

Religion in Public Square: The Role of the
Peruvian Catholic Church in the Politics of
Abortion and Birth Control

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INTRODUCTION

The relations between religion and politics continue to be an important theme in political philosophy, despite the emergent consensus on the right to freedom of conscience and on the need for some sort of separation between church and state (Callaway, 2009). The “separation of Church and State is being widely challenged and vigorously debated” (Audi and Wolterstorff, 1997). “Special interest groups motivated by religious concerns are lobbying for political action” (Audi and Wolterstorff, 1997) to shape public policy “sometimes within, sometimes outside democratic and constitutional structures” (Walzer, 2007, p. 146). These facts have led the United States and other liberal democracies to reassess the historical commitment to church-separation (Audi and Wolterstorff, 1997, p. ix).

In Latin America, religious concerns have tended to focus on the field of sexuality and reproduction. The influence of the Catholic Church influence on government decisions regarding contraceptives and abortion has resulted in a lack of information and services to women with regards to their reproductive rights. This has resulted in a visible increase in the number of unintended pregnancies and the practice of illegal abortions has increased the rate of maternal mortality (Cho, 1998, p. 422). This influence on the political agenda of Latin American governments has put into question the principle of separation between religion and politics and the role that the Catholic Church plays in Latin American democracies.

The Peruvian case has not been the exception. Since the State has shown an interest in implementing policies on family planning in 1990, far-right Catholic groups have tried to prevent any attempt of legislative change to implement a consistent public policy on sexuality and reproduction. For this purpose, Catholic conservative groups have taken advantage of the dependence of politicians on the backing of the Catholic Church for their popularity. Strict interpretations of the Catholic doctrine on sex and reproduction have been applied to broad-based public policies, without respecting the individual choice and the freedom of conscience of those who do not share Catholic views.

The interference of religion in public political affairs has generated harsh criticism among feminist groups, who have claimed that the development of public policies be guided on the basis of secular criteria and not of religious views. This conflict of interest has polarized the national debate regarding abortion and contraception between pro-choice groups requiring the elimination of religious arguments in the public forum (which are defined as democratic and therefore secular), and pro-life groups that claim a place in the public forum as moral leaders of a society forged on the Catholic tradition. The aim of this work is to analyze what the role of the Peruvian Catholic Church in the Public Square should be regarding policies on abortion and birth control. While the questions to be addressed in this work are limited to the specific case of the Peruvian Catholic Church, analysis will also focus on the American debate on this topic, particularly given that the position taken by the Pope and the Vatican is that the individual Catholic Churches of other countries are required to follow the ecclesial hierarchy of the Church.

The first part of this paper offers a contextual overview about the current state of play between secular and religious forces in Peru. This begins with a description of religious intervention in the formulation of public policies relating to reproductive rights and health, followed by an outline of church-state relations and the intra-Catholic conflicts which underlie the current debate. After this contextualisation of this core ethical-political problem, this paper examines the topic through John Rawls' conceptual framework of the idea of public reason. Rawls (2005) proposes a 'political' version of Liberalism instead of a 'metaphysical' version, offering an innovative approach to the debate on the relationships between religion and politics that goes beyond the secular/non-secular polarization in which the Peruvian debate has stalled. This section will be supplemented with the presentation of

some criticism raised by liberal feminists against the inclusivist version of Rawls' idea of public reason, which remains unresolved, but does not dismiss the usefulness of this theory at least for matters of basic justice as the case of abortion.

The last chapter of this thesis addresses the specific question of this paper by offering Rawls's approach to the question of abortion under the idea of public reason, contrasted with attempts from a Catholic perspective to articulate its position regarding abortion in the form of public reason. These reasons will be examined and justification provided into the extent to which they are or are not convincing. This leads to an examination of what insights within the Catholic tradition can provide the theoretical source that the official Church needs to resolve the tensions currently experienced in the Peruvian case. In this light, I conclude by giving some answers to the question posed.

CHAPTER I

SECULAR AND RELIGIOUS FORCES IN PERUVIAN CONTEXT

1.1. INTRODUCTION

The aim of this chapter is to present a contextual overview about the current state of play between secular and religious forces in Peru. I begin with a description of the religious intervention in the formulation of Peruvian public policies regarding sexual and reproductive health, which occurred during the last two decades. In doing this I highlight how the religious intervention has affected reproductive health and rights of Peruvian women and has generated tensions with the feminist movement that demands the Peruvian State to comply with international declarations and conventions on this theme. In the following section I outline the history of the relationships between the Catholic Church and the Peruvian State in order to demonstrate that the separation between Church and State is a theme that continues under debate in the Peruvian society. Finally, I describe how the tensions that have been explored in the previous sections between Church and State found its echo at a different level in the debate within the Catholic Church between those who sought a change in the Church with a progressive view and those who tried to resist them. This helps to explain the current positioning of the conservative movement not only in the Catholic Church but also in Peruvian politics. In this way, I will try to contextualize the ethical-political problem that this thesis deals with.

1.2. THE RAID OF THE CATHOLIC CHURCH IN PUBLIC POLICIES ON SEXUALITY AND REPRODUCTION IN PERU

This first part of the chapter will describe the advances and setbacks that Peruvian policies on sexual and reproductive health have experienced over the last two decades. Until the early 1990s, the public family planning programme was poorly organised and lacked sufficient funding and political support (Coe, 2004, p. 57, 59) due to deep political and economical crisis that Peru was experiencing by the late 1980s (Caceres, et al. 2007, p. 131). This situation was reversed in 1990 when the new government decided to promote the intensive use of family planning methods as one of its main strategies for combating poverty. However, the violent internal conflict and the weak economy of the country constrained the government to abandon its intention in order to get desperately the backing of the Catholic Church, whose officials have long played a privileged and powerful role in Peru's public affairs and had an adamant position against the access to modern contraceptives (Coe, 2004, p. 59). By this time, the 1924 Criminal Code was put under revision. This occasion was used to advocate the decriminalization of abortion in cases of rape and not only when the mother's health or life was in immediate danger. However, the conservative sectors and the Church managed to prevent its introduction. The Archbishop of Lima fiercely attacked any congresspersons who dared to defend this proposal (Caceres, et al. 2007, p. 136).

In 1993, when the political and economic situation was stabilised and the support of the Catholic Church was no longer needed, Fujimori's government took back its initial goals and openly promoted universal access to contraceptives for women.

Official government discourse placed this issue within the context of social justice and reproductive rights: poor women deserved the same opportunity as wealthier women to regulate their fertility, and all women had the right to control their bodies and use contraceptives if they wished (Coe, 2004, p. 60).

Consistent with this position, in 1994, the Peruvian government signed the International Conference on Population and Development Programme of Action "and reinforce its commitment to

reproductive health and rights at the Beijing Conference the following year” (Coe, 2004, p. 60). With this stance, Peru’s President Alberto Fujimori confronted the moral dilemma between the compliance of international legal obligations of Reproductive Rights and the allegiance to the Catholic Church and took a public stance against the Church (Cho, 1998, p. 423). In 1995, Fujimori introduced one of the most comprehensive family planning programs in Latin America (Cho, 1998, p. 452). The program also included the free access to voluntary vasectomies and fallopian tubal ligations (Cho, 1998, p. 424). Caceres, et al. (2007, p. 137) highlights that public hospitals in Peru offered free contraceptive services unlike previously, where women could access these services only if they had a serious health risk.

This policy of promoting family planning methods was changed the following year when despite macro-level economic growth and market oriented economic policies, Fujimori’s regime could not yield a decline in poverty. The Fujimori regime then abandoned its population policies and programs on reproductive health and promoted the use of modern contraceptives, especially sterilisation, largely among poor, disenfranchised women with little or no formal education (Coe, 2004, p. 61; Caceres, et al. 2007, p. 138). The Peruvian government, either officially and unofficially determined numerical targets for surgical contraception. Most women of poor rural areas with little or no formal education were put under pressure to accept sterilization (Cho, 1998, p. 444; Caceres, et al. 2007, p. 138). This strategy of poverty reduction affected many Peruvian women, whose right to informed consent was denied.

In early 1998, when the problems in sterilisation services came to public light, Catholic Church officials, leaders of rightwing lay Catholic groups and ultra-conservative policymakers used the evidence of abuses to advance their own agenda, calling for an immediate end to government-sponsored family planning services (Coe, 2004, p. 63-64). The Catholic Church called ‘unnatural and immoral’ the Family Planning Program of Fujimori’s regime (Cho, 1998, p. 452).

Late in 2000 Fujimori abdicated to the power due to a major political scandal of corruption. After a short transition government headed by Valentin Paniagua, new general elections pointed to Alejandro Toledo as the new constitutional President of Peru for the period 2001-2006 (Caceres, et al. 2007, p. 132). The new president appointed two ultra-conservatives to top government posts that

overshadowed the progress made in promoting reproductive health and rights in Peru between 2001 and 2003 (Coe, 2004, p. 65).

Luis Solari and Fernando Carbone, physicians allied with the ultra-conservative groups Opus Dei and Sodalitium Christianae Vitae were one after the other Ministers of Health from mid-2001 to late 2003 (Caceres, et al. 2007, p. 133). Both men worked

...to impede access to services and information on modern contraceptives, the use of condoms to protect against STIs and HIV, and to treat complications from unsafe abortion (Coe, 2004, p. 65).

They “used the media to condemn premarital sex and homosexuality and to question the use of condoms, which were portrayed as not only immoral but also unsafe in terms of individual and public health” (Caceres, et al. 2007, p. 145). Their speech about the role of women in the family being primarily related to motherhood, obedience to their husbands and devotion to their children was reinforced by the Archbishop and Opus-Dei member Juan Luis Cipriani (Caceres, et al. 2007, p. 146).

Two issues that evoked strong criticism among the public and feminist groups were related to the opposition of the Catholic Church to the distribution of emergency oral contraception in public health services and the implementation of a National Protocol to regulate the legal practice of therapeutic abortion.

In the first case, although, the commercial sale of Postinor 2 was available since 2002 in pharmacies and private medical services, it was not made available at public hospitals. At the same time, USAID/Peru’s support to NGOs to make emergency contraception available was blocked by drawing on ties with ultra-conservatives in the US, who in turn put pressure on USAID officials in Peru (Chavez and Coe, 2007, p. 142). This situation was criticized for being openly discriminatory for women of low income level in Peru, even more taking into account that they are the majority.

In July 2003 both ministers resigned after consistent pressure from women’s groups, HIV/AIDS organizations and progressive medical associations (Coe, 2004, p. 66; Caceres, et al. 2007, p. 147). However, the issue of the distribution of emergency contraception remained under debate for

six more years. The case was brought to the court in 2002. A counter-demand to ban emergency contraception was placed before the court. In late 2006, the Constitutional Court ruled in favour of its distribution (Faúndes et al., 2007, p. 135; Chavez and Coe, 2007, p. 143). However, the struggle was not over. In October 2009, the Constitutional Court banned the distribution of this contraceptive claiming abortive properties (Alai, 2009). In March 2010, the Ministry of Health decided to distribute the pill covered in the official position of the World Health Organization, which states that the abortion pill has no abortive effects (Promsex, 2010). This decision provoked political tension with the authorities of the national Church. The archbishop of Lima publicly demanded that the Minister of Health resign (El Comercio, 2010).

In the case of the Protocol to regulate the legal practice of therapeutic abortion, the Catholic Church has tried to prevent any attempt to implement it using political lobbying in central government. According to Human Rights Watch (2008, p. 22) the proposal of the protocol submitted by the Ministry of Health before the Presidency of the Council of Ministers was declared unconstitutional in December 2007, based on the observation that the contents of the protocol affects ‘the fundamental right to life of the conceived [fetus]’ (Human Rights Watch, 2008, p. 22).

Appealing to the principle of regional independence, in December 2007, the health ministry of Arequipa decided to regulate therapeutic abortion and in February 2008, publicly announced that the protocol would go into effect immediately for all public and private hospitals in the region. The reaction from the Catholic Church was immediate and well-publicized in the newspapers and periodicals. Under direct pressure from the Archbishop of Arequipa, the regional president suspended the protocol (Human Rights Watch, 2008, p. 24). Human Rights Watch (2008, p. 20) has declared that the State is not doing enough to ensure that women have access to legal abortion and that the major impediment is the lack of a national protocol on therapeutic abortions which also contribute to maternal death and disability.

As a result, although Peruvian women have the legal right to access to therapeutic abortion when their lives or health is at risk, the absence of a medical protocol that states the procedure and the conditions in which it should be practiced makes its application impossible. The pernicious effect of this political decision made on the basis of religious intervention, means that women with scarce

economical resources, which are the majority in Peru, have to bear the consequences of exposing their lives to clandestine abortions paradoxically to save their lives. Likewise, also, the ups and downs on the distribution of emergency oral contraception is another issue that has affected the poor women who can only buy in public health services. This put into question the compromise that the Peruvian State has taken in favour of different international declarations and conventions regarding sexual and reproductive health and raises a problem of social justice that is linked to the relations between the Catholic Church and the Peruvian government, that have been forged since the Spanish conquest to the present day. Therefore, in the following sub chapter we will present a brief overview about the history of the relationships between the Catholic Church and the Peruvian State that will provide us a better understanding of the role currently played by this institution in Peruvian politics.

1.3. AN OVERVIEW ABOUT CHURCH-STATE RELATIONS IN PERU

The sacralisation of political activities has a long history in Peru. Throughout history, from the earliest pan-Andean culture until the establishment of the Inca Empire, religion has played an important role in the emergence of complex social formations and particularly since the sixteenth century, when the Inca Empire was conquered by the Spanish military force. Here, Spaniards were not only represented by the Spanish crown, but also Christendom and while exploiting the indigenous population, the Spanish conquistadors converted them to Christianity (Benavides, 1989, p. 173).

Although the interactions between Europe and the Andean world were not fundamentally religious; conquest, millenarian hope, cultural and physical genocide, self-defence, consolidation of political power, and control were articulated to a lesser or greater extent in religious terms (Benavides, 1989, p. 174). The institution of '*patronato regio*' regulated the relations between the Spanish crown and the Catholic Church during the colonial period. When Peru became independent in 1821, the Catholic Church had already forged strong links with political power. The '*patronato regio*' continued to be effective in the new State (Boyle and Sheen, 1997, p. 143).

The Constitution of 1823 established the religion of the Republic –the Apostolic and Roman Catholic Church – to the exclusion of any other. Similar provisions were contained in the Constitutions of 1826, 1834, 1839, 1856, 1860 and 1867 (Garcia-Montúfar and Martinez, 1999, p.

512, 513). In 1874, Pope Pius IX's Papal Bull gave the president of the Republic of Peru the same right of patronage that Spain had previously enjoyed (Boyle and Sheen, 1997, p. 143). In January 1880, the President of the Republic, Don Nicolas de Piérola, retroactively incorporated this institution into Peruvian legislation (Garcia-Montúfar and Martinez, 1999, p. 512). Through this system, the government obtained the power to propose the religious authorities of the Church, in return for the protection and financial support of the religion.

The Constitution of 1920 was the first to protect the freedom of conscience as an individual guarantee. The Constitution of 1933 established the right of all religions to enjoy the liberty to exercise their respective cults (Garcia-Montúfar and Martinez, 1999, p. 514). Additionally, this last Constitution makes an important formal amendment that the State can protect religion: Catholic, Apostolic, and Roman; but no longer profess it doctrinally (Huaco, 2007, p. 328).

Three decades later, between 1962 and 1965, the Second Vatican Council agreed to begin procedures to remove the systems of patronage granted in several countries, in order to achieve greater independence and autonomy, whilst also guaranteeing the freedom of religion. This goal was achieved in Peru with the enactment of a new constitution 14 years later, which was based on the proposal of the Peruvian Episcopal. The Constitution of 1979 provided in Article 86 reads as follows:

Article 86: Within an independent and autonomous regime the State recognises the Catholic Church as an important element in the historical, cultural and moral formation of Peru. It gives it its collaboration. The State may also establish forms of collaboration with other confessions.

This article established the duty of the State to collaborate with the Catholic Church taking into account the role that played in the formation of the new nation. Thanks to the principle of collaboration the Church received autonomy and independence, without losing the privileges that were received since colonial times. Marco Huaco (2007, p. 331) notes that due to the unstoppable progress of liberal ideas and its legal consecration in the modern constitutionalism, the Catholic Church decided to take certain distance from the State in order to preserve its unique privileged

position. Therefore, it encouraged its bishops to recognize and speak clearly in favour of the once reviled religious freedom, but at the same time to favour the confessional status of the State.

Subsequently, on July 16, 1980 the military junta that ruled Peru at that time issued a Decree-law (no. 23 147) that repealed the National System of Patronage. On July 19, 1980 a new agreement was signed between the Catholic Church and the Peruvian government. According to Huaco (2007, p. 334) the negotiations for this agreement were covert and two days later, the agreement was ratified by both parties. The Decree-law that approved the deal was posted on Friday, July 25, 1980 in the official newspaper in a second unusual edition of only two hundred copies. The ratification of this international agreement took place on July 26, 1980, two days before the new Constitution which was approved in 1979 entered into force.

In real terms, the privileged status of the Catholic Church did not change. Most of the benefits that the Catholic hierarchy received through the National System of Patronage were renewed by the Concordat. These benefits consisted of the granting of subsidies to people, works and services of the Catholic Church, exemption from payment of taxes, granting pensions to the priests who have been in charge of a diocese and the authority of Bishops to appoint the teachers in charge of the Catholic religion course taught in public schools, among other benefits (Huaco, 2007). The next Peruvian Constitution approved in 1993 followed the position of the previous one but it added a new feature: the respect towards other beliefs and the possibility of establishing forms of cooperation with them.

Boyle and Sheen (1997, p. 143) point out that “because of the privileged position of the Catholic Church, it is only in the past forty years that Protestant churches have appeared in any number in Peru.” According to them (1997, p. 142):

[A]lthough 92 percent of Peruvians have been baptised in the Catholic Church, census figures show a fall between 1981 and 1993 in the number who identify themselves as Catholics from 95 to 89 per cent.

Indeed: “Protestants have been a political presence throughout the history of Peru, pressing for constitutional guarantees of freedom of thought and religion” (Boyle and Sheen, 1997, p. 144).

The new constitutional clause has served as a platform to require the Congress of the Republic the approval of a law on religious freedom and equality. Unfortunately, the results have been unsuccessful.

In brief, as we have seen in this subchapter, although Peru was initially an openly confessional state, the influence of liberal democratic principles with the decision of the Second Vatican and the pressure of other religious groups have encouraged the government to seek formal separation from the Catholic Church. In practice, however, the Catholic Church continues to enjoy various legal and economic benefits. The privileged status of the Catholic Church brings into question the coherence of the current Constitution which on the one hand: recognizes the principles of freedom of conscience and religion, the right to religious equality, freedom of religious education; and, on the other hand, favours the Catholic Church to the detriment of other faiths that have arisen despite the limited room for formal and actual freedom they have received. This tension will remain while a constitutional amendment declaring the equal treatment of all religions without any distinction is not promoted.

1.4. THE EMERGENCE OF CONSERVATIVE MOVEMENTS WITHIN THE CHURCH

AQUÍ ACLARAR la diferencia entre tradicionalistas y conservadores según artículo de Peña.

Tradicionalistas sus seguidores son del Sodalicio de Vida cristiana que se enfoca en individuos que adoptan ciertas tradiciones de la Iglesia (como decir misas en Latín, usar símbolos particulares –como María y otros santos como tipos ideales– y enfatiza las enseñanzas sociales de la Iglesia oficial) pero que no están cercaos a los valores fundamentales formulados por el Vaticano II.

Conservadores son individuos que insisten en retener no sólo las relaciones sociales anteriores al Vaticano II sino además las actitudes. Sus seguidores son del Opus Dei.

The tensions that have been explored in the previous section between the Catholic Church and the Peruvian State have found its echo at a different level in the debates within the Catholic Church. The emergence of a Catholic progressive movement nourished by the agreements of the Second Vatican Council generated concern among the leaders of the Catholic Church that decided to promote

the strengthening of the conservative groups of the Peruvian Catholic Church. In this section we will describe this internal tension that explains the current positioning of the conservative movement in Peru.

During the mid 1950s, a movement of Spanish origin named '*Opus Dei*' settled in Peru. This group had a traditionalist tendency and managed to position itself politically through the establishment of educational institutions for the education of the upper classes and the 'Peruvian aristocracy', as well as securing senior positions for its members in State institutions and through the implementation of sustainable economic development projects in rural areas (Mujica and Cerna, 2008, p. 5). In the same decade, the first general continental conference of the episcopate was performed in Latin America in 1955. According to Klaiber (1996, p. 49, 50) this event symbolized the beginning of the stage of 'modernization' involving a confrontation between the Church and the modern world. The new values were: political democracy; economic development; cultural and religious pluralism; and anti-communism. The theologians of Modernity – Yves Congar, Karl Rahner, Henry de Lubac, Jean Danielou – stressed the need for further biblical studies to create a theology more humanistic and open to the non-Catholic world.

In this context, the Second Vatican Council was convened in 1962. This was the twenty-first Ecumenical Council of the Catholic Church. It was opened under Pope John XXIII in 1962 and closed under Pope Paul VI in 1965. According to Klaiber (1996, p. 49, 50) the Council changed their attitude toward the secular world. Following the Second Vatican Ecumenical Council, in 1967 Pope Paul VI promulgated the Encyclical Letter *Populorum Progressio* where he highlighted the Church's interest for the development of the people:

[P]articularly the development of those peoples who are striving to escape from hunger, misery, endemic diseases and ignorance; of those who are looking for a wider share in the benefits of civilization and a more active improvement of their human qualities; of those who are aiming purposefully at their complete fulfilment (Paul VI, 1967).

An interest for social justice was another feature of this change of attitude. In order to apply to Latin America the agreements of Vatican II, in August 1968, about 130 Catholic bishops (representing more than 600 in Latin America) met in Medellin, Colombia (Berryman, 1987, p. 22). At the conference the bishops spoke out strongly in favour of social justice and expressed their solidarity with the underclass of the whole continent (Klaiber, 1996, p. 53).

One of the advisors at Medellín was the Peruvian theologian Gustavo Gutierrez who outlined a 'theology of liberation' in a talk in Peru a few weeks before the conference in Medellin. That was the first time this expression was used. Gutierrez developed his ideas in subsequent papers. Other priests like Hugo Assmann from Brazil and Enrique Dussel from Argentina offered a similar approach (Berryman, 1987, p. 24). In this way he created a school of thought among Latin American Catholics according to which the Gospel of Christ demands that the Church must concentrate its efforts on liberating people from poverty and oppression (Berryman, 1987, p. 32). It is clear that liberation theology was influenced by the Second Vatican Council and the 1967 papal encyclical *Populorum Progressio*.

In October of 1968 (the same year of the Medellin conference) a military regime was installed in Peru led by General Juan Velasco Alvarado. Unlike other Latin American countries that were ruled by right-wing dictatorships, Peru was governed by a reformist military government that openly sought the support of the Church (Klaiber, 1996, p. 54). This fact helped the vitalization of the liberationist movement led by Gutierrez.

Five years later, in 1973, a group called 'God and Country' began appearing at the Catholic University of Lima and by 1974 the group included its religious sector *Sodalitium Vitae* which was founded by Luis Fernando Figari who had ties to conservative organizations. Opposed to the liberalization of the Church, Figari began publishing his ideas about the theology of reconciliation as a response to the liberation theology (Peña, 1992, p. 163).

According to Peña (1992, p. 160) the *Sodalitium Vitae* movement contributed to the reformation of liberation theology by framing the theology of reconciliation discourse as an alternative ideology to liberation theology. This movement grew out of a general discontent among the conservative sector of the Catholic Church. Indeed, the practice of liberation theology led to

numerous church-state confrontations in Latin America. Therefore, it was not surprising that some Church people were tempted to soften Medellín's original commitment, through a renewed emphasis on poverty as a spiritual attitude (Berryman, 1987, p. 43). By emphasizing the spiritual poverty of people, the conservative sector of the Catholic Church in Latin America sought to weaken the emergence of the liberationist movement.

Peña (1992, p. 171) contends that the 1979 Bishop's meeting at Puebla gave Pope John Paul II the opportunity to revise some aspects of the prior Bishops' meeting at Medellín (1968). Cardinal Ratzinger, as head of the Vatican's Sacred Congregation for the Doctrine of Faith, used Puebla (1979) as a springboard for leading the censorship of liberation theology. Therefore, Puebla provided an initial caution to liberation theology.

In 1983, four years after the Puebla encounter, Cardinal Joseph Ratzinger sent the Peruvian bishops a letter listing objections to Gustavo Gutierrez's theology (Berryman, 1987:109). This letter strengthened the discourse of theology of reconciliation as well as the movements that supported it – conservatives and traditionalists. In 1984 Cardinal Joseph Ratzinger condemned liberation theology in his *Instruction on Certain Aspects of the Theology of Liberation*. One year later, the Sodalitium's 1985 conference was organized (Berryman, 1987:185, 86). The *Opus Dei* was one of several groups in Peru that played a major role in efforts to censor liberation theology (Peña, 1992, p. 161). Indeed, “the lists of panellists present at the first Theology of Reconciliation Conference in 1985, organized by *Sodalitium Vitae*, indicated the extent of support of Opus Dei and other individuals to the *Sodalitium Vitae* program” (Peña, 1992, p. 166). Here both conservative and traditionalist groups rigidly followed an authoritarian, top-down model of the Church and viewed theology unidimensionally. In contrast, liberationists belonged to a category of progressives within the Catholic Church, who believed that the Church must assume a political responsibility, to promote social justice (Peña, 1992, p. 161). On the other hand, “religious traditionalism also perpetuates the valuation of women primarily for their reproductive role, thereby rejecting reproductive self-determination” (Cho, 1998, p. 431).

Up until the mid 1980s, the country experienced hyperinflation, recession, rampant unemployment and grave human rights violations (Caceres, et al. 2007, p. 131). This political environment helped the traditionalists. Terrorism, violence and economic crisis served to quell any

institutional impetus of political activism within the Church (Peña, 1992, p. 166). In this way the emergence of a progressive movement within the Catholic Church inspired by Liberation Theology was co-opted by both the decision of the Vatican authorities and by the context of political chaos experienced by Peru in the early 80's. The far right wing of the Catholic Church took advantage of this context to take the leadership of the institution with the aim of having a major political presence and intervene in the shaping of public policies regarding sexuality and reproduction according to its traditional view, as described in the first section of this chapter.

1.5. CONCLUSIONS

The aim of this chapter was to present a contextual overview about the current state of play between Secular and religious forces in Peru. In so doing, I have shown that Peruvian public policies on sexuality and reproduction are being overshadowed by the intervention of conservatives groups of the Catholic Church, that seek to apply strict interpretations of religious doctrine to broad-based public policies, with little regard for scientific evidence and no respect for individual choice. The obstacles that these groups put to prevent the distribution of emergency contraception in the public health services and to implement a national protocol to regulate the legal practice of therapeutic abortion are two clear examples.

I have also argued that the role currently played by the Catholic Church in the shaping of public policies on sexuality and reproduction can be mainly attributed to two facts. The first one is the privileged legal status that the Catholic Church enjoys since the Spanish conquest to the present day that has favoured an important political role in Peruvian politics. Those in power rely heavily on the political backing of the Catholic Church to keep their popularity. The second fact is the incursion of the conservative movements within the Peruvian Church that occurred due to the explicit support that they received from the Vatican and the context of political chaos experienced by Peru in the early 80's. This fact has favoured a major political presence of the Catholic Church in the shaping of public policies regarding sexuality and reproduction from a conservative perspective.

Under this context I conclude that so long as the Peruvian State will continue needing the traditional political backing of the Catholic Church, it will continue to be subject to its religious desires and to the detriment of women's rights. Thus, we must question the role of this religion in the Public Square regarding policies on abortion and birth control, which have direct consequences on the life and destiny of many women in Peru. This question will be analyzed in the following chapters.

CHAPTER II

THE ROLE OF RELIGION IN THE PUBLIC SQUARE UNDER THE IDEA OF PUBLIC REASON

2.1. INTRODUCTION

The right to freedom of conscience and “the need for some sort of separation between religion and politics” (Callaway, 2009) enjoys wide consensus in Western Political Philosophy. However, this theme continues to draw attention due to the intervention of religious institutions in public debates on moral issues and the political tensions they provoke as I have demonstrate in the previous chapter regarding the Peruvian case. Even in countries with a long tradition of secularization, as it is the case of America, religion has a strong influence in politics. Wald and Calhoun-Brown (2007, p. xi) note that many journalists, foreign observers, and American citizens now assume that religion has become the driving force in American politics. As evidence, they point to the language of American politics (‘culture of life,’ ‘faith-based policy,’ etc.), the missionary foreign policy style of the Bush administration, the eruption of issues such as same-sex marriage and stem cell research, and evidence of religious mobilization in recent elections. Consequently, this undermines the foundational principle of the separation of Church and State and has threatened the guarantee of the principles of liberty, equality and plurality that govern modern democracies.

The aim of this chapter is to review the academic debate on the relationships between religion and politics, then to present Rawls’s approach on this matter, as well as the feminist criticism of his

proposal. The *Political Liberalism* of John Rawls (2005) is an innovative approach that goes beyond the secular/non-secular bias in which the debate has stalled not only in the Peruvian case but also worldwide. Utilizing the idea of public reason, Rawls argues that comprehensive doctrines (religious or secular) can participate in the public sphere, without exacerbating tensions that coexist among them, by reinforcing their adherence to common values that all are able to share. This chapter presents Rawl's arguments to address the question of how the Catholic Church can participate in public debates on abortion and birth control policies in Peruvian society.

2.2.A BRIEF OVERVIEW OF THE DEBATE ABOUT THE RELATIONSHIPS BETWEEN RELIGION AND POLITICS

Academic discussion on the separation of religion from politics has been prolific. There are a wide range of views about ways to address the matter. On one end of the spectrum are those who argue in favour of a confessional State (with an established religion) and at the other end of the spectrum, lies those who come from the liberal tradition and affirm a strict separation between religion and politics, which are known as secularists. In the latter category, there is more than one nuance that goes from a friendly separation to hostile separation. Thus, the debate regarding religion and politics has been dominated by the polarization of secular and non secular positions.

The liberal tradition has been more or less, in favour of a clear separation between religion and politics. The standard liberal view of religion and State has favoured its separation but recognizing the exercise of worship in public. The main figure of traditional liberalism is John Locke, who dominated much of the discussion about religion between 1690 and 1780 (Young, 1998, p. 1). Today, John Rawls can be considered one of the main contemporary voices of liberalism. In, *A Theory of Justice* (1971) he defends the liberty of conscience and rejects the notion of a confessional State by appealing to the value of fairness. The State should not favour any particular religion and no penalties or disabilities may be attached to any religious affiliation or lack thereof. Everybody should have the right to pursue their own understanding of the good (religious or otherwise) and the only limitation for the liberty of conscience should be the common interest in public order and security.

In contrast, an openly anticlerical view is put forward by Richard Rorty, who argues that religion must be excluded from political life and Public Square (Fessenden, 2007; Quinn, 1995, p. 35). Rorty (2003, p. 141) claims that democratic societies should think of themselves as having exchanged toleration for an assurance that believers would leave their religion at home when discussing political questions in public. He hopes that ecclesiastical organizations will eventually disappear and that the gap left in the lives of religious believers will be filled by an increased sense of participation in the advancement of humanity –theist and atheists together– toward the fulfilment of social ideals.

2.3. FROM THE POLARIZATION SECULAR/NON SECULAR TO THE IDEA OF PUBLIC REASON

In 1993, with the publication of his book *Political Liberalism* John Rawls transformed the debate by offering a new way of addressing these issues, which stuck in the polarization secular/non secular views. Rawls, states that in a pluralistic society, where various comprehensive doctrines (religious or philosophical) coexist, it is not possible to reach agreement on the basis of their irreconcilable comprehensive views. In view of this, they need to consider ‘public reasons’ based on values that each other can reasonably be expected to endorse (Rawls, 2005, p. 441). This figure has been called ‘overlapping consensus’ and suggests that rather than requiring citizens to accept any particular comprehensive doctrine of liberalism, the aim is to appeal to principles that each citizen may reasonably accept from his or her own comprehensive doctrine. Thus, the consensus is on the principles themselves, rather than the justification for those principles and as such, the conception of justice offered is ‘political’ rather than ‘metaphysical.’ In this way citizens can support a political conception of justice without having to weaken their hold on their own private comprehensive view (Callaway, 2009).

This view of liberal justice marked a break with Rawls’s earlier ‘metaphysical’ liberalism as expressed in *A theory of Justice* (1971). Previously, Rawls had attempted to find –in some way as it happened during the Enlightenment– a new comprehensive philosophical and secular doctrine that would provide a synoptic worldview to deal with all of life’s problems (Dombrowski, 2001, p. 3). In

this sense, political liberalism became distinctive from comprehensive liberalism (Hartley and Watson, 2009, p. 496). Secular reason is not the same as public reason. Whilst, the former is defined as reasoning in terms of comprehensive nonreligious doctrines, the latter includes both religious and nonreligious comprehensive views (Rawls, 2005, p. 452). Accordingly, all arguments, secular or religious ones are seen in the same way (p. 458).

In his first version of *Political Liberalism*, Rawls formulated an inclusive idea of public reason by allowing the appeal to comprehensive doctrines, but only insofar as appeals were aimed at moving an unjust society towards justice (Hartley and Watson, 2009, p. 503). After receiving criticism for being restrictive regarding the participation of comprehensive doctrines in the public sphere (Weithman, 1994; Solum, 1994) Rawls modified his view in favour of a more permissive inclusive idea of public reason in a new version of *Political Liberalism* published in 1996. In this work, Rawls, allows the participation of comprehensive doctrines in public sphere *at any time* (emphasis added) provided that they present political reasons that can be shared by citizens that hold different comprehensive views (Rawls, 2005, p. 453). Slightly different versions of an inclusivist idea of public reason and the role non-political values can play in the public forum have been given by Weithman (1994), Solum (1994), Perry (1993) and Quinn (1997).

Rawls's proposal has led to a new debate about whether political liberalism should allow certain or all comprehensive doctrines to be included in public deliberation or not. The proponents of the first claim have come to be known as 'inclusivists' and their opponents as 'exclusivists' (Callaway, 2009). Whilst defenders of the inclusivist position argues that religious considerations are not only appropriate in political debates and decisions but indispensable to the vitality of pluralistic democracy (Audi and Wolterstorff, 1997, p. ix); exclusivists claim that "government should be neutral toward religion and that religion and politics should be –in certain way– separate both at the level of church and state and in the political conduct of individuals" (Audi, and Wolterstorff, 1997, p. ix).

Robert Audi is the main figure of the exclusivist position. He has argued that the set of public reasons to be presented for political deliberation must be restricted to secular reasons because only secular reasons are publicly accessible in this way. Religious reasons are not suitable for public deliberation since they are not shared by the non-religious. On the contrary, secular reasons can

include non-religious comprehensive doctrines, such as particular moral theories or conceptions of the human good that would be excluded by conceptions that restrict all comprehensive doctrines (Callaway, 2009). A different account in favour of an exclusivist position has been given from a feminist perspective as I will show in this chapter.

For the purposes of the present work, I will not consider the debate generated between the exclusivist and inclusivist position. This work will focus specifically on Rawls's inclusivist position, on the premise that his proposal offers a new way of addressing the contraposition that exists between the secular view and the religious one. It is argued that his view opens the possibility of reaching an understanding. Therefore, the following sub chapter will present Rawls's idea of public reason in more detail.

2.4. RAWL'S IDEA OF PUBLIC REASON

For Rawls the idea of Public Reason in a constitutional democratic society is based on the observation that it is not possible to find a common ground between a plurality of conflicting and irreconcilable reasonable comprehensive doctrines (religious, philosophical, and moral). Therefore, citizens need to consider what kinds of reason they may reasonably give one another on matters of fundamental political questions in order to reach a minimum agreement (Rawls, 2005, p. 441).

The idea of Public Reason has a definite structure. It has five different aspects: (1) its subject is the public good concerning questions of fundamental political justice, which questions are of two kinds, constitutional essentials and matters of basic justice (Rawls, 2005, p. 442). (2) It applies to citizens and public officials when they engage in political advocacy in a public forum; it also governs the decisions that officials make and the votes that citizens cast in elections (Solum, 1996, p. 1465). (3) Its content must be given by a family of reasonable political conceptions of justice (Rawls, 2005, p. 442). They must be able to offer one another fair terms of cooperation according to what they consider the most reasonable conception of political justice (Rawls, 2005, p.446). Public reasons must not be presented as true or right propositions, but as reasonable and the public political culture needs to be viewed, in some sense, as distinct from the background culture of society (Hartley and Watson, 2009, p. 498). (4) The application of these conceptions in discussions of coercive norms to be enacted

in the form of legitimate law for a democratic people. (5) Citizens' checking that the principles derived from their conceptions of justice must satisfy the criterion of reciprocity (Rawls, 2005, p. 442). When they agree to act on these terms, they need to do it even at the cost of their own interests in particular situations, provided that other citizens also accept those terms (Rawls, 2005, p.446).

By emphasizing that his idea of public reason has been designed in the context of democratic systems, Rawls acknowledges that his 'Political Liberalism' will be rejected by fundamentalist religious doctrines, and autocratic and dictatorial rulers that do not share the democratic principles. Those groups that do not accept these values, he adds, will assert that the religiously true, or the philosophically true, overrides the politically reasonable. According to Rawls, those doctrines are simply politically unreasonable (2005, p. 488). Accordingly, those who believe that fundamental political questions should be decided by what they regard as the best reasons according to their own idea of the whole truth and not by reasons that might be shared by all citizens as free and equal are not in accordance with democratic citizenship and the idea of legitimate law (Rawls, 2005, p.447).

Rawls asks how is it possible for religious people, as well as nonreligious (secular), to endorse a constitutional regime, even when their comprehensive doctrines may not prosper and may in fact decline (Rawls, 2005, p. 459). He mentions the case of people holding religious doctrines based on religious authority like the Church or the Bible, as examples (Rawls, 2005, p. 458). He answers this question noting that if:

...no one is expected to put his or her religious or nonreligious doctrine in danger, we must each give up forever the hope of changing the constitution so as to establish our religion's hegemony, or of qualifying our obligations so as to ensure its influence and success (Rawls, 2005, p. 460).

He states that: "to retain such hopes and aims would be inconsistent with the idea of equal basic liberties for all free and equal citizens" (Rawls, 2005, p. 460). Based on a political conception of justice as fairness, Rawls asserts that religious and nonreligious doctrine should understand and accept

that, apart from endorsing a reasonable constitutional democracy, there is no other fair way to ensure the liberty of its adherents (Rawls, 2005, p. 460).

Rawls affirms that reasonable comprehensive doctrines (religious or nonreligious) can introduce claims in public political discussion provided that, in due course, they can present proper political reasons and not reasons given solely by comprehensive doctrines. He calls this injunction to present proper political reasons as the proviso (Rawls, 2005, p. 462). Rawls clarifies that he is not asking religious believers to renounce their most cherished beliefs. They can even cite the Bible in their political arguments if they wish, as long as they offer public reasons for their views that can be understood and assessed as apart from any particular comprehensive doctrine, whether religious or nonreligious (Dombrowski, 2001, p. xi). To illustrate this requirement, Rawls mentions the case of Martin Luther King's who appealed to religious consideration in the public sphere, to address people's sense of justice (Freeman, 2007, p. 383).

Rawlsian political liberalism cannot be accused of unfairly privileging the secular over the religious since it excludes both religious and secular comprehensive doctrines when drawing the boundaries of public reason (Quinn, 1995, p. 42). Indeed, not all secular comprehensive views can apply for public reasons. Solum (1996, p. 1464) considers the case of the hedonistic utilitarian premise that only pleasures and pains are of fundamental value. Although this premise is secular, it is a non-public reason because it cannot be accepted as a reasonable ground for action by the public at large, which hold a variety of reasonable comprehensive doctrines. In this light, Rawls's Political Liberalism can be described as the best proposal given in the philosophical political debate regarding the tensions that exist among many religious associations and secular groups that in Rawls's words strives to become the controlling political force and that can eventually divide a society sharply (Rawls, 2005, p. 484). As it has been noted by Depaul:

...it is difficult to think of a better contemporary example of a philosophical position that derives its support holistically, from the ways the various elements fit together and mutually support one another, than Rawls' version of political liberalism (1998, p. 104).

Although Rawls's theory has been embraced by many scholars working on the issue of the relationships between religion and politics, his approach has not been exempt from criticism. As discussed in the next sub chapter, feminist voices have spoken out against his defence of an inclusivist idea of public reason.

2.5. RAWLS AND THE FEMINIST CRITIQUE

Rawls's *Political Liberalism* has been criticized by feminists such as Susan Okin, Ann Levey and Ruth Abbey because it accepts as reasonable some comprehensive doctrines that promote gender inequality in the distribution of power opportunities and other resources (Hartley and Watson, 2009, p. 500). They assert that Political liberalism is too tolerant of sexist doctrines and gender-based practices that privilege men over women and it shields from public inspection, criticism and dialogue practices that foster gender inequality (Hartley and Watson, 2009, p. 496). Feminist critics claim that Rawls's inclusivist approach can only support a formal model of equality and does not have the theoretical resources to secure substantive equality for women (Hartley and Watson, 2009, p. 495).

Moreover, Rawls has asserted that:

A liberal conception of justice may have to allow for some traditional gendered division of labor within families –assume, say, that this division is based on religion– provided it is fully voluntary and does not result from or lead to injustice (Rawls, 2005, p. 471).

Rawls justifies the existence of this type of family provided that their members have the freedom to enter or exit from those systems. However, he does not take into account the case of children who according to Martha Nussbaum and Susan Okin, are not voluntary members of the family and they do not enjoy the same freedom of exit as adults form associations and institutions, even if protected in such institutions from abuse, neglect and abandonment. They add that often individuals reared in gender-structured environments internalize sexist values and may prefer and value a gender-structured life (Hartley and Watson, 2009, p. 500, 501). This argument has been

known as 'adaptive preferences' and challenges Rawls's defence of the freedom of choice on the part of family members.

Whilst I fully agree with the criticism put forward by liberal feminists regarding the pernicious consequences of being raised in a gender-structured environment, I highlight that Rawls's Political Liberalism has been designed to be applied to political culture, and not to the background culture. As Rawls states:

The idea of public reason neither criticizes nor attacks any comprehensive doctrine, religious or nonreligious, except insofar as that doctrine is incompatible with the essentials of public reason and a democratic polity (Rawls, 2005, p. 441).

Following this premise, I consider that feminists can certainly condemn sexist comprehensive doctrines in the background culture as Hartley and Watson (2009, p. 535) have also recognized. But at the same time, following Rawls's proposal, feminists should take up the challenge to translate in terms of public reason the injustice for women to be raised in an environment with sexist values in order to generate a political change. It is worth noting that S.A. Lloyd has tried to defend Rawls's theory from Okin's criticism. Lloyd argued that the family is 'subject to the constraints a just basic structure imposes' and this affords women meaningful equality (2009, p. 500, 495). However, according to Hartley and Watson, Lloyd, it:

...does not sufficiently address how feminists can argue for principles and policies that will secure meaningful equality for women if they cannot rely on their feminist conception of the good (2009, p. 500, 495).

This seems to be the same reasoning as the religious view of public reason. Religious perspectives affirm that they are excluded from public debate when they are subject to the condition of present reasons capable of being shared by everybody and not reasons based only on their own idea of the common good. If none of these two comprehensive views wants to budge in the debate, there is

no possibility to dialogue. The consequence of this dialogue of the deaf is that many women's inequalities cannot be addressed until the polarization is exceeded. On the contrary, Rawls offers a more fruitful argument when he addresses the debate from the premise that a metaphysical consensus is unreachable. With Rawls's approach, both feminism and religious views have the challenge to submit in Public Square reasons on justice matters for women –including substantial justice issues– that can be accepted by the rest of society but at the same time are supported in their own comprehensive view.

Certainly, Rawls's proposal in relation to the injustice of being raised with sexist values requires further analysis and consideration. Indeed, he admits to “have been encouraged to think that a liberal account of equal justice for women is viable by Susan Moller Okin” (Rawls, 2005, p. 466). However, I believe –as I will try to demonstrate in the following chapter– that his theoretical framework can be useful to solve fundamental women's issues like abortion and birth control that are decisive in women's lives especially in developing countries where these matters are still up for debate.

2.6. CONCLUSIONS

The aim of this chapter has been to present Rawls's approach regarding the debate on the relationships between religion and politics in the context of the academic production that has been devoted to this theme. In doing this, I show that under the idea of Public Reason, Rawls embraces a ‘political’ version of Liberalism instead of a ‘metaphysical’ version offering in this way an innovative approach that goes beyond the secular/non-secular bias in which the debate has stalled.

In these accounts, Rawls affirms that those with religious views must have the right to participate in public debate provided they offer reasons based on their own comprehensive views that at the same time can be reasonably accepted by the rest of citizens that do not share their beliefs. Both religious and secular arguments meet the requirements of public reason when these are provided with a sense of justice. Finally, I conclude that although the idea of public reason can provide a fruitful framework to address fundamental questions of justice for women's lives like the case of abortion and birth control in Peru I remark that feminist criticism against Rawls's proposal remains unsolved.

CHAPTER III

ABORTION FROM A PUBLIC REASON PERSPECTIVE

3.1. INTRODUCTION

In the previous chapter I have offered John Rawls's approach regarding the place of religious or secular comprehensive doctrines in Public Square. In doing this, I have concluded that reasonable religions must have the right to participate in public debate provided they offer reasons based on their own comprehensive views that are imbued with enough sense of justice to be accepted by the rest of citizens that do not share their metaphysical assumptions.

The aim of the present chapter is to apply the framework of the idea of public reason to the case of the Catholic Church that claims its duty of shaping a well-formed opinion in Public Square on moral issues such as abortion and birth control. To pursue this task, I will begin by offering Rawls position on abortion from a public reason perspective which favours the right of women to abortion. I will then examine some attempts drawn from a Catholic perspective to address the issue of abortion under the framework of the idea of public reason. I suggest that these approaches are not successful in offering 'public reasons' against abortion without violating the principle of justice for women. In this light, I argue that the fact that the Church's official position on abortion does not fit the criteria of justice established by the public reason has a direct connection to the very idea of justice that the church holds internally.

This leads us to reflect on the voices of Catholic women who bear the consequences of the Church's official position on abortion. On doing this I find that the contributions of the Feminist Theology inspired on the Liberation Theology can provide the theoretical sources that the Official Catholic Church requires to be able to speak from its own tradition to a community that not necessarily shares its vision and yet become a moral guide in that community on issues like abortion and birth control. I shall conclude by answering the question posed in this work regarding the role that the Catholic Church in Peru should play in the Public Square regarding policies on abortion and birth control.

3.2. RAWLS POSITION ON ABORTION FROM A PUBLIC REASON PERSPECTIVE

Although Rawls's work on the idea of public reason does not focus on abortion, he refers to it in a famous footnote, as an illustration of a reasonable balance of public political values. Assuming that the question of abortion is either a constitutional essential or a matter of basic justice, Rawls considers the case in terms of three important political values: the due respect for human life; the ordered reproduction of political society over time, including the family in some form; and finally the equality of women as equal citizens (Rawls, 2005, p. 243). According to him, any reasonable balance of these values will give a woman a duly qualified right to decide whether or not to end her pregnancy during the first trimester, because at this early stage of pregnancy the right of the woman is overriding (Rawls, 2005, p. 243). Any comprehensive doctrine that denies this right is unreasonable and depending on details of its formulation, it may also be cruel and oppressive for example, if it denied the right altogether except in the case of rape and incest (Rawls, 2005, p. 243). He concludes that it would be against the ideal of public reason if we voted from a comprehensive doctrine that denied this right to women (Rawls, 2005, p. 244).

Dombrowski (2001, p. 127) interpreting Rawls's position asserts that the prohibition of abortion violates the rights of the pregnant woman who asks for it. Whilst it is likely, that permitting first trimester abortions does not violate the rights of any person, he adds that although Rawls does not explicitly state why, it is not obvious or even clear that an early foetus has a necessary condition of humanity in the morally relevant sense, that is, sentiency:

The fact that we are, at the very least, as sentient as animals is sufficient to make us moral patients of some sort. But this requires a central nervous system. It should be reiterated that Rawls need not claim dogmatic confidence that the early foetus is morally different from a baby; the ambiguity of the issue itself has political consequences (Dombrowski, 2001, p. 131).

In the same way it should also be recognized that a foetus has a moral significance that is different to that of women.

Rawls emphasizes that when there seems to be a standoff, as there is regarding abortion, when legal arguments seem balanced on both sides, judges and to a lesser extent citizens, ought to resolve the issue of abortion by appealing to arguments that all citizens might reasonably endorse, particularly those whose rights might be violated (Dombrowski, 2001, p. 126). In the same way, opponents of abortion, such as the Catholic Church, should be encouraged to present their view in terms of public reason or in religious terms that can be easily translated into the terms appropriated to public reason (Dombrowski, 2001, p. 128). Rawls (2005, p. 480) asserts that although Catholics need not themselves exercise the right to abortion, at the same time they should not oppose others to practice it. It would be unreasonable to attempt to impose, by force, their own comprehensive doctrine that a majority of other citizens who follow public reason, not unreasonably, do not accept. As Dombrowski (2001, p. 126) highlights: “a liberal democracy will not coerce on a theological basis; it will not do so, at least in part, in order to preserve religious liberty itself.”

Rawls clarifies that the public reason debate is not closed any more than it is closed in any form of reasoning. This would mean that the Catholic Church can provide reasons in the Public Square at any time, as long as they fulfil the conditions of a public reason. Given the context of plurality of modern societies, the Catholic Church has the challenge to find ways to speak cross-culturally in terms of political justice. On the other hand, Rawls (2005, p. 480) clarifies that the fact that the Catholic Church’s non-public reason requires its members to follow the Catholic doctrine, is perfectly consistent with their also honouring public reason.

3.3. THE POSITION OF THE CATHOLIC CHURCH ON ABORTION FROM A PUBLIC REASON'S PERSPECTIVE

The current position of the Catholic Church regarding sexuality and reproduction was stated in the Encyclical *Humanae Vitae* given by Paul VI in 1968. In this document the Catholic Church set out various stances regarding these issues. The Church stated for instance that the sole purpose of conjugal love in its nature is to unite and procreate. Thus, sexual pleasure cannot be pursued as an end in itself (Cho, 1998, p. 431). On these grounds, the Catholic doctrine opposes the use of “any ‘artificial’ methods of family planning, including condoms, birth control pills and intrauterine devices (IUDs)” (Cho, 1998, p. 422). Regarding the issue of abortion, the Catholic Church preaches that a foetus has a soul upon conception, and therefore has as much right to life as a born human being. Therefore, abortion at any stage of the pregnancy, even if done for health reasons, is seen as murder (Cho, 1998, p. 431).

This stance opposes the traditional Christian view on abortion that affirmed that:

Although a human embryo deserved respect from the moment of conception, it was not a human being, with the rights of a human being, until approximately the sixth week of gestation. It was then that the body of the embryo was sufficiently developed to allow the ‘infusion’ of the soul that made it distinctively human. It was a sin to bring about the death or abortion of the embryo, but it was not a sin of murder or homicide. St. Augustine, St. Albertus Magnus, and St. Thomas Aquinas all held this view, and in effect rejected the notion that the embryo was a human being from the moment of fertilization (Schenker, 2000, p. 86).

In this sense these three influential theologians in Catholic tradition were in favour of the delayed hominization in contrast to the current official Catholic view that believes in the immediate hominization of the foetus. This stance poses the question about how such a view could possibly be supported by public reason especially when all reasonable people see women as moral subjects worthy of respect (Dombrowski, 2001, p. 131).

From a Catholic perspective, Cardinal Joseph Bernardin has tried to articulate his opposition to abortion in the form of public reason though according to Rawls, he is unconvincing (Dombrowski, 2001, p. 128). Bernardin defends his opposition to abortion in terms of three basic political values: public peace; protection of rights; and moral standards appropriate in a community of law (Dombrowski, 2001, p. 128). While affirming that the place of the Church is separate from the State but must never be separate from society, Bernardin (1984, p. 373, 374) acknowledges the challenge of the Church is speaking about a public issue from a tradition of faith in a language, which is open to public acceptance by citizens of several faiths or no faith. He also recognizes that religious groups should earn a hearing in the public debate by the quality of their analysis and the consistency of their arguments (Bernardin, 1984, p. 376). However, when he talks about abortion and the role of the State he asserts that the responsibilities of the State include both the protection of innocent life from attack and enhancement of human life at every stage of its development (1984, p. 375). Thus, Bernardin leaves aside any consideration for the other party involved in the issue of abortion: the woman who also has rights – especially if we take into account that she meets all conditions of a human being.

Bernardin's refusal to recognize that it is not fair to impose any particular tradition of the good in a pluralistic society and even less, to impose positions that violate the rights of citizens that do not share its comprehensive view, is evident when he states that the stance on abortion drawn from Catholic theology is not restricted in its application to the community of faith. This is rather, he adds, a truth of the moral and political order which is also fundamental to the Western constitutional heritage (Bernardin, 1984, p. 375). Such would appear to be a position that can hardly be shared by the rest of society, particularly because in the light of public reason, it seems unfair to grant women a lower status than that of an embryo. In our view, Bernardin ends by imposing his own idea of truth and his stance on abortion by appealing to a comprehensive view – the Christian tradition – that certainly has influenced Western societies, but that is not any more a moral reference, if we believe in the right of freedom of conscience and thought.

Another Catholic figure whose approach on abortion has been rather consistent with Rawls's idea of public reason, was the ex Governor of New York, Mario Cuomo (Dombrowski, 2001, p. 128). Cuomo defended his refusal to press for legal restrictions on abortion, despite his agreement with the

church's teachings about the immorality of abortion (Greenawalt, 2007, p. 87). In the speech that he offered in the University of Notre Dame in 1984, he asserted that Catholic public officials take an oath to preserve the Constitution that guarantees the freedom of all, not because they love what others do with their freedom, but because they realize that in guaranteeing freedom for all, they also guarantee their right to be Catholics which includes their right to pray, to use the sacraments, to refuse birth control devices, to reject abortion, not to divorce and remarry if they believe it to be wrong (Cuomo, 1984, p.16). Then, he added, that the price of seeking to force his catholic beliefs on others is that they might someday force theirs on him (Cuomo, 1984, p.16).

Later, Cuomo (1984, p.17) posed a question that is closely related with the problem that I aim to tackle in this work: does the imposition of a law against abortion regardless the religious beliefs of the community promote harmony and understanding, or does it divide the society so fundamentally that it threatens their ability to function, as a pluralistic community? As can be noted, Cuomo prefers to renounce to his deepest religious beliefs in public debate in order to keep intact the foundational principle of plurality of American society. In this way, he indirectly acknowledges that the Catholic Church has not been able to offer arguments regarding its official position on abortion that can persuade the rest of the community and therefore, the current official Catholic Church's stance on abortion has to be set aside in the Public Square. This solution is problematic for the Catholic Church which, in different geographical and historical contexts, has reclaimed its role as moral and religious guide in politics and this has caused tension and division in societies.

From an explicitly Catholic perspective, Gascoigne (2001, p. 1) express in his work *The public forum and Christian Ethics* that Christians seeking to contribute to public ethical debate, are faced with the dilemma of supporting its contribution appealing to arguments that constitute the accepted truths of the public forum or by appealing to the sources of their own tradition. He contends that:

An appeal to a shared public truth has the strength of communicability in a pluralist society, but risks reducing Christian communication to statements of generalities which may have only dubious success in expressing a fragile ethical consensus. In appealing to what is held in

common, Christians may be sacrificing what is distinctive to their own identity in favour of notions whose general acceptance is based more on their vacuity and banality than their universal transparency. Yet, by speaking directly from their own tradition, Christians may succeed only in alienating other members of society, who hear no more than a religious group recounting special claims to authority and privileged sources of ethical guidance, rather than a community which genuinely seeks to contribute to a common human task (2001, p. 1).

Note that Gascoigne addresses the place of the Catholic Church in Public Square from a metaphysical perspective, rather than from a political perspective, when he refers to the ‘public truth’ and not to the ‘public reason.’ Nevertheless, I believe that his comment illustrates the concern of the Church of being able to speak from its own tradition to a community that not necessarily shares its vision and yet become a moral guide in that community. Following the interpretation of Mario Cuomo, the idea of public reason does not seem useful for the purposes of the Church because he sets aside the voice of the Catholic Church, in the public debate on the issue of abortion. Even so, I believe that the theoretical framework of Rawls may provide new insights into how the Church could raise a stance on abortion and birth control, on the basis of their own tradition and yet earn a place in the public forum, on the premise that its arguments are grounded in public reason.

As I have noted previously, under the framework of the idea of public reason, an anti-abortion initiative can hardly prosper because the political values which are in question plainly favour women as a matter of justice and fairness. As Dombrowski (2001, p. 128) notes when opponents to abortion try to secure their position by appeal to God’s breathing a soul into a fertilized egg, the efforts to translate this argument into the terms appropriate to public reason are difficult, especially because the rights of the pregnant woman who wants an abortion, would in fact, be taken away if we adopted their proposals. On these accounts, it can be inferred that the only way that the position on abortion in the Public Square can be modified while being consistent with the principles of political liberalism is offering reasons, which are imbued with such a sense of justice that overrides the rights of women and therefore, can be shared by all members of the community. As far as I know, opponents of abortion have not been able to offer such arguments and instead, have insisted on defend anti-abortion laws

arguing exclusively from their own traditions with the consequence of wiping out any possibility of dialogue with the rest of the community and of undermining their participation in the Public Square.

The crucial issue here is the principle of justice. The fact that the Church's official position on abortion does not fit the criteria of justice established by the public reason leads us to reflect on the very idea of justice that the church holds internally. This observation has also been noted by Dombrowski who asserts that the failed attempts of opponents to abortion to convince most conscientious people, should constitute a datum in disequilibrium with their reflective equilibrium, or in words of Audi with their theo-ethical view (2001, p. 129). Here, it is worth noting that we should differentiate between the current official stance of the Catholic Church on abortion and the range of views that have been raised from a Catholic perspective on this matter. Daniel Dombrowski (2000) and John Courtney Murray (1960) have defended early abortions and contraception respectively from a Catholic point of view. Their arguments prove that a defence in favour of abortion and contraception from a Catholic perspective is possible. However, the official Catholic Church has not considered their contributions.

In this line, we argue that its refusal to adopt those positions can be strongly criticized if we address this issue from a perspective of social justice for women. The voices of Catholic women who bear the consequences of the Church's official position on abortion must be considered here. Many Catholic women have spoken out not only on abortion and birth control but also on the patriarchal vision of the Church from a perspective of social justice. This has put the Catholic Church in a difficult position as discussed in the following sub chapter.

3.4. THE POSITION OF THE ADVOCATES OF FEMINIST THEOLOGY ON ABORTION

The voice of Catholic women has not been absent in the debate on Christian sexual ethics. In the mid-1970s, inspired by the Second Vatican Council which laid the foundation for the development of the Liberation Theology, a group of American Catholic women began to appear and argue that women too were among those oppressed whom God had come to vindicate and liberate (Katzenstein, 1995, p. 41, 37; Ruether, 1992, p. 24). Catholic feminists who espoused Liberation Theology believed

that within biblical faith there was a critical tradition which could be the basis for the liberation of women, as well as of other oppressed people (Ruether, 1980).

American feminist in the Church like nuns, sisters or religious women, as well as laywomen, came together at a national level specifically to address the issues of gender inequality within the institution and within society (Katzenstein, 1995, p. 37). Similarly, most of Catholic feminists from Latin American roots grew up influenced by feminist liberation theologies in the context of the Conference of Latin American bishops in Medellin that was organized to implement the Second Vatican Council to the Latin American context. Medellin led them to engage in the feminist struggle for the transformation of kyriarchal churches and religions (Aquino, 2002, p. 137).¹

Catholic teaching about sex and gender was criticized for being persistently captive to patriarchal assumptions and because they do not effectively surmount the tendency to define women's nature in terms of reproductive function, tying sexual meaning to the biological structure of sex acts, or to focus on the morality of individual acts instead of on the personal, familiar, and social relationships in which they occur (Cahill, 1996, p. 256).

Rosemary Radford Ruether and Mary Daly have been the most important and pioneering figures in the germination of the Catholic Feminist Theology inspired by the Theology of Liberation. Ruether asserts that the uniqueness of this new theology lies in its use of women's experience, which she declares has been almost entirely shut out of theological reflection in the past. Feminist Theology uses women's experience as a critical force, to expose classical theology including its codified traditions, as based on male experience rather than on universal human experience (Ruether, 1992, p. 13). In this light, Ruether (1992, p. 18) asserts that the core principle of Feminist Theology is the promotion of the full humanity of women. Therefore, whatever denies, diminishes, or distorts the full humanity of women must be presumed not to reflect the divine or an authentic relation to the divine or to be the message of an authentic redeemer or a community of redemption.

Ruether denounces that the first subjugation of a woman is the subjugation of her womb, the subjugation of access to her body, so that she should not choose her own beloved or explore the

¹ Further details about the emergence of liberation theology in the Latin American context can be found in the first chapter of this work.

pleasures of her own body but that her body and its fruits should belong first to her father and later to her husband (1992, p. 260). In this sense:

She must obediently accept the effects of these holy male acts upon her body, must not seek to control their effects, must not become a conscious decision maker about the destiny of her own body (Ruether, 1992, p. 261).

In light of these accounts, Catholic women began to question in what ways they could believe on women's equality and be Catholic or Christian, in what ways that patriarchal Church was their church (Katzenstein, 1995, p. 37). Unwilling to leave the Church and to find a home and identity within Catholicism, women appeal to the linguistic construction 'Women-Church' adopted from the phrase used on the Second Vatican Council 'We are the Church' (Katzenstein, 1995, p. 37, 41). With this expression they manifested their desire not to abandon the church as a sectarian group, nor continue fitting into its terms (Rosemary Ruether, cited in Katzenstein, 1995, p. 41). In this context they were gestated groups like Catholics for a Free Choice, the National Coalition of American Nuns, and the National Assembly of Religious Women which undoubtedly were seen by the Vatican authorities as troublesome sources of feminist politics (Katzenstein, 1995, p. 41).

The cries for equality and social justice for the Catholic woman raised by feminist theology had little resonance in the upper echelons of the Catholic Church. On the contrary, the Vatican decided to have more zeal in carrying out its precepts through the imposition of institutional sanctions against those who publicly dissented from hierarchical statements of the Church and explored areas of moral and legal freedom on the abortion question. This attitude led to Catholic feminists to denounce this attitude like in 1984 when the activist group Catholics for a Free Choice asked to the Catholic Church (in a paid advertisement published in the New York Times) for the cessation of these institutional sanctions in the context of the presidential campaign, in which the Catholic candidate for vice-president, Geraldine Ferraro, was being characterized by Cardinal John O'Connor, of New York, a politician for whom Catholics could not vote because of her mildly prochoice position on abortion (Ruether, 1985, p. 1).

In her work, *Catholics and Abortion: Authority vs. Dissent*, Ruether (1985, p. 6) argues that for the Pope and his associates there is one teaching authority, the pope, who both originates and finalizes the ‘truth,’ without having to listen to or be corrected by other sources of insight such as the *sensus fidei* (the actual beliefs and practices of the people) and the scholarly reflections of biblical exegetes and theologians. Ruether (1985, p. 6) criticizes papal absolutism that contradicts the historical Catholic tradition that defends these more pluralistic sources of truth that engage in dialogue and make official definitions only when a broad consensus has been established on a particular issue. Certainly, if the Church's official stance on issues like abortion and birth control was established on the basis of dialogue and consultation of all sources of Catholic tradition, it is very likely that it would not be facing demands for justice and equity within their own comprehensive view.

Consequently, Ruether (1985, p. 6) concluded by affirming that:

Ironically, the effort to make ‘truth’ unitary and absolute, as a way of strengthening acquiescence to church teaching authority, has exactly the opposite effect. It means that the credibility of all church teaching is made to stand or fall as a whole. If the church can be wrong on birth control, it can be wrong on anything.

In fact the loss of moral authority of the Church on their own members regarding these issues was reflected few years later in the 1992 Gallup poll commissioned by activist group in America that revealed more than just the expected disagreements between laity and hierarchy on birth control and abortion (87 percent believe that the Church should permit couples to make their own decisions about birth control; 70 percent, that Catholics can in good conscience vote for political candidates who support legal abortion) (Katzenstein, 1995, p. 46).

Recalling the asseveration of Gascoigne (2001, p. 1) regarding the concern of the Church of being able to speak from its own tradition to a community that not necessarily shares its vision and yet become a moral guide in that community, the challenge faced by the Catholic Church is even greater. To paraphrase Cahill (1996, p. 12) the current Christian sexual ethics needs to finish cleaning its own

house besides of developing a discourse of sex and gender justice which can speak to and hear multiple moral traditions in its own culture and in other cultures.

I might assert that if the official Catholic Church has not been able to facilitate dialogue within its own organization, with feminist voices that cry out for justice, by appealing to the use of a more pluralistic sources of Catholic tradition, it is highly unlikely that the Catholic Church be able to speak to a plural audience that does not share its premises.² In this sense, while the lack of internal justice is not resolved, the Catholic Church has no theoretical source to participate in the public forum offering public reason on abortion and birth control.³

3.5. THE ROLE OF THE CATHOLIC CHURCH IN PERUVIAN PUBLIC POLICIES ON ABORTION AND BIRTH CONTROL

In applying the theoretical framework of John Rawls to the Peruvian case, I appreciate that the Catholic Church would be allowed to participate in public debate and raise its opposition to abortion and the implementation of certain birth control policies, provided that it is able to offer public reasons that can be reasonable accepted by the rest of citizens. However, as we have seen the attempts of the official Catholic Church to raise its opposition to abortion from the framework of the idea of public reason have been unsuccessful due to its arguments violate the principle of justice for women. In this sense, if the Catholic Church wants to have a place in public debate, it needs to provide public reasons that are fair both within its comprehensive vision and beyond it in the Public Square. The Catholic Church would be in position to assume this challenge if it revises its current stances on abortion and birth control from more pluralistic sources of truth of the Catholic tradition as Feminist Theology has suggested.

² Feminist Theology contains extensive literature in the field of Christian sexual ethics that criticizes oppressive and sexist norms adopted by the official Catholic Church. We have not offered further detail because the purpose of our study is limited to show that there are dissenting voices within the Catholic Church who hold a different position on abortion and birth control based on the grounds of the Christian and Catholic tradition.

³ It is worth noting that a more detailed analysis of pro-abortion stance advocated by feminist theology would allow us to assert that under the idea of public reason of John Rawls, the position on abortion among Catholic feminists and liberal feminists would coincide at the political level but not at the metaphysical one. While the latter invokes a comprehensive secular vision, the former argues from a comprehensive religious vision.

It is worth noting that both American and Latin American Catholic feminists inspired their thought in the Theology of Liberation which was formulated for the first time by the Peruvian priest Gustavo Gutierrez (1973). In this light I can asseverate that if the Theology of Liberation would not have been co-opted by Cardinal Ratzinger, this movement would have provided the theoretical source that the official Church needed to resolve the tensions that it is currently facing in the Peruvian case.

CONCLUSIONS

The purpose of this dissertation was to analyze what should be the role of the Peruvian Catholic Church in the Public Square, regarding policies on abortion and birth control. By applying John Rawls's approach regarding the debate on the relationships between religion and politics with his idea of Public Reason, I have found that Catholic Church would be allowed to participate in the public debate and raise its opposition to abortion or to the implementation of certain birth control policies, if it is able to offer public reasons that can be reasonable accepted by the rest of citizens. However, we have seen the attempt of the official Catholic Church to raise its opposition to abortion from the framework of the idea of public reason has been unsuccessful due to its arguments violate the principle of justice for women.

Under the framework of the idea of public reason, an anti-abortion initiative can hardly prosper because the political values which are in question plainly favour women as a matter of justice and fairness. This has led us to affirm that the fact that the Church's official position on abortion does not fit the criteria of justice established by the public reason has a direct connection to the very idea of justice that the church holds internally.

Instead of searching for argument that allows Catholic Church to participate in the Public Square, I have suggested that the problem can be solved if the Church revises their current assumptions on sex and gender. In so doing, I have shown that by integrating different positions within, such as the Feminist Theology, Catholic Church will be in conditions to participate in the

public debate provided that it offers reasons regarding abortion and birth control that are fair for women both within its comprehensive vision and beyond it in the Public Square. Thus, the major conclusion of this work following Rawls' idea of public reason is that the Catholic Church would be in position to speak from its own tradition to a public forum that not necessarily shares its vision and 'yet genuinely contribute to a common human task,' if the Catholic Church on a matter of justice revises its current stances on abortion and birth control, from more pluralistic sources of truth of the Catholic tradition as Feminist Theology has suggested. On this light, the Catholic Church will be able to resolve the tensions that it is currently facing in the Peruvian case.

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