

**Contemporary Republican Strategies for ‘Civic Virtue’ and the Notion of
Political Obligation**

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I hereby declare that this work contains no materials accepted for any other degrees in any other institutions. This thesis contains no materials previously written and/or published by another person unless otherwise noted.

Abstract

Can we make successful normative arguments for enhanced participation in public life? Contemporary republican theories propose to do just that, and thus to incorporate elements of radical democracy in a liberal-democratic political framework, without exacting too high costs on individual freedom, sliding into oppressiveness or coming too close to liberal arguments. This dissertation enables us to explore the basic republican idea that individual freedom is dependent on citizens' civic engagement in public life. By assessing contemporary republican themes and arguments of different varieties, I hope to determine republicanism's normative salience and claim to distinctiveness. That is of course, a simplification, for there is no single republican argument but a multitude of different strategies in arguing for some form of enhanced engagement in public life, from contestation of political decisions that do not track individuals' interests to participation in diffuse deliberative fora of civil society. My aim is not to develop or reconstruct an institutional theory of republicanism, but to discern the normative arguments behind a republican political morality.

It becomes apparent from my analysis that it is not to the notion of freedom as non-domination or the common good expressed in the form of national identity that we should look for normative support of a republican argument. Instead, the notion of self-government understood as participation in public deliberations on matters of shared concern emerges as the most salient form of republican 'civic virtue'. I further argue that the most promising way to promote a republican theory along these lines is to construct an argument for republican political obligation that entails the obligations to deliberate, to do so from public reason, and to endorse a redistributive notion of equality. If republicanism is to be taken seriously, it needs to present a normative argument for the specific obligations or civic virtues that it promotes. Finally, I argue that a notion of political obligation understood in this thick, republican way could be justified on the basis of a comprehensive notion of autonomy as moral imperative. This strategy, raises however, serious questions as to its republican specificity since it comes very close to liberal, perfectionist or non-neutralist theories that endorse the value of autonomy. In that sense, the preferred argument for republican values appears to be yet another specimen of liberalism. This rests, however, on a radically different interpretation of the basic foundational ideal of autonomy, so different that it can be seen to ground political obligations that no liberal theory is ready to embrace, not even a perfectionist one.

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Introduction

Contemporary republicanism challenges liberalism as political doctrine on the basis of a largely familiar anti-liberal platform according to which liberalism wrongly promotes or assumes individualism, scepticism and atomism. That is the uninteresting part about republicanism: its ‘hysterically’ negative positioning in opposition to liberalism, which it construes too often in a cardboard-like, generic or simply misleading fashion.¹ In doing what other communitarian, feminist, post-modern, deliberative democratic and even perfectionist liberal authors do, which is to find fault with liberalism (or at least a certain mainstream version of it) as an advocate of a morally wanting political morality, republican authors propose a less culturalist and more political version of communitarian thought. The main gist of a basic republican argument is that individual freedom and the freedom of a state rely upon the civic involvement of its citizens. The nature of that civic involvement can range from contestation of public decisions to participation in public deliberations on matters of common concern. A contemporary republican theory will contain arguments of collective self-government, non-domination, patriotism, freedom and political autonomy in different forms and to different degrees. Different authors will focus on some of these ideas rather than all. Because of this protean character of contemporary republican thought, as well as a certain lack of conceptual clarity, one of the first tasks that I am undertaking is to reconstruct and interpret specific republican arguments. Then, the more substantive and interesting task is to assess the normative attractiveness of different strategies in promoting republican arguments, as well as to try to ascertain their specificity.

¹ See for example Philip Pettit who admits at one point that the liberal notion of freedom as non-interference, which he otherwise conveniently finds characteristic of the whole liberal political doctrine is more in line with a libertarian form of liberal thought, Philip Pettit, The Common Mind - An Essay on Psychology, Society, and Politics (New York: Oxford University Press, 1996), 320

The conclusion that I reach, after trying to steer the analysis through the dangerously unclear waters of themes, authors or arguments that are republican (not all necessarily at the same time) is that it is not to notions of freedom as non-domination or the common good that we should look if we want to find that which is normatively attractive in republicanism. Where republicanism seems to hold best hope is in the notion of self-government understood to refer to enhanced civic participation in public deliberations related to matters of common concern. Following the Habermasian strand of thought, which I come to highlight as harbouring the most important and normatively promising republican insights, to its logical conclusions, I think that the notion of autonomy as a moral imperative could justify demanding republican obligations such as an obligation to deliberate, to do so from public reason and to contribute to the economic empowering of others, so that they too can take part in deliberations. This is a liberal value *par excellence*, or at least a core ideal of a liberal perfectionist strand of liberalism², so grounding thick republican obligations on what may appear to be a liberal foundational value is certainly a surprising conclusion.

Despite a certain revival of republican thought inspired by a revisionist history of ideas of what informed the American Founding Fathers and a subsequent interest in republican arguments from an American juridical perspective, as well as a renewed interest in the ideals of ancient Rome, and their influence across times, there is a lot of scepticism surrounding contemporary republicanism as a normative political theory *per se* and that has to be our starting point. The diagnostic usually is, from those sceptical of republican theory that it is either that more communitarian versions of republican thought are steeped in communal identities to the extent that they forsake individual autonomy when claiming that “individual agency is a function of collective identity”³ or that more liberal-minded versions of

² Joseph Raz, *The Morality of Freedom* (Oxford: Oxford University Press, 1988)

³ Robert E. Goodin, “Folie Républicaine”, *Annual Review of Political Science* 6 (2003): 71

republicanism come too close to liberalism to be meaningful. “Either republicanism is non-threatening because it is little more than a somewhat archaic rhetorical skin for a body of modern liberalism or, if substantively distancing itself from liberal precepts is overtly oppressive to a troubling degree.”⁴ Judging by my conclusions, at which I briefly glanced above, the former line of criticism is most pertinent to my findings. That is somewhat to be expected given that I consciously try to look at republican arguments that adopt a basic liberal foundation, which recognizes the fundamental value of individual rights. The reason for that is that I think that any contemporary political theory has to be liberal in this basic sort of way if it wants to be relevant in the context of today’s liberal democratic societies. However, both parts of the above diagnostic, lack of distinctiveness and potential oppressiveness are reflected in my analysis of several republican arguments in an admittedly difficult attempt to gauge that which is distinctive about republicanism, and at the same time make sense of the actual arguments. In a way, my analysis is at its most basic an exploration of purported republican values and the strategies advocated or available for grounding those values viewed as attempts to re-brand some sort of radical democratic ideal within a mostly liberal, representative democracy framework. Thus, in a sense, this dissertation is guided by one fundamental question: can we make successful normative arguments grounding enhanced civic participation in public life?

In exploring this more general question by looking at republican arguments, we need, however, to face up to the genealogical concerns surrounding this body of ideas. Does republicanism come too close to liberalism to the point that it loses its claim to distinctiveness? If the argument that moral autonomy grounds republican political obligations could be properly defended, which is not the aim of this dissertation but only its final finding

⁴ Geoffrey Brennan, Loren Lomasky, “Against Reviving Republicanism”, Politics, Philosophy & Economics, 5 no.2 (2006): 222

or recommendation, then it would probably be most accurate to say that the brand of republicanism that I find most sound, which is a mix of the notions of self-government, moral autonomy and public deliberation, represents an unexpected reinterpretation of liberal principles that yields republican outcomes. Republicanism understood in this particular way would thus be similar to perfectionist versions of liberalism that place the ideal of autonomy at their theoretical foundations, but would yield forms of political behaviour that are clearly not incorporated in such liberal theories. Thus, I would argue that, if proven successful, such a line of argumentation for republican values would stand apart from liberal theories.

Another criticism levelled at republicanism is that the values that it claims to be specifically republican can be justified on grounds other than republican. Just as defending republicanism's distinctiveness on the grounds that it historically promotes self-rule understood as rejection of foreign monarchs and imperial rule can be as well defended on nationalist grounds, the argument goes, there is nothing particularly republican about some of the themes that are hailed as arch-republican.⁵ Thus, the most attractive proposition of republican thought, which some critics recognize to be that of deliberative democracy, can be defended on grounds other than republican.⁶ I will look at this argument and find that indeed, deliberative democracy is crucially entangled with republican arguments and core part of that which I claim to be most appealing about republicanism. And yet, there are deliberative democrats who are not republican. As I will show, a certain macro view of deliberative democracy as applying to different spheres of public life is more in line with the republican strand of theory that I find most promising, rather than a formalistic, micro view of deliberation in politics. In the end, the republican argument is more comprehensive than deliberative democracy, as it constructs the idea of freedom of the individual around the

⁵ On this first point see Goodin, "Folie Républicaine": 58-59

⁶ Goodin, "Folie Républicaine": 68

notion of self-government. According to my argument, an obligation towards public deliberation is just one of the three main obligations that I see to be consistent with and flow from a republican argument for self-government. And while the argument for participation in public deliberations is the central form that self-government can be seen to take, the focus has to be on the fundamental idea that individual and civic freedoms are dependent on civic engagement.

Another pertinent line of criticism is that contemporary republicanism, though trying to dissociate itself from its less than egalitarian historical versions in which republican citizenship and freedom were achieved at the expense or particularly because of the exploitation of slaves, non-citizens and women, it ends up promoting an unattractive vision of ‘status society’, where the proposed form of equality is just an equality of political status for example.⁷ That is also my finding especially with regards to certain brands of republicanism like that advocated by Philip Pettit, who despite a poignant focus on fighting domination and ensuring freedom from domination, shies away from more distributive forms of equality. That actually seems to be the case with most of the republican arguments I look at throughout the dissertation. Also, Pettit’s theory gives an important role to social mechanisms of shaming, which may not appear very appealing in light of modern and post-modern sensitivities. I argue, however, that republicanism, in its most promising normative form has to embrace a redistributive form of equality if it wants to stay true to its argument.

Finally, probably the most relevant criticism for our purposes here is that related to a republican focus on enhanced political participation. Why should we prefer ‘maximal levels of participation’ over ‘minimally adequate’ levels?⁸ We should not discount the importance of

⁷ Goodin, “Folie Republicaine”: 62

⁸ for this point and the general line of criticism see Brennan & Lomasky, “Against Reviving Republicanism”

the opportunity costs that political activity exacts: why should a doctor, or plumber or scientist be expected to take part in political deliberations, when they could rather devote that time to other activities that they find valuable or even to their prime activities as doctors, plumbers and scientists.⁹ Thus, political activity is not the only valuable engagement and it is far from clear why “public engagements always or for the most part should trump private engagements.”¹⁰ I agree with this assessment that participation in politics as here understood cannot be plausibly argued to be a good in itself surpassing all other goods that an individual might be inclined to value. The point, however is that if we take autonomy to be a moral imperative, a foundational ideal on which a whole normative structure can be built, and if we take autonomy to have both a private and a public component, so that it is not only the choices that an individual makes privately that are important but also the choices that a government makes in the name of the political community, which affect in the end that particular individual, then it follows that the individual should somehow be part of those political choices if she is not to lose some part of her autonomy. Obviously it cannot be that all individuals should try to be part of the political process at all times, but I think it can be argued on the basis of autonomy as a moral imperative that an individual has an obligation to take part at least in those public debates that are most likely to affect her in particular. Thus, both the information condition would be met, since it is likely that an individual taking part in public debates on issues that interest her or affect her directly is relatively well-informed on the matter, and the ‘opportunity cost’ criticism would lose its poignancy since it requires political engagement only when certain very relevant issues that the individual recognizes as such are discussed.

⁹ Brennan & Lomasky, “Against Reviving Republicanism”: 232

¹⁰ Brennan & Lomasky, “Against Reviving Republicanism”: 232

Given the above serious concerns regarding republican theory, which I have only briefly touched upon, as well as many other criticisms raised against republicanism, we need to clarify why assessing republican theories should matter in the first place, why looking at republican arguments should be worth the ink and paper. Thus, despite the many serious criticisms that can be levelled at contemporary republicanism, I think that this general project remains very interesting. It is interesting and worth exploring because it tries to bring morality back into the normative picture (if we accept here the claim that liberal theorists can be seen generally to avoid relying on morality as a principle of political action), and yet claim to be able not to compromise on individual autonomy or moral pluralism. Whether that is successful or not remains to be seen, but I think that it is certainly worth reflecting on it. Answering the question of why individuals should act morally or in accordance with principles of justice is to my mind very important and insufficiently addressed in the liberal literature so as to make us want to look at theories that rely explicitly on morality in politics such as republican theories.¹¹ Why should individuals recognize the precepts of political authority if they contravene to their own personal views? Why should they act from the social virtue that John Rawls invokes: “the moral power that underlies the capacity to propose, or to endorse, and then to be moved to act from fair terms of cooperation for their own sake is an essential social virtue all the same”?¹² If liberal political theory rests on social virtues that it does not explain, I think it is well worth to try to understand what sort of normative arguments could be made to support them. Contemporary republican arguments offer a good opportunity to reflect on the role of morality in politics and how we could justify political obligations, without undermining individual autonomy. This is after all, despite the fact that republican authors do not seem to be too bothered about it, what contemporary republicanism should be

¹¹ for the point on liberal theory facing a ‘motivation problem’ in not being able to explain why people would act according to the principles of liberalism see Margaret Moore, Foundations of Liberalism (Oxford: Oxford University Press, 1993), esp. 145

¹² John Rawls, Political Liberalism (Columbia University Press, 1993), 54

about: a clear and normatively sound justification of political obligations as advocated by republican authors. Is republicanism better placed than liberalism to justify political obligation given its rhetorical emphasis on civic virtue, taken here loosely to refer to civic engagement of citizens in public life and given its claim that it offers an enriched interpretation of politics and society? The argument finally is that republican political obligations, which are thicker than in the normal liberal interpretation, can be justified to my mind only if we assume the foundational value of moral autonomy. Also, if we assume the foundational value of moral autonomy, political authority in general appears to be normatively possible only when individuals take part in the decision-making process that informs political decisions, when in other words republican political obligations apply to them.

The attractive republican twist in the all too familiar communitarian argument that an individual is a product of her environment, which for me is what makes this line of theorizing very much worth exploring is that, unlike communitarians who steep the individual too much into her social medium, republicans argue that we should conceive of an individual as not only a product of her medium to a certain extent, but also as a shaper of her medium. I also find the republican notion that citizens of a particular liberal democratic society identify in general with the political institutions of that polity, as if they were in a way an expression of themselves and recognize that those very institutions help safeguard their dignity as individuals intuitively meaningful.¹³

I mentioned at the beginning of this introduction that I look in the dissertation at themes, authors or arguments that are republican (but not necessarily all at the same time). My efforts

¹³ For one of the many formulations along these lines see Charles Taylor, referring to the thought around ‘republics’, ‘Cross Purposes: The Liberal-Communitarian Debate’, Liberalism and the moral life, ed. Nancy L. Rosenblum (Cambridge, Mass.: Harvard University Press, 1991, c.1989), 165

in this dissertation are part interpretive, part reconstructive and part constructive. I interpret some of the texts of established contemporary republican authors, I identify the most critical, most important themes that appear in those texts, even when they are not fully developed, and then I try to follow up on those themes with the help of authors that, some may say, are less than republican, and finally I try to indicate the direction in which an argument for republican political obligations might be constructed. Thus, I reflect on the thought of generally recognized republican authors like Philip Pettit or John Maynor, or to a lesser degree Hannah Arendt, but also on the ideas of authors who have some partial association with republicanism, like David Miller, or even only what appears to be an incidental relation to republicanism, as for example Jürgen Habermas. What matters for my purposes is that I ask hard questions, follow the logical path of arguments, wherever that leads me, and try to uncover and assess the main republican ideas or themes. When I started to work on this dissertation, I did not think that I would dedicate a chapter or more to the thought of Jürgen Habermas, nor did I imagine that I would end up investigating republican forms of political obligation as prompted by his ideas on deliberation and self-government. This is, however, where my analysis from the first two chapters led me to. If freedom as non-domination can only be conceived as different from its liberal counterpart, freedom as non-interference, when it includes an element of discursive recognition and if the notion of deliberation appears to be somehow crucial for republican citizenship in David Miller's writings, then I better investigate the thought of an author who works closely with these notions, who claims to bring together ideas from both a liberal and a republican family of thought and who is essentially concerned with developing an argument for popular sovereignty or collective self-government. Thus, I think that Habermas's reflections on these ideas are crucial in understanding and developing a strand of republican thought that builds on the strengths of republicanism already identified in the analysis.

In the following, I will enlarge on the structure of the dissertation. I have chosen to look at three different strands of republican arguments mainly on the basis of the themes that they advocate. The third chapter, with its rather surprising choice of authors in Hannah Arendt and Jürgen Habermas, is as I mentioned prompted by ‘the critical issues’ identified in the previous two chapters. Philip Pettit who is most commonly recognized as a republican author, places at the centre of his instrumental republican theory the notion of freedom as non-domination, which he contrasts to the liberal idea of freedom as non-interference. He is thus very much concerned with not only the legal and institutional structure of a republican form of citizenship, but also with the informal processes which can foster civic attitudes, such as public shaming. David Miller, on the other hand, is concerned mainly with a notion of national identity as civic identity and the ways in which this is expressed in the form of solidarity and a sense of a common will that crystallizes the common good of a specific polity. Finally, Hannah Arendt and Jürgen Habermas are concerned with the rule of law and the importance of laws in general as an expression of a common sense of identity and with the idea of civic self-government in the form of participation in civic deliberations.¹⁴ These are three different republican emphases, which can help us gain a more general understanding of contemporary republican thought. Though the claim to generality raised in this dissertation is obviously limited to the actual three republican strategies that I analyze, as well as the specific arguments of the specific authors who make it on my list of contents, because I try to cover a reasonably wide spectrum of republican arguments, I think that it bears some credibility.

¹⁴ On a similar typology of republican main ideas, and the reference to what each of the authors I discuss in the dissertation chooses to focus on, out of this bundle of ideas, see Per Mouritsen, “Four models of republican liberty and self-government”, in *Republicanism in Theory and Practice*, eds. Iseult Honohan and Jeremy Jennings, (London and New York: Routledge, 2006), 19-20 and footnote 3, 37; Mouritsen refers to four main ways in which the basic republican argument that civic activity is instrumental to common freedom gets articulated: 1. ‘the *institutional and legal artifice* of the republic’; 2. ‘the *civic space*’, that is the interpersonal relations, dispositions and expectations that a republican form of citizenship engenders; 3. ‘*political autonomy*’; 4. ‘*civic identity or patriotism*’.

I chose to look at Philip Pettit's notion of instrumental republicanism so as to assess his claim that freedom as non-domination is specifically republican and that it is far more attractive normatively speaking than freedom as non-interference. However, after examining Pettit's argument, I find it unconvincing. Not only does Pettit tend to make a straw-man of the liberal notion of freedom, which he actually seems to conflate more with a specific libertarian notion, but his case for the distinctiveness of what he identifies as the republican notion is only warranted if he is willing to fully admit the positive element of interpersonal recognition into the structure of the argument. The assumption that we uncover as essential at this stage of his argument is that individuals are discourse-oriented in that they form their normative beliefs in exchanges with others. That is why they are dependent in achieving personal autonomy on the exchanges they have with others. This already points us in the direction of a Habermasian theory. Pettit is also disappointing in another regard. His thought affords a closer look at what is in his opinion, the mechanism that can account for 'civic virtue'. Pettit argues that individuals are motivated into civic engagement by their allegiance to different groups, which appear to be, for the most part associative groups of belonging. As I show, this strategy fails to account for 'civic virtue' because it remains stuck at the normative level of partial forms of civility, without being able to bridge the gap and explain what motivates inter-group levels of civility.

I take civic virtue in this dissertation to be the shorthand for the civic engagement in public life that is usually and casually associated with republican thought. Despite its obvious anachronistic sound, this expression is a way for me not only to quickly sum up that blurred republican ethos that can in the end take quite different forms as apparent in the dissertation, but also a way to keep alert to the potential inadequacy of republican thought to contemporary settings or even to "the specious disguise for brutal tyranny" that Isaiah Berlin was warning

against when contrasting a positive notion of freedom or the “desire to be governed by myself, or at any rate to participate in the process by which my life is to be controlled” to a negative conception.¹⁵ Whether it is a matter of contemporary societies being ‘too populous’ for republican ideas or these being dangerously anachronistic as in advocating in effect a return to the ‘status societies’ of old where a militant spirit was after all, the most common republican expression, the danger always is with a theory that claims its heritage from times long past that it might simply be irrelevant.¹⁶

The second theory that I look at is that of republican citizenship based on national identity. David Miller argues that an individual’s sense of identity is determined by her belonging to a national community. Also, her belonging to a national group can foster the necessary trust and motivation for public participation. Miller’s preferred form of participation is that of taking part in public deliberations on matters of common concern. According to him, citizens need to exercise a certain form of civic restraint by identifying and promoting the principles of common concern that define the specific political culture. If we understand these principles to be ethically substantive, then it would seem that Miller’s focus on deliberation is in the end inconclusive. Also, there appears to be a different line of arguing that is submerged in Miller’s writings, which is that of a notion of political obligation along republican lines that does not rely on the argument from national identity, but is instead concerned more with the day-to-day, normatively self-sustaining practice of a republican form of citizenship that is strong on deliberation. The conclusion to this argument is that ‘national identity’ appears to be unnecessary as well as potentially exclusionary as a platform for republican arguments.

¹⁵ For both quotes from Isaiah Berlin, “Two Concepts of Liberty”, in The Proper Study of Mankind (London: Pimlico, 1998), 203

¹⁶ For these two lines of criticism see Goodin, “Folie Republicaine”

From national identity, I then turn to explore themes that surfaced both in Pettit and in Miller: political autonomy, collective self-government and deliberation. These themes actually surfaced either in Pettit's arguments or in David Miller's as the most intriguing or normatively critical elements that were not taken to their logical conclusion. I begin to examine these issues by turning to Hannah Arendt and Jürgen Habermas. What may be striking to some is my choice of authors here. Towards Arendt, who is generally associated with republicanism of a substantive, participatory type, I take a revisionist approach and propose that her central, normative focus is constitutional and discursive. Her notion of communicative freedom, the idea that individuals are free when in conversation with others and when taking part in public decision-making is taken over by Habermas and articulated in the form of collective self-government. Also, Habermas is not usually referred to as a republican author. His notion of collective self-government is however, republican, and appears to hold the highest hope for a coherent and normatively promising republican argument.

By analyzing Hannah Arendt's and Jürgen Habermas' thought, I am merely trying to reflect on yet a different republican take on 'civic virtue': the notion that individuals as citizens will find it rational to take part in public deliberations of the civil society as a form of exercising personal and political autonomy and thus taking part in collective self-government. Rather than a matter of personal identity as in the case of Miller's talk of national identity, civic patriotism could be conceived as that which is rational for individuals to uphold in the form of social criticism and activism and as part of a broader concern for a just democratic state. Based on Habermas's apparent unwillingness to make an argument that the republican values that he promotes should be viewed as political obligations, I argue for the first time in this chapter that what is missing in a republican line of argumentation is a clear justification of a

notion of political obligation. Before, however, exploring this idea further in the final chapter of the dissertation, I go on to consider in the next and fourth chapter whether republican arguments of the kind highlighted above would not come dangerously close to other arguments for similar values from a liberal and deliberative democratic perspective.

If the republican theme of self-government actually incorporates notions that may well be very close to a liberal line of argumentation, like public reason, moral autonomy or even deliberation, then it is important to see what the differences are, if any. The analysis of Habermas's republican understanding of 'public reason' against Rawls' interpretation of the same notion reveals that the basic difference between the two is that Habermas endorses a wide understanding of deliberative democracy, as pertaining to the whole of civil society, as well as allowing comprehensive points of view to come to the fore of deliberation, while Rawls limits his notion of public reason to the formal fora of politics mostly and for when constitutional essentials are under discussion. If, however, a certain deliberative understanding is what makes the difference, then it is important to look, in the second part of this chapter at how republican arguments relying heavily on deliberation can be said to be different from deliberative democracy arguments per se. The answer is that they are not much different, once we show that republican arguments can be clarified to be consonant with one particular strand in deliberative democratic thought, the macro or wide approach. That tells us that republican arguments are open to the criticism that some of the core values that they advocate, such as deliberation, can be justified on grounds other than republican.

The last chapter of the dissertation tries to clarify some of the normative threads that we have managed to pull together in the course of the dissertation. I argue there that if a republican theory is to mean anything, it has to construct a clear and compelling republican argument for

political obligation. The reason for that is simple: unless republicanism is to register as nothing but a narrative of values, it has to offer us a clear argument as to why people can be conceived to be politically obligated to take part in public debates, to deliberate from public reason and economically provide for those fellow-citizens for whom such forms of participation may be too costly. While justifying political obligation has proven particularly cumbersome for liberal theorists because it appears to go against the notion of personal autonomy, I think that it is a particularly central argument for republicanism to make since republicanism places the notion of participation/virtue at the centre of its political theory. I have chosen to focus in this dissertation on the justification for a republican political morality, rather than an institutional theory of republicanism, and the argument from participation/virtue is certainly not only an argument about how institutions or education should prompt individuals to get involved more in political activity, but also, and I think more fundamentally, an argument about the justification of republican political obligation. Having found that Habermasian ideas are the most promising in articulating one particular republican line of thought, I thus continue in this final chapter by trying to come up with a republican justification for political obligation and thus ascertain the relevance of contemporary republican political theory.

Chapter 1: Instrumental Republicanism and Freedom as Non-Domination

1.1 Introduction

In this first chapter of the dissertation I engage in a discussion of a specific strand of contemporary republican theory, instrumental republicanism, and I try to identify its main tenets and to evaluate its coherence and distinctiveness. In doing that, I assess the propositions of two different theorists, Philip Pettit and John Maynor (who attempts a refinement of Pettit's theory of freedom as non-domination), but I place special emphasis on Pettit's crucial contribution to instrumental republicanism. These authors' theories are in a close-enough dialogue to treat their propositions as variations on the same themes. The reason for this particular discussion is that this form of republicanism is the most developed discussion of republican ideas, especially in the works of Philip Pettit, and the most promising at it, at least at first look. Also, this particular republican theory proposes to establish a specific notion of freedom as the core and most distinctive value about contemporary republicanism.

Pettit and Maynor are the most eager proponents of instrumental or neo-Roman republicanism. It differs, so they emphatically tell us, from a more substantive form of republicanism, also known as neo-Aristotelian or 'strong' republicanism. This form of substantive republicanism treats republican ideals as civic virtue and participation in politics as intrinsic goods that form a certain conception of the good life¹⁷. It is thus deemed the champion of a constrictive form of political theory not willing to accept 'the fact of pluralism'. By contrast, instrumental republicanism is presented as a proponent of civic virtue and citizenship expressed in some form of engagement in politics not for the sake of these values themselves, but for the sake of freedom as non-domination. Thus, the main tenet of

¹⁷ On this point see for example John Maynor, Republicanism in the Modern World, (Polity, 2003), 10

instrumental republicanism is that individual freedom is dependent on public freedom understood as a compound of *institutional freedom*, which is the opposite of corruption (state institutions should not be hijacked for private purposes, but should reflect public interests) and *interpersonal freedom* that is dependent on a form of discursive status equality. These, at least are the general claims on which instrumental republicanism tries to establish its credentials. As we will see further, in the chapter, none of the above, neat-sounding doctrinal propositions should go unchecked as they may reveal more grey areas than their authors care to admit.

I will pay special attention in this chapter to the notion of freedom as non-domination, which is promoted by Philip Pettit and taken over by John Maynor, and ask whether it is the added value of republicanism, whether this is the distinctive intellectual contribution to political theory which makes it a distinct political theory. Most importantly, this chapter will discuss whether the apparent strategy adopted by instrumental republicans in promoting values like civility and political responsibility, and consequently freedom as non-domination is conceptually coherent and normatively attractive. I will argue that the particular strategy that instrumental republicans seem to adopt, which is promoting individual contestation and political activity from within a group of belonging collapses into a partial form of citizenship that fails to give an account of what unites, and thus of what motivates towards inter-group civility, members of different groups.

Also, this chapter will consider the genealogical dilemma that troubles most republicans: does instrumental republicanism actually offer something different than what there already is on the political theory market? The first step in answering this question is to further ask whether this strand of theory proposes something distinctively different than existing versions of

liberalism with communitarian overtones or whether it can rather be catalogued as one more variety of contemporary liberal theory. To answer that question I will briefly consider one liberal theory (Stephen Macedo's rendering of liberal virtues) that claims that liberalism is perfectly capable to appreciate notions of civic virtue and the importance of individual citizenship practice.

1.2 Instrumental republicanism: a bird's eye view

The main claim of this political theory is that individual freedom is dependent on public freedom, and each individual *qua* citizen should feel responsible for its maintenance. This responsibility is to be manifested in the willingness to take part in public life, in deliberation over what is the good of the community, and in vigilance against political corruption, which is the main contemporary threat to political freedom. Underlying this claim is the familiar and rather truistic idea that laws are not enough to safeguard our rights. Much more is needed: a vibrant civil society. Laws can deter arbitrary and interfering behaviour, but they cannot effectively guarantee against it. To say that republican policy is about setting up perfect guarantees for individual freedom is of course, a bit misleading as this would be an unattainable ideal in any case, since a degree of license is unavoidable in a democratic society oriented towards freedom. Also, it can be argued that, while perfect freedom as non-interference is possible (in a state of isolation from human society), its republican equivalent is much harder not only to achieve, but also to prove since sources of domination are varied (psychological, social, economic, cultural) and difficult to ascertain.¹⁸ It is, however, important to point out that Pettit chooses not to emphasize the structural sources of domination so much, and focuses on interpersonal relations and interpersonal forms of domination interpreted in a specific, 'social standing' keynote. That makes it difficult to

¹⁸ On this last point see Christian Nadeau, "Non-domination as a Moral Ideal", Critical Review of International Social & Political Philosophy, 6:1, 2003, 120-134, 126

ascertain how much socio-economic inequalities are factored in, thus bringing the republican notion closer to the liberal one from this point of view.¹⁹

Instrumental republicans try to maximise freedom as non-domination or strengthen the measures that make licentious behaviour less likely. They believe that legal implementation of negative rights that form the basis of our individual freedom to act without constraint as long as we respect the ‘no harm principle’ (the liberal notion of freedom) should be complemented by a sort of informal implementation at the social level. ‘The field of social force’²⁰, mainly driven by the assumed importance of esteem and other people’s regard in an individual’s life is thus presented as a necessary complement to the power of laws. Its basic assumption is founded on a communitarian, empirical observation: that in real life, freedom is influenced by a variety of factors; it is not a property of isolated and pre-determined individuals whose ends are formed as if *in nuce*. These factors may refer to the way other people treat you, whether the government you have entrusted to run your society’s affairs keeps clean from corruption or to whether the institutions of your state treat everyone, including you in the same procedurally correct manner. Thus, in order for the two components (institutional and social or interpersonal freedom) of ‘public freedom’ to be satisfied, civility needs to be a norm in the community. Assimilating social and interpersonal freedom sounds misleading, but the reason I use the two interchangeably for the purposes of this analysis is that this sheds some light on instrumental republicanism’s priorities. It might look at first sight that republicanism in this version is a more left-wing oriented form of theory, advocating social equality and in general, the equalizing of the social standing of individuals

¹⁹ see for example Philip Pettit, ‘Freedom in the Market’, Politics, Philosophy and Economics, 2006, 5 (2), 131-149

²⁰ Philip Pettit, Republicanism, A Theory of Freedom and Government (Oxford: Oxford University Press, 1999), 246

by improving the economic status of the disadvantaged through redistribution. That, however, is not the case.

The most Philip Pettit or his follower, John Maynor are ready to advocate is that political equality is necessary in order for individuals to be able to act as proper citizens, and that, according to them, requires a minimum form of economic equality. In that sense, it should be pointed out from the start that the focus in instrumental republicanism is not on the economics of inequality, but as Pettit would say, on the 'economics of esteem'. What that means in the end is that the emphasis lies not on the socio-economic conditions of particular individuals or classes of individuals as the most important impediment to the exercise of freedom in the republican style, but on the norms and socio-cultural characteristics that condition interpersonal relations. That is why out of the three forms of impediments to freedom that Pettit identifies, which are social, psychological and interpersonal, Pettit thinks the interpersonal ones are the most important.²¹

Civility (a lighter term for civic virtue) can be expressed in the passive way of following the laws and in the active way of tracking and contesting whatever form of government activity that fails to take into account people's interests. In adopting this term, rather than the more antiquarian and less appealing-sounding 'civic virtue', Pettit is also indicating that republican requirements are not as stringent as critics may claim. Thus, civility is instrumental for the attainment of public freedom and in turn, for securing what republicans present as a resilient form of individual freedom. Of course, the question arises, who are the relevant people, and

²¹ for the emphasis on norms and respectively the emphasis on the interpersonal source of impediments to freedom see Maynor, *Republicanism in the Modern World*, 198, and Philip Pettit, 'Discourse Theory and Republican Freedom', *Critical Review of International Social and Political Philosophy*, (2003) 6 (1), 72-95, esp. 74

what is the relevant community this theory targets? Is it the nation-state or some form of local community? Does it refer to various forms of groups, and in particular, to voluntary groups?

The strategy of accounting for civility that instrumental republicans adopt is to take as the reference community, groups of belonging. Not much is said about what kind of groups they are referring to. While Pettit is speaking of groups which are clearly delimited and partial in some way, Maynor appears to speak of a more generic group of the nation-state: “An overriding commitment to group-level identities such as patriotism helps to nurture communities and unite individuals and groups from widely varying moral traditions.”²² I will follow Pettit’s ideas on this point since he seems to attach more importance to this, and as we shall see, this proves crucial in establishing the theory’s motivational salience. According to him, the assumption is that individuals tend to be part of at least one group with which they identify whether that group be more or less specific: a group of women, an ethnic group (in minority, I suppose) or a group of gay people. The expectation is that, because this affiliation is important for an individual’s sense of identity, when the government fails to track the interests of her particular group of belonging, she will voice concern and demand rectification. Thus, the claim is that this theory reflects social facts, like social vulnerability, and that because these facts determine a certain kind of behaviour on the part of vulnerable individuals, the criticism that contemporary republicans base their theories on an idealized moral psychology does not hold ground.

All in all, instrumental republicanism presents us with a vision of a deepened democracy as both electoral and contestatory. Thus, it is not the case that this version of republicanism can be labelled as a promoter of self-government in any straightforward manner for it is not some

²² Maynor, Republicanism in the modern world, 198

widespread vision of participation amounting to direct democracy that it embraces, but a more circumspect and un-populist ‘editorial control’ in the form of political vigilance and contestation. What is left to emphasize is that instrumental republicanism not only relies heavily on social mechanisms expected to enhance civility and the appeal of contestation, but also devises a complex constitutional order for the promotion of freedom as non-domination. I will not discuss these institutional details more than briefly in this chapter because, as John Maynor admits²³, I think that they are already intimated in current, liberal democratic polities, and the hope for pinpointing the distinctiveness of republicanism lies not necessarily in the institutional realm, but in the justificatory, philosophical foundation of the theories. But then, it could be quickly contended, why should republican theory be of any interest if it can only lead to institutions we already know in one liberal-democratic context or another? The benefit will be a more thorough understanding of the normative differences between political theories that claim to explain, direct and justify the political societies in which we live, and the consequent fine tuning of those institutional emphasizes that should follow from our normative expectations, which I will try to briefly explore in the next section.

1.3 A rich constitutional order

What Philip Pettit seems to favour with his focus on contestation is the participation of a few representative citizens in the *ex post* challenging of decisions that are disregarding common interests, or the interests of some disfavored minority. While the state is envisaged as a strong state which is meant to fight private domination (*dominium*) and promote the value more generally, it should not be left unguarded, for it may as well slip into a domineering attitude once it fails to track and follow ‘common avowable interests’. By the *ex post* ‘appellate measures of contestation’ Pettit means public, parliamentary, or judicial means of checking the

²³ Maynor, Republicanism in the modern world, 160

actions of the government. For the sake of conceptual order it can be said that there are two forms of Pettit's notion of contestation: the form of intra-contestation at the level of government, which can be expressed through an efficiently deliberative legislative assembly and cross-party committees assigned to investigate any breach of the law, and the form of external contestation that can be exercised by a civically-conscientious media, or civically-minded citizen associations. He pays particular heed to the importance of a deliberative legislative body that would make sure to reach its decisions on the basis of common interests arrived at in "an inclusive and interactive debating chamber."²⁴ He overtly emphasizes the importance of committees of experts that could solve the problem of impartiality that arises at times, when politicians are not able to make reasoned decisions because of the electoral pressure set by their constituencies. In response to the allegation of the committees' lack of representativeness (since members have not been elected) Pettit voices his ultimate anti-majoritarian distrust: "And consistently with not being elected, they may often hold out the best prospect available of having decisions made on a non-arbitrary basis: on a basis that effectively rules out control by sectional interests or sectional ideas."²⁵

Among the measures that depict Pettit's normative cravings for deliberation and inclusiveness as the landmarks of his vision of republican (contestatory) democracy, one can find a wide variety of propositions like compulsory voting (in the case of non-participation by a minority), tax-funding for the party of one's choice, banning or limiting political advertising. As authoritative as these may sound, Pettit is careful to emphasize that he is following Rousseau only to a certain extent (in making for good laws that have been internalized to figure as the basis of individual freedom). He is, however, staying away from the Rousseauian

²⁴ Pettit, *Republicanism, A Theory of Freedom and Government*, 232

²⁵ Pettit, *Republicanism, A Theory of Freedom and Government*, 239

understanding of electoral voting as the revelation of the will of the people, or from the requirement that ordinary citizens are responsible for judgment-based voting:

"There is no suggestion that the people in some collective incarnation, or via some collective representation, are voluntaristically supreme. Under the contestatory image, the democratic process is designed to let the requirements of reason materialize and impose themselves; it is not a process that gives any particular place to will."²⁶

Among all the normative details of his model of contestatory democracy, that sound at times all too familiar and ‘normatively correct’, there is one core conception for Pettit that plays an important role in the understanding of his overall theory: his anti-contractarian, anti-populist and militant attitudes towards keeping power non-arbitrary: “where the sovereignty of the people lies- [it is] not in the electoral authorization but in the right of resistance.”²⁷

This right of resistance can be exercised against power being misused. In order for power not to be easily misused, the political system has to constitute an ‘empire of law and not of men’, to separate legal powers, and to make law relatively resistant to majority will.²⁸ Among the measures that spell out his concern to ensure against arbitrariness in power one can find the measure of the bicameral arrangement, the decentralization of power, the dispersion of power realized by having the state committed to binding international conventions. Now that I have briefly outlined the details of the institutional provisions that instrumental republicans are prone to make, it is time to consider to what extent the notion of freedom as non-domination can be upheld as distinctive.

²⁶ Pettit, Republicanism, A Theory of Freedom and Government ,201

²⁷ Pettit, Republicanism, A Theory of Freedom and Government, 202

²⁸ see Pettit, Republicanism, A Theory of Freedom and Government, 172-173

1.4 Freedom as non-domination

Liberty has come to be understood in many ways: as a negative brand, as liberty from interference, which is the classical, liberal view, as liberty of action proper in the Aristotelian tradition, or as autonomy or obedience to one's own inner principle in the Kantian breath. Of course, the specification of what each notion is taken to mean can also proceed in diverse ways. David Miller has pinpointed three main traditions of thought in envisioning the notion of freedom. The first, the republican, maintains that to be free means to be part of a free political community, the freedom of which is defined as self-government. In the second family of thought, the liberal, "freedom is a property of individuals and consists in the absence of constraint or interference by others".²⁹ Finally, there is a third family of views on freedom that he labels as 'idealist'. According to this, to be free means to be autonomous.

The most important contention that Miller makes is that these notions can be blended successfully, and thus one should bear in mind the conceptual complexity of the notion, which defies dichotomist thinking. As an instance of such intermarriage between the republican and the liberal notions of freedom, he cites Niccolò Machiavelli and his dual concern for the liberty of the political community as a whole and for the freedom of persons. "Rather than having to choose between republican freedom and liberal freedom, perhaps we should see the former as a precondition of the latter."³⁰

Still, having at the back of one's mind Isaiah Berlin's classic dichotomy of negative and positive freedom, the temptation is to contend, in line with Hobbes's first exposition of the argument, that liberal thinkers in their different propositions are held together by their strong and central promotion of a strictly negative notion of liberty, which is to be defended against

²⁹ see David Miller, 'Introduction', *Liberty*, ed. David Miller (Oxford University Press, 1991), 3

³⁰ Miller, 'Introduction', *Liberty*, ed. David Miller (Oxford University Press, 1991), 6

a positive, Aristotelian view of liberty supported by republicans. The positive view (which amounts to some form of self-mastery, usually forged according to a higher principle like reason) that allegedly pertains to the republican model, would ultimately imply the state's promotion of a comprehensive common good that would infringe on individual liberties in the given context of pluralism of conceptions of the good and the reality of large, multiethnic communities.

Republicanism of the form discussed here appears, at first, not to promote such a constrictive view of the common good. Instead, the focus remains on individual liberty with the contention that, in order to secure it, one has to exercise self-restraint from strict individual interest when it comes to public deliberation, and watch out that inflation of self-interest does not overtake free government. One can only agree with John Rawls that "We must abandon the hope of a political community if by such a community we mean a political society united in affirming a general and comprehensive doctrine."³¹ It is not true, however, that one should altogether abandon the idea of a political community driven by common interests or an awareness of interdependence and commonality for fear that it will be oppressive and anti-individualist, because such a political community does not necessarily have to be envisaged in terms of a substantive common good, but, as republicans argue, in terms of shared principles (liberty and equality of a certain kind) and the acknowledgement that effective individual liberty necessitates more than a mere legal status.

But what is behind the soothing and so far unclear suggestion that republican freedom could fare better in protecting one's freedom than the liberal notion? First of all, there is a looming communitarian assumption that there is no such thing as isolated individuals. In a classical

³¹ John Rawls, „The Idea of an Overlapping Consensus“, *Oxford Journal of Legal Studies* 7, 1 (Spring, 1987), 10, quoted in *Dimensions of Radical Democracy: pluralism, citizenship, community*, ed. Chantal Mouffe (London : Verso, 1992)

communitarian vein, Philip Pettit bases his political theory on the proposition that individuals become who they are, and thus are properly understood, in a network of social relations and communal inheritances. On top of a social metaphysics of individual holism he sets a value-based political theory with institutional specifications. The value that he thinks can unify people, thus proving to be a relatively neutral ideal to follow, and at the same time of primary concern to individuals, is that of freedom as non-domination. Because Pettit believes in the feasibility and desirability of ‘at least a relatively neutral state’, and because he thinks that the primary value of freedom as non-domination can set the stage for that, he rejects a communitarian position.³² John Maynor’s position is more tenable, however, in that it undercuts a possible attack of republican theories on one of the grounds that procedural liberal theories were attacked by communitarians, that is, pretense of neutrality. Thus, it admits that republican theory is biased towards the promotion of a certain vision of society, underlying which there are specific assumptions about the right concept of the person and the right vision of political community. Thus, Maynor discards the ideological claim to neutrality on the part of his republican theory and points out that republicanism is to a certain extent perfectionist insofar as it promotes the value of freedom as non-domination and the associated practice of civic virtue, without, however, endorsing a comprehensive, singular notion of the good.³³

For Pettit, (in the vein of the classical republicanism of his own interpretation) freedom is acquired when nobody is *subject to arbitrary sway* and “it requires the capacity to stand eye to eye with your fellow citizens, in a shared awareness that none of you has a power of arbitrary interference over another.”³⁴ In other words, it is not enough not to be interfered. In order to be free one has to remove even the possibility of arbitrary interference. Thus, Pettit takes the classical liberal notion of freedom as non-interference, adds the requirement that this

³² See Pettit, The Common Mind, 286

³³ Maynor, Republicanism in the modern world, 63

³⁴ Pettit, Republicanism, A Theory of Freedom and Government, 5

be secure and that it be relevant (providing against the possibility that the condition of absence of interference is fulfilled just because there is a limited context of choice of action) and gives us the notion of freedom as non-domination. It should be noted then that his notion represents at a starting place a different interpretation of the liberal notion. Once we acknowledge this, the question to ask is whether his interpretation is different enough in order to elicit a significantly different notion of freedom altogether. Then, the next query that comes to mind is to define what it means that non-interference be secured, that it be resilient. Does it imply that the liberal notion would not even entail that there be institutional structures meant to oversee that non-interference is respected, that it is in effect secure? If we are to think of Pettit's star example (the benevolent master-slave example) in his exposition of the essence of freedom as non-domination, then we are left to wonder whether indeed he is not making a straw-man out of the liberal notion of freedom as non-interference. For surely, liberal political theories of all stripes do not institutionalize master-slave type of relations, surely they do not condone situations of *de facto* non-interference, while *de jure* allowing for the possibility of interference as the example of the unimpeded slave (due to having a benevolent master) suggests. That "freedom is determined not by fortune but by the standing that one has within the community, and especially before the law"³⁵ is not something that most contemporary liberals would disagree with, especially when it comes to the second part of the assertion, which is the intended emphasis.

If we are to think that a notion of freedom as non-interference is meant as a criterion to be put at wholly universalistic use in judging any form of regime, even a non-democratic one, which Pettit does³⁶ (even though it does not appear to be a straightforward characteristic of contemporary liberal political theory), then the difference between the two notions becomes

³⁵ Pettit, The Common Mind, 311

³⁶ Pettit, The Common Mind, 316

more clear. A person who escapes by luck the arbitrary interference of an oppressive ruler could not count as free as a person who enjoys the security of equal and protected citizenship under a democratic government. What lacks in the first case, and thus, what gives the republican notion its distinctiveness is that a person enjoying the latter kind of freedom feels secure in its enjoyment, feels confident and feels that she has a certain status. And once we adapt slavery, which was taken to be the classical republican antonym of freedom, into a contemporary setting and stretch it to mean subjection or vulnerability, then it becomes clearer how the notion of freedom as non-domination would differ from the notion of freedom as non-interference in that it would not allow for discriminatory laws for example, which may in turn be tolerated in a non-democratic, yet for the moment, ‘well-behaving’ society concerned only with non-interference.³⁷

In fairness, it has to be pointed out that, even if Pettit is not cautious enough to make this point consistently, he does say at some point that the contrasting notion he sets against the theory of freedom as non-domination is not really a liberal generic notion of freedom, but rather the libertarian one, which can be seen not to provide for the security of freedom as non-interference. Also, Pettit admits that the notion of freedom as non-domination can be seen to be close to a ‘left-of-centre’ liberal understanding of freedom.³⁸ That should not, however, obscure the point that Pettit builds his normative theory on the sole ideal of freedom as non-domination, which will unavoidably mean that less emphasis is laid on the notion of equality and its possible specifications.³⁹ In fact, if we are to try to locate Pettit’s version of instrumental republicanism on an ideological continuum, then we could note the similarities

³⁷ See Pettit, *The Common Mind*, 315

³⁸ See Pettit, *The Common Mind*, 322

³⁹ on this point and the contrast to Rawls’ theory, in which freedom and equality have equal importance, see Henry S. Richardson, “Republicanism and democratic injustice”, *Politics, Philosophy and Economics*, 5, (2006), 181; on a more detailed discussion of the consequentialist strategy for freedom as non-domination see Nadeau, ‘Non-domination as a Moral Ideal’

with Giddens' 'third way', in which redistribution of wealth is not really the preferred means of social empowerment, but rather the development of civil society.⁴⁰

Pettit stresses times and again that "interference as such is a secondary evil from the point of view of republican freedom."⁴¹ His insistence on differentiating freedom as a republican value from the liberal understanding of freedom in the keynote of non-interference seems, however, in the light of this statement, rather unconvincing to say the least. How can interference as such (as long as we understand by it a negative sort of interference that impedes with one's life) be seen as a secondary evil to domination? How can an active step to the hindrance of your own freedom be thought of as less important than the passive domination that has yet to erupt into flagrant interference? Would it not be more commonsensical to consider them both equally disrupting? I for one, think it would make perfect sense, and that this normative ordering leaves the door wide open to criticisms such as that of Brennan & Lomasky who claim that "Republican theory is compatible with extensive paternalistic control."⁴² What we need to realize, however, in this context, is Pettit's eagerness to differentiate republican freedom from liberal freedom, but also, his insistence that laws should not be viewed as curtailing our freedom but rather as conditioning it. The emphasis is thus on there being an un-arbitrary species of interference, especially in the form of laws, which need not be condemned, but rather welcomed, even if they condition one's freedom. Also, a concrete act of interference is not the only thing that can curtail freedom. To the contrary, the biggest threat to freedom, according to Pettit is a dominating relation in which an agent can find herself.⁴³ There is one way we could find these ideas a bit less opaque, and that is if we think

⁴⁰ see a discussion of Giddens' ideas in Fred Powell and Martin Geoghegan "Beyond political zoology: community development, civil society, and strong democracy", *Community Development Journal* 41, no.2 (April 2006): 128-142, esp. 135

⁴¹ Pettit, *Republicanism, A Theory of Freedom and Government*, 301

⁴² Brennan and Lomasky, 'Against reviving republicanism', 241

⁴³ on these two specific republican emphases, see Pettit, 'Discourse Theory and Republican Freedom', esp. 78

that freedom as non-interference is not for example, concerned with indirect, arbitrary influences upon the will of an agent, as for example, the case where a threat conditions a person's decisions. It could be argued that some liberal authors are more inclined to claim that the individual's freedom was not affected under duress of this kind, since the set of choices was still open to her, even if some were rendered more costly. The notion of freedom as non-domination, would not allow that, and would recognize the individual's freedom to have been seriously compromised under a threat-conditioned, decisional situation.⁴⁴

Pettit's unwitting tendency to identify interference solely with the effect of laws upon a person's freedom of choice remains, however, unjustified. It remains finally to be read in the context in which he means to stress the non-interfering nature of good laws in a somewhat unclear contrast to liberal understandings (again, he does not acknowledge the qualified nature of his contrast) and also, the consequentialist claim that the state should act for the promotion of the value of freedom as non-domination.

What Pettit ultimately means to emphasize is that freedom as non-domination is a social property not an individual property in the sense that it cannot be satisfied outside of interactions between individuals, outside of the cooperation of individuals in upholding civility. In other words, an individual cannot achieve freedom as non-domination in isolation, unlike in the case of negative or positive freedom. Why does Pettit think that? It appears that it would be so if we think that freedom as non-domination does not presuppose only a negative form of requirement (not to be dominated) but also, as the other side of the same coin, a positive requirement (to be given recognition). Thus, persons who are securely non-dominated will "not only receive recognition and respect; they will command the recognition

⁴⁴ see on this point also Nadeau, 'Non-domination as a Moral Ideal', 122-3

and respect that they receive.”⁴⁵ This positive requirement spells out the underlying positive element that freedom as non-domination presupposes on top of the negative element that it requires, that is, that individuals should assert themselves as equal partners in their social relations.

This positive requirement reveals Pettit’s main assumption in what concerns his conception of the person: individuals will universally value freedom as non-domination as a primary value. We should say, however, that ultimately, it seems, as intuition would suggest, that the value of freedom as non-domination is rather expected to have a qualified universal character, that is, a universal character within democratic societies. An individual is seen in a substantive manner, to want and necessitate not only the protection to fulfill one’s own interests and needs, but also, that associated with achieving interpersonal recognition and the sense of dignity that comes with it. This translates into the individual’s concern for the way other people treat her, for having an equal and dignified status. Since individuals are interested in having the respect of other people around them, so the reasoning goes, they will seek not to compromise positive attitudes towards themselves and do the right thing. This mechanism of seeking social acceptance (Pettit refers to this as the ‘intangible hand’) can be expected to provide and maintain resources of civic virtue even if individuals are not particularly virtuous, which instrumental republicans concede to be the case.

Thus, in Pettit’s account, the notion of liberty bears the double sign of both communitarian and individualistic concerns. The emphasis, however, is on the individual enjoyment of freedom in the sense that it is thought that freedom as non-domination for the individual can only be secured if it is secured for the whole group that the individual is part of. The

⁴⁵ Philip Pettit, A Theory of Freedom, From the Psychology to the Politics of Agency, (Polity, 2001), 79

communitarian element thus bears an instrumental value: since individuals cannot achieve freedom as non-domination on their own, the framework needs to be a communitarian one. The idea behind this is that, due to human interdependence and the social environment in which individuals activate, freedom needs to be secured beyond the legal status in the attitudes of people towards each other. That is why freedom as non-domination is deemed to be a common good. Moreover, republican freedom is something for the achievement of which one needs to work constantly. It is thus a dynamic concept, and contestation is the mechanism of its preservation. Freedom needs to be protected and forwarded at the same time. It needs to be protected against the corruptibility danger that faces those who are in power and it needs to be enlarged so that more and more people can pride themselves in being dominated by no one.

As it is made apparent by the previous statement, the transparent weakness of Pettit's ideal of freedom as non-domination lies with the ubiquitousness of the notion of domination and particularly with the ubiquitousness of the sources of domination. One critic argues, for example that it is hardly reasonable to have such a broad view of possible sources of domination, and if Pettit nevertheless does have such a view, then that leads him to the unavoidable conclusion that at all times, any person is under the 'domination spell' of some unknown domineer.⁴⁶ The assumption here is that this person I have no knowledge of somehow holds the power to affect my choices in an arbitrary way, even if he has not done so yet, nor is he planning to do so. Such a criticism is not really disruptive since Pettit could very well reply to this that it is only a reciprocally acknowledged relation of domination that should be targeted for elimination. Pettit does indeed make this point and connects non-

⁴⁶ for a critical comment that could be stretched further to my comment here see C.A.J. Coady, "Critical Notice of Republicanism By Philip Pettit", *Australian Journal of Philosophy* 79, no.1, 2001, 121

domination with common awareness.⁴⁷ Upon deeper reflection, the point of common awareness is hardly easy to sell, however. For one can easily imagine a person feeling to be dominated outside of the perceived dominator's knowledge of it.

In other words, is domination really something objective, or is it rather subjective and hard to catch? One would think intuitively that there is an important brand of psychologically related domination to be taken into account that defies any universal resolution and requires purely subjective handling. In that sense, it could be that a good portion of perceived domination is psychologically contingent, and does not (particularly since the theoretical emphasis is not on interference) amount to quantifiable, objective contents. Pettit dismisses, however, the idea that the state could do something about such subjective, intrapersonal causes for domination and points out that he is not referring to such things as weakness of will. If he is discounting the psychological brand of domination, then, he must think that domination has an objective reality. And if it has an objective reality, then it must somehow fall back onto the notion of interference, for how else can domination be recorded if not in the form of accused, arbitrary interference? To my mind, the fact that interference is generally taken to refer to concrete acts, while domination refers to unequal relations of power does not mean that these relations can be maintained *in abstracto*, in the absence of concrete acts. Sooner or later, an act of arbitrary interference has to occur in order to define that relation as one of unequal power in the first place. If we look at the examples of current domination that Pettit gives, we can wonder to what extent protection against domination ultimately boils down to the transformation of social attitudes. Here, it needs to be pointed out that in a general republican fashion, institutions are seen to be constitutive of individual freedom. Thus, good institutions and laws, active citizenship expressing civility are all parts of the vision of individual freedom

⁴⁷ see Pettit, Republicanism, A Theory of Freedom and Government, 70

as non-domination. This argument is made explicitly by John Maynor: “nondomination is a status that agents achieve due to the constitutive nature of modern republican institutions.”⁴⁸

As examples of domination, Pettit talks of “the child of the emotionally volatile parent”, “the wife of the occasionally violent husband”, “the pupil of the teacher who forms arbitrary likes and dislikes” or “the employee whose security requires keeping the boss or manager sweet” or even “of the older person who is vulnerable to the culturally and institutionally unrestrained gang of youths in her area.”⁴⁹ It would seem that in order for some of these instances of domination to be fought against, taking it to the extreme, the state would need quite long arms, interfering in long-standing practices, some of them considered private, thus leading maybe to accusations of the sort that are heard in Britain against a ‘nanny state’.

So far, in trying to understand the notion of freedom of non-domination, we have faced the problem of disentangling the notion of non-domination from the notion of non-interference. It turns out that the notion of freedom as non-domination is really just a qualitatively better notion of freedom as non-interference if we already assume that they are both set in the context of a democratic polity. This assumption is not off-hand because Pettit himself points out that his republican theory is meant to be meaningful in the context of developed societies (though he does not refer to democratic societies to my knowledge, I think that this is what he means). The republican notion is qualitatively better because it sets the higher ideal of rooting out the causes of domination, which produces interference. For that purpose it proposes a set of specific institutional measures and most importantly, a transformation of our social and political attitudes with the help of social mechanisms. Apart from this qualitative difference between the liberal and the republican notions of freedom, what really distinguishes them is

⁴⁸ Maynor, Republicanism in the modern world, 50

⁴⁹ Pettit, A Theory of Freedom, From the Psychology to the Politics of Agency, 137

the type of assumptions they are based on. While for freedom as non-interference it is enough to presuppose an atomistic picture of society, freedom as non-domination rests on the holistic assumption that individual lives are expressed in the context of social relations, and that such social relations are part of one's identity.⁵⁰ Beyond affirming the interdependence of individuals in the way they lead their lives, this assumption amounts to the positive element of asserting the importance of recognition. Thus, freedom as non-domination becomes distinctive once we understand that, unlike freedom as non-interference, it is a social notion which presupposes social types of requirements and strongholds. In a more recent text, Pettit admits that his notion of freedom as non-domination can be differentiated from freedom as non-interference only when conceiving of the human subject not solely as 'a decision-theoretic subject', but as a discursive being, who co-reasons with other people.⁵¹ That, according to Pettit ensures that individuals actually articulate or become aware of the reasons they have for holding beliefs and desires, which, in a decision-theoretic model does not have to be the case. Following Habermas, the main idea here is that individuals become normatively aware via discourse with others.⁵² That extends into the ideal of discursive status, which Pettit finally takes to represent the dividing line between freedom as non-interference and freedom as non-domination:

“Given that the discourse-theoretic image directs us to an ideal of discursive status, the question is whether that ideal can help us to rule on the difference between the conceptions of freedom as respectively non-interference and non-domination. I think, to come finally to the punch line, that it can.”⁵³

Discursive status is defined by the “relational power of occupying in common with other a space that mediates discourse-friendly influence and only discourse-friendly influence.”⁵⁴

⁵⁰ See Pettit's discussion of holism versus atomism in *The Common Mind*, 165-213

⁵¹ Pettit, 'Discourse Theory and Republican Freedom'

⁵² Pettit, 'Discourse Theory and Republican Freedom', esp. 84-5

⁵³ Pettit, 'Discourse Theory and Republican Freedom', 91

⁵⁴ Pettit, 'Discourse Theory and Republican Freedom', 90

Further, in order to understand better freedom as non-domination, we need to take into account that Pettit's core, individualist understanding of what a free agent represents is that of 'being fit to be held responsible', an understanding which necessarily entails that the person is free in relation to others to choose the right action, and that the person is free in relation to its own psychology to choose openly, and without restraint. Also, freedom understood in such a manner as an objective property of individuals will elicit emotional responses in the form of praise or blame from others. Pettit finds that the most persuasive theory of the free agent seen as a responsible and accountable agent comes in the form of freedom as discursive control that mainly refers to individuals being able to account for the courses of their actions in a reasoned way via discursive exchanges with others.

This notion of freedom as discursive control has both a psychological and a social dimension. The psychological dimension involves the idea of a continuing (over time) personal identity that an individual is forced to account for in discursive justifications (the idea of personal identity in terms of 'inter-temporal responsibility')⁵⁵, while the social dimension entails discursive relations (the discursive authorization of an individual by others). Though Pettit does not think that the state could adopt the notion of freedom as discursive control as a feasible, political ideal, he does rely in his notion of freedom as non-domination on such an understanding of individual freedom even more than he wishes to admit. What I mean by this is that, even though Pettit denies that the psychological preconditions for freedom as discursive control should be taken into account when thinking about the political ideal of freedom as non-domination, it appears that the republican notion is indeed dependent on a psychological brand of non-domination as well. In that sense, individuals with a weak sense of their discursive self, who feel to be dominated by their own, psychological insecurities,

⁵⁵ Pettit, 'Discourse Theory and Republican Freedom', p.85

would appear to be unlikely beneficiaries of freedom as non-domination. The republican hope ultimately seems to be that the promise of equal status that active citizenship entails (to the republican mind) will be strong enough to deter whatever inequalities may come from the psychological, social and economic baggage of individuals.

The upshot to all of this is that Pettit has a distinct conception of the person as generally a reason follower, as being able to provide (even if not always living by) a story of the reasoning that led to the adoption of a certain course of action; as being able to engage in discursive relations with others; as expecting to be treated as a discursive equal, and as being dependent on these discursive exchanges to define and redefine one's identity. This notion of human interdependence that we have dug up as underlying Pettit's political notion of freedom as non-domination is quite radical. It implies, in an Aristotelian fashion, that speech is more than a tool at the disposal of human beings; that it is, in its reason-giving capacity the very medium through which we shape our identities and define our freedom as discursive control (which should probably count as the distinctively human). If we are to follow this implied conception of the person (which disfavors less discursive individuals, as for example shy people to its final conclusions, we could say that the people who would fare the best in a society where such an ideal would prevail, who would make the most of what a human being is supposed to be in its essence would be contemporary academics because they can exercise discursive control at its best. And yet, Pettit's point is not that the quality of one's reasons and discursive expositions is what makes her the freest, but that individuals generally exercise such discursive control insofar as they habitually provide reasoning stories for their actions.

Part of the disagreement that I have with this web of freedom-related notions rests with the author's move to prioritize intentionality and thus to downgrade the importance of

environment-related obstacles to freedom as non-domination. After all, there are many environment-related elements that can condition one's ability to uphold freedom as non-domination and one can readily think of a person of low material and educational means who feels that she lacks discursive control in relation to another person of higher social status. Why should it be the case that freedom as non-domination can only be intentionally denied through coercion or obstruction? Is it not more likely, considering the elusive nature of domination that people can fail to live up to the standard because of various issues which have nothing to do with intentional obstruction? Though I have here mainly in mind economic and social conditions, other examples can be constructed to verify this point.

For example, I can feel dominated and diminished in my discursive status or otherwise human status whenever I cross the border, because I happen to hold a passport that usually makes my traveling abroad humiliatingly difficult, especially at border crossings. Thus, I am required to apply for a visa for pretty much every European country, while other fellow Europeans, luckier than I, can travel freely, and without being submitted to casual humiliation by suspicious border control officers. The feeling of an agent who has to go through this can very well be that of domination, but is it really a case of domination as instrumental republicans define it? If we are to follow Pettit in his insistence on the importance of being able to look others in the eye, in a relationship of reciprocally acknowledged equality, then this situation may qualify as one of perceived domination. The more stringent rules that apply to some people when traveling abroad, in virtue of their citizenship, are surely part of international law. Thus, it is difficult to think that we could say that this is an instance of domination, despite the dominating feeling that an agent may actually experience. Or maybe, it is not even domination that the agent would experience in such a case, but something similar that we may call by a different name. What this example shows is that domination is an unclear idea, with

different aspects that are incommensurable if we are to think about what counts as domination for a person and what counts for another⁵⁶.

On a different line of thought, does in fact the concern for non-domination stop at the borders of the nation-state one is member of? There are those who say it should not, and who try to establish republican cosmopolitanism on the basis of a reinterpretation of freedom as non-domination⁵⁷, but Pettit's theory does not seem open to a cosmopolitan re-working of freedom as non-domination, the reason for that being that freedom is entangled with civility and this in turn is dependent on group-level forms of identification and motivation, of which I will say more in the next section.

The underlying republican assumption at work here, is that individuals are conversable and that in their interactions, by making the effort of giving good reasons for their actions and positions, they attain an equal, discursive status. Of course, this can be readily challenged by pointing out that social endowments pertaining to different individuals can function as antecedent conditions for the discursive performance of individuals once they come to the supposedly equalizing, round table of deliberation.

The republicans adopt, however, the position that such a discursive control provided by participation and deliberation in the affairs that concern them socially and politically will strengthen both their position as individuals interested in attaining a dignified status and their self-interested position. The republican axiom is according to Pettit, people's individual power of choice. People can exercise it if they enjoy freedom from domination by others. This freedom turns to be equated, in the republican tradition, with citizenship because only an

⁵⁶ on this point, see also Richardson, 'Republicanism and Democratic Injustice', 188

⁵⁷ James Bohman, "Republican Cosmopolitanism", *The Journal of Political Philosophy*, 12, no. 3 (2004): 336-352

active form of citizenship can keep one safe from the domination of a potentially arbitrary government. Furthermore, citizenship can be exercised effectively only under non-arbitrary laws. What is required for non-arbitrariness in the exercise of power is not consent, but contestability. In order to act non-arbitrarily, the state has to be guided by shared, relevant interests and ideas. As Pettit argues,

“This does not mean that the people must have actively consented to the arrangements under which the state acts. But what it does mean is that it must always be possible for people in the society, no matter what corner they occupy, to contest the assumption that the guiding interests and ideas really are shared and, if the challenge proves sustainable, to alter the pattern of state activity.”⁵⁸

When talking about the strategies for fighting domination and thus promoting freedom as non-domination, Pettit chooses the constitutional provision over the strategy of reciprocal power, the latter referring to the empowering of those previously dominated, by equalizing the agents' resources. The preferred strategy entails the establishment of a constitutional authority (a corporate, elective agent) to mediate the situations that contestation can effect. And while Pettit admits that the weakness of the strategy of reciprocal power lies with the fact that it will most likely not manage to fulfill its desideratum (to enable the defense of each against unwanted interference) but something less (to threaten interference with punishment), he does not admit that this holds true for the constitutional provision as well. Thus, however way you go about trying to achieve non-domination, you are deemed to fall short of the specified goal: “To enjoy non-domination is to be in a position where no one has that power of arbitrary interference over me and where I am correspondingly powerful.”⁵⁹ In the light of these comments, it appears that the republican goal as defined by Pettit (in the most rigorous of formulations) is inherently unattainable since arbitrary power can never be eradicated, it can only be attached higher costs. Moreover, the applicability of the constitutional constraint

⁵⁸ Pettit, *Republicanism, A Theory of Freedom and Government*, 63

⁵⁹ Pettit, *Republicanism, A Theory of Freedom and Government*, 69

presupposes that the designated authority observes the common good, which short of a stock of naturally virtuous people, will always raise questions of partisanship.

To sum-up the concept presented here in Pettit's own line of thought, the ideal of liberty as non-domination is essentially civic, protected by institutional *screening* of the use of power and citizen vigilance. Moreover, freedom as non-domination is construed as an instrumental good, because it generates other benefits for the individual: not being uncertain in connection with your position in a power-relation; not having to employ some strategies in the assurance of a problematic non-interference; not having to subordinate. That, at least is Pettit's claim. The circularity of the previous statements (is it not the case that freedom as non domination actually means not being uncertain in a power relation, and not having to employ humiliating strategies in order to win the good-will of a dominating agent?) should alert us, however, to the need of articulating the role this notion of freedom plays in the simplest and clearest of ways. Rather than to say that freedom as non-domination is an ultimate good, or that it is an instrumental good because it assures other important, primary goods, it seems more straightforward (and in line with Pettit's ideas) to say that advocating this notion in a consequentialist fashion (the end of action is best consequences) entails the constant, institutional and socio-cultural attempt to implement 'warrants for freedom'.⁶⁰ Also, it appears to combine with other values like that of deliberation, so that the claim that it is the ultimate value appears to hold rhetorical weight more than anything else.⁶¹ We will discuss the connection between deliberative democracy and republicanism in a later chapter.

The most disappointing element of the republican notion of freedom as non-domination is that it actually dismisses what would seem to many as the most salient source of domination,

⁶⁰ see a more detailed discussion along similar lines in Nadeau, 'Non-domination as a Moral Ideal', 132-3

⁶¹ see also Richard Dagger, 'Neo-Republicanism and the Civic Economy', Politics, Philosophy & Economics, 5, no.2, (2006), 167

money and power in the corrupting relationship that usually defines them, as well as economic inequalities as source of disempowerment. The realization of the simple fact that political equality is conditioned by inequalities in the social and political system is simply not something that Pettit or Maynor worry about.⁶² Instead, they seem to worry most about how to make institutions, but particularly society more likely to promote freedom as non-domination, while avoiding substantive approaches to ‘equality.’ Thus, a republican theory of the discussed denomination would be market-oriented. The existing property system and distribution, no matter how inegalitarian, as Pettit puts it, does not endanger freedom on the republican understanding, since the fact that there are inequalities out there, in society does not mean that somebody is in a dominating position.⁶³ This point raises an interesting issue. Freedom as non-domination is not an exhaustive way to talk about justice. In fact, there are injustices out there which freedom as non-domination is not concerned with, since whatever appears to play a similar role as that of the natural environment, like an inegalitarian property system for example, and is not the effect of intentional and conscious arbitrary interference is not up for contestation.⁶⁴ Thus, undue influence by the wealthy in politics is possible (for example, in the form of strong lobbying groups) outside of the notion of domination: “money can buy influence without exercising domination”⁶⁵, as long as the latter is defined along a strong intentional and interpersonal line. Also, it should be noted that “economic redistribution or restriction will be supported under a republican political theory, so far as material poverty or inequality is productive of non-domination.”⁶⁶ It is unclear, however, to what extent and under what conditions unfair practices that ultimately spring from economic inequalities can be taken to represent domination. If we are to emphasize the sort of personal

⁶² On an argument that contrasts Pettit’s notions to Rawls’ insistence on the ‘fair value of freedom’ and how that necessarily includes an ideal of equality of a more substantive nature than Pettit’s shallow, political equality, see Richardson, ‘Republicanism and Democratic Injustice’

⁶³ Philip Pettit, ‘Freedom in the Market’, 139

⁶⁴ Pettit, ‘Freedom in the Market’, 139

⁶⁵ Nadeau, ‘Non-domination as a Moral Ideal’, 186

⁶⁶ Pettit, ‘Freedom in the Market’, 141

quality that Pettit seems to attribute to dominating relations (two agents aware that one is in a dominating and the other in a dominated position), then it may well be that injustices can be overlooked, and never achieve attention-worthy, domination status according to Pettit's standards. It is fair, however, to point out that Pettit does think that intervention in the form of redistribution or market regulation, or the introduction of policies against private campaign financing, against monopolies is necessary as long as that minimizes domination.⁶⁷ Other possible specifications of a republican approach to economics, or what Richard Dagger calls 'civic economy', may consist in a special attention to the character of work and the conditions at the workplace, to protecting economic diversity by favoring locally owned businesses, to instituting an inheritance tax, or a progressive consumption tax.⁶⁸

It becomes apparent that Pettit's republican proposal is motivated by the "assumption that the ideal is capable of commanding the allegiance of the citizens of developed, multicultural societies, regardless of their more particular conceptions of the good."⁶⁹ Taking one step further, the republican notion of freedom is probably seen as the binding value and ideal towards a republican public philosophy that would unite people of very different outlooks and allegiances. In the following I discuss what kind of political community one can envisage on the basis of a republican theory.

1.5 Republican community

Philip Pettit's practical, institutional points may not have struck one as being specifically republican, or as departing from a liberal theoretical norm. His notion of freedom was particularly sensitive to individual well being, and had as a starting point the individual. It is

⁶⁷ Pettit, 'Freedom in the Market', 145

⁶⁸ Richard Dagger, 'Neo-Republicanism and the Civic Economy'

⁶⁹ Pettit, Republicanism, A Theory of Freedom and Government, 96

true, however, that the notion was presented in a specific republican way (individual freedom is the emphasis, but it can only be secured in the understanding of a republican via the achievement of freedom for the group or political community). The related concept of the common good was not presented in a comprehensive light, but in the vision of freedom as non-domination as a common good, which can only be attained for one individual when everybody benefits from it. And since the goal of having everybody free in this republican sense would seem too far-fetched, Pettit limits himself to the increase of freedom as non-domination to the level of a partial common good (one individual will benefit from it only if all or most of the other members of his vulnerability group can also benefit from it). He is however explicit about the hope that some day this can become a perfect common good (meaning that it would be practically attainable for every individual).

Where Pettit does start to sound as a republican is in his treatment of the concept of republican community and the way this concept plays into the whole of his theory. In Pettit's version of republicanism, communal solidarity is presented as an important notion and what informs solidarity is the allegiance to the political ideal of liberty, and more specifically, to fighting 'the tyranny of the majority' or any forms of *dominium* (private domination) or *imperium* (arbitrary public power). The ultimate aim of Pettit's consequentialist theory is indeed the maximization of the overall freedom as non-domination enjoyed by citizens. The political ideal of freedom as non-domination can only make sense, however, within a constellation of concepts, and moreover, it can only make sense when given a communitarian reading.

"For it is clear from the observations deployed here that there can be no hope of advancing the cause of freedom as non-domination among individuals who do not readily embrace both the prospect of substantial equality and the condition of

communal solidarity. To want republican liberty, you have to want republican equality; to realize republican liberty, you have to realize republican community.”⁷⁰

Thus, it becomes apparent that his vision of political community is a precondition for what his theory ultimately wants to promote. We come now to the foundation of Pettit’s theory.

The other side of the coin for Pettit’s hard core legalistic vision of a constitutional republic is the insistence on civility as the norm of society. Civility can have a passive or an active content. By passive civility the author refers to the obedience to good laws, while active civility entails expressed disapproval towards the situations when government fails to track the interests or ideas of a particular group. In order for civility to reinforce and keep a constant check on the way laws are drafted and implemented, there have to be conscientious citizens out there willing to play the watchdog and ready to express contestation. The people who are willing to point out the mismatch between government policy and their group’s grievances will thus exhibit what Pettit means by civility most of the times- the willingness to contest if need be: “They do not just complain on their own behalf. They display a form of civility which leads them to work at organizing the group and at articulating shared grievances; in their disposition to approval and action, they embody norms of fidelity and attachment to that group.”⁷¹

Thus, without an ethos of civility up and running in society, ‘complier-centered’ strategies of institutional design (designing not with the knave in mind, but rather with a complying citizen in mind), the ‘empire of law’, and all the screening and sanctioning envisaged to safeguard a resilient republic are reduced to a house of cards. And since such an ethos of public behavior

⁷⁰ Pettit, *Republicanism, a Theory of Freedom and Government*, 126

⁷¹ Pettit, *Republicanism, a Theory of Freedom and Government*, 247

is listed among Pettit's preconditions of setting the republican system up, it becomes apparent that only developed, stable democratic societies can enjoy the benefits.

Pettit, however, does not keep to a diluted, wishful vision of civic-minded citizenry. He pointedly draws the picture of his republican community in terms of 'group-centered civility'. Thus, he ultimately defines civility as a form of identification beyond one's strictly personal self, the identification with a group of allegiance, be that an ethnic group, a group of women, or a group of gay people. Through this allegiance beyond the threshold of one's self, one comes to internalize civil norms that guide one in his/her behavior. Thus, group allegiance is supposed to foster civic-mindedness in individuals and become the basis for government contestability: "civility is as much a matter of identification as it is of internalization, for when I internalize civil norms I can be described, at one and the same time, as identifying with the group whose norms they are."⁷² But, while group allegiance can be trusted to represent a platform of vigilance and anti-*dominium* or anti-*imperium* mobilization, it is not at all clear why partial civility would not simply represent the advance of sectional interests. Thus, it has to be emphasized here that in order for Pettit to make a persuasive argument about the benefits of civility, he has to show us how the partial forms of civility that he mostly describes are to be translated to a general, societal level, since it might be that, even though the author announces such a translation as desirable and as 'a matter of fact', he is unable to set the grounds for it.

As illustrated above, when Pettit talks of individuals coming to adopt civil norms he mainly refers to them "identifying with the groups whose interests are associated with those values."⁷³ This is not, however, the end of the story. There appear to be in Pettit's

⁷² Pettit, *Republicanism, a Theory of Freedom and Government*, 258-9

⁷³ Pettit, *Republicanism, a Theory of Freedom and Government*, 257

conceptualization two fronts: the front of what he calls group-centered civility and the front of civility in the form of fidelity to the civil norms of society as a whole. While his republican politics “requires partial forms of civility in order to be effective, it also requires a disposition on the part of people, even people of quite different perspectives, to display a civility that relates to the society as a whole.”⁷⁴ I contend, however that this conceptual sliding from partial civility to societal civility should not be taken lightly as Pettit does: “The internalization image of civility, to return to our main theme, represents fidelity to civil norms as an exercise in overcoming the self, whether the norms internalized be those of the society as a whole or just those of particular subgroups.”⁷⁵ Since the author goes at lengths to emphasize the identification value of civility, which has to be understood, if it is to mean anything concrete, in terms of group identification, one has to raise the question whether his main ‘working’ civility (the partial type) does not actually contradict the societal, general form of civility. Since his idea of solidarity is mainly group-fostered solidarity, this is bound to lead to clashes between the different points of view nurtured by different group philosophies: “For the norms of civility that are required for fostering freedom as non-domination are norms of solidarity with others, not norms of compromise, and they are intimately tied to adopting group-level points of view.”⁷⁶ Thus, his envisaged civility will not yield the identification with the society or polity as a whole, but with the particular philosophy of a particular group. The norms (by the observance of which civility comes by) of a gay group are bound to contradict the norms of a conservative, religious group. So, a resilient question is to be raised again: if it is reasonable to expect, in the context of an acknowledged plurality of world-views, that society is fragmented into different points of view pertaining to different groups, which can happen to contradict, how is societal civility to be achieved? Maybe Pettit’s answer to this would point towards the unifying role of

⁷⁴ Pettit, *Republicanism, a Theory of Freedom and Government*, 249

⁷⁵ Pettit, *Republicanism, a Theory of Freedom and Government*, 258-9

⁷⁶ Pettit, *Republicanism, a Theory of Freedom and Government*, 259

deliberation. And yet, the deliberation that he envisages is meant to fit intra-group exigencies, in such a way that people can reach agreement at the collective level by deciding on the relevant premises to be considered (the premise-driven form of deliberation). Thus the groups that the author has in mind as fitting such a pattern of deliberation are ‘appointment and promotions committees’ or groups with common concerns and aspirations. This understanding of deliberation that Pettit finds closely intertwined with republicanism (“It is only in the event of democracy having this deliberative cast that contestability, and ultimately non-arbitrariness, can be furthered”⁷⁷) does not, however, appear to be appropriate for producing collective reason at the inter-group level, among different groups having different premises that might contradict.

The individual is ultimately left, according to Pettit’s theory, to share the faith of the group he is part of, for good or for worse. “You will only enjoy non-domination, therefore, so far as non-domination is ensured for those in the same vulnerability class as you. Those of you in each class sink or swim together; your fortunes in the non-domination stakes are intimately interconnected.”⁷⁸ In a sense, the difficulty that arises when we consider the types of groups Pettit has in mind is that they seem to be ascriptive and not voluntary types of association. It is thus not accidental that Pettit speaks of these groups in the general terms of their members sharing in the same vulnerability class. And since membership in these groups is not the choice of the particular individual, conceiving of individuals striving for their personal freedom as non-domination in their individual names seems to be more likely than Pettit would have it. Even though it is ultimately correct to say that individuals are affected in their welfare by the limitations that come along with ascriptive identity, it does not seem

⁷⁷ Philip Pettit, ‘Deliberative Democracy and the Discursive Dilemma’, Philosophical Issues, 11 Social, Political, and Legal Philosophy (2001), 282

⁷⁸ Pettit, Republicanism, a Theory of Freedom and Government, 122

reasonable to assume that individuals are somehow captive in their own groups of ascription and that they can only further their interests and secure their positions from within the cause of the whole group. It would be more reasonable to say instead that, in the long run and in overall terms, securing the cause of the group as a whole is the winning strategy.

So, is Pettit at this point being normative or descriptive? The question might sound irrelevant: a hasty answer could be- of course, his stance is normative! We should take into account, however, that Pettit has suggested that his republican theory has the virtue of getting together the features of an ideal type of theory with the ones belonging to a more practical form of theorizing. It may be that in juncture, conceptual points as this one, we are really faced with the true value of such a claim. It may be that in Pettit's view, the claim that individuals will secure their rights only under the umbrella of fighting for group rights is primarily a normative assertion. In passing, it should be mentioned that this point relates to the distinctiveness of the republican view of freedom as an individualist notion with the qualification that individual liberty can be secured within a collective cause. And yet, beyond apparent normativeness, this point that he makes entails the idea that it is actually a commonsensical depiction of individual actions, or at least that it does not contradict predictable, widespread actions by a majority of individuals. This point, however, obliterates the liberal standard of practical individualism: even though born within a certain disadvantaged group, an individual could very well decide to further his/her interests outside the boundaries of the general cause of the group because s/he finds it good to do so. Thus, the argument that it is in the interest of the individual to fight for the achievement of the rights of his/her ascriptive group of belonging (to which he had the misfortune to be born?!) as the means to secure his own rights resiliently does not hold unless we attribute to the envisaged

individual lucid, long-term vision. What does Pettit have to say about this? Is indeed the individual required to exhibit such visionary qualities in Pettit's theory?

The author assumes that "citizens in general can be adequately motivated by the sanctions of the law, given a modicum of the civic virtue (...)." ⁷⁹ Also, when he refers to the fact that his theory does not stipulate judgment-based voting, Philip Pettit stresses that "Nowhere in the description of the model do we presuppose that ordinary electors have to be public-spirited assessors of different policies and parties." ⁸⁰ But if he only requires a modicum of civic virtue on the part of ordinary citizens, then how can the author sustain his view of group-centered civility? The answer to this question is either that Pettit simply fails to justify it on the basis of his own assumptions, or that his theory is designed with a two-tier moral psychology in mind. Thus, if the latter is the case, then it means that there are two types of individuals that Pettit's theory provides for: the ordinary ones, who are rather self-centered, and the 'visionary' individuals who constitute the avant-garde (those individuals who take the long-term view and decide that group-centered civility pays off). In evidence of the two-tier moral psychology that Pettit implies I also bring his following statement: "in the world of esteem, eternal citizen vigilance may prove a discipline *in itself* and without any further recourse to capacity to punish. If this is so, then the duty of vigilance falls most particularly on those whose esteem we think office-holders are most likely to care about." ⁸¹ As this statement makes it apparent there is an extra mechanism at work here. This is the conformity-inducing mechanism of social acceptance, which the author expects 'to police' people into civic behavior.

⁷⁹ Pettit, Republicanism, a Theory of Freedom and Government, 206

⁸⁰ see Pettit, Republicanism, a Theory of Freedom and Government, footnote 1, 191

⁸¹ Geoffrey Brennan and Philip Pettit, 'Power corrupts, but can office ennoble?' Kyklos, 55, fasc 2, (2002), 168

Against the possibility that widespread civility, which he calls patriotism, would degenerate into exclusionary, uncivil patterns, Pettit has a Virolian answer: “but if it [patriotism] goes with a proper republican form of civility it is bound to represent the attitude, rather, of ‘my country for the values it realizes’: ‘my country for the freedom with which it provides us’.”⁸² And yet, Pettit gives a very strong impression that it is not ‘my country’ that comes at the forefront of one’s interests, but the group/s of one’s allegiance. Again, I need to stress, using Pettit’s own reference to the Madisonian discussion of corruption, that identification with a group, will yield the individual’s preference of the group’s interests to those of society as a whole, and consequently, not only the positive awareness and agency in the name of the group, but also, inflated consideration of the exclusive rights of that particular group. It is interesting that Pettit refers to an ideal societal civility as patriotism, even though he does not really wish to enter the discussion of such a widespread form of civility. John Maynor makes an interesting rejoinder to this. He says: “An overriding commitment to group-level identities such as patriotism helps to nurture community and unite individuals and groups from widely varying moral traditions.”⁸³ And yet, this rings as mere wishful thinking for it is not patriotism that instrumental republicans use as a strategy of accounting for an active notion of citizenship. I will analyze this particular strategy in the next chapter of the dissertation, when I will discuss national identity-based forms of republicanism. It has to be emphasized that the strategy that instrumental republicans adopt is that of many, diverse, group-level identities, not national identity, and that, to my mind, there is no convincing bridging between the two that they would offer.

This would be the picture that Pettit draws for his republican community: civically engaged (‘visionary’) citizens fighting to voice the particular concerns of the particular groups that

⁸² Pettit, *Republicanism, A Theory of Freedom and Government*, 260

⁸³ Maynor, *Republicanism in the modern world*, 198

they represent. The various groups in which the community is fragmented are connected by an “ethos of free and honest expression”⁸⁴, which implies the political relevance that silence as well as manifest approval or disapproval are taken to have. So, citizens are expected to be forthcoming in the expression of their political attitudes; they are expected to manifest their political nature not in some general way, but from within the particulars of a group of belonging; they are also, as it will be shown ahead, expected to value the opinion that others have of them, and thus be motivated in their actions by the constant attempt at gaining esteem. Going back to an earlier claim that instrumental republicanism implies a more idealized notion of the individual than Pettit cares to admit, it is worth pointing out that Maynor assigns the burden of tracking common interests to the people themselves: “If individuals are not prepared to let the state or others know what their interests are, how can others or the state not dominate them.”⁸⁵ Thus, it would appear that, intuitively, a feeling of non-domination is already presupposed in order for the voicing of interests to take place. I say that because domination could be intuitively associated with a feeling of powerlessness and lack of courage, thus implicitly precluding voicing. Moreover, the way Maynor sees the difference between the liberal and republican notions of civic virtue and citizenship is that, while the liberal understanding stops at respect and toleration, the republican aims at a deliberative form of engaging with the interests of various people.

On the assumption that people care for others’ respect Pettit builds what he calls ‘the intangible hand’. The ‘intangible hand’ is a communitarian, societal mechanism that is supposed to regulate the different levels of civic disposition on the part of citizens in such a way that even the least civically inclined person will act within the boundaries of the republican desideratum as long as the assumption that people care for other people’s esteem obtains.

⁸⁴ Pettit, Republicanism, A Theory of Freedom and Government, 235

⁸⁵ Maynor, Republicanism in the modern world, 120

Thus, if we take it to be true that individuals do care about what other people think of them, then, the attempt to earn people's respect will motivate into civility the least engaged of the people or those individuals who would rather be prone to defy the law. As it becomes apparent this is a communitarian assumption that leads Pettit away from a liberal standard point of view.

However, the question of how to promote the habit of civility (on which the success of a republican system actually resides) in places where it is not already embedded in the culture remains muddled in Pettit's account. A first answer would be something of the sort that it is reasonable to expect that people would actually exhibit such desired behavior since they want to gain the esteem of others. Only that this argument is founded on the strong assumption that 'regard' or 'esteem' is a core preoccupation of individuals. Another answer would be that the laws themselves represent a form of guidance that facilitates habits of civility. And yet another answer, and probably the most obvious is education, but Pettit mentions this without entering the discussion. Pettit chooses to confide in the first answer, thus going at lengths to convince us of the power of the 'intangible hand'. The main mechanism of the 'intangible hand' can be summarized as follows: it "helps to nurture a pattern of behavior by holding out the prospect that its manifestation will earn the good opinion of others and/or the failure to manifest will earn the bad."⁸⁶ And yet, how idealistic this belief is that civility and the lack of it are to be assigned straightforward positive and negative signs without any 'noise factors' in the way: "Being honorable is likely to go with being honored, being dishonorable likely to go with being dishonored."⁸⁷ On the other hand, Pettit does recognize that the arrangements of contestation that he would like to see at work can fail in such a way as to lead to distortions: consider for example, the role of the media in setting a political agenda, and how a non-liberal

⁸⁶ Pettit, Republicanism, A Theory of Freedom and Government, 254

⁸⁷ Pettit, Republicanism, A Theory of Freedom and Government, 254

media can blur the terms of reference. “We all know that these arrangements can get to be perverted as political parties close ranks, as the media are influenced by sectional interests, and various other corruptions of republican process take hold. But in principle there ought to be ways of ensuring the proper operation of the system.”⁸⁸

As somewhat illustrated above, Philip Pettit makes quite bold presuppositions. The one that he passes onto us without any explanation is that the partial forms of civility that he places at the center of his republican community will not undermine the general, societal type of civility: “While the ideal of republican law presupposes that there is a high level of group-centered civility available, it must also presuppose that such partial forms of civility do not drive out the civility that goes with a concern for the society as a whole.”⁸⁹ If civility in its active form, most simply understood as vigilance, is the necessary counterpart of the passive form of legal compliance, there is yet another side to Pettit’s insistence on the workings of civility.

The other side of the coin on which Pettit proudly presented us with civility is ‘trust’. By now it may pass through the reader’s mind that the author throws various concepts together. With a stroke of the pen, Pettit assumes that his republican community is spared of any game-theoretic type of dilemmas, in other words that there is no uncertainty in the way of cooperation: “in itemizing the need for widespread civility, and in indicating what the state can do to promote such civility, I was arguing in effect for a civil society where suitable forms of trust are exercised and rewarded.”⁹⁰ What comes immediately to mind is to ask why people should trust one another. Is that a reasonable expectation within the logic of Pettit’s own argument? Since until now he spoke of a sort of martial spirit of contestation it is reasonable

⁸⁸ Pettit, Republicanism, A Theory of Freedom and Government, 237

⁸⁹ Pettit, Republicanism, A Theory of Freedom and Government, 249

⁹⁰ Pettit, Republicanism, A Theory of Freedom and Government, 261

to question this sudden appeasement mood. We should remember, however, that this unexpected introduction of the notion of trust leads to what Pettit calls ‘the politics of common concern’, which was presented as a complement of the ‘politics of difference’ that he has had so far at the back of his mind. But, is it really the case that the individuals he has so far depicted should be expected to “confidently put themselves in the hands of public officials”⁹¹? I would say that this formulation is simply unacceptable in the terms of Pettit’s theory. It is unacceptable because it would imply some sort of schizophrenic attitude on the part of citizens once Pettit would have them be vigilant and very much aware of the factor of the corruptibility of power, and at the same time, relinquish ‘the guarding of their guardians’ and simply put themselves into their hands. Another surprise as to what kind of political community Pettit actually envisages comes when he says that “republicanism is associated, not just with a dispensation of widespread civility, but also with a world in which being free is associated with the experience of tranquility and standing.”⁹² But this contradicts the idea of a dynamic concept of freedom (freedom needs to be constantly defended and it is thus to be seen as a process concept rather than an end-result).

It is not surprising that this sudden introduction of the concept of trust as a logical complement of civility can raise the reader’s eyebrows since Pettit has spoken at lengths of the virtues of vigilance and contestation that entail some sort of martial attitude. Moreover, Pettit has proposed that the mechanisms of the ‘invisible hand’ regulate informally the occasions when civility is lacking. Since this mechanism supposes a certain form of ‘policing’ that the author acknowledges (he speaks of “the possibility that people should police one another, via sanctions of negative and positive regard, into certain patterns of behavior.”⁹³), the first impulse is to say that the two attitudes, ‘policing’ one another and trusting one

⁹¹ Pettit, Republicanism, A Theory of Freedom and Government, 262

⁹² Pettit, Republicanism, A Theory of Freedom and Government, 262

⁹³ Pettit, Republicanism, A Theory of Freedom and Government, 228

another are contradictory. And yet, Pettit should not be dismissed so easily. Since what he means by policing is rather a form of shaming, which is not, as could appear *prima facie*, an authoritarian, traditionalist form of behavior, but rather a pretty banal psychological motivator in the life of a social human being, trust and the ways of ‘the invisible hand’ need not be dismissed as contradictory.

Is it, however, also the case that trust and civility are compatible? What also remains to be seen is whether trust can be supported on top of the pile of assumptions that Pettit makes before he reaches this revelatory point in his theory. Pettit’s statements are somewhat confusing: “Since the best reason for trusting someone is that they are trustworthy, it is hardly surprising that the other side of widespread civility should be a high degree of trust in this sense of confident reliance.”⁹⁴ If my interpretation is correct (since the author does not speak of this explicitly), Pettit is actually setting the scene for a two-tier moral psychology, which means that he recognizes that ordinary citizens will exhibit only a modicum of civic virtue (and that is why he had to introduce the mechanism of the ‘intangible hand’), while a different class of citizens, the ones whom I have called the ‘visionary’ citizens will actually bear the burden of contestation. This would imply that ordinary citizens are less trustworthy than ‘visionary’ citizens are. Thus, Pettit’s above quoted assertion cannot hold without the qualification that the two-tier moral psychology implies. So far, I remain skeptical as to the ways in which Pettit’s theory can accommodate the notion of trust as a convincing complement of the notion of civility, which, we should not forget, is mostly associated with the idea of vigilance and contestation. As the insertion of this notion appears unjustifiable under the parameters of Pettit’s theory, I can only speculate that the reason why he nevertheless defended this notion as natural to the republican theory previously unfolded is

⁹⁴ Pettit, Republicanism, A Theory of Freedom and Government, 262

rather sentimental: “Republican liberty is going to seem rather less grand than we may have been assuming if an attachment to that liberty would inhibit the taking of such overtures [of personal trust].”⁹⁵ Does it follow that republican liberty as depicted by Pettit is less grand if we do not see the place of ‘trust’ in the theory? Maybe a more interesting question to ask is why Pettit is actually concerned with such a scenario in the first place? Could his concern with the idea of grandness tell us something about what kind of theorizing he wishes to make? Maybe we can defer such meta-theoretical issues until later, in the dissertation.

1.6 A republican theory of civic virtue vs. a liberal theory of civic virtue

I promised in the introduction to this chapter to provide a brief discussion of whether/how instrumental republicanism differs from more communitarian versions of liberalism. Stephen Macedo provides such a version of liberalism that takes into account the importance of liberal values and of participation in the debate over a liberal public morality. He upholds impartiality, willingness to engage in dialogues with those with whom one disagrees and to discuss different ideals as some of the virtues of a liberal morality. Unlike John Rawls, and together with republican theorists, he recognizes the need to allow and address moral views on the public stage.⁹⁶ Thus, he sees politics as the arena where people with lasting disagreements come together in order to express those disagreements. He defends the notion of liberalism as a public morality, just as instrumental republicans can be said to aim at promoting a public morality based on the notion of freedom as non-domination. As in Macedo’s theory, republican theorists can be said to uphold the importance of critical moral thinking and not to give in to a conventionalist mode of theory that would ultimately succumb to relativism. Moreover, both lines of theory acknowledge the utmost importance of public

⁹⁵ Pettit, Republicanism, A Theory of Freedom and Government, 267

⁹⁶ Stephen Macedo, Liberal Virtues, Citizenship, Virtue and Community in Liberal Constitutionalism, (Oxford: Clarendon Press, 1990), 63

justification and of keeping government non-arbitrary, as well as the methodological requirement that public justification should entail general, public kinds of reasons beyond narrow interests like religious faith. In essence, both lines of theorizing share an idea of civic socialization. In the case of Macedo this idea implies that through public justification people can become liberal, while in the case of republican theory it has a narrower scope and it entails that when engaging in contestation people can secure a non-dominated status. What is more, both theories seem to have an underlying conception of the person as a reason-giver who should be respected in that capacity. Also, as a matter of relevant detail, both appear to assign great value to the institution of judicial review. While republicans propose freedom as non-domination as the core value to define politics, Macedo promotes a principled form of moderation as the means to mitigate between what will generally be conflicting moral views. This principle of moderation goes beyond toleration insofar as it implies reaching a compromise position. While Macedo takes an idealistic, transformative view of liberal values, which will shape individuals into liberals when exercised, it can be said that republicans take a more cautious position and rely extensively on the ongoing mechanisms of ‘the invisible hand’. After this endless series of similarities one can wonder whether there is really anything that distinguishes these two approaches, despite the very familiar vocabulary that they share. While Macedo’s theory appears to entail very little explanation as to what motivates individuals to embody liberal virtues and to fulfill their duty as critical evaluators of government in particular and of public morality more generally, republican theorists argue that there are underlying group identities that foster active citizenship in the form of contestation. Republican theorists contend that constitutive group attachments foster active citizenship, and yet are not beyond critical reflection, because what ultimately underlies them is a strong, individual valuation of freedom as non-domination. I have pointed out that there is indeed a gap between the level of group civility and the level of societal civility in the

republican rendering which may not be fully covered by the unifying power of the shared concern of freedom as nondomination, but the point remains that instrumental republican authors are very much concerned with looking at the motivation underlying the developed political morality. Macedo's liberal theory of civic virtue, however, fails to provide any motivation story as to why individuals should feel the need to take part in the debate over a liberal active morality. Since liberal public practice is that which helps them become liberal, is it reasonable to think that individuals will take on themselves the burden to participate (before such values are embedded in them) for the sake of 'conforming with liberal justice'?

What substantially divides the two theoretical approaches, the liberal theory of civic virtue and the republican theory of civic virtue is the idea that individuals can abstract from their particular commitments and communities of belonging and act in virtue of liberal public reasons and principles as their main motivator, while on the republican arguments, citizens do not act out of their obligations to social justice.⁹⁷ Republican theorists maintain the empirical position that individuals have constitutive attachments, which they try to moderate by the appeal to freedom as non-domination as an universal, primary value, while the liberal theory of civic virtue assumes that people will be committed to abstract principles of justice first and foremost. Moreover, instrumental republicanism is a militant kind of theory that is essentially based on the idea that individual freedom needs the stronghold of public freedom, while the liberal theory does not see any place for group level activism and does not take such a dramatic stance as to why it is important that people participate politically.

1.7 Conclusion

I hope to have shown in this chapter several things. First, even though the notion of freedom as non-domination has initially appeared as simply a qualitatively better equipped notion of

⁹⁷ see on this explicit point Maynor, Republicanism in the Modern World, 81

freedom as non-interference, with not much recourse to distinctiveness, once we acknowledge its positive dimension requiring interpersonal recognition and the holistic assumptions on which it is based, it becomes distinctive enough to differentiate it from the liberal notion. Even on Pettit's admittance, freedom as non-domination is better or different than freedom as non-interference only insofar as it works with a different notion of the individual as discourse-theoretic oriented. That means that people are taken to be conversable and that they are understood to casually form and amend their beliefs in discourse with others. This opens for us the Habermasian track of thought on discourse theory and deliberative politics and how they might fall into line with republican ideas.

Next, I have shown that freedom as non-domination accords strikingly little attention to structural sources of inequality and how these can have undue influence on politics and social life. Since the actual emphasis is on bilateral, reciprocally aware instances of domination, unfair practices appear to be left outside of the scope of freedom as non-domination as long as they do not achieve an interpersonal or concrete domination status. Also, instrumental republicans place a strong emphasis on the importance of institutions and norms. Both Pettit and Maynor appear to be particularly concerned with the latter. The upshot to that is that a certain, overall parochialism emerges from Pettit's emphasis on society's mechanisms of esteem in keeping individuals virtuous. Thus, a certain form of docility is unwittingly mixed here with the militant spirit of contestation.

Finally, I have tried to show that the 'partial citizenship' strategy adopted by instrumental republicans fails to give an account of what unites individuals from different groups of allegiance, and could amount to a conflict-ridden picture of society. This is so if we remain unconvinced by the potential of the concern for freedom as non-domination to unite

individuals beyond their group identities. Finally, I have suggested that a republican theory of civic virtue retains its distinctiveness when compared with a liberal theory of civic virtue due to the holistic assumptions on which it rests and its militant outlook.

Chapter 2: A National Identity Republicanism and Initial Ideas on the Notion of Political Obligation

2.1 Introduction

After analyzing the merits of an instrumental republican strategy in the promotion of a republican agenda, the next task in the larger project on contemporary republican theories is to consider republican arguments built on a nationalist platform. That we should investigate a national-identity form of republicanism at this point in the dissertation is logical if we briefly think back at what we have learned from the analysis in the first chapter of the dissertation. There were two main findings in our previous analysis of Philip Pettit's thought that invite further reflection. First, we found that the notion of freedom as non-domination is different from the mainstream liberal/libertarian notion of freedom as non-interference, paradoxically enough, only insofar as it incorporates the positive feature of interpersonal recognition as part of what is required for someone not to be dominated. At the root of this there is a very important assumption according to which individuals are discourse oriented, or in other words, they form their normative beliefs in discourse with others. That proposition, however innocent-sounding, has a couple of serious implications that we are going to explore in the next chapter dedicated to Arendtian/Habermasian ideas. This assumption grounds the republican focus on deliberation, which as we shall explore in future chapters, is at the heart of a notion of republican self-government and enhanced civic participation.

The second main finding of the previous chapter, which is our starting point here relates to the strategy that Pettit proposes in explaining motivation for civic action: group belonging. The claim I made was that Pettit cannot explain how individuals who may get motivated into good citizenship by their sharing some vulnerability with a group of people and thus becoming

good citizens in the name of the particular cause of the particular group, can actually feel inclined to express solidarity with the rest of the citizenry. That is where this chapter steps in. Could a theory that tries to tell a different story, based on national identity as a common denominator rather than based on partial forms of solidarity, make republican ideas more compelling? By compelling I mean here not only analytically sound, but also normatively attractive, since as was previously shown, Pettit's theory does not fulfil either of these two desiderata. Thus, in a way, this chapter starts from a natural after-thought of the analysis so far: if partial forms of identification appear to fail in grounding republican citizenship, could national identity do the trick? Having concluded in the previous chapter that instrumental republicanism (as promoted by authors like Philip Pettit and John Maynor) entails a self-defeating notion of 'partial citizenship', which proposes that civic motivation is derived by individuals from the identification with particular groups of belonging, in this chapter I go on to reflect on the idea that national identity could be the coagulating ingredient that instrumental republicans lacked. Part of this analysis is to ask whether national identity goes together with republican ideas or not, and also to establish whether a notion of citizenship based on national identity as proposed by David Miller is more attractive from a social justice point of view than Pettit's theory, which proved to entail a parochial form of society where concern for esteem rather than the eradication of structural sources of inequality ruled the day.

Arguments having to do with anything 'nationalist' are usually looked down upon with suspicion. That is partly why I will attempt in this analysis the most 'charitable' reading of David Miller's thought on republican citizenship as based on national identity. The other reason for trying to make the most of this line of argument is that nationalist arguments entail the inclusion of 'affect' into politics and more importantly into analytical political theory.⁹⁸

⁹⁸ See on this point also Patchen Markell, "Making Affect Safe for Democracy?: On Constitutional Patriotism", *Political Theory*, 28, no.1 (Feb. 2000): 38-63

This could be a revealing path to follow in exploring republican ideas especially towards the end of the chapter, where we briefly discuss contemporary republican arguments of ‘rooted’ patriotism, which are purported to be something else than nationalist arguments, but are very much in danger of being perceived as masquerading versions of nationalist arguments.

My most general aim in this chapter is to assess David Miller’s nationalist republican strategy. He argues that demanding republican values like civic virtue, citizen responsibility are no romantic reveries but can in fact be exercised as a natural expression of the importance of national identity in the lives of individuals. Part of the reason for choosing to analyse his thought is that he has explicitly attempted to define a republican notion of citizenship in the context of a ‘national identity strategy’. An explicit treatment of republican ideas is not, however, as such the main qualification criterion for one or another republican angle or theme that gets exposure in this dissertation. The dissertation builds up in a heuristic manner, as we are trying to explore the arguments and themes that follow from the analysis. Even though it may appear that the dissertation is rigidly structured around one author or another, it is really the arguments that direct the analysis into an author’s backyard or another’s and not the other way around. Several questions arise from the analysis in this particular chapter and set the discussion into republican perspective. First of all, does national identity represent a desirable context for republican politics? It may appear for example that making substantive arguments for the importance of national identity goes against what other republican authors are willing to argue. Hannah Arendt would definitely reject the claim that national identity can be the bond that unites citizens and directs them to act civically, and Philip Pettit’s position, one expects, would not be favourable either. Also, Iseult Honohan makes an explicit argument against the necessity of grounding republican citizenship in national identity, pointing out that this is both practically problematic because of the multiculturalism that characterizes most of

contemporary nation-states, and normatively undesirable because of the oppressive or exclusive implications of such a strategy.⁹⁹

There are, however, serious questions that still need addressing, as well as a need for an applied analysis that can establish whether republicanism does not/should not have anything to do with nationalism. Does a national-identity based political theory maybe merely spell out the unreferenced, national foundations of most forms of liberal political theory and republican theories for that matter¹⁰⁰, and does it actually open the door for intolerant practices? The analysis in this chapter shows that there is a serious tension in David Miller's arguments between a notion of republican citizenship that celebrates deliberation on the one hand and the author's insistence on the preservation of national identity on the other. The latter is plugged into the interpretation of republican values like that of public responsibility, according to which citizens should make their decisions in line with the principles of public culture of the specific political community. As these principles appear to be ethically substantive, the openness of deliberation is compromised. Thus, political participation ends up being presented as a way of expressing one's commitment to the community. This goes against the spirit of deliberation that seems to animate Miller's theory in that it strips individuals of their role of *agents* and turns them into 'receptacles' of some general will as expressed in the public culture of the specific community. Also, Miller exhibits a tendency to argue for the pre-eminence of national identity, whatever form it may take, while at the same time appearing to presuppose a liberal-democratic setting. While the discussion in the following sections takes various turns together with the author's sometimes contradictory statements, which thus makes it look sinuous, it is finally meant to highlight the split in Miller's

⁹⁹ see Iseult Honohan, *Civic Republicanism*, (London & New York: Routledge, 2002), esp. 276-282

¹⁰⁰ For this general line of argument see Margaret Canovan's writings, especially "The Skeleton in the Cupboard: Nationhood, Patriotism and Limited Loyalties", in *National Rights, International Obligations*, eds. Simon Caney, David George and Peter Jones (WestviewPress, 1996), 69

arguments between the deliberative practice of republican citizenship and national identity, the latter appearing to be ultimately conceived to express a unified, ethical point of view. These general points will then be illustrated in the section where the contrast between two different notions of political obligation clarifies the ambivalence in Miller's thought and its outcomes.

It is fair to say that David Miller's relation to republicanism is in no way as close as that of Philip Pettit's, who devotes his attention to constructing a full-fledged theory of republicanism. As with chapters to follow, it may be thus contended, in criticism of this chapter, that David Miller's republican contribution is in no way comparable in breadth to that of the instrumental republicans already discussed. For that reason, because he is no clear-cut republican, our analysis, it could be contended, is somewhat misconceived. In response to that, I would indeed highlight that Miller's notion of republican citizenship is just an element in a theoretical complex that tries to accommodate arguments that are nationalist within a liberal theory framework. It is, however, a crucially important element, with effects on the whole architecture of the argument.

Thus, it is David Miller's contention first that common nationality is important in the lives of ordinary people and second, that it generates the necessary trust and loyalty for republican citizenship to be a plausible, regulative ideal of politics: "Rousseau's citizens were supposed to gather face to face under the shade of an oak to make laws. If modern social conditions make this impossible, something else must generate the trust and loyalty that citizenship requires. Common nationality has served this purpose in advanced societies."¹⁰¹

¹⁰¹ David Miller, Citizenship and National Identity (Polity Press, 2000), 87

The consideration of various principles of social justice like ‘need’, ‘desert’, ‘equality’ to be applied in different contexts, together with the notion of ‘republican citizenship’ and ‘deliberative democracy’ articulate David Miller’s normative views. His basic normative interest rests, however, with the principle of nationality. It is thus, not the case, in my interpretation, that Miller takes the nation-state to be an empirical given and thus decides to use it, out of necessity, as the basis of his normative theory. Though the empirical consideration may be part of an important introductory case for the principle of nationality as expressed in a state, I do not think that it represents the core of Miller’s position. His empiricist disposition notwithstanding, I think that he envisages the nation-state to be the best, normatively suited context in which to forward social justice. Though he hopes that the trust and ensuing solidarity fostered within the confines of a nation-state would spread beyond its limits to more trans-national constituencies, he is intrinsically skeptical that that would happen. Thus, in my opinion, the principle of nationality does not represent just an empirical ‘starter’, but it is part of Miller’s core normative stance. I do not think that it is necessarily more important than the other elements mentioned above, but it rather gets more attention in Miller’s writings because it is so much more controversial. This, I hope, will shed some light on how David Miller is not a republican author *per se*, but one who, as we shall see, incorporates republican citizenship at a crucial, justificatory junction in his theory.

2.3 Republican citizenship

One of the most important tasks that I take up in this chapter is to consider the relation between ‘the principle of nationality’ (which entails that national identity is a significant source of personal identity, that it underlies an ethical community, and that it gives rise to legitimate claims to self-determination) and the notion of republican citizenship. Before this assessment, however, I need to point out that what Miller means by republican citizenship is

in itself worth considering with care. The core of republican citizenship is (individuals taking part in) political activity understood as deliberation over issues of public concern, or issues that can be construed in terms of public concern: “The republican conception of citizenship conceives the citizen as someone who plays an active role in shaping the future direction of his or her society through political debate and decision-making.”¹⁰² One of the things that become apparent from this statement is that deliberation is a constitutive part of Miller’s notion of republican citizenship. Thus, unlike Philip Pettit’s theory where deliberation does not necessarily hold a core function, David Miller gives deliberation a particularly central role and lays the emphasis on it as the prominent means of republican citizenship, particularly outside formal politics, as exercised by ordinary citizens who want to reach decisions together. And though there is no necessary connection between republicanism and deliberation in the relevant literature, in Miller’s theory it does seem that they are inextricably linked.

This is not the only way in which Miller’s theory differs from an instrumental republican case. The most significant difference refers to the use that republican politics is put at in the two modes of theorizing. While in the theories of instrumental republicans like Philip Pettit and John Maynor republican notions like *civility* are valuable insofar as they are seen to secure resilient individual freedom conceptualized as freedom of non-domination, in David Miller’s rendering an active civic life is seen to be an intrinsic good. Thus, according to Miller, the republican conception of citizenship requires “that it should be part of each person’s good to be engaged *at some level* in political debate, so that the laws and policies of the state do not appear to him or her simply as alien impositions but as the outcome of a reasonable agreement to which he or she has been party.”¹⁰³ Miller goes on to say that his

¹⁰² Miller, *Citizenship and National Identity*, 53

¹⁰³ Miller, *Citizenship and National Identity*, 58

view can accommodate both an ‘intrinsically fulfilling’ line of interpretation of political activity and a more instrumental understanding of political activity as a necessary precondition for other valuable activities. This assertion notwithstanding, I think that Miller can be said to be committed to a substantive notion of republicanism that envisages political activity (which essentially entails at least occasional participation in public debates) as part of the good life: “Nationalists, by contrast [to liberals], are likely to attach intrinsic value to public life, and to adopt a republican view of citizenship, according to which the citizen should be actively engaged at some level in political debate and decision-making.”¹⁰⁴ The grounds on which Miller thinks that political activity is a good in itself, as illustrated in the above quotes, are illuminating: he argues that individuals need to get involved in the public debate in order not to perceive state laws and policies as ‘alien impositions’. What does that tell us? It suggests, I think, that the author expects that individuals would not want to be left out of the decision-making process concerning the life of their political community, which in turn spells out a certain conception of the person underlying his theory.

This conception of the person, as I argue, could be seen to be formed of three interrelated propositions. The first is that individuals care about their autonomy, and try to the best of their means to be in charge of their own lives. The second is that they identify with the political community that they are part of (that is where national identity comes in), and by that I mean that they care about their fellow countrymen and about the institutions and values that are representative of the nation-state. The third is that, because individuals value personal autonomy and are attached to the polity that they are part of, they will care about political self-determination, that is, they will try, to variable degrees, according to personal disposition, to be part of the public culture debate that informs political decision-making. Miller gestures

¹⁰⁴ David Miller, *On Nationality* (Oxford: Clarendon Press, 1995), 194

at a similar conception of the person as the one I have been describing here when he talks about ‘national self-determination as an expression of collective autonomy’.¹⁰⁵ He concedes that this entails a ‘contestable view of the person’ and that “It supposes that people have an interest in shaping the world in association with others with whom they identify.”¹⁰⁶ He is not very willing to adopt such a demanding view of the person, but I argue that considering his promotion of republican citizenship (in his specific understanding of it) superimposed on ‘the principle of nationality’, this may well be something that he would be forced to adopt full-heartedly. In fact, at times, he does seem to adopt it. Thus, he talks of the “considerable value that people attach to collective autonomy- to determining their own future along with others they identify as compatriots” and also about “the value in living according to laws and policies that correspond to the local understanding of social justice.”¹⁰⁷

If I am correct in saying that, then it would mean that, in line with Miller’s thinking, a further normative constraint would have to be introduced explicitly: that the state be democratic so that something like ‘the popular will’ can be said to ensue. This would seem to be anyhow the invisible, normative assumption throughout Miller’s writings, and it would thus only get its due recognition. I will come back, however, to this point later on, when Miller’s views have been fully explicated.

So far, republican citizenship is supposed to entail conscientious citizens that have an interest in taking part in public debates (some quite frequently, others, most of the citizens actually, when issues or circumstances of high importance arise). According to Miller’s line of argument they have an interest in public participation because they are motivated by a shared, strong element in their personal identity, that of identification with the national culture at

¹⁰⁵ Miller, *On Nationality*, 88-90

¹⁰⁶ Miller, *On Nationality*, 88

¹⁰⁷ David Miller, *Citizenship and National Identity*, p.176

large. I will discuss what national identity entails in greater detail in a future section, but for now, it is important to point out that saying that individuals have an interest in participation is actually misleading, because it gives away an instrumental hint, while Miller's implied position appears to be much stronger: "Political participation is not undertaken simply in order to check the excesses of government- voting out a corrupt administration- or in order to promote sectional interests- lobbying for the producer group that you belong to- but as a way of expressing your commitment to the community."¹⁰⁸

Many questions will be prompted by an assertion like the one just quoted. If political participation is an organic expression of one's belonging to a national community, as it does seem to be suggested in the above quote, and if national identity is taken to be an important thing in the life of any individual, then one could reasonably expect widespread political participation. This is not, however, necessarily the case because Miller does allow for varying degrees of national identification pertaining to different individuals with different value systems and world-views. It may not be crystal clear, but I think the point must be, according to Miller's line of argument, that political participation will be a causal expression of national identification. Thus, according to this form of argument, one would expect that low levels of national identification will result in low levels of participation, while the opposite will of course, also hold.

Taking into account Miller's formulation in the above quote, one can easily drift to think that the difference between those uncommonly conscientious citizens who take frequent part in public debates and ordinary citizens who get involved only rarely is that the first exhibit strong loyalty to their national community, while the second group is less loyal. This in turn

¹⁰⁸ David Miller, *Citizenship and National Identity*, 83-4

could be taken to imply in the extreme, a conservative ethics whereby the national community, speaking through the voice of its loyal citizens could see it fit to shun those people who do not show enough commitment. In order to have a better hold on this claim of potential authoritarianism as a loophole in Miller's theory we would need, however, to know more about the kind of national community that Miller envisages, which remains a task for the next section. Until then it is important to note that in Miller's conception, the source on which republican citizenship feeds is national identity construed as an important factor in people's everyday lives. Also, it is worth noticing from the discussion so far how national identity and citizenship mesh together to the point that you cannot talk of one of them without automatically invoking the other.

So far we have established two things about republican citizenship as envisaged by David Miller. The first is that it refers essentially to political participation by ordinary citizens in the form of deliberation and the second is that the source of individual motivation for participating in public debates is the identification with the national community. In what follows I will try to specify the contents and aims of public debating as envisaged by Miller. First of all, as the author points out, republican citizenship does include the liberal set of rights, civil, political and social rights, but adds on top of this classical vision of liberal citizenship the further requirement that citizens get involved in the public debate that drives the political process of decision making in a state. It is almost part of a generic, republican script to say next that citizenship is more than a 'legal status', that it is a practice of civic responsibility that individuals should uphold. According to the arguments reviewed in this chapter, individuals not only should, but they can and do act with civic responsibility because they are prompted to do so by their sense of national identification. It is my aim to establish to what extent this strategy is convincing.

Once engaged in politics citizens are expected to promote the common good of the national community.¹⁰⁹ What does that mean? It means that individuals are expected to discuss issues that arise in public debates with a sense of public responsibility, whether these issues are of clear public concern like those pertaining to public goods such as environmental protection, national defence or public healthcare or whether they are more partisan such as special rights for a certain group of people. Exhibiting a sense of public responsibility, according to Miller, involves identifying and making reference to shared principles pertaining to the national community.

That would seem to imply that there is an inherent ‘status quo bias’ at work here, since individuals who have different views from the mainstream can find it difficult to convince anybody of their own views that are not in line with the public culture. For example, arguments in favor of more social security-driven policies have no chance to penetrate the national agenda if the public culture is rather individualistic, since people who do hold such dissident ideas are expected to show public responsibility and promote those rebel ideas of theirs in line with the existing principles of public culture. That would seem to be pretty close to impossible if not an utterly absurd situation as their ideas contradict those principles crucial to the relevant public culture. Thus, it would seem to follow that there are restrictions set on what people can argue for in the course of public debates and they spring from what is accepted as norms of justice in the particular political community. Miller could reply to this, as he might be seen to suggest at points in his writings, that there are really no restrictions on what people can talk about in the public forum, except that they should try to present those issues in the terms of the accepted principles of the public culture, and that this, therefore,

¹⁰⁹ Miller, Citizenship and National Identity, 53

would not perpetuate a status quo bias. The implication of such a line of defense is that by principles of public culture the author merely refers to some thin, procedural rules specific to the political community. To this, we could in turn reply that those constraints he refers to are not procedural in nature, at least not in the way the author seems to present them, but are substantial and thus, exercise a substantive screening of the topics and approaches that can be promoted successfully in the public forum. And of course, it is meaningful to say that no propositions are restricted from the public debate (except those that violate the rules of political dialogue) only if these various propositions start out with an equal chance of success. But if some are more prone to succeed because they are in line with the political ethos of the community, then it follows that not everything can really be promoted on the public scene.

Considering that Miller's notion of national norms of justice is a particularistic one, that is, that it does not seem to presuppose any objective notion of justice, but rather, whatever is deemed as a standard in the public culture of the specific nation, it follows that what 'the common good' entails will vary from country to country according to whatever is deemed to be the notion of the good pertaining to the particular nation. Also, as already suggested, it would seem that Miller's notion of the common good carries with it a conservative bias as long as it implies perfecting or getting more of what 'we', the nation, already think it is of value. But is that really so, or are we jumping to the wrong conclusion?

In Miller's terms, whether some specific demands voiced by a specific group will be recognized "will depend on whether the demand can be linked to principles that are generally accepted among the citizen body, such as principles of equal treatment."¹¹⁰ This assertion betrays the fact that Miller presupposes that the unit of reference for his normative theorizing

¹¹⁰ Miller, Citizenship and National Identity, 56-7

is a liberal-democratic state since, one would think, only when it comes to such a state can one assume that a principle of equal treatment would automatically be part of the public culture. Thus, I think that it should be unambiguously pointed out that Miller's theory of republican citizenship (having as a constitutive element deliberation) is meant to work only within liberal democratic states. If this were not so, then critics would be entitled to voice their concerns that any defining principles pertaining to a national identity could be given prominence according to Miller's theory, regardless of them being potentially illiberal in content. And yet, the author is far from explicit on the point. In fact, he repeatedly seems to suggest that whatever is deemed collectively to be part of one's national identity will have to pass as a regulatory principle for society to organize by, no questions asked. When talking about the British insistence on keeping their own currency as one of the 'denominators' of British identity, which sounds innocuous enough, Miller seems to be adding that anything that is deemed to be part of the national identity is worth preserving.

"In this area, a collective belief that something is essential to national identity comes very close to making it so. Once you combine the principle of national self-determination with the proposition that what counts for the purposes of national identity is what the nation in question takes to be essential to that identity it follows that nothing in principle lies beyond the scope of sovereignty."¹¹¹

If we are to follow this assertion to its logical conclusion then, it would imply that a collective belief that girls should not go to school, while boys should, or that it is right for girls to be kidnapped for marriage because this is how things are done in 'our' community, if seen by the majority of the people of the respective state as part of their national identity is worthy of state protection by the very nature of the fact that it is an expression of national identity. To this, one would tend to react by saying that national self-determination should not qualify just any claim for national specificity as a valid, regulative principle, since such a claim could

¹¹¹ David Miller, On Nationality, 100-101

happen to be illiberal, to be violating the principle of equal treatment for example. It cannot be true, in Miller's own conceptual terms that "nothing in principle lies beyond the scope of sovereignty", since, we should not forget, republican citizenship is not just jolly participation in public debates, but it is that on top of a liberal set of rights, which unavoidably acts as a constraint on what can and cannot be an element of national identity. Thus, under this logic, if we accept that the first layer of a republican notion of citizenship, the liberal one, acts as a control on the second, substantive- participatory layer it will mean that practices like restricting girls from schooling cannot be allowed to persist on the grounds that they are representative for national identity. We can only agree with the critic who said that "national values should be treated not as basic but as supplementary values for democracy."¹¹²

To my knowledge, however, Miller does not discuss the relation between the different layers of republican citizenship in the terms that I do above. In fact, he says things that may be seen to call into question the liberal layer of republican citizenship that he himself had pointed to: republican politics "does not require participants to subscribe to any fixed principles other than those implicit in political dialogue itself- a willingness to argue and to listen to reasons given by others, abstention from violence and coercion, and so forth."¹¹³ But this is surely in clear contradiction with his claim that when entering public debate citizens should adopt "an inclusive identity as citizens" and "try to assess competing proposals in terms of shared standards of justice and common interest."¹¹⁴ So, saying that there is no constraint on what can be forwarded in the public forum apart from a sort of minimal *audi alteram partem* type of control is really making it sound more inclusive than it actually is, for part of David Miller's notion of how a republican citizen should behave is that s/he should assess and agree

¹¹² Erica Benner, "The Liberal Limits of Republican Nationality", Forms of Justice, Critical Perspectives on David Miller's Political Philosophy, eds. Daniel A. Bell and Avner de-Shalit (Lanham, Boulder, New York, Oxford: Rowman & Littlefield Publishers, 2003) 222

¹¹³ Miller, Citizenship and National Identity, 60-61

¹¹⁴ Miller, Citizenship and National Identity, 65

to propositions made in the public forum as long as these accord with the political ethos of one's national community: "It is important for democratic politics that all perspectives should be represented in the political arena, but in reaching policy decisions, citizens should set aside their personal commitments and affiliations and try to assess competing proposals in terms of shared standards of justice and common interest."¹¹⁵ Because these shared standards of justice appear to be purely particularistic and thus are left entirely up to what the community sees to be important, it looks like there are really no minimal criteria of value incorporated. And yet, Miller is not consistent on this point. In response to his critics, when he takes into consideration some reasons as to why public opinion might be defective, he argues against those beliefs that are 'adaptive' when it comes to matters of justice.

"Beliefs might also be adaptive, by which I mean that people's ideas about what is just may be overinfluenced by prevailing practice- instead of considering what justice requires and then applying this to existing rules and institutions, they start with the rules and institutions and generalize from them."¹¹⁶

This assertion seems to overturn much of what I have been saying up to now about Miller's particularistic conception of public culture and its relevance for justice. Though this is not a core part of Miller's assertion, it also makes me think of Rousseau's specific requirement of requisite deliberation as inner deliberation, his proposition being that an individual is more likely to find the correct judgment (that of the general will) as to what decision to be made in the isolation of her own deliberative process. Miller's theory, however, boasts a full-fledged understanding of deliberation. In the light of our discussion so far, it would be worth, however, to reflect on what exactly is the scope of his notion of deliberation. He does say that individuals acting in the public forum will probably have to moderate their more divisive claims and try to present them from a different justificatory viewpoint that might encourage

¹¹⁵ Miller, *Citizenship and National Identity*, 65

¹¹⁶ David Miller, "A Response", *Forms of Justice, Critical Perspectives on David Miller's Political Philosophy*, eds. Daniel A. Bell and Avner de-Shali (Lanham, Boulder, New York, Oxford: Rowman & Littlefield Publishers, 2003), 352-3

consensus.¹¹⁷ This means that deliberation is envisaged to act as a substantive filter. On the other hand, the purpose of deliberation, final decision-making is designed by Miller to accord with an already existing set of normative principles that articulate the existing public culture of a particular community. It seems that for him individuals act in the spirit of republican civic virtue insofar as they decide on the matters under public scrutiny on the basis of the principles that define the prevailing public culture. One might ask why that should be so. I think the answer would have to refer to the idea that individuals come to internalize the values, the guiding principles representative of their national identity. And the reason for that would appear to be that Miller has in mind a view of the nation as a common will, that is, a nation whose ways of ‘doing things’ are taken to reflect a unified point of view, a shared set of ethical principles, and thus, a specific ethical standpoint. Insofar as national identity principles are quite substantive, as I suspect they are, that would suggest that the freedom of deliberation is quite restricted. This last quoted statement by Miller adds, however, a whole new dimension to this picture of deliberation. If individuals are expected, according to Miller’s theory, not to be over-influenced by current practices but to make their own judgements as to what justice requires, then it means that there is some standard of justice outside of what the public culture happens to celebrate.

2.4 National identity

We have so far accumulated a number of ambiguities that will hopefully get resolved once we consider more closely what Miller’s understanding of national identity and national community is. David Miller’s liberal theory of nationalism proposes head-on that national identity is an important source of personal identity that functions as the main basis for social justice. Because people identify with one another as members of a national community, and

¹¹⁷ Miller, *On Nationality*, 97

because they believe that they share certain characteristics of behaviour that have become in time sediments of public culture, as well as a common history and attachment to a certain territory, plus, most commonly a national language, they are willing to redistribute their resources and take care of those who cannot provide for themselves via market mechanisms.

National identity, however, does not presuppose cultural homogeneity, according to Miller, and it is conceived so as to accommodate plenty of group diversity:

“To say that fellow-citizens should as far as possible share a common national identity leaves space for a rich pattern of social diversity along lines of religion, ethnicity and so forth. So alongside the principle of nationality we may- and surely should- hold other principles that protect the rights of minorities- principles of human rights, of equality and so forth.”¹¹⁸

Incidentally, this would seem to answer critics’ worries, alluded at previously in the chapter that Miller might be betting all his cards on the principle of nationality and not be concerned with controlling for whatever illiberal behaviour might come out of national identities. It has to be said, however, that one still feels the need for a much clearer and consistent case on the author’s part for supplementing the potentially positive force of nationality with clear liberal principles that would act as constraints on that force.

Miller’s position on cultural diversity is even stronger than intimated above, since he suggests at some point that cultural diversity in the context of democratic politics aiming at social justice can only be nurtured by a national identity kind of ethos:

“Thus a common nationality provides the only feasible background against which diverse groups can resolve their differences by appeal to even partially shared standards of justice. If we want to encourage group diversity while at the same time favouring a democratic politics that aims at social justice, then rather than

¹¹⁸ Miller, *Citizenship and National Identity*, 119

trying to dissipate national identities we should be aiming to consolidate them.”¹¹⁹

The underlying proposition here is that national identity is an overarching kind of identity that can unite people with quite different cultural outlooks. But the point in itself is not very clear because national identity is supposed at the same time to be indicative of a collective worldview and a cultural way of doing things, if not, maybe, of a full-fledged culture. Because culture and ethics seem to be the stuff of which this particular understanding of national identity is made of, it is difficult to understand how national identity, understood in this way, can represent a bridge rather than a separating wall for those who have different cultural backgrounds. The author makes it clear that national identity is not to be equated with a thin, civic nationalist type of identification. As a member of a certain national community, I am expected not only to identify with my state's institutions, but also to identify with the history and culture behind those institutions, and more importantly, to identify with the worldview expressed in the public culture of my national community. Why is that? I suggest that that is partly so because of Miller's specific conception of the person that he entangles with the principle of nationality and with that of republican citizenship. This conception entails the importance of collective autonomy or political self-determination in the life of an individual. According to this view, individuals will generally want to be part in some way of the public-political life of their own society, thus participating in its constant making. Thus, his notion of national identity attempts a delicate equilibrium between a fairly substantive form of public culture, which is defined by specific values, and an inclusive, supra-cultural type of national bond that is represented by the active nature of republican citizenship. As I will show, he ultimately fails in achieving that.

¹¹⁹ Miller, Citizenship and National Identity, 78

Of course, the question arises, since national identity also appears to contain cultural values, or even more, to draw its inspiration from the predominant culture of the specific society, how can these not be in the way of recognizing alongside public culture, those cultural values that pertain to people's other cultural identities? In trying to achieve this, I think that what may be the author's ultimate emphasis is the bit concerning collective autonomy, the idea that a nation is what 'we', the people who identify with it have forged out of it. I think that this idea of collective self-determination is at the core of Miller's theory and that it has strong republican credentials on a Rousseauian line of theorizing, or maybe going as far back as Aristotle's notion of a 'self-sufficient' political community. Because Miller's notion of national identity consequently entails that individuals exhibit some form of historical memory through which one is proudly aware of what the nation-state came to stand for, this means that it will be somewhat difficult for a newcomer to grasp national identity straight away. On the other hand, because it is a form of practice, a dynamic concept, the newcomer will be able to become part of the national community in time, via engaging into the public affairs of that community.

Thus, it is important to point out that for Miller, immigration is unproblematic as long as "the immigrants take on the essential elements of national character."¹²⁰ Elsewhere, Miller says that the existing public culture and the culture of the immigrant groups joining the political community will have to meet in the middle. Thus, it is not only the case that immigrant groups need to tone down those elements of their particular cultural identity which are in stark conflict with the values of the existing public culture of the nation-state, but also, that the public culture incorporates in time cultural elements of the adopted groups. Where this does

¹²⁰ Miller, Citizenship and National Identity, 30

not work is when it comes to groups whose particular identities and the dominant public culture are in such stark dissonance that accommodation is not possible. In the context of a discussion of secular, liberal-democratic nation-states, this is particularly true when the central part of an immigrant group's identity is represented by a practising form of religion. Thus, cultural diversity can be said to be safe in Miller's version of the nation-state only when it is not too 'diverse', so to say. That is, only when the values embodied in different cultures are not in contradiction to those represented by the public culture. And this can be ensured by having the right kind of immigration laws, laws that take into account when accepting immigrants into the country to what extent they can be accommodated to the public culture of the national group, given their specific cultural traits.

Also, it appears that in order for the assertion about the nation-state being friendly to cultural diversity (if not more than that) to remain true there really need to be some constraints set in place as to what national identity can represent. What I have in mind is that, in light of the discussion so far, it would seem possible according to Miller's theory, that what a national identity represents will depend on the particular political community not only in terms of the shared meanings and understandings but also in terms of the scope of national identity. That is, that national identities across countries can be more or less substantive. Thus, one can imagine one national identity whose ingredients are a certain public culture, a sense of common history, associated with a specific geographical space, for example the Canadian national identity for which the English language has more of an instrumental nature rather than a constitutive one¹²¹, (bracketing here the stress that this particular instance of national identity has come under because of the claims for independence of its province, Quebec). And one can think of another, much more substantive form of national identity which incorporates

¹²¹ See Charles Taylor's discussion of this in Charles Taylor, Reconciling the solitudes: essays on Canadian federalism and nationalism, ed. Guy Laforest (Montréal : McGill-Queen's University Press, 1993), 164

along the above elements not only a specific language but also a specific religion, if not also a sense of *ethnie*, for example the Greek national identity that incorporates a strong sense of its Christian orthodox religion. Thus, it was commonly considered until recently that unless you are of Orthodox religion, it would be difficult to get a job in Greece. Also, Greek authorities were contemplating the idea to introduce a statement of one's religion on Greek ID cards. So, is the Greek national identity just as legitimate a national identity as the national identity that the Canadian one is taken here to represent, or any other covering a middle ground in between the two? What I am trying to suggest following this line of questioning and illustration is that it may be the case that, because Miller stipulates that his notion of national identity allows meaningful diversity in the society, he would also have to give a more precise and a more restricted definition of what the 'right' kind of national identity should look like. That automatically raises the problem that it would impose on Miller's contextualist understanding an unexpected burden of some outside standard, but if national identity is conceived as necessarily accommodating diversity, I do not see how it can avoid the requirement that some more substantive, possible ingredients of national identity like religion are left out. Again, this can be done by viewing liberal principles as restrictive of what national identities can look like, rather than by taking up liberal democratic practice as an undeclared given.

For Miller, national identity is a precondition for social justice, the implication, of course being, that in the absence of a fairly strong sense of national identity among the members of a political community, redistributive justice will not be the norm. As it turns out, there being in place a sense of national identity is not a sufficient condition for social justice because it can happen that the *character* of national identity is individualistic rather than solidaristic¹²², and thus, the relation between national identity as expressed in a public culture and social justice

¹²² Miller, *On Nationality*, 94

needs qualification. It is not the case that national identification automatically sets in motion a solidaristic ethos. Further conditions need to be satisfied, and it is difficult to see at this point what normative conditions could be envisaged in order to determine when a solidaristic or an individualistic *character* of national identity is set in place. After all, the way people conceive of one another as sharers of a national identity, and the obligations ensuing from there is, by the very nature of the understanding of national identity as an object of shared belief, entirely up to the specific set of people themselves. Given Miller's strong contextualist commitment this must mean that social justice is really just an accident and cannot be said to be in direct causal relationship with the existence of national identity.

So far in this section, I have done several things. First, I have discussed to what extent Miller's notion of national identity can accommodate cultural diversity. I have suggested that, in order for the author to be taken seriously when he asserts that it may well be that cultural diversity is safest in a national-state framework, there should be further requirements set in place as to the scope of national identity. Then, I have suggested that the pressure placed on immigrants to accommodate to the public culture may not be unacceptably constraining (considering that they come from different cultural backgrounds) if we think that Miller's notion of national identity is entangled with the notion of republican citizenship to the effect of a very important miscegenation. On a more pessimistic interpretation, it can be argued, however, that the national identity element wins over the republican citizenship element, thus leading us to think that the core of Miller's model is that of the national community as a community of common will on a Rousseauian line of interpretation. On a more optimistic interpretation that gives prominence to the republican element, it can be argued that the central part of the author's understanding of national identity is that of a practice towards the

defining and redefining of the political community that one belongs to. The interpretative path that one will take will reflect her predisposition and presuppositions.

The notion of national identity as public or political practice has as an underlying feature a certain conception of the person. This conception, as discussed in the previous section, implies that individuals are conceived to be interested in personal autonomy in a more stringent manner than in the liberal understanding, so that collective autonomy becomes part of an extended notion of individual autonomy. Because national identity in the form of public culture has this dynamic nature it is relatively open to newcomers as long as they are willing to take active part in political life. Also, this grafting of a republican element on the notion of national identity suggests that my earlier concern about the *status quo* bias intrinsic to Miller's emphasis on the pre-eminence of public culture principles in collective decision-making needs rethinking in light of this particular interpretation of national identity. Finally, I have also pointed out in this section that there being a strong national identity in place does not directly amount to social justice as the author appears to suggest. Whether social justice policies will be put in place depends on something out of the direct control of the theorist and that is the political ethos of the particular community. Some communities will be more individualistic despite a strong sense of national identity, while others will be solidaristic. What this suggests is that the promotion of the principle of nationality cannot be justified as the author occasionally suggests, instrumentally (because it provides the basis for social justice) even though the promotion of a left communitarian vision of polity may be Miller's ultimate normative aim: "If the arguments that I have given for seeing nations as the optimal sites for large-scale deliberative democracy are valid, and if it is also true that deliberative democracy helps to bring it about that a shared conception of social justice will emerge and be

implemented, then we have good reason to favour nation-states as forms of political organization.”¹²³

Instead, we need to consider the ‘intrinsic value’ line of justification for national identity.¹²⁴ I detect two elements to Miller’s ‘intrinsic argument’. First, Miller argues that national identities are valuable because they are important to people. The implication here is that the author is the adept of an understanding of ethics as a reflection of every-day experience and people’s current practices. A further logical implication of this position would seem to be that it could happen that national identity may fall out of fashion, and then, since normative ethics should follow current practices according to Miller’s view, it would lose its regulative value. Second, national identities do have value because of the public reason that they embody. Even though each national community will develop different ethical principles, in other words, despite the overall contextualist view of ethics that the author upholds, there are right and wrong answers as to what a particular community’s ethics implies at time ‘t’.¹²⁵ Thus, there is after all an ethical reference guide and that is taken to be represented in Miller’s view by the reasons embodied in the public culture: “public culture is to some extent a product of political debate, and depends for its dissemination upon mass media.”¹²⁶ Thus, Miller hopes that, because national identities are represented by public cultures that have been formed throughout time via rational debate, the charge of *status quo* bias that I was reflecting on in the previous section, no longer applies: “there is nothing sacred about the inherited culture or ethos of any particular community; this is a proper matter for collective deliberation and reform.”¹²⁷

¹²³ David Miller, *Citizenship and National Identity*, 172

¹²⁴ for a detailed discussion of this see Margaret Moore, *The Ethics of Nationalism* (Oxford: Oxford University Press, 2001), Chapter 2, “The Intrinsic Argument (Or, Are Nations Moral Communities?)”, 25-51

¹²⁵ See Miller, *Citizenship and National Identity*, 171-2

¹²⁶ David Miller, *On nationality*, 68

¹²⁷ David Miller, *Citizenship and National Identity*, 107

The emphasis on public reasoning as the way national identity is moulded may appear to have a sudden, liberating effect, from all our worries as to Miller's theory's conservatism expressed in the previous section. But of course, the first question that arises to challenge such a prompt sense of relief has to do with what makes reasons good in the first place. It can't be that just because reasons are offered in the process of the shaping and re-shaping of the public culture, the resulting ethical principles are automatically legitimate or correct. Reasons can be wrong. So, what makes a good reason? Is it that it has won over all other reasons put forth in the debate, that it has proved to be the most persuasive? It is probably the case that Miller expects that the practices that a certain public culture adopts are founded on sound reasons, which proved the most compelling during the processes of public deliberation. What is a sound reason? Though he recognizes that the mass-media or private individuals and groups could get manipulative, he ultimately trusts that individuals at large are motivated by a sense of 'democratic self-restraint', and that they could genuinely put aside strict self-interest and rather prioritize democratic consensus and the common interests of the community at large. Once again, such an obviously demanding expectation can make sense in the context of David Miller's conception of the person. Part of that conception is the notion that individuals have a strong preference for individual autonomy, understood to have not only a private meaning, but also a political meaning, that is, collective autonomy expressed in the form of participation in public deliberations.

The question, however arises, how reformist is Miller's envisaged society likely to be? It may seem that, because it is characterized by substantive deliberation, the socio-political system would be quite open to reforms. But we should not forget that Miller argues consistently, as pointed out in the previous section, that in deliberation, individuals should pay

heed to the common interests of their community rather than to their private interests when they make their decisions. This is a classical republican statement that should not come as a surprise. However, in Miller's rendering of this republican commonplace, common interests are taken to be defined by the political ethos of the community, by those principles enshrined in a constitution and informing public practices. This could be interpreted in a more or less substantive way. I argue, however, that Miller's guiding principles of public culture are more substantive than your classical 'public goods' kind of rendering because they are community-specific and it seems that Miller's idea that individuals should reflect public interests in their individual decision-making is really loaded with a Rousseauian meaning. I suspect that what Miller has in mind when he says that citizens' decisions should reflect the ethos of their political community is that they should reflect a form of general will, something which crystallizes a form of 'collective thinking', the way 'we' the nation see fit to do things around here. Thus, though there may be nothing sacred about the political ethos of a particular community, I think that it is not as open to reform as Miller wants to suggest, but to the contrary, more likely to entail a conservative bias. Why do I say that? It is Miller's additional contention about the nature of a bounded political community informed by a sense of national identity that it is a historic community of obligation. Miller appears to adopt a Burkean point of view in saying that a national community is a historic community of obligation that takes on almost ontological priority.

“when we speak of the nation as an ethical community, we have in mind not merely the kind of community that exists between a group of contemporaries who practise mutual aid among themselves and which would dissolve at the point at which that practice ceased; but a community which, because it stretches back and forward across the generations is not one that the present generation can renounce.”¹²⁸

¹²⁸ Miller, *Citizenship and National Identity*, 29

I was pointing out previously that one of the implications of Miller's empiricist position is that, if national identity falls out of fashion and people no longer care about it (taking for granted for now that they do care about it in the first place), that would imply for the author's theory that it loses its normative relevance. As the above quote, however, suggests this is not really the way the author sees it, even though it would seem to follow from his basic, empiricist commitment. So, what does Miller mean to say in the above statement? First, he means to emphasize that a national community is not, in his view, an instrumental community. Second, he means to point out that a national community is characterized by temporal 'depth', that it is a product of historical making, and as such, appears to be 'an animal' in its own right, so to say. Does this mean that leaving one's national community is out of bounds? Miller does say somewhere that not making the choice to be an immigrant just for the sake of financial advantage should be taken to be a moral obligation that is part of what it means to be the member of a nation.¹²⁹ He also says, however, that the right of exit should be assured for anyone who would like to leave the nation-state of belonging and that a national identity is not necessarily tied to birth but can be adopted by an outsider once s/he takes part in the public life of the adopted state. It is not clear, however, whether Miller thinks that both native citizen and immigrant citizen have an equal obligation towards one's compatriots. The following assertion may be read to suggest, for example, that there is an implied two-tier form of obligation when it comes to native compatriots and compatriots of immigrant origin.

"The historic national community is a community of obligation. Because our forebears have toiled and spilt their blood to build and defend the nation, we who are born into it inherit an obligation to continue their work, which we discharge partly towards our contemporaries and partly towards our descendants."¹³⁰

¹²⁹ Miller, *Citizenship and National Identity*, 166

¹³⁰ Miller, *Citizenship and National Identity*, p.29

So, is it the case that only those who are born into a nation-state are obliged to see to it that the common interests of the nation are forwarded, or also the immigrants who have become citizens? Is the duty of the native more stringent than the duty facing the immigrant citizen? What precisely is the origin of the obligation? In the above quote, Miller seems to suggest that it is an **ancestral form of obligation**: we owe it to our ancestors that we uphold and continue their work. But if that would be the case, then why would an immigrant be obliged in this sense, since his/her ancestors lie elsewhere? And since Miller seems to want to avoid explanations that make use of an instrumental understanding of obligation or one based on the principle of fair-play, it is unclear why an immigrant citizen should feel obligated towards her contemporaries. Also, such statements may suggest that the national community amounts in effect to an organic cocoon in which the individual is irretrievably entangled.

There is, however, I argue, a second notion of obligation in Miller's theory. That is the form of obligation that springs from the republican notion of citizenship, which entails a concrete practice rather than an immemorial sense of belonging. According to this second notion of obligation people identify with a set of obligations to their fellow-countrymen because they feel to be part of a practice of social and political relations as expressed in the rights and duties of citizenship. I will call this notion of political obligation that derives from republican citizenship '**political obligation as public practice**'. Citizens' sense of duty is sharpened when they take part in public life. As Miller points out, deliberation for example, has a moralizing function, has a way of creating groups and relationships out of aggregates.¹³¹ I think this second sense of obligation emerging from a concrete practice and the consciousness of social and

¹³¹ see Miller, *Citizenship and National Identity*, p.17

political interdependence can first, be argued to be one possible republican line of argumentation and second, to be more inclusive than the first sense discussed above.

2.5 Republican citizenship and national identity

In the following section I reflect on the relation between national identity and republican citizenship through the particular lens of the contrast between the two notions of political obligation that I have identified above. An in depth discussion of the notion of political obligation in the context of Miller's theory could actually spell out to what extent Miller's republican notion of citizenship comes or not in conflict with 'the principle of nationality' to the point where his strategy of accounting for civic virtue is depleted of its republican meaning, and we may thus be entitled to think that a national identity-based strategy of grounding civic virtue is in general defective.

To get back to the discussion of the second notion of obligation that I point to at the end of the previous section, the one deriving from a republican understanding of citizenship¹³², one can indeed see how citizens of immigrant origin can become part of the polity and share in the rights and obligations that define the citizenry. In other words, unlike the first understanding of obligation, the one I have called **ancestral obligation**, which fails to say why immigrant citizens have political obligations towards their compatriots, the second notion of obligation that I have just tackled (**political obligation as public practice**) affords an understanding of how diversity of origin can really be accommodated by the republican practice of citizenship. Thus, immigrant citizens are obligated to uphold and take active part in the polity because by entering the political community they are thrown into a socio-political practice that becomes their own. It will be promptly asked here how citizens of immigrant origin can be expected to

¹³² it should be pointed out that this strategy of grounding political obligation is similar to Ronald Dworkin's strategy in arguing for associative obligations in Law's Empire (Fontana Press, 1986)

become part of a public practice that they have only entered. First of all, the process of naturalization usually takes a sufficiently long period of time for immigrants to become part of the net of practices that constitute the socio-political practice of a political community. Second, if it is to be pointed out that a social practice requires longer time to become part of than the naturalization gap, it can be argued that at first, before they get accustomed and become full part of the public practice governing the specific political community, new citizens of immigrant origin may be prompted to uphold political obligation towards their compatriots because of a sense of fair play.

Thus, in the case of immigrant citizens, it may be the case initially, that individuals incur obligations because they choose to relocate to a specific country and they should thus show fair play and not free ride at their compatriots' expense. This strategy would thus circumvent the problems that are usually associated with the fair play account of political obligation, concerning the uncalled-for nature of the services people receive and for which they are asked to play by the rules. Since, in the case of immigrants the contrary holds (people do choose to immigrate to certain countries for the benefits and specific features those countries have to offer) this problem does not arise. The initial, fair play account of political obligation should be seen, however, to represent only an accommodation, transitional phase, until political obligations deriving from a socio-political practice kick in. Another objection could be raised by pointing to all the immigrant communities that practice isolationism, or that tend to settle for various socio-economic reasons in geographical clusters, and thus avoid becoming full part of the public practice defining the political community. This is indeed, a difficult issue to tackle. Also, examples of terrorist acts perpetrated by the children of immigrants who were themselves born and raised in the United Kingdom, or of radical behaviour by those who carry their religion around as an annunciation of hatred in The Netherlands or elsewhere, as

well as continued examples of intolerance towards immigrants indicate that the search for a republican meaning in political theory may very well take us astray from current practices. It can be said that the isolationist practices I was referring to above are illegitimate and represent a challenge to the model of republican citizenship that underlies the notion of obligation favoured here. What is more, they do undermine the principle of reciprocity that characterizes the notion of political obligation as public practice, which is to say that a citizen should feel that her obligations to others are reciprocated by others' obligations to her. Thus, ways should be found to motivate immigrant citizens that tend to isolate to integrate into the socio-political practices and to uphold the practice of citizenship. Some of these ways could entail the integration of immigrant citizens' children in the public education process, while others could refer to somewhat opposite methods like organizing citizen groups around mosques, churches, trade unions or schools, thus tapping into the mobilization potential of such institutions.

So, far, I have said preciously little about what the republican notion of political obligation intimated in Miller's writings could be about in more concrete terms. Vagueness is really a plague in contemporary republican theorizing and should thus be avoided as much as possible. So what could the notion of political obligation as socio-political practice imply more specifically? I will not provide here a full defence of the notion of political obligation as public practice in its specifics, but will rather try to suggest how this notion is different from the notion of ancestral political obligation, and most importantly, how this difference warrants us to prefer the former to the latter. As I will point out later, the implications of this preference are wide-reaching because they entail renouncing Miller's reliance on national identity, which in effect, spells out the discarding of his national-identity based strategy for civic virtue.

I will argue together with Andrew Mason that the notion of political obligation that springs from republican citizenship entails two obligations: the obligation to participate in public life and the obligation to try to provide for compatriots' needs.¹³³ I would add, in line with Miller's notion of republican citizenship, that the notion of political obligation as public practice may entail a third obligation, that of participating in the public debate with a special eye for public interests and the existing diversity of points of view, in other words, the obligation to avoid strict, factional interests in making a case on the public arena. However, notice that this does not imply that individuals should cast their decisions in public debates according to the points of view dominant in the society as David Miller seems to suggest they do. Rather, it entails something more on the negative side: that they do not participate with factional interests at the back of their minds but rather try to think in more general, non-factional terms. This, I argue, is one of the distinguishing lines between the **ancestral notion of political obligation** and the **notion of political obligation as public practice**. They are both intimated in Miller's writings but they work independently of one another. The ancestral notion of obligation (which goes along with Miller's entailed conservatism as to citizens' being required to reflect in their public decisions the dominant principles of public culture) implies that citizens incur obligations because of their sense of belonging with the nation and its 'living' history (thus failing to account for the obligations of recent immigrant citizens). By 'living' history I mean a re-enacted history that parades its heroes, ancient or modern, and glorious deeds in order to keep alive the sense of communal inheritance that also underlies national identity. In the case of the notion of political obligation as public practice, however, citizens' obligations to one another derive from (or I should rather say are part of) the intrinsic value of the practice of republican citizenship. Identification with a specific history and cultural tradition or endorsement of specific ethical principles that form the public culture are

¹³³ For a very helpful article on special obligations we may owe to compatriots see Andrew Mason, 'Special Obligations to Compatriots, *Ethics*, 107, no. 3 (Apr. 1997), 427-447

not intrinsic requirements. This is why this notion is able to account for the obligations pertaining to recent immigrant citizens. Moreover, even though identification with a general political ethos of the specific political community may be an upshot of participation in the socio-political practice, it is not the motivation behind it. Rather, the logic behind the notion of political obligation as public practice is that citizenship is a good in itself and because it is a valuable conferring status and equality on individuals of all walks of life, it is worth upholding.

Another distinguishing line between the two notions is that, even though both notions of political obligation presuppose an intrinsic (not instrumental) justificatory argument, while the ancestral notion of obligation is *value-independent*, the notion of political obligation as public practice is *value-dependent*.¹³⁴ As I was pointing out repeatedly, Miller's theory, based on the principle of nationality faces problems when it is confronted with the possibility that the practice of nationality that comes at the forefront of public culture can be allowed to be illiberal or unjust. Because Miller appears to say that anything in principle can be part of the public culture he does not introduce the idea of value as a control on the national practice. The notion of political obligation that springs from republican citizenship, on the other hand, stipulates in its very content that individuals should be taken as moral equals and be treated with equal concern and respect. Through republican citizenship individuals can gain equal status, are conferred recognition, and are enabled to participate in self-government.¹³⁵

¹³⁴ for this dichotomy see Simon Caney, "Individuals, Nations and Obligations", National Rights, International Obligations, eds. Simon Caney, David George, and Peter Jones (WestviewPress, 1996): 119-138

¹³⁵ For an account of republican citizenship as a valuable relationship, in the context of an argument for special obligations based of valuable relationships see Andrew Mason, "Special Obligations to Compatriots", Ethics, 107, no. 3 (Apr. 1997): 427-447

I argue that the republican reasoning behind each of the three obligations I am invoking here to be part of the general notion of political obligation as public practice is the following: **first**, we are obligated (towards our compatriots) to participate in public life because republican citizenship is valuable to us and its practice, based on reciprocity, would otherwise die out unless we actively and constantly uphold it; the notion of republican citizenship itself consists actually of citizens' participation, and thus, the practice needs to be constantly upheld in order to survive; **second**, we are obligated to help those co-citizens who are in need because without their needs being satisfied, citizens will be unable to uphold socio-political practices, and thus the whole public practice of citizenship is endangered; **third**, we are obligated towards our compatriots to try to forward our aims in the public arena with a concern for the diversity of views out there and for those things that might unite our own views with those of the various others; this obligation springs from the idea that it is part of the nature of republican citizenship for individuals to care for and respect their co-citizens in such a way as not to undermine the sense of recognition and value that each individual requires. These obligations are part of what it is to be a citizen according to the republican view and they are incurred because the practice of citizenship is taken to be a good in itself: a valuable identity that confers equal status and recognition to the various members of the state.

I have argued in this section that we should distinguish between two notions of political obligation that are both intimated in Miller's writings. The first, the notion of **ancestral political obligation** can be seen to derive from Miller's understanding of national identity, while the second, **political obligation as public practice** can generally be seen to be entailed by the notion of republican citizenship that he employs. My purpose in this final section was to assess the two notions against one another. I have argued that the two notions run in parallel to one another and that one can find good reasons to prefer the second to the first.

Thus, while the notion of political obligation that springs from Miller's understanding of national identity cannot explain why recent, immigrant citizens would have obligations to their compatriots, political obligation as implied by republican citizenship can do that work. Moreover, while ancestral political obligation is value-independent, thus leaving the door open for illiberal or unjust practices, political obligation as public practice is based on the valuable relationship of equal political status, and thus precludes such practices that would attempt 'to diminish' some of the compatriots. While these ideas on political obligation are certainly preliminary and far from fully justified or defended here, I think they illustrate the idea that the notion of national identity is not a necessary element in the argument for republican citizenship.

In effect, having pointed out that there is no necessary link between national identity and republican citizenship, but to the contrary, that the two stand independent and in contrast to one another, I have to conclude that the national identity strategy for civic virtue is shallow. Furthermore, the tentative description of a notion of political obligation based on republican citizenship¹³⁶ warrants a future investigation of a republican strategy for civic virtue along the lines suggested by that specific notion. Nevertheless, having clarified David Miller's strategy for republican citizenship via the ultimately unsuccessful route of national identity, we have plenty of reasons to pause and think over our argumentative steps in order to determine whether there was some wrong turn we may have taken. First of all, one's biases can easily get mixed up in the analysis, skewing the results along one's pre-determined path of thinking. This general cautionary point does not exhaust, however, our reasons for taking a second, hard look at what 'national identity' in some version could do for a republican theory. Secondly, and most importantly, the whole analysis so far is dependent on a conservative

¹³⁶ mind that a view of the obligations citizens hold can be interpreted in terms of the civic virtues they are required to exhibit according to the republican model

interpretation of national identity as presented in David Miller's writings. What would happen, however, if something less conservative, less ethically substantive is to be defined into the notion of national identity and how would this help in justifying republican citizenship? The next section briefly addresses this question by looking at how arguments from a purportedly different point of view, that of patriotism (republican, civic or however one may wish to call it), can change the hope for national identity to be imported by republicanism. Maurizio Viroli, whose work I briefly analyze in the following section is a particularly appropriate choice because he makes his argument insistently in opposition to nationalist arguments.

2.6 A case for civic patriotism

Maurizio Viroli argues, that unlike nationalism, civic patriotism is an inclusive form of belonging that is normatively attractive. The author promotes patriotism by contrasting it either to nationalism's exclusivism or to the liberal type of vision of a society of impersonal, rational agents kept together by a putative loyalty to abstract principles. Viroli addresses the simple dilemma that confronts him ('Civic virtue has to be particularistic to be possible and yet we do not want it to be dangerous or repugnant')¹³⁷ by making political liberty understood in various, particularistic ways as the only legitimate basis for patriotism and the ensuing solidarity among those who are part of a tradition of liberty personified in a country. Love of country is presented as love of common liberty and the institutions that sustain it, and not as springing from cultural or ethnic unity. Even though common memories and an identification with a common history featuring stories of liberty are part of what it takes in order to be patriotically alert, and in that sense, there is a lot of cultural baggage to be dealt with, just as in the case of Miller's arguments, one could still imagine this sort of civic patriotism to be a

¹³⁷ Maurizio Viroli, For love of country : an essay on patriotism and nationalism (New York: Clarendon Press, 1995), 12

transplantable thing, which can work in a country of adoption. That is less the case in Miller's theory. The reason for that, and the single important difference between the two lines of argument, is that for Miller, nationalist patriotism is a matter of personal identity, while for Viroli, it is ultimately an argument about how rational agents should show concern for a just democratic state and the defense of its main value of liberty. Miller does not acknowledge the single most obvious problem with his line of argument: some people may need to have a national affiliation and be engulfed in a thick national culture in order to have a sense of personal identity, while others may not. Viroli's arguments, when seen in the best possible light, point us, however, in a different direction. Justice or morality is something engrained in all or most of us. Democratic states best approximate justice. Citizens have the duty to defend and promote the justice of a democratic state, because without their active participation, that democratic state would not deserve its name. Political self-government is thus part of a broader story on justice.¹³⁸ The story I have been telling so far makes sense only if we take Viroli's insistence on 'liberty' to stand for his broader concern for justice. This would not go undocumented. Thus, Viroli argues that a revival of secular politics can occur only from the vantage point of a form of politics inspired by strong moral ideals and an insistence on the need for social justice and an avert opposition to a politics of patronage. Instead of a corrupt and incompetent elite, he proposes to install a 'high-level ruling elite' that is open to the challenges of competition. Also, unlike Miller, Viroli acknowledges the crucial importance of local self-government: "If we wish to revive political participation and civic spirit, then we should give townships and cities the power to make important decisions for the life of the collectivity."¹³⁹

¹³⁸ On a similar line of argumentation, see Pauline Kleingeld, "Kantian Patriotism", Philosophy & Public Affairs 29, no.4 (Princeton University Press, 2000): 313-341

¹³⁹ Maurizio Viroli, Republicanism, trans. Antony Shugaar (New York : Hill and Wang, 2002): 101

Viroli's arguments are, however, in no way clear or impermeable to criticism. My interpretation of 'liberty' as a symbolic shorthand for justice could easily be overturned. After all, Viroli is keen to point out the rhetorical power of national stories of courage and liberty-seeking, thus making affect rather than any rational willing of justice the main republican engine. Despite this, I argue that the best way we can think on about the implications of republican arguments is to draw on the first interpretation that emphasizes the relevance of the notion of justice. If we understand patriotism here to be more or less synonymous with a sense of civic activism, we should also point out that it can only be perceived as an imperfect duty, or in the words of a different commentator, as that which "remains a virtue so long as it is constrained by other moral principles."¹⁴⁰

Also, another point of doubt is that Viroli draws his arguments mainly from reflections on the tenuous struggles for independence undertaken by Italian city-states.¹⁴¹ If one understands freedom along the historical lines of the fight against oppression then the whole point about justice I was trying to make above may be lost in a misty anachronism. Also, if one thinks too hard about liberty and what it might mean for one or another particular country with a particular history, all sorts of questions as to the appropriateness of the notion may arise. Some countries would have been former colonial powers, others would have been subjugated by those colonial powers, or strong empires of the past, and yet others would have had a more complicated relation to 'liberty', where fighting for independence or liberty, would have been shadowed by the inclusion of slavery as part of their social system. Also, my country's liberty can be another's subjugation. The point of the matter really is that any country can both be said to have undermined and promoted liberty at some point in its history. If, however, we try

¹⁴⁰ Stephen Nathanson, "In Defense of Moderate Patriotism", *Ethics*, 99, no.3 (Apr. 1989): 538

¹⁴¹ For a meaningful discussion of the historical making of Italian citizenship with emphasis on the importance of freedom as a regulative ideal see for example, Luca Bacelli's account, "Italian Citizenship and the Republican Tradition", *Lineages of European Citizenship-Rights, Belonging and Participation in Eleven Nation-States*, eds Richard Bellamy, Dario Castiglione, Emilio Santoro (Palgrave-Macmillan, 2004), 113-129

to stay away from such minute reflections on what liberty might have meant for a particular country along a long historical track, and simply understand the notion as a shorthand for a just state and a general attitude of social criticism, then we may have moved some way in the direction of a republican political theory that does not, and should not have to rely on national identity of a Millerian kind. In the next chapter we will investigate these ideas further when we come to analyze Habermas' thoughts on constitutional patriotism.

2.7 Conclusion

In this chapter I have endeavored to investigate the potential behind a national identity based strategy of accounting for the republican value of civic virtue. The argument proceeded in the following way. First I defined the scope of David Miller's notion of republican citizenship. Then, I went on to define what he meant by this notion, as well as by 'national identity', and I found that there was an underlying conception of the person to be unraveled. I found that, despite the deliberative cast of Miller's understanding of public culture as the crux of national identity, Miller's position entailed a conservative bias insofar as he expected citizens to reach decisions in the public fora in line with the ethical principles that characterized the specific public culture. One of the next crucial points that I made in the chapter was to show that Miller's notion of national identity did not ground by necessity social justice, as the author appeared to suggest at times. Thus, national identity was not a sufficient condition for social justice. I concluded that his notion of national identity attempted a delicate equilibrium between a fairly substantive form of public culture, which was defined by specific values, and an inclusive, supra-cultural type of national bond that was represented by the active nature of republican citizenship. I pointed out, however, that while picking through textual ambiguities one could take two interpretative paths. One of them pointed out that Miller suggested at times (via an apparent preference for a Rousseauian interpretation of republican principles)

that he envisaged the nation as ‘a community of common will’, while the other claimed the predominance of the notion of republican citizenship to the effect that national identity was rather envisaged as a day-to-day public practice.

The tension that I have already alluded to by pointing to the two possible interpretative paths gets full expression in my discussion of two distinct notions of political obligation that I see emerging from Miller’s writings. Rather than pushing the pedal on the obvious critical argument that any empiricist theory readily triggers (the argument that Miller’s assumptions about human motivations and psychology as to the importance of national identity are not really substantiated by empirical evidence, at least not to the extent that he appears to claim), I chose to try to assess the national identity strategy for civic virtue from within the complex of the author’s arguments.

Thus, I argue that there are two notions of political obligation intimated in Miller’s theory. The first, which I call **ancestral political obligation** is loosely derived from the first interpretative path of national identity, while the second, **political obligation as public practice** is based on the interpretation that gives prominence to the republican notion of citizenship. I first argue that the two run independently of one another, and then I give some reasons for preferring the latter to the former. One reason would be that the second notion, unlike the first manages to explain why recent immigrant citizens are obligated to their compatriots like all the rest of the citizenry. The second reason refers to the *value-dependent* quality of political obligation as public practice in the sense that this notion is about the intrinsic value of republican citizenship as equal political status and recognition-conferring, and thus affords a higher protection against potential practices of injustice. Finally, I briefly

delve into the specific obligations the notion of political obligation as public practice might entail.

It is interesting the way David Miller demarcates national identities from ethnic identities. He says that, unlike national groups, ethnic groups will not want to attain political self-determination. The claim is that a national group defined by a specific national identity stands out from an ethnic group because of its intrinsic aspiration to political self-government. If this is taken to entail more than just political independence, then it rings a republican bell, for it is a classical, Roman-inspired thing to say that people have a shared desire to live under the domination of no other, in the freedom of their own, self-appointed rules and institutions. If we were to pay heed only to this particular, textual evidence, then we could say that Miller really takes on a republican notion of citizenship and that this is his intended emphasis. There is, however, plenty of other textual evidence that points in a different direction, including a certain interpretation of republican principles that render them rather ethically constrictive. If I am correct in my outline and analysis of the two notions of political obligation that I have identified, then it has to be concluded that a strategy for civic virtue based on national identity is flawed and unnecessary.

Chapter 3: Constitutional Republicanism and the Notion of Self-Government

3.1 Introduction

In the previous chapter, I have shown that national identity represents a flawed and unnecessary strategy in advancing a republican theory: flawed because it can ultimately be seen not to address social justice satisfactorily and to open the door to ethical obtuseness and the discrimination against minorities, and unnecessary because this understanding of republican citizenship appears to go too far when it does not need to, in trying to explain a civic disposition by resorting to a substantive notion of national identity. How does ‘national identity’ understood in a substantive way help us deal with tensions that arise in multi-faith, multi-cultural societies? I have argued that republican citizenship based on national identity is not only a dead-end route normatively speaking, but that it is not representative of what republicanism stands for, or at least, admitting that it is difficult to give a definitive diagnostic in the context in which republicanism remains a moving target, that it is not representative of the best argumentative strategy that a republican theory could adopt. We should not forget that the claim that something is not representative of republicanism may sound outlandish, since the effort of this dissertation is double-sided: I try here both to identify the main republican arguments and to assess their normative significance and appeal. Since I tackle two tasks at the same time, it can be at times difficult to decide what is and what is not republican. This chapter will face this difficulty in particular as it discusses ideas proposed by Hannah Arendt and Jürgen Habermas, the latter being far from an accepted, republican author.¹⁴²

¹⁴² The way his work is interpreted, especially Jürgen Habermas, *Between Facts and Norms, Contributions to a Discourse Theory of Law and Democracy*, trans. William Rehg (Polity Press 1996) or in the edition Habermas, *Between Facts and Norms, Contributions to a Discourse Theory of Law and Democracy*, trans. William Rehg, (Cambridge and Massachusetts: The MIT Press, 1999), which is of critical interest in this chapter, can go either in a liberal direction or in a radical democratic direction; for an overview of the different positions and a defense of Habermas, the radical democrat, see Stephen Grodnick, “Rediscovering Radical Democracy in Habermas’s ‘Between Facts and Norms’”, *Constellations* 12, no. 4 (2005): 392-408

Before explaining my choice of authors, however, I would like to look back to the previous chapter and reflect on what that has taught us about republican theory.

David Miller's thought was particularly useful in establishing that 'national identity' is not a useful conceptual tool in thinking about republicanism because it alone unwittingly contained both the defence, however faulty, of a national identity strategy in promoting republican citizenship and the promotion of an alternative path of argumentation that actually gave the last push for his main strategy's rebuttal. In trying to bring together national identity and republican citizenship, and trying to establish the latter on the basis of national identity, Miller's thought exemplifies a split between what I have identified to be a constrictive notion of political obligation and one which does not need national identity and yet promises to establish the basis for republican politics. According to the analysis in the previous chapter, republicanism and 'national identity' are not conceptually interlinked. That is because there is something else, something that we can intimate even in the architecture of Miller's political thought, which promises to open up a better strategy for a republican theory.

The risk of having republican citizenship rely on national identity as its prime motivation source was that it would end up advocating some form of ethical uniformity or a community of common will, when the greater project was to respond to the reality of multi-ethnic and 'multi-ethnic' societies in the first place. I think this risk is clearly illustrated in my analysis of David Miller's work, and I think that that analysis gives us sufficient reason to want to look further, for a better strategy in grounding republican values. And how better to continue, than by exploring arguments which claim to show, among other things, that national identity and civic patriotism/civic virtue or whatever name the sum-up of republican values may be given are not conceptually interlinked, that the kind of civic solidarity needed in justifying a

republican form of citizenship can very well be established without the recourse to a conservative notion of national identity.

At the end of the previous chapter, I briefly discussed what a notion of political obligation as public practice could entail, as unearthed from Miller's writings, and also, I pointed to the hope that an idea like that of civic patriotism can represent for a republican theory. Rather than a matter of personal identity as in the case of Miller's talk of national identity, civic patriotism could be conceived as that which is rational for individuals to uphold in the form of social criticism and activism and as part of a broader concern for a just democratic state. Now, we pick up the discussion where we left it in the previous chapter by taking a harder look at constitutional patriotism as defended by Jürgen Habermas and Hannah Arendt to refer to a form of affect and allegiance not towards the nation in all its ethical or cultural baggage, but towards the nation understood as a 'self-determining political community'.¹⁴³

3.2 Why Arendt and Habermas?

We turn to Habermas and Arendt at this point in the analysis for two immediate reasons: first because we have outgrown David Miller's emphasis on national identity, and yet found appealing his insistence on deliberation and the notion of republican citizenship as public practice, which I argued that we can discern from his theory. These ideas are strongly represented in Arendt and Habermas. Second, the discussion in this chapter rejoins a theme that was opened up in the first chapter. I argued there that the notion of freedom as non-domination as promoted by republican authors such as Philip Pettit could be defended as a specific republican notion distinct from a liberal/libertarian notion of freedom as non-interference only insofar as it incorporated a specific feature of interpersonal recognition,

¹⁴³ See also on this point Patchen Markell, "Making Affect Safe for Democracy?: on "Constitutional Patriotism", *Political Theory* 28, no.1 (Feb.2000): 38-63, esp. 43

which was based on a very important assumption: that individuals are discourse-oriented, that they form their normative beliefs in discourse with others. This has already given us a push in the right direction since Habermas' thought is at its most basic a defence of a discourse theory of democracy.

The most important, foundational reason, however, for turning to these authors is that both of them place great value on the notion of self-government.¹⁴⁴ This theme, as adepts of republicanism are all too willing to point out, can safely be ticked in the box of republican contenders, at least in its symbolic value: "Participation in collective self-government has been a key value of republican thought since Aristotle, though its significance, availability and extent have all been contested."¹⁴⁵ This assertion should not be surprising, for is it not the notion that individual freedom is achieved or safeguarded through collective self-government the most basic claim of a republican argument? We could, however, simply argue that collective self-government refers to people consenting to laws and nothing more. There would certainly be nothing particularly republican about this interpretation. However, when the involvement of ordinary citizens in public/political life is invoked as a necessary form of achieving or securing individual freedom, I think we can reasonably assume that we are on republican territory, at least in a general sense. It is after all, Isaiah Berlin's classical contention that the classical liberal notion of freedom, which is a negative one...

" (...)is not, at any rate logically, connected with democracy or self-government. Self-government may, on the whole, provide a better guarantee of the preservation of civil liberties than other regimes, and has been defended as such by libertarians. But there is no necessary connection between individual liberty and democratic rule. The answer to the question 'Who governs me?' is logically distinct from the question 'How far does government interfere with me?' It is in this difference that the great contrast between the two concepts of negative and positive liberty, in the end, consists. For the 'positive' sense of liberty comes to light if we try to answer the question, not 'What am I free to do or be?', but 'By whom am I ruled?' or 'Who is to say what I am, and what I am not,

¹⁴⁴ for a nuanced treatment of 'self-government' in connection to republican liberty see Per Mouritsen, "Four models of republican liberty and self-government": 17-38

¹⁴⁵ Honohan, *Civic Republicanism*, 214

to be or do?’ The connection between democracy and individual liberty is a good deal more tenuous than it seemed to many advocates of both. The desire to be governed by myself, or at any rate to participate in the process by which my life is to be controlled, may be as deep a wish as that for a free area for action, and perhaps historically older. But it is not a desire for the same thing. So different is it, indeed, as to have led in the end to the great clash of ideologies that dominates our world. For it is this, the ‘positive’ conception of liberty, not freedom from, but freedom to — to lead one prescribed form of life — which the adherents of the ‘negative’ notion represent as being, at times, no better than a specious disguise for brutal tyranny.”¹⁴⁶

Berlin obviously understands here by self-government a democratic regime, but it is quite clear that he thinks that the justifications for a negative and a positive interpretation of liberty are very different and stand apart. The republican basic argument adopts not only a democratic outlook, but a radical democratic ideal, which it tries to incorporate into representative democratic frameworks of government. Both Arendt and Habermas find a rich notion of collective self-government very important, and for that, as well as the additional reasons outlined above, I think exploring their thought is the next step we should make.

This chapter ultimately attempts to identify and put into perspective those ideas which I think are the most interesting and promising about republicanism. The difficulty in discussing these ideas lies not only with the fact that they lack conceptual clarity, but that they also have sources whose republican stature may be called into question. Such ideas can be identified in the many times hazy work of Hannah Arendt, and especially in the later work of Jürgen Habermas, especially his ‘Between Facts and Norms’. What connects these two authors at its most basic is the attempt to adapt radical democracy to a liberal democracy setting. One commentator points out that “The great ambition of *Between Facts and Norms* is to make radical democracy compatible with a political system that resembles our own”.¹⁴⁷ I think that goes to the heart of the contemporary republican attempt at bringing together liberal and

¹⁴⁶ Isaiah Berlin, *Liberty - Incorporating 'Four Essays on Liberty'* edited by Henry Hardy (Oxford: Oxford University Press, 2002), 177-8, consulted on [Oxford Scholarship Online](http://dx.doi.org/10.1093/019924989X.001.0001). Oxford University Press, 3 April 2008 <<http://dx.doi.org/10.1093/019924989X.001.0001>>

¹⁴⁷ Grodnick, “Rediscovering Radical Democracy in Habermas’s *Between Facts and Norms*”, 395

radical democratic elements and in that sense, what better exponent could we have pinpointed than one who is, on his own account, trying to combine liberal and republican elements. Of course, my choice of theorists could be considered a gamble since challenging the republican credentials of authors like Habermas or even Arendt may not be that difficult. That is, however, not the point I am trying to make in this chapter: I am not trying to prove that Habermas or Arendt are republican authors. That would entail a comprehensive sweep of their work, which I am not interested in, nor able to do here. I think, however, that the gist of some of their most important ideas is republican and that discourse theory, deliberation and some form of radical democracy are important ingredients in building a republican theory, as our investigation so far indicated. As I made it clear from the beginning, I am not as much looking to discuss the merits of republican authors, but am trying instead to identify and discuss the most interesting ideas about republicanism as I am ultimately trying to settle the issue of republicanism's merit in contemporary political theory.

Hannah Arendt provides the initial inspiration for this chapter. She is usually referred to as the proponent of a theory, or at least the sketch of a theory of republican pedigree, usually counterposed to the instrumental form of republican theory analyzed in the first chapter of this dissertation. Her association to republican thought is thus less problematic than Habermas's.¹⁴⁸ She is taken to be the proponent of a substantive republican theory, which emphasizes participation in politics as the good life, and thus relies on an argument of the intrinsic value of politics. The interpretative emphasis here, on the importance of deliberation and constitutional politics in the works of Arendt, which I have come to think, could contain

¹⁴⁸ see in recent years her assessment as a republican author by John Maynor or Iseult Honohan as well as the earlier critical re-interpretation of Arendt along republican lines by Margaret Canovan, Hannah Arendt, A Reinterpretation of her Political Thought, (Cambridge University Press, 1995, first printed: 1992)

that which is most interesting about republican theory, is largely neglected in the critical literature on Arendt.¹⁴⁹

Arendt's main insight is that men live in plurality, that this plurality is communicative and characterized by the social, cultural and political things people have in common, and that men create a common world of ties, which is expressed in the form of laws, and which outlasts individual lives. Habermas talks as well of one important normative intuition which classic liberalism disregarded and thus "threatened to reduce the meaning of equal ethical liberties to a possessive-individualist reading of subjective rights, misunderstood in instrumentalist terms".¹⁵⁰ This normative intuition, which Habermas thinks we should recover is "an intuition about forms of solidarity that link not only relatives, friends and neighbours within private spheres of life, but also unite citizens as members of a political community beyond merely legal relations."¹⁵¹ Because I find this simple insight worth exploring further, after delving in the sometimes unnerving Arendtian 'web' of ideas, I continue by discussing Habermas' thought on politics and law as a possible articulation of what Arendt had in mind from a normative point of view, but never fully articulated. Thus, a discussion of Habermas' thought may afford us a further exploration of what are otherwise half-baked Arendtian ideas, exploration which aims at developing at least the main structure of, if not a full-fledged, different republican theory.

Hannah Arendt's work proposes the primacy of a constitution as an act of foundation, and views political life ideally as the preservation and augmentation of the originary constitutional

¹⁴⁹ The most conspicuous omission from many critical reviews is her emphasis on constitutional politics; for a treatment of this topic see Jeremy Waldron, "Arendt's Constitutional Politics", in The Cambridge Companion to Hannah Arendt, ed. Dana Villa (Cambridge University Press, 2000)

¹⁵⁰ Jürgen Habermas, 'Equal Treatment of Cultures and the Limits of Postmodern Liberalism', The Journal of Political Philosophy 13, no. 1 (2005): 2

¹⁵¹ Habermas, 'Equal Treatment of Cultures and the Limits of Postmodern Liberalism': 2

principles. According to her view, laws, which are the product of deliberation, bind people together, create a ‘common world’ and represent that which confers a relative ‘immortality’ to human affairs, thus surpassing transient individual lives. The second approach, that of Jürgen Habermas, which can be seen in many ways to clarify insights already expressed in Arendt, conceives of “law as the medium through which communicative power is translated into administrative power”¹⁵², and as the product of a deliberative process of ‘opinion-and-will formation’. Underlying both these theories is the republican idea that politics should be about self-government. Though Habermas’ thought stands of course on its own, and I will endeavour to analyze here its republican overtones, it also helps us understand a certain republican view of politics and law that was introduced by Arendt. This view, as Habermas himself points out¹⁵³ is the one that emerges from the Arendtian idea of communicative power and its underlying claim that when people deliberate and come to a consensus as to the way they want to regulate their lives (in Arendt’s terminology, when they come together in action and speech), they constitute a world defined by legitimate laws. The legal code and political process that emerge can only further receive political authority from this continuous, communicative, citizen interaction that underlies them, and which is basically defined by the participation of citizens in an informal process of debate over things public. This informal process is meant to set the agenda of the formal debating that takes place in the legislative chambers.

The normative thrust of this concept of communicative power that Habermas adopts from Arendt lies with the republican view that politics is about self-legislating, about the self organizing of a political community through deliberative means that finally institute and authorize a legal order. The previous formulation is particularly in line with Arendt’s

¹⁵² Habermas, Between facts and norms, Polity Press, 150

¹⁵³ for Habermas’ comments on Arendt’s concept of power see Habermas, Between Facts and Norms, Polity Press, 145-151, esp. 146

terminology and way of thought, in its unilateralist emphasis on political freedom. Habermas' formulation of the same idea would be, however, more discriminating. He would say that a discourse-theoretic principle of political autonomy or a rediscovered, abstract sense of popular sovereignty can be distinguished to emerge from the communicative power in the public political sphere, and that this is at the root of the whole political process. In his view, communicative power needs to feed law-making in order for the whole political process to be legitimate (and even more than that, in order for it to lead to rational results), but 'authentic' politics, as Arendt would maybe say, is by no means only about this stage in the democratic process. Thus, while Arendt sees, just as Habermas, deliberation in an extended public sphere to be the source of authorization of a legal order, and the basis of political freedom for the consociates (who thus give laws to themselves), unlike Habermas, she seems to turn a blind eye to everything that goes on afterwards in the political process, and ends up saying that citizen deliberation is all there is to real politics. Habermas, however, has a complex understanding of politics and highlights that there are three formal stages in the political process: legislation, the administrative implementation of the laws and regulations and the judicial process of adjudication. What is of importance for us is that he points out that the ultimate source of authority of the legal system springs from the Rousseauian/Kantian principle of self-legislation. The complex and indirect way in which this story evolves remains to be detailed in a further section, but his understanding of the role of the state to be mainly not the protection of individual rights but the institutionalization of a process of opinion and will formation and his general understanding of laws and the political process as being generated from the principle of collective self-determination are at the core republican, irrespective of how much they have been stripped of more radical formulations. And while Arendt's political thought is flawed in many ways, it prepares the ground for a more analytical theory proposed by Habermas.

Hannah Arendt and Jürgen Habermas adhere to an understanding of democracy not as that set of specific legal rights that we have as members of a state, but as the procedures that we use in order to determine those legal rights.¹⁵⁴ Also, for them, a constitution is democratic not by virtue of its content, as it would be the case for example in Dworkin's normative theory, but by reference to its authorship.¹⁵⁵ Both Arendt and Habermas value constitutionalism, which ultimately boils down to the establishment of normative first principles, and promote the idea of a democracy that is about self-government, about the access of everyone who is affected by those laws to the making of them. The idea is not, however, that of direct democracy (though Arendt did lean occasionally in that direction) but that of a form of discursive democracy, which envisions a strong civil society that sets the agenda of the formal decision-making fora. Constitutionalism and deliberative or discursive democracy would appear at first to stand in comfortable opposition. So, how can such a pact be struck? The answer has to do with the understanding of the constitution as “an unfinished project.”¹⁵⁶

Arguing that Habermas' theory of law and politics as developed mostly in *Between Facts and Norms* could be given the attribute of ‘republican’ may still look like a self-serving artifice. After all, Habermas explicitly points out that his view of deliberative politics based on a discourse theoretical fundamental position is a refinement, even though a combination, of elements of the liberal and the republican understandings, which he finds to be unsatisfactory on their own. And also, is it not the case, it will be said, that Habermas criticizes republicanism and thus appears to disown it?

¹⁵⁴ for this dichotomy see Frank I. Michelman, *Brennan and Democracy* (Princeton, New Jersey: Princeton University Press, 1999), 10

¹⁵⁵ on the point about Dworkin, see Michelman, *Brennan and Democracy*, 25

¹⁵⁶ Habermas, *Between Facts and Norms, Contributions to a Discourse Theory of Law and Democracy*, trans. William Rehg, (Cambridge and Massachusetts: The MIT Press, 1999), 384

Habermas combines liberal and republican elements, but that (taken in a very general sense) is in no way something that I would be uncomfortable about in my dissertation, to the contrary. Thus, I argued from the start that in mapping out various republican arguments, I would restrict my discussion to those theories that incorporate liberal principles of individual rights for example, since basic but important liberal provisions represent a necessary component in any theory that wants to be responsive to modern and contemporary conditions of complexity, pluralism and multiculturalism. In other words, some form of basic liberalism will unavoidably be incorporated into a republican theory that attempts a serious contribution to today's theoretical debates. What is important, and what I have endeavoured to capture in my analyses so far is the specific republican strategies adopted in promoting republican values and the general normative understandings of politics and society that underlie them.

When it comes to Habermas, my argument is that what he identifies as a republican theory and is very critical of is just one of the possible approaches to republicanism, as I try to illustrate in this dissertation, and also the most conservative at that. In fact, this republican theory that Habermas openly criticizes most closely resembles the republican theory discussed in the previous chapter, which relies on national identity, and can invite ethical conformism. Habermas is very clear in his criticism of republicanism as the result of the 'fusing of citizenship and national culture'. He argues that these problems that republicanism faces can be solved "within a framework that, from the perspective of egalitarian universalism, disconnects the mobilization of civic solidarity from ethnic nationality and radicalizes it toward a solidarity among "others"."¹⁵⁷ Thus, I consider that on the one hand Habermas criticizes a republican theory in the vein of a radical Rousseau, but espouses on the other hand a republican form of theory in the vein of a modernized Rousseauian principle of

¹⁵⁷ see Habermas, 'Equal Treatment of Cultures and the Limits of Postmodern Liberalism', 3

self-legislation that envisages law, which is arrived at in a deliberative manner, as the crux of a self-governing political community. The enlisting of Habermas' thought with the republicans requires a clear defence engaging both at the level of self-identification (Habermas' classification of his own thought), and at the argumentative level.

Thus, though Habermas declares himself unconvinced by a republican notion of law as exclusively a collective process of ethical self-understanding, which he uncovers in the writings of legal scholars like Frank Michelman, he also welcomes Cass Sunstein's concept of "Madisonian Republicanism", which he thinks is an integrated concept that brings together elements of both liberalism and republicanism. He explicitly espouses a 'third reading', "which mediates between liberalism and republicanism, [according to which] citizens understand the political ethos that keeps them together as a nation as the intentional outcome of the democratic will-formation of a populace accustomed to freedom."¹⁵⁸ What Habermas calls into question more than anything else is thus a communitarian reading of republicanism in which political authority and obligation are said to be based on an ethical consensus of a particular community, and this was precisely the view unearthed and criticized in the previous chapter of this dissertation. Because ethical consensus is not easy to achieve, and consequently both bargaining and principles of justice (what is good for all) will come into play, justifying democratic outcomes on the basis of them being an expression of the political ethos of a particular community is thus not a feasible strategy. For Habermas, "[t]his calls the communitarian reading of the republican tradition into question without touching the intersubjective core of its notion of politics."¹⁵⁹ Thus, Habermas is certainly drawn towards what he considers to be 'the inter-subjective core' of the republican notion of politics, and he builds upon it his theory of discursive democracy.

¹⁵⁸ see Habermas, 'Equal Treatment of Cultures and the Limits of Postmodern Liberalism', 3

¹⁵⁹ Habermas, *Between Facts and Norms*, Polity Press, 285

Now, that I have outlined my general reasons behind my choice of authors, I should make the connection between Arendt and Habermas a bit more clear. Very briefly, I would like to highlight three similarities between Habermas's and Arendt's thought. First, they share the important assumption that people coming together in deliberation can achieve some form of consensus and that from their deliberations springs a form of collective power that can grant authority to the political process. Habermas's approach is along the lines of moral cognitivism, in arguing that moral statements can be justified. Also, his is an anti-realist view: "On his view morality is not a matter of the perception and description of evaluative features of the social world, but a procedure for justifying norms that is anchored in our everyday practice of communication."¹⁶⁰ Related to that, utterances are not taken to have a representation role but one of coordination through communication.¹⁶¹ Underlying these ideas is the assumed propensity towards cooperation (an attitude towards mutual understanding in Habermas' words) rather than a conflict-oriented attitude.

Second, and closely related to the first point, they both think that rational discourse is possible and necessary in the informal arena of politics, as well as in the formal. Thus, Arendt speaks about "the political arena, where we cannot function at all without judgment, in which political thought is essentially based."¹⁶² Third, they both emphasize the centrality of laws, procedures and institutions in their double function of being expressive of an agreement reached by citizens as to how they want to define their life in common and thus, indirectly, of the bonds that unite them, and in their dynamic function of promoting change, when change is

¹⁶⁰ James Gordon Finlayson, 'Habermas's Moral Cognitivism and the Frege-Geach Challenge', in European Journal of Philosophy 13, no. 3 (December 2005): 319-344, 325

¹⁶¹ on Habermas's pragmatic theory of meaning see Finlayson, 'Habermas's Moral Cognitivism and the Frege-Geach Challenge', 321

¹⁶² Hannah Arendt, 'Introduction into Politics', in The Promise of Politics, ed. Jerome Kohn, (New York: Schocken Books, 2005), 101

agreed upon. It is actually misplaced to think of Arendt, because of her emphasis on the act of foundation and the importance of a constitution, in conservative terms. While Habermas is critical of republicans for their exceptionalist view of politics as a constant re-institution of an original constitution, and Arendt seems at first to be caught up in this criticism, it does seem that she recognizes that with time, the spirit behind laws changes according to socio-political changes, and as such, she could not envisage the opinion and will formation process (to use Habermas' terms) as something static and something of a reconstitution. I think that she is of the opinion that the debating and legislative processes move according to the spirit of the times and her emphasis on the importance of deliberation can only render this insight meaningful.

Habermas also views laws as a transmission belt between communicative power and administrative power, while Arendt shuns administration altogether. Thus, Habermas' theory provides the advantage of a much more realistic approach to politics. In regards to the first function of law that I invoked in the preceding paragraph, it should be pointed out that both authors' overall view of law is not primarily a negative one, in the sense of laws as restrictions on individual action, but a positive one: laws as expressive of specific bonds among citizens, which have been agreed upon through reasoning, in deliberation. In regards to the second function of law that I point to above, I think that both authors take mainly an institutionalist position in arguing that social change comes about in structural ways, mainly via the change of laws and regulations. Arendt, for example, says that "[i]f we want to change an institution, an organization, some public body existing within the world, we can only revise its constitution, its laws, its statutes, and hope that all the rest will take care of itself."¹⁶³ Thus, I would like to highlight that Habermas, as well as Arendt, have a view of

¹⁶³ Arendt, 'Introduction into Politics', in The Promise of Politics, 106

politics which, though participatory to a certain degree (the value of voluntary associations being in particular emphasized) is impersonal and stresses the importance of the institutionalization of a vibrant flow of civic communication. In Arendt's words, "[s]trictly speaking, politics is not so much about human beings as it is about the world that comes into being between them and endures beyond them."¹⁶⁴

3.3 Hannah Arendt's constitutional focus

There is a fair amount of reviews out there according to which Arendt's ideas are contradictory and shallow, or simply normatively unappealing as based on an understanding of 'authentic politics' in terms of greatness and it being dependent on "moral inattentiveness".¹⁶⁵ Also, there is a lot of 'critical, head-scratching' as in for example, the assessments of Arendt that claim that she simply has two different conceptions of politics that are contradictory. Bhikhu Parekh for example, maintains that Arendt holds two contradictory visions of politics: the first is that of 'heroic politics', which is based on 'an agonal and highly individualistic view of politics' and the second, that of 'participatory politics', which is based on co-operation.¹⁶⁶ Another such assessment of Arendt's incoherence, and her dual, contradictory conception of politics would point on the one hand to her insistence that action is meant to break new grounds and attain excellence particularly in the context of revolution or exceptional situations, and on the other hand to her constitutionalism and the importance of foundation in general. I think the first critical claim as to Arendt's incoherence can be fairly easily shown to be incorrect: Arendt does not promote an agonistic view of politics.¹⁶⁷ Even

¹⁶⁴ Arendt, 'Introduction into Politics', in The Promise of Politics, 175

¹⁶⁵ see George Kateb, 'Political action: its nature and advantages', in The Cambridge Companion to Hannah Arendt, ed. Dana Villa (Cambridge University Press, 2000), 139.

¹⁶⁶ Bhikhu Parekh, Hannah Arendt and the Search for a New Political Philosophy (The Macmillan Press LTD, 1981), 177

¹⁶⁷ Arendt never actually endorses an agonistic view of politics. She refers to such a view as pertaining to Greek antiquity as follows: "In this agonal spirit (...) the commonweal was constantly threatened. Because the commonness of the political world was constituted only by the walls of the city and the boundaries of its laws, it

though Arendt stresses the urge towards self-disclosure that pertains to human life, she does not say that this is to be done at the expense of everything else. The theme of self-disclosure, which is usually met with scepticism by those who are not comfortable with this type of existentialist imagery, is merely indicative of the fact that communication with other people usually enables individuals to get their ideas and positions clearer. Thus, from deliberation or the need to defend one's position publicly, one usually emerges so to say, with 'a clearer self'. Arendt actually stresses that the right motivation that individuals should act upon is not self-regarding, in whatever way you read that, either in the keynote of performing good deeds, which Arendt thinks, is ultimately self-regarding because it concerns the salvation of your soul, or in the keynote of 'proving' oneself in the public space of appearance. The right motivation that individuals should hold is world regarding in that it concerns things that are not strictly private.

My cursory analysis of Arendt in this chapter proposes a shift from the fairly common interpretation of her thought as offering a participatory, substantive, and anachronistic reading of politics as an agonistic space of individual performance (in the theatrical sense) to a reading in an institutionalist keynote.¹⁶⁸ Thus, I try to clarify here some of Arendt's many times fuzzy concepts and point out that her notion of politics is stretched so as to allow a loose understanding of participation in politics that comes close to Habermas' insistence on the importance of civil society, and that essentially entails the normative aim of the institutionalization of structures for citizen deliberation. This argument is bound to be met with scepticism, for we can immediately be referred back to Arendt's daring statements about the desirability of a council system to replace the party system, through which she apparently

was not seen or experienced in the relationships between the citizens, not in the world which lay between them, common to them all, even though opening up in a different way to each man.", Hannah Arendt, 'Philosophy and Politics', *Social Research*, 57, Issue 1 (Spring 1990): 4, accessed online on EBSCOhost, on 28.02.2004

¹⁶⁸ for the former interpretation see Bhikhu Parekh, *Hannah Arendt and the Search for a New Political Philosophy* (The Macmillan Press LTD, 1981)

expressed her craving for a more direct form of democracy. I think, however, that Arendt herself realized that such a council system was just a romantic reverie¹⁶⁹ and that she was ultimately after improving the democratic system as we know it, rather than changing it altogether.

It needs to be pointed out also, that probably the closest understanding of what Arendt means by participation, repeatedly represented in her work by the flash words ‘action’ and ‘speech’ actually leans towards a deliberative view of democracy, where ‘action’ somewhat loses its relevance and speech takes the scene. Also, and most importantly, I point out that her emphasis is on the idea of the institutionalization of mechanisms and structures of participation, and not so much on participation *per se*. In the body of her work, the importance of a constitution and laws in general thus stands out as the purest expression of her celebrated notion of freedom.

The deciding, dividing line between an instrumental republican theory and a substantive republican theory is taken to be that the instrumental version argues for a certain vision of politics and citizen behaviour as the means to protect individual rights resiliently, while the substantive or thick version proposes a similar-enough republican political ethos not for the good of something else, something indeed worth preserving and uncontentious like individual rights (which can serve as a handy justificatory tool for the project to start with), but for its own good. While seeing Arendt’s writings through the prism of this dichotomy may have the merit of speaking to her partly aesthetic view of politics carrying existentialist overtones whereby the public sphere is a space of personal disclosure, I think that on the whole it

¹⁶⁹ Arendt points out that councils were unable to recognize the importance of administration in government, see Hannah Arendt, On Revolution, (Penguin Books, 1990, c.1963), 273; also she does recognize that “I have this romantic sympathy with the council system...”, Hannah Arendt, “On Hannah Arendt”, Hannah Arendt: The Recovery of the Public World, ed. Melvyn A. Hill (New York: St. Martin’s Press, 1979), 327

obscures the fact that differences between the two conceptions are not so sharp, that they are of a methodological nature and do not really amount to substantially different views of politics and society.

Arendt assumes that a life in the plural is an unavoidable characteristic of political communities as we know them. For Arendt, human plurality and diversity, and the integrated world that is created on their basis, not so much a physical or material world, but rather a spiritual world defined by human ties and relationships represent that which is most characteristic of human beings. Furthermore, human plurality in its best form is to be found in politics, that is, in all the things that concern the affairs that people have in common and that get expressed in action or speech among individuals. Thus, participation in politics, with the qualification that politics in the Arendtian sense is an overly expanded realm of human ‘in-betweens’ is a good in itself. At the root of this argumentative trajectory are phenomenological assumptions about the world, which is seen to become ‘real’ only when ‘actuated’ by a diversity of points of view. The world is real insofar as her inhabitants dispute it or engage actively in reflecting over and discussing it.

On the instrumental side of the argument, the starting assumption is that men live together with other men, and they are conditioned by their contexts of socialization in a way that precludes the scenario of self-sufficing, self-generated individuals within society. More specifically, individuals live in an integrated world, in which one’s freedom depends on the other’s non-dominating attitude and on the institutional and social structures that preclude domination. Thus, because domination is a resilient problem and one can expect both governments and societies to be open to its lure, the only way to secure individual rights in the long term is by getting involved in the political process and checking that non-domination

safeguards are observed and reinforced. So, in this case, a republican form of politics is a necessary instrument for steering the direction in which the human world tends to go. It is not, however, an instrument of limited use, as all instruments more or less are, but one which is envisaged as permanent, and which becomes embedded into the socio-political process as its constitutive part. Moreover, while instrumental republicans do not say that politics is the best form of life, as Arendt does (even though serious thought has to be given to what she means by politics), they do claim that it is a good way of life, and in fact, the one which gives you the greatest assurance against domination, which, if taken to be some kind of *summum malum* can convince one that it is in her best interest to take (this being a very abstract form of interest). In order to grasp the full meaning of this it should be emphasized that for her, plurality, sharing *action* and *speech* with other men amounts to a political way of life. The reader should thus be made aware of Arendt's over-stretching conception of politics, which is similar to Habermas's equally wide understanding of the public sphere, from the 'episodic publics' in the coffee houses, through the 'occasional' publics of theatre performances, to the abstract public sphere of isolated observers brought together by the media.¹⁷⁰ It seems to follow that for Arendt such activities as those of NGOs and social movements or all sorts of civil associations are part of politics, the way she envisages it. Habermas himself is indeed enthralled with non-governmental, voluntary associations and social movements as the institutional core of civil society.¹⁷¹ It does not even appear that Arendt would require that civil associations have a clearly political aim. What she seems to think is rather that wherever there is common purpose binding individuals into collective action, there is political activity. The limiting condition in order for action, no matter how few people are engaged in it, to be considered part of politics is that there be a certain level of publicity, of visibility pertaining to

¹⁷⁰ Habermas, *Between facts and norms*, The MIT Press, 366-374

¹⁷¹ Habermas, *Between facts and norms*, The MIT Press, 366-7

it and probably also that the groups in which those common aims are forwarded are not organized on ascriptive bases.¹⁷²

Through ‘action’, one of Arendt’s closest-to-heart notions, an individual discloses herself in her unique specificity. Because of its inherent agent-revealing quality, action is at its best when ‘witnessed’ in the public realm; for Arendt everything public, which does not concern strictly administrative issues is political; thus, action is decidedly political and collective; the result of action is relationships.¹⁷³ It should be noted, however, that despite all of Arendt’s insistence on ‘action’, this high-flying concept carries an anachronistic load, as it seems to be inspired at its origins by a Homeric view of heroic action in battle. And it is as though the meaning or substance has faded away, while the carcass or name has remained. Thus, I think that ‘action’ has for Arendt two uses: one, for extraordinary politics, when it is usually associated with revolutionary action (the closest to what antiquity knew as heroic action), and one for ordinary politics, when action merges most often into speech (or deliberation), thus envisaged by Arendt as illocutionary force. The shift from a largely Greek-inspired understanding of politics as a ‘one-man show’ towards a Roman-inspired politics of plurality and cooperation is invoked by Arendt in the following passage from a piece of writing recently published for the first time in English:

“To be sure, it is only natural within a political space in the true sense that what is understood by freedom will shift in meaning. The point of enterprise and of adventure fades more and more, and whereas, what before was, so to speak only a necessary adjunct to such adventures, the constant presence of others, dealing with others in the public space of the agora (...) now becomes the real substance of a free life. At the same time, the most important activity of a free life moves from action to speech, from free deeds to free words.”¹⁷⁴

¹⁷² see Arendt, ‘Reflections on Little Rock’, in *The Portable Hannah Arendt*, ed. Peter Baehr (Penguin Books, 2000)

¹⁷³ for the last point see Hannah Arendt, *The Human Condition*, (The University of Chicago Press, 1958), 196

¹⁷⁴ Arendt, ‘Introduction into Politics’, *The promise of politics*, 124

At the starting level, individuals are born with the gift of freedom because they can start things anew, contribute to the world, and in the process, reveal ‘who’ they are. Freedom as inherent in action (as it became apparent from my formulations above) is a potentiality and as such, it is open to the frailties of human affairs. Thus, the spirit of public freedom needs institutionalization. I think Arendt’s work represents a good opportunity to extricate republicanism from its ancient overtones, because it exhibits some nostalgic, anachronistic tendencies at least in the way she discusses the history of ideas behind republicanism, while pointing at the same time, to one path which contemporary republicanism can take. That path leads to Habermas’ notions of civic self-government, discursive democracy and enhanced deliberation, and takes us beyond him, to a specific notion of political obligation.

The proper form of institutional safeguards for freedom is represented, in Arendt’s normative view, by the form of government designated as ‘the republic’. This entails that authority springs from the people and is open to be checked by the people. In Arendt’s view this means that individuals deliberate over the rules that would give equal attention to everybody’s interests in the community. Once formalized into a constitution, the agreement or contract among consociates, will be further detailed and expanded through the means of ordinary legislation. In order for the political process to be legitimate, Arendt thinks that consociates should get involved in the deliberation over laws and regulations that informs the political process. That is exactly what Habermas thinks as well. Citizens should get involved with a regard for the world, that is, for the things that the particular consociates have in common, and not for their immediate interests. That is a republican refrain that Habermas also sings. The most pristine manifestation of political freedom (that Arendt’s notion of freedom ultimately

is), which gets entangled with Arendt's concept of *power*, is represented by the spontaneous organization of individuals with the purpose of self-government in the form of town councils (in times of stability) or revolutionary councils (in turbulent times).

Would the 'plurality' of families correspond to this alleged political character inherent in plurality? Arendt is very clear in saying that everything pertaining to the household, to the family realm has got nothing to do with 'the political' because it is inescapably steeped in necessity, and thus, has no claim to freedom. The opaqueness apparent in the preceding phrase is meant to indicate that Arendt is appropriating the ancient Greek *polis* standards here without much explanation and against modern sensitivity. What remains to be emphasized, however, is that for Arendt, politics does not refer to a limited, formal sphere to which only a few can have access, but to a way of living that anybody can be part of if only s/he steps out of the private realm of the family and comes together with a group of people for a common purpose, which should go beyond strictly private interests.

Arendt's anthropological expectations seem to be rather realistic in the sense that she hopes that there will be a few men with an intact 'taste for freedom', who are likely to participate in public affairs rather than a majority of the people. What she claims is that each man has a right (and possibly a need) to be a 'participator' in government, which entails that the most important thing for her is that there be an institutionalized space where this right can be exercised. But it is not the case that Arendt thinks that man is 'a political animal' by nature. There is nothing political in the essence of man: "*man* is apolitical. Politics arises *between men*, and so quite *outside of man*. There is therefore no real political substance. Politics arises

in what lies *between men* and is established as relationships.”¹⁷⁵ Thus, politics is not an essentialist human expression on the Arendtian account. She actually probably thinks, together with Aristotle that it is more for pragmatic reasons, because of not being self-sufficient, that man associates with other men and forms a common world. Once formed, however, this common world affords in its publicity, according to Arendt, the freest of all spaces. The most important thing to point out is that this common world of relationships as she usually refers to it, is concretely a world defined by a legal system expressing the ties between equal consociates, not a free-floating sphere of human interactions as it might be thought:

“(…) wherever human beings come together- be it in private or socially, be it in public or politically- a space is generated that simultaneously gathers them into it and separates them from one another. Every such space has its own structure that changes over time and reveals itself in a private context as custom, in a social context as convention and in a public context as laws, constitutions, statutes, and the like. Wherever people come together, the world thrusts itself between them, and it is in this in-between space that all human affairs are conducted.”¹⁷⁶

Also, it has to be emphasized that what Arendt has in mind when she speaks of participation is not limited to the usual channels of politics proper. Her idea of participation is polemically situated outside the realm of politics proper. By this I mean that she emphasizes the importance of civic-minded individuals getting together and getting involved in self-government. Her idea is thus, mainly to dispel the notion that those involved and interested in politics are exclusively the people who choose a political career. Similarly, though he devises a two-track understanding of democracy and deliberation, Habermas certainly lays a greater emphasis on the informal track of deliberation as the most important and ultimately the main source of political legitimacy.

¹⁷⁵ Arendt, ‘Introduction into Politics’, The Promise of Politics, 95

¹⁷⁶ Arendt, ‘Introduction into Politics’, The Promise of Politics, 106

Now, it might be thought that Arendt ultimately is an unrealistic thinker who opposes representative democracy and whose talk of promise making, among other things, as the best normative and historical interpretation of the social contract¹⁷⁷ is simply off track, leading into an anarchist picture of idyllic, self-organizing groups. As much as it is true that Arendt extols spontaneous citizen organizing during revolutions, and thunders against the party system, it is also true that, despite the unrealistic propositions that she makes related to a council system, she does not advocate ultimately for the dislodging of politics as we know it (party system-based, representative democracy), but argues overall for the introduction of more participatory modes of politics within the existing system. Also, she recognizes that spontaneous assembling and covenanting, desirable as they may be, are unreliable, unsustainable in the long run. That is where a constitution and laws come in. It is really through a constitution and through the act of legislation in general that ‘promise-keeping’, which is unavoidably a small-scale thing otherwise, can be instituted. The ‘in between’ space between individuals is represented, on the Roman model, by laws, which arise out of the deliberation among a variety of individuals, with different interests and worldviews.

“(…) a law [in the Roman understanding] is something that links human beings together, and it comes into being not by dyktat or by an act of force but rather through mutual agreements. Formulation of law, of this lasting tie that follows the violence of war, is itself tied to proposals and counterproposals, that is, to speech, which in the view of both the Greeks and the Romans was central to all politics.”¹⁷⁸

Ultimately, for Arendt, it is the law that establishes a public realm by the means of a contract or agreement between equals and it is laws that give a relative permanence to the public

¹⁷⁷ Hannah Arendt, *On Revolution*, 175

¹⁷⁸ Arendt, ‘Introduction into politics’, *The Promise of Politics*, 179

realm.¹⁷⁹ And laws should be reached deliberately. Arendt does not limit herself to promoting a classical form of constitutionalism by which it is meant that a system of laws is devised to protect the individual against the abuses of government and private individuals. Arendt's preferred constitutionalism refers to a "constitution by which a people constitutes its own government"¹⁸⁰ and as such entails by necessity a revolutionary setting, which can enable the establishment of a new system of power. In her interpretation, the founding fathers did not aim through the American constitution to limit power and stop at safeguarding civil liberties, but rather aimed at constituting power, on the basis of Montesquieu's principle that only power can counter power. This revolutionary streak in Arendt's thought is certainly important to her and also markedly obsolete to us. Habermas would certainly agree with that. I think that what remains of these ideas in a contemporary context is the extent to which social criticism and political deliberation in general are integrated in a day-to-day normative picture of society.

And yet, all of these various influences and overtones of Arendt's thought should not deter us from seeing that she is coherent and consistent in her political writings in saying mainly that politics is about people participating spontaneously and organizing themselves in distinct, political bodies, and most importantly, it is about formalizing via laws the relationships that unite men. She ultimately sketches the contours of a vibrant civil society. Moreover, for Arendt, participation in politics is desirable during normal, settled times because one has to guard against the apparent failure of liberal democracies to save the lives that fell under totalitarianism.

¹⁷⁹ see Hannah Arendt, "The End of Tradition", The Promise of Politics, 89

¹⁸⁰ Arendt, On Revolution, 145

3.4 Jürgen Habermas and republicanism

Many of the Arendtian thoughts outlined above seem to be heavy with imprecision. The task of the next sections is to reflect, with the help of a discussion of Habermas' thought, on some of her insights in need of further clarification.

First of all, Habermas's democratic theory is procedural in that legitimate and just laws and policies are inherent in the specific procedure, rather than qualified as such by the specific outcomes. Thus, according to a procedural theory, following the procedure of decision-making correctly will lead to the just and legitimate outcomes. Also, his understanding of democracy falls within the general patterns of a procedural theory, insofar as it is viewed as "a self-legitimizing process" with the citizenry active in organizing itself and 'popular sovereignty' as the guiding, normative ideal of proceduralism.¹⁸¹ According to Habermas's theory, norms can only be justified or established as norms at the end of a process of deliberation in real, public discourses where arguments are confronted until the best wins. The necessary presuppositions of those who participate in the process of argumentation are the very ones that assure, according to Habermas, the impartiality of the end argument. These are the presupposition of 'equal access' and 'equal participation'. The practice of arguing as such provides the end-result with its normativity. Some critics claim that this implies that such an argument "requires the parties involved to recognize no normative authority other than that of the better argument."¹⁸² Also, that this argument is skewed towards "secular cognitivists" and that it is thus unable to include moderate, religious people, for example.¹⁸³ We will need to investigate that carefully. On the face of it, it would seem that the argument about the "secular cognitivists" sounds about right, but I am not convinced that the discussants recognize "no

¹⁸¹ Jon Mahony, 'Rights without Dignity? Some Critical Reflections on Habermas's Procedural model of law and democracy', *Philosophy and Social Criticism*, 27, no 3 (2001), 23

¹⁸² Farid Abdel-Nour, 'Farewell to Justification , Habermas, human rights, and universalist morality', *Philosophy and Social Criticism*, 30, no. 1 (2004), 75

¹⁸³ Abdel-Nour, 'Farewell to Justification , Habermas, Human Rights, and Universalist Morality', 75-6

normative authority other than that of the better argument.” Also, would that not imply that Habermas requires the participants in argumentation to leave all comprehensive ideas behind the debating doors in a similar fashion as Rawls requires individuals to exercise a ‘defacing’ public reason? That is certainly not the case, as he thinks that even religious arguments are worth exploring in the public sphere.¹⁸⁴

The Habermasian procedure is defined by the ‘discourse principle’ as a general criterion of justification: “Just those norms are valid to which all possibly affected persons could agree as participants in rational discourses.”¹⁸⁵ This principle, now no longer defined by Habermas as a moral principle¹⁸⁶ gives voice to a universalist intuition that is shared with Rawls, according to which varying interests in a pluralistic world can be accommodated via the agreement on norms that all affected can accept. The specification of the discourse principle in the area of morality is represented by the ‘universalization principle’. According to this, a moral norm is justified and recognized only when its anticipated consequences and side effects are accepted and preferred to any other by all those affected.¹⁸⁷ In judging whether a moral norm is worthy of recognition, participants in the discourse should consider the interests of everyone that the norm would apply to. Finally, the criterion for political legitimacy is represented by what Habermas calls the ‘principle of democracy’, which states that “...only those statutes may claim legitimacy that can meet with the assent (*Zustimmung*) of all citizens in a discursive process of legislation that in turn has been legally constituted.”¹⁸⁸ The most important point that Habermas tries to make is that argumentation itself, when aimed at reaching a collective consensus on the validity of norms or actions, and when unpacked to show its two necessary

¹⁸⁴ Jürgen Habermas, ‘Religion in the Public Sphere’, *European Journal of Philosophy* 14:1 (2006), 1-25

¹⁸⁵ Jürgen Habermas, *Between Facts and Norms*, MIT Press, 107

¹⁸⁶ see the discussion of this revision in Jon Mahoney, ‘Rights without Dignity? Some Critical Reflections on Habermas’s Procedural model of law and democracy’, 25

¹⁸⁷ for the statement of this principle, see Jürgen Habermas, *Moral Consciousness and Communicative Action*, trans.C. Lenhardt and S. Nicholsen (Cambridge, MA: MIT Press, 1993), 65, quoted in Farid Abdel-Nour, ‘Farewell to Justification’, Habermas, Human Rights, and Universalist Morality’, 80

¹⁸⁸ Habermas, *Between Facts and Norms*, MIT Press, 110

presuppositions of ‘equal access’ and ‘equal participation’ is of such a nature that it already presupposes the principle of democracy, so that those that do not recognize a system of rights and the normative superiority of a democratic system, for example Muslim believers, and yet are participants in intersubjective argumentation, do nothing else than to accept in practice “the normative core” of the democratic principle.” They should thus choose: either participate in the discourse processes and accept implicitly the democratic principle, or stay out and keep their anti-democratic beliefs.¹⁸⁹

We should now consider why Habermas’s arguments are in some important way republican at the argumentative level. First of all, I would like to point out that his thought is not communitarian and that his distancing from a communitarian line of argumentation, taken here in a general but still recognizable way to entail an individual’s dependence (in a relevant sense) on his cultural context of socialization, underscores suggestively the difference between a republican line of argumentation (at least of the variant under analysis here) and a communitarian one. Habermas reflects on the loss of ready authority from religion or metaphysics and concludes that individuals are ultimately left with one medium to receive guidance from in their conduct, and that is rational discourse. Thus, by emphasizing reflective communication and the dynamic that comes along with it, rather than existing structures of socialization in which individuals are moulded, though he is by no means dismissive of the existence of contexts of influence, Habermas distances himself from a communitarian line of argument, and potentially announces a republican approach which is less traditionalist, without entailing a ‘disembodied’ conception of the person. Thus, the first piece of evidence that I bring in making my argument for Habermas’ association to republicanism is his polemically anti-liberal understanding of the individual as a rational agent who is situated in a

¹⁸⁹ Abdel-Nour, “Farewell to Justification , Habermas, Human Rights, and Universalist Morality”, 83.

series of contexts, but is mainly guided in her conduct by communicatively formed social ties and a view towards public reason, that is, a form of reason that takes as a reference point the common good, rather than immediate, individual interests.

“As soon as we conceive intentional social relations as communicatively mediated in the sense proposed, we are no longer dealing with disembodied, omniscient beings who exist beyond the empirical realm and are capable of context-free action, so to speak. Rather, we are concerned with finite, embodied actors who are socialized in concrete forms of life, situated in historical time and social space, and caught up in networks of communicative action.”¹⁹⁰

I will offer in the following further argumentative points to make my case. First, the simple idea behind my analysis is that Habermas has an understanding of politics which is in an essential way republican, and clearly distinguishable from a liberal normative justification. In his own words, “the organization of the constitutional state is ultimately supposed to serve the politically autonomous self-organization of a community that has constituted itself with the system of rights as an association of free and equal consociates under law.”¹⁹¹ Thus, Habermas tries to combine normatively the idea of human rights with the idea of popular sovereignty. It is in the form of his *principle of popular sovereignty* that we find the clearest indication of his thoughts’ republican leanings. According to the principle of popular sovereignty, authority is finally derived from the people. And while there is no direct or straightforward way in which this is accomplished, the engine at the heart of a constitutional democracy is that of an institutionalized practice of civic self-determination: “Read in discourse-theoretic terms, the principle of popular sovereignty states that all political power derives from the communicative power of citizens. The exercise of public authority is oriented and legitimated by the laws citizens give themselves in a discursively structured opinion-and will-formation.”¹⁹² It is ultimately up to civil society to keep the flow of the political process in authoritative shape. Without a continuous process of “informal opinion-

¹⁹⁰ Habermas, *Between Facts and Norms*, Polity Press, 324

¹⁹¹ Habermas, *Between Facts and Norms*, Polity Press, 176

¹⁹² Habermas, *Between Facts and Norms*, Polity Press, 170

formation that prepares and influences political decision making”¹⁹³ that should inform the formal process of decision making, the normative understanding of democracy that Habermas proposes could not be achieved.

Just like Arendt, Habermas comes to the diagnostic of a post-traditional, post-metaphysical ontological order which is devoid of authority and taking this as a starting point, argues that the only way to replace fallen structures of meaning like religion and natural law consecrated by some transcendental order, is to think of law as the main means of integration available to modern political communities. By law he means positive law as that which is arrived at communicatively, under the equalizing presuppositions of communication and that which formalizes rules of conduct. Law becomes the principal mode of integration of collectivities no longer held together by a common faith. Law is seen not as the expression of a general morality, though it does contain elements of both ethics (that which is good for an individual or a collectivity) and justice (a universal sense of morality). Instead, law is taken to refer to the rules of conduct that equal citizens come to agree upon through a process of rational debate. Thus, law is not experienced as a limitation on one’s actions, but as something that indirectly binds people together. Because it is inter-subjectively recognized, the law actually constitutes a form of social freedom. Also, laws incorporate principles of justice and ethical principles expressive of an ideal ‘good life’ for a specific community. Thus, Habermas’ theory offers an attractive alternative to conventionalist theories of justice¹⁹⁴ because it brings together universalistic and contextual normative principles in what may be a plausible way.

Habermas also has a clear understanding of human rights and highlights its differentiation from a general liberal understanding of rights as natural rights or as pre-political entities. The

¹⁹³ Habermas, *Between Facts and Norms*, Polity Press, 171

¹⁹⁴ see here David Miller, ‘Two ways to think about justice’, *Politics, Philosophy and Economics*, 1, no.1 (2002): 5-28

most compelling feature of his theory is that it claims to combine topics classically assigned to competing conceptual outlooks like the liberal idea of human rights and the republican notion of popular sovereignty or self-government. In his view, human rights constitute the basic procedures that specifies when a law has been reached in a legitimate manner; they are the procedural enabling conditions necessary in a democratic process envisioned as a dialogue between equal and mutually recognizing citizens. The system of individual rights is thus something that is part of the political process, not outside of it. It is the first step that the individuals who decide to regulate their life in common and recognize each other as equals have to take as expression of that mutual recognition. By institutionalizing a system of human rights, individuals constitute themselves as legal subjects, with an equal status, and can begin to establish themselves as citizens *qua* authors of their own laws, via communicative networks, discussing public things.

“(...) the system of rights responding to this question must appear immediately as positive law and may not claim for itself any moral validity that would be prior to the citizens’ will-formation or based on natural law.”¹⁹⁵

Moreover, human rights are those that constitute civic autonomy and guarantee the possibility of dialogue. Violating these rights, by a majority rule that undermines a minority’s rights for example, would amount to negating the very conditions that made political autonomy possible in the first place.¹⁹⁶ Thus, for Habermas, the quarrel between liberals and communitarians, pulling each either in the direction of human rights or in the direction of collective self-government is irrelevant. It misses the point that human rights are enabling conditions for political autonomy, and that none of the two is pre-eminent. Rather, they intermesh and presuppose one another.

¹⁹⁵ Habermas, Between Facts and Norms, Polity Press, 149

¹⁹⁶ Habermas, Between Facts and Norms, Polity Press, 180

3.5 *A feasible theory?*

In all this talk of procedures, communicative processes, and “the intersubjectivity of a prior *structure* of possible mutual understandings”¹⁹⁷ one may get the idea that Habermas relies at the very foundation of his model on a form of deterministic, linguistic structuralism so much so that individual actions become insignificant. Thus, there is a ‘subjectless’ quality to Habermas’ theory of law and politics, which could be unravelled by pointing to his reliance on certain presuppositions about the modern human condition like communicative reason being characteristic of individuals. What is a deliberative opinion and will formation good for? What is its function in a democracy? Habermas points out that it is more than mere legitimating of the political power and less than what he takes to be the republican view, the ‘constitution of power’. Thus, it brings about the ‘rationalization’ of decisions adopted by the administration. In this sense, the process of informal communicative opinion formation is supposed not just to monitor but to direct the actions of the political system, basically to perform a function of agenda setting.¹⁹⁸ However, Habermas’ theory presents the real advantage that it shuns a celebratory view of politics. Thus, for him the political system does not occupy a central role, but it is one among many other complex societal systems.¹⁹⁹

This theory claims that it does not rely on counter-intuitive means like widespread civic virtue or collective participation. Instead, it relies on the power of procedures that are invested with a normative content: “According to discourse theory, the success of deliberative politics depends not on a collectively acting citizenry but on the institutionalization of the corresponding procedures and conditions of communication, as well as on the interplay of institutionalized deliberative processes with informally developed public opinions.”²⁰⁰ This is not to say, however, that political initiative on the part of individuals organizing and acting

¹⁹⁷ Habermas, *Between Facts and Norms*, Polity Press, 286

¹⁹⁸ Habermas, *Between Facts and Norms*, Polity Press, 300

¹⁹⁹ Habermas, *Between Facts and Norms*, Polity Press, 302

²⁰⁰ Habermas, *Between Facts and Norms*, Polity Press, 298

within civil society is not part of the equation. My previous formulation is much of an understatement but I can justify it by pointing out to the actual Habermas, the one that the reader strives to understand throughout “Between Facts and Norms”, who gives the impression sometimes to be relying in his procedural model on not more than thin air. And yet, that impression of extreme abstraction is deeply mistaken, for Habermas relies on very demanding sociological props for his model, without which any procedure would be useless.

The first thing to notice is that he is the one author that explicitly makes the point that his normative model of a discourse theory of democracy is really only feasible within established liberal states with a venerable democratic tradition. Then, he invokes “a liberal political culture”, “an enlightened political socialization”, and above all, “the initiatives of opinion-building associations”²⁰¹ Actually, though this remains subdued in the Habermasian body of work, his normative model would easily crumble in the absence of a vibrant civil society. How vibrant? Legal consociates are expected, according to the Habermasian model of democracy, first, to make use of their communicative and participatory rights, though they can by no means be forced by law to do so, and second, to exercise these rights also with an eye for the common good, which in this case is conceived to refer to the aim of a ‘public use of reason’. It is not only that in the absence of well-entrenched or institutionalized negative liberties and positive liberties like the right to participate and communicate, laws would lose their legitimacy, but without there being enough people willing to contribute to the flow of reasoning and information that is supposed to feed formal decision-making, there would not be any legitimacy to speak of, and his normative reading of democracy through the lens of the discourse principle would simply succumb.

“Law can be preserved as legitimate only if enfranchised citizens switch from the role of private legal subjects and take the perspective of participants who are

²⁰¹ Habermas, Between Facts and Norms, Polity Press, 302

engaged in the process of reaching understanding about the rules for their life in common. To this extent, constitutional democracy depends on the motivations of a population accustomed to liberty, motivations that cannot be generated by administrative measures. This explains why, in the proceduralist paradigm of law, the structures of a vibrant civil society and an unsubverted political public sphere must bear a good portion of the normatively expected democratic genesis of law.”²⁰²

And what about the negative rights that allow one simply not to participate? Does Habermas have any ideas about how to solve this empirical problem? He does admit that “Legally granted liberties entitle one to *drop out* of communicative action, to refuse illocutionary obligations; they ground a privacy freed from the burden of reciprocally acknowledged and mutually expected communicative freedoms.”²⁰³ And yet, only through “participation in the practice of *politically* autonomous lawmaking” can legal subjects conceive of themselves as the authors of the legal order.²⁰⁴

I think the answer to these questions, which I consider to be the most stringent when it comes to assessing Habermas’ theory’s feasibility, have to refer us back to the author’s general assumptions. In his theory, reason is embedded in political communication. For Habermas, the democratic process is “intrinsically rational”²⁰⁵ and that is why he assumes that rational outcomes will come into place. Habermas’ optimism about the outcomes of debate being rational, and expressive not only of ethico-political ideas that are contingent on the specific political community, but also of universal, normative ideas despite the fact that the participants in communication processes have contingent experiences and are generally steeped in specific ‘lifeworlds’ relies on the idea that the process of communication for the purpose of reaching understanding functions in such a way that it forces the participants to take normative standpoints, to make a stand on their position related to the issue under

²⁰² Habermas, *Postscript, Between Facts and Norms*, Polity Press, 461

²⁰³ Habermas, *Between Facts and Norms*, Polity Press, 120

²⁰⁴ Habermas, *Between Facts and Norms*, Polity Press, 121

²⁰⁵ Habermas, *Between Facts and Norms*, Polity Press, 285

discussion. This in turn entails that the individuals go through reasoning processes of their own, and that thinking brings about liberating and enlightened outcomes. However, in order for that to be the case, there needs to be a discursive and liberal cultural socialization at work, in the background.

“Reaching mutual understanding through discourse indeed guarantees that issues, reasons, and information are handled reasonably, but such understanding still depends on contexts characterized by a capacity for learning, both at the cultural and the personal level. In this respect, dogmatic worldviews and rigid patterns of socialization can block a discursive mode of sociation.”²⁰⁶

Also, upon reflection, Habermas clearly thinks that, when participating in the process of public opinion formation, citizens should make use of *public reason*, that is, be perceptive to common issues and interests, rather than private motivations. It is not, however, the case that he projects an ideal of rationality onto which he then tries to map socio-political reality. It is the other way around: the advance of personal rationality as the means that replace traditional sources of reference is observable in the developments of modern life: “Without the backing of religious or metaphysical worldviews that are immune to criticism, practical orientations can in the final analysis be gained only from rational discourse, that is, from the reflexive forms of communicative action itself.”²⁰⁷ That citizens should make use of *public reason* is obviously a normative point, to which it could seem that Habermas is not ultimately, fully committed since he thinks that citizens cannot be compelled to recognize themselves as the authors of their own laws and act in a civically responsible manner. It should be open to them that they simply follow the law out of instrumental calculations, and do not get involved in its underlying process of debate. This cautious position, is, however, supplemented by the hidden idea that legal subjects ultimately do act like citizen-authors of laws in a sufficient number for there to be a communicative process to speak of. If this were not the case, if he would not

²⁰⁶ Habermas, *Between Facts and Norms*, Polity Press, 324-5

²⁰⁷ Habermas, *Between Facts and Norms*, Polity Press, 98

believe that there is sufficient evidence that the normative model of democracy that he proposes does have some empirical backing, then Habermas would not be committing to such a theory. When reflecting directly on the sceptical attitude towards such a demanding understanding of the political process as self-determination, Habermas invokes democratic procedures as the filter that will inevitably sort out the reasons and contributions thrown in erratic discussions. Democratic procedures thus ensure the quality check of communicative processes. What happens, however if there is a very weak civil society in place? There is surely some threshold under which communicative processes cannot be considered extensive enough to legitimate law-making. And Habermas does talk of a ‘vibrant’ civil society as a necessary component of his normative construct. So, what are the ‘strange forces’ at work here that can ensure that law-making does not run out of its ‘civic fuel’, even if individuals are free to avoid getting involved in a communicative process of democratic opinion formation?

What we can hint at so far is a certain empirical expectation of Habermas, who ultimately has his eye on established liberal societies which have a civic practice in place, and the deterministic idea that ‘reason’ becomes the new game in town under modern conditions, that it requires communication with other human beings, and that it tends to lead to reasonable outcomes. Because he thinks that the exercise of communicative and participatory rights, on which a sustainable, legitimate legal and political order depends in the end, cannot ultimately be enforced, Habermas is prompted to invoke other motivation resources.²⁰⁸ On the one hand, the hope is that the existence of the rights themselves, to participate in the opinion and will formation process will encourage their exercise. Also, legal regulations can be conceived in such a way as to reduce “the costs of the civic virtues that are called for”.²⁰⁹ Then, there are

²⁰⁸ Habermas, Between Facts and Norms, Polity Press, 130

²⁰⁹ Habermas, Between Facts and Norms, Polity Press, 131

the civic traditions of a liberal political culture to nurture the exercise of political autonomy on which Habermas' theoretical construct ultimately rests like a house of cards: "(...) democratic institutions of freedom disintegrate without the initiatives of a population *accustomed* to freedom. Their spontaneity cannot be compelled simply through law; it is regenerated from traditions and preserved in the associations of a liberal political culture."²¹⁰

These explanations seem to be insufficient though. As it now appears, it really is not the case that a shift of normative emphasis from anthropological characteristics (e.g. virtuous citizens) to laws, procedures, and flows of inter-subjective communication can do away with the requirement of some form of civic virtue. It may set in motion structural conditions for the enabling of deliberative processes of self-determination, but a civic attitude still needs to be there as a basis for all of this institutionalization. I think that Habermas' model is really an attempt to accomplish what Arendt was most keen about: the institutionalization of political freedom. However, the fact of the matter remains that all of these systems of incentives for civic virtue (taken here to mean the willingness to take part in a process of opinion and will formation and in making use of public reason, in an other-regarding attitude) can fail.

What appears to capture Habermas' mind in trying to answer this scepticism, ultimately has to do with the narrative he offers us as to how political communities are formed in the first place. Because he tells us the story of an idealized practice of constitution making as 'the self-constitution of a community of free and equal persons', he thinks that this first act will unavoidably impregnate the subsequent political process with its reflective spirit.²¹¹ If he were, however, to start out from a rational choice narrative, let's say, which would envisage political community creation as the settlement of a competition between war-lords of different

²¹⁰ Habermas, *Between Facts and Norms*, Polity Press, 130-1

²¹¹ see Habermas, *Postscript*, *Between Facts and Norms*, Polity Press, 462

factions²¹², then none of the arguments he makes would appear persuasive. What conclusion can we draw from that? Habermas may be ultimately limited in his normative treatment, to states with a certain history of nation building. In that sense, it would appear that the American case of constitution-making is the background against which Habermas, just like Arendt, builds his normative case.

What is ultimately missing in Habermas's account, in my opinion, is a clear full-fledged notion of political obligation. Habermas does not want to make civic obligations mandatory. He does not want to make them into legal obligations, and that is understandable, since making them so would amount to discarding the strong liberal streak in his argument. He does, however, need to go further than he does and build an argument that would clearly show civic action and participation in the opinion and will formation processes of civil society, which should according to his argument underlie democratic processes, to be political obligations. We may agree with him that "the value-register of society as a whole cannot be changed with the threat of sanctions"²¹³, but in order for his theory to be more consistent and not run the risk of being fully dependent on there being civic dispositions in place and thus get us back to the square one of national identity-like problems with contingency, there needs to be a clearer understanding as to why and how republican values can be conceived as forms of political obligation. It is difficult at first to understand how, on his account, which is after all one of moral cognitivism, disagreements of a deep moral nature are to be overcome. How can he grapple with multiculturalism, with the threat posed by fundamentalist religion as in the example of people who were born and raised in their Western countries of adoption, and yet recognize none of that allegiance or sense of common citizenship that Habermas talks about and choose instead to commit terrorist attacks in the name of their radical beliefs?

²¹² see for example Jean Hampton's rational choice understanding of the formation of political authority, in *Political Philosophy*, Westview Press, 1997

²¹³ Habermas, 'Equal Treatment of Cultures and the Limits of Postmodern Liberalism', 15

Habermas certainly believes that religion with its enhanced moral sensitivity has a role to play in the democratic processes of opinion and will formation, and unlike Rawls, thinks that complementary learning processes are required of both religious and secular citizens rather than an artificial, universal adjusting towards an impartial, secular point of view.²¹⁴ Religious reasons can be explored, at least in the informal sphere of the political, while keeping in mind that they have to be translated into a secular language once/if they reach the formal spheres of decision-making. Can Habermas's thinking extend, however, as far as to be able to explain or appease terrorism in today's world, which can be interpreted to be a form of distorted communication? Habermas claims that communicative action is a good tool in understanding how the spiral of distorted communication resulted in a spiral of violence and how mutual understanding, under 'symmetrical conditions of *mutual perspective-taking*' is the only solution.²¹⁵

How can his theory cope with all those who are too poor or disenchanted to care about their role in the democratic process of their country? Habermas believes that "The democratic procedure has the power to generate legitimacy precisely because it both includes all participants and has a deliberative character; for the justified presumption of rational outcomes in the long run can solely be based on this."²¹⁶ Does that sound right? Can he leave everything up to the democratic procedure (assuming that everybody is included and decisions are considered in a reciprocal as well as discursive manner) and hope for its self-adjusting outcomes? I think not. Habermas first needs to show how "a community integrated

²¹⁴ Habermas, 'Religion in the Public Sphere', 16

²¹⁵ Jürgen Habermas quoted in Ute Kelly, 'Discourse Ethics and 'the Rift of Speechlessness': The Limits of Argumentation and Possible Future Directions', Political Studies Review, 4 (2006), 5 from Borradori, G. Philosophy in a Time of Terror: Dialogues with Jürgen Habermas and Jacques Derrida (Chicago IL: University of Chicago Press, 2003)

²¹⁶ Habermas, 'Religion in the Public Sphere', 12

by constitutional values”²¹⁷ is seen to function around one clear argument for republican political obligation.: “In the absence of the uniting bond of a civic solidarity, which cannot be legally enforced, citizens do not perceive themselves as free and equal participants in the shared practices of democratic opinion and will formation wherein they *owe one another reasons* for their political statements and attitudes.”²¹⁸

One thing to notice at this point is that Habermas appears to speak of legitimacy in the context of national communities thus wasting, in the view of some of his critics an important cosmopolitan opportunity.²¹⁹ The reason for his cautious treatment of legitimacy is that for him it is unavoidably entangled with the notions of democracy and deliberation. While he is interested in developing cosmopolitan institutions and he always refers to the interplay between ethical, moral and pragmatic reasons, where morality entails a boundary-less, universalistic reasoning, his main focus is explaining and justifying democratic processes of legitimating within a political community, and within the borders of a state. That is also the case because, unlike the claims of some of his critics, Habermas does recognize the role of particular political cultures in grounding universalist principles.²²⁰ He also thinks, however, that constitutional patriotism is reconcilable with cosmopolitanism.²²¹

²¹⁷ Habermas, ‘Religion in the Public Sphere’, 13

²¹⁸ Habermas, ‘Religion in the Public Sphere’, 13

²¹⁹ see also on this point Pablo de Greiff, ‘Habermas on Nationalism and Cosmopolitanism’, *Ratio Juris*, 15, no.4 (December 2002): 418-38

²²⁰ see also Cecile Laborde who proposes a move from constitutional to civic patriotism because she considers the former a neutralist approach that fails to recognize the importance of specific political cultures. I think, however, that she is wrong in downplaying the importance of particular political backgrounds in Habermas’ theory of constitutional patriotism; Cecile Laborde, ‘From Constitutional to Civic Patriotism’, *British Journal of Political Science*, 32 (2002), 591-612

²²¹ Robert Fine & Will Smith, ‘Jurgen Habermas’s Theory of Cosmopolitanism’, *Constellations*, 10, no.4 (2003), 470

3.6 Political authority and political obligations: citizens as colleagues?

In light of our discussion of Arendt and Habermas so far, I propose to reflect on the proposition made by Iseult Honohan (inspired, at a basic level by a Dworkinian notion of associative duties) to view political obligations through the lens of the analogy between citizens and colleagues.²²² Would that be a helpful way to reflect on the notion of political obligations that could be derived from a theory of the Arendt/Habermas variety? The political obligations that Honohan invokes are in line, in my opinion, with Habermas' discourse model of democracy. Iseult Honohan tries to construct an argument for understanding political obligations on the parallel with obligations colleagues may owe to each other. Her main point is that, in a similar way as in the case of colleagues, citizens form obligations to one another that stem from interdependence in a practice or institution. Her article opens up a whole venue of reflection on how a notion of political obligation might be conceived in Habermasian or Arendtian terms. It has to be said that this discussion renews an analysis started at the end of the previous chapter, where a notion of *political authority as public practice* was first proposed. The discussion in this section does not mean to be exhaustive of that topic, but only adds to a line of argument that will be given a full treatment in a future chapter that will deal exclusively with a republican notion of political obligation.

The interesting thing about Honohan's article, apart from the conceptual clarity with which she unpacks the argument, is that it draws its inspiration explicitly from an Arendtian understanding of citizenship. Though her aims are more general, in that she argues in favour of conceiving of political obligations in a certain way (though to different degrees) under both a liberal and a republican conception, Honohan's normative preference lies with the specification of a republican notion of political obligations as inspired by Arendt.

²²² Iseult Honohan, 'Friends, Strangers or Countrymen? The Ties between Citizens as Colleagues', Political Studies, 49, no.1 (2001), 51-69

Interestingly enough, she counterposes this analogical argument to nationality claims that citizens' obligations derive from pre-political identities and to those at the opposite end, according to which citizens could be thought of on the analogy with strangers. We have discussed already the implication of the first analogy that Honohan opposes, in the previous chapter, and I fully agree with her conclusions that such an understanding of political obligations based on national identity poses the risk of justifying ethically constrictive communities.

Though she does not mention directly Habermas, but refers to other authors who take up 'constitutional patriotism', he is most likely taken to be at the origin of the analogy between citizens and strangers, according to which citizens share a vertical loyalty to institutions and procedures. Such a reading of Habermas would be, however, simply a misreading as I hope to have shown indirectly in this chapter, and it would just be part of a discourse characterized by a *neutralist constitutional patriotism* stance, as Cecile Laborde points out²²³. This stance is upheld by followers of Habermas who disregard the important part that 'lifeworlds', specific contexts of socialization, and specific historical communities as contexts for specific legal orders, play in the work of their 'master'. Most importantly, in the case of Habermas' work on law and politics, citizens are not said to just share institutions or abstract principles; they are taken to envisage themselves as the authors of those principles and laws that govern the political community.

Citizens are said to be similar to colleagues because they share characteristics like 'involuntary interdependence', equality, difference, and relative distance. Though in many respects, this analogy is quite compelling, and while Honohan points out that this is by no

²²³ Cecile Laborde, 'From Constitutional to Civic Patriotism'

means a perfect analogy and there are significant differences that can be invoked between the two practices, there are some weaknesses in her own argument that we need to reflect upon. First, there seem to be two definitions of colleagues, with different emphases, at work in Honohan's analysis. On the one hand there is the definition of colleagues from an empirical point of view in accordance with what people think a colleague is, and on the other, there is the definition of the theorist. The first states that "People readily identify as colleagues others with whom they readily interact on a more or less even footing within the framework of work places, companies, unions, and other institutions from string quartets to building sites."²²⁴ On the same page, she continues: "I will define colleagues as people *involuntarily* related through their work or projects, and *interdependent* roughly as *equals* in a practice or institution."²²⁵

While, in my view, the first formulation emphasizes the *interaction* element of relationships between colleagues, the second formulation does not seem to think it a necessary element, or in any case leaves the matter ambiguous. People could be related as colleagues without ever really meeting, or meeting very rarely. They could even still interact, but not in a face-to-face manner, as for example in the case of colleagues of different branches of the same firm who stay in contact and work together via the phone. In some way, though I admit, not a very clear one, this discrepancy between the two definitions goes to the heart of Honohan's claim that citizens' obligations of the kind that she identifies on the analogy with colleagues, obtain in both an instrumental liberal and a republican understanding of citizenship. Honohan's/the theorist's definition is meant to cover both a liberal, instrumental understanding of citizenship, and the more substantive, republican conception. In the case of the liberal understanding, citizens are like colleagues not because they participate in a practice of citizenship understood in a more substantive way as self-determination, and not because they

²²⁴ Iseult Honohan, 'Friends, Strangers or Countrymen? The Ties between Citizens as Colleagues', 55

²²⁵ Iseult Honohan, 'Friends, Strangers or Countrymen? The Ties between Citizens as Colleagues', 55.

share common concerns and a common world of laws and institutions (as in the republican conception), but solely because the state frames a network of practices (here, in a general sense) in which individuals are unavoidably interdependent, for example taxation, education or health systems.

Honohan wants to argue that obligations on the parallel of citizens with colleagues ensue in both cases, but I find it counterintuitive to think that obligations of *communication*, *consideration*, and *trust and solidarity*? obtain in the liberal, instrumental conception, as they do in the republican one. And saying that they do, but not to the same degree will not settle my criticism. These obligations that citizens may be expected to exercise are as follows: to be informed about public things, ‘to participate in common affairs’, to listen to other points of view and present their own in a rational manner, ‘to be on the alert for injustice’ and ‘to support public life’. Also, to care about and be prepared to contribute to the welfare of one’s fellow citizens, and finally, “to express more trust in fellow citizens than in strangers, and to be more honest and trustworthy in return, though politics requires them to be more vigilant in their dealings than with family or friends.”²²⁶

First, I should make the point that I do not see why one should show, as if out of principle, more trust to fellow citizens than to strangers. I think that trust is a performative concept, and that it requires at least some preliminary, communicative interaction before it can be set in motion. Thus, saying that people should show more trust to fellow citizens is like saying that they are, by virtue of being co-citizens, expected to be morally worthier. It in fact seems to represent a lapse in Honohan’s anti-nationalist treatment of political obligations, as if she adopts some kind of essentialist type of discourse, and indeed creates an ‘outer enemy’ for

²²⁶ Iseult Honohan, ‘Friends, Strangers or Countrymen? The Ties between Citizens as Colleagues’, 62

identification purposes, something which she criticized in the first place. The empirical reality that seems to underlie this assumption is rather that people usually get to exercise trust in relations of communication with co-citizens, but that has merely a contingent explanation, not a moral one. The fact that Honohan recognizes and welcomes the extensibility of political obligations, their intermeshing with other forms of obligations, which extend beyond borders, and the fact that they can be overrun by other moral considerations should make her recognize that trust is a function of interpersonal relations. Of course that a basic form of trust needs to be present in order for communication on public matters to be possible, but it in no way precludes giving one's trust to foreigners that you come to interact with, and it does not appear to be an equally convincing form of political obligation, as those subsumed under the headlines of *communication* and *consideration*.

It is, however, not at all clear why such obligations should obtain not only in the case of a republican conception of citizenship, but also in the case of the instrumental liberal conception. Recall the discussion of political authority at the end of the previous chapter on a national identity republicanism. There, a certain conception of *political obligation as public practice* was identified as stemming from a republican conception of citizenship that required some level of involvement in public affairs. The idea, as inspired by Andrew Mason's article²²⁷, was that because the practice of citizenship is a good in itself (because it entails resilient equality) people would find the constitutive political obligations morally compelling. In the case of a liberal, instrumental conception of citizenship, however, where people share common concerns, rather than common action, it is not at all clear why the ensuing political obligations would not be restricted to the limited view of obeying laws and being loyal to the state, and would not spring exclusively from an utilitarian view of doing one's share for the

²²⁷ Andrew Mason, 'Special Obligations to Compatriots'

benefits received, that is, not free-riding. To make the point stronger, it should be highlighted that sharing common concerns and a common world is not taken to mean the same thing on the liberal instrumental view as it does on the republican view of citizenship. On the republican view, as exemplified by Arendt and particularly Habermas, sharing a common world, common laws and institutions, amounts to co-authoring those laws and institutions, to participating in a complex process of political authorization. On the liberal view, however, this self-legislation principle is much subdued, and the common concerns seem to refer to no more than instrumental concerns, to a story of ‘common vulnerability’.

The next point to consider is whether this analogy is truly as general as Honohan may want it to be, despite her admittance that relationships and ensuing obligations between colleagues vary with contexts of work. The fact that people may have obligations, on the model of colleagues, to other people whom they never met, is not something that Honohan does not recognize, but to the contrary. She actually hails the *extensibility* of colleague obligations to people with whom we do not immediately interact. She invokes the examples of academics, teachers, doctors, musicians, nurses, lawyers, and trade unionists, who all experience the relationship of colleagues in its potentiality to extend beyond the bounded realm of the immediate colleagues they work with.²²⁸ And one can induce from these examples that it may be these categories of colleagues that Honohan has in mind when developing the analogy between citizens and colleagues. We could even speculate that, in a similar way as Habermas actually adopts and generalizes the idea of a communicative community from what was originally Pierce’s model of communicative action within academic communities²²⁹, Honohan starts out this analogical argument with the idea of colleagues as academics at the back of her mind.

²²⁸ Honohan, ‘Friends, Strangers or Countrymen? The Ties between Citizens as Colleagues’, 58.

²²⁹ Habermas, Between Facts and Norms, Polity Press, 16

Beyond such speculations, what is, however, important to note is that the categories of colleagues that Honohan invokes all seem to share intuitively something related to research, knowledge, or a normative inkling as principle of collegiality. The example of professionals as colleagues is definitely distinct, say from the example of administrative work colleagues, who do not necessarily share the same ‘higher’ interests, or callings as the types of colleagues Honohan invokes. Such relationships as the ones exemplified by academics or professionals in general may thus be more likely to be open to extensibility of obligations and thus be more appropriate for use as basis for the analogy. And they also may be more appropriate in grounding obligations to fellow citizens in general. Going back to my critical point about the two definitions of colleagues that Honohan invoked, it should not be inferred from my discussion, which started from that observation, that political obligations are persuasive only as derivative expressions of *interaction*. That would obviously doom the project of justifying political obligations in the first place. My aim was rather to point out that a notion of political obligations of *communication* and *consideration* (*trust* was found less persuasive and is here disconsidered) cannot be justified on the analogy with colleagues’ obligations in both a republican and an instrumental liberal model. It rather obtains only in the case of a republican understanding of citizenship that entails a more substantive form of *interaction*, first as the interaction between legal consociates, who share a common world in the form of a legal system, and second as the participation of citizens in the deliberative process of civil society that underlies the political process of legislation and decision making. Without this more substantive understanding of *interaction* in place, obligations such as those subsumed under the categories of *communication* and *consideration* cannot be sustained. And while this does not require that there be a participatory form of politics in place, pertaining to the whole of the citizenry, it does imply that where there are no sustained practices of civil society in place and

a normative understanding of the political process as collective self-determination, one cannot speak of obligations of citizens as colleagues.

How does Habermas' notion of political obligations fit into all of this? Habermas does actually address explicitly the topic of political obligations when trying to reflect on the question of what the right immigration policy would look like.²³⁰ He looks at the utilitarian notion of special duties as originating from mutually beneficiary relationships and finds it flawed for the usual reasons: the disabled, the ill and the elderly are excluded by implication since they cannot contribute as much as other citizens.²³¹ He then goes on to consider an account of special duties in terms of "the coordinating capacities of a centrally established, moral division of labor."²³² Thus, according to this view, special obligations spring not from belonging to a specific community, but from "the abstract action coordination effected by *legal* institutions."²³³ According to this account, boundaries between states have just a *functional* meaning, and special duties solve a coordination problem. Habermas goes on to consider the communitarians' counter insistence that special obligations are steeped in concrete and substantive communities. Though he views their arguments with scepticism, he points out that general legal principles do get expressed in the context of specific political cultures: "The modern state, too, represents a political form of life that cannot be translated without remainder into the abstract form of institutions designed according to general legal principles."²³⁴ He then concludes that there is a right to the preservation of a political culture as part of the general right to political self-determination that states can hold against immigrants, but that by no means justifies a restrictive immigration policy, as long as immigrants are willing to take part in civil society practices. Thus, it is reasonable to demand

²³⁰ Habermas, Appendix II, 'Citizenship and National Identity', Between Facts and Norms, Polity Press

²³¹ Habermas, Appendix II, 'Citizenship and National Identity', Between Facts and Norms, Polity Press, 510

²³² Habermas, Appendix II, 'Citizenship and National Identity', Between Facts and Norms, Polity Press, 511

²³³ Habermas, Appendix II, 'Citizenship and National Identity', Between Facts and Norms, Polity Press, 511

²³⁴ Habermas, Appendix II, 'Citizenship and National Identity', Between Facts and Norms, Polity Press, 513

immigrants to engage in the political culture of the adopting country, a form of *political acculturation*, rather than to give up their cultural backgrounds in order to conform to the cultural make-up of the new country.

But this leaves us with an unanswered question. Does Habermas think that there is such a thing as obligations to participate in public debates, to communicate, as well as to be communicative (Honohan's obligation to *consideration*) correlative to the rights to communicate and participate? After all, to get back to the discussion of the previous section, despite all the institutionalization of the Habermasian model, a vibrant civil society is still required to make the legal order authoritative.

“Thus the legally constituted status of citizen depends on the **supportive spirit** of a consonant background of legally noncoercible motives and attitudes of a citizenry oriented towards the common good. The republican model of citizenship reminds us that constitutionally protected institutions of freedom are worth only what a population **accustomed** to political freedom and settled in the ‘we’ perspective of active self-determination makes of them.”²³⁵

In light of our discussion so far, I think that the answer has to be affirmative. Without such obligations, here generally referred to as those to participate and communicate in public debates at a variety of levels of the civil society, as well as to care and provide for the welfare of one's consociates, Habermas cannot ultimately sustain his discursive model of democracy. Whether they are justified on the basis of something like the above argument as to the collegiality duties citizens owe to each other, or whether they are the duties of rational agents to a just democratic state, a notion of political obligation appears necessary in justifying Habermas's discursive democracy model. Exploring that to the full will be the main task of our last chapter of the dissertation. If citizens are to see themselves as the authors of their own laws, formalized in a legal system, they also

²³⁵ Habermas, Appendix II, ‘Citizenship and National Identity’, *Between Facts and Norms*, Polity Press, 499, emphasis in the original

need to recognize the existence of a set of obligations that is entailed in a self-understanding that emphasizes not only personal autonomy, but also political autonomy.

3.7 Conclusion

There is a certain ambiguity in how we might try to construct a notion of political obligation based on Arendt's and especially Habermas's ideas. It would seem from the above brief analysis that a duty of participation in opinion and will formation might be construed to be owed to co-citizens. Or, more in line with the way Habermas's arguments unfolded, the duty of civic patriotism could rather be construed to be based on the idea of rational citizens who value a just democratic state, thus avoiding any issues of contingency or individual psychology.²³⁶ The problem, however, with a strategy of republican political obligation that is based on the specific Habermasian notion of democratic legitimacy and takes the form of a duty toward a just democratic state is that it gets us very close to a Rawlsian version of political obligation. In the next chapter I will investigate what unites and what separates Habermasian and Rawlsian arguments, as well as look at the notion of deliberation in more depth, in order to be able to dedicate the last chapter to exploring more freely the notion of republican political obligation that we could construct on the basis of the insights we have so far distilled from our analyses.

Before heading into these yet open seas, I would like to recapitulate what I have tried to do in this chapter. I identified a different type of republican argument that rests not on the strong affiliations of national identity or matters of personal identity, but on the idea that people live in a condition of plurality, that they value this condition of plurality and

²³⁶ Pauline Kleingeld, 'Kantian Patriotism', *Philosophy & Public Affairs* 29, no.4 (Princeton University Press, 2000), 338

that, through the exercise of language, they are tempted to reach understanding. Language itself, when used for the purpose of mutual understanding, and when fulfilling certain ideal conditions, serves a democratic function, clarifies thought, makes decisions rational and helps smooth out disagreements. Laws are legitimate only insofar as they are willed by all those who are affected by them. It is rational for individuals to want to ensure the legitimacy of the laws under which they live and to seek out debate and argumentation. Thus, the informal debating among ‘soft publics’ in the civil society is necessary in its agenda setting function, for the legitimacy of the formal, strong-publics’ debates and final act of decision-making and legislating. I argued that this picture of republican citizenship, though appealing, lacks a convincing defence of a specific, republican notion of political obligation. I have tried to briefly look at one possible argument for such a notion of political obligation as inspired by the arguments of Arendt and Habermas. The real work on this theme is, however, left for the last chapter.

Chapter 4: Republicanism, Public Reason and Deliberation

4.1 Introduction

The previous chapter opened up what I think to be the most promising contemporary strategy of republican argumentation. I have tried to show there how Hannah Arendt's ideas of communicative action feeding into laws and ensuring the legitimacy of power as a form of civic self-legislation have informed Jurgen Habermas' writing and how his ideas can point us in a new republican direction. My purpose is not to mount a defense of contemporary republican theory, but to find and assess that which is normatively most promising about this family of ideas. I have argued that the idea of a 'discursive process of self-legislation' taken to cover not only the formal political sphere but also the informal sphere of civil society is a core republican strategy in arguing for a certain form of society. This is part of a broader republican strategy of democratic legitimacy as civic self-legislation. This approach readily triggers two types of questions. First, how are these ideas different from liberal arguments with a more civic mindset? In order to assess that I will make in the first part of this chapter a comparison between Habermas' stance and John Rawls' position on the notion of public reason. Public reason is "a mode of reasoning specific to political questions, which might include criteria for the use and/or validity of certain arguments and information in the political sphere."²³⁷ This discussion does not aim at a comprehensive comparative analysis, but is meant to shed some light on largely obscure claims to distinctiveness by republican authors. How much does republicanism (at least of a more promising brand, identified as a mix of Arendtian and Habermasian ideas) ultimately share with deliberative democrats and how

²³⁷ Duncan Ivison, 'The Secret History of Public Reason: Hobbes to Rawls', *History of Political Thought*, XVIII, no.1, (Spring 1997), 126

much does it have in common with Rawls's notion of public reason? We shall first investigate the latter question.

I think that their respective understandings of this notion capture the basic difference between a republican position on political legitimacy along Habermasian lines and a liberal position along Rawlsian lines. Both Rawls and Habermas have a consensual understanding of public reason and expect rational convergence on conflicting views to finally occur. Both of them think that public reason is linked to the nature of citizenship in a democracy: the political values expressed by the ideal of public reason are crucial in order for constitutional democracies to work properly.²³⁸ Rawls, however, argues that justifications based on public reasons should only ensue in the formal sphere of politics, among office holders, when constitutional matters are at stake. Habermas wants to widen the applicability of public reason to civil society. Also, in a revised statement of his position²³⁹, Rawls distinguishes between the 'exclusive' and the 'wide' views of public reason, and argues, against his former established view, that reasons coming from comprehensive doctrines could, in certain, special situations be invoked as long as they reinforce the ideal of public reason. The basic difference between Habermas' and Rawls' positions in this respect still holds, however: Habermas welcomes comprehensive ideas in political debate, while Rawls does not.

For Rawls public reason ensures cooperation via convergence on first principles, convergence which he ultimately fails to justify, given his emphasis on the stark 'fact of pluralism' but instead solely bases on his idea of a moral duty of civility, which he hopes will incline people to exercise a form of skepticism towards their own notion of the good and a willingness to change their views.

²³⁸ for this point in relation to Rawls see Micah Lott, 'Restraint on Reasons and Reasons for Restraint: A Problem for Rawls' Ideal of Public Reason', *Pacific Philosophical Quarterly* 87 (2006), 85

²³⁹ John Rawls, 'Public Reason Revisited', *The Law of Peoples*, (Cambridge/London, Harvard University Press, 1999), 137

Habermas claims to justify the sort of polity that republicans have generally endeavored to convince us of through unexpected (or one may even say, ‘turned on their head’) means: for, in his own words, his is “(...) a normative theory that replaces the expectation of virtue with a supposition of rationality.”²⁴⁰ John Rawls also conceives of public reason as a modern form of civic virtue. There are, however significant differences in their respective interpretations, and these significant differences, which we are about to unravel can tell us a lot about how republican theory may be different from liberal versions of a political theory that endorses some form of civic virtue. As it will become apparent, the difference between Rawls and Habermas in its essential outcome is that Habermas endorses deliberative democracy not as pertaining only to the formal fora of politics, as Rawls does, but also as pertaining to the wider civil society. Thus, the first part of this chapter will examine the justifications that go into these different normative choices and how that helps us understand republicanism better. In the second part of the chapter, we go on and ask the next logical question: if a certain deliberative strategy is the direction in which the most promising republican argumentation points us, then what is the difference between this and other deliberative arguments?

It is fair to admit that it is probably one of the biggest challenges that this dissertation faces, to point out in what ways republican arguments might differ from liberal arguments, since its choice of ‘suspects’ is knowingly skewed towards authors that have strong liberal credentials as well. It is thus the first task and the prompting of this chapter to reflect on how republican ideas as represented in the later work of Habermas can be said to differ from ideas of a liberal thinker like John Rawls, as represented in his later work on political liberalism. The basic finding of the comparison between the Rawlsian and Habermasian approaches is that the

²⁴⁰ Jürgen Habermas, ‘Reply to Symposium Participants, Benjamin N. Cardozo School of Law’, Habermas on Law and Democracy- critical exchanges, eds. Michel Rosenfeld and Andrew Arato (Berkeley, Los Angeles, London Univ. of California Press, 1998), 386

exercise of certain civic virtues that make public reason possible is restricted to the area of formal politics for Rawls, while it is a matter of the civil society for Habermas. Also, their approaches are different not only in scope, but also in content insofar as Habermas welcomes the deliberation between a plurality of comprehensive views in the public sphere, while Rawls appears not to encourage the expression of comprehensive views in the public sphere. Also, it needs to be pointed out that Rawls distinguishes between an idea of public reason, the liberal idea of public reason with which he mostly works and the ideal of public reason, which is closer to a more substantive, republican reading. That is why there is some ambiguity as to what his preferred normative approach is. Finally, in one instance Rawls is maybe more republican than Habermas. He argues that the duty of citizens to act from public reason and to view themselves as legislators when they decide on public matters is an intrinsically moral duty.

It could be argued that Rawls' notion of public reason, his conception of citizenship with an emphasis on the 'duty of civility', his characterization of political relations in a constitutional democratic society as governed by 'civic friendship'²⁴¹, and in particular, his pointed discussion of voting as an individual, civic exercise in which one must cast aside particular interests or views could be seen, on the face of it, to come close to Habermas's insistence on the idea of Kantian origin of 'the public use of reason', on the participation in a public process of 'will-formation' that pays particular heed to concerns of the 'common good'.

In interpretative terms, that would fall in line with a certain critical approach that does not view Rawls as a minimal theorist, and which emphasizes his work's communitarian overtones.²⁴² He is nevertheless recognized as probably the most influential liberal author of

²⁴¹ John Rawls, 'Public Reason Revisited', 137

²⁴² Stephen Mulhall and Adam Swift, Liberals and communitarians (Oxford, UK : Blackwell, 1992)

the second half of the twentieth century and in that capacity, he serves as a good contrast to Habermas' ideas, most part of which I have already discussed and presented as republican in the previous chapter.

4.2 John Rawls: 'public reason'

John Rawls said that there is nothing incompatible in classical republicanism with political liberalism.²⁴³ There may appear institutional design differences, he added, but in its conceptual core, classical republicanism, unlike civic humanism was well compatible with political liberalism. The most striking similarity that entitles us to reflect on republican ideas in light of Rawls's ideas of political liberalism in the first place is the notion of public reason and the adjacent ideal of democratic citizenship, which are essential in Rawls's reconsideration of a political conception of justice. In the following, I want to consider closely the similarities and contrasts between these Rawlsian notions and Habermas's treatment of similar ideas, which as I have shown in the previous chapter, speak of his republican credentials. To give a very brief preview of their stances, the contents of 'public reason' is represented for Rawls by a political set of principles that is the subject of consensus of all citizens in a liberal, democratic society. Such a political consensus over and beyond the diversity of reasonable, but comprehensive doctrines in society, is required by the 'fact of [irreconcilable] pluralism'. It is manifested in practice by a form of abstention from any comprehensive beliefs on the part of citizens engaged in public debate over fundamental, political issues, in the formal fora of politics. For Rawls, public reason is backed by a moral duty of civility, that is, a duty to offer only reasons that others could find reasonable. Only certain kinds of reasons, that are already generally accepted as reasonable can be proposed in public debate. For Habermas, 'the public use of reason' refers to a certain argumentative

²⁴³ John Rawls, 'Political Liberalism', (Columbia University Press, 1993), 205

attitude. It entails respect for others' opinions and beliefs and a willingness to change one's own opinions if found lacking in contrast to others, in other words, a willingness and ability to yield to 'the force of the better argument'. When the necessary presuppositions of communication obtain (equal access and equal participation), public reason is in fact entailed in the process as such of argumentation. This is an anti-fallibilist, cognitivist understanding of argumentation. I think these two different approaches to consensus and democracy can tell us a lot about the basic differentiation between liberal and republican arguments.

Unlike 'A Theory of Justice' where *justice as fairness* was taken to represent a comprehensive liberal doctrine, John Rawls hopes to re-establish in 'Political Liberalism' the same concept, but not as part of an overarching political philosophy pertaining to the whole of society, but as an articulating, political conception inherent in liberal democracies, and pertaining to what he calls the basic structure of society. Though John Rawls makes sure to emphasize that there is no external standpoint that could guide the reasoning of the parties in the original position, there is a degree of determinism at work: "public reason is characteristic of a democratic people"²⁴⁴ and "the correct model of practical reason as a whole will give the correct principles of justice on due reflection."²⁴⁵ Such a conception is seen as a natural outcome of a method of construction, but Rawls is open to the idea that it is by no means the only possible, reasonable normative outcome. So, are we to understand that, since the main method of 'divining' principles of justice is a decontextualized form of reflection, there is one 'rightly reasonable' outcome (and only one in all contexts) of a decisive "reflective equilibrium" (the weighing of normative options against one another)? I say 'rightly reasonable' in a slight ludic fashion because I think that, unlike Habermas's criticism of

²⁴⁴ Rawls, Political liberalism, 213

²⁴⁵ Rawls, Political liberalism, 96

Rawls that the original position is solely using the mechanisms of the rational²⁴⁶, the decontextualized setting provided by the ‘original position’ accomplishes through the means of the rational (what a rational man would choose under circumstances of ignorance of her social and personal condition) the outcomes of the reasonable.²⁴⁷ What happens, however, in the real world, when ‘brainy’ theorists are not devising thought experiments, and when there is certainly no veil of ignorance indirectly defending us from our own egoisms is another matter. For the issue under discussion here, it is important to point out that the consensual, political principles that define public reason are supposed to be devised in ‘the original position’. That goes some way in justifying Habermas’s criticism of Rawls that his is a ‘frozen’, inflexible notion of public reason.

In the following, I will take a closer look at Rawls’ notion of public reason. As it turns out, the importance of this understanding of public reason for Rawls’ theory cannot be overemphasized, since it grounds the liberal principle of legitimacy that consists in the exercise of political power according to a constitution, whose ‘principles and ideals’ are endorsed by all citizens.²⁴⁸ The manner in which citizens are seen to endorse the principles of the constitution in Rawls’ theory of political liberalism as compared to Habermas’s notion of self-legislating through public debating is the core of what I claim to be the dividing line between liberalism and republicanism from this particular perspective. In fact, Rawls claims that “political liberalism also admits Habermas’s discourse conception of legitimacy”²⁴⁹ and that public reason could take different forms. The intuition we start from, however, is that

²⁴⁶ Habermas claims that the original position is based on ‘rational egoists’, and that it is thus unable to explain individuals’ ‘higher order interests’ that Rawls’s argument heavily relies on, “Reconciliation through the Public Use of Reason: Remarks on John Rawls’s Political Liberalism”, *The Journal of Philosophy*, 92, no.3, (Mar. 1995), 112-3

²⁴⁷ one critic claims that the priority of the reasonable over the rational is affirmed through the design of the original position; see James W. Boettcher, ‘What is reasonableness?’, *Philosophy and Social Criticism*, 30, no. 5-6 (2004), 601

²⁴⁸ Rawls, *Political Liberalism*, 217; see also Duncan Ivison, ‘The Secret History of Public Reason: Hobbes to Rawls’, 130

²⁴⁹ Rawls, ‘Public Reason Revisited’, 142

there is an in-built tension in Rawls' theory between his serious acknowledgement of 'the fact of pluralism' and his, even qualified support for 'justice as fairness' as a normative blueprint, but more importantly, his insistence on the notion of public reason, which as we shall see, entails the adoption of a public point of view, and the exercise of judgment, not from one's point of view, but from an impersonal standpoint that can be the subject of consensus. Though it is important to ask what makes the difference between justice as fairness as a political notion and justice as fairness, the comprehensive doctrine, as previously developed in 'A Theory of Justice' (and the answer, of course, should amount to more than quietly underscoring the instances where Rawls cautiously points out that the particular concept he happens to be using at that moment is not brought to us in its comprehensive guise, but in its political version)²⁵⁰, I am particularly interested in exploring how the identified 'problem', the fact of pluralism, is tackled by Rawls via the notion of public reason and whether any tensions, as suggested above emerge. I am thus interested, in this brief analysis, not so much in justice as fairness as a political ideal, as in the background conditions and assumptions Rawls identifies towards its specific elaboration. Once these are clarified, we can gain a better understanding of how a liberal interpretation of public reason or civic virtue might differ from a republican interpretation.

Rawls points out in his later work on political liberalism that a "plurality of reasonable but incompatible comprehensive doctrines" unavoidably hinders the ambition of a society ordered by justice as fairness. The more modest and designedly realistic idea of justice as fairness as a political conception, that is, as an umbrella conception over and beyond any comprehensive beliefs, is instead adopted, with the hope that it can become the object of an overlapping

²⁵⁰ see Rawls's discussion of the concept of 'full autonomy' as a political, 'not ethical' value, in Political Liberalism, 77-8

consensus.²⁵¹ Justice as fairness, with its two main principles is thus presented as one of the possible results of public reason. The emphasis in the later, Rawlsian work of “Political Liberalism” is thus, structurally different. It backtracks to the ‘beginnings’ of theorizing, so to say, and asks the foundational and meta-theoretical questions: how is democratic stability and implicitly, normative, political theory at all possible when there is a multitude of reasonable comprehensive doctrines out there, in society? The answer essentially comes down to the notion of public reason. This notion is however, part of a web of notions that together define Rawls’s new meaning: ‘the rational’, ‘the reasonable’, the idea of reciprocity. It could be said, however, that the notion of public reason which sums up the various notions Rawls works with is derivative of Rawls’s idea of moral person, or maybe more appropriately, is presupposed²⁵² by the Rawlsian conception of the person, which is that of a citizen as a free and equal person of a constitutional democracy, who possesses two moral powers, ‘a capacity for a sense of justice’, or the reasonable, and ‘a capacity for a sense of the good’, the rational.²⁵³

Public reason refers to those reasons that can be invoked in public debate over fundamental, political matters, which can essentially be found reasonable by others, and which are thus, in fact already the object of consensus. Nothing controversial should be part of the lexicon of public reason. In other words, in order for consensus to be ensured in the context of ‘reasonable pluralism’, restrictions are to be placed on what public debate is expected to cover.²⁵⁴ There is an important ambiguity here to be dealt with. It would seem that Rawls’s

²⁵¹ Rawls, Political Liberalism, 40

²⁵² see also Ivison, ‘The Secret History of Public Reason: Hobbes to Rawls’, on this last point, with the implication that such a presupposition cannot help to justify public reason to those who lack higher-order interests in the first place, 143

²⁵³ Rawls, Political Liberalism, 19

²⁵⁴ one critic points out that ‘reasonableness’ should not be understood as a tool for the exact specification of policies and laws- see for this James W. Boettcher, ‘What is reasonableness?’, Philosophy and Social Criticism, 30, no. 5-6 (2004), 600; I suggest, however, something less than that, that is that the less ‘likeable’ implications of Rawls’s notion of public reason is the weakening of proper deliberation.

main concern is with the kind of reasons that citizens provide in supporting a certain issue: for example, one should not support in public equal rights for women by arguing that it was her grandmother's last dying wish or that Jesus encourages us to take such a stance. That would not qualify as a good reason. In Rawls's latest consideration of the notion of public reason, in what he calls 'the wide view of public reason'²⁵⁵, he allows, however, that reasonable comprehensive doctrines may be made part of public, political discussion, but only if the reasons derived from such comprehensive doctrines are replaced, 'in due course' with proper political reasons.²⁵⁶ Rawls refers to the Abolitionists and to the Civil Rights Movement, who, he claims fulfilled the above proviso, even if they justified their beliefs and actions from a religious point of view, because, in the end, their doctrines were in support of basic constitutional values. This suggestion, however, undermines what Rawls was trying to make sense of in the first place: a political form of public reasoning, which was not to be confounded with the reasonableness or liberal-democratic virtues of some comprehensive doctrines.

As far as I understand it, only those issues are allowed to be part of public debate, on which everyone can agree, and further on, for the same, politically right kinds of reasons.²⁵⁷ This may sound like pure nonsense, since it appears to be a contradiction in terms and strip in effect public debate of its deliberative character, which Rawls appears to support. It is also somewhat reminiscent of David Miller's insistence that the public culture should consist of that which can be the object of majoritarian consensus. Unlike Miller's rich, public culture model of political consensus, however, for Rawls public reason is represented by shared, first

²⁵⁵ see Rawls, 'Public Reason Revisited'

²⁵⁶ see Rawls, 'Public Reason Revisited', 144

²⁵⁷ This interpretation of public reason as meagre, and allowing in public debate only issues or points of view that are consensual and recognized as such by the public is denied by one critic who claims that the discussion of comprehensive doctrines in public debates is entirely consistent with the notion of public reason advanced by Rawls- see Boettcher, 'What is reasonableness?', esp. 616-18

principles, whose specific interpretation is also shared. And crucially, he understands public reason under a consensual mode of public justification, which means that the same reasons should obtain for all citizens.²⁵⁸

Also, as I was already hinting when I talked about the intuition of a tension between Rawls's emphasis on 'the fact of pluralism' and his notion of public reason, one is inclined to agree that "a deep pluralism [is] such that a rational convergence on a single standard of public reason appears remote"²⁵⁹, thus prompting us to think (somehow perversely) that Rawls's bet is really on public reason as expressed by the principles of justice as fairness, which he should have to think compelling enough to be the object of an overlapping consensus. One critic, however, argues that justice as fairness has a special place in Rawls's view, but that that is so only in the sense of a "coherence bonus", that is, that the two principles of justice have the advantage of exhibiting more continuity with the central notions of fairness and reciprocity, which are part of the political notion of public reason. This sounds less than convincing, especially if the claim is stretched even further to say that Rawls never intends for "one privileged political conception of justice" to come to the forefront.²⁶⁰ If that were so, as far as I see it, Rawls would not be speaking of public reason in the first place.

Thus, I would argue that the only way out of these conundrums for Rawls is to argue 'fair and square' that justice as fairness is really what public reason should amount to and try to devote all his argumentative power to this endeavor. Because, however, he has started his reconsideration of justice as fairness from the very, hard idea that reasonable pluralism is the order of the day in contemporary, democratic societies, and thus, only a good amount of

²⁵⁸ for a classification of modes of public justification see Ivison, 'The Secret History of Public Reason: Hobbes to Rawls', 127

²⁵⁹ Ivison, 'The Secret History of Public Reason: Hobbes to Rawls', 144

²⁶⁰ Alessandro Ferrara, 'Public Reason and the Normativity of the Reasonable', *Philosophy and Social Criticism*, 30, no. 5-6, (2004), 582-3

deliberation and reflection contingent on each pluralistic universe within a polity can be expected to lead to a ‘fair’ or correct public reason, Rawls appears to be trapped by the bonds of his own presuppositions in not being able to give final, specific, normative contents to those first principles that he thinks should define public reason. What Rawls does argue, however, is that public reason is defined by “the framework of what each [citizen] sincerely regards as a reasonable political conception of justice”²⁶¹. Also, Rawls assumes that a reasonable conception of justice can only be a liberal one so public reason is thus defined by a liberal conception of justice, according to Rawls, and also by reasoning of common sense, or scientific knowledge when it is not controversial. Unless, however, there is convergence on this ‘sincerely held as reasonable, political conception of justice’, public reason is compromised. That is why, what is needed for the argument for public reason to minimally work is an explanation of how and why convergence is indeed likely to occur.

Now, since it starts to sound like we are on a hopeless chase for clarity, I would like to make clear that I think that the difficulties generally encountered by readers of Rawls’s “Political Liberalism” in understanding ‘public reason’ mostly come down to his claim of having turned justice as fairness from a comprehensive, liberal doctrine into a political doctrine. I simply do not see how justice as fairness has been turned political.

What is that meant to mean? Rawls mentions that the values of political liberalism (‘the virtues of fair social cooperation such as civility, tolerance, reasonableness and a sense of fairness’)²⁶² do resemble values extolled in comprehensive doctrines like those of Kant, J.S. Mill, or Joseph Raz.²⁶³ He argues that justice as fairness is now political, but does not

²⁶¹ John Rawls, ‘Political Liberalism’ (New York: Columbia University Press, 1996), 1, quoted in Lott, ‘Restraint on Reasons and Reasons for Restraint: A Problem for Rawls’ Ideal of Public Reason’, 76

²⁶² Rawls, Political Liberalism, 194

²⁶³ Rawls, Political Liberalism, 200

promote it in a conclusive way as ‘the’ embodiment of public reason. I think that the reason why we have a hard time imagining people content with a consensual form of public reason, on which they all agree, is that the way Rawls tends in the end, to define public reason (as coextensive with the principles of justice as fairness) makes one think that public reason will unavoidably be comprehensive and thus, partisan.

What is important to notice now is that the idea of public reason is very limited and specific. This limitation in coverage and scale (the basic structure of society) is, more generally, what Rawls usually has in mind when he speaks of ‘re-tailoring’ to the domain of ‘the political’. Public reason applies to political discussions but not to all, only to those that concern matters of fundamental justice or constitutional design. Then, it applies to these discussions only when they occur in what Rawls calls “the public political forum”. The public political forum refers to contexts where official representatives of citizens act on behalf or in the service of the citizenry, such as government officials, legislators, judges, candidates to political office. Also, it can refer to citizens acting politically, in organized ways.²⁶⁴ As specified above public reason is always situation-specific, so that it does not figure as a requirement in all contexts that government officials, for example find themselves, but only in those that relate to issues of fundamental justice. This looks like an ungraspable, theoretical delimitation so much so, that it is difficult to see why a proposed bill to amend state-regulated conditions on the market of house renting could not figure as a matter to be tackled by legislators from the point of view of public reason, just as much as an issue of amending the electoral system or redesigning the social security system.

²⁶⁴ It is simply not accurate to say that Rawls has in mind, as also belonging to the public forum, “deliberation in the larger citizenry over voting”, as Alessandro Ferrara claims, ‘Public Reason and the Normativity of the Reasonable’, 582; Rawls’s idea of the requirement of public reason is generally restricted to officials, and when citizens are also mentioned it is only if they are part of some formal bodies, taking part in some way in the formal, political process.

For now, it is important to notice the very limited coverage that public reason can afford, according to Rawls, since civil society or what he calls ‘the background culture’ are not part of the realm of application of public reason. This is the first, and most striking contrast to the Habermasian, two-layered model of deliberative democracy, where the exercise of certain civic virtues is extolled both in civil society, and in the more formal fora of politics. In fact, for him, the important story goes on in the undercurrents of formal political processes, where a ‘vibrant’ civil society with impact on formal decision making represents the *sine qua non* of a legitimate political and law-making process. Because of the normative importance that Habermas attaches to argumentation, one critic concludes that the participants to the discourse “would have to be seculars who bracket their ‘comprehensive doctrines’ in all matters pertaining to morality and politics.”²⁶⁵ If that were indeed the case then, it would seem that there were little difference, if any, between Rawls’s approach to public reason and Habermas’s. Before we consider this more seriously let us first discuss the things which the two authors clearly share.

4.3 Rawls and Habermas

It seems that Rawls and Habermas have quite similar theoretical starting points. They both point out that their theories can only make sense in established, or ‘well-ordered’, in Rawls’ terms, liberal societies.²⁶⁶ Rawls sometimes seems to indicate that the stock of ‘well-ordered’, liberal societies may not be as great as we may first think and that unjust or even gravely unjust, liberal societies are quite common. But, the point of the matter is that both Rawls’ substantive theory (justice as fairness) and Habermas’s purported procedural theory that is

²⁶⁵ Abdel-Nour, ‘Farewell to Justification , Habermas, human rights, and universalist morality’, 85

²⁶⁶ I say that despite of Habermas’s ‘universal principle’, which is part of an argument about the formal pragmatic of argumentation as a method of rational understanding and cooperation

open to any substantive specification that the communicative, civic process may lead to ultimately need a liberal, constitutional polity as a fundamental precondition of existence.

This may seem like an innocent or common-enough bias in contemporary political theory, but what it does in effect is to give a certain descriptive quality to their theories, almost as if the authors were claiming nothing that would not already be happening. Maybe that is why Habermas seems to put his faith in the deliberative dispositions of individuals, more than build any ‘argumentative scaffolding’, when he speaks of citizens getting involved in the civic process that should inform law-making. It needs to be pointed out that in order for the enlightened effects of communication to be even considered, and ‘the formal-pragmatic’ mechanisms²⁶⁷ that Habermas has in mind to be set in motion, individuals first need to take part in those processes of communication. Habermas’ explanation as to why we should expect that to happen seems to be a mix of a historical-cultural argument and an empirical argument. The historical-cultural argument points out that in the absence of religion or other traditional structures of authority, individuals trust themselves to be guided by the force of the better argument. In other words, reason has become the new frame of reference.

Even if we take for granted this wide-breadth story of modernity, this does not explain why individuals should feel the need to exercise reason discursively, together with others, when they could simply do it on their own.²⁶⁸ Habermas’s answer to that would probably be to point to his notion of validity, which refers to the ‘rightness of norms’ and to the truth of assertions. As long as norms or policies are proven to be rationally acceptable, they are valid. And in order to show that they are rationally acceptable, one has to put them to the test of

²⁶⁷ Kevin Olson, ‘Democratic Inequalities: The Problem of Equal Citizenship in Habermas’s Democratic theory’, *Constellations*, 5, no. 2 (1998)

²⁶⁸ see for example Robert. E. Goodin and Simon J. Niemeyer, “Where Does Deliberation Begin? Internal Reflection versus Public Discussion in Deliberative Democracy”, *Political Studies*, 51 (2003): 627-649

argumentative debate, which has to be communicative, so the argument goes. An implication of huge proportions is that moral issues are open to this rational scrutiny, and moral dilemmas can be decided on the basis of the mechanism of ‘the better argument’.²⁶⁹ The empirical part of it could sound as simple as this: they do take part in deliberative processes because, after all, what happens in decent liberal societies is that people care for what goes on at the socio-political level and do get involved, at least some do. Another general point of meeting with Rawls, comes from the fact that, as I have pointed out in the previous chapter, Habermas’ argumentation for a ‘communicative’ society appears to be prompted, among other things, by a certain model of nation-building at the back of his mind, similar to the one of the United States of America, which is also in the background of Rawls’ work.

The complex conception of the person that Rawls works with is another fundamental meeting point between the republican and political liberal theoretical standpoints, only that the latter exhibits less of the rhetorical flourish on the subject of civic virtue. Thus, according to Rawls, individuals in general, at least those who are citizens of liberal democratic states (if such a qualification be permitted) are reasonable, which is not the same as saying that they are rational, in the sense that they are ready to propose shared standards of living, rules of collective behavior and they are ready to abide by such standards once they have been decided upon in a process of fair deliberation, and they are also aware and willing to accept ‘the burdens of judgment’, meaning all those things that represent sources of disagreement between persons, for example the different ways in which people assess the same evidence. Citizens of democratic societies are reasonable because they envisage society as a fair system of cooperation in the first place, but they can do that only because they are endowed with two ‘moral powers’: that of a capacity for a sense of justice and for a notion of the good, and only

²⁶⁹ For this whole point, see Thomas McCarthy, “Kantian Constructivism and Reconstructivism: Rawls and Habermas in Dialogue” *Ethics*, 105, no.1 (Oct. 1994): 44-63, footnote 4, p.45.

if they actually do live in a society where they feel like ‘free and equal citizens’.²⁷⁰ Similarly, Habermas presupposes that citizens of a certain type of society, with a clear liberal pedigree, are prone to view themselves as free and equal consociates, keen on cooperating.

Rawls’s ideas on society afford a bit more clarity than Habermas’s: his notion of a democratic society is that of a ‘fair system of cooperation’, which is characterized by guiding norms, ‘reciprocity’ and the idea of individual good or advantage.²⁷¹ Most importantly, Rawls’ reasonable people are not driven by the general good as such, but nor are they acting solely out of self-interest, and they recognize the good of a polity organized around legitimate, consensual terms of cooperation.

“This reasonable society is neither a society of saints nor a society of the self-centered. It is very much a part of our ordinary human world, not a world we think of much virtue, until we find ourselves without it. Yet the moral power that underlies the capacity to propose, or to endorse, and then to be moved to act from fair terms of cooperation for their own sake is an essential social virtue all the same.”²⁷²

Similarly as in the case of Habermas, a certain, civic form of behavior, which Rawls defines by the term of ‘reasonableness’, enables individual citizens to gain an equality of status: “it is by the reasonable that we enter as equals the public world of others and stand ready to propose or to accept, as the case may be, fair terms of cooperation with them.”²⁷³ In the end, John Rawls appears to attribute as much civic consciousness to individuals as members of a liberal society in the abstract, as republican authors generally do.

His strategy is that of saying that people indeed care about their basic liberties because they are instrumental to the articulation of higher-order interests, which individuals do possess: “In

²⁷⁰ Rawls, Political liberalism, 19

²⁷¹ Rawls, Political liberalism, 16

²⁷² Rawls, Political liberalism, 54

²⁷³ Rawls, Political liberalism, 53

a democratic culture we expect, and indeed want citizens to care about their basic liberties and opportunities in order to develop and exercise their moral powers and to pursue their conceptions of the good. We think they show a lack of self-respect and weakness of character is not doing so.”²⁷⁴

Rawls points out that in order to be fully autonomous or “to become full persons”²⁷⁵, that is, to be able to exercise their moral powers, individuals have to do more than comply with the principles that define political society. They have to internalize and act from these principles. It is active definition and conduct on the basis of the public principles that he expects of the citizens of a democratic society, not compliance. Full autonomy as a political value can be realized by “affirming the political principles of justice and enjoying the protections of the basic rights and liberties; it is also realized by participating in society’s public affairs and sharing in its collective self-determination over time.”²⁷⁶

This discussion of Rawls’ understanding of ‘society’ and unavoidably the general, moral outlook of the individuals forming such a society comes as a contradiction to the assertions made previously about Rawls’ strict delineation between civil society and formal fora of politics and public life insofar as public reason is taken to apply only to the latter. If, in order to be fully autonomous, individuals in general have to internalize and act from the principles defining political society, not just follow them out of rational or egoistic reasons, then this extends the areas in which citizens should act in a civic sort of way. For, does this not also imply that individuals as citizens are expected ultimately to adopt the public reason point of view? Rawls is quite explicit in this when he says that citizens are endowed with “a

²⁷⁴ Rawls, Political liberalism, 76-7

²⁷⁵ Rawls, Political liberalism, 77

²⁷⁶ Rawls, Political liberalism, 77-8

reasonable moral psychology”²⁷⁷ because they are prone to cooperation and its systematization in the form of fair terms of cooperation, because they recognize “the burdens of judgment” in that they propose and defend only ideas that could be found reasonable by others, and finally, because they want to be ‘full citizens’.²⁷⁸

I guess the way to sort out this confusing wavering is to point to Rawls’ differentiation between the idea of public reason and the ideal of public reason.²⁷⁹ It would appear that Rawls allows for something more similar to the civil society model in Habermas’ writings in a more idealized version of his political liberalism, but that he generally keeps to a more restricted version of the theory in which the requirement of public reason holds only for those who have willingly taken public roles or aspire to do so. Thus, Rawls’s notion of political liberalism, in its widest role comes close to the ideal of republican citizenship: “To realize the full publicity condition is to realize a social world within which the ideal of citizenship can be learned and may elicit an effective desire to be that kind of person.”²⁸⁰

In fact, Rawls stipulates that ideally, citizens should view themselves as legislators, this being actually an intrinsically moral duty²⁸¹: “when firm and widespread, the disposition of citizens to view themselves as ideal legislators and to repudiate government officials and candidates for public office who violate public reason, is one of the political and social roots of democracy, and is vital to its enduring strength and vigor.”²⁸² Rawls does qualify his discussion of ideal public reason, first by pointing out that this is an ideal version of the notion and that there is a more graspable idea of public reason we can resort to, and second, and interrelated, by talking of public reason of the ideal kind as a disposition of citizens that

²⁷⁷ Rawls, Political liberalism, 82

²⁷⁸ Rawls, Political liberalism, 86

²⁷⁹ Rawls, The Law of Peoples, 134-5

²⁸⁰ Rawls, Political liberalism, 71

²⁸¹ Rawls, The Law of Peoples, 136

²⁸² Rawls, The Law of Peoples, 135-6

could or could not be in effect. Looking back, however, to the outline of Rawls' thoughts on the "reasonable moral psychology", which he attributes to citizens of constitutional democracies, we notice that he states that part of that moral profile is that individuals want to be "full citizens", that is, they want to participate in public life and exercise public reason. Unless my reading here is mistaken, this seems to indicate that Rawls actually wavers between the stipulation of a more substantive, republican form of civil society and the subdued form of public reason as the attribute of the public-political fora in certain, stringent circumstances.

What may provide us with some reassuring certainty is Rawls' ideas on voting. He insists that at least the act of voting is to be exercised in a very particular, 'kosher' way, according to the requirements of public reason. This entails that the individual, when in the act of voting, should not reason on the basis of what s/he thinks is right or true, but on the basis of what public reason dictates. Voting thus takes on, as Rawls himself points out²⁸³, a Rousseauian dimension of revealed reason. Again, this does not concern voting on any kind of issue, but it is relevant with regard to voting on fundamental questions of political justice or constitutional basics. This sounds close to incomprehensible since it makes one think of referenda on fundamental issues of justice, which are not exactly the order of the day, in fact in some countries with a murkier, majoritarian past, like Germany, they are even forbidden. What is rather natural to think of, when invoking the term is of course, the periodical voting for candidates and parties to replace the incumbents. Rawls himself points out that when voting for candidates and laws, citizens should do so only by considering the public reason²⁸⁴, so it is not clear why he also says that such stringencies should apply only when the voting concerns

²⁸³ Rawls, *Political liberalism*, 219-20

²⁸⁴ see Rawls, previous quote, *Law of peoples*, 135-6

matters of fundamental justice. As it seems now, the clarity that I had promised at the beginning of this paragraph on ‘voting’ was short-lived.

In order to gain a better understanding of these thinkers’ thoughts, maybe we should also have a look at what they say to each other in a dialogue occasioned by the *Journal of Philosophy* in the mid 90’s. In an article addressing John Rawls’ political liberalism, Jürgen Habermas primarily imputes John Rawls, that he fails in his declared project of reconciling the liberty of the ancients with the liberty of the moderns and that he ultimately accords priority to liberal basic rights over “the democratic principle of legitimacy”.²⁸⁵ Habermas’s main complaint regards the design of the original position and how it makes use of assumptions and tools of reasoning like those of rational egoists, which allegedly undermine the aims of justice.²⁸⁶ He deplores the stifling of pluralism, which he sees to be the result of the ‘veil of ignorance’ and its informational constraints. He claims that his discourse theoretic method, by contrast, naturally nurtures the ‘moral point of view’ since this is “embodied in an intersubjective practice of argumentation which enjoins these involved to an idealizing ‘enlargement’ of their interpretive perspectives.”²⁸⁷ Rawls denies Habermas’s charge that political autonomy is compromised in his theory, and while Habermas’s focus on the original position seems somewhat misplaced in developing this criticism, it may help to remember that Rawls equivocates between the idea and the ideal of public reason, and that the latter is more in line with Habermas’ more robust understanding of civil society, and thus political autonomy, while the former leaves all active reflection on the public reason to officials, in certain stringent circumstances.

²⁸⁵ Habermas, ‘Reconciliation through the Public Use of Reason: Remarks on John Rawls’s Political Liberalism’, *The Journal of Philosophy*, 92, no.3 (Mar. 1995) (pp.109-131), p. 110

²⁸⁶ Habermas, ‘Reconciliation through the Public Use of Reason: Remarks on John Rawls’s Political Liberalism’, 112

²⁸⁷ Habermas, “Reconciliation through the Public Use of Reason: Remarks on John Rawls’s Political Liberalism”, 117

John Rawls, in turn, argues that Habermas's emphasis on the public sphere leads him to enter the 'realm of comprehensive doctrines', while political liberalism never leaves the realm of the political. That divide may be taken to indicate a difference in approach between a republican and a liberal strategy of tackling diversity. Rawls is clear on the point that a 'reasonable overlapping consensus' cannot but exclude anything that could be seen to undermine it, which basically means all the elements of comprehensive doctrines, of particular religious, ethical views that are subject to contention. So, what exactly is then left for public reason 'to contend' with? It is not, as in the case of David Miller's theory, a particular form of public culture that has basically been distilled from the majoritarian point of view. The principles that we could imagine as the object of consensus are those that speak to individuals' fundamental interests as members of a democratic society: liberty, equality, self-respect and all the primary goods that contribute to that. The problem with this fairly abstract view is that, what may look like universal principles that can be coolly plugged into individuals' judgments, thus in compliance with the public reason requirement, ends up in the trap of a multitude of interpretations, where it is not conceivable to think of one, undisputed understanding of the notion of equality, for example. As one critic remarks, pluralism of views can be bred not only by disagreement about first principles, but especially by agreement about first principles, but disagreement as to their interpretation.²⁸⁸ Also, the discussion of issues of fundamental justice is the most likely to engender a passionate defense from people who would feel that their duties to act from certain principles and for certain policies are more important than their duty to act from public reason.²⁸⁹

²⁸⁸ Ivison, 'The Secret History of Public Reason: Hobbes to Rawls'

²⁸⁹ Lott, 'Restraint on Reasons and Reasons for Restraint: A Problem for Rawls' Ideal of Public Reason', 79

Thus, Rawls's view that public reason should keep out of any real mischief, like what might cause controversy, seems to hide under the mat the 'problem' of reasonable pluralism, rather than solve it. In that sense, there appears to be a true tension between Rawls' solution of public reason as a keeper of perfect consensus and his pluralistic starting point in developing political liberalism. From that point of view, Habermas' version of the public reason, in which what is required of citizens is to show respect, empathy and tolerance for other points of view, and ultimately think in terms of what is in the common interest of the political body with its different groups, without, however, giving up one's deep-seated beliefs, appears to be less of a paper notion. Achieving a balance between one's comprehensive views and what might be in the common interest of the members of the polity may seem too difficult to conceive of, too abstract. I think, however, that the implied dichotomy underlying this notion, according to which people's comprehensive ideas of the good life are bound to be sectarian and to exclude notions of justice, should not be taken for granted. As Rawls points out, there are many different, reasonable doctrines that people embrace and that are built on particular notions of justice.

What is of course, less plausible in Habermas's account is his epistemic position according to which, truth is ultimately to be discovered if we follow the trail of a good argument to its logical conclusion. And a good argument comes into existence by natural means, that is, argumentation is bound to lead to good arguments, and finally to the best argument of all. If that were all there was to it, the best argument carrying the day, then it would be fine. But, as critics also point out²⁹⁰, according to Habermas, it seems that at the end of any discussion (that fulfills deliberative conditions like information, equal standing, empathy and reason) lies the right policy to follow, in other words, discursive argumentation as an unbeatable method

²⁹⁰ Samuel Freeman, 'Deliberative Democracy: A Sympathetic Comment', *Philosophy and Public Affairs*, 29, no.4 (Autumn 2000): 371-418

to truth. That at least holds for those deliberative occasions when an argumentative consensus is reached, for Habermas of course contends that that will not so often be the case, so that a mix of arguing, bargaining and voting will more likely occur.

In our general discussion so far, I have mostly hinged on the similarities between Rawls and Habermas, or how Rawls could be seen to come closer to a more republican reading than the usual minimalist interpretation of his work of the 90's.

In one crucial respect, Rawls is actually 'more republican', if you wish, than Habermas. While Habermas shies away from defining the 'public use of reason' or the requirement to think of the common good in public debate as a moral duty for fear of subordinating the legal system to morality, Rawls is explicit in this: the duty to judge by the standards of public reason or 'the duty of civility' is "an intrinsically moral duty" and it is vital for the enduring of democracy.²⁹¹ He does sound pretty passionate about it, reminding us of the plea of instrumental republicans: "the political values realized by a well-ordered constitutional regime are very great values and not easily overridden and the ideals they express are not to be lightly abandoned."²⁹² Thus, on the one hand, the exercise of public reason is instrumental for the endurance and quality of democratic polities, and on the other it is an intersubjective form of respect. The duty of civility presupposes that citizens, when placed in a situation to make use of public reason should try to use only arguments that other persons can find reasonable: it is a willingness "to listen to others, and a fairmindedness in deciding when accommodation to their views should be made."²⁹³ If they fail in that, it is a show of disrespect for their fellow citizens and they thus violate those persons' freedom and equality.

²⁹¹ see Rawls, 'Public Reason Revisited', *The Law of Peoples*, 136

²⁹² Rawls, *Political liberalism* (New York: Columbia University Press, 1996), 218, quoted in Lott, 'Restraint on Reasons and Reasons for Restraint: A Problem for Rawls' Ideal of Public Reason', 85-6

²⁹³ Rawls, *Political liberalism*, 217

In postulating the use of public reason as a duty of civility, Rawls, is I think, clearly going beyond the classical discourse of toleration, which is in the undercurrents of his work on political liberalism.²⁹⁴

And now we come to some problems that any republican theory will encounter in trying to present the duty of civility as a moral duty, and that relates to its *weakness* as a moral duty, and the likelihood that it can easily be overturned by more weighty moral duties.²⁹⁵ That is how one could agree with the following simple principle: “It is acceptable to be uncivil in cases where something more important than civility is at stake and when one must be uncivil in order to act for that more important thing.”²⁹⁶ Because the Rawlsian idea of public reason is in effect a form of ‘depersonalization’ insofar as it requires individuals, when matters of utmost importance like constitutional essentials are to be considered, to argue maybe against their own cherished principles, or comprehensive views, it is not realistic. Of course, much of the meandering in our investigation can come from the difficulty in understanding public reason in the terms Rawls designed it. Does public reason, for example, settle controversial issues of moral or political nature in advance? I think the answer has to be affirmative. Does public reason as expressed by a liberal political conception *exhaust* ‘reasonableness’ when it comes to issues of basic justice and constitutional essentials?²⁹⁷ According to Rawls, it does²⁹⁸, but the difficulty here is with the indeterminacy of the liberal, political conception of justice that is supposed to represent public reason. Rawls does not want to commit to one such

²⁹⁴ on the idea of ‘toleration’ and its inspirational value for Rawls’ later work, see Ivison, ‘The Secret History of Public Reason: Hobbes to Rawls’, 141

²⁹⁵ see for example Lott, ‘Restraint on Reasons and Reasons for Restraint: A Problem for Rawls’ Ideal of Public Reason’ who argues that the duty of civility “seems to be a rather weak duty in comparison to many of our other duties.”, 79

²⁹⁶ Lott, ‘Restraint on Reasons and Reasons for Restraint: A Problem for Rawls’ Ideal of Public Reason’, 81

²⁹⁷ for inspiration on both of these questions, see the article Lott, ‘Restraint on Reasons and Reasons for Restraint: A Problem for Rawls’ Ideal of Public Reason’, 83-4

²⁹⁸ John Rawls, “Political Liberalism: Reply to Habermas”, The Journal of Philosophy, 92, no.3, (March 1995): 132-180, 142.

conception, because he knows that that would mean in effect ‘rigging’ the results and not taking pluralism as seriously as he claims he does.

What is, then, Habermas’s understanding of the public use of reason? It may seem at first that it affords more clarity: argumentation is taken to represent open testing of all ideas in search for the valid norm or course of action. No opinions should be excluded, for in a fashion similar to John Stuart Mill’s, that would be taken to undermine the finding of the ‘better argument’. What exactly does he expect, however, from citizens who engage in argumentation in public discourses? He certainly expects them to present their opinions in a rational and reasonable manner, so that a process of real argumentation can come into place. He expects them to heed the common good in giving equal consideration to the interests and positions of all others that are to be affected by the norm under consideration. He also expects them to be open-minded, to listen to and to take seriously the views of others, to avoid dogmatism, and to be willing to weigh issues from all sides and change their opinions if found lacking.²⁹⁹ In that sense, Rawls’s dichotomy between ‘sectarianism’ and ‘defacing civility’ is supplanted by Habermas’ middle-ground alternative of the reasonable discussion of comprehensive claims.³⁰⁰

Is it true, as one critic argues³⁰¹ that he also expects citizens in public debate to recognize no other “normative authority” than that of the better argument when arguing on public issues, in a fashion similar to Rawls’s? Unlike in the case of Rawls who does provide an answer to the ‘fact of pluralism’ in the form of the idea of public reason as a straightjacket on the scope of

²⁹⁹ McCarthy, “Kantian Constructivism and Reconstructivism: Rawls and Habermas in Dialogue”, 62

³⁰⁰ McCarthy, McCarthy, “Kantian Constructivism and Reconstructivism: Rawls and Habermas in Dialogue”, 62

³⁰¹ Abdel-Nour, ‘Farewell to Justification , Habermas, human rights, and universalist morality’, 75

argumentation, irrespective of how artificial and unrealistic it may seem³⁰², it is certainly not clear how Habermas hopes to resolve the problems that pluralism of interests and worldviews (especially the latter) is bound to bring. In other words, what happens when the issues under discussion are so divisive (the debate over abortion immediately comes to mind) that no form of mutual respect and interest for other people's ideas can forge an agreement? In that sense, Rawls may be able to say that his theory can account for consensus through the limiting device of the public reason, while Habermas, though a consensualist like Rawls, does not seem to be able to explain what happens when argumentation is ripe with irresolvable moral conflicts. Since, for Habermas, the measure of justice is given by what is equally good for all, and thus, ethical ideas (a notion of the 'good', of identity) cannot be insulated from moral ideas (a notion of the 'right' and just), and since Habermas recognizes the force of value pluralism, he must also recognize that consensus on the common good is not as forthcoming.³⁰³

One idea is that conflicts of value have a 'right' answer. But that seems very unlikely, and hard to accept. Another idea that Habermas suggests, as pointed out by Thomas McCarthy, is that, when faced with disagreements of value, individuals may solve the deadlock by making recourse to bargaining. But that, of course, will in no way lead to a reasonable, communicative agreement, and it may even be unfair, since it is very difficult to cancel out the bargaining powers that come into such a process. Or it could be solved via voting, which, though acceptable and recognized as legitimate, and thus leading to legitimate outcomes, is hardly based on communicative rationality. The second response Habermas comes up with, as McCarthy points out is to push for greater abstraction whenever disagreement ensues, by

³⁰² so much so, that we may well ask together with McCarthy: "Can political principles and values really be separated off this way from the environments of reasons that nourish them?", "Kantian Constructivism and Reconstructivism: Rawls and Habermas in Dialogue", 52

³⁰³ see also McCarthy, "Kantian Constructivism and Reconstructivism: Rawls and Habermas in Dialogue", 55

moving the discussion “for example, from different preferences to freedom of choice, from opposed beliefs to liberty of conscience, from conflicting values to rights of privacy, and the like”.³⁰⁴ But that, in effect brings Habermas closer to Rawls. It also, could be taken to bring him closer to one of the main weaknesses of Rawls’s theory, which does come in line with some of Habermas’s criticisms of Rawls, to which I was pointing out at the beginning of this chapter. Habermas claims that Rawls gives priority to the basic, liberal rights, over the principle of democratic sovereignty. Rawls denies it.

If we take into account our discussion so far of the Rawlsian understanding of public reason, and if we recognize, along with Thomas McCarthy that in the two aspects of ‘the reasonable’ (first, that people recognize the burdens of judgment, that is that they recognize that disagreements are likely due to various reasons, and second, that they exhibit the desire to be able to justify their views to others) Rawls combines an observer’s perspective through which a citizen recognizes the depth and sometimes irreconcilability of pluralism, and a participant’s perspective through which a citizen wants to justify her actions to others, it becomes apparent that Rawls is more inclined, in the way he designs ‘public reason’, to the perspective of ‘the observer’. In doing so, however, he stifles the breadth of deliberation, and indeed limits the scope of democratic sovereignty. His notion of what can count as reasonable is made in opposition to the notion of ‘moral truth’, while Habermas’s equivalent notion of validity is tied to the idea of ‘moral truth’ and rational acceptability. Habermas is keen on the participant’s perspective and that is why he allows for comprehensive ideas to be thrown in the debate of discursive encounters, as long as they are proposed in a way that takes account of the others’ interests and comprehensive ideas.

³⁰⁴ McCarthy, “Kantian Constructivism and Reconstructivism: Rawls and Habermas in Dialogue”, 56

4.4 Concluding remarks

Throughout this investigation of public reason as a solution to value pluralism, we have battled to understand various ideas, and unexpected turning points in the arguments of John Rawls and Jürgen Habermas. For Rawls, public reason is a political conception of justice, which he wants us to picture as non-comprehensive, in the sense that it does not address or obtain in all spheres of life, but only in the basic structure of society. So, it may be substantive, since it is formed of a set of first principles, but it is not comprehensive. Even if we think that it is likely that such principles as, let's say affirmative action (as something that we can imagine a first principle of public reason could ultimately boil down to) can be insulated in the sphere of formal education without touching other spheres of a human being's life, which I have trouble understanding, if the starting premise of Rawls's political liberalism is serious and startling value pluralism, then it is still very difficult to believe that consensus on a clear-cut political conception of justice (read public reason) is possible. It is true, however, that Rawls's position is far from clear, because he seems to endorse a more Habermasian picture of civiness, at least when it comes to the scope of public reason, when he talks about individuals being endowed with a 'reasonable moral psychology', which would basically prompt them to uphold public reason beyond the very strict understanding of the political as the formal sphere and process of decision-making.

And don't Rawls and Habermas actually have a similar understanding of political legitimacy? Rawls argues that the liberal principle of legitimacy is fulfilled when the principles and ideals encompassed in a constitution, which should form the basis of political practices, are endorsed by all citizens. For Habermas, in order for statutes to claim legitimacy, the assent of all citizens is required in 'a discursive process' of legislation'. Now, what may be different in these two pictures is 'the discursive' bit. It seems right to say that for Rawls, norms need not be put to the test of general, public debate. That is after all, the fundamental difference

between the two. Habermas believes in the ‘enlightening’ feature of reasoned argumentation, and that is why he allows for and actually urges any comprehensive doctrines to be put to the test of the ‘better argument’, while Rawls, leaves it up to some pre-political forum (the original position) to come up with some safe (read ‘not causing disagreement’) principles of government. Citizens are not really supposed to go around, discussing until the late hours of night what argument is better. In Rawls’s world, they are supposed to already know what reasons can be safely given for different proposals.

Also, drawing from that, public reason means two very different things for Rawls and Habermas. For Rawls, it circumvents pluralism by imposing a strict, political conception of justice, whose principles are the only reasons allowed in public debate over constitutional essentials. It is supported by a moral duty of civility, which, if disregarded by individual citizens implies, according to Rawls, a disregard for the freedom and equality of one’s fellow citizens. For Habermas, public reason is represented by an argumentative attitude on the part of individuals as citizens, which is characterized by the necessary presuppositions of equal access and equal participation in the discursive process. He does not talk of this in terms of a moral duty, thus showing himself to be, in this respect, less republican than Rawls, but he trusts that people will engage in these argumentative processes and they will recognize the normative relevance of the better argument. Though it appears that the Habermasian notion does not try to bypass pluralism, but addresses it head front, it may be charged with not taking pluralism seriously enough since it assumes that agreement carries the day. The fact that Habermas tries to derive the democratic principle from a general theory of human reason can be highly problematic since it is crucially dependent on ‘ideal speech’ conditions like equal access and equal participation at the discussion table. We will deal in more depth with these issues in the next section where we discuss arguments of deliberative democrats in

comparison to Habermas'. If what ultimately sets apart Habermas' take on public reason, which is taken to represent here one republican strategy, from Rawls' interpretation of the notion is a deliberative understanding of democracy, then we need to discuss how this may be different from regular, deliberative arguments.

4.5 Deliberative democracy and republicanism

Another strand of thought that relates to theories of republicanism is that represented by the very rich literature on deliberative democracy. In this dissertation, deliberation is taken to occupy a central role in republican thought, at least of the strand we have now identified as the most promising. As shown in the first chapter, deliberation does not necessarily play as important a role for instrumental republicans who choose to concentrate instead on the more formal and restricted notion of participation in the form of contestation³⁰⁵, but it is intrinsically related to Habermasian arguments. According to the general strand of this republican argument, common goods need to be defined politically. That is all the more necessary in the context of current moral and cultural diversity. For that, representative politics is not sufficient, as long as equality of citizens requires that they can all contribute to the opinion and decision-making process. The conclusion of such a line of republican argumentation is that "There needs to be an expanded public realm of *deliberation*."³⁰⁶ Thus, it would appear that if we follow this line of argument, republican thought requires at its core deliberation.

As shown in the previous section, what may ultimately set aside a Rawlsian, liberal understanding of public reason from a Habermasian, republican interpretation is the notion of a deliberative public reason, understood in a certain way. This notion of deliberative public

³⁰⁵ Iseult Honohan, *Civic Republicanism*, 236-7

³⁰⁶ see Iseult Honohan, *Civic Republicanism*, 215

reason “springs from the idea that valid political decisions are arrived at in a process of public justification.”³⁰⁷ In fact, deliberation, preliminarily understood here as a reasoned exchange of ideas on socio-political matters for the purpose of reaching collective decisions or probing opinions, and exercised by citizens in the arenas of civil society or in the formal structures of the state, under conditions of freedom and equality, could be seen to be at the heart of that which republicans so much want to articulate as their contribution to contemporary political theory. I say that because enhanced participation, in this moderate form of republicanism I have found most promising does not have to amount to a vision of participatory democracy as such, but to the more modest idea of deliberative democracy.³⁰⁸ In fact, critics of republicanism do recognize that republicanism is attractive insofar as it refers to the extensive public deliberation of self-governing communities. But then, the criticism follows shortly, deliberation is only comprehensible in small communities.³⁰⁹

How ‘modest’ deliberative conceptions of democracy really are, we will have to see in the course of this analysis, but the observation from which we start is that republicanism and deliberative democracy generally assume a similar level of civic-spiritedness on the part of individuals as citizens. For example, Samuel Freeman, a deliberation sympathizer, simply assumes, that “because of this diversity” of conceptions of the good exhibited in society, “citizens recognize a duty in their public political deliberations to cite public reasons [...] and to avoid public argument on the basis of reasons peculiar to their particular moral, religious, and philosophical views and incompatible with public reason.”³¹⁰ Upon reading the above quote, apart from detecting the unmistakable Rawlsian jargon, it would probably immediately come to mind to rephrase the surprising inference and say that *because* of the striking

³⁰⁷ See Iseult Honohan, Civic Republicanism

³⁰⁸ Emily Hauptmann, , “Can Less be More? Leftist Deliberative Democrats’ Critique of Participatory Democracy”, Polity, 33, no.3 (2001): 397-421

³⁰⁹ see for this point, Goodin, “Folie Republicaine”: 55-76

³¹⁰ Freeman, “Deliberative Democracy: A Sympathetic Comment”, 382

diversity, it is more commonsensical to think that people in general fail to cite public reasons and fail to act like ‘good sports’. That is of course, if you take the diversity in question as seriously as deliberative authors claim they do. Thus, the thought here is that it cannot be that diversity as such grounds deliberation, and helps it function well, when deliberation was supposed to come to its rescue in the first place. The hope, however, is that deliberation as such provides the right context for people to avoid strict self-interest and try to think of what is in everyone’s best interest.

The relation between diversity and public reason, the latter being really the sanitized version of that which sums up the civic virtues that republican, deliberative or liberal authors invoke to different extents and in different forms, is a complicated one, and certainly not particularly transparent in the works of deliberative authors. Diversity, by which it is meant here disagreement, by which it is usually meant moral disagreement, which in turn is taken to refer to deep conflicts of value that require resolutions of justice³¹¹ is the problem deliberative authors start from. This is taken to be a problem because it raises questions first, as to the possibility of decision-making, and second, as to the normativity or legitimacy of that decision-making. It is the same starting point as Rawls’s in ‘Political liberalism’. The difference may be that deliberative authors like James Bohman, Amy Gutmann, Dennis Thompson and Joshua Cohen, do not ultimately think these moral disagreements to be irreconcilable, as Rawls does.³¹² That is after all, the essence of the deliberative enterprise: deliberation is taken to be able to resolve moral disagreements, unlike other methods of resolving conflict like bargaining, for example. Thus, deliberative authors generally argue that

³¹¹ see Hauptmann, ‘Can Less be More? Leftist Deliberative Democrats’ Critique of Participatory Democracy’ referring to the way Gutmann and Thompson characterize moral conflicts, 862

³¹² that is so even if authors like Gutmann and Thompson could be seen to argue at times that deliberative solutions can be crafted in accord with particular principles, along Rawlsian lines, rather than out of the deliberative process; see Emily Hauptmann, ‘Deliberation=Legitimacy=Democracy’, *Political Theory*, 27, no.6 (Dec.1999), 864

when it comes to value pluralism, which, in their opinion, has become a real problem in today's more and more diversified societies, deliberation is the only one fit to manage such disagreements and bring about legitimate decision-making.

Deliberative authors propose to do so in two ways, which may seem suspiciously self-serving since the two ways branch out in two quite different, and maybe even contradictory directions: by arguing first that deliberation can bring about consensus via changing people's opinions³¹³, and second, by pointing out to deliberation's coercive function, or in less 'ugly' terms, its legitimacy-conferring function, in bringing about in other words, legitimate decisions that are recognized as such by the participants, even in the absence of an unanimous agreement. Why, however, if that disagreement runs so deep, should people concede to a decision reached in a deliberative way, if that decision contravenes their most cherished, principled beliefs? That is the question that this analysis ultimately seeks to answer in furthering our understanding of what republicanism could and could not amount to. I believe, however, that most deliberative theorists hope that deliberation can indeed produce consensus, and that in the course of that, individuals' preferences change, to an extent that one could talk of character change through deliberation. What I have in mind here is the Habermasian idea that communication itself, when fulfilling the conditions of equal access and equal participation, can move a person closer to consensus, or closer to accepting decisions one may not agree with. There are virtue-type prerequisites like individual open-mindedness that Habermas insists upon, but unlike Rawls, he is less interested normatively in what exists before deliberation, than in what deliberation creates. Both Rawls and Habermas can be seen to insist, however, that 'all citizens' must somehow (though it could well be, in very different ways) be agents of deliberative democracy. This problematic unanimity

³¹³ see for example Bohman's take on this as interpreted in Hauptmann, 'Deliberation=Legitimacy=Democracy', 864

condition in what we, as it goes, ‘all know to be conditions of widespread citizen apathy’, as well as the impossibility to have everybody deliberate at all times, is said to be solved by the introduction of some hypothetical device, whether it is the Rawlsian original position or the Habermasian ideal-speech scenario. Rawls ultimately takes a restrictive view of deliberation, understood in the keynote of public reason, in that he sees it characteristic of the more formal structures of state, of the legislative, the judiciary and only when questions of basic justice are dealt with. Habermas takes a more expansive view of deliberation as pertaining to civil society. They represent, in the end, the different inspiration for the two main directions in current deliberative democracy writing, one that focuses on a more structured and limited, formal sphere of deliberation, and the second, on the Habermasian cue, that is more discursive, applies to the whole of citizenry and is seen to take place both in the formal arena of politics, but especially in less structured spheres of the civil society.

It is unclear, however, in both of their cases what is the importance of the unanimity condition, and how, if important, it can be satisfied. For Rawls, a law of basic justice is legitimate first, when government officials act from public reason, and second, “when all reasonable citizens think of themselves ideally as if they were legislators following public reason” even if particular individuals may think that the law is “not (...) the most reasonable or the most appropriate”. Why is it so? It seems that the answer lies with the idea that “Each thinks that all have spoken and voted at least reasonably, and therefore all have followed public reason and honored their duty of civility.”³¹⁴ The problem with this is that it seems to imply ‘all’ as in ‘every citizen in the polity’, not ‘all’ as in ‘all those who participated in the voting or deliberation process’. This raises a difficult issue to which we will have to come back later.

³¹⁴ Rawls, “Public Reason Revisited”, 137

It may be plausible to expect that deliberative processes bring about the lessening of an individual's concern with her immediate interests, by exposing her to diverse opinions and exchanges of ideas, in what may be more abstract terms than usual day-to-day conversations. The dichotomy of the 'right' and the 'good' has always seemed to me a bit incomprehensible, in the sense that the domain of 'the good' was artificially conceived to be limited to basic, immediate and selfish interests rather than encompassing more comprehensive and principled notions of the good, which I think, are quite important for individuals in general. Thus, the moral intuition I start from (hopefully not in the absence of any empirical plausibility) is that individuals in general do not really think so much in terms of immediate interests when involved in public life (that would actually be quite hard), as in terms of a network of beliefs that form some kind of more or less structured and principled system of beliefs that the individual identifies with. Would one vote for example, for a particular mayor just because she has declared in electoral campaign that she will reconstruct the building in which one lives, or would one rather vote for her on the basis of the potential mayor's general program for the city and the match between that general program and what one thinks is important? Thus, I think that it is implausible to assume that individuals do not give consideration to broader issues in light of what they think might be important in life, in general.

On the face of it, it could be that a republican author (actually all of the republican authors we have considered in this dissertation) would say that she is a deliberative democrat as well, while a deliberative author is not so likely to endorse the opposite. That has to do with the fact that, while both strands of thought are criticized for their fuzziness or idealism, only contemporary republicanism is many times charged with more negative, parochial and

dangerous implications.³¹⁵ The most ambitious republican argument, which I have identified to be represented by Habermas's theory says that a legitimate democratic system inevitably entails deliberation, it conceptually presupposes it, because in the absence of citizen deliberation, political obligation and political authority cannot be sustained, and the legitimacy of the state is undermined. That requires separate explanations as to how legitimacy relates to authority and obligation, and why legitimacy requires deliberation. These will be addressed in the next chapter on the notion of political obligation.

As it turns out, the proposition that legitimacy requires deliberation is the creed of many deliberative democrats. For example, Joshua Cohen's stance on this is explicit: "The fundamental idea of democratic, political legitimacy is that the authorization to exercise state power must arise from the *collective decisions* of the equal members of a society who are governed by that power."³¹⁶ Thus, both Habermasian deliberative democrats (e.g. Sheila Benhabib and James Bohman) and those of Rawlsian inspiration like Gutmann, Thompson and Cohen "are fundamentally concerned with developing a theory of democratic legitimacy, a project they all argue must somehow be grounded in deliberation."³¹⁷ It is important to reflect on how deliberation is put to use in Habermas's theory as compared to when it is promoted in the diversified work of deliberative democrats, but it should not surprise us if only similarities emerge prominently, or if the differences we may uncover are not ground-breaking, theory-dividing. Jurgen Habermas is after all considered to be a deliberative theorist, and his work is at the origin of much of the interest in deliberation of recent years. The most important thing to notice is that Habermas's thought is the main source of

³¹⁵ See for example Goodin, 'Folie Républicaine' who argues that republicanism as freedom as non-domination implies a return to a pre modern form of 'status society', entailing an empty form of equality, and an image-based honour, "rather than a substantive code of morality as such", 64.

³¹⁶ Joshua Cohen, 'Democracy and Liberty', *Deliberative Democracy*, ed. Jon Elster (Cambridge University Press, 1998): 185-231, 185

³¹⁷ for this classification and quote see Hauptmann, 'Deliberation=Legitimacy=Democracy', 869

inspiration for one of the two directions in deliberative writing: the more expansive version of the two.

It may be, we need to consider that from the outset, that a republican theory of the most promising kind in a contemporary setting is nothing else than another sort of deliberative theory. The similarities between what we have so far pieced together as republican, and deliberative arguments *per se* run indeed unmistakably deep. They are both political ideals, rather than explanatory concepts. Both try to build on the intuitions of commonsense, in understanding democracy as “free political discussion, open legislative deliberations, and pursuit of a common good”.³¹⁸ Both say that in the act of voting, citizens should express more than personal preferences.³¹⁹ Also, both invoke deliberation as a necessary condition for the legitimacy of laws, and the general, political process, and expect citizens to be concerned with the justification of laws to others. Also, most importantly, both understand the common good on a Rousseauian line of interpretation, to be founded on the freedom and equality of each citizen, and to amount to some sense of justice. Thus, the idea of upholding the common good refers to citizens’ shared interest in maintaining and promoting individual freedom and equality.³²⁰ If liberal arguments generally promote democratic procedures for their better likelihood to protect individual rights and produce just outcomes, deliberative democrats, as well as republican authors argue for thicker versions of democracy also because democratic decision-making of the deliberative kind is taken to entail moral properties like fairness, political autonomy, self-government, equal recognition and respect, non-domination.³²¹

Democracy does not have to be co-extensive with deliberation: some notions of deliberation

³¹⁸ Freeman, ‘Deliberative Democracy: A Sympathetic Comment’, 373; he makes this characterization in an exclusive discussion on deliberative democracy in contrast to aggregative views of democracy

³¹⁹ see also Freeman, ‘Deliberative Democracy: A Sympathetic Comment’, who says that when voting, it is the role, or maybe even the duty of citizens to vote not on the basis of their personal preferences (what is in their interest), but on the basis of impartial judgements as to what is in all citizens’ interest, 375

³²⁰ see Freeman ‘Deliberative Democracy: A Sympathetic Comment’ for this characterization of deliberative democracy’s notion of common good on the link to Rousseau’s thought, 376

³²¹ see also Freeman, ‘Deliberative Democracy: A Sympathetic Comment’, 388-89

are limited to organized, state structures. Also, when deliberation is proposed, ideally to engulf all citizens, it does so by introducing various mechanisms of regulation like legal and constitutional safeguards or the prominence of certain actors (e.g. social movements) who are supposed to play an overseeing role so that unequal social power does not lead to distortions.³²² Finally, “integral to the idea of a deliberative democracy is then some idea of *public reason*”³²³, which can equally be said about the republican position.

Deliberative democracy itself, however, as a body of ideas is a well, deep with sounds. There are as many deliberative arguments as deliberative theorists, but some directions and camps can still be discerned. As for the astounding diversity, it is important what one understands by deliberation in the first place: is it outcome-driven, and does it amount to a change of preferences³²⁴, or is it rather a form of conversation worthy in itself, simply a form of ‘discussion’, or further still, does it refer to the more ambitious concept of free reasoning among equals in the public fora, the last of these formulations carrying both Rawlsian and Habermasian overtones?³²⁵ One systematization could be made according to the inspiration deliberative thought takes from liberalism or from critical theory, the second variety displaying more criticism and discursiveness.³²⁶

Another attempt at systematization, which possibly overlaps with the previous distinction, sets into contrast two main approaches to deliberation: the *micro* approach and the *macro*

³²² Carolyn M. Hendriks, ‘Integrated Deliberation: Reconciling Civil Society’s Dual Role in Deliberative Democracy’, *Political Studies* 54 (2006) commenting on Habermas’ strategy in adjusting the potential for violence and inequality of an anarchic public sphere, 494

³²³ Freeman, ‘Deliberative Democracy: A Sympathetic Comment’, 377

³²⁴ Susan Stokes, ‘Pathologies of Deliberation’: 123-139 and Jon Elster’s ‘Introduction’, 1-18, *Deliberative Democracy*, ed. Jon Elster (Cambridge University Press, 1998), 8

³²⁵ for the discussion of the diversity of concepts of deliberation see Jon Elster, ‘Introduction’: 1-18, *Deliberative Democracy*, 8

³²⁶ this is mentioned in Hendriks, ‘Integrated Deliberation: Reconciling Civil Society’s Dual Role in Deliberative Democracy’, 491, with reference to Dryzek.

approach.³²⁷ The *micro* deliberative theorists (for example Joshua Cohen or Jon Elster), mainly focus on defining a deliberative procedure and its ideal conditions, and on the structured fora of deliberation, thus taking a primarily state-collaborative stance on deliberation. The actors seen to be involved in deliberation are usually public representatives, which means that this account usually leaves civil society out of the picture.³²⁸ The main requirement is that participants in deliberation be open-minded and willing to change their preferences towards the common good when presented with relevant reasons.³²⁹ The paradigmatic example of a micro deliberation setting is, I think, the setting of a constitutional court, example which Rawls is always keen on invoking. This is not just a small detail, but is indicative, I think, of the Rawlsian background to this particular approach. *Macro* deliberative theorists (Benhabib, Dryzek, Habermas) focus their attention on the informal deliberative processes that take place in the public sphere, and thus outside of, and possibly against the state.³³⁰ Theirs is a less structured view of deliberation with a focus on social movements, various associations, the media and networks. Because of the wider breadth of this understanding of deliberation, it is not decision-making as such that is taken to be the main objective, but rather opinion-formation, and thus communication is seen to be in these settings more spontaneous and unrestrained.³³¹ Such dichotomies, while helpful insofar as they make sense of an otherwise too diverse theoretical environment, have a predictable weakness in that they do not do justice to the mixed cases like Joshua Cohen's theory of deliberation (inspired by both Rawls and Habermas), for example, who endorses radical democracy, and thus, cannot be simply assigned to the *micro* deliberative box, since what he promotes is, in his

³²⁷ for this dichotomy see Hendriks, 'Integrated Deliberation: Reconciling Civil Society's Dual Role in Deliberative Democracy'

³²⁸ Joshua Cohen, 'Reflections on Habermas on Democracy', *Ratio Juris*, 12, no. 4 (Dec 1999), 390

³²⁹ Hendriks, 'Integrated Deliberation: Reconciling Civil Society's Dual Role in Deliberative Democracy', 493

³³⁰ Hendriks, 'Integrated Deliberation: Reconciling Civil Society's Dual Role in Deliberative Democracy', 486-7

³³¹ Hendriks, 'Integrated Deliberation: Reconciling Civil Society's Dual Role in Deliberative Democracy', 493

own words, “a more institutionalized version of radical democracy, based on an idea of directly-deliberative polyarchy.”³³²

One of the essential starting points that deliberative democrats gloss over, including Habermas, is the willingness to participate in public debate and to do so in a certain, normatively proper way, which entails being open to new information and the superiority of a given argument, contributing to discussions in a serious way and reflecting on arguments which may at first sound alien from one’s personal point of view; weighing all arguments offered during the discussion and deciding which one has more merit, not in relation to one’s direct interests, but in the context of a broader, common good. There is serious skepticism that such individual qualities are forthcoming. One line of criticism is anti-Habermasian, generally comes from feminists or postmodernists³³³, and points out that reasoned argument plays too important a role in the Habermasian picture of deliberation for it to be realistic or inclusive. Thus, it potentially limits deliberation to those who are analytic by nature and comfortable at weighing various arguments, and excludes those who prefer or are inclined to communicate in more expressive, affect-related ways.³³⁴

What else does deliberation entail? The most common criticism, as pointed out above, is that it has a rationalistic take on communication, in such a way that affect, emotions are completely left out of the picture. Though reasoned communication certainly plays a very important role, there is an other-regarding attitude that deliberative theorists of both Rawlsian and Habermasian stripes see to be if not more important, than at least as important. Rawls’ emphasis is thus telling: “Public justification is not simply valid reasoning, but argument

³³² Joshua Cohen, ‘Reflections on Habermas on Democracy’, 390

³³³ see the discussion of that line of criticisms in Pauline Johnson, “Romantic and Enlightenment Legacies: Habermas and the Post-Modern Critics”, *Contemporary Political Theory*, 5, no.1 (February 2006): 68-90, esp.79

³³⁴ Pauline Johnson, “Romantic and Enlightenment Legacies: Habermas and the Post-Modern Critics”, 79-80

addressed to others (...). Up to here, Habermas and Rawls are in agreement. Rawls, however, goes on to say that this ‘argument addressed to others’ “proceeds correctly from premises we accept and think others could reasonably accept to conclusions we think they could also reasonably accept.”³³⁵ Habermas envisages the process of communication in a less controlled way, and has the trust that it will do its ‘enlightening’ work, and prompt people to reflect on other people’s arguments and principles, and ultimately lead to more consensus and understanding. Whereas Rawls has individuals already enter with a ‘morally toughened’ and purged self into deliberation, Habermas ‘lets’ them promote their own views as long as they take time to reflect, are un-dogmatic and generally show respect for others’ points of view. I think, thus, that the charge that deliberation is overtly rationalistic, is not warranted as long as the creativity of processes of communication and interpersonal exchange is of great importance, at least for the Habermasian strand of deliberative theory. In that sense, I find that a view of deliberation that emphasizes the importance of ‘internal reflection’ in the ‘information phase’ of a jury’s proceedings, for example, to the detriment of the actual, public discussion among the jurors is much more open to the charge of over-rationalism.³³⁶ It is true, however, that reasoned communication is expected to be the main mode under which deliberation can be conducted, but that, I think, does not have to be a shortcoming. Also, even if Habermas is not exactly forthcoming in this, I do not think that other means of expression need be left out of the communication process, as long as they are made in good faith. Thus, it could be that storytelling and rhetoric could be used to bridge differences, even if in the end reasoned communication has to carry the day.³³⁷

³³⁵ John Rawls, ‘Public Reason Revisited’, 155

³³⁶ for such a view of deliberation, based on empirical research see Robert E. Goodin & Simon J. Niemeyer, ‘Reflection versus Public Discussion in Deliberative Democracy’, *Political Studies*, 51 (2003), 627-49

³³⁷ John S. Dryzek for example, argues that such modes of communication can play an important role; see the review of his book “Deliberative Democracy and Beyond: Liberals, Critics, Contestations”, Oxford University Press, 2000, reviewed in Sally J. Scholz, ‘Dyadic Deliberation versus Discursive Democracy’, *Political Theory*, 30, no.5 (October 2002) 748

It may seem, similarly as in the way some republican arguments are advanced, that deliberation is endowed with a natural ‘shine’ of worth, so that deliberative authors may be ‘lazy’ in providing arguments to justify its normative and practical worthiness. Deliberation, is nevertheless, promoted for its instrumental benefits. Overall, it is supposed to lead to more rational and informed decisions. In the course of deliberation, argumentation is supposed to help individuals better articulate and correct their views, when incorrect. In the following, I will make a quick inventory of the main positive effects that deliberative authors invoke. First, it is generally taken that individuals are exposed to more information when participating in discussions³³⁸, including information which may have been private before the deliberative exchange.³³⁹ Thus, deliberation is taken to have an **information-value**: people who participate in deliberation are better informed.

The question to ask here is whether the reverse is possible, or rather likely, as well. Can, in other words, deliberation misinform and misrepresent? That seems likely to happen if those involved are not taking part in deliberation in good faith, but have a clear agenda, and try to promote special interests. Thus the case of the power of lobbyists in the US comes to mind. Such cases do occur where big business, having the resources and the power, try to misrepresent the effects of certain policies, and influence the public and the government in taking particular actions. The emerging requirement is thus that participants in deliberative processes take deliberation seriously and not as an instrument of personal advancement. The measures that can help regulate that are possibly as Susan C. Stokes proposes, a varied politico-ideological offer (multi-party system), competitive ownership of the media, the

³³⁸ see Gambetta, op.cit., p.22.

³³⁹ see James D. Fearon, “Deliberation as Discussion”, Deliberative Democracy, Jon Elster (ed.), 46

empowerment of citizen associations that lack appropriate funds, and the regulation towards transparency of trade associations and lobbies.³⁴⁰

Another benefit of deliberation, which I have already hinted at is the **encouragement of civic-spiritedness**. By that I refer to the claim that people who are exposed to communication on public matters, where they are bound to hear a diversity of different views and arguments, are more likely to change their opinion in public from a strict partisan one to a public-spirited one. One way in which this is said to happen in the literature is via what Jon Elster calls the “civilizing force of hypocrisy”³⁴¹ according to which, even if for less-dignifying reasons like the fear of appearing selfish in front of others, when promoting one’s sectional interests, individuals who take part in public deliberation will usually take a more public spirited stance. Even if it could be counter argued that the theorist should be consistent and follow ‘the argument of hypocrisy’ to its logical conclusion, thus realizing that a thoroughly hypocritical person can simply avoid appearing selfish in public, but then vote according to her previous preference in secret, it can still be argued that deliberation many times shapes the agenda for voting.³⁴² As another critic argues, however, ‘the mechanism of hypocrisy’ could well be an incentive to conformity.³⁴³ Also, it could be argued that it may play a more prominent role in deliberative settings that involve politicians or state officials (especially if the discussions are made public), while it may not have a big impact on the substance of deliberations in civil society settings. As previously pointed out, I am inclined to think that many times, what one could call strictly selfish reasons does not hold as such, a prominent

³⁴⁰ see for this discussion of the danger of misrepresentation in deliberation Susan C. Stokes, ‘Pathologies of Deliberation’, pp.123-139, *Deliberative Democracy*, Jon Elster (ed.); for the specific recommendations see 136

³⁴¹ Jon Elster, ‘Introduction’, *Deliberative Democracy*, 12

³⁴² see Fearon, “Deliberation as Discussion”, p.54

³⁴³ James Johnson, “Arguing for Deliberation: Some Skeptical Considerations”, *Deliberative Democracy*, Jon Elster (ed.), 161-184

role in people's priorities. Thus, behind specific values and interests, there are usually specific worldviews.³⁴⁴

The next and most important benefit that deliberation is said to bring is **better decision-making**. Even if deliberation may not always or frequently end in agreement, voting being thus frequently required post-deliberation, an individual who has participated in deliberation is said to bring more reasoned judgment into her casting of the ballot.

Pointing to some of the most commonly invoked benefits of deliberation still does not spell out what we mean by deliberation in the first place. If we mainly think of the Habermasian strand of deliberation, as we now do, then it becomes clear that deliberation cannot be mere 'discussion', that it has to be, at the end of the day, more structured than mere conversation or discussion. How exactly is discussion different? According to one proponent of it, unlike deliberation, it "need not be careful, serious and reasoned (...)".³⁴⁵ According to another author, the crucial, normative distinction is that unlike discussion, deliberation entails procedural requirements to the effect that individuals relax their strongly-held views and keep an open mind. Also, by its very nature, deliberation entails a diverse forum of opinions, while discussion, more often than not is held among people who hold similar views.³⁴⁶

The next thing to point out is that deliberation is a procedural concept and must fulfill certain normative prerequisites: equality, rationality, open-mindedness, 'good faith' and diversity. The first condition of equality is referred to by Habermas under the headings of 'equal access' and 'equal participation'. These mean that participants in deliberation need to be equally able

³⁴⁴ for this last, particular emphasis, see also Johnson, "Arguing for Deliberation: Some Skeptical Considerations"

³⁴⁵ Fearon, 'Deliberation as Discussion', 63

³⁴⁶ Jason Barabas, 'How Deliberation Affects Policy Opinions', *American Political Science Review*, 98, no.4, (November 2004), 699

and capable to take part, on an equal standing, and to participate in an equal way. This of course, raises the biggest hurdle and possibly the biggest criticism as to deliberation's 'aristocratic' outlook since it is argued that in the context of existing, structural inequalities, deliberation is harmful in that it can further alienate those who already lack the representation, the means or the abilities to be 'jolly good' deliberators.³⁴⁷ Also, the question comes up: why does Habermas seem to think that communication itself can somehow set in place the very prerequisites it is based on, in the absence of which it cannot be considered deliberative?

More particularly, these normative conditions raise simple questions like how can people be induced to speak out when we take into account that equal participation actually requires all the participants in the discussion to speak for an equal or comparative amount of time and at a similar level of seriousness: "If some individuals speak out significantly more than others, or if the conversation is dominated by a select few, deliberation in practice does not attain this principle [of equality]."³⁴⁸ There is some evidence, however, to suggest that it may be that the process as such of deliberation, at least in certain circumstances, can have an equalizing function. In assessing the two opposing claims in the literature, that deliberative ability/quality and outspokenness can be predicted on the basis of 'political sophistication' (education, interest, knowledge) or on the basis of 'political conversation' (prior, loose discussion of political issues with family members, friends etc.), one author argues on the basis of the study of data gathered in a project conducted in part by the Annenberg School for Communication at the University of Pennsylvania in the late 90's that it is rather political conversation that enables people to deliberate effectively. According to the findings on the basis of this particular study, deliberation exhibits equality, it is not unequal across gender,

³⁴⁷ see for example Iris Marion Young, 'Activist Challenges to Deliberative Democracy', *Political Theory*, 29, no.5 (Oct.2001), 670-690

³⁴⁸ David Dutwin, "The Character of Deliberation: Equality, Argument, and the Formation of Public Opinion", *International Journal of Public Opinion Research*, 15, no.3 (2003), 242

race or perceived political minority status.³⁴⁹ Also, prior ‘political conversation’ appears to be a sufficient condition for ‘good’ deliberation, and ‘political sophistication’ does not constitute a visible advantage in deliberation.³⁵⁰ It is also true, however, that the empirical study of deliberation is fraught with contradictions, and that, especially in a theoretical dissertation that does not provide its own analysis of empirical data, such ‘supporting’ evidence should be taken lightly.³⁵¹

In trying to achieve a better understanding of deliberation, we have so far argued that deliberation is not the same as discussion and that it is a procedural concept very much dependent on the fulfillment of certain normative conditions like equality, diversity, rationality and open-mindedness. Also, deliberation makes sense as a search for consensus, as long as it improves the knowledge of the participants, of the issue under discussion.³⁵²

As implied in the discussion so far, deliberation not only has to fulfill certain normative conditions, but it also entails in its very process certain normative qualities. Thus, to tentatively answer the question as to why Habermas seems to think that deliberation as such can somehow ‘create’ its own presuppositions, more often than not deliberation is taken to both contribute to and require conditions like open-mindedness, rationality, and good-faith. Also, deliberation engenders a sense of self-government and contributes to a sense of mutual respect, and equality. That is of course, if it does not do the contrary, and lead to higher

³⁴⁹ see Dutwin, ‘The Character of Deliberation: Equality, Argument, and the Formation of Public Opinion’, 258

³⁵⁰ Dutwin, ‘The Character of Deliberation: Equality, Argument, and the Formation of Public Opinion’, 260

³⁵¹ David Dutwin, who is the author of the study that shows political conversation to be crucial for deliberation, rather than political sophistication reviews a variety of critical literature, in part saying otherwise; for example he makes reference to one study based on survey data (Lasorsa, D. L., ‘Political Outspokenness: Factors Working against the Spiral of Silence’, *Journalism Quarterly*, 1991, pp.131-140, 68; this study finds that “political outspokenness has substantively significant associations with education, age, newspaper readership, opinion certitude, self-efficacy, and political interest.”, see Dutwin, ‘The Character of Deliberation: Equality, Argument, and the Formation of Public Opinion’, 244

³⁵² see also Jason Barabas, ‘How Deliberation Affects Policy Opinions’, *American Political Science Review*, 98, no.4, (November 2004), esp. 688

polarization when certain procedural requirements fail to obtain. Because of these intrinsic moral qualities of the process of deliberation that participants are supposed to recognize as important, the argument goes, individuals who do take part will submit to the authority of the decisions taken even if they do not agree with them. The argument here hinges on the importance for individuals of the notion of autonomy (as a compound of private and public or political autonomy, or what Rawls calls the notion of ‘full autonomy’). It is only by stipulating that people find this value of full autonomy important, and that the process of deliberation as such can enable one’s autonomy, that the idea that people find deliberative decisions legitimate, even when they do not reflect one’s personal opinions becomes comprehensible.

4.6 Concluding remarks

This brief analysis of deliberative democracy arguments has found that a Habermasian brand of republicanism, on which our attention has now focused, is bound to be very similar to one strand in deliberative democracy, which is actually inspired by Habermas’ writings. This strand, which we may call, following Dryzek, discursive democracy is indeed very similar to what I claim to be the most promising version of republican thought, also as both share the bigger claim that democracy, if it is to last, requires legitimacy and political authority, and political authority requires deliberation. We will investigate this claim in the next chapter

This form of deliberative argument, which is so similar to Habermas’s ideas is part of the strand closer to radical democracy rather than liberalism and is a form of macro-deliberation rather than micro-deliberation. In the end, it is hard to find any real differences between Habermas’s notion of deliberative democracy and arguments of deliberative democrats of the particular strand identified above. It may be argued that a republican theory is a more

complex structure that is in the end about something else, as I will try to show in the next and final chapter on ‘political obligation’. That means that the same criticisms that are raised against deliberative democrats have to be shouldered by republican democrats who endorse deliberation, the way Habermas does. Ultimately, the crucial core that these strands of thought share, against a liberal version of public justification as in Rawls’s political liberalism is that “Political equality is better realized by allowing all to bring their deepest convictions to political decision-making.”³⁵³ A discursive democracy with multiple spheres of deliberation, where citizens can bring in their comprehensive views as long as they remain open-minded to the educational function of the deliberative process, and are thus ultimately, not dogmatically attached to those views is fairly different from Rawls’ political environment of an overlapping consensus where it appears that no heated or controversial discussions are allowed to take place. The sanitized version of Rawls’s public reason stands apart from Habermas’s extensively deliberative vision of society. The republican justification of deliberation is not, however, clear until we look at the function of political obligation in this overall argument.

³⁵³ Honohan, Civic Republicanism, 228

Chapter 5: A Republican Notion of Political Obligation

*5.1 Introduction*³⁵⁴

I have now looked at three different strategies of arguing for an extended set of political obligations that citizens are said to have in a republican polity. None of the authors we have analyzed so far, in our search for a clearer understanding of republican ideas, has specifically used the language of political obligation or made a clear defense of a republican justification of political obligation, but what their arguments amount to is in the end just that: ways to justify republican political obligations. The argument behind that claim is very simple: republican authors do argue that individuals as citizens of particular states are morally required to act in certain ways because if they do not act in those ways, then democratic systems as such are endangered, as well as individual freedom. They need to show us, however, why that is so, what kind of moral requirement they have in mind and what justifies that moral requirement. In effect, they need to make a conclusive republican argument for political obligation. In fact, the contentious core of the notion of political obligation, and the reason why some argue that political obligation cannot be justified, as long as we take the basic moral principle of moral autonomy seriously is the very same core that we have now identified as pertaining to the most promising republican theory that emphasizes the idea of self-government, as inspired by Habermas's ideas. Because we are born into a certain political community, in whose laws and general constitution we had no saying, and whose authority we may or may not recognize, it appears difficult to justify that we have any kind of political obligation. Habermas's theory, however, and the notion of political obligation that we could distill from it claims that moral autonomy itself requires individuals to participate actively in civil society and take part in the debates and deliberations surrounding public affairs. Thus,

³⁵⁴ I have learned most of what I know about 'political obligation' from the course on this topic taught by János Kis at CEU, and for that I am grateful.

the argument could go, there is no conflict between moral autonomy and political obligation as long as we take a republican route in arguing for thick, civic deliberative requirements.

Thus, I think that the core of the republican conceptual matter lies with the development of a republican argument for political obligation, and consequently its hope for distinctiveness. In my opinion, if a compelling and conceptually interesting notion of political obligation can be devised, this could dispel, at least in part, the perception that contemporary republicanism lacks conceptual hard matter. The other side of the coin is that if the contrary can be shown, that is, that there is little prospect for a compelling republican notion of political obligation, then it could be argued that contemporary republicanism has failed in its aims, and the matter could finally be put to rest. Thus, the background claim around which this chapter is developed is not that, in order for a contemporary republican theory to be compelling, it needs to address various important issues, among which political obligation. Rather, the background argument that motivates this chapter is more substantive in that it points out that the most important task facing a republican theorist is to provide a persuasive conceptualization of political obligation, in the absence of which republicanism as a normative political theory is inevitably compromised.

Political obligations are taken to refer to moral requirements incumbent upon citizens or residents of a political unit to obey and support the laws of the state or in general, to support state institutions.³⁵⁵ From a republican point of view, the account of political obligation would obviously have to extend further than that, which will make it all the more difficult for

³⁵⁵ For a reflection on the meaning of ‘political obligation’ see George Klosko, ‘Fixed Content of Political Obligations’, *Political Studies* (1998), XLVI, 53-67 or the writings of A. John Simmons, for example ‘Associative Political Obligations’, *Ethics*, 106, no.2 (Jan 1996), 247-273, esp. 250; see also Margaret Gilbert, ‘Reconsidering the “Actual Contract” Theory of Political Obligation’, *Ethics* 109 (January 1999): 236-260 who refers to political obligations as the “obligations to uphold (as best one can) the political institutions of the country in question”, 236

republicans to present us with a compelling justification. Unless, however, republican authors want to say that the civic obligations they refer to as necessary for the maintenance of a democratic system are not of a moral nature but are some sort of institutional obligations that are part and parcel of participating (as all citizens generally do take part) in the practices of a state, then they need to present us with a justification for the form of political behavior that they so much encourage.³⁵⁶ While many republican authors seem to concentrate on identifying the empirical conditions that can make republican values plausible (e.g. how can citizens of contemporary states feel motivated to uphold republican values), I think that real effort should be put into making a clear normative justification of these demanding values, and I see no better or more logical way to do so than by clarifying what a republican justification for political obligation defined in a wide, republican sense could look like. Upon reflection, the notion of political obligation, though having received little attention from contemporary republican authors, appears to hold the key in the assessment of contemporary republicanism. The value of civic virtue that lies at the core of a republican theory, understood here as a shorthand for civic engagement on the part of citizens, and seen to take full expression in the related concepts of self-government, participation and deliberation ultimately needs a grounding other than supererogatory actions on the part of virtuous individuals.

Thus, the strategies for civic virtue that we looked at so far, ‘the partial civility or ascriptive group membership’ strategy, ‘the national identity strategy’ and ‘the civic communication and collective, law authorship strategy’ ultimately have to grapple with a notion of political obligation. In this chapter, I try to reflect on the form of political obligation that the republican perspective that I found most promising in my analyses, could amount to. This is

³⁵⁶ On the point of political obligation as moral versus an institutional or game mode of political obligation see also Richard Dagger, ‘What is Political Obligation?’, *The American Political Science Review*, 71, no.1 (Mar.1977), 90

the argument for republican self-government, through participation in deliberation along Arendtian and especially Habermasian lines. While I am trying to define the strategy for political obligation that would be most logical to come to if we follow Habermas's arguments, I do not mean to say that it is something that Habermas himself argues for.

As one republican author rightly points out, "civic virtue entails special obligations to fellow citizens".³⁵⁷ It might seem that by trying to anchor a republican theory in a legalistic notion of political obligation, we are actually stripping it of its real, fitting garments which are the stuff of virtue ethics. After all, is it not the case that republicanism is really dealing with ways to develop the qualities or virtues of good citizens? Why, it could be asked, should we try to offer a justification of political obligations in abstract terms, rather than discuss the practical ways in which political virtues can be encouraged, taking thus the cue from a venerable republican tradition discussing education or military service as means of engendering virtue of character? I argue, however, that in the absence of a serious reflection on the grounds and content of a republican understanding of political obligation, republicanism may well be bound to register as nothing more than a narrative of values.

Normally, political obligation is taken to refer to the obligation to obey the laws, to pay taxes, to do jury duty when requested, For republicans, it would be this and much more: the obligation to deliberate on public matters, to do so with public reason in mind, to assist those others who are unable to do the same for material reasons, to draw attention to and fight any injustices. And yet, there is no clear or consistent tackling of the notion of political obligation by republicans, a striking silence, which is as perplexing, as one author remarks, as in the case of communitarian authors: "For the communitarian, political obligation is something that

³⁵⁷ Iseult Honohan, Civic Republicanism, 284

‘goes without saying’; that, at any rate, seems to explain why communitarians seldom talk about it.’³⁵⁸

I think, however, that that is exactly what is missing for republicanism to be able to establish the claim to an alternative political doctrine of contemporary currency: a clear defense of an extended republican notion of political obligation. That this should be so is quite uncontroversial since it is part and parcel of a republican theory to say that certain values like those of civic participation in the form of deliberation, the consideration of the common good of a political community are incumbent upon individuals who are citizens of a specific polity. Citizens are in other words, morally obligated to uphold these thick political values.

While Philip Pettit and David Miller have been concerned mostly with proving wrong the claim that the values of republican citizenship are too demanding under current conditions, their arguments thus appearing to have an empirical rather than normative weight, it was in the ideas of Hannah Arendt and Jürgen Habermas that we have identified the promise of a republican theory of political obligation, even though neither of these authors made a clear-enough argument for political obligation. But in light of these authors, some of the specific obligations that could be invoked in a republican argument are ‘to keep informed about public things’, ‘to participate in common affairs’, to listen to other points of view and present own views in a rational and considerate manner, ‘to be on the alert for injustice’, ‘to support public life’, to take part in public deliberations and try to promote common goods rather than strictly private interests. Also, to contribute to the welfare of one’s fellow citizens.³⁵⁹

³⁵⁸ Richard Dagger, ‘Membership, Fair Play, and Political Obligation’, *Political Studies* 48 (2000): 104-117, 105

³⁵⁹ For these specifications see Iseult Honohan, ‘Friends, Strangers or Countrymen? The Ties between Citizens as Colleagues’, 62

In the case of instrumental republicans such as Philip Pettit, citizens are expected to watch out against government corruption and exercise contestation when that is necessary. The argument that establishes this obligation as salient appears to make the empirical claim that just democracies cannot be sustained in the absence of this enhanced form of citizen involvement in politics, nor can freedom as non-domination be assured. Also, instrumental republicans argue that this obligation is not too demanding because it can already be seen in practice, in the form of citizens' involvement in organized groups. I have referred to this as 'the partial civility' or 'ascriptive group membership' strategy, and I have shown in the first chapter of this dissertation that this argument fails to ground the practice of obligation at the larger level of a nation-state's constituency. The second strategy for a republican ethos that came under consideration was that of political obligations derived from national identity. The specific obligations said to ensue were those of taking part in public life and public deliberations and putting common goods before private interests. Again, in the works of David Miller, the main argument tried to establish that these obligations are not too demanding because they have the sociological platform of national identity as a basis. A close textual analysis of Miller's arguments revealed that his reliance on national identity for the grounding of the principles of republican citizenship was not necessary, as well as being normatively unattractive, and that there might be an alternative mode of justification available that refers to the nature of republican citizenship as public practice. The third strategy of argumentation was pieced together from the writings of Hannah Arendt and Jürgen Habermas who both emphasize that citizens of a political community are interdependent in a substantive way that can then be interpreted to ground certain political obligations. This interdependence is at the core expressed by citizens coming under the jurisdiction of the same constitution and living under the practice of the rule of law. Also, another strand of the argument starts from the idea that autonomy in the Kantian/ Rousseauian strong sense of giving laws onto oneself

is very important to individuals in general, and that it compels them to take part as much as they can in the making of the decisions that affect their lives, or at least in the discussions that inform those decisions. Also, the legitimacy of democratic states is said to rest on citizens' active participation in civil society, on their recognition in effect of the thick political obligations incumbent upon them. Their arguments can be seen to entail the political obligation to take part in civil society and deliberate on issues of public concern, in light of public reason.

The basic claim according to the republican theories we looked at so far, is that by being members of a polity, individuals' moral status is changed in such a way that they come to take responsibility not only for their own, personal lives, but also for the more general, social and political environment of the polity they belong to. In that sense, the active exercise of citizenship that republicans advocate is taken to be an expression of this altered moral status, but it is also taken to provide real, long-term protection for the individuals' freedoms and the democratic values that the polities are expected to embody.

5.2 The debates surrounding 'political obligation'

A distinction has been drawn in the relevant literature between an obligation and a duty. The duty is content-dependent and entails prescriptive behavior, while the obligation claim refers to a commitment or some form of act that grounds the obligation.³⁶⁰ A political obligation is thus usually seen to be derivative from some other more basic moral principle. There is a moral duty not to kill, but there is no moral duty to pay taxes or take part in civic deliberations. The issuance of binding instructions by a state is said to reside in political

³⁶⁰ see also Richard Dagger, 'What is Obligation?': 86-94

authority. The flipside of political authority is political obligation.³⁶¹ The reason why debates surrounding the notion of political obligation are particularly haggled is because they spring from the controversy as to whether political obligations exist in the first place.³⁶² In fact, some claim that if it were to exist, political obligation would be “a moral perversion”.³⁶³ The idea that some men (those holding office) have the moral right to rule is something that philosophical anarchists like R.P. Wolff strongly deny. Starting from the fundamental assumption of moral philosophy according to which men are responsible for their actions, and thus, are metaphysically free, such authors claim that political authority is immoral and cannot possibly be justified normatively. Now, this may seem perplexing, since people do obey the law in general, but the point is a normative one: if moral autonomy (a well-accepted principle) requires that we be our own masters, and political obligation binds us towards acts that are not our own choice, but are imposed from outside, then it would seem that political obligation cannot possibly be justified. At least not according to skeptical or philosophical anarchist authors.³⁶⁴ While skeptical authors recognize that there may be political obligations or reasons to obey even if there is no general political obligation as such, a hard-core philosophical anarchist like Wolff goes much further when he proposes that not even choosing to undertake an action required by the political authorities is enough to safeguard moral autonomy and ground political obligation. It is not enough because it does not constitute taking responsibility for one’s actions. For that, what is required is not only freedom of choice, but also the power of reason, that is that the individual determine what she ought to do by gaining information, building up knowledge, reflecting and predicting what the

³⁶¹ I take this view here, though the matter is not without controversy: see for example, Robert Ladenson, “In Defense of a Hobbesian Conception of Law”, Philosophy and Public Affairs 9, no. 2 (Winter, 1980): 134-159

³⁶² For the sceptical view see Robert Paul Wolff, “The Conflict Between Authority and Autonomy”, In Defense of Anarchism (New York: Harper & Row, c1976)

³⁶³ see Joseph Raz, “The Obligation to Obey: Revision & Tradition”, Notre Dame Journal of Law, Ethics & Public Policy 1 (1984): 139-55, 161

³⁶⁴ on the skeptical side see Raz, “The Obligation to Obey: Revision & Tradition” and on the anarchist side see Wolff, “The Conflict Between Authority and Autonomy”

likely outcomes may be.³⁶⁵ In fact, the claim here is that philosophical anarchism is the only political doctrine consistent with moral autonomy.³⁶⁶ It is important to note here that Wolff and an author like Habermas, whose republican ideas I have tried to highlight in the previous two chapters share one important assumption: autonomy is taken to mean that we have a duty to exercise choice and direction in our lives (autonomy as self-legislation) and that duty is incumbent on oneself, rather than the weaker interpretation of autonomy as a right that an individual holds against others. Thus, I think that the claim of a republican justification for political obligation along the lines of Habermas' strategy for self-government can attempt to refute the idea that philosophical anarchism is the only doctrine compatible with moral freedom, since it is a theory largely predicated on a thick notion of moral autonomy that recognizes Wolff's double condition of freedom of choice and power of reason. The difference is that in the republican version of the argument, it is precisely because of the importance of moral autonomy that people are obligated to take part as much as possible in the processes that inform public decisions.

Unlike duties, political obligations are special in that they are owed to specific institutions or a specific set of people, they are content-independent, and they are source-based. Thus, unlike the general duty not to kill, specific political duties need some sort of a previous committing action to be grounded.³⁶⁷ Usually, the moral behavior invoked in the understanding of political obligation has been summed up by the idea of an obligation of obedience to laws and there has been wide disagreement as to how one might proceed about justifying it. It needs to be clearly recognized that the task of justifying political obligation in the classical, limited sense of obedience to laws has proven a difficult one. With the more classical, liberal voluntarist justifications for political obligation having been exposed as 'fictitious', and a

³⁶⁵ See Wolff, "The Conflict Between Authority and Autonomy", 12-3

³⁶⁶ Wolff, "The Conflict Between Authority and Autonomy", 19

³⁶⁷ see on some of these points Dagger, 'What is Political Obligation': 86-94

general difficulty in the liberal camp to square what could seem to be core liberal issues in tension (the liberal issue of the moral autonomy of the individual versus the liberal emphasis on the importance of a legitimate state) the debate scene was open to philosophical anarchist arguments. A simple argument of liberal intuition like that invoking the moral autonomy of the individual against political obligation brought further disarray to the discussion. Some, taking a more qualified, skeptical view, just pointed out that there may be good-enough reasons to obey the law like the need for coordination, even though there is no general obligation.³⁶⁸

The three most distinctive theoretical efforts to come up with a justification are the associative obligations theory, the fair-play theory, and the natural duty theory. The associative obligations theory is among others associated with Ronald Dworkin who argues that political obligation can be justified as an expression of existing rules and norms pertaining to the political community one is member of, and which is characterized by a social practice. Citizens of a particular state share special ties, which ground thicker political obligations. Not any community or ‘bare community’ can be considered as grounding political obligation just in virtue of its existing social practices. There need to be further normative requirements fulfilled like reciprocity, the fact that the obligations are special, in that they are owed to members and not to non-members, and they are personal (they are owed to other persons, not to institutions) and they personalize an equal concern for the well-being of the other members of the political community.³⁶⁹ This is an anti-voluntarist, acquired obligation account which is quite similar to the case David Miller made for national identity as the grounding of republican citizenship. Just as in the case of Miller, Dworkin does not think that political theory should be grounded on general morality, and argues that we should start from social

³⁶⁸ see A. John Simmons, Moral Principles and Political Obligations (Princeton University Press, 1981), 194

³⁶⁹ see here Dworkin, Law’s Empire

practice when we justify political obligations. He does maintain, like Miller that the community is characterized not only by conventional rules, but also by principles similar to general moral principles, and which are subject to an ongoing normative justification. Nevertheless, because the theory insists that as members of the community, we are bound to follow all the conventional rules that happen to govern the community, without much of an exit strategy, I think this strategy for political obligation is open to similar criticisms as those leveled at David Miller, specifically the charge that it can well justify obligations towards unjust, stifling communities.

The justification of political obligation from fair-play was classically defended by John Rawls in an earlier conceptualization of political obligations.³⁷⁰ According to this argument, the obligation to obey the law is a special case of the more general moral principle of fair play. This principle states that the burdens and advantages associated with a cooperative scheme should be shared by participants equally. In order for this principle to apply to political communities and justify political obligation, further conditions need to be in place. The constitution that characterizes the scheme of social cooperation has to be just and mutually beneficial. It is an intrinsic part of the argument to say that the advantages that spring from the social practice of the political community can only be secured if nearly everyone contributes. Also, those who take part in the social scheme of cooperation have to accept the benefits that the constitution and the scheme of cooperation bring. Then, if these two conditions are met, and given the general moral principle of fair play, an individual has the obligation to obey the law. Because the claim is that members of the cooperative scheme have to accept the benefits, this is a voluntaristic argument. That is why this theory will face similar problems as a consent-based theory. How exactly are members of the cooperative scheme said to have

³⁷⁰ see John Rawls, "Legal Obligation and the Duty of Fair Play", Rawls, Collected Papers (Cambridge, Mass.: Harvard University Press, 1999): 117-129

agreed to receive these benefits: is their acceptance tacit or explicit? Also, if the benefits that the scheme is said to provide are for the most part unavoidable (e.g. public goods such as rule of law, public defense, law and order) does that not take us back to the anarchist's criticism that political obligation undermines natural freedom? Also, very interestingly, Rawls presupposes the justice of the constitution, and does not speak of agreement on the justice of the constitution. Thus, this could very well point us again, in the direction of a more moral freedom-friendly argument for political obligation inspired by Habermas where the justice of the constitution is open to debate, and is ensured via continuous, civic deliberations.

The third strategy that I invoked was that of political obligation as natural duty, or in other words, a general duty that we owe to all human beings, and which has not been established because of a voluntary or intentional act. Because no particular act is required for subjects of political obligation to come under its requirements, such a strategy is probably more plausible at first sight than other accounts as it seems to come intuitively closer to the way things work in current states. One such example of a natural duty account is that proposed by George Klosko under the headline of fairness³⁷¹. His is a non-voluntary fairness argument. By referring to presumptively beneficial goods that satisfy essential needs (thus making endorsement no longer necessary), Klosko makes the same argument as Rawls did above, but from a non-voluntaristic point of view. The problem with this argument, however, is that the idea that presumptively beneficial goods satisfy needs, and thus there is no reason for individuals not to want them goes against natural freedom, against the more established, liberal idea that individuals should be free to figure out for themselves what needs they have or do not have.

³⁷¹ see George Klosko, 'Presumptive Benefit, Fairness and Political Obligation', Philosophy and Public Affairs 16 (1987): 241-259

So, what are the prospects of a persuasive republican notion of political obligation and what are the specific grounds on which it can be justified, as well as the specific obligations it can entail? If one tries to place intuitively a republican notion of political obligation on the map of the ongoing debates in general, one could very well find herself at a loss. As exemplified in the dissertation, it is first of all important to settle on the preferred outline of a republican theory as this may take various shapes. A republican theory based on national identity conceived in a certain way will unavoidably elicit a substantially different justification for political obligation than a theory built around the importance of laws and a practice of civic authorship that informs those laws. It could be at first contended, however, that a republican notion of political obligation of whatever specification most likely belongs to a family of theories of associative obligations since it insists in whatever shape or form on the individual's dependence on social contexts of belonging and the special ties between co-nationals. In less ambiguous terms this can mean different things if looked at from the perspective of the three republican theories that we already analyzed. In the case of an instrumental republican theory as the one advocated by Philip Pettit, it refers to the idea that individual freedom of non-domination cannot be ensured unless the vulnerability group one is part of, is on the whole strengthened against domination. In the case of a republican theory of citizenship that relies on national identity, the claim is that individuals identify with a public, national culture, and that participation in the public debates that inform the public culture is an important part of who they are. Finally, in the case of a republican theory that emphasizes the importance of laws and citizen debate, both formal and informal, which underlies the laws in an ongoing process of collective, constitutional authorship or self-government (see Hannah Arendt and Jürgen Habermas), the dependence usually referred to takes the form of collegiality in sustaining a strong sense of civil society. Also, Habermas recognizes that individuals are dependent on social contexts of socialization. If a strong civil society is a

necessary requirement for the legitimization of democratic systems, according to Habermas, and if democratic systems are taken to be valuable to individuals, then it turns out that individuals are dependent on the collaboration with co-citizens in the maintenance of civil society.

Out of these three arguments, David Miller's is clearly associative, and as mentioned before, would actually come very close to Ronald Dworkin's case for political theory. Philip Pettit's take on political obligation is less clear, but most likely contains some kind of associative obligation mechanisms. What we are really interested in, however, is to develop the outlines of a justification of political obligation along Habermasian lines.

At this point, it is not clear whether a justification of political obligation developed along Habermas's ideas is bound to be an associative obligations account, or whether it more likely can be conceptualized in the keynote of fair-play, or yet something else. It may be that the justification of republican political obligations is drawn from somewhere else than a straightforward, associative account. Whatever the case, the stakes are high: as I argued in the beginning of this chapter, the prospect of developing a coherent republican justification inspired by Habermas's ideas could give us some hope for the prospects of republican theory in general.

Before, however, trying to follow Habermas's assumptions to the logical conclusion of a notion of political obligation, or at least the outline of that justification, let us first look at different arguments made for political obligation from an explicit republican point of view. Let us consider in the following, one account of political obligation by a liberal republican author from a fair-play perspective.

5.3 A republican argument for political obligation from fair-play

Among the few available accounts of political obligation from a republican perspective we find one which is based on the principle of fair play in the work of Richard Dagger. It is, however, a fair-play account with a wholly different face. He tries to show that rights, civic virtue and a concern for autonomy are compatible and can be brought together in a coherent theory. He identifies the right to autonomy as one of the most important rights, and as something that he expects people to identify as intrinsically valuable, and he adds that “all rights either derive from or are instances of the fundamental right of autonomy.”³⁷² Among the civic virtues that Dagger points to as characteristic of his republican liberal theory is that of fair-play. The fact that Dagger should construe fair-play as a civic virtue should at once signal that he is not taking the usual road in discussing this theme. The usual way to conceive of this notion is to say that individuals who receive general benefits like that of police protection as members of a political community, should comply with the laws and rules of that political community out of a sense of fair-play, as long as enough others do comply.

The rather unusual construal of fair-play is clearly tested when Dagger claims that “One of the obligations of fair play, at least in the political realm, is to take an active part in civic life.”³⁷³ In order for reciprocity to be triggered in the form of a requirement of fair-play, two conditions need to be fulfilled: first, the polity should be a cooperative enterprise, and second, people should generally engage in upholding the enterprise. In my opinion, under this interpretation, fair play is infused with a strong normative content that is absent in the more instrumental renderings of this notion. In the classical accounts of fair-play, the political community holds a right of reciprocation against individuals, requiring them to cooperate and share the burdens, which basically means to abide by the laws and rules of the polity, as long

³⁷² Richard Dagger, Civic virtues, rights, citizenship and republican liberalism (New York, Oxford: Oxford University Press, 1997), 196

³⁷³ Dagger, Civic virtues, rights, citizenship and republican liberalism, 197

as they are provided with benefits out of this cooperation. On Dagger's account, there seems to be something more to fair-play than the moral intuition that it is wrong to free-ride. That is because his notion of a cooperative enterprise is probably more substantive than the regular interpretation of a collective enterprise towards the provision of public goods. Dagger obviously has more in mind when he says that "the virtuous citizen will therefore be one who regards political participation as a necessary contribution- and perhaps even an enjoyable one- to the good of the community."³⁷⁴ This account of fair play appears, however, unable to ground republican values. Why would taking an active part in civic life be supported by the notion of fair-play? Why is it not enough to obey the laws, the rules, to pay your taxes and press your ticket in the tram? Could the argument be conceived to run in the following way: collective goods like police protection and law and order can only be provided if citizens participate in public life, if they get involved in the debates that inform policy making in these areas? This sounds highly unlikely. A notion of fair play may be part of a citizen's moral reasoning under a republican theory, but it does not appear to be able to justify republican values as such.

Dagger claims that "As a principle that applies to mutually beneficial cooperative practices, the principle of fair play has standards built into it."³⁷⁵ According to this statement, however, there is nothing that would invalidate the practices of an orderly gang of pirates. They could be seen to form a mutually beneficial cooperative practice, to exercise a principle of fair play among themselves, as let's say, they all abide by the rules of their gang and participate equally in the effort to gain riches from others. Thus, there seems to be nothing in this argument that would preclude there being a mutually beneficial cooperative enterprise governed by fair play, which also happens to exercise injustices against non-members. I think

³⁷⁴ Dagger, *Civic virtues, rights, citizenship and republican liberalism*, 197

³⁷⁵ Richard Dagger, 'Membership, Fair Play, and Political Obligation', *Political Studies*, 48 (2000), 114

that this problem can be resolved if you add a further condition that the cooperative enterprise should be conceived as a constitutional democracy. What is ultimately the problem with this justification though, is that fair-play does not seem to be the real central mechanism. Instead, I think that the concern for autonomy is the basic moral principle that could ground political obligation understood in the republican, civic participatory manner.

5.4 Republicanism and the associative obligations account

Let us explore in the following the details and implications of political obligation from a republican perspective if viewed as a form of associative obligations. According to the associative obligations account, people incur obligations because they are part of groups defined by social practice within which they fulfill certain roles characterized by certain duties³⁷⁶ or, according to a more individualized account³⁷⁷, because they fulfill institutional roles in their every-day lives, which are characterized by certain role specifications. To put it more simply, political obligation is taken to flow from mere membership in a political community. Unless, however, there are practices in place where obligations towards the other members of the group are manifested, no obligations can be said to exist. Thus, even for those theorists who do not acknowledge it quite as explicitly as others, mere membership is not enough to ground political obligation from an associative perspective. As Yael Tamir puts it, in the explicit version of this argument, “If someone acquires, by birth, citizenship in a state he despises, his formal membership cannot serve as grounds for generating obligations to that state.”³⁷⁸ In less explicit terms, other proponents of an associative obligations account also add as necessary conditions on top of mere membership *a more or less conscious*

³⁷⁶ Dworkin, *Law's Empire*

³⁷⁷ See M. Hardimon, ‘Role Obligations’, *The Journal of Philosophy*, XCL, no.7 (July 1994)

³⁷⁸ Yael Tamir, *Liberal Nationalism* (Princeton, N.J. : Princeton University Press, c1993) 135, quoted in Richard Dagger, ‘Membership, Fair-Play and Political Obligation’, 109

identification with one's polity and recognition of the obligations by individuals³⁷⁹ or the *principle of reflective acceptability* of role obligations.³⁸⁰ These authors, however, lay the emphasis on mere membership or occupancy of a role as the ground for political obligations.

Because the argument from associative obligations is thus constructed in two steps, by first saying that obligations flow from mere membership, and then adding that identification with the polity or recognition on the part of individuals of those obligations are necessary, further conditions, it is not as open to one particular criticism as it might first appear. The criticism is that people can simply *misidentify* or be wrong about their obligations, and thus the mere fact that they think they have certain political obligations does not really ground them normatively.³⁸¹ Because some of the main supporters of the argument from associative obligations also stipulate that obligations flow from membership as such, the above criticism does not apply with as much force as it would if the argument were to rest only on identification with one's polity of belonging. This, however, raises further difficulties because the idea that the contingent fact of membership can ground political obligation goes against the established principle of moral autonomy. The thing to note from the outset is that an associative obligations account seems to be most in line with our immediate intuitions or commonsense morality. Most of us identify with our families, friends and countrymen and act on that identification in some relevant way that is absent from our interactions with strangers, or citizens of other countries. Most of us thus think that we owe more to these categories of people to whom we are connected via some relevant relationship than to those to whom we are not connected at all. The stipulation of obligations is based on a preexisting practice of obligations. In other words, this notion of obligation rests by definition on contingent realities.

³⁷⁹ see John Horton, *Political Obligation* (Humanities Press International, 1992), 154

³⁸⁰ see Hardimon, 'Role Obligations'

³⁸¹ for this criticism, see for example Richard Dagger, 'Membership, Fair Play, and Political Obligation', 109

The second crucial observation regarding associative obligations as currently understood³⁸² is that they are generally taken to be conditioned by background, moral principles like those of fairness and justice. Thus, associative obligations can be disregarded if they are shown to entail serious contradictions to external moral principles. This opens such theories to the charge that critics like John Simmons make that in effect, this means that associative obligations are thus rendered into lower order obligations that lack full normative force. It is also maybe in anticipation of such a criticism that David Miller, as shown in a previous chapter, does not ultimately adhere to the view that the public practice principles in his theory of republican citizenship based on national identity should be conditioned by outside moral principles. We should not be, however, too quick in admitting Simmons right in his criticism. As John Horton contends, the fact that political obligations are not taken to exist in some kind of moral vacuum, does not by necessity mean that they lack normative force as long as political obligations are not *justified* in terms of those external moral principles.³⁸³ The charge more generally is that associative obligations grounded on membership solely are blind to issues of justice, and when they do eventually invoke the justice of the association as a necessary condition of authorization, they forsake their original and main justification.

In order to assess this criticism, I think we should refer to the way theorists who support associative obligations usually proceed. They usually try to explain political obligation on the analogy with more common obligations like those of family or friends. If we just think of family obligations or friends' purported obligations, I think that one strategy in answering the above criticism is to point out that the roles of family members and friends are already imbued with a moral status. In other words, morality is the very texture of such roles. Apart from any mere, biological definition of parents or family members in general, parents are who

³⁸² see for example both Hardimon, 'Role Obligations' and Dworkin, Law's Empire

³⁸³ see John Horton, Political Obligation, 156-7

they are because, as occupants of these roles, they have to fulfill certain moral requirements. Of course there can be and indeed are bad parents and bad sons and daughters out there, but the roles as such are defined by moral requirements, which one can manage or fail to fulfill. The third feature of an associative obligations account reveals the theory's main weakness.

Though some of the accounts of associative political obligations do not work with the more communitarian view that individuals not only have to recognize or identify with the groups or communities of which they are part of, but also have to view that relationship as a constitutive and essential part of their identity, they all stipulate indeed that people in general recognize the existence of such associative relationships and consequent obligations. This readily triggers the empiricist criticism that such theories that rely on a uniform description of social realities cannot account for a diversity of individual attitudes and social environments. They fail, in other words, to explain what happens when individuals do not identify with their associational environments or social roles and thus, because of the way in which the argument is built to depend on that antecedent identification, do not incur political obligations. Making partial amendments to what purports to be a general justification of political obligation (which is, after all, what is at stake in this debate) as Yael Tamir does in her theory of associative obligations, when contending that those individuals who do not identify with the national group, and will thus not incur obligations, can instead be obligated by the principle of fair-play is bound to be unconvincing and undermine the generality claim of the theory in the first place.³⁸⁴

An interesting account of political obligation along associative lines, and one which resonates with a republican view is that proposed by John Horton, who builds his argument around the

³⁸⁴ See Christopher Heath Wellman, 'Associative Obligations and Political Obligations', Social Theory and Practice, 23, no.2 (Summer 1997): 199-200

analogy of obligations that family members have to one another with those that citizens might have to one another. This author claims, however, that it is not emotional bonds bringing about obligations. His is a theory that in effect claims that most of individuals are in fact bound by political obligation even if they might explicitly refuse it, because of the unavoidability of political life and the feelings and attitudes associated with it, as for example feelings of guilt, shame, disapproval or pride at one's government's actions. As the argument goes, even when these feelings are absent, one cannot avoid being engulfed in a political practice of norms and rules pertaining to the political community in such a way that she is implicitly recognizing the political obligations associated with the political community. Horton starts from a view according to which political obligations are inherent in membership in a political community, and obligations define the status of members.

The attractiveness of Horton's explanation of political obligation comes from his recognition that there need not be and indeed there usually is not an emotional, uncritical sort of identification with the polity one is member of, but there is a relevant, though diluted sense in which individuals identify with the political actions that represent the polity. This identification does not occur necessarily in a positive sense, but in a general sense of taking responsibility, of recognizing that those particular actions were performed in one's name.³⁸⁵ It seems plausible, at least from a republican perspective, to say that political identification is actually all the more stringent when the individual is opposed to her government's actions. Underlying such a seemingly paradoxical claim is the idea that individuals as citizens view themselves as the authors or rather the persons responsible for their government's actions: "For there is an important, though limited, sense in which we understand ourselves as the author of such actions, even when we oppose them: they are the actions of our polity, the

³⁸⁵ Horton, Political Obligation, 152-3

polity of which we are members.”³⁸⁶ Thus, what justifies the analogy between a family and a polity in Horton’s view, is not emotional bonding, but a technical similarity: the fact that we are born into a family just as we are usually born into a polity, and that as it happens, in both cases we incur obligations just because of this very fact of unavoidable membership.

But, is this an approach we could associate with a republican argument for political obligation? The view that individuals qua citizens conceive of themselves as authors of the polity’s laws and have a general sense of responsibility towards their government’s actions is very much in line with one strategy for republican virtue identified in the works of Jürgen Habermas and Hannah Arendt. The argument that political obligation flows from mere membership in a political community appears to be, however, insufficient in grounding republican values like civic participation or commitment to deliberation. The fact that individuals are members of a political community does not explain why they should see themselves as the authors or those responsible for the polity’s laws and actions. This associative obligations account, though attractive insofar as it provides a politicized understanding of identification in line with republican arguments proves unsuccessful in bridging the conceptual gap and convincing us of the usefulness of the analogy between political obligations and familial obligations. It may be interesting to point out that familial obligations could be seen to be divided into basic obligations of care and provision and advanced obligations of moral provision (for example obligations of love and moral support). I argue that, if we conceptualize familial obligations in this two-tier structure it is hard to see how the latter kind of obligations can register as obligations in the absence of emotional bonds to motivate them. Similarly, we may be prompted to think that in order to justify

³⁸⁶ Horton, Political Obligation, 152-3

political obligations of the more demanding, republican type we need something more than mere membership to work with.

What seems to have normative weight in this argument is the idea that individuals *qua* citizens are characterized by a sense of ‘authorship’ and responsibility for the political actions of their governments, and consequently feel obliged, as Horton economically puts it, to take account of “the interests and welfare of one’s polity”.³⁸⁷ Horton claims that mere membership can explain this attitude on which political obligation is based and that political obligation consequently stands in need of no further moral justification. This is highly implausible, and membership in a political community may be a *sine qua non*, but it cannot be a sufficient condition. That is why in the following, I will try to develop the outline of a Habermasian-inspired republican justification of political obligation and assess its normative attractiveness.

5.5 In search of the best justification of republican political obligation

Having in mind these general characteristics and problems facing an associative obligation strategy of justification, let us consider what a specifically republican argument would look like. Such arguments for a republican political obligation from an associative point of view are those offered by Iseult Honohan and Andrew Mason. Neither uses the analogy between obligations among citizens and family obligations. The first author proposes to explain political obligations on the analogy with obligations that colleagues have to each other and the second uses the comparison with the obligations friends have to one another. Honohan suggests that interdependence and the intrinsic value of citizenship could ground political obligations, while Mason concentrates on constructing an argument for the intrinsic value of

³⁸⁷ Horton, Political Obligation, 169

citizenship. In the following, I will investigate to what extent these arguments can be successful.

Honohan uses the analogy between citizens and colleagues and proceeds to argue that just as colleagues can be seen to be bound by certain obligations to each other because of the institutionalized practice of which they are all members, so may citizens be thought to be bound by political obligations pertaining to the politically organized world of which they are part of. She suggests that political obligation in a republican vein is grounded in *interdependence*, in *the engagement of citizens in a polity*, and generally in the valuable relationships among citizens. Since, as it becomes apparent along this particular line of argument, only “those who recognize their interdependence can accept responsibilities to fellow citizens”³⁸⁸, it follows that it is of the utmost importance that the recognition of this grounding republican condition is clearly established.

So, is interdependence enough to ground republican political obligations? ‘Interdependence’ is a buzz word in contemporary republican theories, and one which is difficult to pin down. According to Honohan, “A republic is a political community of those who recognize their interdependence and subjection to a common fate and common concerns.”³⁸⁹ So, could we draw from this that a republic is a special kind of political community and not all political communities will even be expected to exhibit republican political obligations? While republicanism proposes an ideal normative vision of politics and society, it must claim to have some descriptive relevance. The question here is whether this descriptive relevance is taken to be partial, reserved to certain types of regimes or countries where certain criteria are met, or whether it can be taken to apply to all contemporary political communities. The first

³⁸⁸ Iseult Honohan, ‘Civic Republicanism’, 273

³⁸⁹ Iseult Honohan, ‘Civic Republicanism’, 285

thing to emphasize, in my opinion, is that the republican argument should be taken to refer only to liberal democratic political systems. Political obligation theorists are many times equivocal when it comes to the applicability of their theories and seem to assume that their preferred theory of justification could be applied to any political community. Republican authors, however, cannot afford such equivocation because their argument is inherently entangled with the democratic argument pertaining to liberal democratic systems. Thus, thinking back to Horton's associative argument for political obligation, we could say, even at a general level, that a republican argument would add to a view about obligations flowing from membership, a conception of politics that points not only to a procedural reading of democracy, but to one that requires a substantive specification, according to which the legitimacy of democratic governments and political processes comes from civic authorization. According to this view, the binding character of the fundamental law and of the legislative process based on it is dependent on a constant process of authorization by the people to which the fundamental law applies.³⁹⁰ Thus, the idea of self-government is at the core of this rich democratic republican vision of politics. This will inevitably have serious normative consequences for a republican conception of political obligation.

If interdependence is taken to ground political obligation under the republican view, we need to define what it might mean: "Interdependence grounds bonds and obligations between those who find themselves in a polity and are thereby vulnerable to common risks and have the potential opportunity to be mutually self-governing."³⁹¹ The first interpretation that comes to mind is that already referred to in the section on fair play, of an interdependence in the assurance of public goods. Unless people cooperate, clean streets or clean air will not be readily available. Then, there is a more general sense of interdependence in which our lives,

³⁹⁰ see also Frank I. Michelman, 'Constitutional Authorship', pp.64-98, in Larry Alexander (ed.) *Constitutionalism: Philosophical Foundations* (Cambridge University Press, 1998)

³⁹¹ Iseult Honohan, *Civic Republicanism*, 165

as members of a particular state are characterized by certain common features like visa restrictions, specific laws and regulations or economic policies that we are all governed by as members of a particular state. Also, as members of a specific community, we are interdependent insofar as we speak a common language, we share a ‘cultural vocabulary’, and our lives are characterized by common concerns. I think that the notion is most commonly understood by republican authors in a very general sense, to refer to the common world citizens of a specific state share by virtue of being part of a specific political entity that is characterized by specific laws and a specific political system. On the analogy between citizens and colleagues that Iseult Honohan proposes in justifying political obligation, just as colleagues are interdependent insofar as they share a specific practice and a specific work environment, so citizens are taken to be interdependent in sharing a certain political and social life defined by specific institutions. Finally, the most abstract understanding of interdependence and the one which attempts to reach into the republican core is that of interdependence in the securing of political autonomy. According to this view, one owes participation to one’s fellow citizens because otherwise, one would endanger other’s chances to political autonomy. This other-regarding strategy of the political autonomy argument does not make much sense, however, unless it is actually backed up by a conception of the person that will obviously not be atomist, and that will have as integral part the idea that political autonomy is important to individuals.

The above attempts at specifying what is meant by interdependence and how it could be seen to ground political obligations under a republican heading still retain some opacity. Let us try to think of an example that might help us imagine how interdependence actually works. Let us think of a small postgraduate college where students take an active role in organizing themselves into a community. They have volunteers who act as social secretary, as financial

assistant or assistant in charge of the gym and all the other services at the disposal of the group of students. They meet on a regular basis to discuss the academic as well as administrative issues concerning the life of the college and propose actions for its improvement. Minutes are taken at the meetings where new resolutions are proposed, and they also collect money at the end of each academic year for charity purposes. They can only hope to keep some services running if they act in this concerted way, if, in other words, enough student members of the college will feel it necessary to volunteer for posts and participate in the collectively organized activities. The most natural way to deal with free-riders will be a deontological one: they will be reminded about the intrinsic good of the community and be made to feel that they have failed in their role as college members by not taking active part in the activities of the college. It will be expected that student members will generally find it natural to take upon themselves the task of self-government and be ready to cooperate in order to bring about the good of a self-governing student body. This may have something to do with the idea that students, especially at a postgraduate level, will want to take these aspects of their life into their own hands, assert their will and organize college life according to their standards and wishes. It will be argued that active participation in the life of the college is part of what it means to be a member.

This example appears to encompass most of the characteristics that republican authors invoke in their arguments concerning political obligation. It entails self-government by the students, it includes the interdependence of the members of the college in some general sense and it suggests there being a background story about the intrinsic worth of active membership in the college life. The differences between a small college of 100 postgraduate students and a state of 10 million people are of course, too obvious to state. Thinking of this example, however imperfect it may be, suggests though, that if we could conceive of a notion of republican

political obligation, then this could not be simply grounded in some idea of interdependence. Some form of voluntarism or intentionality would need to enter the picture and the idea of the intrinsic worth of the practice itself would seem to be the most promising way to argue for political obligations conceived in a thick sense.

Thus, the problem with an argument that tries to ground special obligations on the interdependence of co-citizens is that any such explanation of interdependence is bound to register as too weak to ground something as substantive as an obligation to vote conscientiously, participate in public debates or take part in civic pressure groups. Honohan seems to allow, however, for two possible grounds for obligations. The first is a negative sort of construal of the theme of interdependence, and the second is the positive recognition of the value of republican citizenship: “Their commitment comes from their mutual vulnerability in the practice of self-government, and in its stronger forms from the value they attach to the relationship.”³⁹²

Now, that I have raised doubts about the prospect that political interdependence *per se* could ground republican political obligations, let us consider a different argument. This argument, as partially defended by Andrew Mason is that republican citizenship is valuable in itself, and that this could ground obligations in a similar way as it does among friends. The argument from friendship runs as follows: friendship is an intrinsically valuable relationship, which is in other words valued for its own sake; friends are defined by certain obligations; and these obligations are part of the good of friendship. Mason replicates this to say that citizenship is an intrinsically valuable relationship and that the obligations by which it is defined are therefore justified for the sake of the good of citizenship itself.

³⁹² Iseult Honohan, Civic Republicanism, 268

Friendship does impress us as intrinsically valuable and one would usually think that there are obligations of care and concern towards a friend that define the role itself and that are justified by the moral worth of a relationship of friendship in general. It is much more difficult, however, to carry this thought over to the notion of citizenship. How can we conceive of citizenship as intrinsically valuable? Unlike friendship, citizenship is not interpersonal in a relevant, sustained way, it does not entail emotional closeness, it is non-voluntarist and one cannot withdraw from its specific context as easily as one can step out of an unwanted friendship. We need, however to distinguish between citizenship understood as mere membership in a state and citizenship taken to mean a practice of civic involvement and deliberation. On the latter, republican vision of ideal citizenship, such a practice would gain more of an intentional and interpersonal content, but it would still be too impersonal, or removed from our immediate concerns to be intelligible on the comparison with friendship, in its purported quality of intrinsic value. So, what is it that makes it intrinsically valuable? According to Mason, because a person *qua* citizen enjoys equal status with the other members and is given recognition, the practice of citizenship is intrinsically valuable. Also, as part of a collective body which has considerable control over one's conditions of life, under this notion of citizenship, an individual *qua* citizen is given the opportunity to participate in the formation of laws and policies that govern the polity.³⁹³ But how would that be different from a tennis club, where the members gain equal status and equal opportunity to make use of the services offered by the club and are given recognition by the other members and the management of the club in their special quality of members? First of all, membership in a tennis club is not taken to alter one's moral status upon becoming a member, while this is taken to be the case when it comes to members of a polity. Then, the members of a tennis club do not really get to alter the rules of membership, but are unconditionally subject to them. In

³⁹³ Andrew Mason, 'Special Obligations to Compatriots', 442

the case of membership in a state, the story is different insofar as, according to republican authors, citizens get the chance to participate in the making of the very rules they are governed by. I think, however, that the point at the back of our minds still remains that, in order for republican citizenship to be conceived as a good in itself, it has to register as a valuable thing in the eyes of people in general, and that somehow does not seem to pass a test of moral plausibility. It would not be dependent on empirical validation to the same extent as an associative obligations account would, because the intrinsic worth account could hold ground even in the absence of widespread recognition by the people, but it would certainly require some empirical plausibility and the argument would in the end still rest on a psychological dimension.

If the idea of citizenship as intrinsically valuable on the analogy with friendship is difficult to grasp, let us consider another argument offered by Iseult Honohan that is built on the analogy with the obligations colleagues have to one another. I have already looked in more detail at this line of argumentation in a previous chapter, but it may be helpful to summarize the main points. Citizens are said to be similar to colleagues because they share characteristics like ‘involuntary interdependence’, equality, difference, and relative distance. Also this analogy is quite compelling especially because it allows for the idea that co-citizens, like colleagues, can actually dislike each other, feel disinclined towards one another, or simply be indifferent. The analogy takes us back, however, to the associative obligations argument, insofar as it suggests that mere membership can ground obligations. Honohan constructs this argument with a particular type of colleagues in mind. She seems to take academics or professionals in general as the mould for her thought on how citizens’ obligations to one another may work. If we reflect, however, on the idea of professors as colleagues, and the kinds of obligations they may have to one another, it seems difficult to find any worthy food for thought on the basis of

which to construct an argument for political obligation. Academics are indeed part of a practice with some sort of normative aspirations (e.g. educating the young leaders of tomorrow and contributing to the prestige of the academic institution they are part of) so, in that sense it might be argued that they are part of the project of the common good of the institution and socially responsible for the quality of tomorrow's leaders. But surely, that is a very weak sense indeed, for academics are also essentially concerned with advancing their own careers, and that may take precedence over anything else. That is why I do not think that it is helpful to think of citizens as colleagues, nor to try to advance a justification for political obligation on the basis of this analogy.

It seems to me that the best chance we have to come up with a compelling republican notion of political obligation is to take Habermas's premises and arguments and see where they lead us. The main thrust of his theory of discursive democracy is the idea of citizens as legislators, as co-authors of the laws of their respective political community, in the form of their participation in the deliberative processes of civil society. Similar to Arendt, Habermas has an understanding of democracy not as a guarantor of a set of legal rights but as the set of procedures that are in place for citizens to use in order to determine those rights. Norms are, however, justified only if "all possibly affected persons could agree [on them] as participants in rational discourses".³⁹⁴ For that reason, we could conceive of the underlying notion of political obligation as a voluntary, consent-like form of obligation. In fact, it could be argued that this comes close to a consent-account of an argument that mainly tries to establish political obligation for a specific type of regime: a democratic one. According to this argument, participation (in voting) can count as consent, and thus ground obligations. Those who refuse to participate are still obligated to endorse the outcome, as long as they had the

³⁹⁴ Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, trans. William Rehg (Cambridge, MA: MIT Press, 1996), 107

opportunity to participate and the costs of participation were not too high.³⁹⁵ I certainly think that a Habermasian justification for political obligation would have to be in one sense (that of the scope of application) a democratic account, but voluntary endorsement through participation in deliberative processes is not the main ground for political obligation.

For Habermas, the constitution is “an unfinished project”³⁹⁶ and he expects citizens to get involved in its continuous redefinition. Following his line of argumentation, the basic moral principle that could justify political obligation is that of moral autonomy. As I mentioned earlier in this chapter, moral autonomy defined in its thicker version to refer not only to an individual’s free choice, but also to a reasoned and weighed choice, which is subject to reasoned debate³⁹⁷, requires individuals to be in control of their lives. That holds for all aspects of life, whether they be private or public and includes a political form of autonomy, or the participation in the decisions that affect one’s individual autonomy. Because of a presumption that reason is best expressed in communicative exchanges, rather than say, inner deliberation, the most appropriate way for individuals to try to determine or at least contribute to public decisions is by taking part in public discussions. Thus, if public issues, under political scrutiny will affect a particular individual, then she is obligated by the moral imperative of autonomy to take part in at least some of the public discussions regarding the matter. I think that this principle could justify an obligation to deliberate in public matters of concern.

Now, in principle the notion of moral autonomy used here is self-referential, it refers in other words to being one’s own master. However, it requires not only free choice, but also reasoned

³⁹⁵ see for this argument John Plamenatz, Consent, Freedom and Political Obligation, (London: Oxford University Press, 1968)

³⁹⁶ Habermas, Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy, trans. William Rehg (Cambridge, MA: MIT Press, 1996), 384

³⁹⁷ Wolff, ‘The Conflict between Authority and Autonomy’

free choice, and it also has an individual and a political component. Thus, once the obligation to take part in public debates regarding issues of public concern that may affect one's individual autonomy has been established, I think that it could be possible to justify also an obligation towards public reason in deliberations. The argument could run something like this: in order to ensure the political component of autonomy, an individual must recognize her dependence in achieving deliberative reason on those others who take part in discussions. Also, she must recognize the equal right to moral autonomy that others have and thus try to respect that by displaying an attitude towards consensus, openness to different arguments, and in general a willingness to identify and argue from public reason. This may not strike us as a particularly strong inference, but I think one can invoke here empirical backup from the idea that individuals will be more willing to exhibit public reason and an accommodating attitude towards people with whom they share a certain political culture.

According to the principle of popular sovereignty that Habermas adopts, authority is finally derived from the people. At the heart of a constitutional democracy is an institutionalized practice of civic self-determination: "Read in discourse-theoretic terms, the principle of popular sovereignty states that all political power derives from the communicative power of citizens. The exercise of public authority is oriented and legitimated by the laws citizens give themselves in a discursively structured opinion-and will-formation."³⁹⁸ Without a continuous process of "informal opinion-formation that prepares and influences political decision making"³⁹⁹, the normative understanding of democracy that Habermas proposes could not be achieved. "According to discourse theory, the success of deliberative politics depends not on a collectively acting citizenry but on the institutionalization of the corresponding procedures and conditions of communication, as well as on the interplay of institutionalized deliberative

³⁹⁸ Habermas, Between Facts and Norms, Polity Press, 170

³⁹⁹ Habermas, Between Facts and Norms, Polity Press, 171

processes with informally developed public opinions.”⁴⁰⁰ So, how exactly does democratic legitimacy come into the argument? The idea of moral autonomy as a moral imperative also implies that political authority can only be derived from individuals acting collectively. Why that is so is, however, not at all obvious. It all hinges in the end on the preferred conceptualization of the foundational notion of moral autonomy. Following Wolff’s philosophical anarchist argument which is at the root of the controversy surrounding ‘political obligation’, merely choosing certain actions over others is not enough to constitute morally autonomous behaviour. What is also required is determining what one ought to do. Even if she may not be continuously deliberating and reflecting on what one ought to do, every person, argues Wolff, has an obligation to take responsibility for her actions in this manner. Obviously, Wolff refers to an individual deliberating and reflecting on things on her own. He also points out, however that “[t]he paradox of man’s condition in the modern world is that the more fully he recognizes his right and duty to be his own master, the more completely he becomes the passive object of a technology and bureaucracy whose complexities he cannot hope to understand.”⁴⁰¹ Because of these complexities of the modern world, and because moral autonomy includes not only an individual form of responsibility, but also a collective form of responsibility for the actions of the government that represents us and acts in our name, and if we add another important Habermasian assumption, that is, that determining the right course of action can best be achieved via deliberation/reasoned discussion with others who can bring light on the matter from different points of view, it follows that our duty to moral autonomy grounds an obligation to take part in public debates about matters that can affect us. It is because of this foundational principle that democratic legitimacy requires civic self-government.

⁴⁰⁰ Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, trans. William Rehg (Cambridge, MA: MIT Press, 1996), 298

⁴⁰¹ Wolff, ‘The Conflict Between Authority and Autonomy’, 17

The argument appears to be ultimately a methodologically individualist one. The obligation to take part in public debates is a self-referential one and the starting point of the justification is a natural duty type of argument. Once, the individual is, however, discussing with others on public matters of common concern, because part of one's autonomy is political and thus its realization hinges on collaboration and on reaching consensus with others, she is obligated to those relevant others who share those concerns to take part in public debates with an idea of public reason and the common good in mind. The reason for this second obligation is that autonomy is an inter-subjective notion (you cannot achieve autonomy on your own, but need to a certain extent the negative or positive contribution of others, negative in the form of non-interference and positive in the form of reasoned and constructive deliberation), so if concern for others' ideas, standpoints and ultimately autonomy is not exercised, then that would in effect amount to a denial of one's own autonomy. Citizens thus have an obligation to uphold fellow citizens' autonomy. Also, on the same grounds, an argument could be made to establish an obligation that citizens owe to each other to contribute to the material and otherwise empowerment of those for whom taking part in public debates is prohibitively costly.

A number of problems come to mind regarding this line of argument. As interesting as it may sound to basically use the same argument the philosophical anarchist invoked in order to show that political obligation does not exist, turn it around and argue that political obligation can only be justified given the liberal premise of moral autonomy if we understand it in a thick republican sense to refer to active participation in political debates, under the exigencies of public reason, it can be argued that the theory lacks empirical plausibility. People simply do not take part in politics and could not care less about moral autonomy. And yet, as shown in previous chapters, Habermas' conception of deliberation is very wide and applies to a

multi-layered notion of civil society that encompasses discussions in coffee houses as well as organized civic action in voluntary groups. Also, more often than not, citizens are obligated to take part, according to this model not necessarily in deliberative forums that aim at decision-making but more likely in more informal and less structured fora of deliberation that aim at setting the agenda for decision-makers.

The notion that this understanding of political obligation explains the idea of citizens as authors of laws is of course, too idealistic. What the theory tries to justify is individuals taking part in reasoned public discussions on matters that can affect one's personal autonomy. One criticism that can be levelled at this line of argumentation is that it sounds all too individualistic and that it can in no way really reflect a republican point of view. I think there is indeed something missing in the argument and that is the part that a legitimate democratic state has to play. I mentioned that Habermas is one of the few theorists who actually explicitly argues for a certain normative vision, while he sees this as specific to one type of regime: the constitutional democratic state. A notion of political obligation inspired by his arguments is bound to apply only to democratic societies. Thus, one additional argument should be that individual moral autonomy is best protected in a legitimate, democratic state. Legitimate authority requires in turn that individuals as citizens take part as often as possible in the public debates that inform decision-making. In order for this obligation not to be too costly, we have specified that individuals are expected to take part in the debates surrounding issues of public interest especially when matters important to them are discussed. How much of an impact are they likely to have on political decision-making and what happens to those who do not take part in any debates of public interest in whatever form? These are hard questions that deserve a thorough response. The full-fledged defence of this theory, however, already falls outside the scope of this dissertation. One possible response could be though, that as long as they had

the opportunity to make their voice heard and express their opinion, these individuals are still responsible for the political decisions finally reached. There should also probably be some form of participation on the part of each and every individual, at some point in their lives, which could be taken to represent some sort of triggering condition, a condition that signifies that the individual actually accepts the rules of the democratic game in the first place.

Still, what happens to all those who disagreed with the actual outcome? Are they still obligated to follow the law or policy, which was adopted in the end against their will? According to Habermas's cognitivist understanding of communication, the right answers are supposed to win over those who initially argued for something else. Obviously, this view does not seem to reflect the bitter reality of value controversies that do not admit of right or wrong, scientific answers. In this case, it may be that civil disobedience is required by moral autonomy. Thus, while I think that the notion of moral autonomy as discussed in this work could successfully ground republican obligations of participation in reasoned debates and an obligation of debating with an attitude towards public reason, I am not so sure that it can also ground an obligation to obey laws, in the context in which these contravene deep-seated beliefs of specific individuals. Also, the theory has not made a clear argument as to why the obligations are special (why they are owed to a specific set of individuals: the co-citizens of a specific state). Thus, the danger is that this theory might be unstable.

5.6 Concluding remarks

In this chapter, I have tried to do the following things. I have first argued that it is crucial that republican theories provide a compelling notion of republican political obligation. I have argued that in the absence of such a notion, contemporary republicanism may well register as nothing more than a loose narrative of virtues. On this point, of whether a republican theory

can provide a coherent and appealing notion of political obligation, my concluding remarks can only be provisional. The arguments that I have considered here can be taken rather as a starting point for a more elaborate defence or rebuttal of the approach I suggest at the end of the chapter. The next point in my analysis was to consider a view of republican political obligation from fair-play. The argument was found wanting and unable to ground a thick understanding of political obligations. Next, I engaged in a discussion of the associative obligation approach. The argument that obligations flow from mere membership in a political community was shown to be unable to ground republican obligations. Then, I looked at two grounds for political obligation: interdependence and the intrinsic value of republican citizenship as developed on the analogy with obligations friends have to one another. Finally, I argued that the most promising venue in arguing for republican political obligation is the one opened up by Habermas' thought. One such justification for political obligation that could justify republican political values is the one built on the moral imperative of moral autonomy. I think that we can thus justify an obligation to deliberate, to use public reason and even to contribute towards the welfare of fellow citizens for whom participation would otherwise be too costly. In this final chapter of the dissertation, I have tried to give an outline of a justification of political obligation understood to refer to thick republican values. Though I have not shown this theory to be successful, I think that the approach I proposed is intriguing enough to justify further analysis. The main claim of this chapter remains, however, that a republican theory needs to make a republican argument for political obligation. In the absence of that, it is merely a narrative of values.

Conclusion

What have we learned from this excursus in contemporary republican thought? Apart from having to shake off at times the frustration with the apparent lack of clarity and conceptual structure in the thought of different contemporary authors concerned with republican themes, we have first of all learned to appreciate the extent of the diversity of republican arguments. These arguments ranged from a theory where the state is expected to track individuals' interests, and civic participation is not really required or expected unless in the minimalist form of contestation, through a theory of normative unity, where civic participation is mostly expressed in the internalization by individuals of the normative principles defining national identity, up to finally a theory that advocated widespread participation in the deliberative fora of civil society.

For the most part of it, contestation, which is the cornerstone of an instrumental republican theory is really part of the formal, professional mechanisms of politics, and when it does become the business of private citizens, it is at best a sporadic obligation. According to this argument, it is from within a group of belonging (most probably an ascriptive group of belonging, as I have argued) that an injured individual, whose rights have not been tracked by the government, can hope to make his voice heard. There is, however, no apparent mechanism in place that normatively supports the idea of dialogue or synergy between the different groups, with their different interests. Further aides to motivating active, civic behavior are traditionalist mechanisms like public shaming, but contestation or civic engagement in public life remains a potentially divisive matter as long as it is exercised from within the boundaries of what we can only imagine as groups with specific, conflicting concerns. Also, the notion of freedom as non-domination, in the way Philip Pettit constructs that argument does not impress us as a specifically different conceptualization of freedom. In fact, it is not only similar to the

liberal justification for freedom as non-interference, but it also disappointingly avoids issues of economic inequality, or structural sources of domination. The only way to differentiate this notion from a more limited liberal notion of freedom as non-interference is to emphasize ‘recognition’ as a necessary, in-built element. In order for this positive addition to the normative structure of justification to make sense, the assumption of autonomy as a fundamental individual concern needs to be plugged in. Thus, freedom as non-domination does make sense as a specific, republican notion if we reinterpret it along the lines of the argument for autonomy.

Having shown how a notion of civic responsibility as an individual’s internalization of the normative principles of national identity cannot be plausible or normatively desirable, I went on to investigate yet another strategy for republican values that built on the centrality of the notion of autonomy. It is in the end this Habermasian notion of the legitimacy of a contested public space, of innumerable deliberative circles of inter-subjective interactions that constitutes the most promising republican line of argument. Though Habermas thinks that active participation in politics in the form of deliberation on the public issues of concern by ordinary individuals is necessary for the authority of the legal and political system of a particular state, he is not prepared to make a clear normative argument that would establish republican political obligations. I have argued, however, that that is exactly what is missing in contemporary republican thought. Rather than focusing on a narrative of republican values, theorists who want to promote republicanism should try to construct a clear and normatively appealing argument for republican political obligations. This is in effect what I have tried to do in the final chapter of the dissertation. Following the Rousseauian precept according to which “obedience to a law which we prescribe to ourselves is liberty”, it becomes apparent that republican political obligations such as taking part in public deliberations, deliberating

from public reason, and supporting economic redistribution or whatever measures are necessary in order for all individuals to have the opportunity to participate, can be justified on the basis of the moral imperative of autonomy. Turning around the philosophical anarchist argument according to which political obligation cannot possibly be justified since it overruns the more basic and widely accepted liberal principle of individual autonomy, a republican justification for political obligation would emphasize that it is precisely because of the foundational quality of autonomy that individuals need to take part as much as they can in the political decision-making that sets the rules by which they live. Moral autonomy requires that one lives by her own chosen rules and in pursuit of her own purposes, but individuals are part of political communities and since the order of life that defines the specific polities also influences whether an individual can achieve her own purposes, it follows that individuals should make sure to be part of the deliberating processes that influence the defining and redefining of a society's way of life. There is a certain sense of the unachievable entangled with this demanding notion of autonomy since none of us can be said to be happy at all times with the political decisions that impact our lives, and which are sometimes made despite our opposition. In that sense, we are never really our own masters. According to the republican normative vision, however, this is what we should aspire to: trying to make our voice heard when political issues that can influence our lives are debated. This is how the first political obligation, the obligation to take part in public deliberations can be justified. How about the obligation to deliberate from public reason (which means to take into account different points of view and maybe identify a common denominator)? Unlike John Rawls, who is afraid to let comprehensive views come to full view in political debate, the line of argument followed here on the basis of Habermas's thought embraces comprehensive views. Nothing less would be expected from a theory that has as a foundation the notion of moral autonomy. An individual is not expected to discard her most principled beliefs in reasoned debate, but she is expected

to try to take into account others' views as well, learn from those different views and adjust her own according to the most exemplary views from a rational standpoint. Rationality is taken here to represent the ultimate reference point for any individual. The point is not obvious but it seems that any person who recognizes moral autonomy as a moral imperative would also be expected to recognize that rational outcomes are to be preferred to outcomes that one specifically favors. Also, recognizing the burden of autonomy on oneself, also implies that you recognize and respect others' right to autonomy as well. Finally, because reasoned exchanges with others help one formulate better what one's autonomy-driven choices should look like, it also follows that one will support the enabling of others' participation in processes of reasoned debate.

I have argued that the most promising way to promote a republican theory is to construct an argument for republican political obligation, that is, a thick understanding of political obligation as the obligation to deliberate, to do so from public reason, and to agree to the economic enabling of others to be part of the deliberating fora. Thus, if republicanism is to be taken seriously, it needs to construct a normative argument for these specific obligations or civic virtues that it promotes. I see no better way to do that than to justify a republican form of political obligation. Then, I have argued that the most promising republican path to take is to construct a justification along the lines of the principle of self-government or moral autonomy. Without having provided a full defense of this justification, I think this line of argument is interesting enough to incite further thought. It also, however, raises serious questions as to its republican specificity since it comes very close to liberal, perfectionist or non-neutralist theories that do actually endorse one central value, the value of autonomy. Is there anything specific that distinguishes these two lines of thought? Some would say that it is the envisaged role of the state, with the republican favoring a strong state. Whatever the case,

I think I have shown in this dissertation that contemporary republicanism has a very limited scope for success that hinges on constructing a successful argument for republican ‘civic virtue’ which is a set of very demanding political obligations.

In a way, the normative structure of justification for republican values that we tried to construct comes very close to liberal perfectionist arguments as the ones advanced by Joseph Raz.⁴⁰² Both lines of argumentation amount to a rejection of moral individualism, support the idea of ‘the constitutive role of a common culture’ and the constitutive role of individual action in defining and redefining the political morality of a society.⁴⁰³ Also, both lines of justification are underpinned by one basic ideal, that of moral autonomy. Both recognize a certain perfectionist aim that qualifies autonomy as a moral value. In Habermas’s case, it would be pursuing the best possible, most rational answer, and in Raz’s case it refers to the pursuit of the good.⁴⁰⁴ However, while the liberal perfectionist is only concerned with the availability of valuable options, thus looking up to governments “to take positive action to enhance the freedom of their subjects”⁴⁰⁵ by providing a wide range of options and favoring the most valuable ones over the least valuable, it is not concerned with the importance of civic engagement. For the republican line of justification, it is in the end intrinsically important that an individual take part in the public debates that inform a diffused political life, because it is part and parcel of what it means to be autonomous. If we understand by autonomy the ideal of each of us trying to be as much as we can, the authors of our own lives, if we agree that political decisions impact our lives to an important degree, and if we also agree that we best comprehend our lives and the options lying ahead of us through reasoned debate with others, via the normative medium of language, then it follows that we should try to be part of the

⁴⁰² See Joseph Raz, The Morality of Freedom (Oxford: Oxford University Press, 1988), Oxford Scholarship Online, 18 February 2008

⁴⁰³ see Joseph Raz, The Morality of Freedom, 193

⁴⁰⁴ As Raz says, “Autonomy is valuable only if exercised in pursuit of the good”, The Morality of Freedom, 381

⁴⁰⁵ see Joseph Raz, The Morality of Freedom, 427

large political debates and make our voice heard when issues of particular relevance for us are being discussed. Just as in the case of voting, the utter irrelevance of one voice in a sea of debates can certainly be deemed demotivating. Because, however, the justification for civic engagement in the form of participation in reasoned discussions is personal autonomy to start with, and if we agree that personal autonomy is a moral imperative and “a fact of life”⁴⁰⁶, I think that the argument for civic engagement is stable. For the republican, autonomy is exercised not only through choice, as in the case of the liberal perfectionist, but also through participation/deliberation. That is entailed in the interpretation of the ideal of autonomy as containing both the notion of personal autonomy and that of political autonomy. There is one major problem with this argument: the fact that the value of autonomy is bound to be entangled with competitive forms of pluralism, as Raz points out.⁴⁰⁷ For Raz, a duty of toleration as part of the wider doctrine of freedom comes to the rescue. For the republican line of argument, it is that and the importance of language as a medium for consensus and convergence on the right answer. That may be a fundamentally idealistic point of view, but I think that there is some truth to the mundane idea that ‘talking usually helps’.

It may be surprising that it is in the thought of Habermas, and not of any of the other, more straightforwardly republican authors, that we have found the seeds for the most promising line of justification for republican values. As shown, the republican pledge of distinctiveness is also weakened by the fact that the value of political deliberation cannot be shown to be particularly republican. I think, however, that the overall argument does try to ground a republican set of values. The most successful line of justification that I have uncovered in the end, and it has to be said that Habermas himself does not endorse these arguments, though I think he should be committing to them given the thrust of his constitutional/discursive

⁴⁰⁶ see Joseph Raz, The Morality of Freedom, 394

⁴⁰⁷ see Raz, The Morality of Freedom, 404

democracy outline, ultimately rests on the liberal value of autonomy.⁴⁰⁸ If that is the case, then the most normatively attractive justification for republican views, which I argue this to be is another specimen of liberalism. This specimen rests, however, on a radically different interpretation of the basic foundational ideal of autonomy, so different that it can be seen to ground political obligations that no liberal theory is ready to embrace, not even a perfectionist one. Interpretation then, in political theory, is where we should pay attention because it can unravel a whole argument.

⁴⁰⁸ see on this genealogical point Joseph Raz, The Morality of Freedom, “It is sometimes thought that the argument from autonomy is the specifically liberal argument for freedom, the one argument which is not shared by non-liberals, and which displays the spirit of the liberal approach to politics.”, 369

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