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"Rethinking Modes of Affect within Liberal Nationalism and Constitutional Patriotism"

This paper seeks to add a new dimension to a current debate between theories of liberal nationalism and constitutional patriotism. I challenge the idea that constitutional patriotism can sufficiently produce socially integrating effects without employing emotive forms of affect. In contrast to citizens forming solidarity and common identities around political principles on the basis of communication and justification alone -- which I refer to as a sort of cognitive affect -- I argue that constitutional patriotism requires an emotive, sensible quality around which citizens can orient their identities. Furthermore, I argue that the emotive attachments within liberal nationalism can not only cohabit with the cognitive and intellectual demands of a deliberative model of democracy, but that such citizens' emotive attachments supplement a constitution's normative function with a social integration function. In sum, constitutional patriotism and liberal nationalism both rely on emotive and cognitive variations of affect, albeit in very specific ways.¹ My primary argument is that social integration within a society cannot exist without citizens identifying with a set of emotive attachments that rational-critical discourse is unequipped to produce.

Liberal nationalism² is founded on the belief that the nation is the legitimate constituent power to form a state. Such a nation is produced and reproduced through a relatively stable set of narratives passed on and shared between members. Such narratives are strongly influenced by the emotive characteristics of the pre-political nation, whether it be ethnic, linguistic, or cultural (or a variety of them together). The imaginative aspects of such narratives suggest that members feel pride in the nation's accomplishments and sorrow for its tragedies. Since national identity is thought to be a more-or-less inherited or an involuntarily agreed way for citizens to identify themselves and imagine themselves as part of a particular nation, the affect involved is largely based on the emotional bonds of the nation, a "feeling" of belonging to it. *Liberal* nationalism – so the story goes – is thus somewhat at odds with the view that citizens *voluntarily choose* their political destiny, due to the tension between the cognitive/justificatory dimensions of democratic will-formation and the non-deliberated criteria for membership within such will-formation. The

assumption here is that although it is liberal and has a rule of law with substantial individual rights, the liberal nation-state ultimately relies on an emotive, pre-political community as its source for social integration and ethical orientation.

In contrast to this depiction, I argue that national identities, partly *because* they are imagined, are open to inclusive reinterpretations by citizens. So long as such reinterpretations exist within a free and open public sphere, national culture can be re-imagined in novel ways. Emotive attachments among a citizenry can provide interlocutors in rational-critical discourse with a sense of trust and respect that is needed for agreement to exist between them in the first place. Additionally, national/emotive affect towards a constitution functions to ensure social integration. Citizens feeling in some way that the constitution is "theirs" and that it is a symbolic accomplishment of their particular culture is required. A constitution's "integrative capacity" requires not only intersubjective validity, but also must be anchored in citizens' extra-legal sentimental attachments towards the document. Lastly, I argue that in order for processes of national identity to be re-imagined in an inclusive way, it must be met with developed norms of mutual recognition and sensitivity to minority groups within the public sphere.

On the other hand, constitutional patriotism is often understood as a purely voluntary and strictly cognitive concept whereby citizens agree and interpret their collective identity as centered upon universal political principles.³ More specifically, Habermas's notion of constitutional patriotism orients citizens' identities around agree-upon *procedures* whose rationality is tested within a discursive public sphere. The assumption I wish to question within this model of "thick" civic patriotism is that its "strategy of redirection"⁴ includes an aesthetic aspect of rhetoric. I argue that although Habermas's account of constitutional patriotism seems to strip politics of most of its emotive qualities traditionally associated with the heart-felt images

of the ethnic nation, his theory is still requires citizens to have non-cognitive forms of affect towards such political principles and each other.

In order to make the claim that constitutional patriotism requires emotive affect, I turn to an example within early American civic patriotism, specifically the Declaration of Independence. The Declaration of Independence was embedded in a specific culture of "elocutionary" rhetoric which took flight in the mid-late 18th century. Jefferson, who was well aware of this elocutionary school, intended the Declaration to be a publicly *orated* document whose validity and agreement depended upon how the document was *performed* rhetorically. This form of rhetoric did not explicitly manipulate audience members by inciting in them fear or glory, but through the timing, cadence, and the musicality of its oration, Jefferson thought the document had to produce emotive reactions in audience members in order for them to agree to it. By extension, Jefferson imagined the validity of the Declaration as not revealed solely its in textual form, but in how it was performed and read aloud; the textual validity of the document depended upon its emotive and aesthetic appeal.

What is at stake here is twofold. First, we should not exclude emotional, non-cognitive forms of affect from our understandings of civic or constitutional patriotism. Instead, we need to be aware of citizens' rational agreement and orientation to political principles as *supplemented* by non-cognitive, emotive forms of political rhetoric. If one is suspicious about whether constitutional patriotism can produce socially-integrating effects on cognitive grounds alone, we need to rethink how emotive forms of affect exist within constitutional patriotism even though such forms *substantially differ* from those within ethnic nationalism.

Second, we should not exclude rational, cognitive forms of affect from our understandings of liberal nationalism. Instead, we must be aware of how national identity -- far from being static, monolithic, or blindly inherited -- can be interpreted and reinterpreted by democratic deliberation in an iterated fashion. As such, national identity within liberal democracies not only can cohabitate with the cognitive, reason-giving enterprise of democratic deliberation, but provides a theory of deliberative democracy with the much needed emotive bonds of community.

Brief Overview Habermas's conception of Constitutional Patriotism:

One normative concern that Habermas seeks to address with his conception of constitutional patriotism is to provide a communicative basis for political and social solidarity.⁵ In the case of ethnic nationalism, minority groups who are "outside" the majority culture find it hard to integrate into a society that does not recognize their cultural identity as something public; it is a private identity not suitable for public notice. This presents a problem of respecting and preserving the integrity of personal subcultures that become "sealed off" not only from the majority culture, but also from other sub-groups.⁶ The result is a crisis of identity within the society as whole whereby there exists no universal orientation among all citizens; instead, national politics, so the story goes, hosts a structure of identity politics that is a zero-sum game. Habermas's critique of ethnic nationalism is that a civil society based on ethnic identity not only imposes illiberal tendencies by denying the right to culture and identity to minority individuals/groups, but such an arrangement also represents a deep form of social fragmentation that is susceptible to social disintegration, marginalization, and systemic cultural hierarchies. The problem is not how to incorporate minority cultures into the majority culture, and give them equal recognition, but how to *transcend* pre-political identities as the basis for social solidarity

and integration. The conceptual problem Habermas illuminates is that pre-political identities foil the political- and will- formation of democratic citizens. Since pre-political identities are non-discursive, inherited social ideas, they are incommensurable with the discursive processes within Habermas's idea of public reason. In other words, pre-political identities – as a basis for social integration/solidarity -- detract from the normative substance of his discursive theory of democracy by *closing off* communication of certain groups/individuals within the public sphere.⁷

Habermas's solution to the identity crisis within modern constitutional democracies is to re-theorize popular sovereignty as something based on an intersubjective concept of political identity.⁸ Popular sovereignty needs a way of navigating between being colonized by sub-systems and absorbed into the orbit of pre-political identities in order to preserve the normative functions of opinion- and will-formation of democratic citizens. In order to avoid both, Habermas calls for a paradigm-shift in the way we view popular sovereignty that no longer has an embodied, substantive character, and is instead based on the general agreement around procedures.⁹ In this very abstract, non-embodied version of popular sovereignty that distances itself from 18th century notions of an “association writ large,”¹⁰ citizens orient their political identity and solidarity around procedures that ensure general rights of communication.¹¹ Constitutional patriotism is thus an extension of the French Revolution only in the sense that we translate its concept of popular sovereignty into our own normative categories.¹² Consensus on substantive, pre-political criteria, for Habermas, is no longer possible in modern multicultural/plural societies. We must dissolve popular sovereignty of its pre-political makeup and replace it with a solidarity based on universal principles embodied in procedure, which has the normative capacity to universally and voluntarily bind all citizens within a common *political identity*. This option is attractive for Habermas because it replaces pre-political national identities

with a constitutional identity, asking citizens to redirect their affection and patriotism away from pre-political identities towards a set of universalistic principles – accompanied by a constitutional culture -- thereby evading the discriminatory, fervent-nationalistic tendencies endemic within ethnic nationalism.

Section I: Constitutional Patriotism and the Cognitive Demands of Justification

A large part of the concept of constitutional patriotism rests upon Habermas's notion of deliberative democracy. His theory of democracy rests on the normative assumption that all "action norms" stemming from democratic opinion- and will-formation must be based on neutral and impartial justifications.¹³ At its core, this means legitimizing norms that can be discursively validated by those affected by the norm, while dismissing norms which cannot. Indeed, there are variety of action norms that require different types of justification – categorized in terms of moral, ethical, or pragmatic discourses that have different levels/types of justification – but Habermas's basic premise is that democratic politics is a form of governance based on the mutual understanding and agreement within a context of free and open communication. Sometimes known as the "force of the better argument," this strain of deliberative politics relies on the communicative presuppositions of illocutionary obligations.¹⁴ In other words, communication itself -- between two or more interlocutors --presupposes that a claim given by a speaker about something pertaining to some aspect of the objective, social, or subjective "world" must be redeemed and justified by an audience as either true, right, or sincere, respectively.¹⁵ The cognitive dimension of Habermas's discursive theory of democracy is thus a product of the *voluntary and rational agreement* obtained between interlocutors. At a more abstract level, such communicative agreements serve as the basis for citizens at large to find a common political identity. So long as such speech acts – correlating with one of the three "worlds" – are agreed

upon due to their illocutionary validity, and do not depend on extra-linguistic rewards or sanctions for agreement (perlocutionary), the consensus achieved between two interlocutors about how to act is deemed rational. As suggested, the main point is that the validity of an action norm is based on the *cognitive* aspects of agreement that an interlocutor finds convincing on its own merit, and not based on the non-cognitive, emotional, extra-linguistic (including speaker's social status), or the rhetorical impact of the speech act.¹⁶ Indeed, as I will later attempt to show with Habermas's view of civil society in general, this form of communication is "subjectless" because the subject is not the normative source of deciding the validity of action norms, such as the case with natural law; action norms must require intersubjective validity.

Departing from Habermas's theory of communication, we can preliminarily claim that democratic norms depend on impartial, cognitive, intersubjective justification of norms. At this point it is now possible to turn to his deliberative politics in order to illustrate how the presuppositions of communication create a type of politics that orients itself around the norms that arise from communication itself. In terms of constitutional patriotism, this requires citizens to internalize such norms as a fundamental part of their political identity/allegiance. Although Habermas claims that popular sovereignty is in the modern sense abstractly oriented towards procedure, the identity and solidarity of civil society from a cultural perspective is more fundamentally rooted in a variety of discursively-tested political principles and norms of the public sphere (tolerance, equal rights, etc.). The result of such communicatively-based democratic institutions and habits is a depiction of civil society that becomes dependent upon a highly intellectual "liberal culture" that internalizes its identity in post-traditional terms.¹⁷

Constitutional patriotism thus requires a paradigm-shift in our traditional view of civil society. This paradigm-shift, as I will explain, is central to Habermas's notion constitutional

patriotism because it understands civil society as a diverse network of communicative processes, and *not* a unified body acting in concert (i.e. the French Revolution). In its deliberative form, civil society no longer can be understood as a “macrosubject” but places the “brunt of normative expectations over to democratic procedures and the infrastructure of a political public sphere fueled by spontaneous sources.”¹⁸ One reason why Habermas resists a concrete notion of civil society is because the “public sphere” does not and cannot act in unison; there are only “informal circuits” of unstructured communication that “intermesh” within larger structures of communication, which in the end, influence formal politics in an indirect way.¹⁹ In other places, Habermas calls this a “subjectless,” “decentered society” working through “peripheral networks” that monitors and programs formal government.²⁰

The relevance of these remarks is meant to draw parallels between the abstract conceptual structure of the public sphere and its relation to the equally abstract culture in which it is embedded. Moving away from a philosophy of consciousness, the “subject” and “macrosubject” traditionally assigned to the citizen and civil society is reinterpreted and replaced by Habermas, in the post-traditional sense, with intersubjectivity and spontaneous communicative networks. As such, the cognitive demands of intersubjective reason coupled with the abstract, de-centered notion of civil society call for a type of political solidarity based solely on the political principles which satisfies his discourse principle D: that all those affected by the norm agree to its validity. At the conceptual level – although we can see this play out in reality – the cognitive demands of justification have a binding effect on citizens’ internalization of political identity because they, in theory, have either participated or agreed not only to the norms themselves, but to the *reasons for justifying* the norm as well. In this sense, we can take notice that, for example, Germans might agree that equal social and political rights are required

for all, but that German citizens *also* agree that the horrors of Nazism are a good cause to have them (as a sort of collective “learning process”). To return to my primary point, Habermas’s conception of constitutional patriotism is heavily if not completely reliant on rational agreement around the validity of norms, which is a form of voluntary, intellectual, cognitive affect citizens have towards other citizens. The benefits of this type of arrangement is that it no longer needs pre-political identities to achieve social integration. Politics can be emancipated from the grip of national identity into something more much universal: solidarity is oriented around norms which *all* citizens find agreeable.

Towards a Symbiosis of Emotive and Cognitive Attachments?

But what do we mean by the American Revolution? Do we mean the American war? The Revolution was effected before the war commenced. The Revolution was in the minds and hearts of the people; a change in their religious sentiments, of their duties and obligations...This radical change in the principles, opinions, sentiments, and affections of the people was the real American Revolution.

-John Adams, Letter to H. Niles (February 13, 1818)

In this section I'd like to problematize the above reading of constitutional patriotism by pointing to how this concept also includes *emotive* forms of affect. Assuming that Habermas's notion of intersubjective discourse produces cognitive reasons for agreeing to various action norms (or political principles for society at large), there seems to be little room if any for emotive types of affect.

But instead of assuming that emotive affect has no place in constitutional patriotism -- at least in its normative sense -- it is important to look at the ways emotive affect *complements or even confirm* our rational, cognitive agreements and attachments. As depicted in Jay Fliegelman's *Declaring Independence*, the normative force of the Declaration was thought to depend on its orated delivery. Jefferson, who Fliegelman says was well aware of the elocutionary movement of the mid to late 18th century, intended the Declaration to be read aloud so that the rational credibility of the text could be revealed by the "emotional credibility of the speaker."²¹

Fliegelman bases his thesis on the diacritical accent marks, written by Jefferson, on both the first draft and proof copy of the Declaration, which look like single and double quotation marks not above syllables but between words.²² While some speculated that such accents were where Jefferson wanted to emphasize certain words, Fliegelman insightfully disagrees, claiming that since the accents were placed "immediately before or immediately after words," it suggests that Jefferson intended the marks to not emphasize syllables per se, but to create rest and pause between words and thoughts.²³ It is speculated that such rest and pauses between words were meant by Jefferson to arrange the Declaration into a series of rhythmic parts that appealed to the human ear like the measured bars and cadences of a musical composition. Just like in music, orations required certain chromatic timings such as "common time," "triple time," "minuet time," "jigg time," or "mixed."²⁴ In this sense, there is evidence to believe that the Declaration was indeed a performance piece, whose rational acceptability depended on its aesthetic appeal to the human ear, such that if the delivery was ineloquent or irregularly timed by the speaker, the ideas of the text would ultimately lose their ability to persuade a wide audience.

As stated, Jefferson's oratory strategy is speculated to exist within a larger cultural context of what is called as the elocutionary movement or revolution. Following Fliegelman, who shows striking *parallels* (not direct evidence) between Jefferson's thoughts on elocution and that of others during the time (Thomas Sheridan especially), the Declaration was indeed embedded in a specific culture that sought to give the text a certain meaning. In other words, we cannot view Jefferson's diacritical marks as an isolated, tangential occurrence. Instead, such marks were part of a larger cultural horizon of rhetoric that aimed to "emancipate" dead, written texts into living, breathing documents. Such emancipation of the text required the subject – the speaker – to appropriate the text in a way that was pleasing to the ear. Audience members alike assumed a subject-oriented stance towards the document; the Declaration was not only a textual document to be merited on its own political premises, but had a compulsive or agreeable effect on the listener when the text was orated in its most aesthetic form.

Rather than viewing this as a form of manipulation or trickery, cultural critics of this time viewed oration as a way for listeners to assess the sincerity of the speaker, and by extension, the sincerity of the text and ideas themselves. Part of this culture of rhetoric rested on the assumption that "natural" language existed only in spoken form. Natural language was thought to be a more "universal" form of communication since it appealed to human emotion and sensibilities, regardless of one's socio-economic background or literacy.²⁵

One of the most prominent figures of the elocutionary movement was Thomas Sheridan who claimed that oratory was the source of civil religion, "the basis of good government, and pillar of our state."²⁶ In proportion to man's faculties of his intellect, individuals have a want and desire to take delight in the sensible faculties of "tones, looks, and gestures" which reveal the emotions and internal disposition of the speaker.²⁷ Elocution, as compared to silent reading,

produced in the listener one of the highest enjoyments of communication, consisting of “tones to charm the ear” which ultimately “penetrate the heart.”²⁸ As briefly mentioned above, Sheridan described elocution as the most natural form of communication because it had the capacity to produce universal effects: “all mankind are capable of its impressions, the ignorant as well as the wise, the illiterate as well as the learned.”²⁹ For Sheridan, elocution provided a way to find common attachment to political ideas that indeed were logically sound, but more importantly, could “rouse the faculties like the force of music,” and therefore have the ability to preserve words and ideas that otherwise might “perish.”³⁰ By extension, proponents of oratory may have thought that this type of communication was best suited for a Republic since it had the ability to communicate common truths through the universal medium of speech that was accessible to all listeners’ sensibilities. The implicit assumption here is that universal political principles required an equally universal form of public communication.

But what was the nature of such sensibilities? Was it a sensibility or sympathy only towards the speaker, or did such sensibilities towards the speaker amplify or even create cognitive affection towards the ideas and words themselves? In fewer words, what was the “object of attachment” of the Declaration of Independence? The elocution? The speaker? Or the text itself? I cannot answer this question fully here, but it is clear that the Declaration of Independence was at least *intended* to be a object of multiple attachments: its meaning and truth was conditioned by the delivery, the speaker’s body, and as well as the validity of the text itself. The document was very much embedded in a culture of rhetoric that produced a complex set of emotional attachments which either complemented the document's logical acceptability, or *made possible* such logical acceptability.

As Cohen notes, temporal pauses were a way to reflect the intention of the writer so that “the basis of universality and of communication” shifted away from a formal system of language³¹ to the “signals of the writer-speaker.”³² Cohen, interpreting John Walker’s *Rhetorical Grammar*, reveals how the universal aspect of speech is bracketed within not only within a social context of rhetoric, but also a psychology of human intentions. Such psychological determinations depended not on the words themselves, but on a variety of “sounds” affected by the pitch, timing, and intonation of the speaker.

The first, and the dominant idea in the period we are discussing, defines the linguistic expression of mental activity in a social, specifically rhetorical context stressing communication of intention through oral/aural signals associated with feelings or intentions.³³

This quote illustrates how the bodily signals given by the speaker were thought to not only *reveal* the interior disposition of the speaker – like an outward display of his/her sincerity – but also highlights how the speaker serves to structure the experience of the audience. The sincere orator provided a “seductive space” of words and sounds that were “complemented by the language of the body.”³⁴ Although Jefferson's diacritical marks do not refer to or mention anything about body movement or gestures, the rhythmic timings of oration seem to do something similar in creating a "seductive space" for listeners to feel both emotive pleasure and cognitive agreement towards the Declaration's political principles.

The Declaration was thus a much a political achievement as a rhetorical achievement;³⁵ its universal character required a universal type of delivery, one that appealed to the minds of a

universal audience through the appeal of its delivery; the text captured not only agreement in citizens' minds, but produced new aural and visual images within their national imaginations.

The evidence provided by Fliegelman, when viewed as an abstraction of a much larger elocution/rhetorical culture, suggests that the origins of American “civic nationalism” was *not* based solely on a sort of cognitive attachment to political principles, but a kind of emotive attachment to the text in the way it was delivered.

Critics may argue that “constitutional patriotism” is a type of political identification that surrounds a *constitution*, not the independence of a nation. In terms of Habermas’s notion of intersubjective norms, consensus on the constitution was independent of any subject; its truth stood on its own by references to how it can be agreed upon for good reasons, not just the sincerity of the speaker reading it. In parallel fashion, the critic might add that in comparison to the Declaration, which was a performance inherently connected to a speaker’s body, the constitution was a “depersonalized” printed document meant to be replicated and represented. Michael Warner writes: “from which print copies can only be derived imitations, the Constitution found its ideal form in every printed copy.”³⁶ Additionally, “whereas the climactic moment for the Declaration of Independence was the signing, for the Constitution the climactic moment was the maneuver that deprived signing of personal meaning.”³⁷ As such, the depersonalized nature of the constitution is what sustains its validity, removed from any subjective source. In other words, why should we care about the Declaration when it is the constitution that orients political identities?

Yet at least in the American tradition, the Declaration as an emotively-inspired document cannot be separated from one’s “constitutional identity” since the constitution itself was a legal extension of emotive performances associated with independence. One might call the

Declaration a set of "meta-principles." Principles of independence including those mentioned specifically such as "equality," "inalienable rights," "Life, Liberty and the pursuit of Happiness," "consent of the governed," and "Right of the People" are all outlining specific principles that arguably give the constitution its original legality. Such "meta-principles" that underwrite the specific political principles found in the Constitution have an emotive character that cannot be forgotten within the validity of the constitutional. The conclusion I draw is that "constitutional patriotism" is a concept that has a complex arrangement of both cognitive and emotive attachments that cannot be easily separated. Political principles that are results of emotive affect are not less constructive of constitutional identities than those resulting from cognitive agreement. Emotional and cognitive affect are not mutually exclusive categories within constitutional patriotism, but symbiotic within the history of American civic patriotism.

Section II: The Emotive Contributions to a Cognitive-Deliberative Theory of Democracy

Nationalism requires citizens to feel a sense of belonging to a nation-state. The nation-state is typically thought to be the *legal* constitution of a pre-political nation; the state gives legal and rightful form to the nation. The nation is largely a concept to describe the "imagined" aspects of a community, which are produced through narratives. These stories typically include the origins of a people -- its "ethnogenesis" -- through the creation of manufactured myths by elites.³⁸ Additionally, they follow a specific narrative form that points back to an ancient yet "glorious past," or a "golden era," that has been *lost* or *degraded* in an existentially-threatening way.³⁹ Such narratives of tragedy have indeed provided the reasoning and motivation for the creation of many nation-states because they offer members a utopian vision of "going back" or "returning" to earlier celebrated times that has since been lost. The nation-state is thus a type of *salvation* that protects and ensures the dignity of the nation in a definitive, legal way.

Unsurprisingly, the "nation" is also typically associated with a specific ethnic identity based on exclusive membership. But as I will argue, the "nation" is much more than an ethnic or linguistic community. National communities are not just imagined, but also constructed and contain a variety of ethical attachments that create horizontally attachments between citizens. If we assume such horizontal attachments are *not blindly accepted* but *actively reinterpreted* by citizens, this suggests that the nation is more conducive to deliberative democracy than many suggest. In the end, as I will argue, the nation *motivates* deliberative democracy with an emotive force that it requires to fulfill its own normative principles. In other words, a thick cultural community or "nation" serves to ensure between citizens trust, a sense of community, and predictability that are prerequisites for public reason to exist in the first place.

Many are skeptical of nationalism because of its history of violence, oppression, genocide, and general intolerance of the "other." For example, Habermas's theory of constitutional patriotism -- in an attempt to avoid these problems -- was motivated as a response to the infamous history of Germany's Nazi past. Yet nationalism should not be stereotyped as inherently violent or oppressive any more than constitutional patriotism. There is little reason to believe that "constitutional patriots" would be tolerant of groups or citizens that don't subscribe to universal political principles. There is still a potentially hostile "other" within its paradigm. Immanuel Kant, for example, uses the phrase "unjust enemy" to describe those at odds with the universal character of his rightful condition.⁴⁰ Just as any political arrangement is susceptible to violence – regardless of its inclusivity – nationalism is no exception. However, instead of thinking past nationalism as if it were a contingent part of history we will soon outgrow, it is more beneficial to locate how the nation-state serves deliberative-democratic functions.

However, in order to make the claim that nationalism serves a function within a deliberative model of democracy, a few assumptions are warranted. My argument depends on the assumption that a national culture is malleable and capable of change by citizens through discourse within a free and open public sphere. This means that nationalist rhetoric must recognize the critiques and reflections of non-majority citizens in order to preserve their right to redefine the boundaries of a nation-state's public identity.⁴¹ The public sphere is a site of public and private identity discovery and reflection, a place to develop new social habits while assessing the morality of existing ones. This is contrary to arguments of "cultural determinism" that suggests a "people" has a nonnegotiable, common historical fate. The importance of the public sphere is to prevent the majority culture from isolating itself from minority cultures -- or minority cultures from one another -- that would otherwise create citizens mistrust, separatist movements, conflict, antipathy, and contribute to social disintegration. If one assumes that nationalist rhetoric acts without regard to minority cultures, this is more likely due to a lack of an open and free public sphere than the logic within the concept of nationalism per se. Of course, nationalist rhetoric *can* operate independently of public discussion and be closed off by elites, but it does not necessarily follow that national identities *must* be independent of public criticism and change by deliberating citizens.

Nationalist rhetoric, identities and values -- if open to public forms of contestation and legitimation -- can cohabitate with a cognitive/justificatory model of democracy by way of citizens reformulating, shaping, and founding new ways of thinking about the boundaries of who "we" are. To this extent, the inclusivity of the nation-state is dependent upon an animated public sphere.

But aside from how nationalism can cohabitate with a deliberative model of democracy, what can it *provide*? To what extent does the nation provide citizens with a sense of value and “feeling” of obligation towards the constitution? What makes “the” constitution, “our” constitution? Any why does this matter?

The significance of “our” constitution means situating the constitution in a particular place and time, within a local history to the benefit and obligation of a local people. Constitutions serve two primary functions: norm-regulation and social integration. I argue that the concept of the nation functions to create cultural – not just legal — obligations to the constitution which supplement its normatively-binding character with culturally-binding, associative duties.⁴² As such, social integration is ensured by the associative obligations citizens *feel* towards the nation.

Apart from its integrative function, the *normative* character of a constitution serves to “determine how power is to be organized and exercised in the expectation that in doing so it will best serve the needs and convictions of the polity.”⁴³ As suggested here, the normative function of constitutions – from a liberal perspective at least -- serves only to “juridify” political power by dividing and channeling it while also providing citizens with individual rights to be protected from state authority.⁴⁴ As the highest-ranking legal document that prescribes a comprehensive set of rules, the constitution – in its normative sense – outlines the boundaries between lawful and unlawful behavior of political authority. Such norms provide a political environment that “makes state actions predictable.”⁴⁵

Yet the normative effects of constitutions are different from the social integrative effects that follow; law by itself cannot guarantee social integration and collective solidarity. By

extension, constitutions can be a partial source of consensus that produces social integration, yet they can also be sources of social disintegration and breakdown as with the case of the Weimar constitution.⁴⁶ As Dieter Grimm notes, constitutions (or laws in general) can only *influence* social integration, but cannot *generate* it by itself.⁴⁷ How does a citizenry need to identify with the constitution in order to supply the social integration that law itself is unequipped to determine? In what *form* does such consensus around the constitution exist to ensure social integration?

Grimm argues that the constitution must not only have a *normative* character, but also a *symbolic* character that depends on extra-legal elements. In order to achieve social integration, constitutions must have a sort of symbolic power on the citizenry that is a source of not only rational justification, but also a sense that the constitution is a symbolic representation of a society's specific character. Social integration depends upon citizens interpreting the constitution not as a legal text *in solitudo*, but a text that is embedded in a specific cultural history, which provides it with a specific personality, orientation, and emotive affect that is independent of its legal/normative character. Without being embedded in a cultural/ethical background – whether through the nation, religion, or Carl Schmitt's notion of a common enemy, etc. -- constitutions lack the integrative force "despite [their] legal efficacy."⁴⁸ Without the cultural acceptance of the constitution, the constitution is quite limited in how it can integrate citizens, especially within a multicultural society.

If we take these arguments to be true, then it follows that the emotive affect citizens have towards the nation is a precondition for the social integrative potential of the constitution. Yet, of course, social integration also depends on the validity of legal norms within a constitution; it is presumed that the symbolic power of constitutions indeed rests upon its normative validity, but

is not exhausted by it.⁴⁹ As such, constitutions are *mutually* dependent upon cognitive and emotive attachment of citizens. On the one hand, its normative content must be *justified* and deemed rationally acceptable in order to legitimately juridify political power. Its symbolic content, on the other hand, must be *felt* by citizens in order to ensure that citizens interpret the constitution as “their” constitution.⁵⁰ My point is that a functioning constitution depends on how it is *perceived* by a citizenry within the context of a specific culture, and not merely its legal validity, no matter how “universal” it may be. To function as a mechanism for social integration, the constitution must be identified by citizens on a cultural, emotive basis.

The emotive basis of the constitution thus becomes interwoven within the fabric of national narratives of myth, tradition, triumph, and sorrow. Understood this way, the constitution symbolizes the will and character of a specific people through the transmission of story-telling, holidays, and myth-making, making its integrative potential dependent upon how much it is suspended within a web of ethical values, cultural beliefs, and historical circumstances. The constitution as a *symbol* of solidarity and unity depends on its extra-legal valuation and communal identification. Although the constitution not only creates legal citizens by bestowing rights upon them, it implicitly relies on a culturally-informed conception of who such citizens should be. Put another way, a constitution's bestowal of rights can only exist *within* an already-defined culture of people that situates the boundaries for such rights in a specific place and time.

Habermas dislikes this argument because the legitimacy of the constitution thus depends upon a non-disjunctive concept of a “pre-political” community. However, this isn't completely accurate. Of course, a pre-political community can provide motivation for constitution-making, but it does not necessarily follow that the specific identity of the pre-political community will remain the

cultural source of a constitution's identity or particularity. As argued above, pre-political identities can be challenged, reinterpreted, omitted, or replaced as the legitimating factor for a constitution when open to critique and judgment of citizens who communicate within the public sphere. If a multicultural society has a developed, free and open public sphere, liberal nationalism loses its pre-political straightjacket. If national culture and identity are subject to citizen renewal and interpretation -- in a free and non-violent way -- then the violence and exclusion that *could* arise by a majority culture is mitigated and laundered by the reflexivity of citizens' communication within the public sphere.

The last point I will make concerns the false dualism between *inherited culture* and *present-day consent* that is typically used to contrast liberal nationalism from constitutional patriotism. The problem with this clean way of separating the two democratic models is that it omits the primary *mutual dependency* between political identity-as-choice and cultural inheritance. Indeed, this theme parallels the mutual relationship between cognitive and emotive attachments; they should not be separated.

As Bernard Yack notes, the doctrine of popular sovereignty presupposes a pre-political people or cultural community that is distinct and independent from the state.⁵¹ Within this doctrine, there is a "people" who constitute the state, which in turn functions to serve such constituents. The people are independent of the state such that even if the state is dissolved, the people still exist. The French Revolution is an example of this; the downfall of the Ancien Régime after the Storming of Bastille did not dissolve the people, but instead left in its wake a French nation without a state. In Yack's assessment, the doctrine of popular sovereignty encourages and inspires members within existing polities to interpret themselves as part of a pre-political community.⁵² Viewing popular sovereignty as having a Janus-face, Yack argues that

there are two expressions of a “people:” one is an imagined community that stretches back in time, and the other is the spatial notion of a “flesh and blood” constituency consisting of present-day citizens.⁵³ The latter form of “direct” or real popular sovereignty relies on the former – which Yack calls “indirect” or abstract popular sovereignty – and has historically been tied to the rise of nationalism.

The consequence of this is that democratic rhetoric itself is partly responsible for pre-political communities, which nationalist rhetoric taps into, but does not create entirely out of its own means. In other words, there is a historical consistency between national and democratic rhetoric. Yack’s main point, however, is two fold: 1.) the nation provides the functional *possibilities* for citizens to seek agreement between one another by demarcating *between whom* such agreements should rest; and 2.) the nation does not dictate our choices, justifications, or identities when deliberating, but acts only as a particular horizon of understanding from which we can begin deliberation with others. He writes:

Without consent our cultural legacy would be our destiny, rather than a set of background constraints on our activities. But without such a legacy there would be no consent at all, since there would be no reason for people to seek agreement with any one group of individuals rather than another.⁵⁴

For Yack, dismissing the interconnections between background cultures and political consent leads to oversimplified concepts defined such as the ethnic vs. civic nation.

Returning to our theme between emotive and cognitive affect, Yack’s analysis provides insight into how cognitive attachments (our choices about our political values and identity)

depend upon various sets of emotive attachments citizens have towards a national culture. Yet this does not mean that such national attachments are immune from change or reflection.

“Forged by public discourse,” Craig Calhoun writes, nations are “modern products of shared political, cultural, and social participation, not mere passive inheritances.”⁵⁵ Calhoun points to the creativity inherent within the public sphere that invites a people to consistently re-imagine and reinterpret its aesthetic solidarity, making it more of a collective identity project than one of static ascription. The concept of the public sphere is thus not only a space that facilitates rational-critical discourse in the Habermasian sense, but also a space of imagination and world-making that calls for citizens to orient their identities and subjectivities *laterally* in relation to each other.⁵⁶

Calhoun claims that we should not think about nationalism as a historical residue of arbitrary and exclusive collectivities, but as *part* of the political process of democratic will-formation. A national “people” is something that is developed and imagined, which demarcates in the first instance about *with whom* we should seek rational agreements. Nationalism should not be thought of as an obstacle to democracy, but instead as one of the processes that influence democratic participation and deliberation.⁵⁷ Political solidarity and community as having both imagined and justified content – as well as emotive and cognitive affect – allows us to think past nationalism as an ethnic, pre-political solidarity as something much more flexible and open.

The looming criticism of my argument, however, is that it does not address the potential problem of implicitly forcing non-majority citizens to assimilate into a hegemonic culture. First off, homogenization and normalization are not necessarily bad things so long as they do not come at the expense of minority groups or infringe upon the dignity of citizen’s private autonomy in an unjustified way. As Gellner argues, for example, a certain degree of

homogenization of culture is necessary for a functioning market economy within a state, since markets require “shared generic skills” of a mobilized workforce of citizens (i.e. a compulsory education system that provides universal access to “high culture,” which in turn socializes citizens to be literate, learn the dominant language, possess certain skills, have certain values, etc.).⁵⁸ But aside from its functional purposes, homogenization often creates arbitrary and illegitimate divisions of society that excludes certain groups from its ethos by denying recognition of such groups’ cultural habits or needs. Of course, such group struggles for recognition take a variety of forms without adhering to one specific type (i.e. these struggles exist along diverse lines of gender, race, language, religion, sexual orientation, post-colonialism, physically disabilities, etc.). But the basic premise is that cultural recognition of minority groups is a requirement for liberal nationalism if its homogenous culture is to avoid an imperialist, violent hue. In multicultural societies, without such recognition, the dominant national culture cannot be uncoupled from a hegemonic façade.

In Habermas’s view, the modern constitutional state must not only provide citizens with *legal* rights (public autonomy) as outlined in its constitution, but also recognize the irreplaceability and intrinsic worth of citizens’ cultural affiliations associated with their private autonomy. In his view, the integrity of legal rights bestowed upon citizens depends upon the capacity for citizens to freely associate and identify with various groups to preserve or orient their private identities (i.e. freedom to choose which groups with which to associate, which friends to have, how to raise one’s children, what religious beliefs to hold, etc.).⁵⁹ The mutual relationship between *legal rights* and *norms of cultural recognition*, for Habermas, thus parallels the mutually dependent relationship between citizen’s public and private autonomy.

The key question suggested by Habermas's remarks is how to conceptualize solidarity and integration within democratic constitutional states *without* putting an unreasonable burden on minority groups. Habermas's solution, as stated above, is constitutional patriotism; rather than conceptualizing a national identity that is relatively inclusive, citizens should orient their solidarity around political principles, not the nation. This indeed solves the problem of cultural inclusivity by abandoning national culture as a binding agent altogether, but it runs the risk of being too divorced from modern day multicultural societies. In other words, social integration resting *solely* on the idea of public reason without being supplemented by the emotive content of the nation not only lacks historical evidence but conceptually places too high of a burden on cognitive forms of citizen solidarity.

Returning to my original argument, and disagreeing with Habermas, a single national identity can be a normative source for solidarity and social integration without necessarily being imperialist. So long as the public sphere remains open, and the relationship between public and private autonomy are interpreted by citizens to be co-dependent, reflexive citizens can to some extent choose not only their political principles, but also their national identity-orientation.

The public sphere also serves as a site for cultural imagination. Citizens laterally relate to one another and identify who "we" are, but must be sensitive to those who do not fully share such sentiments. In sum, the emotive content of social imaginaries must coincide with the cognitive justifications of equal respect in order for nationalism to be consistent with a deliberative notion of democracy. To the extent this actually happens within public discourse, social imaginaries and public reason are part of the same process of how citizens balance the morality and ethicality of their political and cultural affiliations. As such, any homogeneity of national culture that is generated through such processes is held accountable to the extent that it

values and is sensitive to citizens' private autonomy and plural ways of life. The normative basis of national identity as the locus for social integration, in order to coincide with liberal values, must utilize and create sense of balance between the emotive force of social imaginaries and the cognitive justifications of equal respect and mutual recognition.⁶⁰

Conclusion: Who is afraid of Emotive Affect?

The two sections of this paper served to outline how to think past the false dualism between cognitive and emotive affect within Constitutional Patriotism and Liberal Nationalism, respectively. As the American historical example of the Declaration suggests, Jefferson viewed the document as a representation of social solidarity and unity that required emotive content to speak not only to citizens' minds, but also their hearts. One might criticize this claim by stating that just because Jefferson thought the Declaration required emotive content, it does not necessarily follow that constitutional patriotism cannot avoid using emotive affect to achieve social solidarity. However, I am not making the claim that Jefferson's oratory strategy *proves* constitutional patriotism wrong. Instead, I think the evidence provides a window into how we should be sensitive to the emotive content within facially-cognitive political principles. If emotional attachments are part of the human/citizen condition, no matter how intellectual or post-traditional citizens are, then we should not view constitutional patriotism as something that has no space in its conceptual repertoire for emotive affect. Instead of depicting constitutional patriots as having only a cognitive and rational affect towards political principles, which in turn bind citizens within a common, discursively-constructed culture, we should be aware of the limits of cognitive attachments and how they are often, albeit subtly, supplemented by human emotion. Since cognitive attachments do not possess the imaginative, associative character of emotive affect, the conceptual task must be to find within constitutional patriotism *where* and

how emotive content exists within its framework. More specifically, we need to look at constitutional patriotism not just from the perspective of rational-critical discourse, but also from a rhetorical point of view.

Furthermore, if liberal nationalism is not destined to devolve into what Habermas most fears -- a totalitarian state that has an ethnically-driven exclusive membership -- then what should be salvaged from liberal nationalism to augment our deliberative theories of democracy? First, I argued that any conception of the nation must be produced and reproduced in a free and open public sphere in order to avoid such totalitarian tendencies; national identity must not only be morally justifiable by majority groups, but also must be open to criticism and re-interpretation by minority groups (whose criticisms, by extension, must also be taken seriously). To this extent, the public sphere is not only a place of rational-critical discourse that constructs political identities around the best [cognitive] arguments, but also a site of public imagination, communal identification, and associative discovery. Anderson's "imagined community" is not a pre-political natural artifact, but something that can be inclusively re-imagined if coupled with a free and open public sphere producing what I call "imaginational duties." Such imaginational duties about who "we" are as a citizenry serve as the emotive base for a constitution to produce the integrative effects that it requires. Though the norms within a constitution indeed depend on being valid to serve as the benchmark for all subsequent legal norms, its integrative function is a different animal, and requires citizens to feel that the constitution is also "their" constitution.

In summary, social integration has been a central issue to both my critique of constitutional patriotism and liberal nationalism. American independence required disparate Americans to identify with each other on an emotive, sensible level. The Declaration was not only an expression of "self-evident truths" to which all Americans could find agreement, but also

a document to which individuals could find sensible attachment and emotive recognition.

Likewise, from a conceptual point of view, a constitution requires emotive commitments that it cannot generate independently of a specific culture and community with which citizens identify.

¹ I use affect to mean a general feeling of strong loyalty or attachment based on either cognitive or emotive motivations.

² I interpret "liberal nationalism" to mean a type of nation-state that is constituted by majority an ethnic nation yet adheres to liberal values (i.e. a constitution, rule of law, court system, system of rights, etc.).

³ For an excellent overview of the history of this concept going back to Karl Jaspers within the German context of post-Holocaust guilt, see Jan-Werner Müller, "On the Origins of Constitutional Patriotism," *Contemporary Political Theory*, 2006, no. 5, pp. 278-296.

⁴ Patchen Markell, "Making Affect Safe for Democracy? On 'Constitutional Patriotism,'" *Political Theory*, vol. 28, no. 1, Feb 2000, pp. 38-63.

⁵ See Jürgen Habermas, *The Postnational Constellation*, trans. Max Pensky, (Cambridge: Polity Press, 2001), pp. 74-76.

⁶ Ibid, p. 76.

⁷ We can locate Habermas's democratic theory *between* two social forces which are both detrimental to democratic politics: functional sub-systems and pre-political identities. Sub-systems within society, such as the administrative or economic, functionalize and instrumentalize politics by actors with strategic interests. On the other end, Habermas also wants to avoid pre-political forms of social integration that has the effect of marginalizing sub-groups and excluding some of basic rights.

⁸ On the difference between subjective and intersubjective reason (and Habermas's break from Kantian metaphysics), see Habermas, Jürgen, "Communicative versus Subject-Centered Reason," in *The Philosophical Discourse of Modernity: Twelve Lectures*, (MIT Press, 1990: Cambridge), pp.294-326.

⁹ For an overview of this idea, see Müller, Jan-Werner, *Constitutional Patriotism*, (Princeton University Press, 2007: Princeton), p. 57.

¹⁰ Jürgen Habermas, "Popular Sovereignty and Procedure," in *Between Facts and Norms*, trans. William Rehg, (Cambridge: MIT Press, 1996), pp. 463-490, p. 482.

¹¹ Ibid, p. 477.

¹² Ibid, p. 483.

¹³ This can be illustrated by Habermas's principle D: "Just those action norms are valid to which all possibly affected persons could agree as participants in rational discourse." See Jürgen Habermas, *Between Facts and Norms*, trans William Rehg, (Cambridge: MIT Press, 1996), p. 107, (hereafter cited as BFN). Habermas is insistent that communication is not action per se, but only that actors can coordinate their action via communication.

¹⁴ See BFN, p. 108.

¹⁵ Although speech acts correlate with one primary category or "world," it is important to note how speech acts simultaneously draw on all three worlds, implicitly or explicitly. Certain utterances that seem to be purely normative may well call upon an empirical background knowledge that makes the normative utterance coherent (perhaps using an empirical example to clarify or illustrate a norm). In addition, no matter what "world" one is thematizing, one must assume the speaker is sincere. In Habermas's earliest work, *The Structural Transformation of the Bourgeois Public Sphere*, he suggests that mass advertisements supplanted the previous notion of "publicity"-- depicted by early bourgeois writing literary circles as something "open" and "sincere" -- with a new form of publicity depicted by mass advertisements as insincere, strategic, and manipulative. It is clear that Habermas thinks we should view the three worlds of communication as operating simultaneously within every speech act, even if only one is explicitly thematized.

¹⁶ An utterance obtains validity when a participant defends it with more than "merely local" standards of validity. See Habermas, Jürgen, "Themes in Postmetaphysical Thinking," in *Postmetaphysical Thinking: Philosophical Essays*, (MIT, 1992: Cambridge), pp. 115-148; p.47.

¹⁷ Such a liberal culture partially relies on the conceptual interdependence of constitutionalism and democracy. See Habermas, Jürgen, "Constitutional Democracy: A Paradox Union of Contradictory Principles?," *Political Theory*,

Vol. 29 No. 6, Dec. 2001, pp. 766-781. Additionally, for information on how civil society generates norms concerning cultural reproduction, social integration, and socialization through discourse, see Habermas, Jurgen: "Intermediate Reflections: System and Lifeworld," in *Theory of Communicative Action Vol. II*, trans. Thomas McCarthy, (Boston: Beacon Press, 1985).

¹⁸ BFN p. 505. This is one reason why the "public sphere" is an Anglophone misnomer, because the term "sphere" suggests a clearly outlined dimension of civil society, whereas in German, it means only "publicness."

¹⁹ BFN, p. 485

²⁰ BFN, p. 298-300. Indeed, in other places, Habermas resists calling the informal public sphere a *network* of associations, for even that would be "too concrete." See Habermas, "Popular Sovereignty as Procedure" in *Between Facts and Norms*, trans William Rehg, (Cambridge: MIT Press, 1996), p. 486.

²¹ Jay Fliegelman, *Declaring Independence*, (Stanford: Stanford University Press, 1993), p. 2.

²² *Ibid*, p. 6-7.

²³ *Ibid*, p. 7.

²⁴ Citing Joshua Steele's "An Essay towards establishing the Melody and Measure of Speech," in Murray Cohen, *Sensible Words: Linguistic Practice in England 1640-1785*, (Baltimore: Johns Hopkins Univ. Press, 1977), p.117.

²⁵ The notion of "natural" language involves a diverse set of issues that I will only briefly mention here. Some viewed natural language as an analogy to natural law whereby "self-evident truths" are only "self-evident" to the degree that all listeners find a speaker's words to represent sincerely his internal passions and sensibilities. Others viewed natural language as communication that communicated feelings, emotions, and sensibilities, not thoughts or reasoning (See Rousseau's "Essay on the Origin of Language"). Still, others viewed natural language to mean merely the spoken word (whereas the written word is derivative of speech), which consequently meant that the written English language should model itself *after* the actual practices of speaking practices, and not vice versa.

²⁶ (full quote) "But there is one point, a most momentous one, in which oratory is essentially necessary to us, but was not in the least so to the ancients. The article I mean, is of the utmost importance to us; it is the basis of our government, and pillar of our state. It is the vivifying principle, the soul of our constitution, without which, it cannot subsist; I mean religion." Thomas Sheridan, *A Discourse*, (1759) Intro. G.P. Mohrmann, (Los Angeles: University of California Press, 1969), p. 6.

²⁷ *Ibid*, p. 16.

²⁸ *Ibid*, p. 17.

²⁹ *Ibid*, p. 17.

³⁰ *Ibid*, p. 18 and 22.

³¹ See Murray Cohen, *Sensible words*, (Baltimore: The Johns Hopkins University Press, 1977), p. 106. Cohen describes two examples of such systems that the elocutionary movement shifted away from: the earlier 17th notion of "object-words," and early 18th century ideas of the "logic of syntax."

³² *Ibid*, p. 107.

³³ *Ibid*, p. 106.

³⁴ Peter De Bolla, *The Discourse of the Sublime*, (New York: Basil Blackwell Ltd., 1989), p. 150.

³⁵ Carl Bridenbaugh writes "More than one Englishman and European perceived that for integrity, public spirit, talents solidity of reasoning, literary style, and oratorical ability, the men who gathered at Philadelphia in the meeting of the continental congresses far outshone their opposite members at Westminster" in, Carl Bridenbaugh, *The Spirit of '76*, (New York: Oxford University Press, 1975), p. 139.

³⁶ Michael Warner, *The Letters of the Republic*, (Cambridge: Harvard University Press, 1990), p.107-8

³⁷ *Ibid*, p. 107-8. In Warner's analysis, this subject-less quality of the constitution was meant to fulfill a role of popular sovereignty. Its abstract authorship was a reflection of being from the people.

³⁸ For more information on the creation of narratives and the founding of national myths, see Patrick J. Geary, *The Myth of Nations*, (Princeton: Princeton University Press, 2003); and Eric Hobsbawm and Terrence Ranger (eds.), *The Invention of Tradition*, (New York: Cambridge University Press, 1992).

³⁹ See Zerubavel *Recovered Roots* for a specific example concerning Isreal's national independence. For a similar argument, see also Matthew Levinger and Paula Franklin, "Myth and Mobilisation: The Triadic structure of Nationalist Rhetoric," *Nations and Nationalism*, 7(2), 2001, pp. 175-194.

⁴⁰ See Immanuel Kant, *The Metaphysics of Morals*, Mary Gregor (trans. and ed.), (New York: Cambridge University Press, 1996), pp. 118-120.

⁴¹ Many of these comments from Yael Tamir, *Liberal Nationalism*, (Princeton: Princeton University Press, 1993), p.8.

⁴² The concept of “associative obligation,” or the obligations resulting from one’s associative belongings, comes from Yael Tamir, *Liberal Nationalism*.

⁴³ Dieter Grimm, “Integration by Constitution,” *International Journal of Constitutional Law*, vol. 3, nos. 2&3, 2005, p. 194.

⁴⁴ See Jürgen Habermas, *Divided West*, ed. and trans. Ciaran Cronin, (Cambridge: Polity Press Ltd., 2006), p.139.

⁴⁵ Grimm 194

⁴⁶ Dieter Grimm, “Integration by Constitution,” p. 195.

⁴⁷ Ibid, p.195.

⁴⁸ Ibid, p. 196.

⁴⁹ Ibid, p. 199.

⁵⁰ There are many sources of such symbolic power, with a prominent one being the founding of a constitution. As Grimm notes, such a founding stemming from either triumph or defeat, is instrumental in creating a constitutional culture. In the American case, the constitution was a product of successful independence; in the German case after WWII, the constitution was a product of grave defeat. See Ibid, p. 201.

⁵¹ Bernard Yack, “The Myth of the Civic Nation,” in *Theorizing Nationalism*, Ronald Beiner (ed.), (Albany: State University of New York Press, 1999), pp. 103-118, p. 109.

⁵² Ibid, p. 109.

⁵³ Bernard Yack, “Popular Sovereignty and Nationalism,” *Political Theory*, vol. 29, no. 4, 2001, pp.517-536, p. 519

⁵⁴ Bernard Yack, “The Myth of the Civic Nation,” p. 116.

⁵⁵ Craig Calhoun, “Imagining Solidarity: Cosmopolitanism, Constitutional Patriotism, and the Public Sphere,” *Public Culture*, 14(1), 2002, p.150-1.

⁵⁶ Charles Taylor views the lateral identifications of citizens as a crucial aspect of modernity, whereby social imaginaries are understood horizontally, unlike the feudal, pre-modern vertical or “mediated” types of community characterized along a hierarchy of King, lord, and serf, for example. See Charles Taylor, “Nationalism and Modernity,” in *Theorizing Nationalism*, Ronald Beiner (ed.), (Albany: State University of New York Press, 1999), pp. 219-246.

⁵⁷ Craig Calhoun, *Nations Matter: Culture, History, and the Cosmopolitan Dream*, (New York: Routledge, 2007), see p. 149

⁵⁸ See Ernest Gellner, *Nations and Nationalism*, (Ithaca: Cornell University Press, 2006), p.136.

⁵⁹ See Jürgen Habermas, “Struggles for Recognition in the Democratic Constitutional State,” Shierry Weber Nicholson (trans.), in *Multiculturalism*, Amy Gutmann (ed.), (Princeton: Princeton University Press, 1994), pp. 107-148.

⁶⁰ For how the integrity of one’s identity is stabilized and reassured not on a subjective basis, but on an intersubjective basis, see Habermas’s discussion of George Mead’s theory of socialization and subjectivity, see Jürgen Habermas, “Individuation through Socialization: On George Herbert Mead’s Theory of Subjectivity,” in *Postmetaphysical Thinking*, William Mark Hohengarten (trans.), (Cambridge: The MIT Press, 1992), pp.149-204.