

## ARTÍCULOS

# Political realism, *modus vivendi* and agonistic democracy

## Realismo político, *modus vivendi* y democracia agonística

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**ABSTRACT:** *Political realism* points out that politics is to create and sustain a legitimate order in a context of persistent disagreement, with the possible surge of conflicts, and where political power inevitably uses coercion. Political realists contend that *modus vivendi* is a contingent political arrangement at the level of the political constitution that allows diverse groups of people to coexist peacefully. Proposals of *modus vivendi* do not say enough about how to manage disagreements and conflicts. In this paper, I argue that proposals of *agonistic democracy* supply this lack. I contend that agonistic democracy proposals share the premises of political realism and contribute to the sustainment of a liberal *modus vivendi*.

**Keywords:** Political realism; *modus vivendi*; agonistic democracy; politics; legitimacy.

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**RESUMEN:** El *realismo político* señala que la política consiste en la creación y sostenimiento del orden en un contexto de persistente desacuerdo, proclive a conflictos y donde el uso de la coerción por parte del poder político es inevitable. Los realistas sostienen que el *modus vivendi* es un arreglo político contingente al nivel de la constitución política que permite a diversos grupos de personas coexistir pacíficamente. Las propuestas del *modus vivendi* no dicen mucho sobre cómo tratar con los desacuerdos y conflictos. En este artículo se argumenta que las propuestas de la *democracia agonista* solventan esta carencia. Aquí se argumenta que las propuestas de la democracia agonista comparten premisas con el realismo político y contribuyen al sostenimiento de un *modus vivendi* liberal.

**Palabras clave:** Realismo político; *modus vivendi*; democracia agonista; política; legitimidad.

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## 1. INTRODUCTION

*Political realism* in political theory is a distinctive family of approaches that contends for the autonomy of politics (Rossi & Sleat, 2014). This position means that politics has its own normativity, characteristics, and dynamics which make it distinct from other human activities and areas such as morality, law, and economics (Sleat, 2014b, p. 32). Alison McQueen summarises realism according to the following features:

- (a) affirms the autonomy (or, more minimally, the distinctiveness) of politics; (b) takes disagreement, conflict, and power to be ineradicable and constitutive features of politics; (c) rejects as ‘utopian’ or ‘moralist’ those approaches, practices, and evaluations which seem to deny these facts; and (d) prioritizes political order and stability over justice (or, more minimally, rejects the absolute priority of justice over other political values) (McQueen, 2017, p. 297).

The constitutive features of politics (disagreement, conflict, and power) condition social order and stability prioritization over other values such as justice. Securing the social order is the first issue that politics permanently should solve: “It is ‘first’ because solving it is the condition of solving, indeed posing, any others. It is not (unhappily) first in the sense that once solved, it never has to be solved again” (Williams, 2005, p. 3).

Theorists of political realism posit the conception of *modus vivendi* to account for political order and stability (Gray, 2000; Horton, 2010, 2018 & 2019). *Modus vivendi* is a contingent political arrangement at the level of the political constitution that allows diverse groups of people to coexist peacefully. One important characteristic of *modus vivendi* is that it should have processes that permit it to deal with continuous disagreements to avoid conflicts and incorporate the demands and interests of these groups into the political arrangement and so achieve certain stability. Although it has been pointed out by authors such as John Gray (2000, pp. 105 & 121) and John Horton (2011, p. 125), not much has been said about what these procedures do to deal with disagreements consist of.

The aim of this article is to solve this issue by arguing that *agonistic democracy* is the type of democracy which meshes with liberal *modus vivendi* from a realist point of view. In other words, I argue the agonistic proposals of democracy delineate the processes and institutions by which a liberal *modus vivendi* can achieve certain political stability. On

the one hand, agonistic democracy recognizes the ineradicability of disagreements and the perennial possibility of conflicts. On the other hand, the objective of theories of agonistic democracy is the political management of pluralism, in other words, to deal with disagreements. Enzo Rossi (2019a, p. 645) differentiates three approaches to political realism: *ordorealism*, *contextual realism*, and *radical realism*. These are Weberian ideal models of conceiving different problems, facts, and sources of political normativity that political realism focuses its attention on. The first theorizes on social order and stability, the second on political practices and their boundaries regarding other spheres of human life, and the third on the relation of power with knowledge. As can be appreciated so far, this paper goes on to theorize about ordorealism. The practical novelty here is that I offer a realist model of political order and democracy by combining *modus vivendi* and agonistic democracy. In a previous and shorter paper presented as a research note, I sketched some problems and pointed out a possible argument to join *modus vivendi* and agonistic democracy (Muro, 2023). There, I concluded that more should be said to argue that agonistic democracy is an appropriate type of democracy for the stability of a liberal *modus vivendi*. In this article, I develop and deepen my argument by solving the problems posed previously and filling the lack of proposals on the mechanisms and processes of theories of *modus vivendi* to deal with disagreements.

In order to contend my argument, this paper proceeds as follows: firstly, I present political realism in political theory focusing on Bernard Williams’s version and his political principle of legitimacy to afterwards show that the theories of *modus vivendi* and agonistic democracy share a similar conception of politics.<sup>1</sup> In the second section, I delineate what a *modus vivendi* is according to contemporary theories of *modus vivendi* and I conclude that they lack an account of the institutions and processes to keep on a liberal regime. Next section, I lay out the proposals of agonistic democracy presented by William Connolly, James Tully, and Chantal Mouffe so as to contend that can be integrated into a common view of agonistic democracy. In the fourth section, I argue that agonistic democracy supplies the lack of institutions and processes to deal with

<sup>1</sup> Nowadays it can seem tedious to give an overview of political realism because of the wide literature giving introductions about it (Galston, 2010; Rossi & Sleat, 2014; Sabl & Sagar, 2017; Sleat, 2018). Here I briefly present it to appreciate the similarities of the realist liberal version with the theories of *modus vivendi* and agonistic democracy.

disagreements in a liberal modus vivendi and I offer an example to show how a model of political order and democracy is. Finally, I show the conclusions.

## 2. POLITICAL REALISM IN POLITICAL THEORY: WILLIAMS'S REALISTIC LIBERALISM

Political realism contends that political theory should not pose principles of justice nor political ideals as the ones of democracy and legitimacy coming from moral judgements that do not consider the realities of politics properly (Galston, 2010; Rossi & Sleat, 2014). Political realism does not seek to formulate principles, ideals, or values to then apply them in the political sphere, nor to set the moral conditions by which the power can be properly exercised (Williams, 2005, p. 2). Conversely, political realism points out that the activity of politics is always traversed by constitutive political circumstances which avoid prioritizing morality formulations in political theory. These circumstances are deep disagreements about what values or principles the political institutions should follow, the perennial possibility of conflict among different parties, and the inevitable use of coercion by the political power to enforce the norms (Sleat, 2018, p. 14; 2014a, p. 53). Moreover, as is pointed out by Raymond Guess, political theory should be sensitive to the particularities of each context under scrutiny and start theorizing “from an account of our existing motivations and our political and social institutions (not from a set of abstract “rights” or from our intuitions)” (Guess, 2008, p. 52).

Politics is the activity by which societies continuously manage these circumstances through the legitimate use of political power: “politics is to manage such disagreement and conflict and to foster trust and cooperation despite the noncompliance of some members of society” (Hall, 2020, p. 12). These considerations entail a different way of conceiving the normativity in political theory, one in which normativity of politics stems within politics itself, from “its own character, purposes and means, while also acknowledging that it sits in a series of complex relationships with other human activities” (Sleat, 2014a, p. 32).<sup>2</sup> Political realism usually distinguishes between politics and sheer domination as a normative standard: there is

politics or a political relation whenever there is an authoritative power which maintains the order (Sleat, 2014a, p. 315; Jubb & Rossi, 2015, pp. 456-457).

Following this reasoning, Bernard Williams poses *The Basic Legitimation Demand* (BLD) in which the political power is legitimate if satisfies two criteria. The first one is resolving the *first political question*: “securing of order, protection, safety, trust, and the conditions of cooperation. It is “first” because solving it is the condition of solving, indeed posing, any others” (Williams, 2005, p. 3). One axiom of BLD—and politics—is “might does not imply right”; politics is not the mere use of power, and the mere use of power does not justify its coercion (Williams, 2005, pp. 5-6). Political realism in political theory is distinguished from *Realpolitik* because this axiom permits grasping a crucial differentiation between when there is politics (i.e. a political rule that forges a political relationship) from successful domination (Sleat, 2014a, p. 315). Hence, due to the circumstances of politics and its axiom, securing order is a continuing activity to be carried out offering a justification for the coercion used on those who are enforced by the power. Therefore, the second necessary condition is to perform the sustainment of social order in a way that results in some way *acceptable* for those subjects of political power: who has political power ought to explain “what the difference is between the solution and the problem, and that cannot simply be an account of successful domination. It has to be a mode of justifying explanation or legitimation” (Williams, 2005, p. 5). This explanation is acceptable when it *makes sense* as authoritative to those subjugated. It means that the structure of social order and its sustainment by the state’s coercive power is recognized as legitimate according to the beliefs of its subjects (Williams, 2005, p. 10).<sup>3</sup> This notion of legitimacy is scalar, not dichotomic; the legitimacy of coercion is not either completely legitimate or illegitimate, rather it can be gradually legitimate or illegitimate regarding the beliefs of subjects

<sup>2</sup> The distinctive normativity of politics does not entail the total separateness of morality—or other kinds of judgements—from politics: “Things can be distinctive but still in various ways similar, and in that sense, there is no requirement of full separateness. (...) political normativity can be distinctive without being nonmoral” (Sleat, 2022, p. 471).

<sup>3</sup> *Makes sense* is a historical category. Different explanations might be legitimate according to different historical periods. An explanation that makes sense involves an interpretation using different moral and political concepts attached to particular contexts (Williams, 2005, p. 11; Luque, 2020, p. 196). Williams’s argument depends on his ethical theory of *thick* and *thin* concepts (Hall, 2020, p. 122). Thick concepts are local concepts used in specific communities and have a meaning conditioned by their context. Moreover, these have a descriptive and evaluative function: they describe the world, and on the other hand, they appraise it (Williams, 2006, p. 142). The moral and political concepts used in BLD are thick concepts since their meaning is determined by historical conditions.

evaluating whether the BLD meets the contextual standards (Williams, 2005, p. 10).

Because of the conditions of modernity (individualism, pluralism, bureaucratic state, etc.), nowadays BLD is satisfied when liberal standards are met, in other words, legitimate political regimes are often liberals (Williams, 2005, p. 9). Some of these standards are the equality of claims made by individuals in the political contest, and the no imposition of social hierarchies ‘justified’ by transcendental explanations (Williams, 2005, p. 7). Besides, liberal regimes now make sense because are made up of certain values and rules: “What makes sense to us in the historical and sociological circumstances of modernity, we have grounds for holding that liberal regime—with their commitment to the rule of law, wide-ranging political freedom and toleration, and some conception of political equality—represent the most appropriate answer to the first political question for us” (Hall, 2020, p. 154). Following Judith Shklar’s liberalism of fear, Williams (2005, p. 55) conceives human rights as devices which protect citizens from universal—everywhere and every time—recognizable evils such as torture, humiliation, suffering, and death, besides living feeling fear of them. It should be stressed that liberal political settlements are not theorized like ones in which there is full compliance with the political norms by all the groups and there are no disputes or disagreements, a liberal regime is realistically conceptualized as a *modus vivendi* (Williams, 2005, p. 2).

### 3. POLITICAL ORDER AS A MODUS VIVENDI

Modus vivendi (translated literally as ‘way of living’) was first conceptualized in contemporary political theory by John Rawls (2005, p. 147) as an unstable political settlement because it depends on the unequal balance of power among different groups with different interests who converge within this settlement. As is well known, Rawls contrasts modus vivendi with the idea of *overlapping consensus* to argue that the social unity of an *ideal well-ordered constitutional democratic society* is based on a political conception of justice, namely *justice as fairness*. In this ideal well-ordered constitutional democratic society, citizens with plural *reasonable comprehensive doctrines* agree on justice as fairness as a political conception of justice to regulate their main political institutions. This agreement is not based on a specific reasonable comprehensive, but rather justice as fairness is freestanding of all these and people accept it “in the light of principles and ideals acceptable to their common human reason”

(Rawls, 2005, p. 137). These principles and ideals are addressed by the *public reason* of citizens from the institutions of a well-ordered society to deliberate their political issues and generate consensus.

Although Rawls affirms that his overlapping consensus is directed to the political domain of political values and institutions, he also declares that contrary to the idea of *modus vivendi*, an overlapping consensus is “moral in both its object and its content” (Rawls, 2005, p. 126). Correspondingly, despite Rawls’s assumption that justice as fairness is a political conception, also he declares that it is “of course, a moral conception, it is a moral conception worked out for a specific kind of subject, namely, for political, social, and economic institutions” (Rawls, 2005, p. 11). As was noted above, the main critique of political realism to these types of approaches is that they “make the moral prior to the political” (Williams, 2005, p. 2) not considering the political realities seriously. Rawls’s political liberalism is an ideal and moral approach to giving a moral answer (Williams, 2005, p. 11) to the question of political stability. If there is a deep disagreement about what values or principles the political institutions should follow, therefore is inadequate to posit an overlapping consensus for liberal societies. In a nutshell, realists point out that Rawl’s conception of politics lacks ‘descriptive adequacy’ entailing a normative proposal ‘practically irrelevant’ (Horton, 2010 p. 433).

Modus vivendi has been recovered by political realists in a positive way to give an account of political arrangements (Westphal, 2019b). Modus vivendi is a political phenomenon and a normative approach to political order and stability (Wendt, 2019, p. 36): it is a legitimate political settlement at the constitutional and institutional levels that allows people with different values and interests to coexist peacefully into a social order (Dauenhauer, 2000; Gray, 2000; Horton, 2010) which is prone to the emergence of conflicts owing to disagreement of values and interests (Jones, 2017, p. 444). Modus vivendi is the institutional arrangement that allows certain political stability and social cooperation (Rossi, 2019b, p. 103; Westphal, 2019b, p. 2). As stressed by John Horton (2010, p. 442), a modus vivendi is differentiated from a regime of terror or domination since these last two situations are contrary to the idea of peaceful coexistence. Modus vivendi is the ‘second-best option’ sustained by the compromise of the groups who made up the political arrangement. Compromise whereby conflicts are avoided by making concessions among the parties involved allowing certain accommodation of their demands into their political community without

resolving completely their disagreements (Westphal, 2018, p. 83). Therefore, a modus vivendi is the second-best political option because “each party gives up something that they would like but also gets something of what they want out of it, too” (Horton, 2019, p. 134).

On the one hand, authors such as John Gray (2000) and David McCabe (2010) argue that modus vivendi is engaged with the ethical theory of value pluralism. Value pluralism affirms that exists different ways of life (Gray, 2000, p. 34) composed of a diversity of values that are usually incommensurable, incomparable, and incompatible (McCabe, 2010, p. 24). Because of these conditions, these institutional arrangements cannot conciliate all the claims from the groups of people and consequently, those arrangements do not represent the best from their own perspective. In a similar vein to Williams’s theory, Gray (2000, p. 66) and McCabe (2010, p. 130) posit that there is a modus vivendi when it meets the condition of protecting its subjugated from certain evils such as torture, humiliation, and persecution via the set of human rights. These are “convenient articles of peace, whereby individuals and communities with conflicting values and interests may consent to coexist (...) They are conventions, whose contents vary as circumstances and human interests vary” (Gray, 2000, p. 106).

On the other hand, authors such as Horton defend the normative condition of *acceptability*. Modus vivendi is accepted by the groups by diverse motives and reasons, which can be prudential, religious, moral, etc. (Horton, 2010, p. 440). The only motive excluded is direct and serious threats (Horton, 2018, p. 6). Modus vivendi is legitimate because it meets the “salient criteria of legitimacy that are practically operative” (Horton, 2019, p. 142) regarding the actual beliefs and attitudes of their subjugates: “Political legitimacy, therefore, involves the recognition of a regime’s right to rule, its political authority, within the context of the criteria and beliefs that effectively ground the legitimacy of that regime’s institutions, practices and procedures” (Horton, 2018, p. 11). Again, likewise, to Williams’s theory, the criteria of legitimacy based on the acknowledgement of the legitimacy of power is similar to ‘make sense’ as legitimate. Although this criterion is different from the one proposed by Gray and McCabe, and even though there is a disagreement among these authors regarding the ethical theory of value pluralism (Horton, 2007; Gray, 2007), their normative proposals —human rights and acceptability— are not necessarily contrary to each other (Westphal, 2019b), rather both are part what in fact constitutes the current normativity of contemporary

liberal orders. As is argued by Elena Rodríguez, these considerations show that the normativity of a modus vivendi is a “political normativity or a normativity that is not previous to politics” (Rodríguez, 2021, p. 180) such as political realists contend.

Modus vivendi is an ongoing political achievement that has as a requirement: that it always must be susceptible to modifications due to the pluralism of values and contingent circumstances that can appear (Westphal, 2019b, p. 5). Following Williams’s concept of legitimacy, Corrado Fumagalli argues that the theory of modus vivendi must incorporate the democratic *all-subjected principle* in order that all the ones who accept this political settlement as legitimate and are coerced by its power can participate in its constituency with the “intention to continue living with some of the constraints set by this project grudgingly accept as better than social disorder and other ways to ensure peace here-and-now” (Fumagalli, 2022, p. 207). Therefore, because of the all-subjected principle, and the facts of pluralism and contingency that characterize modus vivendi arrangements, it is necessary that modus vivendi regimes have the political institutions and mechanisms whereby political changes can be agreed upon and settled by all the parties under its coercive power. It is stressed by Gray: it is necessary that modus vivendi have “(...) common institutions within which conflicts of interests and value can be negotiated” (Gray, 2000, p. 121). As reaffirmed by Horton: modus vivendi should contain “some institutional structures and processes as ways of dealing with ongoing conflict and disagreement (...) it can also, therefore, be about creating, embedding, or reforming institutions and processes for dealing with such conflict and disagreement on a regular basis” (Horton, 2011, p. 125). Nevertheless, not enough has been argued by them besides stating democracy is a method to reach common decisions among groups with different identities and exploring federal division of power that provides distinct groups with their own jurisdiction to rule themselves according to their own values and traditions inside of one political community (Gray, 2000, p. 129). In a liberal modus vivendi, what institutions and processes permit negotiating conflicts of values and interests? What type of democracy is necessary to avoid conflicts and deal with disagreements on a regular basis from a realist perspective?

#### 4. AGONISTIC DEMOCRACY

Here I present the main outlines of the theory of agonistic democracy presenting the proposals of Chantal Mouffe, William Conolly, and James Tul-

ly. In the same vein that Mark Wenman (2003 & 2013), Manon Westphal (2019a), and Marie Paxton (2020), I contend that, on the one hand, Mouffe's theory represents an adversarial type of agonistic democracy while Conolly's and Tully's theories are inclusive proposals; on the other hand, that these templates are compatible with each other.

Delineating general aspects. Agonistic democracy is a theory of democracy that values disagreement, diversity, contestation, and engagement among citizens. In contrast with deliberative theories of democracy, agonistic theories contend that owing to the circumstance of deep disagreement is impossible that exercises of rational deliberation allow reaching substantial political consensus. Agonistic democracy poses a relational approach to the formation of social identities which affirms that differences are the origin of these; in other words, it is because of differences with others that individuals and groups can make up their own identities. The formation of identities is the cause of the inevitable existence of disagreements and possible conflicts.

Conolly (1991) points out that personal and collective identities contain the values and worldviews that make up the self of persons. The creation of identities through differences is variable and always open to multiple contingencies that make identities never fixed and always into a continuous process of formation and interdependence. The conflict appears when from identities *resentment* emerges. It is when identities conceive themselves as a whole and complete, and perceive other identities as deviant, false and consequently, as potential threats (Conolly, 1999, p. 144). The state can be the site where the resentment of one or many identities rules using coercive power in order to either stigmatise, exclude or eliminate others from public and political life (Wenman, 2013, p. 104). Therefore, the aim of democracy "is to critically engage with a tension between pluralism and pluralization—the order of social relationships at a given point in time and processes that challenge the existing order and bring new identities" (Westphal, 2019a, p. 194).

To prevent resentment, Conolly poses the instauration of the democratic values of *agonistic respect* and *critical responsiveness*. Agonistic respect is when there is aperture and tolerance to differences from other identities, which propitiates recognition and promotion of diversity inside political communities (Connolly, 2005, p. 123). Critical responsiveness is connected to agonistic respect. Critical responsiveness is a civic virtue that occurs when there is a disposition of generosity and listening carefully to favour the necessary dialogue

among political groups (Connolly, 2005, p. 126). Both values are applied to the political institutions in which political decisions are taken and to other social institutions where there is human interaction such as schools and citizens' assemblies. The point of agonistic respect and critical responsiveness is to generate a *democratic ethos* in plural societies that on the one hand, generate self-critical reflection on the constitution of social identities and so avoid that they consider themselves unique and whole and, on the other hand, allow the inclusion of new social identities and movements into the social and political life.

Tully affirms that the formation of cultural identities is made up of the "overlap, interaction and negotiation of cultures" (Tully, 1995, p. 13). He emphasizes that the position of one cultural group in social relations conditions its political status (Tully, 2008, p. 3; Paxton, 2015, p. 124). In other words, the social identity of one group is conditioned by this position in a complex structure of relations power. Therefore, to not stay in a relation of domination, distinct — minoritarian political — groups struggle *over* political recognition and distribution to acquire political rights (Tully, 2002; Wenman, 2013, p. 137). These are struggles over recognition because are "struggles over the prevailing intersubjective norms of mutual recognition through which the members (individuals and groups under of any system of action coordination or practice of governance) are recognised and governed" (Tully, 2004, pp. 86-87).

To carry out these struggles, Tully poses the normative principle *audi alteram partem*: "Always listen to the other side; particularly those who are typically marginalised or excluded" (Tully, 2008, p. 110; Paxton, 2020, p. 11). This principle aims to favour an agonistic dialogue and negotiation among the groups (especially directed to the marginalized ones) based on the values of mutual respect and reciprocity to create norms of mutual recognition that bring out rights for marginalized groups. Therefore, the objective of this principle is to overcome the situation of domination of certain groups. The principle *audi alteram partem* thus is a democratic principle which enables groups to know each other on their own terms in dialogue and negotiation (Tully, 2004, p. 94), facilitating citizens "realize their democratic right to have a say over the rules under which they live and make sure that the rules can be acceptable to all" (Westphal, 2019a, p. 195).

Mouffe poses a distinction between the political and politics:

By ‘the political’, I refer to the dimension of antagonism that is inherent in human relations, antagonism that can take many forms and emerge in different types of social relations. ‘Politics’, on the other side, indicates the ensemble of practices, discourses and institutions which seek to establish a certain order and organize human coexistence in conditions that are always potentially conflictual because they are affected by the dimension of ‘the political’ (Mouffe, 2000, p. 101).

Social identities are formed by the differences (‘constitutive outsiders’) from other identities, generating a process that has the archetypical form ‘*we/them*’ (Mouffe, 1993, p. 2). Politics aims to create unity in a context of diversity and possible conflict (Mouffe, 2000, p. 101). Therefore, the function of democratic politics is to “create or maintain a pluralistic democratic order” (Mouffe, 1993, p. 4) in which the ‘we’ of the political community is plural, and inside of this plurality the antagonisms are tamed and hence the formation of relationships among identities with the (sub)form ‘*friend/enemy*’ is avoided (Mouffe, 1993, p. 2).

Mouffe contends an adversarial type of agonistic democracy. In a democracy, the opponents are not perceived as enemies to be destroyed, but as adversaries “whose ideas we combat but whose right to defend those ideas we do not put into question” (Mouffe, 2000, p. 102). Adversaries which made up this agonistic pluralism in liberal democracies share the symbolic framework of liberty and equality present in their political institutions while they always disagree and contest—refraining from using violence—on the meanings of these values and how should be implemented by public policies (Mouffe, 2000, p. 103). Thus, agonistic democracy is a *conflictual consensus* in which different parties fight to get hegemonic their own interpretation of the values of liberty and equality (Westphal, 2019a, p. 194). As is argued by Westphal (2019c), what keeps tied the pluralistic ‘we’ to the symbolic framework of liberty and equality is the difference and exclusion of those groups which negate these liberal-democratic values (i.e. slaveholders, nazis, etc.).

These three proposals are not incompatible but rather complementary. Mouffe’s adversarial proposal aims to tame the conflict and generate a vibrant democratic contest among different groups with different interpretations of the political values of liberty and equality. Connolly’s principles of agonistic respect and critical responsiveness, and Tully’s principle *audi alteram partem* aspire to include different social and marginalized groups in public and political life; this entails preventing

resentment and generating mutual recognition. Accordingly, these agonistic positions are compatible because permit democratic contestation between—adversarial—identities to occur regulated by principles that allow the inclusion of different social groups in a context of (agonistic) respect in which dialogue (i.e. democratic confrontation) enables the groups to get to know each other on their own terms and integrate their demands into their political association. This democratic engagement does not have a place solely inside democratic political institutions in which decisions are taken such as parliaments or types of congresses but in whichever space where interaction and integration among diverse groups converge.

##### 5. *MODUS VIVENDI AND AGONISTIC DEMOCRACY*

In this section, I want to show how agonistic ideas can help us identify institutional forms that are reliably capable of securing a liberal modus vivendi. I divide my argument into conceptual and historical. In the first part of this section, I deploy the conceptual argument. In the second part, I contend agonistic democracy has a good track record of securing modus vivendi since actual existing liberal regimes are both agonistic democracies and modus vivendi-type institutions; I argue this conceiving Spain as a modus vivendi whose stability is secured by agonistic democratic practices.

My conceptual argument can be laid out as follows:

1. A liberal modus vivendi needs a realistic way of achieving stability.
2. Agonistic democracy offers the most realistic way of achieving stability in liberal regimes.
3. Therefore, agonistic democracy meets the needs of a liberal modus vivendi.

The first premise was brought out in section 2. Here I trait the second premise and the conclusion. Agonistic democracy represents a realist theory of democracy. Theories of agonistic democracy conceive the circumstances of politics of disagreement and conflict into the formation of social identities. Within differences among social identities is where we find the disagreements that can convert into conflicts. Therefore, the aim of democratic politics, in a similar vein to that of the definition of politics from political realism, is to contain conflicts and manage disagreements without concealing or negating the pluralism immersed in democratic societies. In turn, each one of these three democratic positions counts with normative principles that match the one of political realism. Adversaries do not consider each

other as enemies who should be either subordinated or eradicated, but instead, there is a disposition (an ethos) to contest respectfully and recognise them on their own terms under the framework of liberal democracies. In other words, agonistic proposals and the realist principle of legitimacy distinguish situations of politics from situations of domination (resentment and arbitrary control from one identity on another) or terror (a situation of enmity and war among groups who, using Schmitt's and Mouffe's jargon, considerate each other as enemies). As is argued by Manon Westphal, theories of agonistic democracy supplement the normative principles of political realism and *modus vivendi* demanding effective possibilities and channels of contestation that have repercussions in the life of those subjected by political power and so "who are subject to political rule are [not] constantly excluded from political processes and incapable of influencing political decisions" (Westphal, 2022, p. 170).

Agonistic democracy is the type of democracy required for the sustainment of a *modus vivendi*. Liberal *modus vivendi* regimes are maintained because of agonistic practices in their democratic institutions. These are political arrangements in which citizens with different ways of living integrate their distinct demands into their political community through the mechanisms offered by the agonistic democracy: a respectful, vibrant, and fruitful contestation among citizens recognizing each other as members of their political community.<sup>4</sup> Furthermore, this process has the aim and potential of generating political rights which help to overcome situations of domination. It is worthwhile to notice that the stability of *modus vivendi* is an ongoing process of democratic contestation and inclusiveness of the pluralism that permits its members to coexist peacefully obeying acceptable terms of social cooperation in which more or less their demands and interests are present and so they perceive it. The processes of agonistic democracy offer the means to carry out the changes in the political structures of *modus vivendi*. This

is a more realistic way of conceiving stability, one which tries to take seriously into account the facts of pluralism, power and contingency. On the one side, these processes are present in political institutions such as parliaments and congresses in which the political changes are modified. On the other side, those are also in public life where different ways of life converge trying to generate an atmosphere of respect and inclusiveness. The point of agonistic democracy is not to generate deep consensus on political principles or to change the interests or values of the groups, but to "modify the *relationship* among the parties involved" (Westphal, 2019a, p. 201; the emphasis in the original). In this way, the agreements achieved for the stability of a *modus vivendi* are perceived as "rooted in the shared experience of our life together" (Mills, 2000, p. 202).

Recall that *modus vivendi* is a phenomenon in politics. It means that *modus vivendi* is a phenomenon that has historical references in political reality. One example of *modus vivendi* is Spain.<sup>5</sup> This country is made up of seventeen regions ('autonomous communities') with different regional and historical identities that have been acquiring more competencies from the instauration of democracy. Since the transition to democracy (1975-1978) after the death of Spanish dictator Francisco Franco (1975) and the promulgation of the Spanish Constitution (1978) with the consequent instauration of its democratic parliamentary system, historical regions such as Catalonia and the Basque Country have had political representation through political parties into Congress of Deputies enabling them to get more autonomy for their communities from the central administration of the state (Gray, 2020, pp. 3-4). In other words, since the instauration of democracy, the regional identities have been constructing and sustaining a *modus vivendi* (despite deep disagreements and some internal conflicts) in which they coexist peacefully incorporating their demands into the Spanish political arrangement. Spain's territorial dimension is ruled by the Statues of Autonomies: "sources of law that can be compared to state constitutions of federal models" (Ragone & González, 2021, p. 223). Spain is not properly a

<sup>4</sup> There is a critique that says that positions in political realism which focus on the sustainment of order might lead to the acceptance of the status quo without great chances of conceiving political reforms (Finlayson, 2017). The argumentation offered in this paper shows that this standpoint is not necessarily correct. From a realistic point of view, to maintain the stability of a *modus vivendi* is necessary the integration of the demands from the groups which compound it, therefore, performing political reforms and questioning the status quo are political tasks always necessary because of the dynamics of politics. Those regimes where there are lower chances of implementing political reform are more comparable to situations of domination and terror than political regimes.

<sup>5</sup> Presenting Spain as a *modus vivendi* is not a new idea. In *Two Faces of Liberalism*, Gray (2000, p. 124) only mentions it a long France and the United Kingdom to show that many Western European states are composed of different nationalities. Their citizens have different identities (i. e. Catalan/Spanish/European) than in distinct historical periods can be complementary or contradictory. So far now, European democratic nation-states handle to accommodate them democratically inside their political regimes to achieve peaceful coexistence. Here I develop this idea.

federal state, but in fact, nowadays it is one of the most decentralized states in Europe (Gray, 2020, p. 3) where there is “an ambiguous constitutional compromise” among its political identities. This compromise is a product of agonistic democratic practices: “of party strategies, competition, and bargaining within a loose institutional framework” (Colomer, 1998, pp. 40-41).

For the formulation of the Spanish Constitution in 1977, clearly distinct national political parties distinguished into a classical axis of right/left positions along regional political formations, with different and even contrary priorities, carried out the process of the creation of their political settlement. Thus, the so-known ‘7 Fathers of the Spanish Constitution’ representing these political parties performed a process of dialogue and complex negotiation without resentment looking for stability and bearing in mind not to repeat the tragic events of the Spanish Civil War and the consequent dictatorship in which political pluralism was repressed. Consequently, the text redacted by the Fathers of the Spanish Constitution was revised, modified, and approved by the recently formed Congress of Deputies and the Senate of Spain to finally be submitted and approved in a referendum by the Spanish people. Thus “the Spanish Constitution emerged from the common commitment to negotiation and agreement between different political sensibilities, which is to say that it responded to a correlation of specific forces” (Ubasart, 2021, p. 36). In other words, the result was a modus vivendi in which “no party or group was totally satisfied or totally dissatisfied with the Constitution that was finally approved in 1978. No one agreed with the entire constitutional text, but almost no one felt it was absolutely unacceptable” (Colomer, 1998, p. 41).

This is reflected in Article 2 of the Spanish Constitution which declares the indissoluble unity of Spain and at the same time recognizes the right of autonomy of nationalities and regions that composed Spain. In the next decade (1980s), historical regions such as Catalonia and the Basque Country formed regional governments and were receiving more competencies from the central government of Spain. In 1983 was passed the ‘Autonomous Process Act’, a law by which the 17 regional governments and parliaments were created to distribute and grant competencies and propitiate their self-governance. Afterwards, during the 1990s, regionalist political parties began governing their historical regions at the same time they were increasing in number at the national parliament acquiring more autonomy for their communities. In part, it was because these

representatives were giving support to minoritarian national governments creating an exchange of support for stability for more autonomy and competencies for their regions (Gray, 2020, p. 7). These national governments were normally minoritarian and composed of just one state-wide party in an adversarial context of national interparty politics (normally in a bipartisanship contest) being clear who is the government and who is the opposition along the regional political parties (Field, 2014, p. 45). Regionalist political parties had “enough influence over government formation and/or budgetary approval to win concessions in return for lending support to minority governments, thus facilitating political stability in Spain” (Gillespie, 2015, p. 6). These agonistic actions of recognition, respect, dialogue, and negotiation among political adversaries inside Spanish democratic institutions maintain Spain’s political stability permitting its political groups to live together and recognize them politically so as to continuously compose their modus vivendi.

Needless to say, Spain is not a perfect modus vivendi without disagreements and a total lack of conflicts. Indeed, no modus vivendi is so by definition. Perhaps, the most relevant territorial conflict was the unilateral and illegal referendum and declaration of independence (usually traced as a linear process called *el procés*) carried out by the *Generalitat* (Catalan regional government) in October 2017. These events triggered the activation of Article 155 of the Spanish Constitution by which the central government of Spain took control of the Catalan government until June of 2018 and prosecuted the independentist political leaders. By reasons of extension, is not my aim to explain in detail the complex roots and events of these episodes,<sup>6</sup> here I sum up this conflict relating to my argument. Two related hypotheses of causes of *el procés* are the recentralization measures by the Spanish Government to deal with the economic crisis that started in 2008, and the formation of government by only one single state-wide party with a nationalist discourse without the necessity of support from regionalist parties in the presidential term of 2011 (Muro, 2015). What is relevant for the purposes of this article, is that those causes originated a lack of agonistic interactions with two consequences. On the one hand, resentment from both sides and a feeling of being dominated by the

<sup>6</sup> A good overview of the tense relations between Catalonia and the Spanish state from the Middle Ages until the events of October 2017 is given by Óscar García Agustín and Malayna Raftopoulos (2021). Gemma Ubasart González (2021) offers a complete explanation of *el procés* in particular.

central government of Spain and a national-Spanish identity promoted by this government. On the other hand, the Generalitat and the Spanish central government perceived each other as enemies with whom democratic coexistence was not possible.

Notwithstanding, implementing political reforms and practices following agonistic principles can improve the relationship among the political groups that make up the country and so uphold its political stability. Call to mind that *modus vivendi* is also a normative approach to politics. It is possible to cast out evaluations on to what extent Spanish political institutions meet the normative principles and mechanisms prescribed by theories of *modus vivendi* and agonistic democracy. In this way, we can evaluate on the one hand, to what degree the demands of the political groups in Spain are reflected in its political arrangement and if those groups perceive its political order as legitimate (i.e. whether the human rights of those groups are respected and whether the order is acceptable for them). On the other hand, we can appraise to what magnitude Spanish democratic institutions and mechanisms permit the contestation and integration of political pluralism (i.e. whether these follow properly agonistic democratic practices) in their common institutions. Here, besides revising the integration of pluralism in the legislative power, there also can be agonistically interactions in specific regional institutions, for example, the Conference of Presidents, the Interterritorial Council of the National Health System, or the debates around regional financing. Nowadays, the current Spanish government has managed to reduce the tensions with Catalan political actors negotiating support for the government and discussing the future relations between the central government and the Generalitat. This has occurred in a political context in which the traditional bipartisanship has weakened and more political parties contest for power and set out negotiations in the Spanish parliamentary system. In a nutshell, the current stability of the Spanish state is given because its political actors are adopting democratic agonistic norms and strategies.

## 6. CONCLUSION

In this article, I argued that agonistic democracy offers realist ideas to uphold the stability of a liberal *modus vivendi*. Agonistic democracy offers democratic means for political and social institutions to deal with disagreements and avoid the surge of conflicts. An adversarial type of democracy along with the principles of agonistic respect, critical responsiveness, and *audi alteram partem* makes the

democratic contestation a political process in which all the groups recognize each other on their own terms as members of their political community. In this way, plural demands can be included in their *modus vivendi* propitiating a peaceful coexistence without relations of domination, containing resentment and possible conflicts under the legitimate—acceptable—coercion of the power of its political community. In short, agonistic democracy sets the means by which liberal *modus vivendi* can legitimately—politically—manage contingencies and maintain certain stability.

Nowadays, political realism is presenting more positive highlights and proposals to investigate different topics. The proposal presented here approaches a realist stance on the concepts of liberalism, political order, stability, and democracy differently from conceptions such as the ones of overlapping consensus and public reason posed by Rawls. In order to continue contributing to the realist agenda in political theory, more should be researched about this proposal. For example, one prominent issue to be tackled is how should be legally structured the *modus vivendi* and how its legal structure can integrate the demands coming from its agonistic democracy. A more general question is how to realistically conceive the role of the law in politics.

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