.

I stress that moral foundation is not enough. We need a way to move from moral principles to political construction. I consider the ways in which Rawls and Forst approach this issue. Forst takes inspiration of moral foundation from Levinas but he does not constrain himself to the aspect of morality. This gives me the opportunity to contrast Forst's and Rawls's emphasis of the political with some of the work in critical accounting literature which also has taken inspiration directly from Levinas but limit their discussion within the moral. I use Shearer (2002)'s application of Levinas and Messner (2009)'s critical reflection to this application, works which tend to privilege the moral moment of encounter with the other over the necessary work of political construction and critique that is required if critique is to be effective. This allows me to shed some lights to the importance of the political, which is embedded in both Forst's and Rawls's approach to justification.

One last task for Forst is to show how his theory of justice, after amending on the basis of Rawls's core values, could manage to deal with the challenges that Rawls would face to apply his principles internationally. Although an evaluation of Rawls's "Law of peoples" would require another whole thesis, we could find clear traces in Rawls's TJ and PL showing that the primary subject of justice, for Rawls, is basic structure of a state. This raises some critique and concern around how it is possible to realize justice within state whilst exposed to a globally unjust system. Thomas Pogge, on the one hand, applauds for the great value of Rawls's principles of justice; on the other hand, wants to propose a global basic structure to which principles of justice are applied. According to Forst, Rawls's approach to global injustice is to address state injustice first and then the unfairness among states, namely, statist; Pogge's approach, in comparison, is to address global injustice directly and regard individuals as members of a global society, namely, globalist. In compared to both Rawls and Pogge, Forst proposes a critical theory of transnational justice that manages to "capture the strongest arguments of both sides of the debate between statist and globalists" whilst overcome their limits and constraints (2001a, p.176).

Thus, this chapter will be arranged as following. In section 3.2, I will briefly list the criticisms made by Habermas and focus in more details upon Rawls's response and on the implicit critical and radical insight implicit in the response. Rawls turns to Scanlon's justification of reasonable to explain his own concept of "reasonableness" and this gives me an opportunity to trace a theoretical extension from Rawls, through Scanlon, to Forst. Then I will look into how Forst makes the Rawlsian insight more explicitly and, through Forst's analysis of Rawls's response to Habermas, consider what a thoroughly discursive version of

Rawls's theory would be like. I will end this section with Forst's analysis of two pictures of justice and its implication to accountability.

In section 3.3, I apply the critical tools, which Forst develops on the basis of Rawlsian insights, to accounting. Firstly, I will engage with Mouffe's agonistic approach and accounting research inspired by this approach, and argue that we are in need of a moral, universal, transcendental moral ground for critique and justification. Secondly, I engage with the proposal of viewing accountability as responding to the Other by Shearer (2002) and the critique of such proposal by Messner (2009) to make a distinction with my own proposal of view accountability as a right to justification. I use them to shed light on the Levinasian ground for accountability, and argue that we need to find rational ways to go beyond the moral impulse, to political construction and institutionalization. I will end this chapter with a brief discussion of the tension existing between Rawls's approach to global injustice and Pogge's approach and explain and justify the superiority of Forst's transnational approach on the basis of the right to justification. I will end with a call for closer consideration of accountability, and for the development of appropriately contextualized accountabilities; kinds of justification.

3.2 The moral insight of Rawls

3.2.1 Rawls's exchange with Habermas

Habermas recognizes that there is a common core to his project and Rawls's in that both approach justice from a Kantian social contract tradition and tie justice to autonomy, to an "intersubjective version of Kant's principle of autonomy: we act autonomously when we obey those laws that could be accepted by all concerned on the basis of a public use of their reason" (Habermas, RPR¹⁵⁸, p. 25). An intersubjective conception of autonomy remains central to Rawls's understanding of the possibility of the justification of justice, throughout the development of his work from *A Theory of Justice* to *Political Liberalism* and beyond.

The moral autonomy on which the justification of Rawls's Kantian interpretation of justice as fairness (TJ, p.221 rev.) is developed in *A Theory of Justice* can be understood as an aspect

¹⁵⁸ This is originally published in 1995 and reprinted in Finlayson and Freyenhagen eds (F & F). I will be based on reprinted version as reference.

of the comprehensive doctrines of the kind associated with Kant and Mill that makes autonomy essential to the expression of human nature. At this stage of Rawls's thinking, a conception of justice is to be justified and stabilized through a congruence of the right and the intrinsic good of moral autonomy associated with the expression of human nature, as we have seen in Chapter 1: "Following the Kantian interpretation of justice as fairness, we can say that by acting from these principles persons are acting autonomously: they are acting from principles that they would acknowledge under conditions that best express their nature as free and equal rational beings" (TJ, p. 452 rev.).

In taking his political turn in *Political Liberalism*, Rawls keeps autonomy at the centre of his theory, but wants to distance himself from the notion of moral autonomy and its association with comprehensive doctrine and views of the good. The justification of a political conception of justice is to rely on a narrow political conception of autonomy, specified not in terms of human nature, but rather "in terms of various political institutions and practices, as well as expressed in certain political virtues of citizens in their thought and conduct - their discussions, deliberations, and decisions - in carrying out a constitutional regime" (PL, p.400). On this view, only a conception of justice that can be reasonably expected to be endorsed by those subject to it can properly serve as a basis for public reason, a basis for justification, decision and action: "our exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason" (PL, p. 137).

Habermas and Rawls agree that we can justify an autonomous, freestanding, conception of justice on the basis of practical reason and an intersubjective version of the principle of autonomy.¹⁵⁹ Rather than rely on metaphysical authority, whether religious or philosophical, they both see that a conception of justice must take its authority from its capacity to win intersubjective endorsement: "justice itself has no authority other than that which it "earns" in a justified way; public justification remains the "touchstone" of normativity" (Forst, in F&F, p.156). Their dispute arises from their different views concerning how this idea of a

¹⁵⁹ They have different ideas concerning the content of practical, or communicative, reason, and about the representational devices that allow us to best conceive of the nature practice of practical reason, including for Rawls the original position and for Habermas the ideal speech situation. In this thesis, I limit my consideration of Habermas' work to the criticism he raises in respect of Rawls's approach.

non- or post-metaphysical public justification should be theoretically articulated and realized in practice.

The debate between Habermas and Rawls is often presented as a “competition over modesty” (Forst, RJ, p.88). Habermas argues that Rawls’s theory is “at the same time more and less modest” than it ought to be; modest and immodest in the wrong places. Habermas suggests that Rawls is excessively modest, in his “method of avoidance” (Rawls, 1985, p. 231), for his insistence on avoiding any controversial claims, and in particular any truth claims, of his theory of justice, and for the fear of bringing it in conflict with any reasonable comprehensive doctrines.¹⁶⁰ He presents his political conception of justice “not as a conception of justice that is true, but one that can serve as a basis of informed and willing political agreement between citizens viewed as free and equal persons” (Rawls, 1985, p. 230).¹⁶¹ Habermas thinks that a conception of justice needs to be able to “lay claim to some sort of normative binding force” (RPR, p.39). Habermas is certainly not suggesting that Rawls needs to embrace moral realism, rather he is suggesting that we can understand the “reasonable” as a “predicate for the validity of normative statements” (p. 39), and that a conception of justice, if it is to have normative force, needs to be able to claim validity, the acceptability despite whether or not it is actually accepted: “Rawls must make a sharper distinction between acceptability and acceptance” (Habermas, RPR, p. 36).

Rawls’s theory is immodest, in Habermas’ view, in the role it seems to claim for philosophy and philosophers as experts. Habermas sees Rawls’s theory as encroaching on what should be the public ground of “rational opinion and will formation” (RPR, p. 44), when it apparently sets itself up “to elaborate the idea of a just society” as an idea that citizens are then to use “a platform from which to judge existing arrangements and policies” (p. 44). Habermas thinks that Rawls incorporates too much in the original position so that he ends up anticipating “too much of the actual political practice of self-determining citizens” (Forst, RJ, p.88). He thinks that philosophy should “limit itself to the clarification of the moral point of view and the procedure of democratic legitimation, to the analysis of the conditions of rational discourses and negotiations” (RPR, p. 44). He sees Rawls as a philosopher expert,

¹⁶⁰ Rawls argues “that we must apply the principle of toleration to philosophy itself” (1985, p. 231), and by the avoidance of conflict he hopes that political agreement on a conception of justice could be achievable, and that social cooperation proceeds on a foundation of mutual respect.

¹⁶¹ Rawls presents his political conception of justice as “practical, and not metaphysical or epistemological” (1985, p. 230).

engaged in the work of construction that should be best left to public discourse and debate; philosophy, Habermas thinks, should confine itself to the “reconstructive” (p. 44) work of establishing the moral point of view and the procedural requirements for rational will formation and legitimacy.

When Rawls responds to this second criticism, he points out that Habermas’ own approach cannot entirely confine itself to the procedural, and he suggests that Habermas himself recognizes the idea of autonomy as the substantive core of his approach. Rawls, in his *Reply to Habermas*, directs our attention to the final paragraph of *Between Facts and Norms*, where Habermas acknowledges that his procedural approach “retains a dogmatic core: the idea of autonomy according to which human beings act as free subjects only insofar as they obey just those statutes they give to themselves in accordance with their intersubjectively acquired insights” (Habermas, 1996, BFN, p. 536). Rawls suggests that as some substantive matters¹⁶² seem to be settled “by philosophical analysis of the moral point of view and the procedure of democratic legitimation”, his difference with Habermas is a matter of degree: “a matter of more or less” (RH, p.174). I will show below that Rawls progressively lessens the substantive commitment implicit in his position. As I will return to this, Rawls rejects the idea that justice as fairness is to be understood a package handed over by the philosopher as expert as a finished product for citizens to simply apply: “In justice as fairness there are no philosophical experts. Heaven forbid” (RH, p.174). Rawls also rejects Habermas’ first criticism. He argues that Habermas’ theory of communicative action is in fact insufficiently modest for our pluralist time. It represents “a comprehensive doctrine”, offering a metaphysical “account of what there is” (RH, p.137), which contradicts other reasonable comprehensive doctrines.¹⁶³

I want now to look more closely at this first criticism and Rawls’s response. As discussed above Rawls’s and Habermas’ non-or post- metaphysical conceptions of justice both tie justice to exercise of an intersubjective autonomy. Consistent with that conception, for Habermas valid laws are those “that could be accepted by all concerned on the basis of a public use of their reason” (Habermas, RPR, p.25); and for Rawls the use of power is legitimate “only when it is exercised in accordance with a constitution the essentials of which

¹⁶² In fact, I have shown that Rawls’s insistence on constitutional essentials, as we have seen in his response to Waldron, has expressed his holding to some substances to be settled.

¹⁶³ Both Habermas and Rawls, want to do without metaphysical justification of a conception of justice. Instead of metaphysics, justification is to be grounded in the practical reason of free and equal citizens.

all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason” (PL, p.137).

Following this autonomous view of justice, Habermas insists that valid laws and norms should be “capable of public justification”; they should “deserve the acceptance of everyone for the same reasons” (Habermas, MW¹⁶⁴, p. 101). Recall that Rawls’s idea of the overlapping consensus is that people will endorse a political conception of justice for different reasons dependent on the comprehensive views that they hold, and that that endorsement will represent a kind of justification. On this aspect, Habermas accuses Rawls of being excessively modest by permitting a public conception of justice to “derive its moral authority from nonpublic reasons” (MW, in F&F, p. 101). Habermas thinks that Rawls’s denial of truth claims of his theory leaves the validity of his public conception of justice resting on little more than the contingent fact of its fit with various comprehensive doctrines, which is insufficient ground to legitimate public governance. Rawls, as we have seen, does not think of his political conception of justice, as a mere contingent consensus: That would make it “political in the wrong way” (PL, p. 40).

Recall that Rawls’s approach starts with an attempt to establish a freestanding conception of justice, and that means starting with a conception of reasonable persons, with a sense of justice and, awareness of social cooperation. Rawls identifies two aspects of the reasonable as a virtue of persons. The first aspect is the “willingness to propose fair terms of cooperation and to abide by them provided others do.” (PL, p. 54). The second aspect is the “willingness to recognize the burdens of judgment and to accept their consequences for the use of public reason in directing the legitimate exercise of political power” (PL, p. 54). Moreover, Rawls sees reasonable persons as morally motivated to cooperate in terms of principles “that no one could reasonably reject” (Scanlon, 1998, p. 153).

Rawls sees Scanlon’s principle as an answer to the question of why people care about morality: “The principle answers this by saying that we have a basic desire to be able to justify our actions to others on grounds they could not reasonably reject - reasonably, that is, given the desire to find principles that others similarly motivated could not reasonably reject”

¹⁶⁴ Habermas, J., “Reasonable” versus “True”, or the morality of worldviews, reprinted in Finlayson, J.G. and Freyenhagen, F., 2011. Habermas and Rawls: Disputing the political (Vol. 23). Routledge.

(PL, p. 49, fn. 2).¹⁶⁵ The two aspects of the reasonable, noted above, are recognized by Rawls to be “expressions of this desire” (PL, p. 49, fn.2). He therefore sees this motivation, this desire to act from one’s sense of justice, as built into the conception of the reasonable person that is the foundation for justice as fairness and any political conception of justice: “in setting out justice as fairness we rely on the kind of motivation Scanlon takes as basic ... the basic desire to be able to justify our actions to others on grounds they could not reasonably reject” (PL, p. 50, fn. 2).

The political conception of justice represents a common basis of publicly justified principles that cannot be reasonably be rejected. It meets Scanlon’s criteria, because the development and justification of those principles, is, as we have seen, grounded in in a conception of the reasonable person as citizen. Scanlon’s principle is in effect built into, or “*aufgehoben* (sublimated)” (Forst, CT, p. 41), in Rawls approach to justice as justification. The reasonable is part of the idea of society as a system of fair cooperation, organized in terms that all find reasonable; terms that no one can reasonably reject.

Hence, the basic moral motivation that the Rawlsian approach to the justification of principles of justice seeks to give effect to is “the desire, expressed by the two aspects of being reasonable, to arrange our common political life on terms that others cannot reasonably reject” (PL, p. 124). To say that certain behaviour breaches Scanlon’s criterion is in effect to say that it breaches the principles that free and equal persons find acceptable under conditions where their reasonableness can be suitably expressed. If we take slavery as example, we can say that “it violates principles that would be agreed to in the original position by the representatives of persons as free and equal; or to put it in Scanlon’s way, that it violates principles that cannot be reasonably rejected by persons who are motivated to find a free and informed basis of willing agreement in political life” (PL, p. 124). We can say the same, of course, of the various kinds the injustice affecting the basic structure of society: “They can be joined by principles issuing from a procedure incorporating the requirements of practical reason, or so political constructivism claims” (PL, p. 124).

¹⁶⁵ Reasonable persons, on this conception, are motivated by neither altruism or a simple idea of self-interest in cooperation for mutual advantage, but by an idea of reciprocity that lies somewhere between the two: Reasonable persons “desire for its own sake a social world in which they, as free and equal, can cooperate with others on terms all can accept. They insist that reciprocity should hold within that world so that each benefits along with others.” (PL, p. 49-50).

We can then see clearly the roles of the two aspects of reasonableness. The first aspect, a willingness to propose and accept by fair terms of social cooperation, a willingness to endorse public justification, gives us the priority of justice. Our capacity to be reasonable allows us to identify those principles that cannot be reasonably be rejected, and which therefore need to be accommodated within any reasonable comprehensive doctrine we may hold. The second aspect of the reasonableness, a willingness and capacity to recognize and accept the burdens of reason and their implications, enables a recognition of the limits of reasonable justification, and thus the limits of the legitimate use of political power: “reasonable persons see that the burdens of judgment set limits on what can be reasonably justified to others” (PL, p. 61). Reasonable comprehensive doctrines on the one hand give priority to justice, and incorporate an overlapping consensus on (moral) principles for the basic structure of social cooperation. On the other hand, they recognize the limits of legitimate power and respect ethical difference, and the ethical incompatibility¹⁶⁶ of comprehensive doctrines, that is, views of the good life. They allow citizens to pursue the form of life, within the limits of justice, which they consider to be of highest value: “Thus, while justice draws the limit, and the good shows the point, justice cannot draw the limit too narrowly” (PL, p. 174); it must leave individuals space and freedom to realize and develop their conception of the good in their lives.

People and parties in positions of political power act unreasonably when they fail to respect the limits of reasonable justification and seek to impose, on others, their own view of the truth on basic political questions: They act unreasonably when they use political power to enforce views, even beliefs they most sincerely claim to be true, which cannot be publicly justified, justified that is with reasons that others cannot reasonably reject. The unreasonableness of their position can be represented as a failure to conform the criteria of reciprocity and generality¹⁶⁷ required by the principle of practical reason. Those who claim a right to impose their beliefs beyond the limits of reasonable justification, make “a claim that all equally could make; it is also a claim that cannot be made good by anyone to citizens generally. So, when we make such claims to others, who are themselves reasonable, must

¹⁶⁶ The extent of the moral compatibility of reasonable comprehensive doctrines is represented by the overlapping consensus.

¹⁶⁷ Forst sees the criteria of reciprocity and generality as a standard by which we can identify moral claims that can reasonably be rejected. He explains that: “Reciprocity means that no one may refuse the particular demands of others that one raises for oneself (reciprocity of content), and that no one may simply assume that others have the same values and interests as oneself or make recourse to “higher truths” that are not shared (reciprocity of reasons). Generality means that reasons for generally valid basic norms must be sharable by all those affected” (Forst, RJ, p. 6).

count us unreasonable. And indeed we are, as we want to use state power, the collective power of equal citizens, to prevent the rest from affirming their not unreasonable views” (PL, p. 61). Such claims are lacking in reciprocity, having “recourse to ‘higher truths’ that are not shared” (RJ, p. 6), and in generality, by seeking to impose norms without the support of reasons that are “sharable by all those affected” (RJ, p. 6).

This allows me to draw a direct line, then, from Scanlon’s principle, to Rawls conception of the virtues of the reasonable person that underlies his justification of a political conception of justice, and to the idea, as an expression of the principle of practical reason, that “only those norms may claim general validity that are reciprocally and generally justified” (CJ, p. 43). We can then, on that basis, more clearly distinguish the context of the moral and of the ethical,¹⁶⁸ or in Rawls’s terms the right and the good (PL, p. 173). The distinction being that moral norms, on the one hand, including norms of justice, claim a universal and categorical validity, and are correspondingly justified “only if they rest on reasons that cannot be ... reciprocally and generally rejected” (Forst, 2011, in F&F, p. 158),¹⁶⁹ while, on the other hand, ethical values and norms do not claim a general applicability, they are not for all, and therefore do not need to meet the criteria of generality and reciprocity.

We can therefore make clear sense of the distinction between the moral and ethical spheres and of possibility of the coexistence of moral agreement and ethical disagreement.¹⁷⁰ We can, furthermore, appreciate that Rawls’s political conception of justice and the principles and norms it entails, are justified as a reasonable “moral” basis for society. That is a moral basis for the basic structure of society, to govern not the private sphere but the terms of our social cooperation in the political sphere. A moral basis that cannot be reasonably rejected,

¹⁶⁸ More clearly distinguishable, because the criteria of reciprocity and generality give some determination to the principle of “not reasonably rejectable”.

¹⁶⁹ The criteria of reciprocity and generality are explicit and identifiable in Rawls (see Forst, CT, p. 41), but drawn out more forcefully by Forst as a reconstruction of the very idea of “justification to all those affected.” (Chambers, 2015, p. 214).

¹⁷⁰ Habermas’ first criticism points to a lack of clear distinction between morality and ethics in the way Rawls conceives of the justification of a conception of justice. The distinction Habermas has in mind is between moral norms, what Habermas calls norms of “justice”, and ethical values. Rawls makes much the same distinction between the right and the good, and relies on it when developing his argument for the stability of justice. The significance of this distinction has to do with the priority of the justice over the good, or as in *Political Liberalism*, the reasonable over the truth. The essence of the distinction is that while moral norms enjoy a universal and categorical validity, attained by virtue of the fact that they are justified “by reasons that cannot be ... reciprocally and generally rejected” (Forst, 2011, p. 158), ethical values are valid, one might even say true, for a particular group and time, and no such strong validity criteria as reciprocity and generality apply to them. We can have, and should expect reasonable disagreement about ethical values, but not about moral norms. It should be clear that, on this account, the distinction between the “moral” and “ethical” norms and values is not known in advance of testing their justification.

that in other words is not contestable on the basis of reasons that meet a test of reciprocity and generality: “It is in this respect correct to say that the principle of reciprocal and general justification is the basis of the “original position,” such that Rawls’s device of justification is just one way of applying this principle” (Forst, CJ, pp. 43-44).

Finally we can see that the different, morality and ethics, call for different justification, depending on the different kinds of claims that they make. The principles of justification, that good justification must match the claim, for example requires that moral claims having of their nature general applicability, call for general and reciprocal justification: practical reason is differentiated according to ethical and moral aspects on the basis of the principle of justification, so that reasonable persons recognize “the *threshold of reciprocity and generality*; they can advance good reasons in each of the particular *practical contexts*” (Forst, CT, pp. 43-44).

It seems to me clear, and implicit in our previous discussion of Rawls’s constructivist approach to the autonomous justification of a conception of justice, “founded on the principles and conceptions of practical reason” (PL, p. 97),¹⁷¹ that a valid conception of justice claiming to apply to all, must be justified with sound moral reasons, that is reasons that are acceptable to all; reasons that no one can reasonably reject.¹⁷² I therefore agree with Forst, that a freestanding conception of justice, needs to be conceived of as “morally “independent” in a normative and epistemic sense” (2011, in F&F, p. 158). It should be epistemically autonomous in the sense that it should not be “presented as derived from, or as part of, any comprehensive doctrine” (PL, p. xliv). It should be normatively autonomous in that it should be endorsed on the basis of reasons that are acceptable to all; shared moral reasons that no one can reasonably reject. In a well-ordered society a political conception of justice will have the ethical support of an overlapping consensus of comprehensive doctrines.

¹⁷¹ The approach is, as we have seen, not one sided; we are to “work from both ends” (TJ, p. 18). We are to find the correct procedure by reflection through reason: “But since we are using our reason to describe itself and reason is not transparent to itself, we can misdescribe our reason as we can anything else” (PL, pp. 96-97). The procedures of construction is tested by comparing its outputs with considered judgements, with appropriate adjustments made to either considered judgements or the procedure of construction: “The struggle for reflective equilibrium continues indefinitely, in this case as in all others” (PL, pp. 96-97). Once reflective equilibrium is approximately achieved the “constructivist will say that the procedure of construction now correctly models the principles of practical reason in union with the appropriate conceptions of society and person. In so doing it represents the order of values most suited to a democratic regime” (PL, p. 96).

¹⁷² As we have seen the criteria of reciprocity and generality give us a way of interrogating the validity, the reasonable acceptability, of moral reasons.

Justice needs, I agree, the support from the overlap of reasonable ethical doctrines. However, the ethical justifications for a political conception of justice, given from within the “truth” of each comprehensive doctrine, will vary and rest on different, and not generally sharable, reasons depending on the nature of each ethical doctrines. As we have seen, reasonable citizens must be able and prepared to assess claims of justice on the basis of sharable reasons, that is from the perspective of reasons that they can think no one can reasonably reject, and guided by the criteria of reciprocity and generality; and not just from within their own ethical perspective. Without such an autonomous moral justification, the priority of justice over the good, of the reasonable (of the moral) over the true (of the ethical), would lack justification and normative force: “without it persons would not be sufficiently autonomous to be able to scrutinize and subordinate their ethical-comprehensive value conceptions on the basis of justice if necessary” (Forst, in F&F, p. 158).

We can make sense of the “priority of right” (PL, p. 173), and “moral motivation ..., expressed by the two aspects of being reasonable ..., to arrange our common political life on terms that others cannot reasonably reject” (PL, p. 124), only by recognizing the normative and epistemic autonomy of justice; only by accepting “that the “ideals” and “principles” of practical reason, on which Rawls’s political constructivism relies, characterize “reasonable” persons and accord them a moral capacity for reflection, according to which they view norms as just only if they can be justified-constructed-and accepted reciprocally and generally” (Forst, in F&F, p. 158-159). In short, Habermas is right by being critical of Rawls’s position on the autonomy of the justification provided for a political conception of justice. Habermas accuses Rawls of incapable of appreciating the importance of moral autonomy, and that a conception of justice needs to be morally justified and autonomous before it can claim its normative authority over any comprehensive conceptions of the good. Otherwise, the priority of the right over the good cannot be realized.

Rawls thinks that Habermas goes too far in this criticism. He does see the necessity for a moral justification that is independent from any comprehensive doctrines, or rather he prefer a political justification. With his turn to the political, and conscious of the burdens of judgment and reasonable pluralism, Rawls does his best to avoid committing himself to any metaphysical position, and thus seeks to avoid any commitment to a view on how things truly are. Rawls assigns the primacy to the “practical” task of political philosophy of finding “a basis of a reasoned, informed, and willing political agreement” among citizens, given the fact of reasonable pluralism (PL, p.9). He argues that a theory of justice should be able to

apply a principle of toleration to different conceptions of the good. This means that a theory of justice should be compatible with different conceptions of the good. Rawls is very careful about this and contends that his political liberalism is not aiming to challenge any reasonable comprehensive doctrine: “political liberalism never denies or questions these doctrines in any way, so long as they are politically reasonable” (RH, p.136).

In doing so, Rawls elaborates how a freestanding political conception is justified and how itself draws its validity from various comprehensive doctrines, in pro tanto, full and public justification. The first level, pro tanto justification, comes into operation when a political conception of justice is initially worked out as a freestanding conception, without reference to any comprehensive doctrines: “without looking to, or trying to fit, or even knowing what are, the existing comprehensive doctrines” (RH, p.145). It aims to ensure that the development and “the justification of the political conception takes into account only political values” (RH, p.142). The object is to minimize “obstacles in the path of all reasonable doctrines endorsing a political conception by eliminating from this conception any idea which goes beyond the political, and which not all reasonable doctrines could reasonably be expected to endorse” (RH, p.145).

Thus, as a freestanding construction, a political conception of justice takes its content and justification from “certain fundamental ideas seen as implicit in the public political culture of a democratic society”¹⁷³ (PL, p. 13). These fundamental ideas are referring to the “ideas” of reason, including the conception of person with two moral powers, idea of society as a well-ordered fair system of cooperation, and “principles” of reason, including the Rational and the Reasonable. These ideas reflect our self-understandings of citizens in a democratic society.

With these ideas and principles properly “represented” in the device of original position, Rawls sees that we can work out freestanding principles, constructed without grounded in any “comprehensive doctrine”, and justified on a common ground that “others cannot reasonably reject” (PL, p.124). Apart from these “political” ideas, Rawls also includes the concern of primary goods into the construction. Recall that the idea of primary goods refers to those “all-purpose means” (PL, p. 188), which are necessary to allow a person to realize

¹⁷³ These “fundamental ideas” have been explained in Chapter 2. Whether the ideas taken up from the public political culture, are all properly moral is open to question, and Habermas and Forst suggest that certain ethical concepts are picked up and brought into the construction of Rawls’s political conception of justice.

his or her higher-order interests in the two moral powers. Participants in the original position are then to consider the distribution of primary goods that citizens would need. The identification of these needs is to be “made more specific at the constitutional and legislative stages, and interpreted even more specifically at the judicial stage” (PL, p. 188).

Rawls argues that a freestanding conception of justice, given “autonomous” moral justification at the *pro tanto* stage, can be given further justification by being integrated with the comprehensive doctrines held by citizens. The second, of the three levels of justification he identifies, that is the full level, begins this integration. The justification at this level is to be carried out by citizens individually. Each person is expected to complete a reflective equilibrium herself in the sense that she is to find her own reasons for endorsing the political conception of justice and thus for “embedding” it within her own comprehensive doctrine “as either true or reasonable, depending on what the doctrine allows” (RH, p.143). Thus, a freestanding conception can be “embedded in various ways – or mapped, or inserted as a module – into the different doctrines citizens affirms”, and that in fact the conception of justice “will have the capacity to shape those doctrines toward itself” (RH, p.143-144)¹⁷⁴. In this way, while a political conception is to be freestanding, based on the thin but significant shared political values and the considered judgements of reasonable citizens of liberal democratic society, it is expected to have the justificatory support of all reasonable comprehensive doctrines (PL, p. 12). The process of full justification involves an embedding of the moral within the ethical, the political conception of justice within various comprehensive doctrines, at the level of individual citizens. It is a process in which conflicts between moral, in the shape of a political conception, and the ethical norms and values can emerge.

Once integration has occurred at the level on individual citizens, and they have made the political conception of justice part of their comprehensive, ethical, doctrines, progression to the final level of justification is possible; That is, “public justification” among reasonable citizens who “take one another into account” as holding reasonable ethical-comprehensive doctrines that have each endorsed and incorporated the political conception of justice. This

¹⁷⁴ At this stage Rawls refers to “wide reflective equilibrium” a process through which “citizen's general convictions, first principles, and particular judgments” (RH, p.141, fn.16) are brought into some alignment. It is “wide” in a sense that it requires citizens to engage over time in a wide ranging reflection on the leading conception of political justice represented in “our philosophical tradition” (p. 141, fn. 16), that is the tradition of liberal democracy. It can be contrasted with narrow reflective equilibrium “in which we take note of only our own judgments” (p. 141, fn. 16).

process of mutual accountability, employing the political conception, “shapes the moral quality of the public culture of political society”. While, the public justification of the political conception, through this self-reinforcing use of the political conception in processes of mutual accounting, relies on the support of reasonable comprehensive doctrines, it “does so only in an indirect way” (RH, p.144).

This process of “public justification” takes place “from the point of view of citizens in the culture of civil society, which Habermas calls the public sphere” (RH, p.139-140). All citizens are envisaged as being involved in the discourse concerning the formulation of the political conception of justice, including “whether this or that aspect of it seems acceptable - for example, whether the details of the set-up of the original position are properly laid out and whether the principles selected are to be endorsed” (RH, p. 140). In this discourse, no one has privileged authority: “There are no experts” (RH, p.140).

It is a public justification among reasonable citizens appealing as equals to the authority of reason and accepting the “burdens of judgements”. This acceptance means that reasonable citizens will not impose their own comprehensive doctrine onto others. As we have noted above, reliance on comprehensive doctrines in public justification will never be direct: Reasonable citizens, mindful of the burdens of reason, will not give the “express contents” of their ethical doctrines any normative role in the process. They will appeal solely to “political values” when they discuss the fundamental issues of justice. They will also accept a “duty of civility” requiring them to be prepared to listen to and accommodate one another’s views in a fair-minded, reasonable and rational, way, and “to be able to explain to one another on those fundamental questions how the principles and policies they advocate and vote for can be supported by the political values of public reason” (PL, p. 217).

Public justification is achieved, when reasonable citizens share the common ground of a political conception of justice. That is, when they are held “in general and wide reflective equilibrium in affirming the political conception on the basis of their several reasonable comprehensive doctrines” (RH, p.144)¹⁷⁵; when a reasonable overlapping consensus on a conception of justice is achieved. As a result, the political conception of justice, through the

¹⁷⁵ It is a “wide and general” equilibrium completed by all citizens through public discourse. It is an equilibrium achieved after they have compared all possible alternative options for conception of justice and then decided to agree on a political conception of justice: “This equilibrium is fully intersubjective: that is, each citizen has taken into account the reasoning and arguments of every other citizen” (RH, p.141, fn.16).

procedure of reflective equilibrium, is expected to “have the capacity to shape those doctrines toward itself” (RH, p.145). At that stage, citizens are therefore able to endorse a political conception of justice, not because it seems like the best compromise they can achieve at a particular time, but for good reasons; “the right reasons”, moral reasons that they “can be sincerely defended before others without criticizing or rejecting their deepest religious and philosophical commitments” (RH, p.146).¹⁷⁶ In addition we have a common basis for justice in society, neutral between comprehensive doctrines that gives a legitimate foundation for the development of generally applicable law to be enforced if necessary by state power.

As we have already noted, Rawls rejects Habermas’ suggestion that his political liberalism and the political conception of justice cannot do without claims to truth. He refuses to “give ground” (RH, p.150) on this, and argues that the alternative, reasonableness, which he substitutes for truth in *Political Liberalism* is quite sufficient. For Rawls the goal is reasonableness and the “overall criterion of the reasonable is general and wide reflective equilibrium” (RH, p.141); while for Habermas the target is moral truth or validity, and the test is essentially rational acceptance in an ideal discourse situation. Rawls confirms that in his view this test, reflective equilibrium, resembles Habermas’ in the sense that: it is a point at infinity we can never reach, though we may get closer to it in the sense that through discussion, our ideals, principles, and judgments seem more reasonable to us and we regard them as better founded than they were before” (RH, p.142).

Rawls then is close to Habermas in pursuing a discursive conception of the justification of justice, in which the process of discussion and reflective revision is essentially endless as we move towards reasonable agreement and an overlapping consensus in full reflective equilibrium. It is Rawls’s “hope” and expectation that comprehensive doctrines will be adapt, over time to improve their fit with the political conception of justice, as citizens make use of the language of public reason based on the political conception. Rawls hopes “that citizens will judge (by their comprehensive views) that political values are normally (though not always) ordered prior to, or outweigh, whatever non-political values may conflict with them” (RH, p.147). We have emphasized, that the reflective process works “from both ends” (TJ,

¹⁷⁶ Rawls is right to say that “Habermas’s comprehensive doctrine violates this” (RH, p.146, fn. 25), the crucial quality of a publicly justified political conception of justice.

p. 18), and Rawls is clear¹⁷⁷ justice is not justified by practical reason in any determinate way: justification finally rests on reflective equilibrium. A political conception of justice cannot be determined by the original position but one part of the reflective process of political justification: It is both the means and the object of intersubjective reflection” (RJ, p. 90). The original position, does not have unbridled authority in the public justification of justice. Indeed the assumptions, ideas and principles, incorporated in it “can only be defended as results of a discursively achieved reflective equilibrium” (RJ, p. 90).

Together, the three kinds of justification, *pro tanto*, full and public, represent a response to Habermas’ first criticism. Recall that Habermas asked how can a political conception of justice that does not make claim moral truth or validity, and which is endorsed by citizens for various reasons emerging from their particular comprehensive doctrines, expect to claim priority over the various non-political values associated with citizens’ ethical – comprehensive doctrines when conflict arises: How “is it possible that values of the political, a subdomain of all values, normally outweighs whatever other values may conflict with them?” (RH, p.148, fn.29) The question may seem troubling, Rawls insist, only if we fail see that the priority of the political emerges with the development of a reasonable overlapping consensus will we be troubled by statement to the effect that we can hope citizens to make the judgement of prioritizing political values over non-political values. Taken out of context, of the achievement of an overlapping consensus, such a statement “appears to express a comprehensive moral point of view that ranks the duties owed to just basic institutions ahead of all other human commitments” (RH, p.148, fn.29). Rawls, as we noted above, does not think he needs to “give ground” (RH, p.150) on his commitment to the political nature of his theory.

I now want to look briefly, at how Rawls responds to the second critique raised by Habermas. Habermas objects that citizens “cannot reignite the radical democratic embers of the original position in the civic life of their society” (RPR, p.42) and accuses Rawls’s theory of depriving citizens to participate in realizing justice as an ongoing “open and incomplete” process, as “from their perspective all of the essential discourses of legitimation have already taken place within the theory” (RPR, p.42). In this case, Habermas reads that the construction of constitution become out of the hand of citizens, the use of public reason does not constitute

¹⁷⁷ He becomes more explicit on this point in later work, especially so in *The Law of Peoples* (2001) and in his “Reply to Habermas”.

an exercise of political autonomy but “merely promotes the nonviolent preservation of political stability” (RPR, p.42).

Even before the critique received from Habermas, Rawls was distancing himself from the idea that his efforts were designed to show how we could justify a conception of justice once and for all and fixed in key particulars, and to present the development of a theory of justice as an open discursive and dialectical reflective process. It is not difficult to observe traces in *Political Liberalism* where Rawls already starts to acknowledge that pluralism in both conceptions of the good and conceptions of the justice: “there are different and incompatible liberal political conceptions” (PL, p.xlvii). So he starts to talk about a “family” of liberal political conceptions (PL, p.liii) and that public reasons are not specified by any particular political conception of justice, at least not justice as fairness alone, and “this family changes over time” (PL, p.453). Rawls also accepts that the difference principle cannot be treated as constitutional essentials, and that reaching an agreement upon this is seriously difficult¹⁷⁸. All these signify but one thing that Rawls is gradually moving towards a more open and discursive position.

In his response to Habermas, Rawls claims that, in the process of deliberation, that is, in the four-sequences of institutionalization, facilitated by the reflective equilibrium, we can and must “check it (a conjecture concerning principles of justice) against the fixed points of our considered judgments at different levels of generality. We also must examine how well these principles can be applied to democratic institutions and what their results would be, and hence ascertain how well they fit in practice with our considered judgments on due reflection. In either direction, we may be led to revise our judgments” (RH, p.139). Thus, the principles and policies are “always subject to being checked” by all citizens of a society (RH, p.154). They are no longer decided “once and for all” (TJ, p. 3, rev). For Rawls, citizen will strive for a full political autonomy as this possession will assure them liberty and equality, and enable them to “comprehend” as well as “revise” policies and laws they are subjected to (RH, p.155). In the case of unjust society, this gives citizen reasons to strive to be more autonomous by doing what is reasonably and rationally accepted to advance their full autonomy.

¹⁷⁸ Recall from the remarks made by Chambers, and the debate with Waldron in previous chapter.

As Habermas and Rawls both work within the family of Kant and his principle of practical reason, there is nothing else but the reason itself can make sense of what is out there. The reflective equilibrium connects all levels of justification together and provides “a way of checking whether there are sufficient reasons for proposing justice as fairness (or some other reasonable doctrine) which can be sincerely defended before others” (RH, p.146). It is a “never-ending task” that can only be perfected by “reflecting on them (our practices of reasoning) from within” (Laden, in F & F, p.139).

3.2.2 The moral basis of justification – From Rawlsian to Forstian

Forst argues that Rawls’s, three levels of justification, response to Habermas fails to give us a clear explanation of the origin of the normative validity and force of the political conception of justice. He suggests that Rawls is caught unsatisfactorily between justification based on comprehensive doctrine and freestanding political-moral justification. Forst suggest that ultimately he has to recognise that the freestanding political-moral justification must dominate¹⁷⁹. At the first level, the pro tanto justification of a freestanding conception of justice, reasonable persons as citizens are expected to accept the validity of a conception of themselves as free and equal, with “two moral powers”. It is at this level, as I previously discussed, that we find the moral motivation, the “basic desire to be able to justify our actions to others on grounds they could not reasonably reject” (PL, p. 49, fn. 2). It is at the level of the justification of an autonomous conception of justice that we find the motivating insight, the sense of justice. It is a conception of the sense of the self as morally autonomous and capable of constructing a basis for social cooperation that others cannot reasonably reject. It is this conception that allows the development of a fully justified conception of justice to get off the ground.

Without the first level of justification, the justification of a freestanding conception would fail: as “it could not be a justification *for a person* if it could not already at that point rely on a morally autonomous insight into the justification of justice” (Forst, in F&F, 2011, p. 161). The absolute priority of moral-political reasonableness over the ethical, over comprehensive doctrines, is made plain in the qualification that Rawls puts on his claim that political

¹⁷⁹ The pro tanto level of justification must “govern” (Forst, in F&F, p. 161) the full and public levels of justification.

liberalism will never challenge the truth claims of comprehensive doctrines “so long as they are politically reasonable” (RH, p.136).

Forst proposes an alternative model of an autonomous theory of justice, which in contrast to Rawls, “defines the normative element in terms of an “independent” morality” (Forst in F&F, 2011, p. 162). I have suggested that Forst can be read as carrying forward the Rawlsian tradition. I recognize, of course, that he does so “against” certain of Rawls’s explicit claims, if not against implicit logic of his position. In particular, Rawls is reluctant to give way on the claim that his conception of justice is thoroughly political in nature, he relentlessly resists moving back to a moral and metaphysical position. Forst recognizes the crux of the difference in their positions as being his willingness to recognize that a theory of justice must rest “on a moral principle of justification, that is, on the substantive individual moral right to justification” (RJ, p. 5). Forst describes this foundation as a “*fundamentum inconcussum* that is indispensable even in a postmetaphysical age” (RJ, p.5).¹⁸⁰ Forst argues that no conception of justice that claims to be autonomous can avoid such an account of justification, and that the fact that Rawls cannot avoid it becomes obvious when he defends his reconstruction of the ideas and principles of practical reason, which are the foundation for the construction of principles of justice that cannot be reasonably rejected (Forst, 2011d, in F&F, p. 164): “No sensible view can possibly get by without the reasonable and the rational as I use them. If this argument involves Plato's and Kant's view of reason, so does the simplest bit of logic and mathematics” (RH, p.138).

As we have seen, Rawls brings together the moral and ethical¹⁸¹ in the “political” and in the process refuses to explicitly recognise the moral dimension, implicit in his approach, for what it is (see Larmore, 1999). Rawls offers a political constructivism, in which the intersubjective construction purports to go “all the way up and down” (Laden, 2014, p. 119), and where moral and ethical considerations are dealt with together, from the original position on and through the process of reflective equilibrium, without clear differentiation. It should

¹⁸⁰ The foundation of a constructivist approach cannot itself, he argues, be constructed it must be “reconstructed in an analysis of our normative world” (RJ, p.5). Forst describes his position as “anti-foundationalist foundationalism” (2015b, p. 217). The foundation he argues we need is thin but strong: His autonomous theory of justice “requires no foundation other than the principle of justification itself” (RJ, p. 7).

¹⁸¹ By moral I mean those norms applicable universally and categorically. I use the term ethics to refer to the normative beyond the moral, that is, to norms and values with narrower application, going all the way from applicable to a whole community / society but not universally as such, to those values that are adopted by an individual as a way of life. What I am loosely referring to as the ethical, clearly calls for further differentiation, including the identification – on the basis of the scope / reach of the proposed application of the norm or value.

be clear that Rawls's construction does not go all the way down, but rather rests on respect for persons as ends in themselves, entitled to justice understood as freedom from the arbitrary governance; entitled, that is, to a basic right, as persons, not to be treated, in relation to fundamental questions, in ways that cannot be justified in ways that they cannot reasonably reject; Entitled to a right to justification, and in fact to justifications that meet the criteria of reciprocity and generality.

Here we have the crux of the difference between Rawls and Forst: As Forst puts it "the conception I propose is based on a deontological view of moral rights and duties in the political realm, not on a "political" conception of justice" (RJ, p. 147). Forst argues for a clearer analytic separation of the moral and ethical. In building a theory of justice, he recommends that we begin with a reconstruction of the basic moral right to justification, and that on the foundation of that basic moral right we proceed to moral constructivism and work out a very general set of universal, human rights, which we can build on in a process of political constructivism. The rights and duties emerging through the process of moral constructivism must meet the criteria of reciprocity and generality, that is they must pass the test of not being reasonably rejectable, but "they can only be concretely justified, interpreted, institutionalized, and realized in social contexts, that is to say, only within a legally constituted political order" (RJ, p. 218). They need to be given social specificity in a process of political construction. In fact, the idea of separate moral and political procedures of construction is something of an abstraction: "moral justification is - in a normative - formal sense - the core of political justification" (RJ, p. 218).¹⁸²

Like Rawls, as well as Habermas, the ultimate "ground" that Forst relies on is reason. Practical reason,¹⁸³ for Forst, refers to "the capability and willingness to act with justification;

¹⁸² Forst suggests alternative model of overlapping consensus: In the Rawlsian model comprehensive doctrines overlap on a conception of justice which can be justified in a freestanding way, but which is accepted by citizens for a variety of different ethical reasons. Forst argues that reflective citizens must each be prepared to pursue a common justification, on the basis of shared reasons, for a conception of justice for the basic structure. In doing so, and just for this purpose, they must be prepared to give priority to shared reasons over their own ethical doctrines, and therefore they must attempt to reconcile justice with their other beliefs, producing, so to speak, an *ethical-political-moral reflective equilibrium*" (Forst, in F&F, p. 163). He stresses that the motivation and resolve to live by principles of justice relies on the person's whole identity and thus it is vital that through this process of reflective equilibrium "both spheres of reasons are linked together and integrated from the person's perspective" (Forst, in F&F, p. 163).

¹⁸³ In insisting on the basic moral right to justification, Rawls is not adopting a moral realism, the right to justification is not somehow simply given: "The human being as a person with a right to justification reveals itself only to the "reasonably" seeing eye, ... and this reason is a thoroughly practical reason" (RJ, p. 60).

practical reason is vindicating reason in intersubjective context” (CJ, p.250). His constructivist theory of justice rests ultimately on “a moral principle of justification, that is, on the substantive individual moral right to justification” (RJ, p.5). The right to justification and the principle of reciprocal and general justification characterize individuals as “morally responsible” in the sense that “they are willing and able to use a form of justification in questions of justice that is in accord with the criteria of reciprocity and generality” (RJ, p.99).

At its core, it is the “right to be respected as a normative authority ‘like you’” (2015b, p.228). This is the “anti-foundationalist foundationalism” advocated by Forst. It carries no substantive claims apart from the claim that we have a right to criticize any substantive normative arrangements; a right to justification, thus, is a right to “demand that there be no political or social relations of governance that cannot be adequately justified to those affected by them” (RJ, p.2). It is a right that we have by being a human being alone. It is a right to be equal moral agents and justificatory agents, a right to be respected “in one’s dignity as a being who can ask for and give justifications” (RJ, p. 2), one who “counts”. It is an achievement as a result of continuous struggles against “slavery, oppression, inequality, degradation and humiliation” over hundreds of years (2015c, p. 784).

The first claim of justice, thus, is that, all are equally entitled to offer and challenge justifications; everyone “counts”. Forst sees this as simply the best way we have of expressing what it means to respect people as “ends”. This recognition of the foundational claim to be respected “like you” is not something alien to Rawls. Larmore (2008) suggests that we can find the basis for it in Rawls’s work in “a principle of respect for persons” (p. 148). In political matters where coercion may be involved, if citizens are not to be treated merely as means but also to be respected as ends, then their reason must be engaged in determining the acceptability of the basic principles they are to be governed by.¹⁸⁴ It seems clear that Rawls’s Political Liberalism, while not dependent for any comprehensive moral doctrine for its formulation, does rest on and find its motivation in a moral principle of respect for persons. Furthermore, it is clear that the principle of respect for persons does not have the motivational status and significance it does because reasonable persons have an overlapping commitment to it: “On the contrary, the idea of respect is what directs us to seek the principles of our political life in the area of reasonable agreement” (Larmore, 2008, p.

¹⁸⁴ The inspiration here is clearly Kantian, but the application is focussed narrowly on the coercive political sphere of basic principles and their institutionalization.

148).

Forst does not stop here and turns to Levinas, who locates the foundation of morality in the subject's relation of responsibility with the concrete other, rather than in a relationship with the rational self. Although inspired by Kant, Forst's Kantianism is "unconventional".¹⁸⁵ He criticizes Kant for not appreciating that "the basic moral duty we have as autonomous persons is not owed to ourselves as rational creatures but to others as reason-deserving, reason-requiring, reason-giving, and thus at the same time vulnerable, finite beings" (2015c, p.825).

Whereas Forst contends that Kant mistakenly locates morality in the self-identity of the rational being, that is, to act morally is driven by a rational relation to oneself. Rawls realizes that Kant's constructivism invokes only individual audiences for practical reasoning as everyone is reasoning on his or her own whilst the primary subject of social justice, for both Rawls and Forst, is the basic structure of a society, the justice of social cooperation.

As reasonable human beings, we are finite in our capability and vulnerable in relation to others. Moral respect is not grounded in "the relation to oneself" but rather in related to "the dignity of other persons" (RJ, p.55). In contrast with Kant own focus on the rational subject, Forst' Kantianism, like Rawls's emphasizes the intersubjective, and rests on the respect for the "other" as a "concrete other" who at the same time is respected as "moral person on a par with all other moral persons" (2015c, p.825).

This means that morality is concerned with the dignity, finitude, and vulnerability of other human beings: "Their 'face' - to use Levinas's image - is what calls one to an awareness of the duty to justify" (RJ, p. 36). It is an insight of thoroughly practical reason that reveals itself to any "reasonable" person with eyes to see: "To put it in Heideggerian terms, it is a mode of being-in-the-world that lets others appear in light of the principle of justification" (RJ, p. 60). Be it Levinasian moral duty or a Heideggerian view of what human being is about, it does not really matter for Forst, nor to Rawls. What matters is our recognition of what we owe to others: morality remains a specifically human institution that is founded on the practice of human beings mutually according each other the status of moral persons,

¹⁸⁵ Rawls is similarly inspired by, but free in his appropriation of, Kant: His Kantian constructivism is not a Kant's constructivism.

ultimately in an act of recognition that "does not need any justification" other than that human beings "owe" it to each other (RJ, p. 60). For both Forst and Rawls, despite Forst's insistence on the foundational basic moral right to justification, morality is autonomous in an essentially Kantian way.

Rawls sees this and takes it as his starting point, which he, unlike Forst, spends no efforts in explaining, unless perhaps to attribute it to the tradition of liberal democracy. He sets off from there and builds on this moral insight. Unfortunately, as explained above, Rawls in taking his start from the tradition of liberal democracy, constrains this whole analysis to the justification of a political conception of justice for the basic structure of such a society in that tradition. For Forst too, justice is essentially about the basic structure of society, but any society, and Forst approach stretches beyond questions of justice to provide a fuller moral guidance. The basic right to justification is to be conceived of as a universal moral right, which must be at the centre of the development of any just social structure, but which ought to be operating on other levels too.

Recognition of this single universal right to justification, removes the need for the idea of the original position, which was designed to bring everyone into an "initial situation of equality". The basic right to justification provides a thin but strong foundation for the intersubjective procedures for the discursive construction of moral and political norms using the justificatory criteria of reciprocity and generality. This opens up the "secret" and hypothetical cover of the original position,¹⁸⁶ making the procedure of justification accessible to all who are struggling for equality and respect. Forst contends that whoever would argue against justification tested by the criteria of reciprocal and general justification will commit a performative self-contradiction. By this, Forst is talking to those who want to use the "cultural integrity" argument, but at the same time effectively force their views on members of their own community: They claim integrity for themselves but do not respect the integrity of others, and thus undermine the respect due to their claim. A demand for cultural integrity can command external respect only if that culture is indeed shared "not forced upon any segment of the population" (RJ, p. 207).

This allows us to have a conception of justice that is "morally justified, ethically incorporable"

¹⁸⁶ In which, at least in the less discursive models and versions of Rawls's thinking, "hardly anyone was involved" (Forst, 2013b, p. 4).

(CJ, p.185). That is to say, a moral conception is justified not because they can ethically incorporated into various doctrines; its validity is therefore not “dependent upon being transformable into an ethical ‘truth’” (CJ, p.185). Rather, a moral conception can be ethically incorporable because it does not form an independent ethical doctrines and the moral reasons that justify it are the ones that are reciprocally and generally sharable (CJ, p.185). This would avoid the ambiguities caused by Rawls who argues the conception of justice as “moral” and is accepted by comprehensive doctrines “for moral reasons” on the one hand, and “for its own sake” on the other hand (1987, p.11).

3.2.3 Justice, justification and accountability

I started the thesis by sketching what a just accounting would be like. Forst distinguishes two pictures of justice to distance his and Rawls’s account of justice from a conventional view of justice, distributional justice. In this section, I will look into the distinction and argue that the picture I attempt to locate accounting is a relational one.

For a long time, justice has been captive to a distributivist picture: an interpretation of an ancient principle *sum cuique* – “To each (or from each) his own” (Forst, 2014c, p.4). This account of justice concerns “who gets what”. This leads to questions about whether individual have enough goods or whether certain goods are, or ought, to be distributed to one group than the other. It is a distribution-centred and recipient-oriented account of justice that is concerned about the goods that one can justly and reasonably claim. It focuses on the distribution whilst neglecting issues of production and how that should be organized in a just way. This implies that the questions of who decides the structure of production and distribution, and how that is determined, are also neglected. The distributive picture of justice seems to assume the existence of a neutral “distributor” and turn political question about justice and equality into technical question as if a distribution machine could be set up and bring out just distribution once it is programed properly (Forst, 2014c, p.5). On this view, a just distribution of goods exists before discourse among free and equal citizens.

An alternative, relational, picture of justice provides a view that focuses on “how you are treated” rather than “what you have” (Forst, 2014c, p.6). It makes the first question of justice “the question of the justifiability of social relations” and “how much ‘justificatory power’ individuals or groups have in a political context” (Forst, 2014c, p.6). At its core, it calls for the questioning and challenging of arbitrariness in social and political context. It could be a

form of arbitrary rule by individuals or by one group over others, or an acceptance of social contingencies that are morally irrelevant to decision of principles of justice, which may lead to domination and oppression.

Instructed by the two pictures of justice, I find that certain conventional adversaries on certain basic questions of accounting may, unexpectedly, find that fundamentally they share the same picture of accounting. Recall the dispute between decision usefulness and stewardship, which I discussed in Chapter 2, is in effect a dispute around the ideology, neoliberal discourse, that is often made connection with the genesis of decision usefulness; a rejection of decision usefulness then is regarded as an opposition against injustice and inequalities. For those who argue against decision usefulness, they argue for stewardship, and equivocate it with a call for accountability, by holding managers accountable to his or her actions and judgements (Ravenscroft and Williams, 2009; Murphy et al., 2013).

But before we make any adjudication between stewardship and accountability, recall that the initial meaning of stewardship, refers to responsibility owed by the agent to the capital providers. Then, from the perspective of the difference between the two pictures of justice, we may find the advocates and the opponents of decision usefulness, at its original form, are, in fact, operating with the same understanding, and this has found its expression in an image, that of one who is asked to divide a cake and asks herself about how it should be done (see TJ, p.74 rev., or see Forst 2013b, p.23). Some argue for an equal distribution of information, for example, Ijiri (1975, 1983). Others call for a distribution of information on the basis of its impacts (see Flower, 2010) or on the basis of recipient's preferences are (see Young, 2009). Cooper and Sherer (1984) noted that accountants need to take account of the effects of accounting reports on the "distribution of income, wealth and power in society" (p.218). Even in positive accounting studies, this concern for distributive effects of accounting stands out and has been considered as main target of accounting models, for example, Watts and Zimmerman (1979) contends that accounting and financial reporting takes up a significant role in "wealth transfers", "affected both directly and indirectly by the political process" (p.280).

Under the distributional picture of justice, we can ask questions about how information is produced and how it is distributed. However, what is really missing in this picture of justice is question about the production of the principles that will decide what information should be produced and whom should be accounted, or to whom information should be provided.

This call of turning from asking distributive question to questions about production are not the same with what Flower (2010)'s call for a shift to a paradigm of distribution. Flower (2010), as I discussed, contends that accounting is used to be rooted in a paradigm of production, which is, in effect, still captive to the distributional picture of justice. In contrary to Flower's understanding, we are not paying enough attention to the question of production, question about who make accounting principles, how accounting principles are generated and justified. The accounting questions we are concerning about are too much drawn into the question of whom is entitled to what. Thus, we are drawn into an outcome/consequence oriented, or a recipient-oriented picture of accountability.

Accountability, on distributional picture of justice, is like goods that can be distributed. For example, the development from holding accountable for capital holders to holding accountable in a "wider range of organizational contexts" including "cooperatives, social enterprises, NGOs, and employee-owned companies" (Unerman and O'Dwyer, 2016, p.38, see also Gray, 2010) and even more than these actors, to the environment etc (see Atkins et al., 2015). The scope of accountability is getting larger and broader and it almost becomes a good that we can distribute to anyone or any group that we think need to account for in an ad hoc manner. The call for accountability can be dogmatized as a call for humanitarian aid or moral solidarity (Li and McKernan, 2016), so that accountability to other's claims to justice or human rights potentially degenerates into the distribution of accounts as if a generous gift. When actually accountability is owed as a matter of justice and not of generosity. In a distributional picture of justice, there is no differentiation when lacking of goods whether it is caused by the deprivation of right to these goods or as result of natural disaster. The real cause of injustice, the manifestation in social and political order as a result of political or economic exploitation, is concealed. To conceive accountability under this view automatically takes some groups of people as the recipient of goods, as if they are inferior, without questioning why the other group should be entitled with the power of allocation and distribution rather than the vice versa.

The relational picture of justice, by contrast, would question about how the cake divider and the cake come into the world, in the first place. In other words, the first question we should be asking ourselves is how the context where we start to distribute comes about. Informed by the picture of relational justice, I can reasonably infer another picture of accountability, a relational picture of accountability. Under this picture of accountability, it concerns about who decide the structure of accounting institution and its principles, and how they are

constructed and justified etc. Accountability is not then, on the relational view, primarily something to be distributed as goods but an activity, a practice, that fundamentally helps to bring us into relations of reciprocal respect and recognition with one another; *Accountability as a practice of equality*. This view of accountability will not get in way of establishing “efficiency and productivity and contribution to fair schemes of distribution” (Laden, 2014, p.116). It does not contradict with the context of market, as I clarified in chapter 2.

Forst sees himself, in together with Rawls, arguing for a relational picture of justice and against arbitrary relations. I am calling for an understanding of accountability under this relational picture of justice and accounting as one that contains relations and practices of accountability in need of justifications. Under the relational view of accountability, the call for accountability is a call for equality, equality, that is, not in a distributional sense but in the sense of treating others as equals, as “people whose words and ideas and points of view matter and to which our own actions are answerable” (Laden, 2014, p.110). This has a universal moral basis on respecting one another as capable of asking and giving an account.

This call for relational accountability as a practice of equality is more than to let people “have the right, opportunity and capacity to participate in the process” of setting accounting standards (Richardson, 2008, p.683). Neither is it simply of asking for the creation of a dialogue to allow stakeholders to have their say in the decision making within an organization (Brown, 2009). Nor is it a call for “agonistic” confrontations between “opposing hegemonic projects which can never be reconciled rationally” (Mouffe, 2005, p.21). It is a practice of reasoning, what could be called a properly *discursive accountability*. It is not an end-driven activity of problem-solving but an activity of “interacting with and being responsive to” (Laden, 2014, p.110). It is a practice in which everyone has a veto right, such that they can say “no” to norms or actions that cannot provide justifiable reasons to them. They can reject to accept the justification and therefore they are rejecting the power and domination that attempt to impose onto them.

The call for accountability is to call for a creation of structures that would help banish arbitrariness, which lies at the heart of both Rawls’s and Forst’s account of justice. Since “contexts and practices of justice exist wherever there are – more or less institutionalized – forms of collective rule or domination that are in need of justification in accordance with the principle of reciprocal and general justification” (Forst, 2013a, p.50). Following this, I am arguing that duties of accountability, as a practice of equality, ought to be understood to exist

wherever accounting relations, decisions or rules that are in need of justification. The first and foremost thing of accountability, hence, is to look into the injustice, the part lacking of justification or its justification that can be easily rejectable.

The moral basis on the practical reason allows me to build a basis of critique into accounting to make it “a self-correcting institution” so that it always question existing reasons and asking for better reasons and justification and also that “the authority to question its authority always remains within the realm of reasons among citizens” (Forst, 2001b, p.374). Thus, we can then build up a basic structure of accountability, a structure in which “justificatory power” is distributed evenly among citizens. It is a structure in which a veto right is institutionalized. Rawls has provided some insights of how this structure would be like in his argument for a background justice established with the help of difference principle, which, according to Rawls, confers a “veto” on those are least advantaged who have every right to raise a call for justification.¹⁸⁷ Forst’s argument of basic structure, using Rawls’s terms, is made on the basis of a moral right to justification according to which individuals should be part of the construction of this structure in a reciprocal and general manner. It forms a “basic structure of justification” that assures all participants with equal status, as citizens with the opportunities to be both authors and addressees to what they are subjected (Forst, 2014c, p.23).

By doing so, we can challenge institutions to change “toward the better (more justifiable) argument”, such that, as critical accountants, we can help “force those who benefit from the current global situation to explain why this should be so” (Forst, 2005, p.35). Such force ought to be exercisable by those who are suffering yet are entitled to a veto-right to challenge the arguments provided by the powerful.¹⁸⁸ Their “story”, said Forst, if properly told, “will be decisive in finding out what justice demands” (2005, p.35). In other words, as accountants, we may be the story teller for the powerless; we are not speaking for them but we may amplify what they say. We do not assume what they need and we do not make judgements on their behalf. We take the role of amplifying their voice so that their claim can be heard. They are not people awaiting for aid or help; they are just exercising their right to have

¹⁸⁷ “Those who have gained more must do so on terms that are justifiable to those who have gained the least” (TJ, p.131 rev.)

¹⁸⁸ Forst explains this this veto right a “higher-level, discursive version of the Rawlsian ‘difference principle’ ... not ... a particular principle of distribution (as in Rawls), however, but a higher level principle of justification of possible distributions” (2014c, p. 23).

justification, for the way they are being treated, that meet criteria of reciprocity and generality, that they cannot reasonably reject. For accounting, the ultimate goal, thus, is to help “establish truly justifiable basic structures among persons who are autonomous agents in various contexts of justice” (2005, p.36).

3.2.4 Global Justice, legitimacy and contexts of accountability

Rawls has provided us with his view of a well-ordered democratic society organized by political principles of justice which are stabilized by the endorsement of overlapping consensus. Individuals enjoy the freedom to pursue their life plan with the assurance that institutions operate in the way that maximizes the welfare of the least advantaged group of a country. Accordingly, a national wide “pure background justice” could be maintained. What Rawls provides is an “Archimedian point” that not only provides ideal conditions for working out just and fair terms of cooperation and institutional principles within a liberal and democratic society but also gives guidance for evaluating existing institutions (Pogge, 1988, p.250). My first objective in this section is to briefly explain and compare Rawls’s state-centric theory of justice with Pogge’s globalized interpretation of Rawls’s theory, and then with Forst’s call for a critical theory of transnational justice. My second objective is to explore the implication to international accounting standard setting in light of Forst’s transnational and critical perspective. .

Moving from the national to the international level, Rawls holds on his view of a well-ordered society and argues for a “peaceful international society” in which all states accept and satisfy the principles of justice (LHMP, p.321). In his “*Law of Peoples*”, Rawls proposes principles of international justice that regulate relationships between states. What Rawls does is extending the theory of justice to the law of nations in such a way that “the conduct of states” is regulated by a social contractual theory (TJ, p.331 rev.). At the international level, the theory is two-tiered in the sense that it envisages an original position and hypothetical agreement reached amongst the representatives of different nations i.e. “peoples”, behind the veil of ignorance in the first tier. Agreed principles are to be applied directly to state’s behaviours in the second tier (Follesdal and Pogge, 2005). At the domestic level, it is three-tiered in the sense that, apart from the original position and hypothetical agreement reached among representatives of people, it has principles of justice at second tier and concrete institutional arrangements including both institutional principles and moral requirements for individuals (such as natural duty of justice and obligation to fairness etc) at the third tier (Follesdal and Pogge, 2005). While in the domestic original position

participants are motivated by the Rational and the Reasonable, state representatives in the international original position are motivated by national interest, an interest to “maintain and to preserve its (as a state) just institutions and the conditions that make them possible” (TJ, p.333 rev.).

Thomas Pogge, among other followers of Rawls’s work, discusses the possibility that states could maintain fair and just social cooperation within their boarder whilst giving rise to international inequalities in power and resources. Pogge reads Rawls’s domestic version of theory of justice as a theory of justice that deals with what he calls “institutional moral analysis” that demands for structural or institutional changes. For Pogge, global poverty and inequality cannot be overcome and addressed without a thorough rethinking and challenge of existing institutional arrangements. In fact, to think the cause of global inequality and world poverty has to do with the problematic domestic injustice is a “flawed moral representation” (Pogge, 2001, p.6). This position then makes Pogge comment on Rawls’s international version of theory of justice simply a theory of ethics providing an “interactional moral analysis” that traces injustice and unfairness to individuals, or in the global scale, to the guilty state (Follesdal and Pogge, 2005, p.4). In Pogge’s view Rawls’s approach to global justice, supplements “a domestic theory of justice with an international theory (not of justice but) of ethics” (Follesdal and Pogge, 2005, p.5).

Forst (2001a) differentiates between statist and globalist approaches to global justice.¹⁸⁹ According to Forst, statist are searching for principles of “international” justice and view states as the main agents of justice, meaning that state is required to be just to its citizens and wants to be treated fairly at international level. Rawls’s theory of justice, including his later work on *The Law of Peoples*, is regarded as closer to the statist perspective, which, acknowledges the international sphere yet sees justice at international level as extension of national justice. The globalist approach, in comparison, seeks for principles of “global” justice and takes the person as subject of justice. Pogge, for example, argues for a “single”, “global”, original position that would allow participants (representatives of people, not “peoples”) to work out fair terms of a global scheme of social cooperation – a global “basic structure” to which global principles of justice apply (Pogge, 2001, p. 237). The “background justice”, Pogge argues, should be a global one.

¹⁸⁹ This classification is not definite; it only gives a general depiction of the different emphasis between the two positions.

Pogge wants to expand institutional moral analysis to the international level and contends that nationality, like social status, is another contingent factor that should be eliminated in a global original position. Yet, Pogge's globalist approach, so called cosmopolitan perspective, does not advocate for a "world-state" that stands superior to nation-states. He argues for "moral cosmopolitanism" in which "every human being has a global stature as an ultimate unit of moral concern" and for "legal cosmopolitanism" that calls for a cosmopolitan institutional order and arrangement that could foreseeably help to assure human rights claims in a worldwide scale (Pogge, 1992, p.49). Pogge assumes that we could find an overlapping consensus, a global "cross-cultural discourse" expressing the commitment to give equal respect to individuals despite their nationalities (Pogge, 1989, p.271). However assuming that certain values are appreciated and shared universally would put Pogge's globalist perspective at risk of becoming ethnocentric e.g. in case Western values are imposed globally hence disregarding what Rawls calls the fact of pluralism at international level (Forst, 2001a). The globalist perspective also tends to undermine the political autonomy of a state and that of its citizens in participating and deciding its constitutional arrangement and institutional relationships¹⁹⁰. To address these issues, Pogge, for example, argues for a "human right to political participation" (1992, p.64) to guarantee the political autonomy of citizen as both authors and addressees of political institutions.

Ultimately, Pogge, instead of rejecting Rawls, attempts to make Rawls's work more applicable to a globalized world. His global version of Rawls's principles of justice would prefer a "thin" global set of basic liberties (1989, p.255). These liberties would be supported by most communities and their members, while, at the same time, leaving room for specification within different communities. Pogge appeals to universality in the form of shared values and shared moral beliefs. For him, even some genuine moral disagreements should not be the reason to prevent us to "act in the light of whatever (factual and) moral beliefs we now think are best supported" (Pogge, 1989, p.254). He reassures us that in the process of globally-established reflective equilibrium, our considered judgement supporting a global conception of justice would ultimately find its expression through the principles we agreed in the global original position. More significantly, Pogge concurs with Rawls that a system of social cooperation, either in domestic or global form, is the prerequisite for establishing social justice. Recall that the "most fundamental" idea that Rawls carries from

¹⁹⁰ For a full summary of critiques over the globalist perspective, see Forst 2001a. In this discussion I only focus on the two aspects that are most relevant to the comparison between Rawls and Pogge's positions.

the beginning is the idea of a “society as a fair system of social cooperation over time from one generation to the next” (Forst, 2013a, p.46). Pogge also makes it explicit that “each society, or group of societies, must be more prosperous cooperating within a just global basic structure” (1989, p.249). Thus, for them, “the existence of a specified social context of cooperation is a necessary presupposition of a context of justice” (Forst, 2013a, p.46), be it a state-centred or a globe-oriented one. Pogge and Rawls agree that societal cooperation is a pre-requisite for justice. It stands and acts as an “Archimedean point” that Pogge argues for the criterion of global justice (Pogge, 1989, p.266), which set out “an independent standard for guiding the course of social change” (TJ, p.520 rev.).

Forst observes that such presupposition deploys “a conclusion as a premise” (2013a, p.47). As we have seen in section 3.2.3, Forst understands justice as relational, i.e. justice is called/demanded in the context of injustice, a context of arbitrary relations and dominations. Forst sees that injustice requires institutions to bring justice alive; yet he maintains that we cannot assume that these institutions, that is the basic societal structure, already exist. In other words, for Forst, the basic structure¹⁹¹, is not something necessarily in place nor its non-existence would make it impossible to demand for justice. Forst argues that it is more important for us to go beyond choosing between a national and a global context of justice. We could assume a “plurality of contexts of (in)justice” without prescribing where justice is originated (Forst, 2013a, p.48). Rawls’s presupposition of a social cooperative basic structure would amount, according to Forst, to “positive cooperationalism” (Forst, 2013a, p.48). A context of justice is “a context characterized by conflicting claims that call for adjudication in light of principles of justice” (2001a, p.161). A context of justice is a context in which not only cooperative but also coercive relations exist, whether or not they are legally institutionalized.

In comparison to Pogge and Rawls, Forst argues for a critical theory of transnational justice that manages to “capture the strongest arguments of both sides of the debate between statists and globalists” (2001a, p.176). On the one hand, to side with Rawls, he indicates that a domestic context of justice is different from that the global context since the institutionalized social cooperation differs in political, legal, economic and cultural aspects. Partly it is

¹⁹¹ See Pogge (1989) chapter 6 for more details on a “global basic structure”, for example, Pogge maintains that “in view of the apparent complexity of the problem of background justice, it is thus imperative to take a global perspective from the start, to adjust our moral reflections about the internal organization of societies and associations and about the appropriate constraints upon individual conduct in light of our aspiration for a stable and just global basic structure” (1989, p.256).

because local or national relations, unlike global ones, are intertwined with political power and enforcement; they are coercive in the sense that citizens of a state have no choice but to engage in such social cooperation and to comply with institutional requirements. This makes it important for Rawls to justify the legitimate exercise of political power (Freeman, 2007, p.421). Partly it is because social cooperation is crucial for us to develop and exercise our moral powers, the Reasonable and the Rational (Freeman, 2007). On the other hand, to side with Pogge, Forst agrees that institutions and states are interrelated, and that for instance the phenomenon of world poverty is a result of a global system of injustice: as Pogge points out, it is a result of “impositions of a skewed global order that aggravates international inequalities and makes it exceedingly hard for the weaker and poorer societies to secure a proportional share of global economic growth” (Pogge, 2001, p.17).

Forst argues that the right order between justice and injustice is that we are living in a world with injustice and that justice is called to create a basic structure of justification and to remove arbitrariness. Justice is relational and thus “those exhibiting forms of domination and social arbitrariness – whether in the contexts involving only sparse legal regulation or in institutional contexts, within and beyond the state” are called for justification (2013a, p.48). Different contexts of justice enable us to examine and justify relations within “a concrete context of justification and responsibility” (Forst, 2001a, p.167).

Thus, the critical theory of transnational justice would require a conception of justice that is able to address multiple-levels of domination ranging from supranational, national to local injustice and inequality, and thus a theory of justice that is capable of shedding light to the interconnected multiple contexts of justice, including local, national, international and global ones. Forst’s critical theory has four main aspects. It has “an analysis of given social relations” (2001a, p.168); this asks us to examine the sources of inequalities and domination. The relational focus distinguishes Forst’s view of justice from those who view justice as distributional (2013a). Second, it challenges relations that should be justified without actually being challenged and relations that have been taken as self-evident or natural. This calls for the necessity of “ideology critique” (Forst, 2001a, p.168). It allows us to pose questions about the actual justification provided, and enable us to examine, to what extent, one is possessing justificatory power. It also extends to relationship between governments, or between multinational companies, or among international organizations. The principle of justification requires actions to be reciprocal and generally justified to those who are affected. No domestic or global relations are beyond justification.

Third, the critique leads us to seek for justification that could stand the requirement of reciprocity and generality. A basic right to justification is embedded in this principle of justification and demands for a “real” test of social relations: “ultimately only those affected themselves can carry out the justification of their own basic social structures” (2001a, p.168). For Forst, this is what makes this critical theory “real” and “contextualized” in the sense that the idea of justification bridges the norm of justification with the fact of unjust social relations to be justified. Fourth, the call for justification forms a “practice of justification” (2001a, p.169). This is a practice of equality in which participants are respected as free and equal and justifications for social relations are demanded.

In section 3.2.3, I called for a relational understanding of accountability on the basis of Rawls-Forstian relational picture of justice. To locate accountability in a practice of justification, a practice of equality is created in which everyone is regarded as justificatory equal and could have a say in what they are subjected to. To understand accountability as relational calls to devise a basic structure of accountability and allows me to build a notion of critique into accounting practice. In what follows I will focus on explaining how this view of justice, justification and accountability contribute to our understanding of international standard setting.

Since 1990s we have seen a rapid development and widespread diffusion of international financial reporting standards. These standards are set by a supra-national private body, International Accounting Standards Board (IASB) and its predecessor International Accounting Standards Committee (IASC), which was established in 1973. The International Financial Reporting Standards (IFRS) is now adopted and endorsed by over 100 jurisdictions. The Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 generally requires that IFRSs quasi-law principles are applied by all listed companies publishing consolidated financial statements (Van Hulle, 2004). Perry and Nolke (2006) note that, “in hardly any other case has such wide-ranging authority been delegated to a private body” (p.575). The issue of this regulation speeded up the unification of financial reporting standards within EU (Chiapello and Medjad, 2009).

IASB is regarded as having the potential to act like a “law-maker” or to exercise power over domestic financial reporting and discipline national accounting regulation (Luthardt and Zimmermann, 2009, p.79). It faces enormous challenges in establishing its authority and maintaining its legitimacy internationally (Büthe and Mattli, 2011; Richardson and Eberlein, 2011, p. 219). On the one hand its quick spread and integration within national legislation

seems to suggest it must contain some common elements that could be found in most of these states that fuel such a global institutionalization. On the other hand, IASB stands in a difficult position as non-state private actor that wants to exercise “transnational governance” (Richardson and Eberlein, 2011, p.219) and faces doubts and concerns around its authority and legitimacy. The genesis of its power intertwines with a network of organization, depending on and constituting part of a global governance. For example, the endorsement of the EU Parliament of European Union, or the support from World Bank and other international organizations and regulatory bodies, gives IASB and its IFRSs an authoritative status, even though standards are voluntary and not legally binding.

The legitimacy of IASB is not innate, nor natural or pre-given; rather it is “constructed and managed” (Burland and Colasse, 2011, p.24). It could be the procedure that render its legitimacy, or the actual public acceptance; or it could be justified by shared values or commitments, or by the participation of affected parties in the process (Richardson and Eberlein, 2011). Much research into the “politics” of accounting standard setting have examined the process of setting a standard, including examination of “who was involved in the development of a particular accounting rule or regulation (and) who appears to have influenced the outcome” (Cooper and Robson, 2006, p. 4271), and how and whether affected parties choose to participate or influence the process either directly through comment letters (Lindahl, 1987), or indirectly through political interference (Zeff, 1993, 2002; Beresford, 2001; Konigsgruber, 2009) At international level, participation in international rule-making is exercised by delegation and representation of national interests. The “chains of delegation from the ‘will of the people’ ...to international bodies are too long to offer meaningful control” (Richardson and Eberlein, 2011, p.219-220). In the case of EU, Member States found themselves little power in influencing or participating the rule-making process (Chiapello and Medjad, 2009).

There are ample observations showing that various stakeholders take part or lobbying over certain accounting standards in the motive of economic self-interests or to protect professional standing (e.g. Lindahl, 1987; Klumpes, 1994; McLeay et al., 2000; Puro, 1984; Sutton, 1984; Watts and Zimmerman, 1978; Weetman et al., 1996; Zeff, 2002). Researches also look into the outcomes of standard setting by examining the economic consequences of accounting standards (Fogarty et al., 1994; Fogarty, 1992) or the broader social and political impacts with regard to their significance as “distributive mechanism” involving a wide range of stakeholders and decisions that are to serve national interests, such as to “set the limit for

distributable profits, to elaborate public budgets and of course, for tax purposes” (Chiapello and Medjad 2009, p.449).

The process of standard setting has been observed as an elite-driven, experts-centred activity, which also raises concerns around its independency, representativeness and legitimacy (Chiapello and Medjad, 2009). Bengtsson (2011) argues that financial crisis pushes states to regain control over accounting standard setting particularly in the EU. EU’s reengagement with accounting standard setting has led to a “serious questioning of the standards and even the *raison d’être* of the International Accounting Standards Board (IASB)” (Bengtsson, 2011, p. 567). A “re-nationalisation” of accounting standard-setting is partly made possible by the deficit of legitimacy of IASB (Chiapello and Medjad, 2009, p.467; see also Crawford et al., 2014).

What causes the uneasiness with the internationalization of accounting standards and with IASB as a global regulatory body is not just the detached and elite-driven mode of setting up regulatory principles globally and the failure to show a true democratic structure that could bring out the voices of those whose views matter yet being continuously dismissed at international level. The concerns around this unifying or harmonizing process may run deeper because they also express the concern and uncertainty about the sources of authority from which such a universal reaching normative order is drawn or could be drawn. Thus, the problem at issue is “the question of whether the claim to the legitimacy of a normative political order must ultimately be made good by democratic procedures (adequately redefined) or whether its legitimacy follows other imperatives apart from democratic legitimacy – such as higher-order considerations of economic welfare, legal security, constitutional coordination, political effectiveness or, even more abstract, ‘public reason’ or some notion of material justice” (Roben and Forst, 2011c, p.2). My attempt here is to discuss the normative sources of legitimacy of a normative political order in the case of international accounting standards in the light of Forst’s critical theory of transnational justice.

In Forst’s view, justice is always called by injustice; the core of this concept refers to justifiable and non-arbitrary relations. This view of justice applies to both national and international relations. Justice calls for a creation, or institutionalization of “basic structure of justification” in which each person possesses a veto right, a right to say no to any unjustifiable relations. The basis for this view of justice is the moral right to justification. There are purely moral contexts of justification that require norms to be reciprocally and generally non-rejectable. In these moral context of justification, individuals are regarded as

moral agents and justificatory beings, and moral norms are justified not as contingent agreements on different reasons, such as *modus vivendi*. In fact, Forst agrees with Rawls that we cannot be satisfied with a mere *modus vivendi*.

When we move to context of social and political justice, justification contains both moral and political justification, requiring “shareable (not shared)” (Forst, 2015d, p.231) reasons that are reciprocally and generally non-rejectable. This means that a norm needs to earn its validity through discourse involving both its authors and addressees. The practice of justification cannot be reduced to an agreement reached by powerful actors. Democracy is the basic practice of justice, for that the right to justification forms practice of equality in which those subjected to the norm are regarded as justificatory equals and authors of these norms.

Forst’s right to justification aims for a radical change, be it structural or institutional challenge to power asymmetries. Forst asks us to distinguish between “the political discourses made possible by fundamental justice and those that are about the essentials of fundamental justice themselves” (2015d, p.231). It is not simply to “establish a constructive political rivalry among different claims, positions, and views and thus to create a procedure through which discord can be channelled into an exchange of mutually acceptable arguments” (Neyer, 2015, p.214). For Forst, this may result in reducing claims of justice into “a game” of competing discourse and arguments. Instead, what Forst calls for is a practice of justification about fundamental justice. Forst contends that “when it comes to the exchange of arguments in political discourse, then, a moral reason, properly justified, has to trump other considerations” (Forst, 2015d, p.231). This is crucial when, for instance, the moral claim of a minority or indigenous group is in danger of being ignored or dismissed.

We should be able to distinguish between discourse that are about fundamental issues of justice in accounting and “normal” political discourse around standards setting. The former touches on the roots of inequality and domination; it is “the basic standing of persons as legal persons and citizens” (2015d, p.231). The political discourse in accounting and the justification we offer to each other should not be regarded as in the aim of constructing and building consensus. “The point of a theory of justice must be to determine the standards of justification for non-rejectable arguments in a discourse between justificatory equals” (2015d, p.231). The standard offered here may not answer all questions but it helps to avoid insufficiently justified claims dominating merely as a result of power. Nor Forst is calling

for a “truth-seeking” discourse. The standards are not “truth” in themselves but are “normative bedrock” that are neither decided nor violated arbitrarily.

Forst’s critical theory of justice intends “to identify the normative criteria, procedural and substantive, to identify good justifications, whether they are motivated by self-interest or altruism” (2015d, p.232). Motivations are important only when it comes to the issue of acceptance and legitimacy: “justice has to be accepted as justice, not as a mere compromise” (2015d, p.232). Coming back to the distinction, for political discourse made possible by fundamental justice, discourse and justification may proceed from norms and values shared by standard setter and the addressee of the standards or decisions. Forst’s insistence on the standards of justification prevents justification to be accepted due to coercion.

Forst’s critical theory of transnational justice allow us to move among multiple contexts of justice, between national and international, between local and global. Forst suggests us to ask questions about “who benefits” and “in what way”, “what are the terms of ‘cooperation’, and how are they fixed”; he also directs us to explore and investigate the relationship between global structures, or form of cooperation, and national, or local, structures of domination.

On the basis of this theory of transnational justice, I call for contexts of accountability. A context of accountability offers an alternative way of looking into complex relations of power. A context of accountability is elastic in the sense that it can stretch and go beyond the boundary of an organization or a state; it can also compress to examine the power relation between two parties. I agree with Cooper and Robson (2006) that it is a context in which “accounting practice emerge, become standardized and regulated, where accounting rules and standards are translated into practice, and where professional identities are mediated, formed and transformed” (p.416). Yet, this is not just a context for accounting professions but also a context for whoever initiates her claim for justification and ask for an account. It offers a space for accounting in building a dialectic between injustice and justice, inequality and equality, the universal right to account and the particular concretization. The content and the scope for contexts of accountability is subject to relations. For accounting practice that spread in a supranational context, it serves an important role in establishing basic justice so that everyone’s right to justification is respected and that we could prevent domination in economic or political forms through accounts or accounting technologies. The contexts are not fixed just as accounting relations are not static. In addition, in a context of accountability,

it is possible to put comprehensive views with completely different starting points into the same practice of justification.

In Forst's model, individuals are not only recipients but also agents of justification. Thus, in line with this view, the rule-making authority as IASB, should not only be able to justify itself by providing convincing arguments to persuade people to agree upon, but also it should be constituted by those who will be subjected to the norms made by such authority and the norms should be able to "express the justified judgements of these subjects, arrived at under fair conditions of a basic structure justification" (Forst, 2015d, p. 229).

In other words, whilst standard setters may presume that standards are set to serve as public goods and should be neutral, in case of concern justification should be provided¹⁹². In Forst's way, we will not then take these as pre-given values or assumptions. Forst would force us to ask questions than presuming that what IASB, or standard setters claim is justified or legitimated naturally. For example, we should ask questions about whose interests are taken account in standard setting, and what public goods accounting is purported to serve, and how these interests and definitions of public goods are decided. In Forst's model, we should also ask ourselves whether we should remain blind to unfair contractual agreements or exploitative labour relations when keeping our commitment to true and fair to transactions may continue to hide the facts of injustice and inequality.

Following Forst, I see the right to account/justification as vital and fundamental and that it comes prior to any justifications, justifications that we usually accept without asking for justification, justification that standard setters provide to rationalize their proposals and decisions for new standards. I see this facilitating us, each of us, a right to be author of the rules we will be subject to. I see this a moral respect that grounds a fundamental moral duty to justify one's actions in the facing of the other. I see this opening up an arena of accountability in which every policy, every decision, every justification as well as the underpinning rationales are open for justification, demanding for a specification of accountability and rights.

¹⁹² For example, FASB member Marc A. Siegel claims that the aim of standard setting body is to "create a neutral playing field" for various actors (p.9). The FASB's Cost-Benefit Analysis presented by FASB Member Marc A. Siegel at the FEI-CFRI conference on November 17, 2014.
http://www.fasb.org/cs/ContentServer?c=Document_C&pagename=FASB%2FDocument_C%2FDocumentPage&cid=1176166440824

3.3 A call for a moral basis for accounting

3.3.1 A universal and transcendent critique

A number of accounting scholars eschew consideration of justice, and moral foundations, in accounting, arguing instead that the essence of accounting lies in politics and that we should seek to understand it in terms of political forces and the play of hegemonic power. The gradual domination of agonistic democracy in political theories has been well observed by accounting thinkers who are interested in exploring the political potential of accounting practice (McNay, 2000, p.67). For example, the work by Mouck (1995), and the work by Brown and Dillard (2013a &b) have explicitly expressed the relation of their work with agonistic democracy; in some works, although not directly making a link, researchers argues that consensus camouflages the nature of capitalism and exploitative production relations (Hopper et al., 1987; Armstrong, 1991). In this section, I will look at the basis upon which these works rely, the agonistic democracy, its relations and distinctions to Rawls's arguments. I will argue with Forst/Rawls that critique, if it is to have real purchase, needs to "transcend" the prevailing discourse and justifications. This transcendence we can obtain from the moral foundation that Forst, and Rawls implicitly, rely on.

The radical and plural democracy, argued by Chantal Mouffe, rejects the rational consensus as the goal, "protects pluralist democracy against any attempts of closure" and keeps the democratic process "alive" (Mouffe, 2000, p.33). Mouffe and Rawls share an understanding of liberal democracy as the coming together of two distinct traditions and logics: the liberal tradition of "the rule of law, the defence of human rights and the respect of individual liberty" (Mouffe, 2000, p. 3) and "the democratic tradition of equality, identity between governing and governed and popular sovereignty" (2000, p.3). There is some obvious tension between these competing logics of modern democracy. On the one hand, the idea "that it is legitimate to establish limits to popular sovereignty in the name of liberty" (Mouffe, p. 3) is quite indispensable to liberal democracy. On the other hand, the constitution of a 'demos' always entails some setting of boundaries between those included and those excluded: it sets some limits to the reach of human rights, and moreover "there is no guarantee that a decision made through democratic procedures will not jeopardize some existing rights" (Mouffe, 2000, p. 4).

For Mouffe, this tension, between the logics of equality and liberty, the democratic and the liberal traditions, is irresolvable and constitutive of modern democracy. For her, the political now consists in the antagonistic struggle between these logics, or principles: “it is vital for democratic politics to understand that liberal democracy results from the articulation of two logics which are incompatible in the last instance and that there is no way in which they could be perfectly reconciled (2000, p. 5).

She insists that the tension cannot be resolved, but acknowledges that a certain degree of stabilization can be achieved through the exercise of hegemonic power. She resists the neo-liberal hegemonic stabilization, which she sees as presenting itself as if it were the only way, “the way things really are” (2000, p. 5), and as an attempt to foreclose the political. Mouffe reads Rawls pursuit of an overlapping consensus as a failure to appreciate that the irresolvable tension of the logics of equality and liberty is constitutive of modern democracy and politics. She sees his search for consensus as an attempt to resolve the tension in such a way that certain fundamental matters “are taken off the political agenda once and for all” (PL, p. 152), an ideal of stabilization that threatens to foreclose the political struggle on key issues and to occlude the essentially adversarial nature of the political.¹⁹³

Mouffe envisages modern democratic politics as neither a search for unobtainable consensus nor as a destructive clash of antagonists, but rather “an ‘agonistic confrontation’ between conflicting interpretations of the constitutive liberal-democratic values” (2000, p.9). Modern democracy, for Mouffe, is ultimately not based on destructive relations between antagonists, enemies in blunt contradiction, “who have no common symbolic space” (2000, p. 13). It is rather, based on relations of paradoxical and constitutive tension, disagreements and struggles between adversaries.

Adversaries are, paradoxically, friendly enemies: “friends because they share a common symbolic space but also enemies because they want to organize this common symbolic space in a different way” (2000, p.13). These “legitimate” enemies (2000, p.102) share commitment to “the ethico-political principles of liberal democracy: liberty and equality”

¹⁹³ Clearly settling certain constitutional essentials and matters of basic justice, once and for all, leaves room for political struggle: “Rawls does not, then, unlike many to his right or left, seek to settle once and for all the traditional question of ‘capitalism versus socialism’ on grounds of philosophical argumentation alone” (Freeman, 2007, p. 114). Those varieties of communism which violate certain basic liberties will be rejected, as will those varieties of capitalism which allow accumulations of power that undermine the possibility of equal basic liberties and opportunity.

(2000, p. 102). They disagree about “the meaning and implementation of those principles” (p. 102), their ordering, in ways that Mouffe insists cannot be reconciled through any rational process of deliberation. It is an essential task of modern democratic politics, as Mouffe understands it, is to establish and maintain the conditions under “antagonisms” as destructive relations between enemies can be transformed into productive agonistic relations between adversaries: “the aim of democratic politics is to transform *antagonism* into *agonism*.” (2000, p. 103).

Nevertheless, what Rawls aims at in his *Political Liberalism*, and arguably throughout his work (see Laden, 2003), is not what Mouffe warns against, the settled, hegemonic “reconciliation”, but rather a justification of the possibility of a reconciliation¹⁹⁴ in “the weaker sense that modern democratic citizens agree in the two principles yet disagree (reasonably) over their ordering (somewhat similar to Mouffe's own view)” (Tully, 2002, p. 864). Both Rawls and Mouffe are happy to draw a line, and much the same line, between acceptable and unacceptable views. That is, her agonistic approach engages in the construction of a relatively provisional political scene, within “shared adhesion to the ethico-political principles of liberal democracy” (Mouffe, 2000, p.15).

“Adversaries do fight – even fiercely – but according to a shared set of rules, and their positions, despite being ultimately irreconcilable, are accepted as legitimate” (Mouffe, 2005a, p.52).

Mouffe held the view that in order to participate in the confrontations, one has to acknowledge the right of participation first; in other words, the two players of chess game would be considered as adversary to each other only after they both accept the pre-set rules of chess. Thus, any “understandings that reject liberal democratic values” should be “excluded” (Mouffe, 2000, p.9). This exclusion is not much different from what Mouffe accuses of Rawls for drawing an arbitrary line between reasonable and unreasonable comprehensive doctrines. She charges Rawls for being arbitrarily exclusive for that not many doctrines could meet the requirement of being reasonable. Yet, she is not as inclusive as she

¹⁹⁴ It is worth noting that Waldron too, notwithstanding his critique against Rawls, is arguing for a kind of reconciliation, a combination of liberalism (a respect for the rules of law) with democratic disagreement. Habermas, from a different but consensus-oriented angle, also argues for a reconciliation, or rather, the co-originality of the two principles of liberal rights and popular sovereignty.

claims. Mouffe's claim appears to be much closer to Rawls's approach than is sometimes appreciated.

Whilst Rawls draws the boundary in terms of a distinction between reasonable and unreasonable views, so that the refusal to compromise with the unreasonable can appear as a "moral exigency" (Mouffe, 2000, p. 24), Mouffe sees it simply a political decision: "What Rawls is really indicating with such a distinction is that there cannot be pluralism as far as the principles of the political association are concerned, and that conceptions which refuse the principles of liberalism are to be excluded. I have no quarrel with him on this issue. But this is the expression of an eminently *political* decision, not of a moral requirement."¹⁹⁵ (Mouffe, 2000, p. 25).

Mouffe charges Rawls of being apolitical because "the only possibility of destabilization would be an attack from the outside by the 'unreasonable' forces"; this means that "when a well-ordered society has been achieved, those who take part in the overlapping consensus should have no right to question the existing arrangement since they embody the principles of justice", otherwise, their views will be considered as irrational or unreasonable (Mouffe, 2005b, p.225).

But Mouffe's own conception of political is not much different. It is still trapped in a prescribed logic: for the ultimate goal of the political is the acquisition of power or hegemony, and the political follows a particular rationale transforming from antagonism into agonism (McNay, 2014, p.139). Nevertheless, any attempts to anticipate the shape or the form of the political would be "domesticating the unruly forces" of the political (McNay, 2014, p.134). Thus, Mouffe's politics is still within the social order.

Although Mouffe emphasizes the importance of politics and dissensus, her notion of dissensus is constrained to the disagreements of opinions, which count as opinions when someone's voice is counted. However, this understanding of dissensus only include the conflicts of opinions by those who have their voice heard, for those who do not have a say are not counted in the Mouffe's politics. Mouffe's perception of dissensus falsely conflates

¹⁹⁵ For Mouffe, consensus, including consensus on liberal democratic values, "is – and will always be – the expression of a hegemony and the crystallization of power relations" (2000, p. 49). The boundary thus drawn "between what is and what is not legitimate is a political one, and for that reason it should remain contestable" (p. 49).

“the litigious structure of political conflict with empirical disagreement” (McNay, 2014, p.139). Dissensus is not just disagreement nor divergence in opinions for that only opinions expressed by actors who are equal members of the same community can be heard and staged the scene of dispute. Dissensus should be something disruptive and more powerful in challenging the existing social order. The challenges should come “from the opening of the community to its outside” (Ingram, 2016, p.74). It cannot be understood in terms of “utopian visions” or primarily as the “task of those on the inside” (Ingram, 2015, p. 74). It is a dissensus lying outside the police/social order: “a way of acting and being that cannot be conceived within the particular police order” (Biesta, 2011, p.149). Mouffe thus is “more on the side of those who see democratic politics as ‘archic’ rather than ‘anarchic’” (Biesta, 2011, p.144).

From this reading, it seems that Mouffe, on the side with Habermas and Rawls, all share a demand for certain degree of stability. For Habermas and Rawls, this is a stability resting on their consensus-oriented approach; for Mouffe, this is her argument of transforming antagonism to agonism. The shift from antagonism to agonism is a move towards more peacefully coexistence rather than struggle and eradications all the time.

The emphasis on the antagonistic and agonistic nature of democratic politics, its open nature and final “undecidability”, is vital. Where I depart from Mouffe is in her apparent willingness to see politics as essentially hegemonic power struggle with no moral benchmarks. I prefer to “keep faith” with the possibility of reasonable justification and moral foundation. This is the path, the path of “justice and justification” (Laden, 2011). We need well justified, rather than merely contingent, “normative limits”, (Ruti, 2015, p. 161), and I argue following Forst, and at least implicitly Rawls, that justification needs and can establish a, strong but thin, moral, and universal, foundation for justification, in a right to justification or something very like it.

But why is a moral foundation needed? Or why a foundation at all? Rorty, for instance, reads Rawls, following his political turn in *Political Liberalism*, as “thoroughly historicist and antiuniversalist”¹⁹⁶ (1991, p. 180), so that, on this view, talk of foundations misses the nature of Rawls political project: “the notion of “basis” is not in point.” (Rorty, 1991, p. 181).

¹⁹⁶ Habermas reads Rawls approach in *Political Liberalism* quite differently: “Just as previously he took a stand against utilitarian positions, now he responds primarily to contextualist positions that question the presuppositions of a reason common to all humans” (RPR, 1995, pp. 109-110).

Laden, as one of the faithful follower of Rawls, comes close to a Rortyan groundless view of foundation and invites us to think of a picture of intersubjective justification “all the way up and down” (See Laden, 2014). But Laden acknowledges that Rawls’s construction does not go all the way down, as I have discussed previously. It is a “norm-governed” intersubjective justification that implements “shared ideas about how to live together” (Forst, 2014c, p.197). These ideas, or norms, are Laden’s “rules of game” that is a lot like Forst’s “criteria of accountability, reciprocity and generality”, as Laden admits himself (Laden, 2014, p.112).

With Forst and on our reading of a democratic Rawls (Laden, 2003), everything but the foundation, something like the basic right to justification, should be open to the possibility of democratic contestation. When open to challenge we will find, we suggest, that there are some norms “you might want to place in question, some you may want to reform, and others you may want to test critically and perhaps validate” (LaCapra, 2014, p.154). In other words, not all entrenched norms are bad; there are some that function to protect us from domination and oppression. This is critical as we need to make decision about right and wrong. As Forst claims, we do not just “invite”, like Laden or Mouffe would argue, others to “see things our way; sometimes for the sake of ourselves or others, we need to make it clear that others are wrong and unjust” (Forst, 2014c, p.198). There are something, as I claimed in the analysis of Waldron, which cannot leave “up for grabs” (Forst, 2014c, p.124).

The classic foundations of morality have been charged for ending up with authoritarian thinking and oppressive social orders. Resistance against such authoritarianism requires critique that can show “these foundations to be groundless, that is, as not being justifiable, especially not among free and equal autonomous being who has the right to resist such authoritarian assumptions” (Forst, 2015b, p.227). Forst contends that we can reconstruct the foundation on the basis of moral reasons, “reason that need no further ethical support” (2015c, p.827).

I appreciate Mouffe’s attempt in bringing antagonism, power, and “undecidability” (Mouffe, 2000, p. 31) to the foreground of politics and we recognize that this has helped invigorate thinking about accounting and the political, through the appropriation by accounting theorists of the perspective of agonistic pluralism (Brown, 2009; Adams, 2004; Dey et al., 2010; Dey and Gibbon, 2014). They see a potential of engaging with the oppressed group and assisting them to fight for political recognition by advancing “counter-accounts” (see Gallhofer et al., 2006). Some may frame accountability as “talk, listening, asking questions”

(Roberts, 2009, p.967) or as “a counter-practice to the numeric evaluation” (Kamuf, 2007, p.253).

Some see this constitute a practice “intended to challenge and de-legitimate power relations in order to mobilise change agendas in social movements” (Thomson et al., 2015), or as a possible approach to re-narrate business stories (Adams, 2004; Dey et al., 2010), or providing a voice for the suppressed or the marginalized (Harte and Owen, 1987; Cooper et al., 2005), or as helping to make these people become visible and advocating for more democratic debate on a societal level (Thomson and Bebbington, 2005; Spence, 2009). This emphasis upon counter accounts has been considered as the emancipatory tactics to re-orientate the development of social and environment reporting and to re-innovate the dominant forms of reporting captured by “wicked” capitalism and the dominant neo-liberal order. However, Li and McKernan (2016) show us that while such anti-movements may have value in relation to local struggles, they are noticeably deficient as a systematic challenge to the status quo of capitalism: “we deceive ourselves when we think these are turning the tide against global capitalism” (Srnicke and Williams, 2015, p.12).

None of these claims is as fundamental as the claim that we have a duty to respond to the other properly. The real impulse is resting on that each party involved has this universal claim to account or to be accounted, claim to accountability. It is rooted in the deepest level of morality and it constitute who we are as a moral agent. The problem of Mouffe, and those who argue after her for some sort of counter-accounting practice do not see that the challenge and the critique need to be anchored in an inclusive universal. It is about “how you are treated” rather than “what you have” (RJ, p.6).).

Mouffe does not have belief in the idea of practical reason. Mouffe seems to come back to “passions or beliefs”, metaphysical values that Rawls tries so hard to avoid. She argues that we should not “eliminate passions or to relegate them to the private sphere in order to establish a rational consensus in the public sphere. It is, rather, to attempt to mobilize those passions towards democratic designs” (Mouffe, 2006, p.324). If not reason, what else would transform an enemy to an adversary (McNay, 2014, p.74)? On this reading, it marks a self-contradiction in Mouffe: “on the one side, her claim that democratic action properly understood is a radically heterogeneous ensemble of diverse practices and, on the other, her insistence that all political action should conform to the homogenizing logic of antagonism-agonism” (McNay, 2014, p.139).

I agree with Mari Ruti that we need “principles that are normatively legitimate and binding without being metaphysically grounded” (Ruti, 2015, p. xiv). In my view we cannot get this from agonistic politics, like Mouffe’s, where the vision of conflict and struggle as an ineradicable consequence of a radical contingency social and political life can, very easily, “lead to an indiscriminating pluralism where all hegemonic regimes are regarded as equally as arbitrary as each other and conflict is valued as an end in itself regardless of its outcomes” (McNay, 2014, p. 68).

I want to learn from views of politics which emphasize the dissensual moment of politics, disruption and disagreement, but still retain a grasp on the normative, constructive, and institutionalized aspect of politics. I see Forst offering a possible route to marry Rawls’s moral insight with a radical power of dissensual critique, hence, a critical theory of justice. The ultimate ground on critique and reason of such an account makes it sensitive to issues, such as power, exclusion, oppression and social suffering. It preserve the radical egalitarian perspective of justice on the one hand, and provide a positive and normative supplement to such negativity, on the other.

To show our respect for one another’s right to ask and provide justifications is a universal foundation and commitment that we cannot retreat. If we are expecting of challenging a universal capitalism, we need to anchor ourselves in equally expansive and inclusive universals. Forst’s argument about autonomous morality has this capacity of coping with universal or transnational context of justice. The claim of the right to justification has its foundation in a universal human need and interest, which can be the most promising foundation for a fundamental challenge to capitalism and as the core of critical accounting.

“Hence, if there is any genuine source of opposition to capitals universalizing drive, it is the equally universal struggle by subaltern classes to defend their basic humanity. That is the core motivation in all those thousands of campaigns for wages, land rights, basic health, and security, dignity, self-determination, autonomy, and so forth – all those Enlightenment concepts against which postcolonial theorists inveigh” (Chibber, 2014, p.233)

3.3.2 The moral ground for accounting

For Rawls, what stands at the core of his account for justice is a conception of practical reason, expressed through the “ideas” and “principles” of practical reasons, which include his conception of reasonable and rational persons and of fair social cooperation. These conceptions “characterize the agents who reason and they specify the context for the problems and questions to which principles of practical reason apply” (PL, p.107). Forst observes that Rawls’s original position is overloaded with different conceptions of person, conception of citizen in a democratic society and conception of moral person with two moral powers, which causes the trouble of putting too much into the context of original position. Forst suggests to separate them and relocate them onto corresponding context (CJ, p.188).¹⁹⁷ Forst suggests a moral context including which all human beings as moral persons, and a political context in which citizens are both authors and addressees of what they are subjected to¹⁹⁸: “The procedure for construction is contextualized, which is to say that moral norms have to be justified in the moral community of all human beings, whereas norms of political and social justice are to be justified in particular political communities (RJ, p. 218). The construction is always discursive, and always builds on the reconstruction of the basic right to justification and the criteria of reciprocity and generality. The discursive process in all contexts is always intersubjective, and just principles derived must be the “autonomous achievement of the-members themselves” (RJ, p. 5); that is the achievement of the members of a particular community. In this section, I will look into Shearer (2002)’s application of Levinasian understanding of responsibility as being responsive to the Other to understand accountability in accounting, and Messner (2009)’s objection to such moral understanding of accountability.

Shearer (2002) adopts Levinasian ethics to understand accountability as a moral duty in accounting practice. She takes inspiration from her understanding of Levinas and contends that the ultimate motive to hold one to be accountable to the others does not lie in self-reflective appeal to our dignity as reasoning persons; but rather, it lies in our relations to “the

¹⁹⁷ Ultimately, of course, a conception of justice derived, procedurally using the “thin” criteria of reciprocity and generality, must cope with the “thick” reality of our lives in social cooperation; it must “do Justice to persons as ethical persons, as legal persons, as full-fledged member of the political community, and as moral persons” (RJ, p. 119)

¹⁹⁸ In fact, Forst suggest four contexts of justice: ethical (the realm of conceptions of the good), legal (the law), political (in which questions the norms that should govern the basic social structure arise), and moral (the realm of human rights and foundations).

other". She argues that the Levinasian face-to-face relation is asymmetrical, in effect a relation inequality between one and the Other, and "the self-interested discourse of economic accountability" expresses an equality of subjects that denies and "serves to eradicate the originary asymmetry" (Shearer, 2002, p.560) of the ethical relation. Shearer calls for an accounting that respects the originary inequality of the ethical relation: a re-framing of our conception of accountability in terms of an "accounting for-the-other" to replace the existing economic "accounting for-the-self". Such an accounting to and for the other she suggests will necessitate "a reconceptualization of self in which one's subjectivity is subordinated to the demands of the radically other" (Shearer, 2002, p. 561).

I support Shearer's turn to Levinas. I see that in Levinas' treatment of our responsibility to the other, we can find a foundation for social justice and, in particular, ground for the right to justification. I have previously explained that Forst on occasions draws on Levinas in explaining his view of the foundation of justice. I do however have serious reservations concerning Shearer's use of Levinas. Levinas provides us little guide for thinking about the substance of justice. His focus is on the ethical relation between the subject and the particular other, and, for him, justice enters with the third party. Levinas essentially keeps ethics and justice separate, and his justice allows for the kind of "normative principles that his ethics eschews" (Ruti, 2015, p. 65). Shearer is, of course, well aware of this, and she acknowledges that on this view "it is only in the equality bestowed by the third-party gaze that rules of moral conduct can be elaborated at all" (Shearer, 2002, p. 560). Neither Shearer, or in fact Levinas take us very far in thinking about how we should proceed to develop and justify the rules by which we should organize our social cooperation: For such guidance we need to turn to thinkers like Rawls and Forst.

Shearer, is aware of the limitations of using Levinas to help us think about accounting, and in particular how to achieve a more ethical or moral accounting. She realizes that any "structure of accountability that is imposed by accountants will necessarily be removed from the immediacy of the face-to-face ethical obligation" (2002, p. 570). From the Levinasian perspective, clearly, any form of accounting can be seen as a type of imposition, a kind of violence, because to give an account the subject would inevitably have to impose her interpretation of the other on to the other. The imposition is made more obvious when accounting institution is organized by principles and standards. Shearer sees that, on this view, if social cooperation is to proceed, we do need to disrupt the dyadic ethical relation: "as Levinas appreciates, the institutions of social, political, and economic life necessarily impose a reciprocity and equality among subjects that destroys the asymmetry of the

interpersonal ethical relation” (2002, p. 570). Shearer recognizes that we must proceed with structured social cooperation and that accounting has an institutional role in that.

I take a different view of the insight that can be drawn from the Levinasian insight. And before proceeding to comment a little further on Shearer’s position, I will briefly explain my view: With Forst, I recognise the ground of the moral point of view in the recognition of him-or herself as originally obligated to others yet having the freedom that is essential to that responsibility. As previously discussed, Forst argues that Kant fails to clearly grasp the insight that the deepest meaning of the moral is to see oneself as obligated to others, because he looks for the ground of the moral in the subject relation to itself and because he puts great emphasis on the significance of respect for the law itself. Forst thinks that Kant fails to get the relation between respect for the law and for persons right: “For, although he says that “respect is always directed only to persons, never to things” (CPrR 66), the law itself is supposed to be “an object of the greatest respect” (CPrR 63) and to first ground respect for persons”¹⁹⁹ (Forst, RJ, p. 58). The order then is to respect the law be first, followed by the arguments that through respect for the law which we give ourselves we realize our nature of being autonomous, and that by respecting the law we respect others. Our encounters with the “face” show us that this order of priority is wrong and that the recognition of our responsibility to the other grounds morality and the law.

There is, however, an important insight in the relation between the respect for law and the responsibility to the other. It helps us see that our relation of obligation to the other is not devoid of principles, practical reason: “I can only “acknowledge” the moral claim (Anspruch) he or she makes on me, and to which I am morally bound to respond (entsprechen), if I see it in the context of his or her and my right to reciprocal and general justification” (Forst, RJ, p. 58). The other always appears to make a moral claim in light of practical reason, in particular, the principle of justification. The other, and most starkly the “face” of the other, makes an unconditional claim on me; unconditional in the sense that if I fail to respond to the call to responsibility, if I reject its claim on me, I avoid and void my own morality my existence as a moral subject.²⁰⁰ The other “calls one to an awareness of the duty to justify,

¹⁹⁹ Forst cited Immanuel Kant, *Critique of Practical Reason*, trans. Mary Gregor (Cambridge: Cambridge University Press, 1997), in the text as CPrR.

²⁰⁰ Forst is careful, not to overstate the dependence of subjectivity on the acceptance of moral obligation: “But with respect to moral contexts, I do indeed think that we must, as participants inevitably affecting others, accept the duty of justification. Accepting that duty and also one’s right to justification categorically constitutes us as moral persons –but we can also be persons and rational agents without accepting this duty, just not fully reasonable moral persons” (Forst, 2014c, p. 175).

the duty that one ‘has’ as a moral person, and thus, as a human being” (RJ, p. 36). Acceptance of that duty, as an unconditional responsibility, an obligation, to justify brings the subject onto the practical ground of morality. The asymmetrical nature of that initial claim and responsibility dissolves in recognition of the universality moral obligation of reciprocal and general justification.

Recognising that the original claim of the other is unconditional, in this sense, does not mean, contra the Levinasian perspective adopted by Shearer, that we should understand it to be absolute, without conditions or criteria, responsibility “for” as distinct from “to” the other. On Forst’s view, the original responsibility is always reasonable, a call for justification, from the outset without any need for the entry of a “third”. It is a call to respond properly, to respond the others who raise the call with good reasons good justifications. It is not a limitless religious, or quasi-religious, responsibility.²⁰¹

I part company with Shearer only when it comes to consider the significance of the Levinasian conception of our originary relation of responsibility to the other for organizing accounting. Shearer hopes that “accountants can help to make our economic institutions more responsive to the other, by seeking an accountability that formally recognizes the obligation to the other— even if it does not and cannot reflect the originary relationship from which this obligation derives” (Shearer, 2002, p.570). The kind of obligations she has in mind is to give some substance to the above; hence she recommends “an enhanced social reporting for employee groups, customers, suppliers, and other parties with whom the economic entity contracts, as well as environmental concerns and others with whom the entity does not contract” (2002, p. 568). It may seem easy to agree that accounting better accountable for the impact of corporations on “affected parties” (p. 568) would be a good thing. However it is not clear how her recommendations are justified or what it would mean in terms of practical regulation.

Though I agree with much of Shearer’s analysis, I have arrived however at my primary point of disagreement: Contra Shearer, I do think we can have an accounting and a structure of accountability that “reflect the originary relationship” of responsibility to the other. That is, we can have this when the originary relationship is understood as a call to an awareness of a duty to justify. I suggest that Forst shows how we can do this: We can proceed from the

²⁰¹ Rather than ground accountability on a religious claim of limitless responsibility, implicit in the approach adopted by Shearer, we advocate an accountability founded on reciprocal and general justification.

Levinasian moral insight, through reconstruction, through analysis of the world of responsibility including our appreciation of originary responsibility, of the right to justification and the criteria of reciprocity and generality, and on the basis of that reconstruction, on to the discursive construction, moral and political, of structures of justification and accountability. I am suggesting that the exercise of practical reason ought to put limits to calls for accountability.

Other scholars, coming from quite different perspectives, have challenged the apparently limitless demand for accountability that emerges in for example from Shearer's readings of the Levinasian tradition. Those critics see accountability without limit, as having the potential if made real, to turn into "ethical violence" under which subjects are forced to account for things that are difficult or impossible to account for, impossible to justify. Messner sees this as amounting to a "violence" to both accounting practice and accountants (2009, p.918).²⁰²

Messner (2009) argues that too much accountability could amount to an "ethical burden" for the accountable self, especially when he or she does not have any control or can hardly provide any reasonable justifications to the others. He sees that the demand to account for the other only attends to the demand of the person or the group to be accounted whilst failing to attend to, one might say "negating", the finitude of the party who gives the account. He argues that we need to acknowledge the limits of accountability and accept that escaping from ethical obligation of accountability is not unethical (p. 934). It may be an appropriate reaction when the burdens of accountability become intolerable: "While a person's failure to meet some of the demands may be regarded as unethical, expecting that person to measure up to multiple and conflicting accountabilities is itself ethically questionable (p. 919).

I accept, of course, the finitude of human beings.²⁰³ None of us can be fully transparent to ourselves, and consequently there are limits to what we can reasonably be expected to account for. I can see the dangers of an excessive demands for accountability, and accept that we should acknowledge limits to accountability, and in fact we should put limits on accountability, and that we "should not embrace the ideal of an all-encompassing

²⁰² The dialectics of accountability, the potential of an accountability to revert from being progressive and even emancipatory force to become oppressive, is also acknowledged by Bovens (2007) who contends that accountability is a "dustbin filled with good intentions... and vague images of good governance" (p.449).

²⁰³ Acceptance of the rational finitude of the person, including the burdens of reason, is as I have explained in previous chapters at the heart of the approach to justice developed by Rawls and Forst that I take as my guide for thinking about accountability.

accountability” (Messner, 2009, p. 933). The difficulty arises when we come to identify where the limits are and where they should be put.

Before I proceed with further reflection on Messner’s discussion of the limits of accountability, I want to briefly consider the inspiration for Messner’s analysis, that is, Judith Butler’s account of the difficulty of *Giving an Account of Oneself* (2005). Butler’s work, like Forst’s,²⁰⁴ represents an important attempt to rethink ethics for a post-metaphysical age. Like Shearer she adopts a Levinasian ethics,²⁰⁵ which begins with the other rather than the self.²⁰⁶ In place of a conception of the reasonable and rational autonomous subject, which as I have discussed, following Rawls and Forst, we can see as central to the possibility of justice and justification and to accountability, Butler adopts a relational Levinasian-psychoanalytic model of subjectivity:

“If I am confounded by you, then you are already of me, and I am nowhere without you. I cannot muster the ‘we’ except by finding the way in which I am tied to ‘you,’ by trying to translate but finding that my own language must break up and yield if I am to know you. You are what I gain through this disorientation and loss. This is how the human comes into being, again and again, as that which we have yet to know” (Butler, 2006, p. 49).

The subject here is one of “disorientation and loss” interrupted and caught by otherness: Butler’s model “asks (autonomous) “being” to yield to (intrinsically nonautonomous) relationality” (Ruti, 2015, p.40). Because “I” am entangled in webs of the other before I become self, on this view, I am always mediated and substantially opaque to myself. Butler addresses the question of accountability in the face of this opacity and the dissolution of autonomy and agency in relationality. The problem lies in her challenge to autonomy of the subject so relentless that, if we accept it, it is difficult to see what can remain of responsibility and accountability. Eventually she asks herself: “According to the kind of theory I have been

²⁰⁴ As we have seen Forst argues that “even in a postmetaphysical age” (RJ, p. 5) we cannot do without the foundation of the moral principle of justification. Forst shows how we can have strong foundations which do not risk plunging us back into the “reified and ultimately authoritarian forms of thinking” (Forst, 2015b, p. 227) that have all too often been associated with classical theological and metaphysical foundations. This foundation is nonmetaphysical: Forst’s project in developing his theory of justification is premised on “the unavailability of “ultimate” grounds for principles of justice’ (RJ, p. 81).

²⁰⁵ I will not pursue the details of this, arguably somewhat “masochistic” ethical theory here (see Ruti, 2015, p. 62). As my main interest in Butler’s work is in her conception of the subject.

²⁰⁶ The conception of morality developed by Rawls and Forst also put the other first. As Forst explains, we need to internalize the understanding that “morality needs to be followed for the sake of the other, without reward” (Forst, 2014c, p. 185).

pursuing here, what will responsibility look like? Haven't we, by insisting on something nonnarrativizable, limited the degree to which we might hold ourselves or others accountable for their actions? (Butler, 2005, p. 83). The answer seems to be that having undermined agency, little possibility of accountability remains (Ruti, 2015, p. 62).

I appreciate the need for approaches to morality and justice that are post-metaphysical, and can understand the importance of some decentring of the subject. I see the need to recognize the finitude of the subject, and the burdens of reason. However, for us, Butler goes too far and undermines the possibility of accountability and justice in accounting:

“That we are not fully agentic does not mean that we have no agency at all; that the other dwells within our constitution does not mean that our relationship to the other is all we are; that our personal history cannot be divorced from the social and intersubjective currents around us does not mean that we can be reduced to these currents—that we have no conception of ourselves as discrete individuals with discrete personal histories” (Ruti, 2015, p. 55).

My objections to Messner's analysis, ultimately tie back to my reservation concerning Butler's position. If her analysis is accepted it seems to me put into question the autonomy of the subject and the practical reason that relies on it. I see this as dangerous as I accept the view that effective critique of and in particular critique of existing relations of justification, can proceed only through reason: reason must be the “cornerstone” (Forst, 2014c, p. 181) of any critique, any critical theory. I have three concerns with Messner's analysis: Firstly, he indeed seems to see little room or place for reason. He claims that the limits of accountability cannot be theoretically grasped: “One can look out for opacity, exposure and mediation in general; but the extent to which a demand for accountability is problematic cannot be determined theoretically or a priori. The responsibility to be sensitive to these limits is something that escapes theoretical determination” (p. 934). I disagree: Rawls and Forst show us how we can establish just principles for the governance of our social cooperation. Those principles can then be used to allow the limits of accountability to be established. It is only when those limits of justice are exceeded by demands for intrusive accounts that we enter into the territory of accountability as violence. Furthermore the criterion of reciprocity and generality can give us criteria by which we can judge the morality of particular demands for accountability.

Secondly, whilst Messner, taking Butler's message, refrains from suggesting that it might be possible, much less incumbent on us, to apply our critical faculties to establish a just

normative framework of principles, which can guide legitimate demands for accountability; he does support calls for the exploration of “new and more comprehensive possibilities for accountability” (p. 933), and agrees that we need to give more attention to how we can overcome opacity and make things more “transparent” (p. 933). There is a vagueness about these suggestions and I have difficulty in squaring these prescriptions with Butlerian view of the subject adopted by Messner. Clearly, for Butler there is no possibility of us making subjects less opaque or more transparent; and she has no interest, even if it were possible, in dealing with a subject that is less relational,²⁰⁷ more autonomous and thus potentially responsible and more effectively accountable: “I am nowhere without you (Butler, 2006, p. 49). Part of the problem is that Messner is, in my view, applying an rather extreme theory about the embodied human being that is unhelpful to understand the corporate and social world.²⁰⁸

Thirdly, Messner seems to go along with Butler in casting the subject as victim, impinged on by the other, subject to an ethical violence through oppressive demand for accountability; not responsible because opaque to itself and captured by others: “The idea that there are limits to accountability suggests that escaping or resisting accountability is not necessarily an unethical act” (Messner, 2009, p. 934). The danger is that we simply can’t treat this subject as responsible nor accountable, nor as guilty of not doing the right thing; we can do little but forgive this pathetic subject – and really forgiveness is misplaced because really they were not responsible: “If we speak and try to give an account from this place [of opacity], we will not be irresponsible, or, if we are, we will surely be forgiven” (Butler, 2005 136). Perhaps some might muster some sympathy for this view of the individual and especially for those truly oppressed in our society and made victim, however can we begin to sensibly think of the business world in these terms. If we begin to do so as Messner encourages don’t we simply risk letting corporations, their executives and employees “off the hook”²⁰⁹ of accountability.

The three points above are interconnected. The core issue for me is that if we are to hold

²⁰⁷ Butler has no interest in encouraging more autonomy, and thus the possibility of enhanced accountability, or to put it from her perspective, no interest in encouraging the arrogant fantasy of the sovereign I. Mari Ruti puts the issue very clearly: Butler’s conceptualization of our relational ontology is somewhat extreme in implying that there is nothing about our being that can be separated from the other, so that our experience of ourselves as quasi-bounded entities is purely fictitious, or worse, arrogant and violent” (2015, p. 41).

²⁰⁸ Exploring this issue would take me beyond the scope of this thesis.

²⁰⁹ Please excuse the “violence” of my terminology.

people to account we need a normative limits and Butlers ethics of precarity gives us no help developing justified principles and norms. Without normative standards, critique becomes difficult perhaps impossible. The above analysis suggests that Messner does not grasp the radical import of the Butlerian view he advances, and how damaging to the spirit of critical accounting acceptance of his Butlerian approach would be. Butler and Messner, do, however, force us address the issue of the subject of responsibility, and accountability, given the fact that we come to be subjects through processes of socialization that shape our subjectivity whether we like it or not. I return to this issue in the concluding paragraphs of this section. Before doing so, I draw together my critical comments on the contributions of Shearer and Messner in context of their Levinasian root, and with the aim of clarifying their significance for my inquiry into the possibility of justice in accounting.

Messner's essential concern for the finite capacity of the accountee as vulnerable subject, is in my view compatible with Forst's advocacy for a right to justification. This concern is fundamental to the motivation of morality: "as a reasonable being one owes it (morality) to others as vulnerable creatures endowed with reason, in short, as finite creatures" (Forst, RJ, p.55).²¹⁰ Forst explains that the point of morality rests on "the insight that human beings as vulnerable and finite beings require moral respect and thus justifying reasons; and in this sense this is not a morality for mere 'rational beings' but for those who have a sense of the evils that follow from denying someone's right to justification and not being respected as an author and addressee of validity claims" (RJ, p. 39). Thus, from the Rawls / Forst perspective, morality, the principles justice, and all that follows from them are intended to protect and improve the condition of vulnerable human being, the criteria of reciprocity and generality designed to help ensure that in fundamental matters such subjects are not subject to norms or actions that they could reasonably reject.

While the finitude and of the subject is motive for morality, Forst and Rawls, contra Messner, do not think it providing any justification for escape from moral obligation. No one can reject or refuse to recognize someone's right to justification. The unconditional morality of "being responsible" (RJ, p.19) reflects "how the world is for us, one in which we as human beings simply have responsibility that is not based on any further agreement" (RJ, p. 61). No deeper justification of the right to justification is available or needed, and those who demand something more have essentially "missed the point of morality" (RJ, p.55). The face of the

²¹⁰ As I previously discussed, Kant misses this point, which Levinas makes salient.

other make this unconditional responsibility very clear.

Shearer's Levinasian insights may allow us to locate a foundation for accountability in an irreducible moral duty to the "Other". Roberts makes it even clearer that "there is no line or limit that can be drawn on responsibility" (2001, p. 113). For each of us as individuals, he sees, there is an "impossibility of closure" on this responsibility for the other; "we cannot but care for our neighbour" and "we know it through our sensibility, our vulnerability" (2001, p. 124). But, to understand accountability on the basis of right to justification and principle of reciprocity and generality provides a fuller story: it is the reasoning practice that enables us to identify norms and actions that are not reasonable; it is this critical practice that gives us a way of tracking the unreasonable and demanding change. In fact, the reasoning aspect, the moral and political constructivism, gives us a normative standpoint on which we could construct a morally justified practice accounting built on generally and reciprocally justifiable norms and principles.

The moral impulse is vital. It is right to side with Levinas and see that the encounter with the other gives rise to an "unconditional" call to responsibility, "one that I can reject only at the cost of violating morality" (RJ, p. 59). But we cannot stop with the moral impulse. As I have explained above, this unconditional responsibility is not an "absolute", "selfless" or "conditionless" responsibility for others (Forst, RJ, p.39). Forst contends that such conceptions of unconditionality would easily "exceed the limits of what can be morally demanded" and fall into a "call for an absolute, religious ground of morality" (Forst, RJ, p.39). By contrast, this unconditional moral duty refers to "the duty to justify oneself in moral contexts according to criteria of reciprocity and generality" (RJ, p.39). That is say, we are expected to respond with reasons that can be reciprocal and generally acceptable to whom the justification is provided. This is crucial because, by accepting this, it avoids to presuppose an "absolute obligation to the other" (McKernan and MacLulich, 2004) or to turn into something that is "dangerous" or overwhelming (Messner, 2009). As explained above, morality and justice, and a framework of justified norms sets the limit on the demand of accountability that so concerns Messner. Of course, the Levinasian ethics on which he, Shearer and Butler's rely knows no such limits.

In conclusion to this section and this chapter, I offer some very brief reflection on the subject and socialization from the perspective of Rawls and Forst, and consider their view on how we ought to respond to the distortions, including systematic ideological distortions, caused by power imbalances in society. The approaches to justice taken by Rawls and Forst, depend

on the possibility of the autonomy of free and equal persons, that is, “the constructive autonomy of free and equal subjects of justification” (Forst, 2014c, p. 18) able to construct principles of justice for themselves and to see them as self-given. Both Rawls and Forst are keenly aware that citizens capacity to freely engage in the discursive work of constructing a basic structure appropriately grounded in principles of justice, is undermined by power imbalances in society, and in particular imbalances in “noumenal power” (Forst, 2015a), that is, power in the space of reasons; “the power of justification: “The claim that the question of power is the first question of justice means that justice has its proper place where the central justifications for a social basic structure must be provided and the institutional ground rules are laid down which determine social life from the bottom up. Everything depends, if you will, on the relations of justification within a society” (Forst, 2014c, p. 22). They emphasize that justice is achieved through struggle, and critique of existing relations of justification. Of course, reason itself can be used to legitimize, give false justification to, oppression and domination however, “reason itself is the only critical faculty we have to object to such justifications” (2014c, p. 181). It is therefore important that we continually critically reflect on our own conception of the reasonable. Our reason is always imperfect and in need of constant reflective and reasonable criticism, but ultimately we must rely on our faculty of reason to challenge oppression and domination and distorted orders of justification. The primary task of the critical theorist must be the “critique of relations of justification” (RJ, p. 121), and of the critical accountant, *the critique of relations of accountability*.

Clearly we develop as human, and as subjects of justification, in social situations and in context of particular forms and practices of justification that pre-exist us. We become subjects of justification through our introduction to existing practice and in relation to particular regimes of power including most importantly noumenal power, the power of justification. Forst is happy to accept the idea that “power relations are constitutive of our subjectivity” (2014c, p. 185). He recognizes that oppressive power, including the illegitimate use of justificatory power, the power of reasons, may shape the constitution of subjects in ways that limit their ability to employ their critical faculties and engage as free and equal subjects of. Nevertheless, he argues, that we have no good reason to think that the space of reasons is entirely closed by forms of social domination, and he suggests that space always remains for the development of the capacity for critical use of reason:²¹¹ “No subjectivity is

²¹¹ He offers us no metaphysical guarantee of this, of course, he has no commitment to a resistant human essence.

‘free from power’, but it is also not simply a ‘product’ of arbitrary power –rather, in learning to understand oneself as a justificatory being, one can also learn to use that capacity critically” (2014c, p.186). By challenging the legitimacy of relations of justification and accountability, critical theorists including critical accountants can help open the space for the development of the critical capacities of justificatory subjects.

To ground the notion of accountability on the right to justification also means that you are not only entitled to be provided with justifications, more importantly, you are entitled to be an “agent” of justification: “discursively producing, contesting, rejecting and constructing justifications with others” (Forst, 2011b, p.230). We can hope for and expect to find the development of a logic of what Forst calls “moral modernization” (p. 211) bringing ever more issues and social relations into question on the foundation of the right to justification, or I may call it the right to account. Once this “dynamic logic of asking for reasons” is set in motion in the accounting culture, and provided it is not suppressed by force, a critical and emancipatory process is established through which questions get raised, reasons assessed against appropriate criteria, and concrete rights constructed and understood through justification. Those who embrace this logic of justifications and rights will, when dealing with questions involving the exercise of political power, such as the justification of generally valid norms, within a community, rely, not on appealing to arbitrary authority, but on “reasons that cannot be reasonably rejected” (Forst, 2002, p. 39): Reasons that meet the criteria of reciprocity and generality.

Conclusion

“It is a delusion to think that rigorous analysis in a small area unguided by a large idea is of much value” (John Rawls, 1964, to students in his moral philosophy course, cited by Reidy, 2014, p.9)

John Rawls is, on most accounts, the most significant political philosopher of modern times. He produced a number of works that fundamentally changed the way people think about justice, and which are still regarded as classics, and which have provoked an immense amount of interpretive responses and critical comments. Rawls’s thinking about justice and the critical responses to it have been enormously important for the development of political philosophy and practice. However, there have been few applications of Rawls’s thought in accounting research, and the few accounting researchers who have referred to Rawls have generally confined their attention to his early work; *A Theory of Justice* (1971). That accounting is “political” is widely accepted, and the relative neglect of the Rawlsian stream of political philosophy surprised me. I started with the intuition that political philosophy, and especially Rawls’s work on justice and justification, could help us refresh our understanding of accounting as a political practice. This motivated me to go on a journey exploring justice in accounting following the lead of John Rawls, and his works published at different stages of his career. This thesis records this theoretical endeavor.

I followed Rawls’s refinement of his early works and his theoretical development and political “turn”. I traced the evolution of key aspects of his thinking, and his transition from a metaphysical account of human autonomy to a non-metaphysical account of public justification. In coming to appreciate the force of his arguments, in our efforts to establish and justify a conception of justice for pluralist society, and for accounting, we should avoid at best we can any recourse to metaphysics, and rely instead on our capacity for practical reason and in particular the public use of reason, supported with appropriate procedure and safeguards.

I, following Rawls’s lead, came to see justice as a matter of public justifiability. The task of getting principles right and just, or a just accounting, was then essentially the problem how these principles can and should be justified in front of (rather than behind the backs of) the people who are subjected to them. It was this concern, for the achievement of justice, as public justification, in accounting, that laid down the basic theme of this thesis; justice and

justification in accounting. The task is a formidable one, and I am acutely aware that the intervention of vested interests will always threaten to undermine the justice of social relations. For this reason, I recognized from the outset that power is always the first question of justice; the power to demand or withhold justification, and to shape orders of justification.

The emerging emphasis in Rawlsian inspired thinking on public justification, and on the ordering of the space of justification and accountability, set the basic tone of the thesis, from emerged an appreciation of the value of a relational picture of justice, and a related conception of accountability as a practice of equality. The relational picture can be distinguished from a dominant distributional picture, fixated on the distribution of goods. At the core of this relational picture, lies a grammar of justification. On this view, practices are just when those involved can “face one another openly and support their respective positions, should they appear questionable, by reference to principles which it is reasonable to expect each to accept” (Rawls 1958, p. 178). The language of justification provides a basis of making critique of institutions and social relations in which justifications are missing, or reasonably rejectable. The three stages of Rawls’s works offered us three evolving forms of justification as each of the later one becoming aware of the constraints of the earlier ones. The understanding of justice as justification is the main thread that connect different stages of Rawls’s work discussed in this thesis.

In the first stage, in *A Theory of Justice*, I looked into the utopia that Rawls identified as an ideal of free and equal persons in a well-ordered society who are motivated by their sense of justice would accept and reach an agreement on some principles of justice. Rawls, as we have seen, restores our faith in intuitions and reasons with his method of reflective equilibrium and the device of original position, which he used to work out and justify principles for a well-ordered society without the need to rely on utilitarianism or settling with intuitionism. He concerns about the basic structure of a society, issues about how institutions should be designed and arranged. He talks about justice and fairness under the idea that people are hoping to benefit mutually from engaging in social cooperation. He points out the core of justice is to work towards a society with its institutions and principles that are justified and accepted by people to whom are subjected.

In this stage, Rawls also offers his strategy about how the principles of justice are deliberated and applied to the basic structure of a society. Though I found that the division helped to maintain the background justice of a just society and leave sufficient space for individual’s

freedom, it encountered a practical constraint when the requirement of the principles was in conflict with individual's rational pursuit of the good. By appealing to Kant's conception of moral agents and practical reason, Rawls let us know that if we can achieve a congruence between the requirement of the principles of justice and the rational desire for a good life then we can resolve this constraint.

In the second stage, an important condition of democratic society, the fact of reasonable pluralism, was addressed by Rawls and forced him to give up on some aspects of early forms of justification he offered for his principles. In his *Political Liberalism* he refined his early Kantian, metaphysical justification of principles into a political conception of justification, designed to cope with the implications of reasonable pluralism. I learned about how the ideal of reasonable agreement among free and equal citizen can be socially and practical feasible, the condition of reasonable pluralism. Rawls kept the substance of his account of justice but revised his conceptual tools and his presentation of the nature of the founding idea: In substituting the moral with the political, he replaced the moral persons with the citizens, the moral autonomy with the political autonomy, and the Kantian constructivism with the Political constructivism. From this transition, I saw not just a transition into a non-metaphysical phase in his thinking, but also a rising awareness of dissensus, and concern about how to respond to that dissensus by applying the principle of tolerance to various philosophical, religious, or metaphysical views of the world.

In the third stage, I followed later Rawls and his trajectory into the work of Rainer Forst who carries Rawlsian insight into a critical theory of justice, and attempted to explore my third research question. I found at the core of the substance of Rawls approach a commitment to a, strong but thin, moral foundation; the moral foundation of the principle of justification. Whilst Rawls refused to admit this moral foundation in his account, I argued that, with Forst, even in post-metaphysical age, such moral foundation is necessary, as the final "foundation of constructivism cannot itself be constructed" (RJ, p.5). By admitting this moral basis, I am oriented back to my initial concern, and Rawls's concern for the justice of the basic structure of a society, and to the justice of relations within contexts of accountability. Forst reconstructed this basis and built his constructivist account of justice and justification on a moral principle of justification and an associated moral right to justification. Forst provided us an "anti-foundationalist foundationalism" that carries no substantive claims but a right to justification demanding that there be no social relations that cannot be appropriately justified to those who are subject to them (RJ, p.78).

Making explicit the moral foundation allowed me, on the one hand, to retain the promise that certain rights cannot be sacrificed and should be insisted, and to recognise that the cognition and recognition of the right to justification represented a fundamental claim of human dignity: to be respected as an equal normative authority, an equal agent of justification. On the other hand, the right to justification is called on in the context of struggle and exploitations, in the context of questioning the justifiability of social relations. I could naturally turn Rawls's consensus-oriented approach into one that starts from dissensus and conflicts.

The reason to explore Rawls in this evolving as well as chronological manner is to appreciate the valuable part of Rawls in both early and later stages. The impression that Rawls approach was metaphysical was so deep seated²¹² that in a critical accounting community substantially committed to the embrace of the novel, including poststructuralism, postmodernism, and the postmetaphysical, Rawls's work was generally neglected and his political and nonmetaphysical turn seemed to go almost unnoticed by the community. The accounting supporters of agonistic democracy for instance were only willing to spare a few words for comment on Rawls early work, and then seem to have relied on the interpretations offered by his agonistic critics (See Brown, 2009). Critical interpretations of Rawls's work are commonly caught in a "standard blueprint" reading of Rawls as engaging in a grand philosophical project. For example, Chantal Mouffe's challenge of Rawls displacing politics with theory, and Jeremy Waldron's reading which seems to make the value of Rawls's entire project hinge on whether or not we can expect to achieve agreement on justice, are in that mould (see Laden, 2003, p. 374). It is therefore perhaps understandable, but a significant loss, that critical accounting thinkers were generally reluctant to engage with Rawls work.

In this thesis, I set out three research questions looking into each stage of Rawls's work and aimed to work out how it could implicate and apply to accounting. Thus, to address the first question, I extracted some conceptual tools from the first stage of Rawls', such as the method of reflective equilibrium and the device of original position. These tools provided guidelines about how we can address accounting intuitions and judgements and how we can establish

²¹² I know this, in a personal way, from experience of listening to the attitudes expressed by a number of, sometimes prominent, critical accounting researcher concerning Rawls and my interest in his work.

a recursive reflection between practical judgements and normative ideals on accounting matters.

The strategy of division of justificatory labour when different justifications for a practice or for an action within that practice are directed to different people should inspire a division between justifying accounting principles and justifying accounting judgements in applying that principle. The exchange between Rawls and Cohen, addressed in the Flower's application, should guide us when dealing with ethical dilemmas in accounting, such as: how to avoid creative compliance when accounting principles are implemented or how to eliminate free-riding at the level of interpretation and implementation.

We cannot understand the division of labour in a literal way: for Rawls, this is a way of separating general applicable principles from particular and concrete situations. Division of labour does not imply that individuals can free their hands from moral and ethical issues by claiming that these issues are to be addressed at the institutional level. A well-ordered society organized by Rawls's principles should have already created a community in which each person can pursue her own conception of the good within fair and mutual beneficial terms of social cooperation (Scanlon, 1973). The difference principle embodies the idea of concern for the other, in the idea of "fraternity" (TJ, p.90 rev.). One who sees the necessity of justifying institutions against the difference principle would accept "the idea of not wanting to have greater advantages unless this is to the benefit of others who are less well off" (TJ, p.90 rev.). In similar vein, we need to work out a system of accounting principles that embodies the concern of non-compliance at individual level. To dismiss principles that contain a moral commitment to fair social cooperation would go against with one's rational interests to obtain benefit from such cooperation.

At the end of Chapter 1, I dared to propose an alternative reading of Solomon's work, which is frequently caricatured as a "mere realist" by critical accounting researchers. Such standardised view of Solomons labels his ontology as realist, his epistemology as representativist. It portrays him as an apolitical observer of clashes of interest and conflicts in standard setting and as legitimiser of the role of professions. Instead, I suggest that Solomons holds a constructive position: he is well aware that accounting can be the result of political power plays, and he realises the power accounting can have in society. In this light, Solomons's work represents a search for a theory of representation, to clarify and justify the ideal of accounting he has in mind. His proposal on conceptual framework could

be understood as an attempt to searching for mechanisms capable of taking existing practice towards that ideal.,.

By making this connection, I also managed to draw an analogy between the generation of conceptual framework for accounting and the construction of principles of justice. It is possible to transplant Rawls's conceptual tools in the context of accounting and develop something like a conceptual framework with its principles deciding the shape of accounting as an institution, and the terms of social cooperation within this context. An ideal conceptual framework, with similar features drawn from Rawls, would be one in which its principles are developed on the basis of appropriate and shared ideas and principles in conditions of impartiality, achievable in circumstance akin to those existing behind a veil of ignorance, and in reflective equilibrium with practical judgements. A conceptual framework as such not only reflects agreement reached on conceptual matters in accounting but also constitutes an constitution that serves as the basis for justification of accounting standards, or decisions that are made in terms of the principles in the conceptual framework.

In order to address the second question, I examined the debate between principle of accountability and principle of decision-usefulness in standard setting. I observed some unreflexivity, in its negative form, and it seems to me almost ideological, attitude taken to the idea of decision-usefulness in accounting in some parts of the critical community. I managed to delineate decision usefulness from its neoliberal associations and argued for it as a principle and a basis for public reason for a particular context in accounting; the context of market. This inspired me to argue for different contexts in accounting and hence with different criteria of justification and terms of public reasons for each context. This allowed me to welcome and support public agreement on decision usefulness as one principle that can be part of a just design of the institution of accounting within the context of a market.

I also considered the challenge, made to Rawls's consensus-oriented approach, made by Waldron (1999a) who argues that disagreement, even on matters of political justice, is inevitable, and relate it to Macve's (1981)²¹³ similar questioning of the possibility of consensus on accounting principles. The practical concerns about whether or not we can reach any agreements on justice or in accounting did not discourage me from continuing

²¹³ This is reprinted in Macve, R., 2015. *A Conceptual Framework for Financial Accounting and Reporting: Vision, Tool, Or Threat?*. Routledge.

exploring Rawls and his works. I learned the importance of leaving room for discourse and disagreements on question of justice, and in the construction of accounting principles. Nevertheless, I found myself convinced by Rawls's insistence on commitment to certain unsacrificable basic rights and liberties. I argued that accounting as part of the basic structure should take a shape that maintains those commitments, and not legitimate, the making profit, or taking advantage, at expense of other's basic rights.

To address the third question, I followed the common moral core between Rawls and Forst and identify a right to accountability, as an expression of the right to justification, in contexts of accounting, calling for the provision of accounts, justifications that cannot be rejected with reasons that meet the criteria of reciprocity and generality. This right should serve as the final indispensable foundation for critique and justification in accounting. Hence, I argued that the critical aspect of accountability in contexts of struggle against domination and exploitation, should be a veto right held by the weak to say no to unjustifiable relations or principles. Accountability can be a vital "weapon of the weak". The ground of accountability, on this view, rests on the fundamental and universal basis, that is, that individuals ought to be respected as normative agent with a right to justification; that is, respect for persons as ends not means, involving the recognition of one and other as reasons-giving and reasons-deserving agents. Recognition of that ground, must provoke desire for better and more justifiable justification urges us to seek for a more just, and justified accounting institution and calls for establishment of practices and contexts of accountability.

This theoretical endeavour has also shed some light into a reconsideration of critique for accounting research. As some may read early Rawls as providing an ideal way of thinking of justice and basic structure of a society, it should not be forgotten that fundamentally Rawls's thought is "unmistakably radical with respect to the political status quo in advanced capitalist societies" (O'Neil and Williams, 2012, p.8). This revolutionary aspect is often dismissed or overlooked. Rawls's constructivist position, throughout his works, has faith in the objectivity of moral judgements and our capacity of being more or less reasonable. It creates an objective point of view, grounded in reasonableness, which serves as a basis for critique, to test the existing institutions, principles and relationships. It serves as an external critique for challenging the social order, the order of justification itself. It provides a foundation from which critique "can develop a force that transcends existing discourses and asks what free and equal persons would agree to if they were to judge their social and political situation reflexively, without being constrained by the very power that is the object

of reflection” (Forst, 2015b, p.226). In addition to this, we are also in need of critique that is “situated” and contextualized (Forst, 2013b, p.2). The critique is localized in the discourse and constructions of a particular community within a particular normative context. Critique needs to be completed in an interplay of the universal and the local, universal morality and local norm and current social practice; it must work “within a tradition even while reaching beyond it” (Gregg, 2011, p.78). At the end, I am suggesting that accounting academics develop an understanding of critique as a combination of immanent yet transcendent with regard to concrete contexts (see Li and McKernan, 2017).

At the core of the Forstian-Rawlsian approach to justice and justification lies practical reason and the importance of agency. I am wary of the possibility that this position can be vulnerable to objections that condemn any appeals to reason as the ultimate basis of morality. Although I take such objections seriously, as in the case of, Chantal Mouffe’s critique at the beginning of this work, it is not the main purpose of this thesis to persuade one who does not believe in reason to join my faction. As I claimed, I started with my belief in reason and proceed to justify my theoretical endeavour within reason.

The thesis has touched on several long-lasting debates and controversies within political philosophy in general (e.g. the universal and the particular, morality and politics, individual liberty and popular sovereignty). I am not aiming to provide an answer to these great questions. What I hope to have achieved is a critical engagement with the political nature of accounting practice by offering an account of justice that shed light to the construction and justification of accounting principles and to new understanding of accountability that is transcendental to different contexts. Accountability, as a right to give an account, may reflect what justice manifest itself in the context of accounting. The notion of critique, thus, is built into the core of accounting practice. The creation of a basic structure of accountability makes it possible to identify concrete context of justification and accountability.

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