

**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 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 participation in public deliberations on matters of shared concern, as the way to preserve the 'justificatory' character of a reasonably just democratic community 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 that it promotes. Finally, I argue that a notion of political obligation understood in this thick, republican way could be justified as a form of role obligation constructed around the role of citizen in a reasonably just democratic society. By constructing a notion of political obligation from a republican perspective, we hope to contribute an overall normative justification to contemporary republican arguments.

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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. 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 more political version of communitarian thought. The main gist of a basic republican argument is that individual freedom and the freedom of a state, the endurance and quality of liberal democratic systems depend on 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 coherence of different strategies in promoting republican arguments, as well as to try to ascertain their specificity.

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 the notion of freedom as non-domination that we should look if we want to find that which is normatively salient 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. I then argue that republican ideas of enhanced civic participation could be better defended if they were conceptualized as part of a general notion of republican political obligation. I argue in other words, for a general normative justification for republican citizenship that could ground normatively the basic republican idea that citizens should take active part in civic life rather than merely obey just institutions. After developing the argument for the appropriateness of the notion of political obligation, I go on to construct a role-based justification for 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.

Despite a certain revival of republican thought inspired by a revisionist history of ideas of the Founding Fathers' project 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”¹ or that more liberal-minded versions of 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.”² My analysis points in the direction of a normative justification of republican values conceived as obligations for a clearer delimitation of contemporary republican ideas from some of their liberal counterparts.

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?

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, themes which 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.³ 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.⁴ I will look at this argument and find that indeed, deliberative democracy is crucially entangled with republican arguments

¹ Robert E. Goodin, “Folie Républicaine”, *Annual Review of Political Science* 6 (2003): 71

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

³ On this first point see Goodin, “Folie Républicaine”: 58-59

⁴ Goodin, “Folie Republicaine”: 68

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 democratic stability around the notion of participation in a justificatory community. Also, I devise the relevant political obligations that I argue to be part of the republican ethos from three lines of republican argument. I construct the justification of a republican political obligation from ideas that can reasonably be seen to be part of the republican lexicon of concerns such as the corruptibility of those in offices of power. In general, I follow in devising a justification for republican political obligation a mix of the arguments advanced by republican authors. To that extent, and given that the defence of republican values *as political obligations* would give contemporary republicanism more normative bite, I think it can reasonably be argued that we are on fairly distinct republican grounds in our arguments.

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, ends up promoting an unattractive vision of ‘status society’, where the proposed form of equality is just an equality of political status for example.⁵ 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

⁵ Goodin, “Folie Republicaine”: 62

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?⁶ We should not discount the importance of 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.⁷ 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."⁸ 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 towards. That would only be an extreme version of republican argument, which I am not interested in pursuing here. Public engagements should certainly not trump private engagements for the most part, but they should also not be entirely absent from our moral concerns. The role of citizen is one among many roles that an individual acts out. The moral requirements that derive from such a role, should not be ignored. The arguments that I advance for a republican notion of political notion do not rest on 'maximal levels of participation' but set more modest norms of participation based on individuals' specific public concerns.

⁶ for this point and the general line of criticism see Brennan & Lomasky, "Against Reviving Republicanism"

⁷ Brennan & Lomasky, "Against Reviving Republicanism": 232

⁸ Brennan & Lomasky, "Against Reviving Republicanism": 232

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 relevant issues that the individual recognizes as such are discussed.

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 applying to individuals), 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. 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.⁹ Why should individuals 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”?¹⁰ Contemporary republican arguments

⁹ 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

¹⁰ John Rawls, Political Liberalism (Columbia University Press, 1993): 54

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 what contemporary republicanism should be 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 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, and recognize that those very institutions help safeguard their dignity as individuals intuitively meaningful.¹¹

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 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

¹¹ 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

than republican, and finally I try to indicate the direction in which an argument for republican political obligation might be constructed.

Thus, I reflect on the thought of generally recognized republican authors like Philip Pettit or John Maynor 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. When I started to work on this dissertation, I did not think that I would dedicate a chapter to the thought of Jürgen Habermas, nor did I imagine that I would end up investigating republican forms of political obligation as prompted in part by his ideas on deliberation and self-government. This is, however, where my analysis from the first two chapters led me. 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, in Philip Pettit's thought 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' 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 author in 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, Jürgen Habermas is 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.¹²

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.

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

¹² 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*'.

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.¹³ 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.¹⁴

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.

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

¹³ For both quotes from Isaiah Berlin, “Two Concepts of Liberty”, in The Proper Study of Mankind (London: Pimlico, 1998): 203

¹⁴ For these two lines of criticism see Goodin, “Folie Republicaine”

normatively critical elements that were not taken to their logical conclusion. I begin to examine these issues by turning to Jürgen Habermas. What may be striking to some is my choice of author here. 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 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. 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 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 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 in situations when constitutional essentials are under discussion.

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 thesis. 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 civic responsibility 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. I thus continue in this final chapter by trying to come up with a republican justification for political obligation.

My contribution in this dissertation to the advancement of political theory falls in several categories. First I take a more systematic look at contemporary republican arguments of different brands and assess their coherence. Then, I identify what may be missing for republican arguments to be successful: a normative justification of civic behavior. I argue that defending a notion of political obligation from a republican perspective could go some way in clarifying the normative foundation of contemporary republicanism. Finally, I explore the notion of role obligation based on the character of political community and on the role of the

citizen, rather than on the more traveled routes of making analogies with family, friends or colleagues.¹⁵

¹⁵ “An adequate account of associative political obligations will certainly need to speak more specifically about the value of polity, and also what it is to be a member. This will involve going beyond analogies with families, friends or colleagues to explore the distinctiveness of *political community*. This is not virgin territory but it has not, I think, been widely explored in the context of the current debate about associative political obligations.”, John Horton, ‘In Defence of Associative Political Obligations: Part One’, Political Studies, vol 54, 427-443, 2006: 440

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 of contemporary republicanism.

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 represents 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 from 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.

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 life¹⁶. 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 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

¹⁶ On this point see for example John Maynor, Republicanism in the Modern World, (Polity, 2003): 10

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.

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.¹⁷ 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

¹⁷ 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.¹⁸

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’¹⁹, 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 purpose 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 by

¹⁸ see for example Philip Pettit, ‘Freedom in the Market’, Politics, Philosophy and Economics, 2006, 5 (2), 131-149

¹⁹ Philip Pettit, Republicanism, A Theory of Freedom and Government (Oxford: Oxford University Press, 1999): 246

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.²⁰

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

²⁰ 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.”²¹ 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 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

²¹ 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 admits²², 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. Also, the political morality underlying a republican and liberal theory will be different.

1.3 A rich constitutional order

What Philip Pettit seems to favor 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* measures of

²² Maynor, Republicanism in the modern world: 160

contestation Pettit means public, parliamentary, or judicial means of checking the 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."²³ 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."²⁴

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

²³ Pettit, Republicanism, A Theory of Freedom and Government: 232

²⁴ 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."²⁵

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.”²⁶

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.²⁷ 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.

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 breadth. Of

²⁵ Pettit, Republicanism, A Theory of Freedom and Government: 201

²⁶ Pettit, Republicanism, A Theory of Freedom and Government: 202

²⁷ see Pettit, Republicanism, A Theory of Freedom and Government: 172-173

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”.²⁸ 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.”²⁹

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 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

²⁸ see David Miller, ‘Introduction’, *Liberty*, ed. David Miller (Oxford University Press, 1991): 3

²⁹ Miller, ‘Introduction’, *Liberty*, ed. David Miller (Oxford University Press, 1991): 6

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.”³⁰ 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 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

³⁰ 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)

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.³¹ 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.³²

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.”³³ 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 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

³¹ See Pettit, The Common Mind: 286

³² Maynor, Republicanism in the modern world: 63

³³ Pettit, Republicanism, A Theory of Freedom and Government: 5

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"³⁴ 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 does³⁵ (even though it does not appear to be a straightforward characteristic of contemporary liberal political theory), then the difference between the two notions becomes 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

³⁴ Pettit, The Common Mind: 311

³⁵ Pettit, The Common Mind: 316

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.³⁶

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.³⁷ 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.³⁸ 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 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.³⁹

³⁶ See Pettit, *The Common Mind*: 315

³⁷ See Pettit, *The Common Mind*: 322

³⁸ 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’

³⁹ 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

Pettit stresses time and again that “interference as such is a secondary evil from the point of view of republican freedom.”⁴⁰ 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. 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 and Lomasky who claim that “Republican theory is compatible with extensive paternalistic control.”⁴¹ 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 that an agent can find herself in.⁴² There is one way we could find these ideas a bit less opaque, and that is if we think 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

⁴⁰ Pettit, Republicanism, A Theory of Freedom and Government: 301

⁴¹ Brennan and Lomasky, ‘Against reviving republicanism’: 241

⁴² on these two specific republican emphases, see Pettit, ‘Discourse Theory and Republican Freedom’: esp. 78

that, and would recognize the individual's freedom to have been seriously compromised under a threat-conditioned, decisional situation.⁴³

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 and respect that they receive."⁴⁴ 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.

⁴³ see on this point also Nadeau, 'Non-domination as a Moral Ideal': 122-3

⁴⁴ Philip Pettit, A Theory of Freedom, From the Psychology to the Politics of Agency, (Polity, 2001): 79

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 it seems, as intuition would suggest, that the value of freedom as non-domination is 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 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 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.⁴⁵ 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-domination with common awareness.⁴⁶ 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.

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

⁴⁵ 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

⁴⁶ see Pettit, *Republicanism, A Theory of Freedom and Government*:70

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. Thus, good institutions and laws, active citizenship expressing civility are all parts of the vision of individual freedom as non-domination. This argument is made explicitly by John Maynor: “non-domination is a status that agents achieve due to the constitutive nature of modern republican institutions.”⁴⁷

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.”⁴⁸ 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

⁴⁷ Maynor, Republicanism in the modern world: 50

⁴⁸ Pettit, A Theory of Freedom, From the Psychology to the Politics of Agency: 137

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 freedom as 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 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.⁴⁹ 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

⁴⁹ See Pettit’s discussion of holism versus atomism in The Common Mind: 165-213

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.⁵⁰ 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.⁵¹ 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.”⁵²

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.”⁵³

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

⁵⁰ Pettit, ‘Discourse Theory and Republican Freedom’

⁵¹ Pettit, ‘Discourse Theory and Republican Freedom’: esp. 84-5

⁵² Pettit, ‘Discourse Theory and Republican Freedom’: 91

⁵³ Pettit, ‘Discourse Theory and Republican Freedom’: 90

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’)⁵⁴, 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 discursive self, who feel to be dominated by their own, psychological insecurities, 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 of 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

⁵⁴ Pettit, ‘Discourse Theory and Republican Freedom’, p.85

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, than 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 another⁵⁵.

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-

⁵⁵ on this point, see also Richardson, 'Republicanism and Democratic Injustice': 188

domination⁵⁶, 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.

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 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

⁵⁶ James Bohman, “Republican Cosmopolitanism”, *The Journal of Political Philosophy*, 12, no. 3 (2004): 336-352

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.”⁵⁷

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.”⁵⁸ In 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 assigned higher costs. Moreover, the applicability of the constitutional constraint 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

⁵⁷ Pettit, Republicanism, A Theory of Freedom and Government: 63

⁵⁸ Pettit, Republicanism, A Theory of Freedom and Government: 69

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'.⁵⁹ 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.⁶⁰ 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, 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.⁶¹ Instead, they seem to worry most about how to make institutions, but particularly society more likely to promote freedom as non-

⁵⁹ see a more detailed discussion along similar lines in Nadeau, 'Non-domination as a Moral Ideal': 132-3

⁶⁰ see also Richard Dagger, 'Neo-Republicanism and the Civic Economy', *Politics, Philosophy & Economics*, 5, no.2, (2006): 167

⁶¹ 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'

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.⁶² 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.⁶³ 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”⁶⁴, 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.”⁶⁵ 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 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

⁶² Philip Pettit, ‘Freedom in the Market’: 139

⁶³ Pettit, ‘Freedom in the Market’: 139

⁶⁴ Nadeau, ‘Non-domination as a Moral Ideal’: 186

⁶⁵ Pettit, ‘Freedom in the Market’: 141

financing, against monopolies is necessary as long as that minimizes domination.⁶⁶ 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.⁶⁷

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.”⁶⁸ 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 the 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 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 light 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-

⁶⁶ Pettit, ‘Freedom in the Market’: 145

⁶⁷ Richard Dagger, ‘Neo-Republicanism and the Civic Economy’

⁶⁸ Pettit, Republicanism, A Theory of Freedom and Government: 96

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.”⁶⁹

Thus, it becomes apparent that his vision of political community is a precondition for what his theory ultimately wants to promote. 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

⁶⁹ Pettit, Republicanism, a Theory of Freedom and Government: 126

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. Those who are willing to point out the mismatch between government policy and their group's grievances will thus exhibit what Pettit usually means by civility- 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."⁷⁰

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 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

⁷⁰ Pettit, Republicanism, a Theory of Freedom and Government: 247

I internalize civil norms I can be described, at one and the same time, as identifying with the group whose norms they are.”⁷¹ 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.”⁷² This is not, however, the end of the story. There appear to be in Pettit’s 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.”⁷³ 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.”⁷⁴ Since the author goes at lengths to emphasize the identification value of civility, which has to be understood, if it is to mean

⁷¹ Pettit, Republicanism, a Theory of Freedom and Government: 258-9

⁷² Pettit, Republicanism, a Theory of Freedom and Government: 257

⁷³ Pettit, Republicanism, a Theory of Freedom and Government: 249

⁷⁴ Pettit, Republicanism, a Theory of Freedom and Government: 258-9

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.”⁷⁵ 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 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”⁷⁶) does not, however, appear to be appropriate for

⁷⁵ Pettit, Republicanism, a Theory of Freedom and Government: 259

⁷⁶ Philip Pettit, ‘Deliberative Democracy and the Discursive Dilemma’, Philosophical Issues, 11 Social, Political, and Legal Philosophy (2001): 282

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."⁷⁷ 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, 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 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

⁷⁷ Pettit, Republicanism, a Theory of Freedom and Government: 122

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 the 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 (...)." ⁷⁸ 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." ⁷⁹ 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

⁷⁸ Pettit, Republicanism, a Theory of Freedom and Government: 206

⁷⁹ see Pettit, Republicanism, a Theory of Freedom and Government: footnote 1, 191

civility? The answer to this question is either that Pettit 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."⁸⁰ 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.

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'."⁸¹ Using Pettit's reference to the Madisonian discussion of corruption, identification with a group, is more likely to 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

⁸⁰ Geoffrey Brennan and Philip Pettit, 'Power corrupts, but can office ennoble?' *Kyklos*, 55, fasc 2, (2002): 168

⁸¹ Pettit, Republicanism, A Theory of Freedom and Government: 260

identities such as patriotism helps to nurture community and unite individuals and groups from widely varying moral traditions.”⁸² 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 there does not appear to be any convincing bridging between the two on offer in instrumental republican arguments.

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 they represent. The various groups in which the community is fragmented are connected by an “ethos of free and honest expression”⁸³, 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.”⁸⁴ 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

⁸² Maynor, Republicanism in the modern world: 198

⁸³ Pettit, Republicanism, A Theory of Freedom and Government: 235

⁸⁴ Maynor, Republicanism in the modern world: 120

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. 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 or those individuals who would rather be prone to defy the law. 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.”⁸⁵ 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.”⁸⁶ 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 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.”⁸⁷

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.”⁸⁸ 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.

⁸⁵ Pettit, Republicanism, A Theory of Freedom and Government: 254

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

⁸⁷ Pettit, Republicanism, A Theory of Freedom and Government: 237

⁸⁸ Pettit, Republicanism, A Theory of Freedom and Government: 249

The other side of the coin for Pettit 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.”⁸⁹ 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 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.

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.”⁹⁰ 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,

⁸⁹ Pettit, Republicanism, A Theory of Freedom and Government: 261

⁹⁰ Pettit, Republicanism, A Theory of Freedom and Government: 262

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.”⁹¹), the first impulse is to say that the two attitudes, ‘policing’ one another and trusting one 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.”⁹² 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 ‘intangibile 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. 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

⁹¹ Pettit, Republicanism, A Theory of Freedom and Government: 228

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

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 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]." ⁹³

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. ⁹⁴ 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 justification and of keeping government non-arbitrary, as well as the methodological

⁹³ Pettit, Republicanism, A Theory of Freedom and Government: 267

⁹⁴ Stephen Macedo, Liberal Virtues, Citizenship, Virtue and Community in Liberal Constitutionalism, (Oxford: Clarendon Press, 1990): 63

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 Macedo's case, 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, instrumental republican theorists argue that there are underlying group identities that foster active citizenship in the form of contestation. Instrumental 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 non-domination, 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 a sense of duty to social justice.⁹⁵ 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

⁹⁵ 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 comes out of 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, 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. This assumption grounds the republican focus on deliberation, which as we shall explore in the next 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 palatable? 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.

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’. 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. Iseult Honohan for example, 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 contemporary nation-states, and normatively undesirable because of the oppressive or exclusive implications of such a strategy.⁹⁶

⁹⁶ see Iseult Honohan, *Civic Republicanism*, (London & New York: Routledge, 2002): esp. 276-282

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 matter⁹⁷, 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. This discussion is meant to highlight the split in Miller's 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.

⁹⁷ 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

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. 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."⁹⁸

2.2 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

⁹⁸ David Miller, *Citizenship and National Identity* (Polity Press, 2000): 87

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.”⁹⁹ One of the things that becomes 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.”¹⁰⁰ Miller goes on to say that his view can accommodate both an ‘intrinsically fulfilling’ line of interpretation of political

⁹⁹ Miller, Citizenship and National Identity: 53

¹⁰⁰ Miller, Citizenship and National Identity: 58

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.”¹⁰¹ 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 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 at a similar conception of the person as the one I have been describing here when he talks

¹⁰¹ David Miller, *On Nationality*, (Oxford: Clarendon Press, 1995): 194

about ‘national self-determination as an expression of collective autonomy’.¹⁰² 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.”¹⁰³ 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 need to consider adopting full-heartedly. 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.”¹⁰⁴

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 large: “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.”¹⁰⁵

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

¹⁰² Miller, *On Nationality*: 88-90

¹⁰³ Miller, *On Nationality*: 88

¹⁰⁴ David Miller, *Citizenship and National Identity*: 176

¹⁰⁵ David Miller, *Citizenship and National Identity*: 83-4

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.

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 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 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.¹⁰⁶ That 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

¹⁰⁶ Miller, Citizenship and National Identity: 53

theirs in line with the existing principles of 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, 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.

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."¹⁰⁷ This assertion betrays the fact that Miller presupposes that the unit of reference for his normative theorizing 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 do as principles for society to organize around. 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."¹⁰⁸

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

¹⁰⁷ Miller, *Citizenship and National Identity*: 56-7

¹⁰⁸ David Miller, *On Nationality*: 100-101

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 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 of 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."¹⁰⁹

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."¹¹⁰ 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

¹⁰⁹ 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

¹¹⁰ Miller, *Citizenship and National Identity*: 60-61

standards of justice and common interest.”¹¹¹ 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 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.”¹¹² 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.”¹¹³

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

¹¹¹ Miller, *Citizenship and National Identity*: 65

¹¹² Miller, *Citizenship and National Identity*: 65

¹¹³ 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

the isolation of her own deliberative process. Miller's theory, however, boasts a full-fledged understanding of deliberation. In 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 consensus.¹¹⁴ 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 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.

¹¹⁴ Miller, On Nationality: 97

2.3 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 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.”¹¹⁵

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.

¹¹⁵ Miller, Citizenship and National Identity:119

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 trying to dissipate national identities we should be aiming to consolidate them.”¹¹⁶

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

¹¹⁶ Miller, Citizenship and National Identity: 78

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.

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."¹¹⁷ 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

¹¹⁷ Miller, Citizenship and National Identity: 30

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 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 one¹¹⁸, (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 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

¹¹⁸ 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

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 solidaristic¹¹⁹, and thus, the relation between national identity as expressed in a public culture and social justice 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 claim that it may well be that cultural diversity is safest in a national-state framework to be supported, 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

¹¹⁹ Miller, On Nationality: 94

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.”¹²⁰

Instead, we need to consider the ‘intrinsic value’ line of justification for national identity.¹²¹ 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’.¹²² 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.”¹²³ 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

¹²⁰ David Miller, *Citizenship and National Identity*: 172

¹²¹ 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

¹²² See Miller, *Citizenship and National Identity*: 171-2

¹²³ David Miller, *On nationality*: 68

ethos of any particular community; this is a proper matter for collective deliberation and reform.”¹²⁴

Miller 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 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 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

¹²⁴ David Miller, Citizenship and National Identity: 107

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.”¹²⁵

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. Does this mean that leaving one's national community is out of

¹²⁵ Miller, Citizenship and National Identity: 29

bounds? Miller does say somewhere that not making the choice to be an emigrant 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.¹²⁶ 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 she 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.”¹²⁷

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.

¹²⁶ Miller, *Citizenship and National Identity*: 166

¹²⁷ Miller, *Citizenship and National Identity*: 29

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.¹²⁸ I think this second sense of obligation emerging from a concrete practice and the consciousness of social and 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.

2.4 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.

¹²⁸ see Miller, Citizenship and National Identity: 17

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 citizenship¹²⁹, 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 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,

¹²⁹ 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)

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. 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.¹³⁰ 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 should. 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)

¹³⁰ 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

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 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 valuable and it confers 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*.¹³¹ 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

¹³¹ 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

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.¹³²

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 uphold it; the notion of republican citizenship itself consists actually of citizens' participation, and thus, the practice needs to be upheld in order to survive; **second**, we are obligated to help those co-citizens who are in need because without their basic 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.

¹³² 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 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 practices that would attempt 'to diminish' the status of some 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, and 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 citizenship warrants a future investigation of a republican strategy for political obligation. 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 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 prospects for national identity as a basis for 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.

2.5 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 exclusiveness 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')¹³³ 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

¹³³ Maurizio Viroli, *For love of country : an essay on patriotism and nationalism* (New York: Clarendon Press, 1995): 12

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 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.¹³⁴ 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, Viroli acknowledges the crucial importance of local self-

¹³⁴ On a similar line of argumentation, see Pauline Kleingeld, "Kantian Patriotism", Philosophy & Public Affairs 29, no.4 (Princeton University Press, 2000): 313-341

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.”¹³⁵

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.”¹³⁶

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.¹³⁷ 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

¹³⁵ Maurizio Viroli, *Republicanism*, trans. Antony Shugaar (New York : Hill and Wang, 2002): 101

¹³⁶ Stephen Nathanson, “In Defense of Moderate Patriotism”, *Ethics*, 99, no.3 (Apr. 1989): 538

¹³⁷ 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

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 country’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 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 the kind analysed in this chapter. In the next chapter we will investigate these ideas further when we come to analyze Habermas’ thoughts on constitutional patriotism.

2.6 Conclusion

I have endeavored to investigate here 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 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: Deliberative Republicanism and the Notion of Self-Government

3.1 Introduction

In the previous chapter, I have suggested that national identity represented a flawed and unnecessary strategy in advancing a republican theory: flawed because it could lead to a conformist, ethically constrictive society, and unnecessary because the argument for republican citizenship could be forwarded without having to make recourse to a thick understanding of national identity. I have argued that republican citizenship based on national identity was not the most attractive normative route that a republican argument could take, and that it was also not the best representation of contemporary republicanism, coming instead closer to a communitarian strategy of argumentation. David Miller's thought also opened up for us, however, an argumentative route at the centre of which was the notion of deliberation. Jürgen Habermas may not be a well-recognized republican author, but his argument for a 'self-determining political community' built around the notion of deliberative democracy instantiates a crucial republican strategy that we explore in this chapter.¹³⁸ Constitutional patriotism as defended by Jürgen Habermas 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' is the argumentative path that we should follow after analyzing both Pettit and Miller.¹³⁹

¹³⁸ 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

¹³⁹ See also on this point regarding Habermas' notion of constitutional patriotism Patchen Markell, "Making Affect Safe for Democracy?: on 'Constitutional Patriotism'", Political Theory 28, no.1 (Feb.2000): 38-63, esp. 43

3.2 Why Habermas?

We turn to Habermas 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 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 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, which was based on a very important assumption: that individuals are discourse-oriented, that they form their normative beliefs in discursive exchanges 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 Habermas is that he places great value on the notion of self-government.¹⁴⁰ This is a republican theme, 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."¹⁴¹ 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 a democratic system 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

¹⁴⁰ 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

¹⁴¹ Honohan, *Civic Republicanism*: 214

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 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, 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."¹⁴²

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 indeed. 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. For Habermas, 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.¹⁴³ Habermas finds a rich notion of collective self-government very important, and for that, as well as the additional reasons outlined above, I think exploring his thought is the next step we should take.

¹⁴² 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>>

¹⁴³ on the point about Dworkin, see Michelman, *Brennan and Democracy*: 25

This chapter ultimately attempts to identify and put into perspective those ideas which I think are 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, particularly in his ‘Between Facts and Norms’. What connects these two authors at the most basic level is the attempt to adapt radical democracy to a liberal democratic setting. As 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”.¹⁴⁴ I think that goes to the heart of the contemporary republican attempt at bringing together liberal and 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.

Hannah Arendt provided, however, 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 counter posed to the instrumental form of republican theory analyzed in the first chapter of the thesis.¹⁴⁵ 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,

¹⁴⁴ Grodnick, “Rediscovering Radical Democracy in Habermas’s *Between Facts and Norms*”: 395

¹⁴⁵ 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)

misunderstood in instrumentalist terms”.¹⁴⁶ 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.”¹⁴⁷

The reason I mention Arendt here as a preamble is that as he himself points out¹⁴⁸, Habermas’s thought on politics rests on one fundamental idea that emerges from the Arendtian notion 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 normative thrust of the concept of communicative power that Habermas adopts from Arendt lies with the republican view that politics entails self-legislating, the self organizing of a political community through deliberative means that finally institute and authorize a legal order. Habermas argues that the ultimate source of authority of the legal system springs from the Rousseauian/Kantian principle of self-legislation. Habermas’ general understanding of laws and the political process as being generated from the principle of collective self-determination is at the core republican.

Arguing that Habermas’ theory of law and politics as developed mostly in *Between Facts and Norms* could be given the attribute of ‘republican’ may at first 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

¹⁴⁶Jürgen Habermas, ‘Equal Treatment of Cultures and the Limits of Postmodern Liberalism’, *The Journal of Political Philosophy* 13, no. 1 (2005): 2

¹⁴⁷ Habermas, ‘Equal Treatment of Cultures and the Limits of Postmodern Liberalism’: 2

¹⁴⁸ for Habermas’ comments on Arendt’s concept of power see Habermas, *Between Facts and Norms*, Polity Press, 145-151: 146

on their own. And also, is it not the case, it can be argued, that Habermas criticizes republicanism and thus appears to disown it?

Habermas combines liberal and republican elements, but that (taken in a very general sense) is in no way something that I would be uncomfortable with in my thesis, 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.

Thus, Habermas is critical of republican theory, but only insofar as it reflects a conservative approach. In fact, the particular version of republican theory that Habermas openly criticizes most closely resembles the 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"."¹⁴⁹

¹⁴⁹ Habermas, 'Equal Treatment of Cultures and the Limits of Postmodern Liberalism': 3

Thus, though Habermas declares himself to be 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."¹⁵⁰ 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 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."¹⁵¹ 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.

3.3 Jürgen Habermas and republicanism

The Habermasian normative construct is structured around three main principles. The first is 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."¹⁵² This principle gives voice to a universalist intuition that is shared with John Rawls, according to

¹⁵⁰ see Habermas, 'Equal Treatment of Cultures and the Limits of Postmodern Liberalism', 3

¹⁵¹ Habermas, Between Facts and Norms, Polity Press: 285

¹⁵² Jürgen Habermas, Between Facts and Norms, MIT Press: 107

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.¹⁵³ 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.”¹⁵⁴ One important point that Habermas tries to make is that argumentation itself, when aimed at reaching a collective consensus on the validity of norms or courses of action, and when unpacked to show its two necessary 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, and yet are participants in inter-subjective 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.¹⁵⁵

Habermas’ thought is not communitarian and 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

¹⁵³ 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

¹⁵⁴ Habermas, *Between Facts and Norms*, MIT Press: 110

¹⁵⁵ Abdel-Nour, ‘Farewell to Justification’, Habermas, Human Rights, and Universalist Morality’: 83.

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 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 sets the scene for a republican approach which is less traditionalist, without entailing a ‘disembodied’ conception of the person. For him, an individual is an agent who is situated in a series of contexts, but is mainly guided in her conduct by communicatively formed social ties and attention to public reason, that is, a form of reason that takes as a reference point the common good, rather than immediate, individual interests.

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.”¹⁵⁶ 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 ultimately 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

¹⁵⁶ Habermas, Between Facts and Norms, Polity Press: 176

oriented and legitimated by the laws citizens give themselves in a discursively structured opinion-and will-formation.”¹⁵⁷ 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-formation that prepares and influences political decision making”¹⁵⁸ that should inform the formal process of decision making, the normative understanding of democracy that Habermas proposes could not be achieved.

3.4 A feasible theory?

In all this talk of procedures, communicative processes, and “the intersubjectivity of a prior *structure* of possible mutual understandings”¹⁵⁹ 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 ‘subject less’ 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.¹⁶⁰ Habermas’ theory shuns however, 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.¹⁶¹

¹⁵⁷ Habermas, Between Facts and Norms, Polity Press: 170

¹⁵⁸ Habermas, Between Facts and Norms, Polity Press: 171

¹⁵⁹ Habermas, Between Facts and Norms, Polity Press: 286

¹⁶⁰ Habermas, Between Facts and Norms, Polity Press: 300

¹⁶¹ Habermas, Between Facts and Norms, Polity Press: 302

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.”¹⁶² This is not to say, however, that political initiative on the part of individuals organizing and acting within civil society is not part of the equation. As the previous statement exemplifies, Habermas 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.

He 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”¹⁶³ 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 to 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

¹⁶² Habermas, Between Facts and Norms, Polity Press: 298

¹⁶³ Habermas, Between Facts and Norms, Polity Press: 302

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 be a deficit of legitimacy, and Habermas' 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 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.”¹⁶⁴

And what about the negative rights that allow one simply not to participate? Does Habermas have any answers to that? 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.”¹⁶⁵ 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.¹⁶⁶

I think the answer to these questions has 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”¹⁶⁷ 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

¹⁶⁴ Habermas, *Postscript, Between Facts and Norms*, Polity Press: 461

¹⁶⁵ Habermas, *Between Facts and Norms*, Polity Press: 120

¹⁶⁶ Habermas, *Between Facts and Norms*, Polity Press: 121

¹⁶⁷ Habermas, *Between Facts and Norms*, Polity Press: 285

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 take a stand on the issue under 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 socialization.”¹⁶⁸

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. 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 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

¹⁶⁸ Habermas, *Between Facts and Norms*, Polity Press: 324-5

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 is at work here that could 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 motivational resources.¹⁶⁹ 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”.¹⁷⁰ Then, there are 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

¹⁶⁹ Habermas, Between Facts and Norms, Polity Press: 130

¹⁷⁰ Habermas, Between Facts and Norms, Polity Press: 131

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.”¹⁷¹

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.¹⁷² 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 factions¹⁷³, 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. If, however, Habermas wants to make his normative model available to reasonably democratic societies more widely, he needs to commit to a more comprehensive normative explanation of citizens’ participation in deliberative processes as a form of political obligation.

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 turn them into legal obligations, and that is understandable, since that would amount to discarding the strong liberal streak in his argument. He does, however, need

¹⁷¹ Habermas, *Between Facts and Norms*, Polity Press: 130-1

¹⁷² see Habermas, *Postscript, Between Facts and Norms*, Polity Press: 462

¹⁷³ see for example Jean Hampton’s rational choice understanding of the formation of political authority in *Political Philosophy*, Westview Press, 1997

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”¹⁷⁴, 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? Habermas believes that religion with its enhanced moral sensitivity has a role to play in the democratic processes of opinion and will formation, and unlike John 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.¹⁷⁵ 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. Habermas claims that communicative action is a good tool in understanding how the spiral of distorted communication can result in a spiral of violence and how mutual understanding, under ‘symmetrical conditions of *mutual perspective-taking*’ is the only solution.¹⁷⁶

¹⁷⁴ Habermas, ‘Equal Treatment of Cultures and the Limits of Postmodern Liberalism’: 15

¹⁷⁵ Habermas, ‘Religion in the Public Sphere’, *European Journal of Philosophy* 14, no.1, 1-25 (2006):

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¹⁷⁶ 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)

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.”¹⁷⁷ 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 by constitutional values”¹⁷⁸ 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.”¹⁷⁹

Thus, should Habermas argue for there being obligations to participate in public debates, to communicate, as well as to be communicative, correlative to the rights to communicate and participate?

“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.”¹⁸⁰

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

¹⁷⁷ Habermas, ‘Religion in the Public Sphere’: 12

¹⁷⁸ Habermas, ‘Religion in the Public Sphere’: 13

¹⁷⁹ Habermas, ‘Religion in the Public Sphere’: 13

¹⁸⁰ Habermas, Appendix II, ‘Citizenship and National Identity’, *Between Facts and Norms*, Polity Press: 499, emphasis in the original

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. 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 the last chapter of the thesis. If citizens are to see themselves as the authors of their own laws, formalized in a legal system, they also 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.

There is a certain ambiguity in how we might try to construct a notion of political obligation based on 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, the duty of civic patriotism could 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.¹⁸¹ The problem, however, with a strategy of republican political obligation that takes the form of a duty towards a just democratic state is that it gets us very close to a Rawlsian version of political obligation. In more general terms, we need to explore republican ideas as identified in Habermas against liberal ideas with a more civic overtone, to make sure that a meaningful republican theory does not end up coming too close to liberal theories to be normatively relevant. Thus, in the next section of this chapter I will investigate what unites and what separates Habermasian and Rawlsian arguments, from the perspective of the notion of 'public reason', as well as look at the notion of deliberation that is at the core of the Habermasian model 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.

¹⁸¹ Pauline Kleingeld, 'Kantian Patriotism', *Philosophy & Public Affairs* 29, no.4 (Princeton University Press, 2000): 338

So far I have identified a different type of republican argument that rests not on the strong affiliation to national identity, but on the idea that people live in a condition of plurality, that they value this condition of plurality and that, through the reflective use of communication, they are prompted to reach understanding. Communication 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 those who are affected by them. 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. This argument in itself requires a more thorough defence, which we will mount in the next chapter. Before we do that, however, we need to look more into how republican values would be different from liberal values with a more civic emphasis. As I will argue in the next chapter, these values should be articulated and defended as political obligations, and a general justification for republican political obligation should stand behind them. One specific form of republican political obligation which we can derive along Habermasian lines would be to pay heed to public reason when participating in public deliberations. The notion of ‘public reason’, which usually refers to the kinds of reasons that can be used in public contexts of argumentation, is not however, an exclusive republican idea, but is used by liberal authors from Hobbes to Rawls. I think that it also underscores a more civic mindset in political theorizing and since our arguments for republican political obligation could be seen to come close to some liberal threads of thought, it is helpful to reflect on how such a notion would be interpreted in republican rather than liberal terms before we mount a full justification for a republican notion of political obligation.

3.5 Republicanism, public reason and deliberation

I have argued so far 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 promoting 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, and second, how distinctive is the use of deliberative democracy? In order to assess that I will look at how Habermas’ approach to public reason compares to that of John Rawls. The notion of public reason refers to invoking ideas of common good when making public arguments rather than making recourse to private, individual reasons. In its contemporary formulation, this notion is entangled with a form of democratic common good in a republican-sounding assertion by Rawls: “Public reason is characteristic of a democratic people: it is the reason of its citizens, of those sharing the status of equal citizenship. The subject of their reason is the good of the public (...).”¹⁸² Thus, it provides us with a window of insight into the differences between liberal and republican understandings of civic attitudes. We take here Habermas’ position to represent the republican view and Rawls’ position the liberal one. If at times the cross-over between their theoretical stances and the grey areas they cover makes the labeling of their positions ambiguous, we hope nevertheless that we will be able to gain a better understanding of what a fuller republican notion can stand for by undertaking this comparison.

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.”¹⁸³ According to the standard liberal view, institutions shape individual character and

¹⁸² John Rawls, *Political Liberalism*, Columbia University Press, 1993: 213

¹⁸³ Duncan Ivison, ‘The Secret History of Public Reason: Hobbes to Rawls’, *History of Political Thought*, XVIII, no.1, (Spring 1997): 126

engender civic attitudes. The basic institutional structure of society comes, according to Rawls' classical formulation, under the stringencies of 'public reason'. The choices that individuals make outside the basic structure of society, in their private roles, are not relevant to or governed by the principles of justice. One liberal critic argues that the choices people make in the various roles they fulfill in society, in their day-to-day existence should also be governed by principles of justice so much so that a radical egalitarian ethos should emerge as governing a coherent just society at least according to Rawls' specification of the particular notion of justice as fairness?¹⁸⁴ G.A Cohen's argument that incentive inequalities are not in line with Rawls' understanding of a just society, and that a radical egalitarian ethos pertaining to individuals in their private capacities has to complement a just basic structure points to a tension that will become apparent in the following analysis of Rawls' views.¹⁸⁵ Even if we do not feel bound to endorse Cohen's argument about an ideal of radical equality that permeates all spheres of life, above and beyond the basic structure, since republican arguments are not committed to a specific notion of justice like the one Rawls argues for, his critique makes an interesting point. Rawls is concerned with the character of a democratic society and its endurance, and claims that these are dependent on social virtues that inform people's motives¹⁸⁶, and yet he focuses his attention on an institutional structure that is indifferent to people's motives. By arguing for a sense of public reason in the wider civil society, Habermas clearly steps over this traditional liberal threshold of institutional focus and argues for a wider sense of moral responsibility, without going as far as to disregard individual freedoms such as the freedom of occupation, which Cohen appears to suggest to be necessary in order to fulfill a notion of a just society according to the principles of fairness. Whether a republican notion of society still amounts to a credible 'justificatory community' despite not endorsing a

¹⁸⁴ Cohen, 'The Incentives Argument', *Rescuing Justice and Equality*, Harvard University Press, 2008: 27-87

¹⁸⁵ on this point see Michael G. Titelbaum, 'What Would a Rawlsian Ethos of Justice Look Like?', *Philosophy & Public Affairs* 36, No.3, 289-322, 2008: 315

¹⁸⁶ "(...) in their conduct, citizens not only comply with the principles of justice, but they also act from those principles as just.", John Rawls, *Political Liberalism*: 77

radically egalitarian society as the one Cohen suggests, remains to be seen in the next chapter, where I argue that a notion of republican political obligation goes some way in grounding a republican argument.

Rawls and Habermas have a consensual understanding of public reason and expect rational convergence on conflicting views to finally emerge through a process of reflection and discussion. The context and content of this consensus are however different. I trust that the differences we will try to capture in the following brief analysis are indicative of the fault lines between republican and liberal arguments. Both Habermas and Rawls 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.¹⁸⁷ In fact, it was Rawls who actually said that there was nothing incompatible in classical republicanism with political liberalism.¹⁸⁸ Rawls, however, argues that justifications based on public reasons should only ensue in the formal sphere of politics, among public office holders, when constitutional matters are at stake. Habermas wants to widen the applicability of public reason to civil society. Habermas welcomes comprehensive ideas in political debate and thinks that the stringency of a ‘public reason’ approach should apply not only in the context of formal politics but most importantly, in the wider context of civil society, while Rawls does not welcome ideas from comprehensive viewpoints in political debates and thinks for the most part that public reason should apply only to the basic structure of society.

Thus public reason means different things for Rawls and Habermas. For Rawls, it circumvents pluralism by imposing a strict, political conception of justice, whose principles

¹⁸⁷ 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

¹⁸⁸ John Rawls, ‘Political Liberalism’, (Columbia University Press, 1993): 205

are the only reasons allowed in public debate over constitutional essentials. It is supported by a moral duty of civility, the disregard of which implies according to Rawls, a disregard for the freedom and equality of one's fellow citizens. 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 adapt their views in light of an overlapping consensus. Thus, for him, public reason refers to a set of principles that are the subject of consensus of those who fall under the jurisdiction of the specific democratic polity. For Habermas, on the other hand, the notion is less substantive in that it refers to an argumentative attitude. This entails respect for others' opinions and beliefs and a willingness to change one's 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 entailed according to Habermas in the process as such of argumentation. This is an anti-fallibilist, cognitivist understanding of argumentation. As it will become apparent, the difference between Rawls and Habermas in its essential outcome is that Habermas endorses the standards of deliberative democracy not as pertaining only to the formal fora of politics, as Rawls does, but also as pertaining to the wider civil society. Habermas claims to justify the sort of polity that republicans have generally endeavored to convince us of through unexpected means: for, in his own words, his is "(...) a normative theory that replaces the expectation of virtue with a supposition of rationality."¹⁸⁹ In turn, John Rawls conceives of public reason as a modern form of civic virtue.

¹⁸⁹ 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

The 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 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. In a revised statement of his position¹⁹⁰, Rawls also 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. Thus, I think it is fair to say that he mostly works with a liberal notion of ‘public reason’ even if he is waving at points in the direction of 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 regard Rawls is going in a republican direction, more so 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’¹⁹¹, 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’ 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’, to come close in other words to a republican line of argumentation that goes beyond mere institutional

¹⁹⁰ John Rawls, ‘Public Reason Revisited’, *The Law of Peoples*, (Cambridge/London, Harvard University Press, 1999): 137

¹⁹¹ John Rawls, ‘Public Reason Revisited’: 137

considerations. In interpretative terms, that would fall in line with a certain critical approach that does not view Rawls as a minimalist theorist, and which emphasizes his work's communitarian overtones.¹⁹² As Brian Barry points out, with 'Political Liberalism' John Rawls distances himself from the idea that the principles of justice as fairness could be the basis for a stable liberal society in the absence of their convergence with the comprehensive ideas of the good that individuals hold. If such a skepticism about the "motivational force of Rawlsian-style justice when it conflicts with conceptions of the good" is a component of the communitarian position, Barry goes on to say, Rawls himself is a communitarian. He is not a communitarian, however, in the more distinctive communitarian sense of conceptions of the good being non-revisable parts of one's identity.¹⁹³

According to Rawls, 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.¹⁹⁴ There is an important ambiguity at work here. It would seem that Rawls's 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'¹⁹⁵, he allows, however, that reasonable comprehensive doctrines may be made part of public, political discussion, but only if the reasons derived from such

¹⁹² Stephen Mulhall and Adam Swift, *Liberals and communitarians* (Oxford, UK : Blackwell, 1992)

¹⁹³ Brian Barry, 'John Rawls and the Search for Stability', *Ethics* 105, 874-915, July 1995: 890; see also footnote 22, same page.

¹⁹⁴ 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.

¹⁹⁵ see Rawls, 'Public Reason Revisited'

comprehensive doctrines are replaced, 'in due course' with proper political reasons.¹⁹⁶ Rawls refers to the Abolitionists and to the Civil Rights Movement, that 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 confused 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.¹⁹⁷ This may sound like a contradiction in terms and strips 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 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.¹⁹⁸

What is important to notice now is that the idea of public reason as Rawls promotes it is very limited and specific. This limitation in scale (the basic structure of society) is more generally, what Rawls usually has in mind in 'Political Liberalism' when he speaks of 're-tailoring' to the domain of 'the political'. Public reason applies to political discussions but not to all, only

¹⁹⁶ see Rawls, 'Public Reason Revisited': 144

¹⁹⁷ 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

¹⁹⁸ for a classification of modes of public justification see Ivison, 'The Secret History of Public Reason: Hobbes to Rawls': 127

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 act on behalf of 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.¹⁹⁹ 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 in, but only in those that relate to issues of fundamental justice. This theoretical delimitation is difficult to grasp as it is difficult for example, 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. 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 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.

It may be surprising then, that Rawls works with a complex conception of the person, which is a fundamental meeting point between the republican and political liberal theoretical

¹⁹⁹ 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.

standpoints, only that the latter exhibits less of the rhetorical flourish on the subject of civic virtue. Thus, according to Rawls, citizens of liberal democratic states are reasonable, 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 of 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 if they actually do live in a society where they feel like ‘free and equal citizens’.²⁰⁰ 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. 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.”²⁰¹

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.”²⁰² John Rawls

²⁰⁰ Rawls, Political liberalism: 19

²⁰¹ Rawls, Political liberalism: 54

²⁰² Rawls, Political liberalism: 53

thus 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 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 in not doing so.”²⁰³

Rawls points out that in order to be fully autonomous or “to become full persons”²⁰⁴, 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 proactive conduct on the basis of public principles that he expects of citizens of a democratic society, not mere 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.”²⁰⁵

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

²⁰³ Rawls, Political liberalism: 76-7

²⁰⁴ Rawls, Political liberalism: 77

²⁰⁵ Rawls, Political liberalism: 77-8

defining political society, not just to follow them out of rational or egoistic reasons, then this extends the areas in which citizens should act in a civic-conscious 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 reasonable moral psychology”²⁰⁶ because they are prone to cooperation around fair principles of justice, 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’.²⁰⁷

This confusing wavering comes from Rawls’ differentiation between the idea of public reason and the ideal of public reason.²⁰⁸ 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.”²⁰⁹

In fact, Rawls stipulates that ideally, citizens should view themselves as legislators, this being an intrinsically moral duty²¹⁰: “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

²⁰⁶ Rawls, Political liberalism: 82

²⁰⁷ Rawls, Political liberalism: 86

²⁰⁸ Rawls, The Law of Peoples: 134-5

²⁰⁹ Rawls, Political liberalism: 71

²¹⁰ Rawls, The Law of Peoples: 136

vital to its enduring strength and vigor.”²¹¹ 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 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, that 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 particular 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 she thinks is right or true, but on the basis of what public reason dictates. Voting thus takes on, as Rawls himself points out²¹², 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 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

²¹¹ Rawls, The Law of Peoples: 135-6

²¹² Rawls, Political liberalism: 219-20

should do so only by considering the public reason²¹³, so it is not clear why he also says that such stringencies should apply only when the voting concerns 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.

According to Jürgen Habermas, John Rawls fails in his declared project of reconciling the liberty of the ancients with the liberty of the moderns by ultimately giving priority to liberal basic rights over “the democratic principle of legitimacy”.²¹⁴ Habermas’ main criticism 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.²¹⁵ 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.”²¹⁶ 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 point out once again 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.

²¹³ see Rawls, previous quote, *Law of peoples*: 135-6

²¹⁴ 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): 110

²¹⁵ Habermas, ‘Reconciliation through the Public Use of Reason: Remarks on John Rawls’s Political Liberalism’: 112

²¹⁶ 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.²¹⁷ Also, the discussion of issues of fundamental justice is 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 in the Rawlsian understanding.²¹⁸

²¹⁷ Ivison, 'The Secret History of Public Reason: Hobbes to Rawls'

²¹⁸ Lott, 'Restraint on Reasons and Reasons for Restraint: A Problem for Rawls' Ideal of Public Reason', 79

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 himself points out, there are many different, reasonable doctrines that people embrace and that are built on particular notions of justice.

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.²¹⁹ 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."²²⁰ Thus, on the one hand, the exercise of public reason is instrumental for the endurance and quality of democratic polities, and on the other, public reason is an

²¹⁹ see Rawls, 'Public Reason Revisited', *The Law of Peoples*: 136

²²⁰ 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

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.”²²¹ If they fail in that, it is a show of disrespect for their fellow citizens and they thus violate those persons’ freedom and equality. In postulating the use of public reason as a duty of civility, Rawls, is I think, clearly going beyond the classical liberal discourse of toleration, which is in the undercurrents of his work on political liberalism.²²² Or at least he does so when he talks of the ‘wide’ understanding of public reason. The ambiguity remains however, and it may be unclear at points where his normative commitments finally rest. It may be fair to say that he is ready to defend the narrow view of ‘public reason’ rather than the wide understanding.

Habermas’ notion of public reason may appear to afford more clarity at first: 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

²²¹ Rawls, *Political liberalism*: 217

²²² 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

all sides and change their opinions if found lacking.²²³ In that sense, Habermas offers a middle-ground alternative of the reasonable discussion of comprehensive claims.²²⁴

Is it true, as one critic argues²²⁵ 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? 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 argumentation, irrespective of how artificial and unrealistic it may seem²²⁶, it is certainly not clear how Habermas hopes to resolve the problems that pluralism of interests and worldviews (especially the latter) are 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.²²⁷

One idea is that conflicts of value have a ‘right’ answer. But that seems difficult to accept. Another idea that Habermas suggests, as pointed out by Thomas McCarthy, is that, when

²²³ McCarthy, “Kantian Constructivism and Reconstructivism: Rawls and Habermas in Dialogue”: 62

²²⁴ McCarthy, McCarthy, “Kantian Constructivism and Reconstructivism: Rawls and Habermas in Dialogue”: 62

²²⁵ Abdel-Nour, ‘Farewell to Justification’, Habermas, human rights, and universalist morality’: 75

²²⁶ 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

²²⁷ see also McCarthy, “Kantian Constructivism and Reconstructivism: Rawls and Habermas in Dialogue”: 55

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 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”.²²⁸ But that, in effect brings Habermas closer to Rawls.

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, but he is more inclined, in the way he designs ‘public reason’, to the perspective of ‘the observer’.²²⁹ In doing so, however, he stifles the breadth of deliberation, and indeed limits the scope of democratic sovereignty. 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.

Throughout this investigation of public reason, we have tried 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

²²⁸ McCarthy, “Kantian Constructivism and Reconstructivism: Rawls and Habermas in Dialogue”: 56

²²⁹ See Thomas McCarthy on the point regarding the two different perspective and the Rawlsian preference

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.

What ultimately sets 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 reason "springs from the idea that valid political decisions are arrived at in a process of public justification."²³⁰ 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

²³⁰ See Iseult Honohan, Civic Republicanism

does not have to amount to a vision of participatory democracy as such, but to the more modest idea of deliberative democracy.²³¹ 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.²³²

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 contestation²³³, but it is intrinsically related to Habermasian arguments. According to the general strand of this republican argument, common goods need to be defined politically. The conclusion of such a line of republican argumentation is that “There needs to be an expanded public realm of *deliberation*.”²³⁴ Thus, it would appear that if we follow this line of argument, republican thought requires at its core deliberation.

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

²³¹ Emily Hauptmann, , “Can Less be More? Leftist Deliberative Democrats’ Critique of Participatory Democracy”, *Polity*, 33, no.3 (2001): 397-421

²³² see for this point, Goodin, “Folie Republicaine”: 55-76

²³³ Iseult Honohan, *Civic Republicanism*: 236-7

²³⁴ see Iseult Honohan, *Civic Republicanism*: 215

pursuit of a common good”.²³⁵ Both say that in the act of voting, citizens should express more than personal preferences.²³⁶ 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.²³⁷ 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.²³⁸ Democracy does not have to be co-extensive with deliberation: some notions of deliberation 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.²³⁹ Finally, “integral to the idea of a deliberative democracy is then some idea of *public reason*”²⁴⁰, which can equally be said about the republican position.

²³⁵ 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

²³⁶ 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

²³⁷ 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

²³⁸ see also Freeman, ‘Deliberative Democracy: A Sympathetic Comment’: 388-89

²³⁹ 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

²⁴⁰ Freeman, ‘Deliberative Democracy: A Sympathetic Comment’: 377

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 preferences²⁴¹, 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?²⁴² 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.²⁴³

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* approach.²⁴⁴ 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 broader civil society out of the picture.²⁴⁵ 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.²⁴⁶ The paradigmatic example of a micro deliberation setting is, I think, the setting of a constitutional

²⁴¹ Susan Stokes, ‘Pathologies of Deliberation’: 123-139 and Jon Elster’s ‘Introduction’, 1-18, Deliberative Democracy, ed. Jon Elster (Cambridge University Press, 1998): 8

²⁴² for the discussion of the diversity of concepts of deliberation see Jon Elster, ‘Introduction’: 1-18, Deliberative Democracy: 8

²⁴³ this is mentioned in Hendriks, ‘Integrated Deliberation: Reconciling Civil Society’s Dual Role in Deliberative Democracy’, 491, with reference to Dryzek.

²⁴⁴ for this dichotomy see Hendriks, ‘Integrated Deliberation: Reconciling Civil Society’s Dual Role in Deliberative Democracy’

²⁴⁵ Joshua Cohen, ‘Reflections on Habermas on Democracy’, Ratio Juris, 12, no. 4 (Dec 1999): 390

²⁴⁶ Hendriks, ‘Integrated Deliberation: Reconciling Civil Society’s Dual Role in Deliberative Democracy’: 493

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.²⁴⁷ 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.²⁴⁸ 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), who endorses radical democracy, and thus, cannot be simply assigned to the *micro* deliberative box, since what he promotes is, in his own words, "a more institutionalized version of radical democracy, based on an idea of directly-deliberative polyarchy."²⁴⁹

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 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."²⁵⁰ Habermas

²⁴⁷ Hendriks, 'Integrated Deliberation: Reconciling Civil Society's Dual Role in Deliberative Democracy': 486-7

²⁴⁸ Hendriks, 'Integrated Deliberation: Reconciling Civil Society's Dual Role in Deliberative Democracy': 493

²⁴⁹ Joshua Cohen, 'Reflections on Habermas on Democracy': 390

²⁵⁰ John Rawls, 'Public Reason Revisited': 155

envisages the process of communication in a less controlled way, and trusts 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 come in with 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 critical 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.²⁵¹ 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.²⁵²

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

²⁵¹ 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

²⁵² 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

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. This form of deliberative argument, which is so similar to Habermas' ideas is part of the strand closer to radical democracy and is a form of macro-deliberation rather than micro-deliberation. 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."²⁵³ 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.

²⁵³ Honohan, Civic Republicanism: 228

Chapter 4: Republican Political Obligation- A Justification

4.1 Introduction

After examining three different republican propositions, each with its particular emphasis, we now need to focus on the core issue that can unravel republican thought beyond its diversity.

I mentioned in the introduction that my efforts in this dissertation were part interpretive, part reconstructive and part constructive. This chapter contributes to the constructive part of the thesis. I will argue that exploring a general moral justification for republican active citizenship, by trying to devise a republican notion of political obligation can help us better place the normative relevance of republican thought on the map of contemporary political theory, it can help us understand on the one hand why some form of active civic participation is necessary for upholding democratic systems in the long-run, and on the other, how this enhanced notion of republican citizenship can be grounded morally. Republican authors' more marked efforts at institutional or socio-political theory notwithstanding, I think that if we were able to construct and defend a republican notion of political obligation, we would be in a better position to assess the normative core of republican arguments. After having surveyed various arguments for republican values, I think the distinctiveness of contemporary republicanism could be defended if we were able to come up with a normative justification for why people should take active part in public life rather than merely obey just institutions.

I argue in this final chapter that constructing a justification for political obligations from a republican perspective would be the most appropriate way to go about achieving a normative justification for republican citizenship. Also, I argue that a justification along the lines of role obligations is the most appropriate route in grounding particular republican obligations to participate in public life. This not only strengthens the republican case, but it provides a

needed addition to the role obligation account of political obligation in general, by constructing an argument around the role of ‘citizen’ in a reasonably just democratic state, rather than using the usual analogy-based arguments that prevail in the associative obligation camp.

Thus, the chapter is made up of two main structural blocks: the first explores more systematically why a notion of political obligation from a republican perspective is the appropriate form a normative argument for republican citizenship should take and the second tries to define the justificatory outline of such a notion. After setting up the scene for considering arguments for political obligation from a republican perspective in the introduction, I go on to look into various objections we might encounter or steps we may need to clarify before I construct a justification of republican political obligation. Thus, in the next section of the chapter I unpack the most basic assumptions behind arguments against political obligation in general, and how republican ideas might be able to answer those. Then, I go on to ask whether political obligation is a useful conceptual tool for republicanism or whether we are better off sticking to arguments from virtue or other motivations individuals may have for enhanced civic participation. Finally, I argue that a justification of republican political obligations should take an associative or rather, a role obligation form and I discuss some of the existing accounts of associative obligations and how I think they are flawed, in a way that a republican notion of political obligation should be able to avoid. In the final section of the chapter I go on to construct a justification of republican political obligation around the role of citizen in a reasonably just democratic society.

The essential message that republicans want to convey, whether it is from the point of view of freedom as non-domination, from that of republican citizenship based on national identity or

from the point of view of self-government through public deliberation is that democratic societies as we know them, are bound to fail unless citizens take active part in public life. The sense behind this claim is that institutions are frail, enacted as they are by individuals who may not be as virtuous as we want them to be in the company of power. Unlike the concern with the virtues and moral character, the classical republican concern with power and its corrupting influence is no less relevant today than it was in ancient Rome or Greece. When entering the game of politics, individuals may face more stringent obstacles to acting on the grounds of morality. Even the most well-intentioned may find it difficult to act on the right reasons they had first intended once they are caught up in the competitive game of party politics, with all its complexities and strategizing. Corruption, interference of special interests or misrepresentation by public officials are then real threats to democratic societies that the public needs to deal with. This concern underlies a more profound and basic fact about the character of political association: no political association is a static, unchanging framework of organized, collective life. Political associations are organized around frameworks of basic principles structured in the form of constitutions, but these principles that define the common grounds and rules of collective life are subject to interpretation and reinterpretation. That is the case for democratic political associations, which reinvent themselves through the collective power of their citizens. That is how political life is conducted, in the mode of public change and reinterpretation. The authority of political institutions is thus not the inherent property of those institutions but subject to constant reexamination in the acts of public life. The basic sense of vigilance that republicans call for is thus informed by a broader awareness of the dynamic character of the public culture that informs political institutions.²⁵⁴

²⁵⁴ On a strong argument regarding the non *a priori* character of civil authority see Bhiku Pharekh, 'A Misconceived Discourse on Political Obligation', Political Studies XLI, 236-251(1993): 241-44

Civic participation is, according to the republican theorist a necessary safeguard against the derailing of democratic systems to special interests. This raises the one crucial question that looms over the republican project: how to account for or ensure civic participation. In a way, this is the single, most central question that all the authors we looked at try to answer. It is not just an empirical question, as it sometimes may seem when perusing their texts, but also a normative question. Is civic participation in whichever form various republicans wish to conceptualize it an exclusively contingent matter left to the conventions, laws, institutions and educational systems of particular societies or is it morally grounded? Can we give a moral justification to republican civility? This chapter tries to do just that, and in this way put more effort into the normative work that should underlie the republican project. As we saw from the arguments I analyzed so far, there are attempts at giving normative explanations to republican values, but I think what is lacking is a more general moral justification of republican citizenship.

It may seem at first, when approaching republican arguments that they are built around a fairly anachronistic emphasis on civic virtue and the dispositions individuals need to exhibit as active participators. While republican authors discuss certain traits of character that may be useful, they do not claim that their arguments simply assume pre-existing widespread civic dispositions, but only a ‘modicum’ of virtue²⁵⁵, and look instead for reasons that people might have for taking part in public life. Habermas for example endeavors to ground, in his own words, “(...) a normative theory that replaces the expectation of virtue with a supposition of rationality.”²⁵⁶ I argue that exploring a general moral justification for republican civility,

²⁵⁵ Pettit, Republicanism, A Theory of Freedom and Government: “But I shall assume that citizens in general can be adequately motivated by the sanctions of the law, given a modicum of the civic virtue described in the next chapter.”: 206

²⁵⁶ 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

which a notion of republican political obligation would be able to provide, is a more useful way of discussing the normative relevance of contemporary republicanism.

There is, however, no clear or consistent tackling of the notion of political obligation by the republican authors we discussed, a striking silence, which is as surprising, as one author remarks, as in the case of communitarian authors: “For the communitarian, political obligation is something that ‘goes without saying’; that, at any rate, seems to explain why communitarians seldom talk about it.”²⁵⁷ While Pettit, Miller or Habermas have at best an ambivalent attitude towards the notion of political obligation, there are those republican authors such as Iseult Honohan who more or less casually employ this concept and thus at least explore the possibility of a general, moral justification for republican values, but there is no concerted effort at careful argumentation as such for a republican notion of political obligation.²⁵⁸ I will argue in this final chapter that the core issue that can unravel republican thought is indeed the notion of political obligation. I will try to explain in the following why I think that to be the case. Then, I will proceed to build up a justification for a republican notion of political obligation.

4.2 Arguments against political obligation

The first objection we need to start from, which we need to consider before we proceed to build up a republican notion of political obligation, is whether political obligation as a conceptual tool has run its course or not. The question is not only whether political obligation is the right concept to use in relation to republican arguments, but whether it is useful at all. Political obligation is usually seen to be derivative from some other more basic moral principle. There is a moral duty not to kill, but there is no duty to obey some law, to pay taxes or take part in civic deliberations. Moral requirements of this nature would then have to be

²⁵⁷ Richard Dagger, ‘Membership, Fair Play, and Political Obligation’, *Political Studies*, Vol.48, 104-117, 2000: 105

²⁵⁸ For Iseult Honohan’s views see her *Civic Republicanism* (London & New York: Routledge: 2002)

derived from something else, from a more basic moral principle, from a voluntary act or a non-voluntary affiliation.

Debates surrounding the notion of political obligation are particularly haggled, shrouded as they are in the controversy of whether political obligations exist in the first place.²⁵⁹ In fact, at the extreme side of this skepticism, some claim that if it were to exist, political obligation would be “a moral perversion”.²⁶⁰ 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 based on the basic quality of moral agency. Starting from the fundamental assumption of moral philosophy according to which men are autonomous moral agents, 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 requires that we be our own masters, and political obligation binds us towards acts that are not of our own choice, but are imposed from the outside, then it would seem that political obligation cannot possibly be justified. At least not according to skeptical or philosophical anarchist authors.²⁶¹ These views may seem extreme and therefore unserious, but they radicalize a classical liberal undercurrent of thought according to which individuals give direction to their lives and cannot be morally overruled by supra-individual structures. It is this basic liberal skepticism that has proven difficult to overpass in providing justifications for political obligation.

²⁵⁹ For the sceptical view see Robert Paul Wolff, ‘The Conflict Between Authority and Autonomy’, *In Defense of Anarchism* (New York: Harper & Row, c1976)

²⁶⁰ see Joseph Raz, ‘The Obligation to Obey: Revision & Tradition’, *Notre Dame Journal of Law, Ethics & Public Policy* 1 (1984): 139-55, 161

²⁶¹ 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’

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 that the individual determine what she ought to do by seeking information, building up knowledge, reflecting on and predicting what the likely outcomes may be.²⁶² With its emphasis on deliberative or contestatory democracy, republicanism as a political theory can be seen to hold at least the promise of being better equipped to address such objections. It may in fact make sense to try to buttress the idea of an obligation to obey the law by first establishing political obligations to take part in public deliberations on issues of concern, to make use of public reason when part of such debates, and potentially to contribute to the welfare of co-citizens, thus enabling them to take part on an equal basis at the debating table. If such a demanding notion of moral autonomy as the one Wolff invokes is said to defeat the notion of political obligation in the first place, it makes all the sense to try to look into a more demanding understanding of political obligation that could comply with moral autonomy. This consideration gives us, I think, an additional reason to explore a republican notion of political obligation.

Another common basic form of criticism voiced by critics of the notion of political obligation and apparent in critical arguments of republicanism comes from the skeptic's corner, who argues that the only conceivable ground for political obligations is consent-based. According to this line of argument, individuals are born into specific political communities and that

²⁶² See Wolff, "The Conflict Between Authority and Autonomy": 12-3

arbitrary fact alone allegedly has wide-reaching moral consequences: an individual is said not to be able to identify with the cooperative scheme of a political community she is simply “dropped into”.²⁶³

The popularity of this common assumption and primary source of skepticism with regards to arguments of political obligation cannot be underestimated. And yet, political communities are not just sets of individuals that happen to have been born inside the borders of the same state and happen to lead their lives without any relevant ties to the collective structure that underlies that political unit. This would draw a highly implausible picture of modern political life. Rawls points out, for example, that due to the non-voluntary character of membership in a nation-state, and the formative character related to a specific society with a specific culture, we cannot be said to accept freely the government’s authority. Still, he goes on “(...)we may over the course of life come freely to accept as the outcome of reflective thought and reasoned judgment, the ideals, principles, and standards that specify our basic rights and liberties, and effectively guide and moderate the political power to which we are subject.”²⁶⁴

4.3 Is political obligation the right concept for republicanism: considering objections

Now that we have briefly exposed the basic assumptions behind criticisms of political obligation more generally, and before we proceed to develop the justification for a republican notion of political obligation, there are still more specific objections to this project that we first need to address. In its most basic understanding, political obligation refers to “a moral requirement to act in certain ways in matters political.”²⁶⁵ The way the claim to enhanced political participation is raised by republican authors immediately brings to mind the notion of political obligation, for this “has always been very intimately associated with the notion of

²⁶³ A. John Simmons, Justification and Legitimacy, Essays on Rights and Obligations, Cambridge University Press, 2001: 23-4

²⁶⁴ Rawls, Political Liberalism: 222

²⁶⁵ A. John Simmons’ most basic explanation of what political obligation is, in Moral Principles and political obligations (Princeton University Press, 1981): 3

citizenship, and has often been thought of as something like an obligation to be a “good citizen” in some fairly minimal sense.”²⁶⁶ Republican authors indeed appear to use ‘civic virtue’ and ‘good citizenship’ interchangeably but is it an obligation of good citizenship that they have in mind: “republican laws need the support of republican norms: the support in other words, of republican forms of virtue or good citizenship or civility.”²⁶⁷

Contemporary republican arguments all verge on the idea that active citizen participation is necessary in a democratic society: “ordinary people have to maintain the eternal vigilance that constitutes the price of republican liberty”.²⁶⁸ For Philip Pettit, this is not necessarily an instantiation of the Rousseauian/Kantian proposition according to which a certain kind of individual autonomy can only be obtained through participation in public life, by giving laws onto oneself, but expresses instead his instrumental credo:

“Democratic participation may be essential to the republic, but that is because it is necessary for promoting the enjoyment of freedom as non-domination, not because of its independent attractions: not because freedom as a positive conception would suggest, is nothing more or less than the right of democratic participation.”²⁶⁹

Habermas, on the other hand, embraces the notion of autonomy as self-government and is bound therefore to make explicit not only the argument that some form of civic participation is necessary to safeguard the workings of democratic systems against failure caused by the corruptibility of those in power or systemic failures more generally, but also the argument according to which the very legitimacy of democratic systems depends on widespread civic participation: “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 engaged in

²⁶⁶ Simmons, Moral Principles and Political Obligations: 5

²⁶⁷ Pettit, Republicanism, A Theory of Freedom and Government: 251

²⁶⁸ Pettit, Republicanism, A Theory of Freedom and Government: 280

²⁶⁹ Pettit, Republicanism, A Theory of Freedom and Government: 8

the process of reaching understanding about the rules for their life in common.”²⁷⁰ I will not focus on this latter argument, because I think that would have to take us through a more convoluted and unpromising line of reasoning starting from the idea that individual autonomy requires very robust public participation. For our purposes, I think it is enough to follow through the more modest and pragmatic claim that some forms of civic participation are necessary to ensure against the arbitrariness of government even in reasonably just democratic societies.

The corruptibility of people in power and the disagreement characteristic of complex societies loom constantly over the good workings of democratic systems. It may be a reasonably accurate thing to say that the republican arguments we have looked at so far all end up saying, one way or another, that viable democratic systems require that citizens have the power to hold public officials to account. In order to achieve that, they need to have opportunities to participate in public life. Republican authors are adamant about members of democratic societies having a right to hold their officials to account but do they also have an obligation? Does republican civility amount to a set of obligations? Do republican authors need to go as far as to say that no democratic state is viable unless people hold public officials to account? That may stretch it too far, but I think they should be saying that a functioning democratic system requires an obligation to hold public officials to account and to participate in the setting of the public agenda, even if this obligation is a *prima facie* form of obligation that may be overruled by other moral considerations. I argue that republicans should have the normative courage to say that contestation, taking into account the common good when voting, deliberation or whatever form of civic duty they may have in mind, represent in fact just that: obligations to act in a certain way in matters political. Then they need to build a

²⁷⁰ Habermas, ‘Postscript’, Between Facts and Norms (Polity Press, 1996): 461

plausible justification for the notion of republican political obligation and possibly show what it specifically entails.

There are, however, immediate objections that come to mind, against taking up this approach. When theorists talk about political obligation they usually mean the obligation to obey the law. In a general but standard understanding, 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 to support state institutions.²⁷¹ Thus, political obligation is normally taken to refer to the obligation to obey the laws, to pay taxes, to do jury duty when called upon. For republicans though, 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 who are unable to do the same for material reasons.

Republican theories in general, are not particularly concerned with obedience to law (though obedience to law has to be part of it) but with the processes surrounding the making of the laws and their implementation, the thought behind it being that “legal compliance is occasioned or reinforced by widespread civility.”²⁷² For republicans, as Pettit emphatically points out, laws are not arbitrary impositions on individuals’ moral autonomy as long as they are reached and implemented in a critical, deliberative manner. Also, “the point is to create a testing environment of selection for the laws, rather than to have laws that are consensually designed.”²⁷³ The republican focus is not on majoritarian or consensual democracy, but on deliberative democracy. The republican emphasis when it comes to political obligation will

²⁷¹ 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*, Vol.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

²⁷² Pettit, *Republicanism, A Theory of Freedom and Government*: 247

²⁷³ Pettit, *Republicanism, A Theory of Freedom and Government*: 280

therefore not be on obedience to law as such, but on some form of participation in the making of laws and oversight of the post-legislative process, with legal compliance being an upshot of these. Thus, I am looking here at a much thicker interpretation of political obligation taken to imply, along republican lines, an obligation to be a participator in public deliberations, to do so in a reasoned and open way, and in general, to be ready to contest government decisions when there is a need for it. Though this goes against the usual, legalistic focus in talks of political obligation, it is not counter-intuitive, since the notion of political obligation is usually conceptualized in the relevant literature as an obligation to support and obey the political institutions in one's country beyond mere legal obligations.²⁷⁴

Another potential criticism that follows up from this is that with this more general approach to political obligation, once we abandon the stricter, legalistic interpretation of the notion, indeterminacy and variability easily creep in. It is no longer entirely clear what the obligations are, nor whether these obligations entail the same thing for everyone. It is certainly the case that republican political obligation will be indeterminate compared to the limited interpretation of the obligation to obey specific laws, and it may also vary in the way it applies to different people according to a set of relevant features, but that is not an argument against exploring republican political obligation. Parental obligations are also indeterminate and variable in content depending on the relevant qualities or opportunities parents have, and yet, we would not want to say that they do not have moral weight. The idea that political obligations should have a determinate content falls in line with the legalistic reading of political obligation that tries to counter, by taking this narrow route, the skepticism surrounding the chances of success of a liberal justification of political obligation built on liberal premises. There are those, however, who certainly argue for a wider understanding of

²⁷⁴ Simmons, "Moral Principles and Political Obligations", Introduction: 5

political obligation that includes our moral responsibilities in the public realm beyond obeying the law.²⁷⁵ And this, I think, should not be surprising, since liberal political morality has a broader scope. Rawls for example, is not only speaking of reasonable citizens as being able to agree to and abide by fair terms of cooperation. He also expects them to promote, support and reform reasonably just democratic institutions.²⁷⁶ Presumably, these difficult tasks would require some civic involvement on the part of the citizenry more widely, even though in the end, as pointed out in the previous chapter, Rawls sticks to the limited, formal understanding of deliberation. It is clear, however, that obeying the law does not exhaust his understanding of the general sense of moral responsibility or the ‘duty of civility’ as he calls it, incumbent upon citizens of reasonably just liberal societies. Also, the relevance of an obligation does not rest on it being enforceable, but on its moral character. Laws or regulations may or may not be backed up by moral reasoning. One can build arguments to show that there is a general obligation to obey the law just as one can build arguments to say that there is an obligation to support just institutions in some more substantive way than what liberals are prepared to argue for. The force of their respective justifications should not be deemed to be different just because the first kind of obligation has a coercive character, is therefore enforceable and has a definite content, while the second is indefinite, open-ended and incoercible. I think an obligation is no less of an obligation if it cannot be legally enforced.

Another set of objections comes from the question of the notion’s appropriateness. Is it appropriate at all to think of republican enhanced citizenship in terms of political obligation? Should we not rather discuss virtues as enabling conditions for civic participation or maybe

²⁷⁵ on this point see Horton, ‘In Defence of Associative Political Obligations: Part One’, *Political Studies*, vol 54, 427-443, 2006: 439; see also Bhiku Parekh, who argues for differentiating three types of obligations altogether, legal, civil and political obligations, 1993, ‘A Misconceived Discourse on Political Obligation’, *Political Studies*, 41 (2): 236-51

²⁷⁶ John Rawls, *Political Liberalism*: 204

just reasons that individuals may have for getting involved in public life? I will sketch in the following my main reasons for weighing republican arguments on the scale of ‘political obligation’ rather than using other types of arguments, such as arguments from virtue ethics or a limited consideration of the various reasons and motivations that individuals may have when taking part in public life.

My foundational intuition is that by trying to clarify a republican notion of political obligation we could sharpen the republican argument and try to test it in a clearer way against usual criticisms, one of which is lack of normative clarity or completeness. Saying that individuals are prompted to civic action by personal traits of character or that they have their reasons and motivations for wanting to be active citizens, does not appear to match the breadth of the political or normative claims of republican theories, nor does it vindicate their insistence that such theories are not anachronistic, that they are not unfeasible for contemporary democratic societies, which have very little in common with ancient Rome or ancient Greece. I do not see in republicans’ writings an effort to discuss civic virtue from the point of view of virtue ethics. That would entail treating the idea of people participating in public life as a deeply entrenched personal trait of character that would define the person’s outlook and enable her to consistently ‘do the right thing’ in the public space. Even though they are more optimistic about the possibility of citizens acting as moral agents in the public arena, I think republicans share with liberals the basic skepticism regarding the ready availability of consistently virtuous citizens, and do not embark, at the end of the day on a discussion of personal traits of character: “ (...) while virtuous people conform to the norms spontaneously, few are wholly or permanently virtuous, and their motivation may benefit from reinforcement by the pattern of approval and disapproval on offer.”²⁷⁷

²⁷⁷ Pettit, Republicanism: 244

Still, why should we conceive of republican civic participation, loosely understood as involvement in deliberation on public matters, in terms of political obligations when we can simply say that people have reasons to be active citizens or that they are prompted by virtues when they decide to participate? While I do use the term civic virtue throughout the thesis as a shorthand for the kind of republican civic behavior that I discuss, I certainly do not think that a discussion of republican arguments in terms of traits of character is appropriate in shedding light on a family of ideas in political theory that claims to have contemporary normative relevance. There is no mistaking that republican authors or some liberal authors for that matter invoke various traits of individual character such as the virtues of tolerance, reasonableness, open-mindedness, inquisitiveness as necessary in the practice of civil society deliberations. But it is equally clear that these authors do not embark in their work on building up theories of virtue. Also, they do not think that citizens of existing liberal democratic systems exhibit the necessary virtues that could account for widespread participation, but only a ‘modicum of virtue’. Republican authors do not use ‘civic virtue’ in their arguments from the point of view of virtue ethics, but from the vantage point of political theory, which is concerned with identifying reasons for action that can apply to a wide constituency, usually the members or citizens of a nation-state.

Thus, republican arguments circumscribe right courses of action for citizens to take in political contexts. In fact, if it were virtue ethics that were the real conceptual framework of some of these republican theories, then Philip Pettit for example would not be spending so much time trying to show us how to engender good citizenship practices. He would not discuss at length ways to ensure the legitimacy of law, social processes that foster civic behavior, nor would he discuss the importance of identification with certain groups as a way

to foster civility. Virtue is a solitary and voluntary business; it refers to dispositions and sensibilities.

Republican authors, however, indicate that citizens face moral requirements to act in particular ways in the public sphere. The requirements of action are more at home with arguments of obligation, than with arguments of virtue. Also, while virtue is a notion that refers to individuals as persons, the idea that individuals as citizens should act in a certain way welcomes the notion of obligation, which implies that something is owed to someone else or to something within the polity, which pertains to the public sphere. Since republican authors are interested in telling us something about the relationship between citizens and the nation-state, the notions of political authority and obligation naturally come to mind. My quarrel with the use of the notion of virtue and its pertinence in grounding republican ‘good citizenship’ thus falls into several categories. First, as we will see ahead, some republicans do use civic virtue and political obligation to mean the same thing: the practice of ‘good citizenship’. Second, virtue theory is mainly concerned with the person and the self, while political obligations are owed to someone or something within the polity, thus accounting better for republicanism’s concern with the communitarian character of republican society. Third, obligations should be discharged irrespective of individual inclinations²⁷⁸, and thus represent a more stable explanatory platform for the republican ideal of citizenship. The moral weight of the argument is not with the nature of the act of participating, or with the qualities of the agent carrying out the act, but with the relationship among citizens and between citizens and the state. Finally, virtues are dispositions embedded in the individual, while republican authors want to explore reasons individuals qua citizens may have in acting in certain ways.

²⁷⁸ on this point see Simmons, ‘Moral Principles and Political Obligations’: 7

For these broad reasons, ‘political obligation’ seems more suited for us as a platform to understand the claims republican authors make. It could be further argued, however, that we should just limit ourselves to saying that individuals have reasons to participate in public life. Saying that someone has a reason to act or is motivated to act in a certain way does not necessarily entail, however, that she is morally required to act in that way. Do republican authors not want to say that citizens are morally required to be active citizens or in other words that they have political obligations? If they do not want to make this claim, then what is the nature of their assertion that citizens should take active part in public life? It might be helpful to survey at this point what our authors of interest have to say about political obligation in order to gain a better understanding of this.

Philip Pettit shies away from discussing political obligation because he thinks that his republican efforts are better placed with issues of institutional design and social mechanisms of engendering civic virtue, than with what he calls “more metaphysical or foundational matters”:

“Political theorists have long neglected such questions in favour of more metaphysical or foundational matters. They have preferred to spend more of their time reflecting on the meaning of consent, or the nature of justice, or the basis of political obligation, than they have on mundane issues of institutional design.”²⁷⁹

Despite his adamant, anti-foundational statement, Pettit is, however, also pointing out that institutional or legal design are helpless in the face of a lack of widespread civility:

“Republican laws will reliably attract compliance, then, and people will reliably enjoy the freedom as non-domination which such laws hold out as a prospect, only when the laws are buttressed by suitable norms, only when legal compliance is occasioned or reinforced by widespread civility.”²⁸⁰

²⁷⁹ Pettit, Republicanism: 240

²⁸⁰ Pettit, Republicanism: 247

Amongst the most important measures that the state can take to bring about civility, according to Pettit, is to ensure the legitimacy of law. The way to do that is two-fold. On the one hand, the ideal of freedom as non-domination should be represented as the common good that laws are designed to promote. On the other hand, the state should be a forum of contestatory democracy. While Habermas is rather more explicit on this point, Pettit also implies that deliberative democracy is a necessary condition for political legitimacy.²⁸¹ Despite using a wide mix of institutional, social and legislative mechanisms to enhance civic virtue, Philip Pettit insists that

“The most important thing for the state to do by way of encouraging the widespread civility that it needs for its own success is to establish the republican legitimacy of its laws in the public mind; and this it can best do by being an effective, contestatory democracy.”²⁸²

The emphasis on the legitimacy of laws denotes the emphasis on the notion of authority, which in turn, traditionally raises the question of political obligation.²⁸³ Even if Pettit is more interested in investing his efforts in institutional theory, he cannot neglect foundational issues such as the moral justification for civility. A notion of republican political obligation could achieve just that.

David Miller, who supports a republican form of citizenship, actually endorses explicitly an associative notion of political obligation, which derives from national identity:

“The potency of nationality as a source of personal identity means that its obligations are strongly felt and may extend very far (...). But at the same time, these obligations are somewhat indeterminate and likely to be the subject of political debate;”²⁸⁴

²⁸¹ Pettit, Republicanism: 252-3

²⁸² Pettit, Republicanism: 280

²⁸³ On an argument for the correlativity of state legitimacy and political obligation see A. John Simmons, ‘Justification and Legitimacy’, *Ethics* 109, 739-771 (July 1999): 746

²⁸⁴ Miller, On Nationality, Oxford: Clarendon Press, 1995 or Citizenship and National Identity. Polity Press, 2000: 70

He points out that these obligations that flow from shared identities are indeterminate and vary according to the public culture and the political debate dominant at a certain time, in a certain political community: nationality “is strangely amorphous when we come to ask about the rights and obligations that flow from it.”²⁸⁵ He thus clearly goes beyond a legalistic notion of political obligation as the simple obligation to obey the law. The obligations that Miller envisions are somewhat indeterminate and contingent on the specific nation-state, though they stem not only from tradition, but particularly from a shared public culture taken to be the product of rational deliberation: “So, although at any time it may be possible to say roughly what the obligations of the members of nation A are, these obligations in their particular content are an artifact of the public culture of that nation.”²⁸⁶ I think that at a higher level of generality, we could argue for republican political obligations beyond national specificities and in this way cast more light on the commonalities of the role of citizen in reasonably just democratic societies.

Finally, Habermas, who combines liberal and republican elements in his pitch for discursive or deliberative democracy as a form of self-government, seems to be reluctant to say that active participation in public debates or the use of public reason are moral requirements of the kind that political obligation implies. His concern may be that one should not bring into politics issues of morality or that one should not slide towards moralistic views of community and duty. Habermas thinks, however, that “(...) 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.”²⁸⁷ I think it becomes apparent, however, that there is one argumentative step further that Habermas should make. He will not say that civic

²⁸⁵ David Miller, *On Nationality*: 68

²⁸⁶ Miller, *On Nationality*: 69

²⁸⁷ Habermas, *Between Facts and Norms*, Polity Press: 130-1

participation and communication are legally enforceable because that would violate basic liberal principles, and yet he maintains that

“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.”²⁸⁸

The civic behaviour that Habermas finds so essential for the good functioning of democratic systems should not be legally enforceable. It can and should, however, be perceived to be morally required, if indeed the faith of democracy rests on it. And therefore, more effort should be put into building a justification for republican political obligations that would show us why indeed such civic behaviour is morally required.

“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.”²⁸⁹

In arguing that a notion of republican political obligation could shed light on the republican claim we are certainly not on virgin territory. Andrew Mason’s argument, which we highlighted in a previous chapter, appears to be the most promising, and our justification here will to some extent parallel his reasoning, but provide a more comprehensive and analytical justification. Also, there are those republican authors who make an explicit argument for political obligation, and use civic virtue and political obligation interchangeably, such as Iseult Honohan, Richard Dagger or Andrew Mason.²⁹⁰ Thus, Honohan, for example, points out that

²⁸⁸ Habermas, ‘Religion in the Public Sphere’: 13

²⁸⁹ Habermas, Appendix II, ‘Citizenship and National Identity’, *Between Facts and Norms*, Polity Press: 499, emphasis in the original

²⁹⁰ Honohan, Iseult. *Civic Republicanism*, London & New York: Routledge, 2002; Mason, Andrew. “Special Obligations to Compatriots.” *Ethics*, 107, no. 3, Apr. 1997: 427-447; Dagger, Richard. *Civic virtues, rights, citizenship and republican liberalism*. New York, Oxford: Oxford University Press, 1997

“civic virtue takes various forms, from more passive self-restraint to active public service and even to resistance. It does not mean simply more *obedience or deference to authority* than in a liberal system. It should be noted that it is an obligation between citizens rather than to any central authority.”²⁹¹

4.4 An outline of associative obligations

Republican authors insist that “republican laws will reliably attract compliance (...) only when the laws are buttressed by suitable norms, only when legal compliance is occasioned or reinforced by widespread civility.”²⁹² Republican authors expanding on their strategies for ‘civic virtue’ have all tried to justify their call for enhanced civic participation by coming up with reasons that citizens may have to get involved in politics, more broadly understood. For Philip Pettit, the motivational resources for contestation can be generated by the informal affiliation of individuals to some form of ascriptive group generically understood whose causes the individual embraces and may want to defend and promote. David Miller’s strategy is straightforward in that it squarely relies on the sense of personal identity that individuals are said to recognize with their national community of belonging. National identity is taken to represent a solid motivation springboard for citizens’ participation in deliberations on matters of common concern. We found that in both cases, even if we were to be convinced that the reasons for participating in contestation and deliberations were plausible, which was disputable, the results of such motivational strategies could easily be, in Pettit’s case a divisive polity and in the case of Miller’s theory of republican citizenship, a conformist political society. We found Jürgen Habermas’ theory of democratic self-government through deliberation most promising in defending a republican argument. His understanding of democratic political communities is that of associations of citizens endowed with communicative power, who ‘owe each other reasons’ and who exercise collectively a form of self-government by participating in deliberative settings of civil society. He is, however, at a

²⁹¹ Honohan, Iseult. *Civic Republicanism*, London & New York: Routledge, 2002: 166

²⁹² Pettit, *Republicanism*: 247

loss when it comes to telling us why people should get involved in civil society, in the informal and formal deliberations that he sees to be so necessary for upholding democratic institutions. And yet, the central, republican claim of these authors remains that democracy is dependent on the civic involvement of citizens for its strength and endurance.

Out of the three classes of moral requirements that give us a pretty good overview of the range of political obligation theories out there, a republican theory is likely to fall neither in the class of a requirement that was generated by some voluntary act, nor in that of moral requirements which are incumbent on all humans because of the very nature of the act that is required (the natural duty account). Instead, a republican justification of political obligation is most likely to belong to the class where requirements are based on a special, though not necessarily voluntary relationship.²⁹³ A distinct sense of political association is one common denominator of the three theories we analyzed and it is an associative outline of political obligation that we should look into when developing a republican understanding.

An obligation to be ‘a good citizen’ understood in the thicker, republican manner, would thus be a form of associative obligation, an obligation that is based on the relevant membership in a group or which is attached to the fulfillment of a role or position. 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 to these categories of people to whom we are connected via some relevant relationship more than to those to whom we are not connected at all.

²⁹³ On this typology see A. John Simmons, *Justification and Legitimacy*, Essays on Rights and Obligations, Cambridge University Press, 2001: 45

According to the general role obligation account, people incur obligations because they are part of groups defined by a social practice within which they fulfill certain roles characterized by certain duties²⁹⁴ or, according to a more individualized account²⁹⁵, 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. However, 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.”²⁹⁶ 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 identification with one’s polity* and recognition of the obligations by individuals²⁹⁷ or the *principle of reflective acceptability* of role obligations.²⁹⁸ 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 constructed in two steps, by first saying that obligations flow from mere membership, and then adding that identification with the polity is a necessary, further condition, 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

²⁹⁴ See Ronald Dworkin, *Law’s Empire*, Fontana Press, 1986

²⁹⁵ See M. Hardimon, *Role Obligations*, *The Journal of Philosophy*, vol xcl no.7, July 1994

²⁹⁶ Yael Tamir, *Liberal Nationalism*: 135, quoted in Richard Dagger, ‘Membership, Fair-Play and Political Obligation’, in *Political Studies*, 2000, vol.4: 109

²⁹⁷ see John Horton, *Political Obligation*, Humanities Press Intern., 1992: 154

²⁹⁸ see M. Hardimon, *Role Obligations*, *The Journal of Philosophy*, vol xcl no.7, July 1994

not really ground them normatively.²⁹⁹ 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. An argument based on identification would bring though republicanism too close to a communitarian theory where contexts of socialization and identity seem to overshadow anything else that might be of equal or higher moral importance.

The associative obligations theory is most prominently identified 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 obligations are special, in that they are owed to members and not to non-members, and they are personal (they are owed to persons, not to institutions). Also, they personalize an equal concern for the well-being of the other members of the political community.³⁰⁰

This is an anti-voluntarist, acquired obligation account. Just as Miller, Dworkin does not think that political theory should be grounded on general morality, and argues that we should start from social 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.

²⁹⁹ for this criticism, see for example Richard Dagger, Membership, Fair Play, and Political Obligation: 109

³⁰⁰ see Dworkin, Law's Empire, Fontana Press, 1986

Nevertheless, because the theory insists that as members of the community, we are bound to follow the conventional rules that happen to govern the community, as long as we recognize the value of that community, I think this strategy for political obligation is open to similar criticisms, specifically the charge that it can well justify obligations towards stifling communities, which do not create enough space for civic reinterpretation of the relevant social practices. However, unlike the other, more straightforwardly communitarian versions of the associative obligation argument, an individual's identification with the community she is part of is not the basis for the obligation. Instead, membership in existing associations defined by certain social practices is buttressed by the valuable and morally relevant character of the associations in grounding political obligations. This is an important point to build our republican notion of political obligation on: it is not mere membership in any kind of community that can ground political obligations. The morally relevant character of the community is crucially important in grounding those obligations. I think, however, that we need to put more normative stock into the character of association than Dworkin does, especially if we are to try to justify more than obedience to law. I think, in other words, that a reasonably just democratic community is the kind of morally relevant type of association we should start our argument from.

For us it would be more promising to look at the role of the citizen, and how an explanation of that role could maybe ground republican political obligations. Can we then think of obligations of citizenship as simply being attached to the role of citizen and could they ground thick obligations of civic participation as the ones republicans usually invoke? That does not sound feasible since invoking the role of citizen by itself is not saying much by way of justifying moral requirements. We could then add that this is not any kind of citizen that we have in mind but one who is a member of a reasonably just democratic society. Republican

theory should thus recognize that its application is only limited to reasonably just democratic societies. Thus, this is admittedly a more modest role-based justification of political obligation, one that rests clearly on the valuable character of the role in question. This is the role of a citizen in a liberal democratic society. An appeal to the justice or value embodied in the association of a liberal democratic society functions as a background condition in order for role obligations to be generated. Is such a demanding normative description of the relevant kind of association that can ground republican obligations necessary though? Could we not maybe say that any kind of association can ground political obligations along republican lines?

One account of political obligation along associative lines, which resonates at first look with a republican view is that proposed by John Horton, who builds his argument around the analogy of obligations that family members have to one another with those that citizens might have to one another. He claims that it is not unreflective identification that brings about obligations. His is a theory that in effect claims that most 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.

What I find lacking in this argument is a more robust explanation of the role of citizen as such. This lack may have to do with the fact that Horton's account of political obligation, unlike ours is not limited to liberal democratic political communities, but is construed to apply to any type of political community.³⁰¹ Political obligation is seen to derive from 'the generic good of order and security' that a political community entails. By achieving order, security and stability, a political association is valuable enough to ground political obligation, according to this 'Hobessian argument'.³⁰² Horton also claims that this argument does not preclude the members of the political association from seeking to reform the political structure or values of their organization should they see fit to do so.³⁰³ The argument rests on the understanding of the political association as a solution to coordination and conflict-related problems. The primary concern for security appears to be ranked above and beyond any other concern individuals may have. Do instances of grave injustice perpetrated against some or all members of the political association cancel out, however, the claims to authority and obligation? Horton claims that members are free to challenge the existing structures of the political association, but would not such a challenge be seen to undermine the very values the association is said to base its authority on: security, order and stability? The member's role remains unclear and the obligations he could be seen to be bound to are related mostly to the maintenance of security and stability.³⁰⁴ Such a limited understanding of the value of political association is I think unjustified, given that we have long past the time of Hobessian concerns with the basic stability of political orders (he was writing on the background of the English Civil War), and given that political theory works now with a more complex conception of the person.

³⁰¹ John Horton, 'In Defence of Associative Political Obligations: Part Two', *Political Studies*: 2007 Vol 55, 1-19, 2; I would like to thank David Miller for pointing out these articles to me.

³⁰² Horton, 'In Defence of Associative Political Obligations: Part Two': 8

³⁰³ Horton, 'In Defence of Associative Political Obligations: Part Two': 9

³⁰⁴ Horton, 'In Defence of Associative Political Obligations: Part Two': 14

So far I have suggested that a role obligation is the most hopeful route we can take in developing an argument for republican political obligations. It may be useful to slightly differentiate a role obligation account from the associative obligations account. These two are generally taken as synonyms in the relevant literature, and though it is indeed the case that role obligations are part of a general associative line of justification, I think it is useful to try to separate role obligations and contrast them to a more conservative approach to associative obligations based on identification which I think, would grant a different notion of political obligation: a communitarian one.

4.5 Republican political obligation as a role obligation: a justification

We have now entered the area of the second structural pillar of our final chapter. Until now we have looked into why political obligation is a useful conceptual tool and what would be the general type of justification we could conceive for political obligations from a republican perspective. Now we need to build up the justification for republican political obligation. In the following, I will briefly go over the steps I make in this final installment of the argument. First, I argue that the background condition that explains why civic participation is necessary in safeguarding democratic institutions is the danger of corruption and arbitrariness that looms over any democratic system. Despite institutional safeguards, politics can go wrong given that voting as a sole channel of accountability over those who are in power is subject to the ‘principle-agent problem’ according to which ordinary citizens may not have access to the same kind of information as their agents, so as to be able to make the correct decisions when voting. Then, I go on to argue that investing more civic effort into checking on the course of politics and public life makes sense from the point of view of the valuable character of a reasonably just democratic society and the valuable role a citizen of such a society holds. The main feature of that role is that of inherent moral equality. Despite different endowments or disadvantages that characterize different individuals, it is in their role as citizens of reasonably

just democratic societies that persons manifest their moral equality. Enhanced civic participation not only makes sense, but is morally entailed in the role of citizen of a reasonably just democratic society. The citizen of such a society is a member of a justificatory community ‘who owes reasons’ to the other members of the association and is responsible for the collective upholding of the justificatory, non-arbitrary character of the political association. As citizen of a reasonably just democratic society, an individual is not only obligated not to harm others and to abide by law and just institutions, but she is also morally required to react to lapses in justification of public policies and to provide justifications in the course of that. Also, as a human being, she is driven not by strict-self interest but by a mix of motives, part of which is a sense of responsibility for the political community she is part of. This sense of political responsibility or obligation is shared among the members of particular reasonably just democratic societies and defines their role as citizens.

So what is it about the role of citizen in a reasonably just democratic society that can trigger political obligations? The classical core concern of republican authors is that even the best of democratic systems is bound to fail at some point if it is not watched over, and that serves as our background condition. Why should that be the case? The claim is empirical and moral and gives voice to a traditional republican concern with the long-term stability of political structures unlike much more basic Hobbesian concerns of security. The central concern that sets into motion much of political theory in general is that individuals are motivated by both private and public reasons, that they are both ‘rational’ and ‘reasonable’ as Rawls would put it, and that these motivations may come into conflict.

“Since humans have private interests as well as those they share with other citizens, from the republican perspective the primary political problem is *corruption*. This is understood quite broadly. All political solutions are fragile and require continuous injections of energy to sustain them. People will always tend to be torn between their

private interests and the common good. Institutions too will tend to drift from their original purposes.”³⁰⁵

Representative democratic systems can misrepresent the interests of those who have entrusted public officials with that representation in two ways. Some public officials are downward corruptible at the prospect of easy gain or they are caught up in a competition to stay in power and therefore take up strategic action that sometimes may not serve the best interests of their constituency.³⁰⁶ Also public officials get caught up in complex party machineries or given the diversity of world-views that exist in a single political community, sometimes fail to properly represent some group’s interests and points of view. One classical republican answer to the problem of corruption is of course to promote institutional devices such as checks-and-balances and a mixed government that can minimize the occurrence of corruption inside one institution. These institutional devices are, however, imperfect in dealing with what is usually referred to in the literature as the ‘principle-agent’ problem.³⁰⁷ Representatives and ordinary citizens have access to different kinds of information regarding the political process. It is commonly assumed that citizens are not very well informed, while public officials have inside information on political matters. In keeping its agents accountable, the ‘principles’ or ordinary citizens have recourse to regular elections, but because of the information asymmetry, they may lack the means to make the right decisions. Because of the information asymmetry, elections should then not be the only channel of accountability.

So far, we have argued that corruption or rather corruptibility is a danger that afflicts any reasonably just democratic society. Ordinary citizens can be poorly informed because they

³⁰⁵ Iseult Honohan, *Civic Republicanism*: 5-6

³⁰⁶ for an insightful discussion of the “two faces of politics: politics as the identification and realization of collective aims that require control over the state to come true, and politics as an ongoing struggle for the control over the state.” see János Kis, *Politics as a Moral Problem* (Budapest: Central European University Press, 2008): 14

³⁰⁷ see on this point and on a more general discussion of the principle-agent problem with regards to republicanism, Francisco Herreros Vázquez, ‘Political trust, democracy and the republican tradition’, Iseult Honohan and Jeremy Jennings, *Republicanism in Theory and Practice* (Routledge, 2006), 97-108: 101

lack that special access to information about their agents. Under these conditions, elections as such may simply be insufficient in determining the right agents for office. Not only that, but even the most well-intentioned representatives can endorse policies that do not reflect a proper balance of interests or that stray from initial, desired courses of action. Trying to be well informed about political matters, before and after elections, and getting involved in the diffused forums of public debate that set the agenda of political decision-making may be in this context morally required. Contestation and civic vigilance are the republican solutions to this diminished sense of accountability that is said to characterize the relation between ordinary citizens and their representatives in office.

There is, however, one big assumption in this argument: that a reasonably just democratic polity is worth the trouble. More needs to be said about how and why the role of a citizen in a reasonably just democracy is valuable. The actual ground of the obligation is the role of the citizen in a reasonably just democratic society and its inherent quality of moral equality. There is a broad range of political theorists who worry about the endurance of the democratic political systems they envisage in their normative theories. Rawls for example is worried in his later work that a lack of convergence between individual points of view, steeped in comprehensive notions of the good and the principles of justice embodied in the basic structure of society may lead to an unstable political system. For him political stability is not simply a matter of mere compliance with the rules of a just society: “citizens act willingly so as to give one another justice over time. Stability is secured by sufficient motivation of the appropriate kind acquired under just institutions.”³⁰⁸ It is the basic idea that individuals are not solely motivated by self-interest, but are also motivated by a concern for the common good that drive liberal theorists like Rawls or republican authors to try to come up with

³⁰⁸ John Rawls, *Political liberalism* (New York: Columbia University Press, 1993): 142-3, quoted in Brian Barry, ‘John Rawls and the Search for Stability’, *Ethics* 105, July 1995, 874-915: 882-3

revised normative justifications that account in appropriate ways for both the private and public motivations that an individual may hold: “This reasonable society is neither a society of saints nor a society of the self-centered.”³⁰⁹ The general liberal thought, however, is that the strength of an orientation towards the common good is lower than that of an orientation towards private interests.³¹⁰ Contemporary liberals mostly rely on ‘a moral division of labor’ between individuals and institutions, with the principles of justice in the classical Rawlsian liberal theory, governing institutions, but not individual conduct outside the basic structure of society.³¹¹ As Rawls’ refocusing in ‘Political Liberalism’ on the notion of stability of just societies and his concern with the convergence between private motivations and the principles of justice indicate, there is however a wider, and it seems to me, unrealized normative concern with individuals’ reasons for action that may step beyond a mere institutional understanding of justice. Thus, there are those liberal revisionists who propose to emphasize an individual ethos of justice as a necessary complement to Rawls’ notion of justice as pertaining to the basic structure.³¹² The argument for that is that the kind of society Rawls envisions, which displays mutual respect and fraternity among equal citizens would not be possible in the absence of an individual ethos to support such attitudes.³¹³ Rawls suggests that “the end of political justice may be among citizens’ most cherished basic aims by reference to which they express the kind of person they very much want to be.”³¹⁴ The importance of these claims regarding the moral requirements incumbent on individuals for the stability of a just liberal system remains difficult to discern in Rawls’ work. Also, there is no endorsement of a more participatory or deliberative form of interaction between citizens in Rawls’s picture of

³⁰⁹ John Rawls, Political Liberalism: 54

³¹⁰ See for a broader discussion János Kis, Politics as a Moral Problem

³¹¹ See A.J. Julius, ‘Basic Structure and the Value of Equality’, Philosophy and Public Affairs, Vol.31, No.4, 321-355 (Autumn 2003): 325; I would like to thank János Kis for drawing my attention to this debate.

³¹² See Michael G. Titelbaum, ‘What Would a Rawlsian Ethos of Justice Look Like?’, Philosophy & Public Affairs 36, no.3: 289-322

³¹³ Fort these arguments, see G.A. Cohen, Rescuing Justice and Equality (Harvard University Press, 2008) and Titelbaum, ‘What Would a Rawlsian Ethos of Justice Look Like?’: 299

³¹⁴ Rawls, Political Liberalism: 202

society, though he does paint a justificatory picture of that just society, according to which reasonable citizens are ready to propose, justify and act from principles that others could accept. Republican arguments, I have argued, cannot afford the same equivocation. Republican arguments need to build on these half-articulated ideas that we see expressed in broader political theory, and explain the meaning of the underlying concern with the role of the individual as a moral agent in broader, political contexts.

The role obligation argument works in such a way that the republican obligations that we have in mind, such as taking part in public debates or civil society more widely understood, using public reason when voting and discussing issues of public concern, and endorsing redistributive measures in order to enable co-citizens of more modest means to take part in public deliberation are all features of the citizen's role. The description of this role is not based on a single republican author or line of argument, but represents the summing up and integration of the ideas we explored in Pettit, Miller and Habermas.

We have so far discarded as implausible the assumption that individuals are indifferent members of states which they view, with a degree of indifference, as the result of accidents of birth, and we have admitted as our starting assumption that individuals do recognize their relevant membership or ties to political communities and view them more plausibly as cooperative enterprises. It may seem unnecessary to respond to such evidently misleading assumptions regarding the nature and value of the political communities we are part of, since contemporary liberal political thinkers of all stripes attach value to political communities understood to be, in Rawls' words 'reasonable societies' of cooperation.³¹⁵ And yet, these very assumptions are at the basis of much of the skepticism surrounding attempts at justifying

³¹⁵ Rawls, Political Liberalism: 50-4

political obligation outside a consent type of argument. As I already pointed out, I am not looking into developing a normative argument for the role of the citizen in general, but for the role of the citizen in reasonably just democratic societies. The role is, according to this argument, intrinsically valuable, it is morally relevant, not neutral.³¹⁶ As in the case of friendship, the practice of citizenship is taken to be in this argument intrinsically valuable.

I think Philip Pettit's enunciation of the role of a citizen in his envisioned republican polity is very much to the point: "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."³¹⁷

It is as citizens that we bear the role of equals, above and beyond the differences and inequalities in social life. It is our role as citizens that ensures the safeguarding and promotion of the basic moral relationship of equality between human beings. Citizenship in a reasonably just democratic society ensures the security of our moral status as free and equal human beings. Because of our role as citizens of reasonably just democratic societies, we feel secure and confident in our status. Moral equality and freedom can be achieved resiliently only in the political context of a legal framework of the rule of law whereby our basic human rights are protected. Individual lives, however, are marked indeed by accidents of birth. Many of us are not as talented as others, or are more disadvantaged than others. All of us, however, want to be treated as equals and want to affirm our moral powers. We want not only to achieve our immediate interests and needs, but also to achieve interpersonal recognition and the sense of self-confidence and dignity that go with it.

³¹⁶ Simmons argues that positional duties or role obligations do not require that the scheme that defines the relationships be useful or morally unobjectionable, see A. John Simmons, Moral Principles and Political Obligations (Princeton University Press, 1981): 17; I argue, however, that once we establish a more limited conception of role obligation as part of the notion of citizenship in a reasonably just democratic society, there is no obvious reason why that should be the case.

³¹⁷ Pettit, Republicanism, A Theory of Freedom and Government: 5

Thus, the first point to highlight, which we have first identified when reading Pettit is that human beings are not only self-interested creatures with immediate desires of a more pragmatic sort, but are also defined by a moral concern with their status of freedom and equality. The role of citizen in a reasonably just democratic society is essential in ensuring individuals' moral dignity and status. It may not be so clear how equal our chances are of becoming successful in life given the different endowments that we start out with, but as members of polities, we have an equal say in the shaping of the future of the specific political community we are members of. The vote, usually seen as the central medium that affirms individuals' political equality can be, however, an uninformed, imperfect and practically speaking negligible individual instrument of political expression. Combined with an awareness of the competitive nature of the hallways of power, whereby public officials may stray from adopting right courses of action, this indicates that our status of moral equality that gets expressed in the roles we fulfil as citizens is better served by a more active implication in public affairs than through the limited act of voting.

The second relevant feature is that human beings are communicative creatures who express their rationality by communicating and justifying their actions, reasons and ideas to others. They do that with friends, family and strangers who happen to share their concerns and share or oppose their views. This is what Pettit refers to when he talks of "the ideal of discursive status" and admits that this is ultimately what it comes down to in distinguishing the republican notion of freedom as non-domination from the liberal notion of freedom as non-interference.³¹⁸ The idea of 'communicative power' is also at the core of Habermas' normative model of discursive democracy: "(...) all political power derives from the

³¹⁸ Pettit, 'Discourse Theory and Republican Freedom': 91: "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."

communicative power of citizens.”³¹⁹ Also, 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.”³²⁰

The underlying republican assumption is thus that individuals are conversable and that in their interactions, by making the effort to give good reasons for their actions and positions, they attain an equal, discursive status. The claim is not that individuals who do not participate in public affairs are less equal than others or that they thus lose their equal rights by not participating. The claim is rather that as members of reasonably just democratic societies, individuals acquire an equal status. Is it not the case, it could be argued back, that the members of a totalitarian state also have an equal status, expressed in the role of subservient subjects, which they nevertheless equally share? Yes, but they do not have a free and equal moral status defined by a propensity to cooperate with others on terms all can accept, on grounds of justification through deliberation. It is the citizens of reasonably just democratic societies that secure moral equality, not the citizens of authoritarian states. In that capacity they will be prompted to argue for their points of view or support publicly issues that are neglected or are not properly addressed in formal politics. As an equal, the citizen of a reasonably just democratic society is obligated to his fellow citizens to provide justifications for his positions. He is obligated to preserve that equal standing for everyone who comes under the laws of that particular state, in this way honouring or reaffirming his own equal status.

As a measure of the common concern for moral equality that individuals share, they must be prepared to show the same respect for others’ equal status, they must be ready in other words,

³¹⁹ Habermas, *Between Facts and Norms*, Polity Press: 170

³²⁰ Miller, *Citizenship and National Identity*: 58

to justify their actions and opinions to others. Because one is member of a political community that is represented by a democratic government, as a member of that collective, one is responsible for the actions of the government. When those actions are not in line with what one thinks is right for the political community, when one's equal status or others' equal status are endangered, then republican political obligations are triggered. These are obligations of participating in public forums or in public affairs widely understood and deliberating on matters of common concern; an obligation of paying heed to public reason when deliberating; and finally, an obligation to economic redistribution that would ensure that one's co-citizens are not too disadvantaged for them to be able to fulfil the first two obligations.

Finally, I should say that I do not believe we could ground a general obligation to vote *per se* according to the preferred republican line of argument. Because republicans emphasize that there are different and diffused channels of participation, it is conceivable that in extreme situations, civil disobedience or not voting as an act of public boycotting could be legitimate expressions of public attitude. There would, however, be an obligation in place to vote with the common good in mind, but I think no general obligation can be established from the republican perspective, though regular voting should register as an act of republican citizenship.³²¹ It is true, however, that Pettit, as pointed out in the first chapter of the thesis endorses compulsory voting, but only in the form of a specific policy that may be needed in some cases, to answer specific concerns such as the persistent absenteeism of a minority of electors from voting.³²² Because of the potentially expressive nature of the act of voting as a form of political protest, I am sceptical about grounding a general political obligation to vote in the form of a legal obligation.

³²¹ for a discussion on the duty to vote see Loren E. Lomaski & Geoffrey Brennan, 'Is there a duty to vote?', *Social Philosophy and Policy*, Vol.17, Nr, 1, Winter 2000: 62-86

³²² Pettit, Republicanism: 191

Once again, how does the role of a citizen in a democratic society differ from that of a citizen in a non-democratic society? Is abiding by institutionalized rules what defines the role of a citizen in a just democratic society or does the role essentially entail the preservation of the justificatory nature of that society? A political community in the form of a state ensures security and the introduction of some moral standards in the form of laws in the relationship between human beings. A political community of a democratic nature ensures the introduction of moral standards that the members choose for themselves. A liberal democratic political community ensures that each and every member is recognized as a free and equal citizen whose basic rights are protected by law and ensures as well that each member is recognized as a moral agent in a 'justificatory community'.³²³ This suggests that a liberal democratic society is based on a principle according to which policies that are enacted in the name of all must be justifiable to all members of the polity. Though I borrow this term from G.A. Cohen, I do not endorse his conclusions that this principle of a justificatory community, which he sees to be consonant with Rawls' insistence on a society governed by fraternity and mutual respect, would entitle us to promote only a radically-egalitarian society, since the 'talented rich' would not be able to justify to their poor compatriots an incentive-based policy. I think that the assumption at work here, that people are primarily concerned with their economic status would not follow from the underlying ethos of a 'justificatory community' to start with. Grave inequalities would not be compatible with a meaningful notion of a 'justificatory community' but the idea that a justificatory community would have to be necessarily based on strict equality is premised on a conception of the person where material interest takes precedence over anything else. In general, in their political stances, people make decisions not based on very specific, private interest concerns such as for example how their

³²³ I borrow the term from Cohen, Rescuing Justice and Equality: 43

decision for a particular candidate or party will impact their personal economic prospects, but based on more general concerns regarding the state of the economy.³²⁴

The justificatory community I have in mind is built around individuals who see themselves as moral agents with the power to change the course of things when acting collectively. They see themselves to be bound in their role of equal and free moral agents with an equal say in the makings of a common political project, by the obligation to preserve the justificatory nature of that association. In order to do that, they need to get involved actively in public debates when justification by public officials is found lacking. They are bound by an obligation to public reason when involved in the public sphere, that is by an obligation to give serious consideration to other points of view and justify/moderate one's own in light of those. They are also bound by a consideration towards redistributive measures that can enable others to act as equal parties in a justificatory project.

The first obligation of taking part in common deliberations is general in scope. The context of participation can range from participation in social movements to semi-formal pressure groups on facebook, from participation in street protests to taking part in various discussions organized by civic action groups. It can mean anything from participation in an online forum of a political magazine to participation in more formal debates. The issues that are being discussed are usually the ones that trigger the instance of obligation. When something of particular interest to a specific individual or group of individuals is being raised on the public agenda, then that specific person has an obligation to take part in public discussion. This is not a constant obligation to participate at all times in all public debates that we have in mind, but a more modest obligation that does apply to all the citizens of a polity but is only likely to

³²⁴ for evidence to that extent see Geoffrey Brennan and Philip Pettit, 'Unveiling the Vote', British Journal of Political Science, Vol 20, No.3, 311-333 (Jul., 1990): 325

get instantiated by individual citizens in certain circumstances. Thus, it is at the agent's discretion when and how this obligation is discharged. When issues arise that a particular citizen could make a solid contribution to, and she fails to get involved, we do say that the individual has failed to fulfill her obligation. A wider realm of discretion still applies, however, regarding the manner and time of the performance because public debates in general have a diffused character.

The second obligation which I refer to as an obligation to public reason entails that, once in a deliberative context, citizens should exercise restraint and argue not from a very limited factional point of view, but try to balance their beliefs with the common concerns of their co-deliberators. For David Miller, this meant discussing public matters with a sense of public responsibility, which for him involved making reference to shared principles of the specific political community. We found Habermas' version of public reason more palatable: what citizens are required to do 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. Finally, the third obligation stipulates that citizens should be ready to support redistributive measures designed to empower co-citizens of lower material means to be equal participants and enable them to discharge the first two obligations outlined above.

Republicans argue that the discursive control provided by participation and deliberation in the affairs that concern citizens collectively will strengthen both their position as individuals interested in attaining a dignified status and their self-interested position. This freedom turns to be equated, in the republican tradition, with citizenship because only an active form of citizenship can keep one safe from the domination of a potentially arbitrary government, and can reinforce an individual sense of moral equality. Furthermore, citizenship can be exercised

effectively only under non-arbitrary laws. The notion of political obligation that springs from republican citizenship, 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.³²⁵

While I have argued that republican political obligations do have moral weight in reasonably just democratic societies, there is one objection that we need to address. Individual contributions are in general negligible, so why should individuals bother to take part in public deliberations? While it is much clearer that one individual vote has only a marginal or nil influence on the outcome of an election, one individual arguing his way through public debates could conceivably make a bigger difference in how opinion sways. Of course, it would be much more difficult to measure the impact of an individual in public debates. Still, the task of an individual act of deliberation can seem quite daunting in the face of its potentially small impact. Also, it may be said that, because of the somewhat indeterminate character of these obligations, because the performance of the obligation is at the discretion of the particular individual, citizens may get the wrong impression that they can perform their due at some later stage. Thus, in order to ensure that the performance of the obligations is not taken lightly, we introduce a second dimension to the justification: an argument from fair-play.

³²⁵ For a similar 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

The justification of political obligation from fair-play classically states that the obligation to obey the law is a special case of the more general moral principle of fair play.³²⁶ 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. Also, the advantages that spring from the social practice of the political community can only be secured if nearly everyone contributes. 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.

A republican route of justification would make use of the idea that it is unfair to let others bear the burden of checking on political representatives, or ensuring that government does not become arbitrary, when this is taken to be an important and necessary task, part-and-parcel of the role of a citizen in a robust democratic polity. Of course, free-riding can commend itself as an easy way out, especially in the context when people have other complex responsibilities in their private capacities. First of all, I think the costs associated with participation are not as high as we might think at first look because republican obligations to participate in public life entail the agent's discretion in terms of when and how she will perform the obligation. It is not the case that this is a general obligation in the sense that all citizens are expected to participate at all times in all deliberative contexts. My expectation is that an individual will exercise this republican form of obligation according to her own powers, especially when matters of particular interest to her are being raised on the public agenda. There is thus a level

³²⁶ see John Rawls, 'Legal Obligation and the Duty of Fair Play', Rawls, *Collected Papers* (Cambridge, Mass.: Harvard University Press, 1999): 117-129

of variability and indeterminacy of these obligations. In order to make sure that this character of variability and indeterminacy of the obligations do not play against their consistent performance, we added another feature of fair-play to the justification.

To sum up, I have argued that republican-type obligations to enhanced forms of civic participation can be derived from the role of citizen in a reasonably just democratic polity. The role of a democratic citizen is that of a moral agent in a ‘justificatory community’. As a moral agent in a justificatory community, the citizen endorses and is ultimately responsible for the policies and decisions that the government carries out in her name. She is not responsible for those decisions and policies on her own though, but together with the other members of the polity whose interests are said to be collectively represented and forwarded by civil authorities. As a moral agent endowed in her role as citizen with a status of equal dignity above and beyond personal advantages or handicaps, the individual is charged with a general, political obligation to preserve the justificatory nature of that association that affirms her equal status. If we admit that institutions may deviate from their original purposes and that governments can promote arbitrary or flawed policies, and if we also admit that individuals have a moral concern for freedom and equality, coupled with a discursive disposition, which they can best discharge as citizens of democratically organized political societies, and if we also admit that they see themselves in their capacity of citizens of democratic societies as members of a justificatory community, I think that we can argue that merely obeying the law or abiding by just institutions cannot exhaust the meaning of political obligation. Citizens of reasonably just democratic societies owe each other reasons, to use Habermas’ words, and this justificatory nature of their association grounds obligations of involvement in civic life when public justifications provided by civil authorities are perceived as insufficient or misplaced.

Does such a justification for political obligation respond to the basic criticism leveled at arguments of political obligation more generally, that they fail to ensure the ‘particularity requirement’ according to which political obligations should bind the citizen to the specific state she is member of?³²⁷ A justificatory community is here infused with a sense of political culture and history. Political justification is not only carried in the common language of the specific nation-state, but also in the specific ‘political language’ that characterizes a long-term community of this nature. The status of equal and free citizen is assured only inside the specific nation-state one is citizen of. In the case of an individual having multiple citizenships, residence is an important enabling factor for active citizenship. Therefore, I think that ‘the particularity requirement’ holds.

Another objection that comes to mind is whether such an obligation is not in fact, in a disguised form, an obligation to promote justice. Because our justification is conceived within the confines of a reasonably just democratic society, it may seem that it is so much entangled with promoting just institutions that it may in the end boil down to a general duty to promote justice. Though it may be the case that an upshot of republican political obligations is to promote the just conduct of collective life, the source of the obligation is not a general concern for justice, but derives instead from the role of equal and free citizen in a justificatory community. The basic moral interest underlying the obligation is that of preserving the status of equal moral agent for oneself and for one’s co-citizens.

Finally, it may be argued that by moving away from a limited, legalistic understanding of political obligation towards political obligations that are not legally enforceable, we are diluting the moral force of political obligation in general. I think the non-enforceable

³²⁷ Regarding the ‘particularity requirement’ see Simmons, Moral Principles and Political Obligations: 31

character of these obligations does not diminish their moral force. It does, however, put more strain on a political culture that encourages civic behavior of this nature. It could be asked though, why is then such an argument preferable to a ‘civic virtue’ approach if particular individuals are still free in the end to not exercise their political obligations without being sanctioned by law. How is, in other words, this argument we have tried to construct for a republican political obligation of added value? I have argued that a theory of republican political obligation helps us gain a fuller understanding of republican arguments along the lines of what citizens are expected to do, why they would act in those particular ways and also, how the moral requirement to act in a certain way comes to apply to individuals. I think that by constructing a specific republican notion of political obligation along the lines of a role obligation, we are able to explain why citizens come under “a moral requirement to act in certain ways in matters political”³²⁸, which is at once the most basic understanding of political obligation in general and what republican arguments are all about. By delving into the justification and content of political obligation from a republican perspective we are able to provide a fuller normative justification of contemporary republicanism than is currently available. In the process, we are also able to propose an alternative way of looking at role obligations. Also, this line of argument does justice I think, to the inextricable link between contemporary republicanism and democracy by trying to build a justification for republican political obligations around the role of a citizen in reasonably just democratic societies. Thus, an argument from political obligation can tell us why all citizens of liberal democratic societies should be morally obligated to discharge their republican political obligations even when they lack a specific sense of virtue. Finally, it provides us with plausible obligations, which do not exact too high costs on individuals.

³²⁸ Simmons’ most basic explanation of what political obligation is about, Moral Principles and political obligations: 3

Conclusion

At the end of our excursus in contemporary republican thought, we can say that apart from having learned to appreciate the extent of republican arguments' diversity, we have also learned that the most palpable way to establish the normative salience of republican arguments would be to construct a general moral justification for political obligation from a republican perspective. The surveyed republican arguments range from a theory where the state is expected to track individuals' interests, and civic participation is required in the form of contestation, through a theory of ethical 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 advocates widespread participation in the deliberative fora of civil society. In the first chapter we established that the notion of freedom as non-domination was not all that different from a liberal notion of freedom as non-interference and that thus republicanism' claim to distinctiveness should lie elsewhere. In the second chapter we looked into a republican argument based on national identity and found that this would most likely bring republicanism too close to communitarian strands of thought entailing restrictions on individual freedoms and narrowing the scope for deliberation. Finally, we found a deliberative form of republicanism most promising, but argued that the Habermasian thought exemplifying this discursive form of republicanism was not normatively grounded, that it lacked a clear normative justification of why citizens should get involved in public life and deliberate over matters of common concern. In the final chapter, I argued that such a needed normative grounding could be provided by a justification of republican political obligation. After I explained why political obligation was a better concept to use in understanding republican arguments, as opposed to arguments from virtue, I went on to build a justification for republican political obligation around the role of citizen in a reasonably just democratic society.

For the most part, contestation, which is the cornerstone of the instrumental republican theory explored in the first chapter is 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 an ascriptive group of belonging that an individual, whose rights have not been tracked by 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 groups with specific, conflicting concerns. Also, the notion of freedom as non-domination, in the way Philip Pettit constructs it 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 its discursive element. Pettit himself admits that the notion of freedom as non-domination is better equipped to face its liberal counterpart if conceptualized as a notion that rests on the idea of discursive recognition, on the idea that individuals need not only that their basic rights be protected but also that their sense of esteem be reinforced in discursive exchanges with others.

In the second chapter of the dissertation, after exploring the arguments for grounding republican citizenship on national identity, we concluded that this normative route would lead us to communitarian conclusions that could amount to an ethically constrictive view of society as the reinstatement of a majority's point of view. We also found that the arguments

for republican citizenship and that for the centrality of national identity could be seen to run in parallel. We concluded that national identity was not a necessary platform for republican citizenship. We did discover in David Miller's thought a more basic argument for the importance of deliberation for the republican ideal. Also, his thought opened up for us the route leading to political obligation, since it was in his writings that we uncovered a specific notion of political obligation built around what I called 'republican citizenship as public practice', around the notion that republican citizenship is a good in itself.

This led us to explore Habermas' thought as an instantiation of a discursive republicanism theory. After having justified our claim that Habermas can meaningfully be viewed as proposing republican arguments, I went on to reflect how his thought might be different when compared to liberal arguments with civic overtones. Thus, my comparison of Habermas' ideas on 'public reason' to Rawls' understanding highlighted that a republican route of justification as inspired by Habermas' thought would take a wider understanding of civic participation as pertaining to the whole of civil society and involving ideas from comprehensive viewpoints in the public debate. In order for his argument to hold, however, there was a need, I argued, for a clear justification of republican political obligation. 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.

There, I argued that it is helpful to give a general moral justification for republican, enhanced participation by constructing a notion of political obligation that would go beyond obeying laws or abiding by just institutions. I have argued in this final chapter that developing a justification for republican political obligation and thus outlining a general moral justification

for republican arguments can shed light on the normative relevance of contemporary republicanism, can in other words, make us understand better why some form of civic participation is needed in safeguarding reasonably just democratic societies, and how we can morally ground civic participation. In justifying political obligation, I have shown that this is a superior way to ground republican citizenship compared to say, arguments from virtue. I have further identified the problem of potential corruptibility of representatives in reasonably just democratic societies, and thus the danger of arbitrary government, together with ‘the agent-principle’ issue according to which the information asymmetry between ordinary citizens and political representatives renders the vote into an imperfect, insufficient instrument of accountability. Thus, I have spelled out why, according to republican argument, some form of public participation is necessary in buttressing democratic societies, above and beyond rich institutional safeguards. Then I continued by looking into various avenues for a justification for republican political obligations, such as the obligation to take part in public debates, to do so from public reason and to endorse redistributive policies that would empower less well-off co-citizens and thus enable them to fulfill the first two obligations. Finally, I settled for a role obligation type of justification and identified the value of moral equality as the core, intrinsically valuable feature of the role of a citizen in a reasonably just democratic society. I have then built an argument around this central value of the role of citizen in a reasonably just democratic society and proposed that we can conceive of a role justification for political obligation understood in the thick, republican way. I have then argued that an additional feature of fair-play can be added to the argument in order to ensure against the temptation to free-ride that may be elicited in particular by the indeterminate and variable character of republican obligations.

This thesis has picked up an unrealized normative concern in wider political theory, with individuals' roles in public-political spaces beyond a mere institutional understanding of just democratic societies, in the context of an underlying interest in the endurance and stability of democratic systems. With their focus on enhanced civic participation, republican arguments offer in that sense an opportunity to consider how our role as citizens in reasonably just democratic societies may be morally relevant. Republican arguments, I have argued, need to build on these half-articulated ideas that we see expressed in broader political theory, and expand on the underlying concern with the role of the citizen as a moral agent in political contexts.

Republicans would have to agree in a way, with the philosophical anarchist that “the simple fact that conduct is required or forbidden by law is irrelevant to that conduct’s moral status, even within decent states;” Republicans want to infuse both formal politics and informal politics, the rich civil society practices that are always in the background of government and legislative actions with a deliberative spirit, and a justification for republican political obligation goes some way in establishing the normative salience of that. Republicans do not agree, however, with philosophical anarchism that “we should decide how best to act on independent moral grounds.”³²⁹ Moral judgements get articulated in deliberative exchanges with others. It is not independent moral grounds that we should be looking for but shared or rather deliberated moral grounds as part of a democratic, justificatory society. In the process of public justification, citizens of reasonably just democratic societies secure their status as moral equals. Justification is the basis of morality and public justification is the most stringent test we can put morality to.

³²⁹ for this outline of the philosophical anarchist argument see A. John Simmons, *Justification and Legitimacy, Essays on Rights and Obligations*: 117-8

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