“NEO-REPUBLICANISM “ :A CRITICAL INTRODUCTION


RICARDO LEITE PINTO
Law and Political Science Departments
of the Universidade Lusíada de Lisboa
Rua da Junqueira, 188-198
1349-001 Lisboa, PORTUGAL
e.mail : rleitepinto@mail.telepac.pt

ABSTRACT:

The "intelectual history” developed by the Cambridge school (POCOCK e SKINNER, amongst others) and the “conceptual history” under the label of “Begriffsgechichte” in Germany (KOSELLECK, amongst others), led to the recuperation of the concept of “republic”, and contributed to the revival of republicanism not only in terms of an explanatory paradigm in the History of Ideas but also in legal studies and political philosophy. The objective of this paper rather to draw up a critical proposal is to assess “the state of art” about “neo-republicanism”. For this purpose we shall resort to three examples: a historical research project related to the studies of the XIX th and XX th centuries in Portugal, republicanism as a modern political philosophy and the development of so called “republican constitutionalism” in the modern north-american constitutional theory.
“NEO-REPUBLICANISM”: A CRITICAL INTRODUCTION

Ricardo Leite Pinto
(Law and Political Science Departments of the Universidade Lusíada de Lisboa)

1. “HUMPTY DUMPTY” AND THE HISTORY OF IDEAS: LANGUAGE OF REPUBLICANISM AS A HISTORICAL, POLITICAL AND LEGAL PARADIGM

“Politics is a communicatively constituted activity. Words are its coin, and speech its medium. And yet, notoriously, the words that make up this medium have hotly contested and historically mutable meaning.”

“When I use a word,” said Humpty Dumpty with disdain, “it means exactly what I want it to mean - no more, no less.”
“The question,” said Alice, “is whether you are able to make words have such different meanings!”
“The question is,” said Humpty Dumpty, “who should be master.”
Lewis Caroll, Alice Through the Looking Glass

Political innovation and the change in meaning of words in politics go hand in hand. Words which join the circuit of political language change throughout history, acquire new meanings and lose others. Sometimes, after long periods of lethargy, they are recuperated with meanings which differ from the original. And so they take on new meanings and become subject to theoretical and doctrinaire re-orientations. Words in political language change their meaning and as such win new usages which end up having radical implications on the history of ideas and political thought and action. As a rule such changes are slow and gradual. However, sometimes, at moments of great political density linked to revolutionary events or far-reaching and relevant change when political debate is more intense, such conceptual changes emerge more rapidly and ostensibly. Linguistic changes are not always accepted pacifically without complaint especially as, being used in the political game, they are sometimes used purely for the sake of rhetoric in order to win temporary victory in a purely party-political context (BALL and POCOCK, 1988:2). However, when the difference in political language is a result of an elaborate debating effort be it theoretical, rhetorical or philosophical, then the divergence ceases to be a simple semantic battle and
becomes a true change of paradigm in political language in accordance with that which is thought, written, spoken and done.

The study of the history of ideas, which gives importance to political language and conceptual changes, originates from projects which are different but, in part, complementary. On the one hand, the “history of concepts” or “conceptual history” was developed in the Federal Republic of Germany in mid XXth century under the label of “Begriffsgeschichte” by REINHART KOSELLECK (KOSELLECK, 1985) amongst others. In the 70’s and 80’s this movement gave rise to several collective works in German with evident encyclopaedic pretensions based on the History of political languages in Germany and France (RICHTER, 1995)\(^1\). On the other hand, in the Anglo-Saxon field, the historical study of political languages - the history of ideas\(^2\) - was largely due to the pioneering work of J.G.A. POCOCK (POCOCK, 1962)\(^3\), JOHN DUNN (DUNN, 1968) and QUENTIN SKINER (SKINNER, 1969)\(^4\).

Although the approximations referred are not exactly the same, the truth is that both announce the emergence of the history of ideas as separate subject to political philosophy. The traditional way of studying the History of Ideas was to organise the intellectual systems chronologically without paying attention to political languages. For example, POCOCK, DUNN and SKINER maintain that it is through political language and its changes that we may understand political thought and organise it historically according to a logic of intellectual paradigms.

For this purpose it is essential to situate the texts in the ideological context in which they were produced, to ask which were the central political issues of the society and time in which they were written, what real answers they aim to give or what deliberate silences they keep (SKINNER, 1978: xi-xiii). However, to reach this level of

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\(^1\) According to RICHTER’s information (1995: 9) the reference works are “Geschichtliche Grundbegriffe: Historisches Lexikon zur politisch-sozialer Sprache in Deutschland, (OTTO BRUNNER, WERNER CONZE and REINHARDT KOSELLECK, eds). Stuttgart, 7 volumes (1972 -); “Historisches Worterbuch der Philosophie” (JOACHIM RITTER and KARLFRID GRUNDER, eds), 8 volumes, Basle and Stuttgart, (1971 -) and “Handbuch politisch-sozialer Grundbegriffe in Frankreich, 1680-1820” (ROLF REICHARDT, HANS JURGEN LUSENBRINK, GERD VAN DEN HEUVEL and ANETTE HOFER, eds), 11 volumes, Munich (1985 -).

\(^2\) See POCOCK & SKINNER (1985).

\(^3\) In more recent works J.G.A. POCOCK takes up and develops his approximation to the History of Ideas, resorting to linguistic paradigms in the same way as THOMAS KHUN uses them in terms of the History of Science (see POCOCK, 1971, 1975, 1985).

\(^4\) It should be noted that the history of “mentalités” developed in France by followers of the “École des Annales” in France (MARC BLOCH and LUCIEN FEBVRE) as is the case of MICHEL VOVELLE, has similar characteristics to “Begriffsgeschichte” (RICHTER, 1995: 79).
understanding, it is not enough to read the texts and understand them. It is necessary
to understand the society in which they were produced and, going back to the previous
question, to identify the political vocabulary of the time. Understanding which are the
problems a writer wants to address and how he uses the concepts available is the same
as understanding which are his basic intentions in writing.

“When attempt in this way to locate a text within its appropriate context, we are not
merely providing historical background for our interpretation; we are already engaged

This historical-linguistic approximation followed its course, overflowing into political
philosophy or modern legal studies in the way in which former political language
came to illuminate contemporary arguments.

Words which are used nowadays in politics with a different meaning to that which
they had historically are common. And no less common are the situations in which
political vocabulary exists in transition, trying to disassociate itself from its traditional
meaning and acquire a new meaning. Political scientists, historians or jurists become
aware of these difficulties when they have to explain the concepts of “sovereignty”,
“Constitution”, “State”, “federalism”, “corruption” or “republic” in a historical
context, to give but a few examples.

Now this raises two issues: firstly, the identification of the meaning which those
words have had throughout history, assuming that they did not have one sole meaning,
secondly, the identification of their current meaning, scrutinising what is new, what is
adaptation or inspired by the past and what is exactly the same.

Let us reconstitute the dialogue quoted above between Alice and Humpty Dumpty.
Alice asks Humpty Dumpty whether we can give words other meanings. Humpty
Dumpty says it is a question of knowing who is master. Humpty Dumpty is the
Hobbesian representation of History and Alice is the historian who desperately seeks
to establish a meaning for the words. But she cannot. Humpty Dumpty is sufficiently
slippery not to let himself get caught in his constant word game.

The method proposed by the “Begriffsgeschichte”, the history of the “mentalités” and
by POCOCK, SKINNER or DUNN, amongst others, who seek to overcome the
avatars of the Alice / Humpty Dumpty two man show makes for the illumination of

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5 See also BALL & POCOCK, 1988
6 Which is analysed by POCOCK (POCOCK, 1971: 24)
certain ideas or concepts of specific authors or periods of history and the resolution of some questions unsatisfactorily resolved in History, Political Philosophy or Law. Of the above mentioned examples, we shall concentrate on the word “republic” and its derivative “republicanism”.

There are those who maintain that the word “republic” is unintelligible (WOOTON, 1994: 2). It expressed and still expresses different and sometimes contradictory meanings. It has meant the common good and virtue, it was the word that designated the State and community, it became associated to Human Rights and popular sovereignty and assimilated the ideas of the separation of powers, mixed government and even religious freedom. But it has always been present, with greater or lesser prominence, since the primordial times of the History of Ideas and, today, it is the cause of a complex but significant movement in historical, political and legal studies which goes by the name of “neo-republicanism” (WILLIAMS, 1994: 76). The expression “neo-republicanism” aims to designate a broad current in fashion in the academies which includes authors of various sciences and areas of knowledge.

And on the other hand, the republicanism which is studied or propounded is not always truly “new”. Strictly speaking it is not, therefore, either it is limited to plumbing the depths of history for hidden or as yet un-revealed signs of a republican language which was unknown and which possibly still exists today, or, it presents reformulations of old concepts and republican values. What can be stated, giving due justice to the name, is that these contributions are innovative for their respective fields of knowledge and understanding.

Curiously, it was the above mentioned historians of ideas, specifically POCOCK (1975) and SKINNER (1978,1981, 1983) who, in applying the historical method which they put forward, made the “republic” into an explanatory and interpretative example which, apart from them, many others undertook to develop in History, Political Philosophy and Constitutional Law. Sometimes this model goes so far that it is not even recognisable in its basic assumptions. Other times it appears transfigured and adapted in the views of those who do not even claim to be republicans. But in any case, the word “republic” is currently undergoing a conceptual change which renders it an undeniable protagonist in political innovation.

Is this an excessive claim? We don’t think so. If we move from the theoretical and academic field into that of concrete political action, a republican hue is clearly
recognisable in contemporary political language which was manifestly not there ten years ago. The world’s political leaders from both the left and right wing quote JURGEN HABERMAS (HABERMAS, 1998) and his “republican integration” as well as the heralds of the third way such as ANTHONY GUIDENS (GUIDENS, 1998: 65) and include the republican “apport” when, for example, they recall the duties and responsibilities of the citizen. In terms of examples, mention may also be made of the impact which the republican agenda is increasingly having in Australia and which placed republicanism at the centre of the country’s political debate (HUDSON & CARTER, 1993) during the last ten years.

What republicanism is this which is nowadays in everything and on everyone’s lips? What is the explanation for this sudden and powerful intellectual wave which is spreading throughout Universities? What has changed and what has remained the same in the word “republic” throughout History to the point of, today, allowing us to speak of a conceptual change and a new (or re-formulated) historical, political and legal paradigm?

It is important to note that the “history of ideas” school represented by names such as KOSELLECK, POCOCK or VOVELLE led not only to the recuperation of the “republic” but also gave rise to many other novelties in the field of the history of ideas. In fact POCOCK (1971: 26-27) took it upon himself to survey the historical contributions which the new historical-linguistic approximation gave us. The issue is that a large part of these contributions and, namely, some of the more far-reaching works of this school’s Anglo-Saxon historians, contributed to the revival of republicanism not only in terms of an explanatory paradigm in the History of Ideas but also in legal studies and political philosophy.

To what extent this model, and through it, “neo-republicanism” made for innovation in History, Political Philosophy and Law is what we shall try to ascertain in this article whose objective is rather to assess the “state of the art” than specifically draw up a critical proposal. For this purpose we shall resort to three examples: a historical research project related to the study of the XIXth and XXth centuries in Portugal,

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7 There are those who explain the sudden enthusiasm for republican revivalism in the following way: “When the disappearance of communism as an alternative ideology created, albeit fleetingly, the illusion of “the end of history” around the self proclaimed victory of the liberal model, the whole emergence of “another political line” could not help but captivate the critical conscience” (MESURE & RENAUT, 1999: 148)
republicanism as a modern political philosophy and the development of so-called “republican constitutionalism”.

2. RUI RAMOS AND THE CENTRALITY OF REPUBLICANISM IN THE POLITICAL CULTURE OF THE XIXTH CENTURY IN PORTUGAL

“There is no difference in the beliefs of monarchists and republicans in Portugal. What exists is a difference of positions. We are all republicans even if we are monarchists.”

João Chagas, João Franco, Lisboa, 1907, p. 225

One of the most relevant and promising revisions of Portuguese historiography this that put forward by RUI RAMOS (1992, 1994, 1997, 1998). Since the beginning of the 90’s this historian has propounded a review of XIXth and XXth Portuguese History marked by the republican paradigm.

According to his theory Portuguese historiography has ignored the republican concept in studying the XIXth century and the 1st Republic, reducing the former to liberal postulations supported by the constitutional monarchy and the latter to a straightforward continuation of constitutionalism “no man’s land between monarchic constitutionalism and the principles of Salazar” (RAMOS, 1992: 231).

Scorn for the republican concept “has prevented the perception of something extremely important for the understanding of Portugal’s contemporary history which is the enormous influence which republicanism - the republican culture - had in Portugal, an influence which surpassed, by a long way, that of the Portuguese Republican Party organised in 1876 and that of the 1910 regime” (RAMOS, 1992: 230).

Historians from the 70’s - a historiography limited by sociological preconception - described the republicans as “petit bourgeois from Lisbon” and their ideology as “the banal ramblings of an alienated class”. This approach - “which historians given over to sociological principles believe is proven by ingenuously calculating the percentage of salesmen there were in the Masonic lodges” (RAMOS, 1992: 236) - is contested by the author who proves the presence of the republican concept amongst the
intellectuals and politicians of the XIX\textsuperscript{th} century with a special focus on OLIVEIRA MARTINS and ALEXANDRE HERCULANO; this was conceived in classical terms, in other words as a revival of the civic humanism which, born in Rome, was cultivated by the renaissance men MAQUIAVEL and HARRINGTON and which reached modern times through MONTESQUIEU and ROUSSEAU (RAMOS, 994: 589).

Classical republicanism was based on three fundamental principles: “first, that the strength of a community resided in the cohesion of its members; second, that that cohesion is attained through participation in the kind of collective action represented by the Government or the defence of the community; third, that man only truly has access to his own individual autonomy through the experience of collective autonomy. The republic’s cardinal virtue and the basis of its cohesion is patriotism, the dedication of individuals to the common good. Nations fall into decadence when the members of the community place their private interests above the collective interest and civic life falls apart. This is the principle of the corruption of republics” (RAMOS, 1998: 171).

This thinking was present even amongst the most radical of the Republican Party’s enemies and amongst those who were hostile to the republic while it merely signified the regime in which the Head of State was elected. It was the republican concept which JOÃO FRANCO tried to import into the monarchy; this explains the notorious discomfort of the Republican Party with Franco’s dictatorship. OLIVEIRA MARTINS and HERCULANO reflected on the History of Ancient Rome and it was based on that paradigm - the linguistic paradigm of virtue / corruption - that both criticised portuguese expansion overseas in XVth and XVIth centuries. It is in the light of this republican tradition that, for example, we should interpret Portugal’s decadence attributed to the 70’s generation. It is also this - the idea of making Portugal into a body of patriotic citizens, a splendidly autarchic community living off its own work, endowed with good laws - which is at the root of MOUZINHO DA SILVEIRA’s legislation (RAMOS, 1998: 137). Everybody accepted that the best political regime was that in which the concept of the republic might be realised, arguing only as to whether it should be the republican party which should lead such a regime. This dominance of the republic as a way of conceiving the domestic situation - and therefore far from being reduced to the Republican Party’s programme and
practice - was so strong wrote RAMOS (1992: 239) that António Sardinha - monarchical leading theorist - himself accepted the hypothesis that “integralism represents no more nor less than the doctrine of a Republic with a King at its head”.

RUI RAMOS’ “opus magnum” in which he puts into practice his interpretation of Portuguese XIXth and XXth century History in the light of the republican paradigm is the sixth volume in the History of Portugal co-ordinated by JOSÉ MATOSO. Here it becomes clear that the republic was not the simple continuation of the constitutional monarchy. It is true that for both regimes the departure point was the individual citizen. But while the constitutional monarchy tended to see itself principally as a guarantee system for the individual freedom of that citizen, the emphasis of republicanism was different. The republicans wanted citizens to be free men in order that, without depending on anyone and voluntarily, they might decide to put service to the community above any other interest. In the Republic the free individual was raw material for the construction of a collective body - the republican nation - which would then have priority over that individual” (RAMOS, 1994: 401). This republican thinking was never refuted even when modern States in the XIXth century became commercial and had large populations. Hence the affirmation of the primacy of the human person faced with liberalism, “it was never a simple atomic egoism such as caricatured by its critics: it was always founded on a vision of the last political situations inherited from classical republicanism” (RAMOS, 1998: 171).

The author’s desire is to prove that the last stage of the liberal monarchy and the 1st Republic was marked by an intellectual climate whose bedrock is distinctly republican and whose objective was the definition of a “national community” whose political expression was the republican State. Hence the volume’s symptomatic name - A Segunda Fundação (second foundation) - taken, in fact, from an expression of António Sardinha who exactly summarises the intentions of the age.

Republicanism as an explanatory paradigm of the intellectual framework of the XIXth century in Portugal is studied from the author’s point of view as a language which can be deduced from certain texts of a political, historical or literary nature. RUI RAMOS

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8 Most constitutionalists adhere to this point of view, applying it to the Portuguese constitutional History. Thus they end up diluting the 1911 Constitution over an ample liberal period which ranges from 1820 to 1926 (MIRANDA, 1997: 244) or at least associating it to the radical liberalism which dates back to the 1820 Cortes Gerais (CANOTILHO, 1999: 158). See also our point of view (PINTO, 1998, a).
seeks and finds the republican paradigm in Oliveira Martins’ “História da República Romana” or the “História da Civilização Ibérica” on in the “Cartas sobre a História de Portugal” or in the articles in Alexandre Herculano’s “A Voz do Profeta”. In all the author finds the same kind of language: that of classical republicanism. Essentially a certain, more profound and meaningful way of thinking things through in politics and history, as a model for thought rather than the mere adhesion to a non-monarchical regime. This way of thinking should be studied not so much through descent and genealogy - in the case of analysis of the written work - but, above all, through the analogy of arguments (RAMOS, 1997: 124).

Thus, it is by resorting to J.G.A. POCOCK’s (POCOCK, 1975) and QUENTIN SKINNER’s (SKINNER, 1978) historical research on classical republicanism and precisely in the use of the historical method also put forward by these historians that RUI RAMOS presents new clues as to how to understand Portugal as a Nation-State: “It would be of the greatest interest if we were to try to begin understanding how much the way in which we relate, well or badly, to that which we call “our country” is due to the 1848 revolutionaries, the 1870 positivists and the 1912 “renaissance men” - all republicans and not by chance” (RAMOS, 1992: 239).

We therefore stand before a huge re-orientation of Portuguese history which bears significant conceptual changes. It launches amongst us the linguistic model of the historical school which we saw before, placing “republicanism” at the centre of the debate on Portuguese History over the last 150 years.

3. NEO-REPUBLICANISM IN POLITICAL PHILOSOPHY: “LET US TAKE OUR DUTIES SERIOUSLY”

“(…) unless we place our duties before our rights, we must expect to find our rights themselves undermined”

Quentin Skinner (1990: 309)

“(…) the legal republic needs to become a civil reality.”

Philip Pettit (1997: 280)
In the 70’s the republic and republicanism did not exist in political theory dictionaries. Nowadays any dictionary which claims to be up to date cannot but include an entry under “republicanism”. Neo-republicanism achieved a status of great intellectual importance. The addition of the word “republicanism” to the title of any academic work makes the oeuvre more important and respectable” (ENGEMANN, 1993: 331). The success of this group of ideas was inspired by the recuperation of the republican paradigm in north American historical studies in the 60’s, motivated, according to some, by a notorious dissatisfaction with the north American identity (HAAKONSEN, 1993: 568). The historical republican paradigm (SHALHOPE, 1972, 1982) began by emerging in the USA, wending its irresistible way through the search for alternative ideological roots to those found in LOCKE’s liberalism (BAYLIN, 1976, WOOD, 1969, RAHE, 1994) but it ended up having its European interpretation based on MAQUIAVEL through historians such as J.G.A. POCOCK (POCOCK, 1975) and QUENTIN SKINNER (SKINNER, 1978).

Curiously “neo-republicanism” was born in the Anglo-Saxon academic context and, in comparison to the Anglophone debate, modern French thinking is substantially poorer (see, despite everything KRIEGEL, 1998, NICOLET, 1992, POLIN, 1997, GOYARD-FABRE, 1997, TENZER, 1993). This is so because, on the one hand, French republican tradition, which is undergoing an attempted revival, lost conceptual clarity and thoroughness and, on the other, as French academics themselves admit, because “French style” republicanism is “very regional” (MESURE & RENAUT, 1999: 150).

The history of neo-republicanism in contemporary political philosophy is not a linear and coherent history. Many authors invoke republican values but not all call themselves republicans (HABERMAS, 1996 a). Others claim a conciliation of liberalism and republicanism (DAGGER, 1997; TERCHEK, 1997). Others also include some principles of civic humanism or classical republicanism but exclude others (MICHELMAN, 1988 or LLANO, 1999). There are even those who do not identify with republicanism but see themselves labelled so as is the case of DWORKIN. There is also the communitarian assertion which uses republican values but claims an autonomous position from the theoretical or philosophical point of view (BARBER, 1984).
The point which is common to the various authors who directly or indirectly claim republican values - which includes names as diverse as PETTIT (1997), BRUGGER (1999), MAIHOFER (1990), SKINNER (1990, 1998), VETERLI & BRYNER (1989), SPITZ (1995), ACKERMAN (1993), GINER (1998), HABERMAS (1996), TERCHEK (1997), GOODWIN (1995), COATS Jr. (1994), ONUF (1998) or SANDEL (1996) - is precisely the use of past political theories or historical political concepts to illustrate current political and philosophical arguments. In this case, very briefly, it was a question of using the Latin word “res publica” and its original Roman concept - the “public thing” - as something which links a given ordered community to the determination of the common good. In this sense the “res publica” would oppose “res privata” (private, family life). Associated to this idea the History of Rome ended up relating the “res publica” to a certain form of political organisation, - a constitutional architecture - which would best ensure the essential value of the “common good”. A mixed form of government which, while reconciling democracy, aristocracy and monarchy, - the government of all, some and one sole individual, in ARISTOTELES’ classical description - would provide the appropriate constitutional vehicle for the expression of the “common good”. This meaning of “republic” was reclaimed in the Italian Renaissance (MAQUIAVEL, GUICIARDINI), extended itself in the context of the British Commonwealth-men (SYDNEY, HARRINGTON) and of Dutch commercial republicanism, revitalised itself and re-invented itself in the north American and French revolutions and arrived at the present day.

This complex migration of the concept of “republic” over more than two thousand years is in itself an event. But that it should have withstood the periods in which it almost disappeared from the history of ideas and re-appeared today full of virtualities makes us try to understand the success of POCOCK and SKINNER’s historical method in the light of the ascendancy of neo-republicanism.

Neo-republicanism is, therefore, explained through a complex process of historical revision which begins to question the liberal affirmation of the priority of natural rights in the construction of the modern State and society. This history, developed by liberal theoreticians, is seen by republicans as unilateral because it does not cover the role of republican ideas, values and institutions born in Roman times and re-lived in the Renaissance.

Such values evolve around the following assumptions:
a) *civic virtue* ("virtú" / "civic virtue" as opposed to Christian virtues) designating the defence of freedoms, the involvement of the community, the love of laws and the homeland, the continued preference given to public interest and the search for the common good as opposed to corruption (the ineptitude for a free life, self absorption, the emergence of private interests, the “factions” in the rhetoric of the north American federalists) (SKINNER, 1978: 164; DAGGER, 1997: 196);

b) *political involvement* which, from the republican point of view, comprises an extension of the process of discussion and deliberation in which everyone may participate under equal conditions for access to the public arena and which is called deliberative democracy (NINO, 1996: 107; BOHMAN & REHG, 1997: ix);

c) *dialogic reason*, a fitting way to reach the common good which is reflected in a conversational commitment which sinks its roots in renaissance republicanism ("audi alteram partem", always hear the other side, as a way of understanding and resolving disagreements through dialogue, (PETTIT, 1997: 188, HABERMAS, 1994:12));

d) the idea of *popular sovereignty* which, according to the neo-republicans, would be affiliated to a new way of conceiving “res publica”, originating from MAQUIAVEL, and in accordance with which would result in a community in which freedom is associated to the elective principle (SPRINGBORG, 1992: 197);

e) the modelling of *citizenship* as the reconstruction of the role of man in political society through civic dialogue and participation the “polis” in which duties and responsibilities are highlighted as an ideal of freedom (a citizen in a republic acts and participates in the community in order that he may see himself as the author and receiver of the law) (MICHELMAN, 1986; HABERMAS, 1996).

The importance which the different authors give to these values is not the same. Some underline civic virtue (GUINER, 1998) and individual responsibility (SHERRY, 1986, 1995), others citizenship and participation in the community (OLDFIELD, 1990) and yet others the process of political participation (SUNSTEIN, 1988) and the deliberative democracy model (NINO, 1996) and, lastly, others highlight the forms or institutions of the republican State and, within them, the role of the Constitution and the Law (PETTIT, 1997).

Neo-republicanism was born in competition with liberalism but a radical separation between the two as modern philosophical currents - although some continue to refer to
it (HABERMAS, 1994: 1) - does not seem to win a majority vote. Nowadays, the rigid dichotomy between positive freedom and negative freedom is undergoing a crisis. As seen before, many try to reconcile liberalism with republicanism or to put forward a kind of third way between the two, a procedural democracy which reconciles human rights and popular sovereignty (GUINER, 1998). Others, however, claim that in the republican field there would be a “strong republicanism” in line with Aristotelian civic humanism (TERCHEK, 1997:66) which would be difficult to reconcile with liberal claims and a classical republicanism compatible with the theory of liberal justice(RAWLS, 1995: 202).

However, in recent work, although drinking from the contributions of the neo-republican wave of the last ten years, PETTIT proposed the idea of freedom as non-domination, affiliating it to the concept of negative freedom as an organisational element of republicanism. According to him, there would therefore be a distinctly republican idea of freedom which has been present in republican literature since Roman times and which would not revert to any stereotype. Freedom as non-domination would allow the citizen to be immune from all and any arbitrary control. This concept illuminates republicanism and gives form to a group of proposals related to Law and the State. Republican freedom is not freedom as non-interference since non-interference, in accordance with the liberal paradigm, would not always offer and guarantee a complete non-domination. The very proof of this is exemplified in the master/slave relationship in which the hypothetical benevolence of the master who does not interfere with his slave’s choices does not free the latter from the situation of non-freedom which is specific to the slave. PETTIT therefore concludes that freedom can be lost even if there is no interference.

So, in order to safeguard republican freedom the author demands a strong constitutional state in which the institutions rather than guaranteeing freedom, in themselves constitute that freedom. This is what justifies a traditional topic of the republicans when the latter state that a rule of law (law) brings freedom. Having defined republican freedom as an attractive political ideal, PETTIT throws himself into describing what the State should do to promote it. The republican State should respect several constitutional conditions: that of the rule of law, that of the “dispersion of power “ (separation of powers, a two chamber system, decentralisation) and the counter-majoritarian condition (legal or institutional restrictions on a majority
deliberation which is precipitate or about which the people are not informed which, for example, questions Fundamental Rights). But it should also organise itself according to a democratic model under the terms of which the contestation takes place (contestative democracy as variant of deliberative democracy). And finally, neither the State nor the law are enough: the republic must be a civic reality. The defence of non domination (respect for republican freedom) may only be guaranteed if everyone, based on objective reasons, recognises it.

In essence the substance of the neo-republican undertaking is to contest the communitarian affirmation expressed, for example, by ALASDAIR MACINTYRE (1981: 241) that today’s great moral question lies in the opposition between the tradition of individual liberalism and the Aristotelian tradition of freedom. From this point of view the idea of positive freedom and the citizens’ reinforced civic participation specific to the community position (BARBER, 1984, OLDFIELD, 1990: 145) which appeals to the concepts of citizenship and deliberative democracy would not in essence be anything more that an equivocal reading of the traditional republican freedom. In other words, neo-republicanism tried to overcome that apparent opposition - negative freedom versus positive freedom - proposing a different understanding for the fundamentals of politics and the modern State. The legal tradition of Natural Rights as part of the historical liberal ballast which dates back to LOCKE goes hand in hand with the recuperation of the republican modes of citizenship (the republican virtue). Republicanism thus shares a negative ideal of freedom with liberalism - freedom as non domination (PETTIT, 1997) - made possible by the republican institutions.

4. THE “REPUBLICAN REVIVAL”: LOOKING AT THE NORTH AMERICAN CONSTITUTION THROUGH REPUBLICAN EYES

“(…) republican figures less a canon that an ethos, less a blueprint than as conceptual grid, less a settled institutional fact than a semantic field for normative debate and constructive imagination”

Frank Michelman, (1986: 17)
The north American legal academy was one of the first to use the historical investigations of BAYLIN, WOOD and POCOCK, applying them to the study of the 1787 Constitution. This movement was born at the end of the 80’s and still exists today, claiming the republican tradition to be present at the founding moment of the American nation - the Philadelphia Convention, the debate between the federalists and the anti-federalists, the texts of “Publius”, the thinking of Thomas Jefferson (KLEIN, BROWN & HENCH, 1993) (McDOWELL & NOBLE, 1997) - as part of modern America’s heritage in order to look at the Constitution through republican eyes (SUNSTEIN, 1988: 1576).

The aim of this revivalism is not univocal and nor are the approaches to the subject. The works of MICHELMAN, (1986, 1988), SUNSTEIN (1988, 1993), ACKERMAN (1989, 1993), SHERRY (1986, 1994, 1995), SELLERS (1994, 1997, 1998), ABRAMS (1988) or POPE (1990) amongst many others prove this to be so. From the outset because, while for some, republicanism might permit the modern questions of American public right to be considered from a different point of view - restrictions on the funding of electoral campaigns, fundamental rights, the citizens’ political participation - thus working as a current of constitutional interpretation in competition with others such as interpretativism or originalism (GRIFFIIN, 1996: 188), for others, it would mean reacting against that which is bad in the America which “lost the idea of civic republicanism, leaving only a somewhat distorted heritage of rights” (SHERRY, 1993: 63). Then, taking POCOCK literally, because the republicanism which people aspire to relive is one moment based on the standards of classical republicanism and the next presents itself as a republicanism which has been transformed and adapted to new situations; in this case it is always necessary to know what is the relationship between the old paradigm and modern theories (FALLON, 1989: 1699).

In any case, it is possible to identify a collection of assumptions organised around civic virtue, the common good, participation, dialogic commitment and the egalitarian dimension which are, in fact, common to the values which the neo-republicans put foward in the field of political philosophy and which we have already looked at.

Nevertheless, amongst republican jurists there is particular emphasis placed on the definition of the common good through dialogue / conversational commitment, (the republican dialogue) which presupposes the value of civic virtue. The republican
quality of democracy shall, in essence, be assessed by the breadth, depth and universality of the “dialogue” between the members of the community prior to democratic deliberation. Thus, the republic is a “republic of reasons” which shape deliberation and give it meaning.

What is not clear is the understanding as to the “forum” where this “republican dialogue” may and should take place. While MICHELMAN (1986: 24) or DWORINKIN (1986: 379) situate it in the courts of the Supreme Court which may also correct the absence of the “republican dialogue”, SUNSTEIN (1988: 1578) reverts to the “Madison” solution of centring dialogue on the elected representatives of the people who end up filtering “popular will” and ACKERMAN (1993: 240) or POPE (1990: 310) maintain that this role belongs to the people who in extraordinary moments - “constitutional politics” - deliberate about the interests of the community.

Now, the question of the means or forum where republican dialogue might take place although important, does not, nevertheless, mask the fundamental issue of republican constitutional theory in the United States which is one of affirmation of the multi-sourced origin of the American revolution. In other words, the American Constitution has at its roots both LOCKE’s theory of Natural Rights and the virtue/corruption dialectic of the republican tradition.

This claim leads us to another proposal which is certainly more ambitious but which results from the former: the attempt to overcome the dichotomy between the Constitution and Democracy. Also known as the “counter-majority paradox” (BICKEL, 1962: 16), the question which has run through north American constitutional theory from the outset lies in the circumstances of the Constitution proclaiming popular sovereignty but simultaneously establishing limits - rights - and a mechanism - the “judicial review” - which at a given historical moment may oppose that popular sovereignty.

The paradox more recently was transferred to the criticism of the role of the Supreme Court’s constitutional adjudication based on the idea that democratic principles are incompatible with such a model.

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9 Not claiming to be a republican, DWORINKIN, nevertheless, is becoming categorised as one on account of the way in which he considers the relationships between the Constitution and Democracy above all in “Law’s Empire” (CHRISTODOULIDIS, 1998: 59).
With a view to dissolving the counter-majority paradox the republicans maintain that democracy and the Constitution are not incompatible and do not mutually exclude each other. And they propound another understanding: it is the Constitution which supports the political community, promoting participation, emancipation and the community. The forum for “republican dialogue” is, after all, the Constitution because it is the latter which reinforces popular sovereignty by conferring on it a “home” for political deliberation (CHRISTODOULIDIS, 1998: 10). For constitutional republicans it is the Constitution that underpins the community’s politics in one and the same stroke, promoting participation, capacitiation and emancipation.

North American constitutional republicanism is completely aware of its ideological roots. It is thus in their claim of overcoming the antinomy between the Constitution and Democracy by resorting to classical republican jargon “civic virtue, participation and the common good” that the new republicans reject the nostalgia with which some of the modern philosophers (ARENDT, 1963) consider the Aristotelian tradition of the “polis”. “As a tradition of political thought, republicanism is less a canon than an ethos (...) less an institutional fact that a semantic field for normative debate and constructive imagination” (MICEHLMAN, 1986: 17).

In the manner of a conclusion it could be said that modern constitutional republicanism, above all developed in the United States, had the merit of putting the main accent on authenticity, exemption and diversity of the constitutional dialogue by means of a sophisticated re-interpretation of the republican tradition without rejecting liberal claims on account of the way in which it gives importance to fundamental rights. Hence it presents itself as “the saviour of liberalism and of its own excesses and, as such, a liberal-republicanism” (PINTO, 1998: 190).

5. CONCLUSIONS

What was at the root of this vast movement which spread through history, political and constitutional theory and which we call neo-republicanism? It is probable that originally it was a triple dissatisfaction - historiographical, political (SPITZ, 1997: VII-XVII) and legal-constitutional.
From the historical point of view neo-republicanism meant and means the criticism of a written history based on the legal paradigm - consent, legality, legitimacy and fundamental rights. In studying republican language - with the resource of “the history of ideas” or “Begriffsgeschichte” - it added another dimension, forgotten for many years: the civic spirit, virtue in the face of corruption, the return to principles, education for citizenship. And this allowed us to see that not only the theory of natural rights but also the “Machiavellian moment” lay at the origins of modernity.

But moreover, from the political and legal point of view, modern republicanism questions itself as to the possibility of men and women continuing to be free and masters of their own destiny in a world in which the mechanisms of representation, the political parties, interest groups and the professionalisation of politics questions precisely that freedom (SPITZ, 1997: xx). And it answers by proposing a return to the principles of virtue, dedication to the common good, responsibility and dialogic tradition which are specific to European and continental republicanism, conferring on the Constitution an irreplaceable role as the “home” for political deliberation. In this way it would seek to overcome the apparent antinomy between the Constitution and Democracy (the counter-majority paradox). It would essentially mean correcting the current democracy by appealing to republican principles and announcing the democracy of the XXI\textsuperscript{th} century.
BOCK, Gisela, SKINNER, Quentin e VIROLI, Maurizio( eds.) (1990), Machiavelli and Republicanism, Cambridge University Press, 1990


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