

Rousseau's Constitutionalism

Austerity and Republican Freedom

Eoin Daly



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The Constitution of Symbol and Ritual

By having their minds constantly employed on the arts of luxury,
[men] grow effeminate and dastardly.¹

I. Introduction

While Rousseau's constitutional projects for Corsica and Poland focus a great deal on socio-economic issues and specifically on the goal of fostering a virtuous autarky, they also place very strong emphasis on symbols, rituals and ceremonies as an integral aspect of the constitutional order and as an instrument of republican stability in general. While such matters occupy quite a peripheral role in our contemporary, written Constitutions and attract relatively little attention in constitutional scholarship, Rousseau's symbolic and ritual focus is, nonetheless, arguably quite recognisable in our contemporary constitutional cultures and practices. In fact, it has been argued that Rousseau's constitutional prescriptions for pageantry, festivals, feasts and so forth, presage and resemble in many ways the mild ceremonial practices of our contemporary states, and their function in integrating citizens in a common identity. In turn, Rousseau might be thought of as a progenitor of the civic ritualism found in modern constitutional cultures. However, I will argue that despite the apparent parallels, symbols and rituals occupy a wholly different, more radical function in Rousseau's constitutionalism compared to ostensible later equivalents. In particular, his rituals and symbols aim not to supplement, but to supplant entirely the private ritual and symbolic practices of liberal society, which he views as fundamentally threatening to the republican order and its virtues.

Thus while Rousseau's arguments as to the corrupting effects of cultural practices are well known, I will argue that he offers a critique, pre-emptively perhaps, as to the inefficacy, futility and indeed the hypocrisy of piecemeal

¹ Adam Smith, *Lectures on Jurisprudence* (Indianapolis, Liberty Press, 1982) 540.

ritual and symbolic practices in liberal states whose social orders are marked by complex hierarchies rooted in distributions of cultural and symbolic capital. His civic ritualism can only be understood in light of his critique of liberal culture as an instrument of distinction and social hierarchy. Through the lens of Rousseau's wholly more radical understanding, I will consider the tensions, limits and contradictions of civic ritualism, in the broad sense, as it exists in contemporary constitutional culture. Echoing the book's wider theme, I will argue that Rousseau's focus on the ritual and symbolic dimensions of constitutional design helps to illustrate a liberal blindspot in contemporary constitutional thought concerning the source and constitution of domination itself—and particularly its presence in ostensibly innocent and mundane social forms. However, I will also consider how Rousseau's focus on political affect and emotion speaks to a peculiar object of constitutional design—the cultivation and control of the 'passions'—that is incongruously absent in contemporary constitutional thought, yet which persists, albeit obliquely, in our wider constitutional culture.

I will begin by considering why, and indeed how, contemporary Constitutions address the symbolic and the ritual and relatedly, why this question has been neglected in constitutional thought. I will then compare this with Rousseau's treatment of symbolic and ritual questions in his constitutional projects, and argue against any meaningful similarity. Finally, I will show how Rousseau's implicit rejection of piecemeal civic ritualism, coupled with his critique of privatised ritual and symbolic practices, help to illustrate a blindspot in liberal democratic constitutional thought concerning both the nature and sources of domination in liberal societies, and the function of Constitutions in fostering and channelling the political passions.

II. Symbolism and Ritualism in Contemporary Constitutional Thought

Currently, questions of ritual and symbol lie at the margins of constitutional respectability. Fundamentally, the idea that Constitutions might prescribe, enshrine or even gently cultivate the ritual and symbolic life of the state sits uneasily with the standard liberal-democratic way of understanding the proper purpose and ends of constitutionalism. According to the standard view, Constitutions properly have an allocative or coordinating function that demarcates governmental powers, usually (although not always) a 'negative' function in limiting the reach of state power through rights, and in some cases—though not traditionally in the Anglophone world—a socially-directive function, social or economic, which orients state power towards particular substantive policies or goals. While such taxonomies are of course rough and ready and contestable, the problem, in any event, is that constitutional provisions that prescribe say, flags or festivals, ceremonies

and anthems, cannot easily be located within any such plausible, standard account of the functions and ends of liberal-democratic constitutionalism. Constitutions properly define the state, its functions and its relation to the people, but—it is assumed—are, or should be indifferent as to the emotional and spiritual life of both.

Perhaps this lack of enthusiasm is explained, in part, by a prevailing belief that such constitutional devices serve aims that are illicit or at least highly suspect. In practice, specific symbols and rituals may simply represent constitutional expressions of cultural or ethno-nationalist politics, placing them beyond the pale of respectable liberal aims.² If anything, contemporary Constitutions—far from prescribing symbols and rituals—will tend to *constrain* and regulate their deployment by public authorities (particularly, but not exclusively where they have a religious character). Some of the celebrated landmarks of liberal jurisprudence have involved courts invoking constitutional principles to protect citizens from mandatory participation in symbolic or civic rites³—even where such participation takes the abstract form of tax contributions.⁴ For example, in *West Virginia State Board of Education v Barnette*, a majority of the United States Supreme Court concluded that while compulsory flag-saluting in public schools served a legitimate aim of fostering civic sentiment, patriotism or ‘good citizenship’, this could not trump individual dissent. The majority of the justices emphasised the virtues of voluntarist, organic patriotism over legally prescribed ritual exercises. Justice Jackson suggested that ‘[t]o believe that patriotism will not flourish if patriotic ceremonies are voluntary and spontaneous instead of a compulsory routine is to make an unflattering estimate of the appeal of our institutions to free minds.’⁵

Liberal scruples aside, any vestigial symbolic and ritual aspects of constitutional content might not be considered sinister and dangerous, but simply as trivial and unworthy of much attention. Constitutional provisions dealing with flags, anthems and other such innocent baubles might simply be viewed as embarrassing, but usually harmless anachronisms—as products of historical accident but neither as serving any useful constitutional purpose, nor, however as necessarily undermining the premise and aims of liberal-democratic constitutionalism.

At best, then, liberal thought assumes that ritual and symbolic matters are peripheral to the enterprise of constitutional design. At worst, it will be actively

² See generally Karen A Cerulo, *Identity Designs: The Sights and Sounds of a Nation* (New Brunswick NJ, Rutgers University Press, 1995).

³ *West Virginia State Board of Education v Barnette* 319 US 624 (1943). For Justice Frankfurter, dissenting (at 662), the judgment effectively denied the state ‘the power to employ educational symbols.’ Eric A Posner, ‘Symbols, Signals, and Social Norms in Politics and Law’ (1998) 27 *Journal of Legal Studies* 765.

⁴ See, eg, *Everson v Board of Education* 330 US 1 (1947); *Engel v Vitale* 370 US 421 (1962); *Committee for Public Education v Nyquist* 413 US 756 (1973); *Grand; Rapids School Dist v Ball* 473 US 373 (1985); *Larkin v Grendel’s Den* 459 US 116 (1982).

⁵ Above n 3, 643. He also states: ‘Love of country must spring from willing hearts and free mind (at 641).’

apprehensive towards constitutional content that assumes an identity-affirming function that it considers illicit. And of course, ‘constitutional’ theory—the theory that is concerned with the functions and purposes of constitutions—will be informed, directly or indirectly, by such substantive political theory concerning, say, the legitimate purposes and ends of state power more generally.

In any event, it is anomalous that while symbolic and ritual provisions persist even in quintessentially liberal Constitutions and constitutional cultures, their existence is mostly ignored or unaccounted for by constitutional theory. Normative qualms aside, it is hardly clear why this should be the case. The fact remains: a great deal of our *constitutional politics*—both historically and in the contemporary world—involve questions of symbol and ritual, reflecting, perhaps, a broader identity-affirming function of Constitutions, especially in a context of relatively resilient nationalism. Constitutions themselves are sometimes sources of ritual and symbol.⁶ Symbols and symbolic conflicts are, on the one hand, both prescribed and regulated by constitutional provisions or norms, but more generally, they form part of constitutional culture in its broad sense. The most obvious examples arise in contexts of ethnic or cultural conflict or as part of post-conflict constitutional settlements—in societies like Northern Ireland, with its persistent conflicts over flags and other symbols.⁷ Yet symbolic controversies of this kind are not confined to obviously divided or conflict-ridden societies: in 2015, New Zealand, for example, held a referendum to replace its colonially inflected national flag.⁸ And as we will see, the ambivalent constitutional function of symbol and ritual can be related to a wider, controversial question: the legitimate role, if any, of Constitutions in fostering civic passions and affect.

III. Rituals and Symbols in Corsica and Poland

While in the *Social Contract* Rousseau elaborates the idea of the general will in philosophical and institutional terms, his constitutional projects for Corsica and Poland address the affective dimensions of civic virtue and public reason.⁹ Whereas it is famously mysterious how citizens are to discern the general will in

⁶ For Grey, the United States Constitution ‘has been, virtually from the moment of its ratification, a sacred symbol, the most potent emblem (along with the flag) of the nation.’: Thomas Grey, ‘The Constitution as Scripture’ (1984) 37 *Stanford Law Review* 1, 3. See also Dieter Grimm, ‘Integration by Constitution’ (2005) 3 *International Journal of Constitutional Law* 193.

⁷ See, eg. Flags and Emblems (Display) Act (Northern Ireland) 1954. See also Neil Jarman, ‘Pride and Possession, Display and destruction’ and Dominic Bryan, ‘Between the National and the Civic’ in Thomas Hylland Eriksen and Richard Jenkins, *Flag, Nation and Symbolism in Europe and America* (London, Routledge, 2007).

⁸ Eleanor Roy, ‘New Zealand votes to keep its flag after 56.6% vote to keep the status quo’ *The Guardian* (24 March 2016).

⁹ Jean-Jacques Rousseau, *Du Contrat Social* (Paris, ENAG, 1988/1762) (hereinafter *Social Contract*).

cognitive or deliberative terms,¹⁰ it is clear they must ‘love’ the polity and its laws, both in order to discern the common good and to respect its institutional and legal expressions. Therefore, a crucial function of Rousseau’s Constitutions will be to foster the affective basis of republican citizenship. While this will be achieved partly through the familiar republican devices of public education and civil religion, what is striking in his works in both *Corsica* and *Poland* is the extent to which he emphasises seemingly eccentric constitutional devices—both symbolic and ritual—that will assure the stability and cohesion of republican state and society.

In *Poland*, Rousseau associates symbols and rituals with the genius of ancient legislators or lawgivers, and suggests their purpose was to found a sense of citizenship and political community. He notes that Numa, the early Roman king, created citizens

less by means of laws, which they had yet little need of in their rustic poverty, than by means of attractive institutions which attached them to one another and to their common soil; he did this by sacralising their city with those rites—ostensibly frivolous and superstitious—the force and effect of which is so rarely appreciated.¹¹

Thus he celebrates the ancient legislators for their understanding of the symbolic and ritual dimensions of statecraft. They:

[S]ought bonds that could attach citizens to the *patrie* and to each other; and found these in peculiar practices: in religious ceremonies which were always national and exclusive; in games which kept citizens frequently assembled; in exercises which enhanced their pride and self-esteem along with their vigour and strength; in spectacles which ... touched their hearts, inflamed them with a lively spirit of emulation, and attached them strongly to [the] *patrie*.¹²

Since civic ‘rites’ are ostensibly ‘frivolous’, they need not necessarily develop organically or spontaneously, and can be contrived anew as part of the art of statecraft. Their content, then, is somewhat arbitrary and open-ended. Like Numa, Moses, in particular, bestowed ‘peculiar rites and ceremonies’ on the Hebrews.¹³ In this spirit, Rousseau in *Corsica* and *Poland* prescribes a number of peculiar, often eccentric ritual and ceremonial practices as part of the constitutional structure. In particular, he gives extensive attention to feast days, commemorations and public games. While these are somewhat arbitrary and contrived, he does insist that ritual and symbolic practices should emphasise national specificities: for example, he

¹⁰ Dobel argues: ‘Rousseau’s project resembles less the attempt of someone like Habermas to create the perfect preconditions of rational communication than it does the cases Clifford Geertz examines, in which society struggles to develop a coherent symbolic universe’: J Patrick Dobel, ‘The Role of Language in Rousseau’s Political Thought’ (1986) 18 *Polity* 638, 640.

¹¹ Jean-Jacques Rousseau, *Considérations sur le Gouvernement de Pologne et sur sa réforme projetée* in *Collection complète des oeuvres* (Genève, 1780–89) vol 1 Ch IV; for a translation see ‘Considerations on the Government of Poland’ in Frederick Watkins, *Jean-Jacques Rousseau: Political Writings* (New York, Thomas Yelsen, 1953) Ch 2 (hereinafter *Poland*).

¹² *Poland*, *ibid* Ch 2.

¹³ *ibid*, Ch 1.

asserts: 'let neither the [Polish] king nor the senators nor any public figure wear anything but the national costume. ... you must invent games, festivals and rituals peculiar to this particular court'.¹⁴ In a similarly nationalist spirit, he prescribes periodic public commemorations of Polish liberation:¹⁵ in Corsica, the 'most worthy' of foreigners will be granted honorary citizenship every 50 years and this will be marked by a 'general celebration across the island'.¹⁶

He also identifies a peculiar importance in oath swearing, and composes a collective oath by which the Corsican Constitution will be promulgated:¹⁷ it must be sworn on the same day across the island as a condition for acquiring citizenship. He also specifies an oath men must swear in order to graduate to full citizenship¹⁸ once certain conditions are met.¹⁹

However, verbal communication such as oath swearing occupies a relatively modest role. Dobel notes that since citizens must not only be rationally 'convinced' of the authority of the social compact but also 'persuaded', a-rationally, Rousseau's constitutionalism aims at 'establishing a community of shared meanings'.²⁰ This underlies the need for public ceremonies and rituals to deploy various forms of 'non-verbal communication ... symbols, sound, sight, ritual'.²¹ Thus his prescriptions extend, as we will see, beyond formal ceremonials such as oath-swearing to embrace a diverse scheme of pageantry—festivals and parades, games and celebrations—deploying 'the intoxicating power of ... rich sensual delights'.²²

IV. The Political Function of Symbols and Rituals

Rousseau's emphasis on pageantry and festivity, using civic rituals and symbols, partly reflects his emphasis on experiential and non-verbal forms of political

¹⁴ *ibid*, Ch 3.

¹⁵ *ibid*, Ch 3.

¹⁶ Jean-Jacques Rousseau, *Projet de Constitution pour la Corse* (Paris, Nautilus, 2000) (hereinafter *Corsica*) 82.

¹⁷ *ibid* 51.

¹⁸ 'In the name of Almighty God and the gospels, by a sacred and irrevocable oath, I unite myself, my person and goods, in my will and in all my power with the Corsican nation, to belong to it in all my property, I and all that depends on me. I swear to live and die for the nation, to observe all its laws and obey its legitimate leaders and magistrates, where required by law. Thus may God help me in this life and have mercy on my soul. Long live liberty, justice and the Corsican Republic. Amen.' *ibid* 85.

¹⁹ These conditions are that they are married, have at least two children, and have enough land for subsistence: *ibid* 51.

²⁰ Dobel, above n 10, 639.

²¹ *ibid*.

²² In Putterman's description, 'the intoxicating power of ... rich sensual delights': Ethan Putterman, 'Realism and Reform in Rousseau's Constitutional Projects for Corsica and Poland' (2001) 49 *Political Studies* 481, 487.

education. Historically, signs and symbols—especially flags and statues²³—played a strong role in political communication simply by virtue of limited literacy and education levels and have, to an extent, simply been overtaken by other kinds of political communication. In this spirit, Diderot observed: ‘appeals to the heart by means of the senses [are] more within reach of the common man. The People make better use of their sight than of their understanding.’²⁴ For example, political statues served as an important pedagogical tool in provincial France during the initial fragile phase of the Third Republic, offering ‘an immediate and apparently unmediated way of communicating political values to a people who might be wavering in political loyalties ... [making] it possible for [them] to imagine common membership in this [republican] community.’²⁵

However, ritual and pageantry is not simply an alternative *medium* for communicating republican ideas and concepts. Rather, it speaks to the nature of political cognition and political reason, and ultimately of citizenship and political community itself. Fundamentally, Rousseau’s emphasis on rituals and symbols reflects a broader scepticism towards any vision of abstract political reasoning that is unsupported by passion and emotion.²⁶ Rousseau mysteriously insisted that citizens must not only be ‘convinced’ but also ‘persuaded’ by the social contract: it is noteworthy, then, that the role of devising specific rituals falls to the *legislator*—the mysterious, vaguely paternal figure who endows the republic with its institutions and deploys subtle forms of persuasion to set these in motion. The legislator can use neither force nor political reason as such, but must rely instead on a form of beguilement or enchantment that is achieved primarily through ceremony and ritual. The historic legislators used rituals to generate national and civic passions—Rousseau notes how Moses, for example, used ‘peculiar rites and ceremonies’ to mould a ‘free people’ out of a ‘wandering and servile hoard.’²⁷ Thus as Strong argues, Rousseau’s insistence that ideas must penetrate ‘heart’ as well as ‘brain’ cannot be dismissed as ‘mushy romanticism’; otherwise, such ideas remain ‘unincarnate.’²⁸ Indeed he refers to patriotism as an ‘intoxicating’ sentiment, without which ‘liberty is but an empty word, and laws but a chimera.’²⁹ And as we will see in chapter four, Rousseau’s concern is that purely abstract political discourse, unsupported by affect, is not only ineffective: it also threatens to constitute an insidious tool of domination in the liberal social order.

²³ William Cohen, ‘Symbols of Power: Statues in Nineteenth-Century Provincial France’ (1989) 31 *Comparative Studies in History and Society* 491.

²⁴ As quoted in Cohen, *ibid* 492.

²⁵ *ibid* 492.

²⁶ The Constitution, he says, must ‘elevate souls.’ *Poland*, above n 11, Ch 3. Equally, in the *Social Contract* he says: ‘the State’s genuine constitution’ is ‘graven not in marble or in bronze, but in the heart of the citizens.’ *Social Contract*, above n 9, Bk II, Ch 9. Similarly in *Poland*, he affirms: ‘There will never be a good and solid constitution unless the law reigns over the hearts of the citizens.’ *Poland*, above n 11, Ch 1.

²⁷ *Poland*, *ibid* Ch 2.

²⁸ Tracy Strong, *Rousseau: the Politics of the Ordinary* (London, Sage, 1994) 9.

²⁹ *Poland*, above n 11, Ch 12.

Indeed, while Rousseau's insight is that symbolic and ritual exchanges partly 'determine the quality of our cognition' in politics,³⁰ this equally reflects his understanding of the limits of language. Conventional language enables abstract thought and reasoning, and thus is essential to political authority and citizenship. However, he conjectures that we are unlikely to internalise abstract political concepts without non-verbal and experiential stimuli.³¹ Legal and political concepts are expressed in abstract language yet 'possess no emotional power',³² and worse, in their abstract form they risk becoming simply a plaything, an intellectual parlour game.³³ Rousseau understands that political morality is internalised—and political stability realised—through emotional and aesthetic processes. Thus symbols provide the 'emotional power and persuasiveness' that give life to abstract political language.³⁴ For Dobel, the Rousseauan political imagination will 'crystallise around concrete images'³⁵—'strong but appropriate public symbols'³⁶—we can think, for example, of the simple but potent symbolism of a tricolour flag, or the austere and virtuous political heroes immortalised as statues.³⁷ Public rituals give 'concrete meanings'—practical, experiential and visual—to concepts of liberty and justice.³⁸ Symbols 'form clear pictures which give concrete content to words'³⁹—they ensure 'public meanings' are 'engraved' in citizens' minds.⁴⁰ And while symbols have an important educative function that supplements and supports abstract political thought in visual form, rituals perform the same function experientially, ensuring citizens do not passively absorb symbolic meanings. Therefore political education is experiential and participative: Rousseau affirms it must 'substitute the actions of men and citizens for the sophists' sterile babbling.⁴¹ It is worth noting that emotional and aesthetic processes are valuable not only in assisting the *comprehension* of political concepts: they also facilitate *action*, of the kind that Rousseau lauds in the first *Discourse*, and which he juxtaposes with the aridity of abstract philosophising. His insight, then, is that 'gestures, signs, and ritual ... can undergird morality and politics because they can invoke emotions which influence action.'⁴²

³⁰ See generally Shawn Rosenberg, 'Rethinking Democratic Deliberation: The Limits and Potential of Citizen Participation' (2007) 39 *Polity* 335.

³¹ See generally Dobel, above n 10.

³² *ibid* 646.

³³ Jean-Jacques Rousseau, *Discours sur les sciences et les arts* (Paris, Livres de Poche, 2012/1751).

³⁴ Dobel, above n 10, 648.

³⁵ *ibid* 652.

³⁶ *ibid*.

³⁷ Cohen, above n 23.

³⁸ Dobel, above n 10, 650.

³⁹ *ibid*.

⁴⁰ *ibid*.

⁴¹ Jean-Jacques Rousseau, *Discourse on Political Economy* (1755) in Jean-Jacques Rousseau, *Discourse on Political Economy and On the Social Contract* (Christopher Betts trans, (Oxford, Oxford University Press, 2009) 31.

⁴² Dobel, above n 10, 644. See also, generally, Michael Walzer, *Politics and Passion: Towards a more Egalitarian Liberalism* (New Haven CT, Yale University Press, 2006).

The specific symbols and rituals Rousseau prescribes offer a kind of visual metaphor of republican values; their simplicity is juxtaposed with the ostentatiousness both of monarchical or despotic spectacle, on the one hand, and the frivolity of private luxuries or amusements, on the other: for example, he suggests that athletic festivals will 'divert people from dangerous idleness, effeminate pleasures, and frivolous wit',⁴³ and that military commemorations should have 'a pomp not brilliant and frivolous, but simple, proud and republican'.⁴⁴ Thus he tells the Poles to 'avoid the luxurious trappings used in the courts of kings'.⁴⁵ In imagining spectacles that are appropriate to a republic, he must strike a balance between an aesthetic that is grave and authoritative, yet which eschews any spirit of domination or subordination. Although they must be 'simple', republican spectacles should also be 'noble and imposing', as the 'heart of the people follows its eyes'.⁴⁶ Thus 'the festivals of a free people should always breathe an air of gravity and decorum',⁴⁷ distinguished from pompous extravagance. In proceedings of the Polish Diet there must be 'not only rule and order, but also ceremony and majesty'.⁴⁸ Appropriate spectacles will help dissociate state authority from the 'caprice of arbitrary power'.⁴⁹ Whereas ostentatious 'baubles' express authoritarian caprice, republican symbols will convey the regularity and justice of political authority.⁵⁰ In this spirit, Rousseau prescribes essentially austere symbols: in *Poland*, he admires 'the two wooolsacks placed ... in the British House of Lords'—'a touching and sublime decoration.' Thus he proposes 'two sheaves of wheat similarly placed in the Polish Senate'.⁵¹

Rousseau's understanding of political cognition mirrors his general theory of education. In *Emile*, he emphasises the experiential focus of early education and the 'authority of example' juxtaposed with the sterility of abstract schooling.⁵² Effectively he extends this to an account of how political philosophy is internalised and comes to life. Just as teachers should use non-verbal communication 'to animate the force of reason', political leaders must deploy a similar educative strategy through rituals, in which the regularity and justice of republican power is visually performed.⁵³ This helps to explain what Rousseau means by insisting that citizens must be 'persuaded' as well as 'convinced'. The social contract cannot be presented simply as a 'rational solution' to the problem of social co-operation; republican laws 'must not only be intellectually comprehended but must hold

⁴³ *Poland*, above n 11, Ch 3.

⁴⁴ *ibid.*

⁴⁵ *ibid.*

⁴⁶ *ibid.*

⁴⁷ *ibid.*

⁴⁸ *ibid.*, Ch 7.

⁴⁹ *ibid.*, Ch 3.

⁵⁰ Similarly, wearing badges and symbols will help officials to internalise their civic duties, *ibid.*

⁵¹ *Poland*, *ibid.*, Ch 3.

⁵² Jean-Jacques Rousseau, *Emile or On Education* (A Bloom trans, New York, Basic Books, 1979).

⁵³ *Dobel*, above n 10, 649.

prescriptive power that motivates us to act correctly.⁵⁴ To a great extent, accordingly, Rousseau's programme is focused not so much on the rational communication or doctrinal inculcation of republican ideas, but rather on the exaltation of approved behaviours and dispositions through mechanisms of honour and recognition—for example—through public prizes and awards, though which 'the patriotic virtues should be glorified.'⁵⁵ This evokes, and seeks to instrumentalise, what Pierre Bourdieu later referred to as 'all the hierarchies and classifications inscribed in objects ... in institutions or ... in language',⁵⁶ harnessed as a means of ensuring the stability of republican forms and dispositions. And while Rousseau's programme is partly predicated on the promise of symbolic, emotional and a-rational kinds of political communication, it is also a response to the potential for domination that is latent within political deliberation and discourse. As discussed further in the following chapter, this scepticism is shared by various strands of contemporary political theory. Rosenberg, for example, argues:

It seems unrealistic to assume that a commitment to fairly consider another's concerns can be based simply on the recognition that another person, as a thinking, sentient personality, is formally equivalent to oneself and therefore equally deserving of attention and consideration. Similarly it seems unrealistic to assume that a commitment to a common good will emerge solely on the basis of reflections on what is ethical and reasonable.⁵⁷

Again, this can be read as echoing Rousseau's bracing sense of realism as to the fate of abstract liberal ideas in the highly unstable, fragmented social order of the moderns. Rawls has more optimistically argued that modern citizens who hold diverse comprehensive doctrines and worldviews may, by forming an 'overlapping consensus',⁵⁸ internalise and act from a shared concept of justice. Similarly, Habermas' account of the deliberative public realm seems to downplay the affective or non-rational dimensions of citizenship.⁵⁹ But for other political theorists, such theories are premised on far too optimistic an understanding of moral psychology. It is insufficient that we recognise the 'integrity' of other citizens to engage in political deliberation; we must be 'emotionally connected' with them as well—through experiential stimuli which 'make that other person's pains and pleasures one's own.'⁶⁰ Liberalism, then, ignores the symbolic dimensions of the social and political universe, and the integrative function of political and social symbols.

Effectively, a similar concern underlies Rousseau's pervasive emphasis on symbolic and ritual forms of political communication. His concern is that purely

⁵⁴ *ibid* 648.

⁵⁵ *Poland*, above n 11, Ch 3.

⁵⁶ Pierre Bourdieu, *Distinction: a Social Critique of the Judgement of Taste* (Richard Nice trans, Cambridge MA, Harvard University Press, 1987) 471, emphasis added (Nice's translation).

⁵⁷ Rosenberg, above n 30, 348.

⁵⁸ John Rawls, *Political Liberalism* (Cambridge, Harvard University Press, 1996).

⁵⁹ Jurgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* (Cambridge, MIT Press, 1996); *The Theory of Communicative Action: Volumes 1 and 2* (Boston, Beacon, 1984/1987); for discussion see Rosenberg, above n 30.

⁶⁰ Rosenberg, *ibid* 348.

abstract public reason is not only insufficient to internalise political morality, but may also—as discussed further below—represent a subtle but potent form of domination or symbolic violence. In contrast to Rawlsian liberalism, the fundamental problem of political order, for Rousseau, is not a *propositional* one at all, concerning disagreement as to the ‘good’, or agreement on the ‘right’. Rather, it concerns the possibility of political communication itself, and more specifically the problem of establishing a form of communication that is not intrinsically or insidiously dominating (a question revisited in chapter four).

In sum, Rousseau's emphasis on emotions and passions reflects a broader concern for *stability*—that is, the concern, already explored in chapter two, as to how abstract political principles can feasibly be internalised, endorsed and reproduced by citizens. What his constitutional prescriptions suggest, again, is a deep scepticism as to the motivational force of such principles when presented as such, or when communicated and inculcated in purely rational forms. In our contemporary world, Nussbaum, for example, argues that liberal principles of justice require ‘appeals to the emotions, using symbols, memories, poetry, narrative or music, which lead the mind toward the principles and in which the principles themselves are at times embedded.’⁶¹ Yet the challenge, of course, is how the liberal state can orchestrate and galvanise political emotion without fostering particularistic and exclusionary sentiments that negate the substance of the very principles that are to be celebrated. The challenge is to ‘conceive a strong set of perceptions, memories and symbols that have deep root in the personality and in people's sense of their own history’, but without enshrining doctrines of cultural or linguistic privilege.⁶²

V. The Radical Scope of Rousseau's Civic Ritualism

Despite the eccentric emphasis Rousseau places on symbols and rituals, such concerns do not, on the face of things, seem all that far removed from the practices of real republics, both historical and contemporary. Arguably, Rousseau's civic ritualism presages, and is reflected in, the rites and symbols adopted by nationalists and republicans in the late eighteenth and nineteenth centuries and which persist in contemporary democracies.⁶³ The Rousseauan political aesthetic is echoed, for example, in the *Marseillaise* and the ‘jaunty yet simple tricolour’.⁶⁴ Seemingly, the function of ceremony and ritual is to foster sentiments of civic belonging—in relatively non-oppressive, even undemanding ways—and accordingly, to motivate

⁶¹ Martha Nussbaum, *Political Emotions* (Cambridge MA, Harvard University Press, 2013) 10. She also notes: ‘part of justifying a normative political project is showing that it can be reasonably stable’: *ibid* 16.

⁶² *ibid* 16.

⁶³ Dobel, above n 10, 654.

⁶⁴ *ibid* 658.

political action and political participation, thereby animating and stabilising republican politics and helping citizens internalise political principles in the manner discussed.⁶⁵ In this vein, Dobel, for example, argues that Rousseau ‘reminds us that there may be plausible relations between singing the national anthem, celebrating Independence Day, and establishing public memorials, on the one hand, and the quality of debate and action within a state on the other.’⁶⁶ Putterman, alternatively, argues that the main purpose of Rousseau’s ritualism is to secure acceptance of law, given the limits of coercive enforcement.⁶⁷ It is ‘designed to bring [opinion and mores] into conformity with the laws to ensure that the two never (or only ever rarely) clash.’⁶⁸ And similarly for Mason, the role of Rousseau’s austerity generally is to reconcile citizens to (just) laws, so that they ‘look on, and feel about, positive laws in the same way that we regard natural laws [this being] the mark of a good political order ... accept[ing] the limits [positive laws] impose on us without resentment or frustration.’⁶⁹

Thus, perhaps the dominant view of Rousseau’s austerity generally—including his civic ritualism—is that it aims, first, to motivate civic sentiment and political action, and second, to reconcile private identities and interests to the requirements of the general will or to the demands of the republican order generally. The latter aim, in particular, is apparently familiar in the civic symbols and rituals of contemporary republics—in images of an imposing but just order, in the sword and scales, solemn military parades and so on. As for the former, Putterman, for example, argues that Rousseau’s ceremonials presage and parallel spectacles that are relatively commonplace in contemporary liberal democracies—for example the ‘pyrotechnical extravaganza of London’s millennium-day celebration [or] the patriot missile led Desert Storm parade up ... Wall Street in 1991.’⁷⁰ Although more ambitious in technological scale than anything Rousseau contemplated, he argues ‘their purpose is analogous’ because they ‘foster powerful subconscious identifications with the *patrie*,’⁷¹ invoking ‘subconscious reminders of all of the good that the mother country conveys.’⁷²

However, I argue this dominant interpretation, which makes Rousseau’s ritualism seem so familiar—and so prescient—offers too narrow an account of its political function in his thought. Like our contemporary civic rituals and symbols, Rousseau’s prescriptions aim to offer a kind of civic stimulus, to foster

⁶⁵ However, Honohan notes ‘celebrations, commemorations and public holidays may create a general feeling of belonging without making people any more open to engage with their fellow citizens’: Iseult Honohan, *Civic Republicanism* (Abingdon, Taylor and Francis, 2002) 242.

⁶⁶ Dobel, above n 10, 658.

⁶⁷ Putterman, above n 22.

⁶⁸ *ibid.* 485.

⁶⁹ John Hope Mason, ‘Forced to be Free’ in Robert Wokler (ed), *Rousseau and Liberty* (Manchester, Manchester University Press, 1995) 135.

⁷⁰ Putterman, above n 22, 490.

⁷¹ *ibid.*

⁷² *ibid.*

sentiments of fraternalism and political community. Yet in the contemporary world, civic ritualism occupies a piecemeal and compartmentalised role at best: crucially, it coexists with and supplements, at most, a complex and diverse world of private symbols and rituals, which affords citizens various outlets for cultural and aesthetic self-expression. However, for Rousseau, civic ritualism cannot simply supplement, or even rival private ritualism and cultural expression without being rendered deeply hypocritical and ineffectual.

When his constitutional project is read in light of his wider social and cultural critique, it seems clear that the purpose of his civic ritualism is not to supplement, but to supplant entirely the complex ritualisms of the liberal world, largely because he understands the cultural activities of early liberal society not only as deeply inauthentic, but also as a subtle, yet insidious form of corruption that is inimical to republican aims. Thus, while recognising that cultural practice is inevitably a conduit for *amour-propre*, the radical aim of his constitutional prescriptions is to ensure that citizens' need both for cultural expression and aesthetic *distinction* is exercised in a transparent public realm. Thus in summary, Rousseau's civic ritualism is radically distinctive because its aim is not solely to foster civic sentiment and political action, but rather to reorient and restructure the source and substance of cultural and aesthetic experience in wider society.

VI. Culture and Domination in the Early-modern World

Put differently, Rousseau's project is far removed from today's milder projects of civic ritualism partly because it embraces a radical aim of supplanting symbolic and social hierarchies in wider society, rather than stimulating civic sentiment in a narrowly defined political domain. Thus, his constitutional prescriptions must be understood in light of his deep ambivalence towards the cultural and social life of early-modern liberal societies, and particularly his apprehension towards social hierarchies based on cultural products and taste. Fundamentally, Rousseau understands culture and art, in the early-modern context, as sources of social *distinction*—as activities through which people exercise a corrupted *amour-propre*—and therefore, in turn, as a form of social inequality and domination that is inimical to the republican project.

On the one hand, Rousseau's constitutional prescriptions further illustrate the insight emerging from both the first and second *Discourses*: that social power, and thus domination, resides in symbolic and affective as well as material forms. In the philosophical anthropology of his second *Discourse*, Rousseau describes how, following the development of *amour-propre*, social hierarchy assumed symbolic forms; the 'great and rich' distinguish themselves and cement their status

by creating ‘a different symbolic universe’ and ‘trapping the rest into believing.’⁷³ And the sceptical view of arts and culture that he first articulated in the first *Discourse* is neatly summarised in *Preface to Narcisse* where he affirms: ‘the taste for arts and letters originates in ... *the desire for distinction*.’⁷⁴

On the other hand, as an observer and critic of early-modern, and increasingly commercial societies, Rousseau is sensitive to the insidious hierarchies that are embedded and encoded in ostensibly mundane social practices—in everyday manners, tastes and dispositions. As already touched upon in chapter two, he understands that in commercially oriented societies, people increasingly obtain distinction and self-worth not only through material wealth, but through access to what sociologists might now call social and cultural capital (‘the frivolous tastes created by opulence’).⁷⁵ Rousseau understood that in such societies, increasing social differentiation and a nascent liberal cosmopolitanism gave rise to practices and tastes which were not only hopelessly inauthentic,⁷⁶ but which offered increasingly complex—and more insidious—axes of symbolic distinction. In *Poland*, Rousseau complains that Europeans increasingly ‘all have the same tastes, passions, manners,’⁷⁷ lamenting the loss of national cultural specificity amidst ‘the general European tendency to imitate French tastes.’⁷⁸ Music, art and discourse all constitute sites of social power, and engender peculiar, insidious kinds of social domination. Thus in *Corsica*, Rousseau complains: ‘the arbiters of opinion and taste in a people become the arbiters of its actions.’⁷⁹ Luxury goods and fine arts, he laments, are the product of ‘vanity’ rather than ‘pride’; the latter applies to things intrinsically beautiful; the former to those cherished for the social prestige they confer. Luxuries represent ‘ostentation’ and ‘pretentious pleasure.’⁸⁰ Essentially, he understands that in early-modern liberal society, social and cultural practices—through which individuals achieve both recognition and distinction—give expression to a corrupted *amour-propre*, the self-love that is consummated by the esteem of others. Thus in the second *Discourse* Rousseau described propriety as a ‘frenzy for distinction.’⁸¹ *Amour-propre*, in early-modern liberal society, is given

⁷³ Dobel, above n 10, 651.

⁷⁴ Jean-Jacques Rousseau, *Preface to ‘Narcisse: or Lover of Himself’* (1752), see translation and introduction in Benjamin Barber and Janice Forman, ‘Jean-Jacques Rousseau’s “Preface to *Narcisse*”’ (1978) 6 *Political Theory* 537, 547, emphasis added.

⁷⁵ *Poland*, above n 11, Ch 11.

⁷⁶ Insofar our tastes and practices are determined by competition for status and recognition, we are beholden to external, alien forces for our sense of identity; we are alienated from ourselves. To perform encoded social rituals is, in Reiser’s words ‘to condemn oneself to being nothing but a hollow man or a phony, the hapless product of impersonal social forces.’: Joseph Reiser, ‘Authenticity, Justice and Virtue in Taylor and Rousseau’ (2000) 33 *Polity* 305, 306.

⁷⁷ *Poland*, above n 11, Ch 3.

⁷⁸ *ibid.*

⁷⁹ *Corsica*, above n 16, 77.

⁸⁰ *ibid.*

⁸¹ Jean-Jacques Rousseau, *Discours sur l’origine et les fondements de l’inégalité parmi les hommes* (Paris, Flammarion, 1755/2008) 142.

expression, in particular, through cultural consumption, as ‘leisured cosmopolitans’ seek to ‘please and win recognition from others.’⁸² And he complains that whereas distinction in classical societies is won through virtue, it is supplanted by ‘decorum’ in the highly practised, refined manners that define the early-modern, commercial society.⁸³

Accordingly, this explains why Rousseau’s austerity is to be realised not only through the autarkic economic project outlined in chapter two, but also through a pervasive public ritualism that fully supplants private symbolic and ritual practices. Civic ritualism, then, is a component of Rousseau’s broader response to the corrupt social world of early liberalism. And the purpose of Rousseau’s public ceremonies—games, awards and so on—is to ensure that recognition and esteem are focused on public objects, such that *amour-propre* is consummated in a transparent, public realm. We may recall that Rousseau’s central concern is how it may be possible to establish a non-dominating form of government despite the apparently pervasive need of human beings to distinguish themselves and acquire recognition from their peers. Acknowledging that we can never recover the perfect independence—psychological or material—of the state of nature, the purpose of his constitutional plans is largely to construct a society in which *amour-propre* is consummated in benign, or at least less threatening, forms. His focus on public symbols and rituals is, accordingly, merely one component of a broader programme of austerity whose purpose is to stem those forms of domination and social hierarchy that are latent in the social practices of liberal society, and which he views as inconsistent with republican liberty. Just as his autarkical projects aim to prevent *amour-propre* being consummated, untamed, in the private commercial domain, the purpose of his public ritualism is to provide a public, transparent and *common* forum in which we can realise a non-dominating, inclusive and more innocent form of cultural expression. Rousseau’s ritualism pursues the same aim, in the cultural and expressive domain, as his autarkic economic project—that is, to tame *amour-propre* and ensure it is consummated in benign forms.

Rousseau’s understanding of culture and taste as instruments of social distinction is prescient in sociological terms. On the one hand, he understands that social power and domination are rooted in our need for, and our dependency upon, recognition. In liberal society, dependency of this kind entails an insidious kind of domination partly because, as Gauthier observes, ‘dependence on another person is [for Rousseau] ... not simply dependence on his power; most deeply, it is *dependence on his recognition*.’⁸⁴ And in this context, he understands that domination is intractably embedded in the production and exchange of symbolic, cultural

⁸² Charles Ellison, ‘Rousseau and the Modern City: The Politics of Speech and Dress’ (1985) 13 *Political Theory* 497, 498.

⁸³ Above n 74, 551.

⁸⁴ David Gauthier, *Rousseau: the Sentiment of Existence* (Cambridge, Cambridge University Press, 2006) emphasis added.

and social capital. It is exercised and experienced through ‘positional goods’⁸⁵—through the unequal distribution of the competences that are needed to acquire and exercise social recognition.

Moreover, Rousseau not only anticipates the Marxist understanding of culture and social practice as expressions of social and economic power relations, but presages post-Marxist sociologists—particularly Pierre Bourdieu—who understand social and cultural practices not merely as expressions of antecedent, material power structures, but rather as significant sources of social power in their own right. For Bourdieu, social practices operate as a function of social power structures, but are not crudely determined by a materialist class structure. The *habitus*, for Bourdieu, is the set of durable dispositions, tastes and preferences—learned but unconscious—which orients our actions and practices towards the objective social structures and socio-cultural contexts within which we operate.⁸⁶ Correspondingly, taste and culture operate as instruments of distinction in competitive social ‘fields’ that generate and reproduce specific kinds of social and cultural capital. Our subjectivity—encompassing our tastes and dispositions—is formed partly in response to the requirements of negotiating these fields. Our tastes and dispositions serve partly to distance us from lower groups,⁸⁷ yet are ‘naturalised’ as intrinsically meritorious. Thus we experience a sort of false consciousness (‘misrecognition’ or *doxa*) by understanding our social practices—or indeed those of higher-status groups—as neutral and innocent. And for Bourdieu, it is largely social *symbols*—symbols of value, legitimacy and prestige—that embody ‘relations of power’⁸⁸ and underlie unconscious forms of hierarchy and domination. *Symbolic power* is the power to determine legitimacy in categories of taste, preference and competence and thereby to impose hierarchies of value and prestige. *Symbolic violence* refers to the insidious or invisible character of that power. *Symbolic domination* refers to the power of certain groups to maintain and reproduce social hierarchies by imposing their evaluative schemas—and thus, forms of unconscious, invisible discipline—within the dispositions and assumptions of dominated agents.

Similarly, on the one hand, Rousseau’s disdain for the theatricality of liberal urban life—with its phony mannerisms and affectations—presages Bourdieu’s account of social power relations as being embedded in the mundane and the everyday, and particularly ‘in the most automatic gestures or the apparently most insignificant techniques of the body.’⁸⁹ On the other hand, Rousseau understands that while social and cultural practices serve to procure and confer individual distinction and to this extent are both arbitrary and inauthentic, by the same

⁸⁵ *ibid* 19.

⁸⁶ Jen Webb, Tony Shirato and Geoff Danaher, *Understanding Bourdieu* (London, Sage, 2002) 14.

⁸⁷ See generally Bourdieu, above n 56.

⁸⁸ Jane Fulcher, ‘Symbolic Domination and Contestation in French Music: Shifting the Paradigm from Adorno to Bourdieu’ in Victoria Johnson, Jane Fulcher and Thomas Ertman, *Opera and Society in Italy and France from Monteverdi to Bourdieu* (Cambridge, Cambridge University Press, 2007) 314.

⁸⁹ Bourdieu, above n 56 69.

measure he understands that what seem to be ostensibly innocuous practices—such as art, music, and discourse—are important sites of power and domination. In particular, he believes practices like theatre and music ‘cannot be understood except in terms of the moral and political.’⁹⁰ In the first *Discourse*, for example, he decried the ‘inequality introduced among men by distinctions of talent.’⁹¹ His analysis of eighteenth century social rituals presaged Bourdieu’s claim that ‘art and cultural consumption are predisposed, consciously or deliberately or not, to fulfil a social function of legitimating social differences.’⁹²

Thus while Roy argues that for Rousseau, ‘art ... only serves as the handmaiden of existing institutions’⁹³ what this overlooks is that he understands cultural practices like art as sources—and not simply as expressions or derivatives—of social power and class structure. Indeed in the early-modern context, Rousseau’s concern was that in increasingly complex and differentiated societies, symbolic domination would acquire newly potent, but also peculiarly *insidious* forms. In his second *Discourse*, he notes ‘the devouring ambition ... the desire to place oneself above others, inspiring ... a surreptitious envy which is all the more dangerous for the fact that it is often masked as benevolent.’⁹⁴ Indeed this echoes Bourdieu’s claim that symbolic social classifications are efficacious because ‘they function below the level of consciousness and language, beyond the reach of introspective scrutiny.’⁹⁵ In tandem with increasing social differentiation, cultural and intellectual practices assume complex, specialised and exclusivist forms. Correspondingly, categories of value and merit become deeply encoded and require elaborate, but essentially arbitrary, forms of learning. For example he complains, in Dobel’s terms, that music has been ‘taken away from the community and made into a ponderous academic discipline.’⁹⁶ Indeed Rousseau extends this analysis to intellectual life itself: he says the ‘taste for letters ... arises from the desire to distinguish oneself.’⁹⁷ As I will consider in chapter four, language itself is not a neutral medium of communication but rather an instrument of domination and power.

Thus, the cultural practices of liberal society help to obscure hierarchy and domination. Bourdieu claims that ‘dominated agents ... tend to attribute to themselves what the distribution [of value and status] attributes to them, reproducing in their verdict on themselves the verdict [pronounced] on them.’⁹⁸ Rousseau’s concern is, similarly, that we identify natural authority in refined manners and authorised dispositions, and that contingent and arbitrary social constructs are then mistaken as natural and innocent.

⁹⁰ Tracy Strong, ‘Theatricality, Public Space and Music in Rousseau’ (1996) 25 *SubStance* 110, 112.

⁹¹ Rousseau, above n 41, 69.

⁹² Bourdieu, above n 56, xxx.

⁹³ Jean Roy, ‘Rousseau’s “Letter to D’Alembert on the Theatre” and Revolutionary Aesthetics’ in *Jean-Jaques Rousseau et la Révolution* (North American Association for the Study of Jean-Jaques Rousseau, 1991), page 201.

⁹⁴ Rousseau, above n 41, 69, emphasis added

⁹⁵ Bourdieu, above n 56, 466.

⁹⁶ Dobel, above n 10, 651.

⁹⁷ Rousseau, above n 74.

⁹⁸ Bourdieu, above n 56, 452.

VII. Culture and Aesthetics under Austerity

Rousseau's ambivalence towards liberal cultural practices as sources of social domination underscores the radicalism of his all-embracing public ritualism—and of its distinctiveness compared to the modest, piecemeal civic ritualism of later, liberal republics. The purpose of austere spectacles—parades, games and so on—is not only to convey the substance of republican political values, but also to facilitate cultural and aesthetic expression in an inclusive, transparent and non-dominating form. Rousseau recognises that in liberal society aesthetic and cultural experience is appropriated to inaccessible, specialised fora which require specialised techniques and competences to successfully navigate. Thus 'music migrates to the concert hall [and] ritual public action ... to the theatre ... Citizens no longer meet in open courtyards surrounded by symbols to deliberate.'⁹⁹

The republican spectacle, open and accessible, will provide an alternative to the specialised cultural pursuits of differentiated liberal societies—but more pertinently it will foil their *encoded complexity*, because unlike, say, opera or even many sports, taking part in such activities requires no specialised competences or techniques. Rousseau's politics of austerity does not aim to remove or ignore the need for aesthetic experience, cultural consumption or even symbolic distinction. Rather, he aims to supplant the symbolic hierarchies encoded in private cultural consumption with aesthetic experiences and symbolic distinctions that are compatible with (and even supportive of) republican politics. Thus a pervasive republican symbolism and ritualism can stem the domination wrought by the cultural complexities of liberal societies. Crucially, in turn, this means republican 'spectacles' cannot be confined to a compartmentalised 'public' or political domain, but must pervade social life generally. Thus, Rousseau's republican spectacles are not valued *primarily* for the civic stimulus these offer, but rather, their capacity to recover a form of cultural and aesthetic expression that is authentic and non-dominating.

Indeed the pervasive, all-embracing scope and purpose of Rousseau's republican rituals is illustrated by their highly localised, almost spontaneous character. On the one hand, *Poland*—and to a lesser extent, his project for Corsica—envisage large-scale, state-orchestrated ceremonials: imposing, set-piece events such as official feast days or athletic festivals. And in general, a great deal of republican spectacle is to be officially orchestrated in the guise of formal ceremonies or assemblies. However, in *Letter to d'Alembert* in particular, we can see a gentler, subtler aspect of republican ritualism—which appears more as an organic outgrowth of republican social forms than as a top-down, officially imposed practice. In particular, in the course of his extended critique of theatre, Rousseau celebrates Geneva's tradition of simple, inclusive festivities. These republican

⁹⁹ Dobel, above n 10, 651.

‘spectacles’ are not constitutionally prescribed as such—they are not officially orchestrated, top-down ceremonials: rather, they are embedded in the fabric of social life. Republican festivities, he says, might simply amount to a joyful and spontaneous gathering around ‘a crown of flowers in the square.’¹⁰⁰ And crucially, they do not occupy a discrete ‘political’ domain but are integrated within social life generally and occur in the context of a cohesive, austere society.

Thus far from the stereotype of dour conformity that we might associate with state spectacles, Rousseau—in *Letter to d’Alembert*, at least—rejects any vision of sterile set-pieces, or didactic state ceremonials in which citizens are passive observers. Instead he celebrates a vision of republican festivity which springs spontaneously from the cohesion and solidarity of a republican society. Crucially, republican ‘spectacle’ of this kind simply could not occur in complex, differentiated and commercially oriented societies, and could not be constitutionally prescribed. This explains why it is mistaken to identify parallels to Rousseau’s ritualism in contemporary social and political practices, in the mild and sporadic ceremonials—the national festivals, anthems and state funerals—of today’s liberal republics. While these might prompt sporadic patriotic sentiment, this is alien to Rousseau’s sense of civic ritualism. He warns the Corsicans that their liberty cannot be sustained by ephemeral, transient ‘passions’ experienced in the aftermath of liberation—instead, he says, it is sustained by their ‘*way of being*’.¹⁰¹

Ceremonials, then, cannot foster the appropriate dispositions unless there is already sufficient solidarity and simplicity of mores in the relevant society; otherwise we risk hypocrisy—and a mere simulacrum of patriotic sentiment. And this is precisely why republican ritualism begins to seem futile in liberal society—because as set-piece spectacles, they are dissociated from the everyday and the mundane. Rearick, for example, notes that while the Third French Republic deployed diverse spectacles, particularly republican festivals, to secure stability against reactionary forces, ‘the conditions for successful community celebration were rapidly disappearing in fin-de-siècle France’—in a context of industrialisation, urbanisation and class stratification.¹⁰² The success of republican spectacle depended on a kind of social cohesion that was disappearing—upon an ‘old folkloric culture [that] was dying’—the culture of the ‘village fetes’ whereas ‘in the cities anomie and social conflict were hallmarks of the age’. Thus in an industrialising and liberalising society, the republican spectacle had limited reach, as republican elites ‘retreated to a comfortable “classical” tradition of mechanically invoking official dogma in overworked allegory, speechifying, and self-glorifying pageantry’.¹⁰³ Crucially, these historical processes meant that the republican

¹⁰⁰ *Lettre à d’Alembert* (1758). For an English translation see Allan Bloom, Charles Butterworth and Christopher Kelly, *Rousseau: Letter to d’Alembert and Writings for the Theatre* (Lebanon NH, University Press of New England, 2004) 6863 (author’s translation).

¹⁰¹ Above n 16, 88, emphasis added.

¹⁰² Charles Rearick, ‘Festivals in Modern France: The Experience of the Third Republic’ (1977) 12 *The Journal of Contemporary History* 435, 455.

¹⁰³ *ibid* 455.

spectacle retreated to a limited domain that citizens, for the most part, would merely spectate upon.

This interpretation can be supported by analogy with Rousseau's critique of the theatre. In *Letter to d'Alembert*, he extends the critique of the first *Discourse* by arguing against the prevailing Enlightenment view that theatre promotes moral virtue. Rather, he argues, it merely plays on or manipulates the dispositions and attitudes already present in the audience as a society or micro-society.¹⁰⁴ By analogy, republican theatrics will be effective only within an austere and egalitarian society. We cannot affirm our patriotism and solidarity as a sporadic, ritual genuflection to citizenship—say, on formal feast days—and then return to an atomised existence. Republican ritualism cannot be compartmentalised as theatre is to life; it must be integrated across all of social life. Arguably, the citizen-spectator of contemporary civic rituals—the fair-weather citizen—resembles the hypocritical theatre-goers that Rousseau depicts. We feel virtuous at the moral reflection supposedly drawn from the experience, but like theatre it 'demands nothing of us'.¹⁰⁵ The 'transient, vain emotions'¹⁰⁶ he ascribes to the theatre-goer are perhaps equally salient in compartmentalised civic rituals like flag-saluting and anthem-singing. Indeed Kohn argues that Rousseau's critique of theatre presciently anticipates a modern phenomenon of passive spectatorship of spectacles in commercial and capitalist society, which undermines the possibility of intersubjectivity in public space.¹⁰⁷

In part, Rousseau's critique of passive spectatorship reflects his preference for experiential forms of moral education: even if theatre can teach us what is right in the abstract, it cannot teach us the practice of virtue as it requires nothing of the spectator.¹⁰⁸ Rousseau's critique is not only of theatre, but of spectatorship in general.¹⁰⁹ Republican spectacles must, then, be participative, experiential and embedded in social life—not sporadic, didactic and passive. 'Make the spectators the spectacle', he affirms—'*make spectators the actors*'.¹¹⁰

¹⁰⁴ Above n 100, 9.

¹⁰⁵ *ibid* 12 (author's translation).

¹⁰⁶ *ibid* (author's translation).

¹⁰⁷ Kohn states: 'The exhibition, amusement park and shopping arcade reflect the proliferation and expansion of the dynamics that Rousseau identified in their nascent form in the theater. The mass is constituted through a collective experience of isolation that incites desire for an object while isolating one from another.' Margaret Kohn, 'Homo Spectator: Public Space in the Age of the Spectacle' (2008) 34 *Philosophy and Social Criticism* 467, 476–77. Indeed Ozouf notes that for critics, theatre compounded the faults of 'traditional' and pre-revolutionary festivals—particularly in its exaltation of social hierarchy: 'treatises on architecture had for decades denounced the theatre as a place in which social hierarchy and an intoxicating display of social stratification had reached their apogee. The theatre was a "dark little place" that Diderot judged incapable of "holding the attention of an entire nation", ... giving the theatre the fractional, unsharable character of private entertainment.' By contrast, the 'utopian festival ... placed everyone on the same level'. Mona Ozouf, *Festivals and the French Revolution* (Alan Sheridan trans, Cambridge MA, Harvard University Press, 1988) 3, 8.

¹⁰⁸ He opines 'the ancients spoke of humanity in less polished language, but knew better how to exercise it'. *Letter to d'Alembert*, above n 100, 16 (author's translation).

¹⁰⁹ Kohn, above n 107.

¹¹⁰ *Letter to d'Alembert*, above n 100, 62, emphasis added ('donnez les spectateurs en spectacle').

In turn, this supports the idea that Rousseau envisages republican ritual not only as fostering participative civic dispositions, but rather as supplanting and substituting private social and cultural practices wholesale, as a facet of everyday social life. Putterman muses that it is difficult to see how ritualism and ceremonials can be a ‘rampart for justice in any state’ simply because it is difficult to envisage how they may elicit ‘universal support for the laws’,¹¹¹ how the ‘ephemeral surges of pride’ they procure can ‘satisfy the [social] compact’s need for universal obedience.’¹¹² But this is explained by the fact that, as I have argued, the purpose of such rituals is much broader than the need to secure civic obedience or respect for authority—or even to promote participation. The purpose of civic ceremonials in liberal-democratic states is fundamentally different because they aim to supplement rather than supplant the aesthetic and cultural pursuits of liberal society. They are integrated within and do not challenge the complex cultural diversity of liberal society, which Rousseau identifies as being itself a source of hierarchy and domination.

On the surface, Rousseau’s republican ritualism seems—like his project of austerity more generally—to risk undermining cultural pluralism and expressive individuality. A commonplace view of Rousseau, indeed, is that he seeks to impose homogeneity for the sake of cohesion and stability, thus sacrificing individuality and diversity. Moreover, his aesthetic project is not concerned solely with exemplifying or celebrating virtue, but rather with distributing approbation and blame. These public rituals are to have a deeply moralising, judgmental character: Rousseau complains that in the moderns’ public festivities, ‘public blame and approbation are inconsequential.’¹¹³ The aim of such exercises is ‘not only to make [young people] robust and agile and to acculturate them early on in equality and fraternity’, but also ‘to live in the eyes of their fellow citizens and to desire public approbation ... to this end, the prizes will not be distributed by masters, but by the judgment and acclamation of the spectators.’¹¹⁴ While Rousseau’s aim is to liberate citizens from dependency on the recognition of others, in doing so he seems to make us dependent on what is simply an alternative, state-orchestrated nexus of recognition.

Again, however, what Rousseau seeks is not to sacrifice festivity and self-expression, but rather to rescue it from the competitive and esoteric forms that it assumes in the fragmented social order of early liberal societies. He is not concerned with the sacrifice of private interest to the common good, but rather, as Affeldt claims, with the recovery of *genuine* private interest,¹¹⁵ which is congruent with the common good. Ostensibly, the austerity of Rousseau’s ritualism implies

¹¹¹ Putterman, above n 22, 486.

¹¹² *ibid.*

¹¹³ *Poland*, above n 11, Ch 2.

¹¹⁴ *Poland*, above n 11, Ch 4, emphasis added.

¹¹⁵ Steven Affeldt, ‘The Force of Freedom: Rousseau on Forcing to be Free’ (1999) 27 *Political Theory* 299, 309.

severe discipline and forbearance—and a fetter on individual self-expression. However, based on his description of Genevan festivities—‘lively’ dancing and ‘all heads spinning with a drunkenness sweeter than wine’¹¹⁶—Strong notes his commitment to a sort of ‘Bacchanalia of the political.’¹¹⁷ Far from dour conformity, his vision of austerity is, counter-intuitively, quite convivial and exuberant.¹¹⁸ Puzzlingly, in *Letter to d’Alembert* Rousseau describes public assemblies as fostering ‘gentle bonds of pleasure and joy’ amongst the people,¹¹⁹ who must ‘surrender themselves to the sweet sentiment of happiness.’¹²⁰ Their festivities, he says, must be ‘free and generous’¹²¹—hardly fitting our usual sense of austerity. Rousseau’s rituals are not austere, then, because they deny or reject pleasure, but rather because they eschew the exclusivity and the perverse, contrived complexity he identifies in more complex social rituals, that render them accessible only to those with the requisite competences and know-how. He pleads: ‘let us not adopt *those exclusive spectacles which enclose the few in dark lairs*, holding them fearfully in silence and inaction and offering them ... nothing but the images of servitude and inequality.’¹²² Where he says republicanism’s ‘innocent spectacles’ must take place ‘in the open air ... illuminated by the sun,’¹²³ this affirms their conviviality, but also serves as a metaphor for their accessible, egalitarian simplicity. In republican festivities, ‘the many societies become one, and everything becomes common to all.’¹²⁴

Thus the point of austerity is not dour sacrifice, but rather radical transparency across our social practices. When Rousseau insists that athletic prizes will be distributed by ‘the judgment and acclamation of the spectators,’¹²⁵ this can be taken as a metaphor for his broader ideal of transparency: that merit and competence must not be encoded in specialised rituals. This enthusiasm for public scrutiny—for a radical transparency—is not some quasi-Orwellian ambition to extend public control over private life. Rather, it aims to foil the potent force of private symbolic distinction by promoting transparency in our social practices—a

¹¹⁶ Strong’s translation. Strong, above n 28, 490.

¹¹⁷ Strong, above n 90, 123.

¹¹⁸ Concerning the bacchanalia, and thus potentially the licentiousness and immorality of festivals, Ozouf notes: ‘Paradoxically, they were a guarantee of acceptable behaviour, for the excesses they authorized served as a safety valve: they prevented intemperance from spreading to daily life and throughout the social body as a whole.’: Ozouf, above n 107, 4.

¹¹⁹ *Letter to d’Alembert*, above n 100, 62 (author’s translation).

¹²⁰ *ibid.*

¹²¹ *ibid.* 63.

¹²² *ibid.* 62, emphasis added.

¹²³ *ibid.*

¹²⁴ *ibid.* 63. Ozouf notes: ‘Once, long ago, there had been another sort of festival. In the remote past, the festival had been something like the contract in [Rousseau’s] *Essai sur l’Origine des Langues*, with no binding clauses, “a happy age when nothing marked the hours.” ... a festival without division and almost without spectacle. Far back in the mists of time, a festive assembly had been held in which the participants found their satisfaction simply in the fact of being together. There had been a primitive, a primordial festival ... but it seemed to have been lost.’: Ozouf, above n 107, 4.

¹²⁵ *Poland*, above n 11, Ch 4.

transparency which, for Starobinski, is achieved through ‘the festival’ as well as the general will itself.¹²⁶ Cognisant of the struggle for symbolic recognition in differentiated social ‘fields’, Rousseau aims to re-orient this within an alternative ‘field’ in which the primary form of symbolic capital is itself *political*, public and transparent. While we will still, in Rousseau’s vision, be *dependent on recognition*—a recognition that is orchestrated by the republic itself—the difference is that, in contrast with the corrupted, fragmented liberal society, the source of recognition is radically decoded, public and transparent. This is similar, in effect, to his view of dependency on the general will. We cannot recover freedom as perfect independence; social interdependence as such is inevitable. But we can be *politically* free where we are mutually dependent on a (general) will that we can accept as our own—and similarly, we can escape symbolic domination where we are dependent on an aesthetic or symbolic code, but one which is radically inclusive, transparent and common. This is another dimension in which Rousseau aims at ‘making the community itself a source of the esteem sought by individuals as a consequence of their *amour-propre*’.¹²⁷ And consequently, *amour-propre* is not merely tamed or neutralised, but positively harnessed in exalting virtuous behaviours and dispositions—and providing outlets for the passion which do not rely on the denigration or subordination of others.¹²⁸

Thus Rousseau’s ideal republican ritualism is a ‘festival without invidiousness’,¹²⁹ free of insidious complexity and exclusion. Whereas Strong claims that for Rousseau, music, through its *unity*, simultaneously realises and represents citizenship—the ‘pure form of humanness’¹³⁰—this can be extended to public rituals. The intoxicating togetherness of civic revelry erases our need for symbolic distinction. For Strong, ‘the effect of the gaiety is to lose all sense of self-consciousness in the revelry of one’s public identity’; thus the revellers ‘are not looking at themselves or others in the potentially dominating way noted [in the first *Discourse*]’.¹³¹ Only in this de-coded, holistic revelry can one ‘simply be what one is, naturally.’¹³² This casts a different light on Rousseau’s seemingly severe assertion that ‘the only pure

¹²⁶ For this argument see Jean Starobinski, *Jean-Jacques Rousseau: Transparency and Obstruction* (Chicago, University of Chicago Press, 1988). For a countervailing view see Jonathan Marks, ‘Jean-Jacques Rousseau, Michael Sandel and the Politics of Transparency’ (2001) 4 *Polity* 619.

¹²⁷ Frederick Neuhaus, ‘Freedom, Dependence and the General Will’ (1993) 102 *The Philosophical Review* 363, 390.

¹²⁸ Neuhaus notes: ‘the distinctive resources *amour-propre* offers for ameliorating human existence reside in precisely the “relative” features that distinguish it from *amour de soi*, namely, that it encourages us to accord weight to the normative judgments of others subjects and that it leads us to seek to achieve (a primitive version of) the comparative status—that of equal moral standing—on which the only possible solution to evil depends.’ This counters ‘the prevailing view among readers of Rousseau ... that *amour-propre* is a wholly negative phenomenon, always and only a source of havoc in human society’: Frederick Neuhaus, *Rousseau’s Theodicy of Self-Love: Evil, Rationality and the Drive for Recognition* (Oxford, Oxford University Press, 2010) 15.

¹²⁹ Strong, above n 90, 123.

¹³⁰ *ibid.*

¹³¹ *ibid.*

¹³² *ibid.* 124.

joy is public.¹³³ Whereas differentiated private rituals involve the self-performing arbitrary cultural codes for the approval of the other, republican rituals—to borrow Gauthier’s phrase—see ‘self and other united in a single whole.’¹³⁴

This also confirms that the ritualistic aspects of Rousseau’s constitutional strategy are dependent on his broader politics of austerity: the state cannot lay down appropriate ceremonial and symbolic practices in the absence of the appropriate social and economic forms which, in turn, foster the dispositions and virtues that represent the pre-conditions for an authentic republican ritualism. Again this underscores how far removed his prescriptions are from the mild ritualism of contemporary liberal democracies. While ‘establishing a community of shared meanings ... is essential to [Rousseau’s] project’,¹³⁵ it is clear, given his sense of the symbolic hierarchies in broader society, that these ‘shared meanings’ cannot be confined to politics in its narrow sense.

VIII. Civic Ritualism and Constitutional Design: Contemporary Problems

I have considered, on the one hand, why symbolic and ceremonial matters seem to attract negligible attention in contemporary constitutional thought. I have equally argued, on the other, that contemporary symbolic and ritual practices are far removed, in scope and purpose, from Rousseau’s more radical project, which is intrinsically linked to a broader critique of liberal culture. However, while Rousseau’s project is concerned with creating a very specific and demanding kind of republican society, nonetheless I will argue that his symbolic and ritual project speaks to a broader question: the affective grounds of political community. And while his aim of manipulating and reorienting *amour-propre* seems quite remote from contemporary preoccupations, I will argue that it speaks to a broader preoccupation that has been overlooked, in liberal thought, as an object of constitutional design: that of fostering and channelling political passions.

I have argued that Rousseau’s aim is not simply to inculcate *virtue* in the narrow sense of duty or self-sacrifice, but rather to cultivate pleasures and *passion* in a manner that is conducive to republican aims. And in this sense, Rousseau is, counter-intuitively, a surprisingly *modern* figure: eschewing the ancient aristocratic ideal of duty and honour, he emphasises the more egalitarian force of passion. Or as Burttt argues, for Rousseau the psychological basis of civic virtue itself lies not in the ‘compulsion to duty’ but rather the ‘education of passions.’¹³⁶

¹³³ *Letter to d’Alembert*, above n 100, 68 (author’s translation).

¹³⁴ Gauthier, above n 84, 65.

¹³⁵ Dobel, above n 10, 629.

¹³⁶ Shelley Burttt, ‘The Good Citizen’s Psyche: on the Psychology of Civic Virtue’ (1990) 23 *Polity* 23, 24.

And as I have argued, Rousseau's aim is not that citizens sacrifice private pleasure, but rather that their need for pleasure, festivity and ultimately for mutual recognition, is consummated in an accessible, transparent and public realm.

Indeed, most historical accounts of civic virtue seem unrealistic, in modernity, because they demand the sacrifice of private interest and private pleasure for the sake of an elusively defined common good—and fail to acknowledge the potency of private interest and individual fulfilment. On the other hand, a republican settlement based purely on the mediation or coordination of private interest is, as discussed in chapter two, intrinsically unstable. Ostensibly, then, appeals to passion and emotion seem more tenable under modern and egalitarian conditions, and more promising than a purely interest-based politics. Yet most liberal thinkers have been wary of the political force of passion.¹³⁷ As Nussbaum observes, 'liberal political philosophers sensed that prescribing any particular type of emotional cultivation might easily involve limits on free speech and other steps incompatible with liberal ideas of freedom and autonomy.'¹³⁸

Yet while it may seem embarrassing or even *sinister*, in our age, to speak of the state fostering or manipulating passions, an enduring concern is how it is possible to foster a sufficient affective basis for political community—under the political economy of capitalism—while somehow accommodating human diversity and independence. Put differently, it is a dilemma as to how citizens can be affectively integrated without entailing unacceptable or oppressive costs.

While a Rousseauan civic ritualism might have authoritarian shades,¹³⁹ alternatively it might be understood as a strategy for the republican state 'to maintain its legitimacy without incessant resort to manipulation or violence.'¹⁴⁰ Nussbaum, for example, argues that political emotions—or what I will call the passions—are a legitimate concern in 'liberal democracies'.¹⁴¹ 'All societies', Nussbaum argues, 'need to think about the stability of their political culture over time.'¹⁴² Such societies might, for example, aim at 'limiting envy and disgust in favour of inclusive sympathy', and to 'guard against division and hierarchy by cultivating appropriate sentiments of sympathy and love.'¹⁴³ She argues that political emotions have two basic purposes: positive and negative. They will 'engender and sustain strong commitments to worthy projects that require effort and sacrifice', thus extending sympathies from the local and familial to the national and global; equally, they will keep in check the destructive tendencies of 'denigration' and 'subordination', of

¹³⁷ See Walzer, above n 42.

¹³⁸ Nussbaum, above n 61, 4.

¹³⁹ *ibid* 2: 'sometimes people suppose that only fascist or aggressive societies are intensely emotional and that only such societies need to focus on the cultivation of emotions'. See also Rebecca Kingston, *Public Passion. Rethinking the Grounds for Political Justice* (Montreal and Kingston, McGill-Queen's University Press, 2011).

¹⁴⁰ Dobel, above n 10, 642.

¹⁴¹ Nussbaum, above n 61, 2–11.

¹⁴² *ibid* 2.

¹⁴³ *ibid*.

'disgust' and 'envy'.¹⁴⁴ Thus we might view such concerns as a legitimate part of the enterprise of constitutional design. We might recognise that 'symbols may acquire a motivational power that bare abstractions could not possess'.¹⁴⁵ The 'terrain of emotion', she argues, should not be ceded to 'illiberal forces'.¹⁴⁶

Insofar as the purpose of Rousseau's symbols and rituals is to educate and tame *amour-propre*—and to channel it towards benign forms—this seems far removed from any bona fide purposes of contemporary liberal constitutionalism. However, despite the longstanding reticence of liberal thinkers towards the role of passion in politics,¹⁴⁷ many contemporary political theorists have defended the idea that the liberal state might assume a wider, related purpose of promoting or incentivising certain sentiments and passions that support the aims of the liberal state, albeit in rather modest and limited ways. There is little sense, however, of this being legitimately an aim or function of liberal-democratic constitutions.

Whereas Rousseau's concern is that the cultural domain becomes a site of unhinged and egotistic competition, this can be related to wider contemporary concerns. As a social theorist he presciently identifies a socialisation process that is partly dependent on symbolic classifications and distinctions. Effectively, he seeks to use constitutional mechanisms to harness this as a means of stabilising republican forms and dispositions. He calls to mind Bourdieu's observation that, 'through all the judgements, verdicts, gradings and warnings imposed by the institutions specially designed for this purpose ... the social order is progressively inscribed in people's minds'.¹⁴⁸ Rousseau understands, on the one hand, that the success or otherwise of a republican project depends on complex dispositions and motivational resources, encompassing citizens' affect, sociability and sensibility. And like Bourdieu, he equally understands that while the public socialisation process is irreducible to official mechanisms, it can be deeply affected and channelled by such institutional devices. Thus in contrast with the mainstream of contemporary constitutional thought, he recognises that the constitutional structure can fruitfully shape and influence the public socialisation process in ways that support republican ideals of liberty and justice.

Thus while Putterman and others are mistaken in drawing parallels between Rousseauan civic ritualism and the spectacles of the modern, liberal republics—the independence days, civic awards, military commemorations and so on—these

¹⁴⁴ *ibid* 4.

¹⁴⁵ *ibid* 16.

¹⁴⁶ *ibid*.

¹⁴⁷ For Walzer, liberal writers see the politics of *interest* as more rational and less dangerous. Political passion is juxtaposed with the tranquil commercial bourgeois of the eighteenth century—with the society of *doux commerce*. A displacement of 'conviction' is displaced by 'interest'. Walzer, above n 42, 122. The aim, he says, is to blur the line, to 'rationalise (some of) the passions and impassion reason' ... 'our feelings are implicated in the practical understanding as well as in the political defense of the good and even of the right'. In politics, we must 'choose comrades'. But 'no one will believe that rational agreement or calculations of interest exhaust the idea of political commitment'. *ibid* 126, 128.

¹⁴⁸ Bourdieu, above n 56, 471 (Nice's translation).

do speak to a broader, underappreciated function of constitutionalism in undergirding and influencing the mechanisms of civic socialisation.

Of course, such contemporary projects are inevitably circumscribed by many of the same features of liberal society that Rousseau lamented. In the modern setting, the experience of the Third French Republic (1875–1940) is noteworthy. In the early phase, republican governments deployed ritual and symbolic strategies—particularly festivals and state funerals—to ensure the stability of the new dispensation against Catholic and monarchist reaction. In the early years of the republic, this project enjoyed some measure of success as it became the subject of popular enthusiasm. Initially republicans—in the spirit of austerity—were eager to juxtapose the ‘seriousness’ of the Republic with the ‘frivolous fetes’ of the fallen empire. Accordingly, the consolidating elites began to promote new festivals—for example, commemorating Voltaire and Rousseau, and later, Bastille day itself—which were popularly embraced. Thus official orchestration was sustained by a critical popular support: Bastille Day in 1880 was celebrated ‘with extraordinary gaiety and grass-roots inventiveness across France.’¹⁴⁹ As Rearick describes:

[I]n even the smallest republican villages, celebrators decorated dwellings and public buildings with flags and engaged in public rites such as dedicating a republican statue or bust or even a liberty tree, gathering for a ‘democratic’ banquet or punch, singing the Marseillaise together, and toasting the Republic parades, receptions, concerts, and popular games followed. Local leaders often devised elaborate programmes of such traditional favourites as ‘grimace’ contests, sack races, and climbing the greased pole ... Drinking and dancing, *feux de joie* [fireworks], and—in the larger or more prosperous towns—fireworks continued long into the night.¹⁵⁰

Ritualism and festivity, in short, became part of the nascent republican constitution. As Ben-Amos argues using the example of republican funerals, this new ritualism aimed to ‘sacralise’ the new regime and to impose itself upon public space (much like the Catholic processions it often sought to replace):

The French Third Republic [made] skilful symbolic use of sacred space ... To convey its unifying historical vision in terms of space, the ... Republic had to occupy the sacred center of the realm and to integrate its own imagery into it.¹⁵¹

However, over the lifetime of the Third Republic, the force of republican ceremonies waned, creating tensions that became progressively more marked across the twentieth century. Rearick notes:

The dream of spontaneity and fraternal joy had become a repetitive reality of prescribed set pieces, usually interesting only limited parts of the population. ... as time went on

¹⁴⁹ Rearick, above n 102, 442.

¹⁵⁰ *ibid* 442–43.

¹⁵¹ Avner Ben-Amos, ‘The Sacred Centre of Power: Paris and Republican State funerals’ (1991) 22 *The Journal of Interdisciplinary History* 27, 30. Ozouf notes: ‘The festival was an indispensable complement to the legislative system, for although the legislator makes the laws for the people, festivals make the people for the laws.’ Ozouf, above n 107, 9.

that memory [of the revolution] was less and less identified with the existing Republic and its celebrations. The Republic that so often tried to celebrate triumph amid scandal and crisis increasingly suffered from a failure of the festive imagination and spirit ... the new elite directed its efforts not to the celebration of exciting ideals of liberty and equality, but to the glorification of an established regime. ... republican leadership in its 'triumph' was too insecure to allow the full play of imagination in festival planning and in the boisterous zany play of celebrating crowds.¹⁵²

Critically, Rearick suggests that the decline of republican festivity was linked to the broader social trajectory of liberalism and industrialisation: 'the French, especially Parisians, found private alternatives to public rites: by the 'nineties those who were able fled to the country or the seaside on holidays, leaving the city festivities to lower social and economic groups.'¹⁵³ Indeed, in a more sceptical and ironic age, it is difficult to imagine, for instance, Monet's depiction of the 1878 *Fete de la Federation*, with its 'brilliant profusion of tricolours'.¹⁵⁴ As Hazareesingh puts the French case, the republican festival—'crumbling since the sixties'—'seems defunct as pleasures are privatised'.¹⁵⁵

This experience highlights, on the one hand, the practical difficulties involved in orchestrating civic ritualism in the face of increasingly sophisticated private spectacles and leisure pursuits.¹⁵⁶ Given problems of scale, relatedly, it is difficult to envisage how civic ritualism can be meaningfully participative rather than passively spectatorial—mirroring the wider challenge of scale that modernity poses to the classical republican concepts and devices.¹⁵⁷ More fundamentally, however, it points to the difficulty of transposing Rousseau's understanding—conceived of in a highly unitary and cohesive state—to a highly differentiated, class-structured society. As Lukes argues, neo-Durkheimian interpretations of civic

¹⁵² Rearick, above n 102, 455.

¹⁵³ *ibid* 445.

¹⁵⁴ *ibid* 457.

¹⁵⁵ Sudhir Hazareesingh, Preface to Rémi Dalisson, *Célébrer la nation. Les fêtes nationales en France de 1789 à nos jours* (Paris, Nouveau monde éditions, 2009) 9. Dalisson observes that following the revolution of 1789, 'a consensus developed, on the part of rulers, as to the legitimizing functions of festivals, and on the part of the people, as to their civic and pedagogical function.' Yet after two centuries, what had long seemed 'the most natural thing in the world' increasingly came to be questioned in a context of 'globalization and communalism (*communautarisme*)'. *ibid* 12–13 (author's translation).

¹⁵⁶ According to some accounts, approximately half of Parisians attended the 'Festival of Law' of 3 June 1792. Wendy C Nielsen, 'Staging Rousseau's Republic: French Revolutionary Festivals and Olympe de Gouges' (2002) 43 *The Eighteenth Century* 268, 277. Ozouf notes that in the eighteenth and nineteenth centuries, French festivals were often the subject of criticism largely because they were too numerous: 'Behind this demand was a concern for greater economic efficiency. This above all was what condemned the endless succession of festivals: palace festivities, celebrations in the schools, academic processions, and craftsmen's and tradesmen's parades, all deriving from our "love of idleness". It was this that inspired the ... calculation of lost national revenue that so preoccupied Montesquieu.' Moreover, 'the festivals were occasions of confusion, indecency, the improper mingling of the sexes, the blurring of social roles, the reign of night and of wine—in short, all that was contained in the Pandora's box named "abuses"'. Thus clergy, enlightened intellectuals and commerce were united against the culture of 'traditional' festivals. Ozouf, above n 107, 1–2.

¹⁵⁷ Kohn, above n 107.

rituals in capitalist democracies—understood as mechanisms of integration—tend to overstate the degree of value consensus that exists in such societies, and understate the ‘conflictual’ social context of such exercises.¹⁵⁸ Contemporary civic ritualism cannot, then, assume the social harmony underlying Rousseau’s vision.

On the one hand, rituals and spectacles are historically used to shore up and legitimate the status quo and to procure consent; they may offer a means of integrating subordinate groups in the values and norms of dominant groups.¹⁵⁹ Indeed Bagehot observed, in the context of nineteenth century England, that the ‘theatrical elements’ of government ‘inspire the most easy reverence’,¹⁶⁰ and that their essential function is to procure obeisance from lower orders that are unable to rationally comprehend the functional or ‘useful’ elements of the Constitution. Thus Bagehot positively affirmed the capacity of ritual and spectacle to generate a kind of false consciousness.¹⁶¹ He seeks to use ‘imposing spectacles ... to impress an uneducated populace with the authority of the state.’¹⁶² And while the spectacles and festivals that followed the French revolution aimed at giving dramatic representation to the principles of the new regime, Marx disputed their authenticity and claimed their appeal to an aesthetic of Roman stoicism served primarily to obscure the self-interest of the ascendant bourgeoisie.¹⁶³

In contrast, any tenable, egalitarian vision of civic ritualism in diverse, differentiated societies must give some account of how it can aim towards a large degree of popular embrace but without representing a subtle form of symbolic domination. Relatedly, a further tension arises in that, as soon as public festivity is genuinely popular and spontaneous, it risks becoming a site of dissent and subversion that the state will seek to orchestrate and constrain—such that the substance or meaning of the exercise becomes destabilised.¹⁶⁴ As Rousseau demonstrates himself in the contrast between *Poland* and *Letter to d’Alembert*, the civic and the popular aspects of republican festivity are inherently in tension. This tension exists largely

¹⁵⁸ Steven Lukes, ‘Political Ritual and Social Integration’ (1975) 9 *Sociology* 289.

¹⁵⁹ *ibid.*

¹⁶⁰ Walter Bagehot, *The English Constitution* (London, HS King, 1873) 46.

¹⁶¹ ‘The most useful parts of the structure of government should by no means be those which excite the most reverence. The elements which excite the most easy reverence will be the theatrical elements—those which appeal to the senses, which claim to be embodiments of the greatest human ideas ... That which is mystic ... that which is brilliant to the eye; that which is seen vividly for a moment, and then is seen no more; that which is hidden and unhidden; that which is specious, and yet interesting, palpable in its seeming, and yet professing to be more than palpable in its results ... the characteristic merit of the English Constitution is that its dignified parts are very complicated and somewhat imposing, very old and rather venerable ... Its essence is strong with the strength of modern simplicity; its exterior is august with the Gothic grandeur of a more imposing age.’ Bagehot, *ibid.*

¹⁶² William Kuhn, ‘Ceremony and Politics: the British Monarchy 1871–1872’ (1987) 26 *Journal of British Studies* 133, 133.

¹⁶³ Karl Marx, *The Eighteenth Brumaire of Louis Napoleon* (1852), cited in Nielsen, above n 155, 275.

¹⁶⁴ Conversely, Ozouf notes that May 1968 has been interpreted as ‘a reprisal for our ceremonial impoverishment.’ The festival is potentially a ‘reconstruction ... of a social bond that has come undone.’ Ozouf, above n 107, 10.

because spectacle and festivity is inherently ambiguous—it has no fixed *propositional* content and so is subject to infinite adaptation and appropriation. But it is precisely this creative interplay between the official and popular (or subaltern) dimensions of rituals and festivals that makes them a site of political energy and creativity; indeed, it is the very fact of participation in such epistemological ambiguity that partly captures their republican idealism. Thus ritual can provide ‘a source of creativity and improvisation, a counter-cultural and anti-structural force.’¹⁶⁵ While political speech can be monopolised or colonised by the legitimate interlocutors of a discursive bourgeois public sphere and exclude those who are not equipped with the requisite idioms, ritual and theatrics provides an alternative medium of political communication and contestation. Nielsen, for example, argues that while the French revolutionary festivals of the 1790s were largely considered failures, they offered an ‘alternative public space in which women could and did perform’—in particular, they ‘gave women access to the public stage’.¹⁶⁶ Thus public ritualism offers expanded interpretations of, and alternatives to, the discursive public sphere and its associated hierarchies.¹⁶⁷

The instability and ambiguity of rituals—and the associated political creativity—is mirrored by political symbols. Olson, for example, illustrates how the revolutionary French-tricolour cockade was adapted in the colonial Caribbean setting—by colonialists as well as slaves—in a manner that was irreducible to the metropolitan understanding of revolutionary-republican ideals. Given its ‘lack of propositionally specific claims’ it acquired a versatility that rendered it ‘a domain of possibilities and a screen of projection’, that ‘functioned as a kind of mirror to the elite understanding of the ideals of the new French republic’.¹⁶⁸ While Olson argues that the tricolour’s ‘indeterminate character gave it a distinctive political power’, this is precisely the democratic promise of civic ritualism and symbolism—the fact that, as a means of political communication, it is irreducible to sterile didacticism.

IX. Conclusion

As I have argued, the paradox of Rousseau’s civic ritualism is that while it embraces a radical, romantic aim that is unrecognisable in the contemporary context, his strategy for civic integration anticipates, in a sense, the challenge of realising republicanism in the modern world—because, eschewing appeals to aristocratic

¹⁶⁵ Lukes, above n 158, 302.

¹⁶⁶ Nielsen, above n 156, 269.

¹⁶⁷ On the other hand, republican festivals sometimes project the violent excess of the Revolution itself, and ‘make a crime of isolation’. Ozouf, above n 107, 12.

¹⁶⁸ Kevin Olson, ‘Epistemologies of Rebellion: the Tricolor Cockade and the Problem of Subaltern Speech’ (2015) 43 *Political Theory* 730.

duty, it acknowledges and even aims to harness the considerable force of *pleasure* and self-expression.

Thus despite the radicalism of his ritual project, Rousseau demonstrates a certain realism in acknowledging that the republic, rather than appealing to self-sacrifice, must appeal to and harness our need of both recognition and pleasure. A range of constitutional incentives, such as public honours and approbations, will channel *amour-propre* towards less corrupting forms that are consistent with and supportive of republican politics. In a well-ordered republican state, our need for approval and esteem will harmonise and coincide with the requirements of the common good. Supporting the common good is simply made more *pleasurable* though a manipulative incentive structure which transforms the object and dynamic of public recognition. For Putterman, the ‘incentive structure’ of the Rousseauian state ensures that ‘private interests will be more *pleasurable* when they mirror the common good’;¹⁶⁹ similarly, Burt notes that Rousseau aims to shape dispositions in such a manner that makes its pursuit ‘immensely rewarding in emotional terms.’¹⁷⁰ Our pervasive need to win status and approval relative to others—the disposition which Rousseau believes lies at the root of political domination—can be reconfigured so as to support the dispositions of republican citizenship. Republican symbolism aims not only to reconcile, but to conjoin *amour-propre* and civic virtue.¹⁷¹ Rousseau’s recommendation of spectacle and ceremony has often been taken as proof of the unrealism of his constitutional writings, revealing him as a social critic or utopian polemicist rather than as a serious political theorist.¹⁷² However, his concern for a robust and socially pervasive project of symbolic constitutionalism reflects his appreciation of the scale of the challenge in motivationally and affectively anchoring principles of political right in citizens’ dispositions. And again, this aim is not unrecognisable or straightforwardly unacceptable in contemporary polities, given their aims of securing integration and affiliation.

Liberal constitutionalism, by contrast, will protect citizens against oppressive state ritualism or any hegemonic, intolerant symbolism. But it is silent against the unfreedom and domination latent in the cultural and social world of liberalism: it offers nothing against the alienation and hierarchy embedded in the symbolic and cultural universe of liberal society.

¹⁶⁹ Putterman, above n 22, 489.

¹⁷⁰ Burt, above n 136, 25.

¹⁷¹ ‘signs, symbols, words, images, and stories ... can capture imagination and *amour-propre* into the orbit of virtue and justice.’: Dobel, above n 10, 652.

¹⁷² Putterman, above n 22, see generally Judith Shklar, *Men and Citizens: a Study of Rousseau’s Social Theory* (Cambridge, Cambridge University Press, 1969).

