DEMOCRACIA
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DEMOCRACY
TODAY

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ORGANIZAÇÃO

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Universidade do Minho
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ÍNDICE

INTRODUCTION

DEMOCRACY TODAY. THIS IS THE TOPIC OF THIS BOOK, which reflects the I International Congress on Political Philosophy and Theory that took place at Universidade do Minho during the 3rd and 4th of November of 2010.

   This Congress was the first moment of a broader research, moved by the inquiry of *Redefining Democracy for the XXI Century*. As a whole, this project aims at finding new ways of conceiving democracy for the future, both theoretically and practically speaking. Our goal is to bring into discussion several aspects of theory and practice that have dominated the 'democratic discourse' until today. In doing so, and given the contemporary circumstances of globalization and the shift of forces from the traditional "nation-state" into other forms of social, economic and political organization that we are witnessing for the past two decades, we try to understand what can we do in order to get closer to the democratic ideal(s). From a profound and inter-disciplinary dialogue between philosophers, social and political scientists, and individuals who are engaged in enhancing the democratic spirit and democratic practices around the globe, we expect to contribute to the multi-task of (re)designing, reconfiguring, transforming and adapting current practices into constant and ever changing historical circumstances

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in concrete local realities that can be closer to the democratic ideal of liberty, equality and social justice.

This Congress, which is now translated in this volume, was the first methodological and practical step towards this magnificent task of conceiving 'better' ways of doing democracy or, in other words, it was the first step in bridging theory and practice, in bringing together theoretical reflections on conceptual aspects which dominate the 'democratic discourse' and, on the other hand, the practical necessity of finding answers that can be applied to very concrete realities around the world.

This book has three sections. The first one is devoted to *Reflections on Democratic Theory*, expressing many of the concerns that have dominated the debate for the past decades. In this section you will find Nuno Coelho's article entitled *Politics and equality in Greek invention of democracy*. In his article, Coelho goes back to the Greek conceptualization of politics, equality and democracy, arguing that this genetic approach – philosophical *and* political – can help us understanding where and who we are today, both as individuals and political beings. After Coelho's article, you will find Demin Duan's article entitled *Alexis de Tocqueville's Notion of Political Freedom – A Vision of Democracy,* reflecting the influence of Tocqueville in our contemporary readings of 'democracy', and articulating the 'liberal' with the 'republican' traditions along their correspondent approaches to democracy, freedom and power. Femmy Thewissen, on the other hand, builds an interesting argument around governance. Her article entitled *Governance through the lens of representation. Confrontation of governance and government* is a journey which clarifies the several meaning of governance and which places governance in the context of representative democracy.

The second section is dedicated to *Contemporary theories*. Opening this section you will find David Plotke's article on *Democratic Virtues*. Arguing that there is no such thing as 'minimal' democracy, only democracy, Plotke shows how the relationship between different democratic virtues is not as easy as one initially would imagine. On the contrary, democratic virtues do not go easily together and the emphasis one gives to one or another has practical results, leading to quite different models of democracy.

From Plotke's reflection on contemporary democratic theory we follow to Maria João Cabrita who offers a Rawlsian approach to global international democracy in *The designs of global international democracy in the rawlsian realistic utopia*.

From these reflections we follow to considerations of democracy and hope, reflecting Laclau and Mouffe's work. Thomas Decreus is the author of *Democracy, Hope and Nihilism: On the concept of hope in the work of Laclau and Mouffe*. Marco Walter presents *Designing the Public Realm - a Prerequisite for Democratic Innovation*.

The third section of this book is concerned with *Democracy in Context*. From the theoretical analysis and conceptual reflection we now enter the stage where democracy is analyzed from an actual, concrete and local perspective. Opening this section is Lawrence Hamilton with a sharp article entitled *Freedom, Power and Representation: Group Freedom and Democracy in South Africa*. Heidi Matissonn continues the discussion of democracy in South Africa looking at the relationship between democracy and participation in *Democratic Compromise or Compromising Democracy: Rethinking Participation*. Gerhard Wolmarans offers *Contrasting understandings of 'democracy' in South Africa. A descriptive and theoretical analysis* , and Roseline M. Achieng' introduces a more sociological approach to the debate with *Young African Women engage the Public Sphere: a Continued Disregarded Voice*.

From South Africa we follow to another type of debate with F*ederalism, Direct Democracy and the Quality of Public Deliberation:the GMO Debate,* by José Luis Egío. Joan Martinez presents *Democracia Global, identidad y responsabilidad cívica de la ciudadanía. Diálogos entre Seyla Benhabib, el liberalismo comunitario y el federalismo integral del siglo XX* while Iurii Mielkov and Anatoliy Tolstoukhov account for the *Development of Today's Democracy: People, Power, and Human Personality*. We conclude this volume with Emanuele Bottazzi's original reflection on *State of Exception and Impasse Dynamics*.

We hope that this book will offer to the reader a glimpse of the many dimensions of the democratic debate, its nuances and conceptual tensions, its dilemmas and practical (im)possibilities, its promises and actual fulfillments.

As organizer of the event I am grateful to David Plotke and Lawrence Hamilton for accepting the invitation and challenge to be part of this

project; I am also grateful to Prof. João Cardoso Rosas, for his human support and strategic advices and Prof. Ana Gabriela Macedo who gave me the necessary institutional support; to Ana Maria Pereira and Vera Amorim I am grateful, for all the help in bureaucratic affairs and practical decisions; and the last but not the least, to all participants, who became friends along the process, by sharing a common cause of taking democracy to the next level.

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PART I
REFLECTIONS ON DEMOCRATIC THEORY

POLITICS AND EQUALITY IN GREEK INVENTION OF DEMOCRACY[1]

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1. Introduction

AS THE TITLE ADVERTS, this text focuses on some central terms in political discourse, trying to understand them from a genetic perspective. In spite of this, neither its method nor its scope is historical, but philosophical and political. From that we expect some help to understand the contemporary political experience.

What do we mean for a genetic (Greek) sense of politics, equality and democracy? What about their relationship? And how can this be helpful for nowadays political experience?

Let's start for present times. Maybe it helps us to think and problematize the limits of political discussion and choice. People can self-impose boundaries and exclude issues from public deliberation. This is a known topic to political sciences and to lawyers. Political self-limitation can result from express techniques, as in case of rules of rigid Constitutions, which prohibit Amendments on certain subjects.[2]

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¹ This text is dedicated to Professor José Luiz Quadros de Magalhães.
² The Portuguese Constitution states, in its 288. Article: "As leis de revisão constitucional terão de respeitar: a) A independência nacional e a unidade do Estado; b) A forma republicana de governo; c) A separação das Igrejas do Estado; d) Os direitos, liberdades e garantias dos cidadãos; e) Os direitos dos trabalhadores, das comissões de trabalhadores

The community itself consciously establishes limits to self-determination power, in order to protect itself from occasional majorities.

But there are non-explicit cases of political universe constriction, which result from choices that are not shown as choices. In a very actual example, the decisions on economics usually are not presented as decisions, but as inevitable conducts, policies and ruling. This results from its naturalization and mathematization. Some questions keep "naturally" and "obviously" out of discussion, as the gravitational law: who could deliberate about it? Nobody but a mad person would discuss the competition as a natural law of economical life - or that a good place in the global trade system is the main task of any country's external policy.[3]

Another question is related to this: the tendency to uniformization of opinion, favored by the exclusion of possibilities of communitarian and personal self-determination. Falsification finally builds reality. The ideological affirmation of a certain order of coexistence as natural, rebuilds the world as it values for us, and then that is converted into nature. In consequence of the narrowing of political horizon, we are getting to be more and more identical, unanimous, in our fundamental views. This homogeneity is reflected in the insipid programs of political parties, very hard to distinguish.

2. Philosophy as Struggling

The pursuit of a genetic sense for Politics requires a clear and relevant meaning for Philosophy. We would like to suggest a not academic but

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e das associações sindicais; f) A coexistência do sector público, do sector privado e do sector cooperativo e social de propriedade dos meios de produção; g) A existência de planos económicos no âmbito de uma economia mista; h) O sufrágio universal, directo, secreto e periódico na designação dos titulares electivos dos órgãos de soberania, das regiões autónomas e do poder local, bem como o sistema de representação proporcional; i) O pluralismo de expressão e organização política, incluindo partidos políticos, e o direito de oposição democrática; j) A separação e a interdependência dos órgãos de soberania; l) A fiscalização da constitucionalidade por acção ou por omissão de normas jurídicas; m) A independência dos tribunais; n) A autonomia das autarquias locais; o) A autonomia político-administrativa dos arquipélagos dos Açores e da Madeira.

3 Europeans can possibly think if this is the case for participating in the Union, with heavy political, economical and legal consequences arising from this "absolute necessity".

cultural conception of it, very close to that one suggested by Edmund Husserl in Viena, 1935, in his conference on the *crisis of European humanity and the Philosophy*: Philosophy as a new spiritual attitude, remarked by the infinitude of truth as a task. This means a whole perspective from which one sees the world, from which no knowledge can be considered definitive. In stead of this, every thing we know is precarious: truth becomes an idea, and this means that it is always to be reached.

Husserl's perspective is coherent with the last and most convincing version for "from *mythos* to *logos*" description of Philosophy's birth, which shows how the new mentality comes with an arising brand new technology: the alphabetic written. According to this theory, literacy allows recording modification processes in community and in nature, and so comparing the way things are in the present and were in the past. Philosophy shows up, then, with/how/from a kind of historical perspective that allows the criticism that would remark the rising culture.

In the world founded in Philosophy, human beings must permanently rebuild the foundations of the world view. The narrative foundation of Myth, within which gods used to play so important role, has been broken. Life is not safe and stable anymore. Its unity must always be reached, because its foundations are permanently in discussion. As now any conquer in the context of knowledge is provisory, the task to establish the world basis is permanent. In this horizon human beings must now understand themselves.

With Philosophy Greeks also discovered that human beings are self-made, as persons and as communities. This can be a description of the birth of Ethics and Politics, both representing the discovery of self-construction human power. Human beings assume an important part of god's job.

In the lack of the narrative-traditional foundations, the task to say what the world is became a struggle. *Polemos* remarks the relationship between Philosophy and Myth.[4]

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4 Diogenes Laertius tells the story about the fall of Tales in a hole while searching the sky - the slave woman laughed at him: you can't even mind your step! Laughing would be a weapon against Philosophy since its beginning. And it still is; I'm sure every one among the presents has been at least once mocked for his/her a little bit incomprehensible

But we must specially stress: there is tension among the large range of cultural manifestations of Philosophy as new perspective themselves: Science, Lyric Poetry, Tragedy, History, Rhetoric, Ethics, Politics *etc*. They all face the new need for foundation, but it is particularly important to observe how they fight! Among the pre-socratics - the first scientists to represent the new perspective - there were not two concordant theories to describe the *archai* of *physis*.

The examples multiply. Comedians argue against Politicians (see Aristophanes in Horsemen) and against Philosophers (see Aristophanes in Clouds); Scientists argue against Scientists (see Heraclito in Frag. 81[5], and so many other examples[6]); Philosophers argue against Tragedy and Comedy (see Plato in Republic, Book 3), Politicians and Rectors argue against Philosophers (Plato in Apology to Socrates), Philosophers argue against Rhetoric (see the whole platonic work!). Regardless their participation in the same broad perspective we call

interests. But humor wouldn't be the only nor the worse reaction to Philosophy. Athenians convicted Philosophers as Socrates and Protagoras to death.
In the other hand, Philosophy's criticism against mythological world is not charming. Let us recall these two fragments of Xenophanes (from Diels & Kranz, Fragmenta):

(11.) SEXT. adv. math. IX 193
panta theois' anethêkan Homêros th' Hêsiodos te,
hossa par' anthrôpoisin oneidea kai psogos estin,
kleptein moicheuein te kai allêlous apateuein.

(15.) CLEM. Str. v 110 [II 400, 1 St.] nach B 14
all' ei cheiras echon boes <hippoi t'> êe leontes
ê grapsai cheiressi kai erga telein haper andres,
hippoi men th' hippoisi boes de te bousin homoias
kai <ke> theôn ideas egraphon kai sômat' epoioun
toiauth' hoion per k'autoi demas eichon <hekastoi>.

I'm sorry for my careless translation:
Fragment 11.: Homer and Hesiod have attributed everything to Gods, everything which deserves rejection and disapproval, robbery, adulterous, and mutual fraud.
Fragment 15.: If bulls, horses and lions had hands and could use them to draw and to create as human beings can, horses similar to horses, bulls similar do bulls, they would draw the shape of gods and their bodies just as they own have.
[5] Frag. 81.: " ancestral of the charlatans (Pythagoras)".
[6] Remember the Aristotelian reference to Plato in *Nicomachean Ethics* (first Book) according to which it is more pious to stand with truth rather than with friends.

here Philosophy! Philosophy is polemos, everything is always under discussion.

Struggling would be stressed in the fifth Century, with the sophists. The antilogic perspective (according to which there's always an argument to oppose to any argument[7]) would be assumed as rhetoric, epistemological and even as an ontological perspective. Protagoras is the main reference for Antilogic theory, as he is considered the father of this discovery. But this becomes a widely disseminated perspective, used even in education strategies. From this field, two important documents of the 5th Century last to show how learning to think successfully was acquiring expertise in handling with antilogical challenges: the *Dissoi Logoi* (whose Author is unknown) and the *Tetralogies*, written by Antiphon.

Everything, every statement, values just as a throw in the endless game of stating.

What comes to support the world, in the place of the narrative magical explanation - is discussion. Discussion about what nature is, as about the gods, society and human being.

Antilogical perspective is quite compatible to the 5th century Athenian Democracy. Everybody's right to stating in Assembly (*isegoria*), expressing one's own point of view, is supported by a conception according to which any perspective is in some way valuable. In Democracy, citizens are equal in the right to participating in the struggle for the world (for the *polis* and for the human being, which were always implied in the constant discussion on laws and education). This *polemos* rests in the root of the Greek understanding of Polis, as the coexistence of different people under the law. According to Aristotle, in *Politics*, difference among citizens is the basis of Polis considered as a system of exchanges.

In this view, we can see how difference in constitutive of political experience.

Ethics also shows how nothing is so far from Classic Greece than some contemporary descriptions of *Polis* as an uniformed way of life. Let's recall Aristotle again. *Nicomachean Ethics*, in stead of being an

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7 According to Diogenes Laertius (*Lifes*, IX, 50. Diels & Rranz 80 A 1), Protagoras stated that "on any thing there are two possible and contrary speeches".

Ethics for a homogeneous community, has its departure point exactly in the diversity of conceptions of life, among which there are quite different positions about what life is for, and about the meaning of living. There is no agreement on the meaning of the word *eudaimonia*. That's exactly why Aristotle needed to write the *Ethics*!

Diversely, Greeks were always explicitly and soundly aware of the constitutional role of difference in the *Polis*, always discussing about and struggling for what living as a *Polis* is.

The conscience of difference as something that requires Politics and Ethics is also clear in the description of human soul. This is present in the whole Greek philosophical tradition: *psyche* is composed by different dimensions, whose good relationship (order) resumes the ethical challenge.

3. Philosophy and Politics (Politics as Philosophy)

From the birth of Greek ancient culture, we ca briefly point out a hermeneutical framework to understand philosophy, politics, equality and democracy. Philosophy is the new world view provided by Greek culture from the literacy revolution - remarked by an universal criticism in knowing. The crash of narrative foundation of nature and society gives place and requires the research for new foundations. We, in this Congress, are not doing anything else but participating in this same infinitive process of explicit reconstruction of world view.

Philosophy is a contra-dogmatic and always unsatisfied thought, which infinitively submits any discovery or opinion to verification - recall Socrates, who exercised Confutation until the very end of his life. Its criticism cannot accept any criteria for truth which cannot be submitted to discussion. The openness that characterizes the philosophical culture is the framework where Politics can be born. The very question of Politics - how is living in community as equals? - remains an open question. It is endless, as Philosophy.

The limits of this power have always been under discussion as well. In this sense we can read the speeches on the binomial "*physis* and nomos". Under this topic, Philosophy (in all of its dimensions: Science, Tragedy, Lyric, Rhetoric *etc*.) discusses the boundaries of

human capacity to self-determination.[8] This was, anyway, an explicit and open discussion, a highlight topic of the political controversial at those times, where everything was to be questioned, even the limits of what can be questioned.

In this process of communitarian self-determination, every person capable of *logos* could participate[9] - having *logos* is to be able to make speeches. The Aristotelian definitions of human being as Political Animal and as Rational Animal can be in this sense interrelated: rationality makes human being capable of Politics, of self-determination. Rationality inaugurates Politics as pursuit and struggle for the order of coexistence - all rational beings participating in this search, making speeches...

Politics cannot be understood without this. It is a contest for the Polis, by people who know this is in their hands to decide - and who know that they decide themselves by the same process.

This search for the city, as a political task, is a polemos involving different people. And this also specifies Politics among Greeks. What is absolutely new in Politics is the invention of an order of coexistence within which not only one can achieve *eudaimonia* as self-realization. That distinguishes political regimes from family or barbarian despotisms, systems of coexistence where *eudaimonia* is possible to only one. Political orders face a new task: how to make possible, to many citizens, achieving self-realization at the time? In this sense, equality remarks a regime as political. Monarchy can still be considered a political regime while this is orientated to common good. But if it doesn't, it stops being a political regime, and becomes despotism. The relations among people under such regime are not political - for same reasons according to which the relations among people in the horizon of the family are not political.

Viewed from this point, Politics shows its compromise to common good. Please note that common good is not considered as a dogmatic

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8 Participating in this discussion, Antiphon stated that we are all equally accomplished by nature to be Greeks or Barbarians.

9 At that time, a lot less people than we nowadays admit for this discussion - women, children, slaves, foreigners were excluded. But this does not invalidate the incommensurable importance of Greek invention of Democracy. In certain sense, contemporary Democracy also excludes many people.

nor ahistorical meaning of justice. It is a sign of the kind of task Politics involves, relating to equal participation of citizens in the infinitive process of communitarian self-construction.

4. Conclusions

From this, we can focus the contemporary political problem we proposed at the beginning - the non explicit restriction of political horizon, by the exclusion of certain subjects as questions to decide, from its presentation as natural or mathematical truths. As examples, we could remind some questions relative to economical national organization, and its integration in global economical order, "naturally" and "obviously" founded in competition and private property. The naturalization of these questions decreases the space of Policits. That means, it decreases the power of self-determination of human beings as equals. This is not a political strategy to obtain success for certain interests; this is a contra-political strategy, and in this sense it is against the philosophical profile of our civilization (as a civilization where people keep the right to participating in the struggle for the world).

Homogeneity, another trait of contemporary political experience, is linked to this. In spite of the always recited description of present times as a spectacle of diversity and hospitality, we progressively show standardized opinions and ways of life - for example: we become less and less interested in Politics. We seem to think mostly the same, wishing and fearing the same, living in progressively identical towns.

These ideologies strangle political horizon. By excluding deliberation about alleged natural questions, they deny to people the power of self-determination.

They contradict human beings as equals, although they make people more and more similar, from the constriction of the field of self-determination. This has not been made through sound and coactive strategies, but the results are the same or even worse.

These strategies can be said contra-political, attempting against human equality in a very deep sense - the sense that gives to Politics its particular meaning, and that made it so quickly develop to democracy, the regime to which Athens was historically led by Philosophy culture.

ALEXIS DE TOCQUEVILLE'S NOTION OF POLITICAL FREEDOM
A VISION OF DEMOCRACY

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THERE HAS BEEN A BOOM OF INTEREST IN TOCQUEVILLE IN RECENT DECADES, which largely focuses on his idea of freedom and democracy. Many scholars have pointed out that Tocqueville has a rather different notion of freedom than traditional liberalism. In a way, Tocqueville seems to be an early criticism of the classical liberal theory. Perhaps largely because of this, Tocqueville's works – though they were written more than two hundred years ago – appear familiar to many contemporary critics. Marcel Gauchet, for instance, remarks that, "Tocqueville's great work on America [...] continues to be an incomparably wise and living source, always surprisingly relevant upon examination." (Gauchet 1994, 91)

In this light, it seems useful to engage Tocqueville's thought on freedom and democracy and pit it against the traditional liberal discourse, as a way of intervening in our contemporary debate on what kind of democracy we need. Indeed, if there is a model of democracy based on the teachings of classical liberalism (Cunningham 2002), Tocqueville proves to be a detachment from that model. It is important in this regard to single out some crucial points on which Tocqueville deviates from that model and illustrate his influence upon our contemporary reflections on democracy. This should be the primary aim of this text.

As to the traditional liberal-democratic model, it is not easy to give a full definition for it since it draws too a long line, but it may be useful to keep in mind John Stuart Mill's theory. As Cunningham says in his textbook-like *Theories of Democracy*, in *On Liberty* and *Considerations on Representative Government*, "John Stuart Mill set out what is often considered the first systematic explication and defense of liberal democracy." (Cunningham 2002, 27) This model puts emphasis on individuals' rights and freedom – though Mill himself is not fond of an "abstract" idea of right. For this model the guiding principle could be found in Mill's words: "the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others." (Mill 1997, 48) Under this principle, there is the conventional distinction between public and private spheres. Citizen participation is valued more for its moral and pedagogical results than as a distinct way of ruling. (See, i.e. Mill 1961 418-420) Moreover, since direct participation on a large scale is not feasible, representative government is the ideal type.

Generally speaking, traditional liberal theory is centered upon the protection of individual freedom and rights and largely considers politics as a means to realize these ends. Against this backdrop, Tocqueville's theory distinguished itself as a special way to philosophically consider the "political" condition of human freedom. In the following, I will first discuss the notion of freedom in Tocqueville, which is remarkably different from the classical notion of it. Secondly, to further clarify this specific notion of freedom, the constitutive role of power in politics in Tocqueville's theory will be talked about. Thirdly, as a way of "contemporizing" Tocqueville, I will give an overview of Tocqueville's influence on Lefort's theory of democracy. The conclusive note I want to strike is: the freedom Tocqueville wants to realize is a *political* freedom which does not rely on a discourse of private and individual rights.

Freedom in Tocqueville

Tocqueville's notion of freedom informs an important deviation from the traditional liberal-democratic model in conceiving political

relationships. In order to understand this, it is worthwhile to dwell for a second on a remark by Quentin Skinner in order to become aware of what is at stake while shifting between different paradigms of freedom. Skinner reminds us in his famous pamphlet *Liberty before Liberalism* that there was a shift between two different paradigms of freedom before the liberal doctrine claims the overwhelming status in our contemporary world. The shift, however, amounts to a loss, since we may miss "a repository of values we no longer endorse, of questions we no longer ask." (Skinner 1998, 112) According to Skinner, it is the eclipse of the "neo-roman theory of free states" that has faded in our way of looking at politics. Skinners states:

> With the rise of the liberal theory to a position of hegemony in contemporary political philosophy, the neo-roman theory has been so much lost to sight that the liberal analysis has come to be widely regarded as the only coherent way of thinking about the concept involved. (Skinner 1998, 113)

For the clarification of the "neo-roman theory of free states," Skinner claims:

> What the neo-roman writers repudiate avant la lettre is the key assumption of classical liberalism to the effect that force or the coercive threat of it constitute the only forms of constraint that interfere with individual liberty. The neo-roman writers insist, by contrast, that to live in condition of dependence is in itself a source and a form of constraint. (Skinner 1998, 84)

In this regard, Tocqueville may not be properly characterized as a "neo-roman theorist" as such, but what he proposes for the notion of freedom is akin to their claims. More importantly, Tocqueville and the "neo-romans" share a similar distance from the liberal-democratic discourse on freedom and similar penchant for the "political" condition of freedom. From here we turn to Tocqueville's view on freedom in modern democracy.

Concerning the notion of freedom in Tocqueville, there has been a lot of speculation on what it exactly means. For instance, some classify him as a liberal thinker, together with theorists like John Locke and

John Stuart Mill.[1] Others consider him as a liberal conservative.[2] Still others discover republican traits in his work.[3] But roughly speaking, there are two major views of Tocqueville's notion of freedom. One is that all in all Tocqueville belongs to the liberal family which regards individual (natural) rights and liberties both as the foundation of society and as the source of political legitimacy. In this view, conservatism and some communitarian concerns may be seen as complements to this general liberal discourse. The other view is more radical. It considers Tocqueville as not being liberal at all – or at least, not liberal in the specific modern sense.[4] Rather, to use Skinner's expression, the "freedom" Tocqueville constantly refers to relates more to a "free state" than to "free individuals."[5] It is "political freedom" that Tocqueville dwells upon in his work most of the time.

However, it has become relatively clear through recent studies on Tocqueville's writings – i.e. on his writings about empire and colonialism – that he could safely be characterized as a thinker much more "republican" than "liberal." Taking into account Tocqueville's support of France's empire-building policies and his famous writings on these issues, we have come to understand that, e.g., the discourse on universal human rights is absolutely not at the core of his political thought. It is even clearer, moreover, that he never based his political views on a natural rights doctrine although it already existed and was even popular at the time of his writing. The reason he gives for his support of France's

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¹ See, for instance, Jack Lively, *The Social and Political Philosophy of Tocqueville*. Oxford: Oxford University Press, 1962. Roger Boesche, *Tocqueville's Road Map: Methodology, Liberalism, Revolution, and Despotism*. Lanham: Lexington Books, 2006.

² See, for instance, Bruce Frohnen, *Virtue and the Promise of Conservatism: The Legacy of Burke and Tocqueville*. Kansas: University Press of Kansas, 1993.

³ See, for instance, Sheldon Wolin, *Tocqueville between two Worlds: The Making of a Political and Theoretical Life*. Princeton: Princeton University Press, 2001. Bruce James Smith, *Politics and Remembrance: Republican Themes in Machiavelli, Burke and Tocqueville*. Princeton: Princeton University Press, 1985.

⁴ Tocqueville himself once said that he is a "liberal of the new kind." However, it should be noted that here the term "liberal" refers more to the "liberal" party that existed in French at the time.

⁵ It's worth mentioning here that Tocqueville does not oppose the idea of "free individuals" and equal rights at all. The rhetoric is used here to make the point that Tocqueville's notion of freedom is in a sense "larger" than the "natural" or "private" freedom that is entertained by classical liberal theory.

empire building bears the mark of a Machiavellian *raison d'état*. It is a cause which engages the political nation as a whole, with the aim to prevent the political community, viz. France, from being dominated by other major (colonial) powers.[6] Most importantly, this position is not even in contradiction with Tocqueville's overall theory of freedom. On the contrary, his support of the French empire building is actually in line with his general political thought. And again, the essence of that political thought is republican to the extent that is stresses more the importance of the absence of arbitrary power rather than the prevention of interference into the individual's private sphere.

Tocqueville's theory of freedom starts with a basic appreciation of Democratic society, which he defines by a simple expression – "the equality of conditions." Indeed, in Tocqueville, Democracy and societal equality of conditions largely coincide. They basically indicate a fundamental openness of society as opposed to the closed hierarchy in feudal societies. Yet along with these social changes come new important challenges to freedom. The crucial stake here, according to Tocqueville, is that people within Democracy instinctively "love equality more than freedom." (Tocqueville 2000, 52) The subtext is more clear than this expression: Democratic society sees as much, or even more, opportunity for instituting despotism than realizing freedom.

The love of equality in Democracy goes hand in hand with the fact that society consists of individuals rather than of organic social bodies that once exist in feudal times. The political ramification of this new social fact is that, given the dismissal of the former, feudal intermediary bodies, state power faces but little resistance from the atomized individuals. What is ensuing, Tocqueville observes, is the compelling and dangerous tendency in Democracy of state centralization. In Tocqueville's view, here lie the germs of a new state of slavery, since the entire populace now becomes dependent upon a powerful, centralized state apparatus. Tocqueville depicts vividly the consequences of this over-centralization, which happens, at the time, to occur more in Europe than America:

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6 About the issue of empire and colonialism in Tocqueville, see Cheryl B. Welch, "Colonial Violence and the Rhetoric of Evasion: Tocqueville on Algeria." *Political Theory*. 2003, Vol. 31, Nr. 2, April: 235-264. Jennifer Pitts, "Empire and Democracy: Tocqueville and the Algeria Question." *The Journal of Political Philosophy*. 2000, Vol. 8, Nr. 3: 295-318. Demin Duan, "Reconsidering Tocqueville's Imperialism." *Ethical Perspectives*. 2010, Vol. 17.

There are nations of Europe where an inhabitant considers himself a kind of colonist, indifferent to the destiny of the place that he inhabits. The greatest changes come about in his country without his concurrence; he does not even know precisely what has taken place; he suspects; he has heard the event recounted by chance. Even more, the fortune of his village, the policing of his street, the fate of his church and of his presbytery do not touch him; he thinks that all these things do not concern him in any fashion and that they belong to a powerful foreigner called the government. For himself, he enjoys these goods as a tenant, without a spirit of ownership and without ideas of any improvement whatsoever. This disinterest in himself goes so far that if his own security or that of his children is finally compromised, instead of occupying himself with removing the danger, he crosses his arms to wait for the nation as a whole to come to his aid. Yet this man, although he has made such a complete sacrifice of his free will, likes obedience no more than any other. He submits, it is true, at the pleasure of a clerk; but it pleases him to defy the law like a defeated enemy, as soon as force is withdrawn. Thus one sees him swinging constantly between servitude and license. (2000, 88-89)

The major point here, it should be clear, is that the lack of political engagement – instead of personal safety – symbolizes the state of slavery. It is the passivity of individuals in the face of their common affairs and the monopoly of political decision in the hand of administrative bureaus that render the political situation degraded and unstable. Tocqueville explicitly points out that this is a state of "servitude," a term carrying special meanings with regard to its opposite – the state of freedom. For Tocqueville, indeed, freedom for modern Democratic society is first and foremost political freedom, the freedom to engage in politics actively. Besides, as Tocqueville points out, personal safety and affluence would not last long in a society in which everyone anticipates the state to take care of their own affairs. "Despotism all alone by itself can maintain nothing lasting." (Tocqueville 2000, 89)

While Tocqueville sees the dangerous tendencies of Democracy, there are certainly ways to bypass them. One ought to "instruct Democracy," Tocqueville claims. And what he sees in America gives hope for the prospect of Democratic society. There, Tocqueville comments, an extreme "equality of conditions" is fairly combined with

the "taste" for freedom, or the habit of governing themselves. To put it simply, there is a counterbalance to the Democratic tendency of centralization. At the head of this, Tocqueville observes, is the system of decentralization that the Americans manage to maintain. The US political system is designed to such an effect that the governmental power is properly centralized in the upper strata of governmental agency – first of all the federal government – while the administrative details are left to local governments – or more precisely, to the citizens themselves. Simple as it may seem from outside, it is actually a delicate and fragile thing, especially when comparing it to the political situation of the European countries. In *Democracy in America* Tocqueville refers to the French state in order to indicate how difficult it is to maintain a system of decentralization in the face of Democracy, and how fortunate and brilliant the Americans are in achieving this.

While decentralization basically means share of power, it cannot stand by itself without significant citizen participation. Tocqueville understands democratic rule very well. He discerns that a rule by many people – despite the various types it takes – may not be as efficient and persistent as the rule by one or a small group of people. But the significance of participation does not lie there. The mere fact of their having a say in affairs that concern them leads to a boost in people's spirit in looking after the common good. More importantly, participation is to make people realize that their own freedom and prosperity are actually bound with other people's. Tocqueville states: "it is not the elected magistrate who makes American democracy prosper; but it prospers because the magistrate is elective." (2000, 488) This is why Tocqueville is so fond of the American township which, Tocqueville says, functions like a school for democracy. And the federal system of America is so designed that it guarantees people a significant and reasonable share in all public affairs. In the end, the share of power is a share among citizens. A free state is a state in which citizens can freely participate in overseeing their own affairs.

In this respect, Tocqueville is close to Rousseau's idea of freedom. Both of them agree that freedom is only possible in a political community. Both define freedom as opposed to the state of slavery. And for both of them, citizen participation is crucial in maintaining a free state. But Tocqueville is decisively different from Rousseau in that he

believes that power should and could be divided and shared. He rejects the idea that power should reside in a single hand, be it the sovereign Monarchy or the "people's will."

From here we may proceed to the constitutive role of power in society as analyzed by Tocqueville and how this fulfills his overall theory of freedom.

The Role of Power in Tocqueville's Theory of Freedom

Another crucial aspect of Tocqueville's notion of freedom is its relationship with power. This connection is consistent with the "neo-roman" notion of freedom in that the "neo-romans" also indicate freedom as "non-arbitrariness" of political power. Freedom exists in the power relationships that hold the whole society in unity.

This could preliminarily be seen in a remark Tocqueville makes regarding the power of the majority in Democracy. Tocqueville shows in *Democracy in America* that the principle of the sovereignty of the people inevitably comes down to the majority rule. It is the number that actually prevails, while the "pure will" of the people is only a mirage and a dangerous pretension. More than an observation, this conclusion leads to the political consideration that the dominance of the majority should be counter-balanced in order for there to be freedom. But on the other hand, Tocqueville points out that the representation of the people as a whole by the majority is also inevitable. Otherwise, the unity or the even the existence of the Democratic society is put in question. Tocqueville states: "I think, therefore, that one must always place somewhere one social power superior to all the others, but I believe freedom to be in peril when that power finds no obstacle before it that can restrain its advance and give it time to moderate itself." (2000, 241)

The "bigger" notion of this power relationship lies in the connection between power and the representation of "the people." Tocqueville makes the famous distinction between aristocratic to democratic society, respectively being principled by "inequality of conditions" and "equality of conditions." The former type of society is characterized by organic social relationships, whereas in Democratic society individuals are conceived as independent of their social relationships. In other words,

all individuals are considered as equal and independent. However, as Tocqueville observes, this apparent "individualization" of society does not mean anarchy for Democratic society. On the contrary, a societal power inevitably rises out of the atomic conditions of individuals. In the place of the King or the Lord, "the people" as a whole claims the supremacy. Individuals are powerless and nameless in this abstract mass of "the people." Regarding this, Tocqueville remarks: "what I most reproach in Democratic government, as it has been organized in the United States, is not, as many people in Europe claim, its weakness, but on the contrary, its irresistible force." (2000, 241)

Indeed, as some commentators have pointed out (Bendix 1964; Aron 1965) the transition from aristocratic and Democratic society in Tocqueville could be considered as a transition of different types of authority. While the first indicates the domination by a power based upon inequality of conditions, the latter is conditioned by equality among individuals. The critical difference between the two kinds of power, then, is: the first is usually checked by various kinds of powers and constrained by long-standing customs and religion; whereas in the Democratic society, power tends to be extreme and unstoppable, as it only faces weak individuals and finds its new name in "the people." Tocqueville calls this extremeness of Democratic power "Democratic despotism."

As Tocqueville analyzes, despotism in Democratic society would be a totally new kind of despotism. Different from despotism in ancient times, it can no longer be grasped in the "arbitrariness" of power. Power in Democracy usually has a law; only the law finds no limits in regulating peoples' lives. It tries to eliminate voluntary initiatives and individuality among people and to make all subjects uniform. In this way, the new despotism is absolutely more formidable than any form of despotism that we know. Tocqueville depicts the state of "Democratic despotism" as follows:

> I want to imagine with what new features despotism could be produced in the world: I see an innumerable crowd of like and equal men who revolve on themselves without repose, procuring the small and vulgar pleasures with which they fill their souls. Each of them, withdrawn and apart, is like a stranger to the destiny of all the others: his children and his particular

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friends form the whole human species for him; as for dwelling with his fellow citizens, he is beside them, but he does not see them; he touches them and does not feel them; he exists only in himself and for himself alone, and if a family still remains for him, one can at least say that he no longer has a native country. [...] Above these an immense tutelary power is elevated, which alone takes charge of assuring their enjoyments and watching over their fate. It is absolute, detailed, regular, far-seeing, and mild. It would resemble paternal power if, like that, it had for its object to prepare men for manhood; but on the contrary, it seeks only to keep them fixed irrevocably in childhood; it likes citizens to enjoy themselves provided that they think only of enjoying themselves. It willingly works for their happiness; but it wants to be the unique agent and sole arbiter of that; it provides for their security, foresees and secures their needs, facilitates their pleasures, conducts their principal affairs, directs their industry, regulates their estates, divides their inheritances; can it not take away from them entirely the trouble of thinking and the pain of living? (2000, 663)

In Tocqueville's theory, the power of "the people" is constitutive of Democratic society as such. Tocqueville calls it "the political laws" or "law of laws" in Democracy. (Tocqueville 2000, 53, 54) "It was no longer permissible to struggle against it." (Tocqueville 2000, 54) The challenge, then, is to tame it or bring it in check; or to be more precise, to constrain any power that tries to speak in the name of the people. For this reason, Tocqueville brings the conflict and struggles of different power in society to light: the desire for equality is checked by the taste for freedom; the tendency for centralization is balanced by the momentum of local self-government; the uniform rule of the state is diffused by the voluntary associations of the people; and the dominating power of the majority is tamed by the right of the minority to speak and act. For there to be freedom, Tocqueville believes, power that has a claim on the whole society should be counterbalanced.

In this regard, "moderation" seems to be the final word for freedom in Tocqueville. Power needs to be moderated and be prevented from being absolute. Under moderation of power, society retains its openness, where all kinds of possibilities and changes can erupt. And in this openness, Tocqueville finds the possibility of freedom.

Tocqueville's Influence on Lefort

Lefort's primary use of Tocqueville's theory concerns the latter's idea of Democratic revolution. In Lefort's vision, Tocqueville's theory of Democratic revolution provides the perfect perception of what is called the "forms" of society. Lefort considers democracy not only in terms of political institutions, but also as a "form" of society. Democracy is the only kind of political regime that openly acknowledges the political nature of society. According to him, the political nature of society is the truth that any society could not coincide with the representation of its own meaning. There is an ever-present symbolic dividedness in society and its representation. In this regard, there is a distinction between democracy as a form of society and pre-modern societies in that the latter conceals this "dividedness" in the unity of the representation of the society and a transcendental God, whereas in modern democracy, this dividedness is acknowledged. It is symbolized in the "empty place of power," meaning power in democracy can never claim total representation of society and thus is subject to periodical transference. In this regard, as Lefort says in his "The Question of Democracy," "the thing that marks him [Tocqueville] out from his contemporaries is in fact his realization that democracy is a form of society." (Lefort 1988, 14) To a large extent, Tocqueville's contrast between Democracy and the *ancien régime* helps Lefort forge the idea that "the birth of democracy signals a mutation of the symbolic order." (Lefort 1988, 16)

Besides this, Tocqueville's notion of political freedom finds expression in Lefort's thought as well. In "Political Freedom and the Freedom of the Individual," Lefort finds in Tocqueville's "political freedom" inspiring hints of what a democratic regime should be. As democracy acknowledges the intrinsic "dividedness" of society, it peacefully takes in the social conflicts within society, with "conflicts" here being interpreted as the antagonism among different representations of the meaning of society. In a sense, democracy is "an institutionalization of conflict." (Lefort 1988, 17) All of these ideas – conflict and antagonism – find their meaning in Tocqueville's notion of political freedom. For instance, Lefort writes, "in his [Tocqueville's] view, democracy's prime virtue is its characteristic agitation, and not its potential ability

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to facilitate the selection of the best and to improve the government's ability to conduct public affairs." (1988, 168) And also:

> The acuity of his [Tocqueville's] vision of democracy is, moreover, such that it allows him to grasp [...] the complicity between the resolute supporters of order, who are prepared to increase the government's power because of their fear of anarchy, and its adversaries, who, in order to further the cause of the people, either call for a new revolution or construct models of a society in which all *antagonisms* disappear." (Lefort 1988, 168) [Italics mine]

Along this vein, Tocqueville's contrast between political freedom and "democratic despotism" could be compared with the opposition between democracy and totalitarianism in Lefort's theory. As we have already discussed, Tocqueville sees the biggest danger of Democratic society in its tendency to centralize everything in the name of the sovereignty of the people. It not only demands obedience from its subject citizens, but also tries to mold them in this culture of control. Tocqueville distinguishes it from ancient despotism and calls it "democratic despotism." Regarding this, Lefort remarks: "there can be no doubt about it: Tocqueville has pinpointed an event which marks the irruption of an unprecedented domination." (1988, 167) It closely resembles Lefort's characterization of totalitarian society:

> When society no longer recognizes the existence of anything external to it, social power knows no bounds. It is a product of society, but at the same time it has a vocation to produce society; the boundaries of personal existences mean nothing to it because it purports to be the agent of all. (Lefort 1988, 167)

Totalitarian regime – and democratic despotism – is the denial of the dividedness of society and it ignores the necessity of power being counterbalanced. As a result, it denies the openness of society, which both Tocqueville and Lefort aspire to preserve in modern society. In this sense, Lefort states: "political freedom [...] reveals the essence of the political." (1988, 170)

However, there are some differences between the two thinkers as well. A crucial one is on the issue of human rights. In "Droits de

l'homme et politique" (Lefort 1986) Lefort undertakes the task of defusing the idea that human rights are either purely a-political or mere tools of bourgeois domination. Instead, Lefort argues that human rights have significant political meanings, as they signify specific political relations among individuals. Democracy and human rights are inter-dependent in that each of them exists in the political process conditioned by the other, whereas, in Tocqueville rights are mostly "political" rights. Tocqueville seldom refers to rights as "natural" in his writings. For him, rights always exist in a political relationship; thus they are by "nature" political rights. Needless to say, the liberal rights that have been "declared" as "natural" by traditional liberalism are first and foremost instituted by "the political." Yet still, as we can see, despite the slight differences, both thinkers draw significant distance with the liberal discourse of rights in their insistence on the political meanings of rights.

Conclusion

In conclusion, the difference between liberal freedom and Tocqueville's notion of political freedom mainly lies in the fact that the latter indicates a specific political relationship among people while the former largely depends on an a-political idea of individual independence. This basic distinction could inform different models of democracy, with their varying promise on the openness of society. Fortunately, Tocqueville's idea of political freedom survives time and reaches to our contemporary thinking on politics. In this respect, an ingenious comment by Lefort on Tocqueville could be used as our conclusive words:

> Tocqueville is addressing himself primarily to men who thought they were liberals and who, like him, belonged to an enlightened elite, who regarded the upheaval in property ownership that had been brought about by the French Revolution and the Rights of Man as a *fait accompli*; but who were haunted by the threat of the extension of political freedoms and individual freedoms, by the fear that the social body would break up, by a fear of anarchy; who believed that a strong government would protect tranquility, but who failed to foresee the rise of despotism. (Lefort 1988, 168)

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GOVERNANCE THROUGH THE LENS OF REPRESENTATION
A CONFRONTATION OF GOVERNANCE AND GOVERNMENT

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WE ARE WITNESSING TODAY A GRADUAL SHIFT TOWARDS GOVERNANCE-DECISION-MAKING. 'Governance' is seen as an answer to the complexities of contemporary decision-making. Its consensual, cooperative and horizontal style, characteristic of public-private co-operations, differs from 'government' which we can associate with hierarchy and with top-down and centralized decision-making. Not only do we see that the term is increasingly used in policy-making, from the local to the inter- and transnational level, but also that the use of the term governance is proliferating in the academic literature of the social sciences.

Since the emergence of the concept scholarly attention has broadened from a narrow focus on effectiveness to the broader question of legitimacy. The answers to the legitimacy question have been plural and diverse. By focusing on representation, as that which is presupposed by legitimacy, I try to take a different approach that is inspired by contemporary philosophical research on the value of representation. In its traditional use representation is connected with elections. But it can be used in non-electoral contexts, such as governance decision-making, as well. I will look into what characterizes representation in general and what differentiates electoral and non-electoral representation.

The article will be structured as follows. First, I will give a brief outline of the theorizing about governance. This will offer us a definition

and key characteristics of this new mode of decision-making. As the main interest of this article is to explore the potential legitimacy of governance-decision-making, a subsection will be devoted to ways in which the legitimacy question has been addressed in the past. The second section will be devoted to philosophical research on representation, in order to introduce a new perspective into the legitimacy debate. I contrast here a formalistic and a more substantive view on representation and argue that the last one reveals a crucial aspect of representation that is often obscured. Michael Saward's theory of 'the representative claim' will be presented here as it does comprise this substantive view on representation and can be read as a theory applicable to the empirical situation of governance-decision-making. In the third section the characteristics of representative government will be explored. By drawing on the reading of Nadia Urbinati, I will state that the institutional framework of a representative government reveals two aspects that are crucial in turning representation into representative democracy: the spatial division (between state and society) and the temporal narrative (generated by the sequence of elections and intra-election time). This leads me in a concluding section to the implications of the sketched confrontation between governance and government.

Governance
Definition and characteristics

The particular meaning we currently attribute to governance only arose after the cold war. Before, the term governance was used as a synonym for governing, in the sense of the deliberate "attempt to shape socio-economic structures and processes" (Mayntz 2003, 27). We have to situate this understanding in the historical situation in which the welfare-state was predominant. It implied that the state occupied the most powerful position in the classical threefold between state, society and market. After the Cold War, the interdependence, that started pervading the whole world, was perceived as a completely new challenge. Globalization processes started to occur and gradually challenged the predominant position of the (welfare-)state. In reaction to these changes,

authors started focusing on how chaos could be prevented at the global level and effective decision-making could be promoted by revisiting cooperation at the global scale. In this regard we can understand the origin of the concept of 'global governance', which Rosenau framed as "a modicum of order" (2002,72).

Since then the term governance is used in the most different contexts – ranging from a new attempt to define international relations over good governance to new public management and corporate management[1] – and has been applied to the different levels of decision-making ranging from the local to the international level. Hence, Offe's statement that it can be "employed for the communication of diverse and contradictory semantic contents and associations" (Offe 2009, 551). He makes this statement by referring to the semantics of the concept. The concept is subject- and object-less, as there exists no verb that expresses the act of governance or the addressee of governance[2]. Furthermore, it is an untranslatable concept, that has no synonyms, nor clear opposites (unless maybe government?). The conceptual confusion is related to the complexity of the content of the concept. Governance is a "bridge concept" that blurs several theoretical distinctions "that conventionally structure thought in the social sciences" (Ibid., 553).[3]

Crucial for the thesis of this paper is the blurring of the theoretical distinctions between "state and society spheres", on the one hand, and "political and economic action", on the other hand (Ibid.). These two 'blurrings' are the result of the state's incapability of maintaining its central authority. The state starts cooperating with other societal spheres, namely society and the market. Hence, power gradually shifts to the border zones where the different societal spheres overlap (Figure 1). The following definition of Mayntz captures this given: "'Governance' is now

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[1] In the book chapter 'Democracy and governance' Paul Hirst (2000) distinguishes 5 main areas in which the term is used.

[2] "Something happens, but nobody has done it" (Offe, 550).

[3] The following seven distinctions are blurred in the use of the governance-concept according to Offe: (1) State and society spheres (private-public partnerships), (2) Political and economic action (corporate governance), (3) Structures and processes, (4) Observable facts and social norms regarding desirable modes of action (governance vs. good governance), (5) Subject and object (the addressees of rules participate in their making), (6) Domestic and foreign/international issues (global governance), (7) Political strategies in developing countries as well as in OECD states (Offe, 2009, 553).

often used to indicate a new mode of governing that is distinct from the hierarchical control model, a more cooperative mode where state and non-state actors participate in mixed public/private networks" (Ibid.).
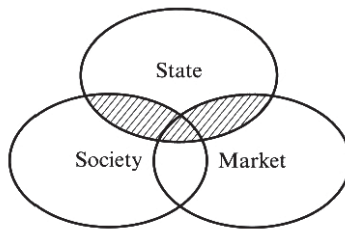

Figure 1

Whereas 'government' supposes a differentiation between the three societal spheres, in 'governance' the state incorporates market- and society-actors. This is the case insofar as private actors regulate "publicly relevant issues" or whenever "state policy depends [on their cooperation] without being able to mandate and sanction such cooperation" (Ibid., 552). We will not understand this 'blurring of borders' as the prediction of the end of demonstrable societal spheres. Overlaps between the different societal spheres have always existed, but today these border zones, where the different societal spheres overlap, are becoming ever more crucial in political decision-making. This implies a holistic restructuring of the complex of state, society and market. The question of how we should read this restructuring can be answered in two possible ways. Some see it as an extension of the state, some as a substitution of the state (Offe 2009, 555). I will focus here on the first meaning, which states that the state is looking beyond its 'borders' in search of helping hands.

The catchphrase of this doctrine is that the state should limit itself to steering and leave the rowing to other actors. One could also speak of auxiliary forces within civil society who, through appropriate means and according to their specific competences and resources are being recruited for cooperation in the fulfillment of public tasks, become subject to regulatory oversight and economic incentives, and are thus licensed to privately exercise (previously exclusively) public functions (Ibid.).

Actors in the other societal spheres (market and society) start lending their help to the state. It is perceived as an opportunity to empower themselves in relation to the other spheres. The cooperation, quite contradictory, is thus a means to achieve one's own goals.

Governance in search of legitimacy

As the decision-making center no longer resides solely with the state, the electoral process linking state and society looses importance as well, as an instrument of legitimacy. It brings us to the question of how to theorize legitimacy of the new public-private decision-making units that arise. Initially, the main concern of global governance theorists was the creation of order at the global level. The effectiveness of the outcome that governance could bring about was hence the primary focus of theorists such as Rosenau. At the end of the 90's Scharpf included outcome-effectiveness in the legitimacy-discourse. In order to give insight into the process of European integration he made the interesting distinction between input and output legitimacy. Input legitimacy must be understood as 'government by the people'. It means that the voice of the people gets articulated in decision-making. It is the fairness of the process, such as legal equality guaranteed by elections, that functions as the criterion of judging input legitimacy. 'Government for the people' than is translated by Scharpf as output legitimacy. The success of the outcome is the legitimating variable. Scharpf stated that the EU only has output legitimacy and no input legitimacy because there is no pre-existing collective identity. Other authors have argued that governance is perfectly capable of realizing input legitimacy, not in terms of legally equal input of the citizens a people, but in terms of participation of excluded groups. The definition of input-legitimacy by Thomas Risse for example refers to "the *participatory quality* of the decision-making process leading to laws and rules" (2006,185) [italics mine]. That is why authors often state that governance "may indeed contain germs of ideas that may permit greater openness, inclusion and empowerment of hitherto excluded or marginalized social groups" (Swyngedouw 2005, 1993). The question is what the implications are of substituting legally equal input for participatory input. Will it result in an empowerment of excluded groups or will it increase inequalities?

Apart from output and the possibility of participation (input) one also needs a way to organize control over the different modes of governance. It is the question for an alternative answer to what we know as the classical checks and balances between the different state powers (Van Kersbergen & Van Waarden 2004, 161). For example public-private cooperations are controlled by the judiciary. In this way informal relations are increasingly formalized, and mutual expectations and agreements over reciprocal rights and duties are fixed in more or less official 'contracts' (Ibid., 153). Another example are "[independent] 'sectoral' and 'sectoral-unspecific' regulators who have to protect a minimum level of economic competition and set the rules of the game in the competition between large players". (Ibid., 161) No less important are the ways in which knowledge-based policy-making is managed by measures such as benchmarking, cost-benefit analysis, policy evaluation, etc. These are "parameters against which (self-)assessment can take place and which require the conduct of a particular set of performances" (Swyngedouw 2005, 1998).

Representation

Scrutinizing how input is organized and judging the output is a way of looking at the legitimacy of a system. This perspective on legitimacy presupposes that there exists a representational relationship between individuals, societal groups, etc., on the one hand, and an authority-bearing body, on the other hand. In other words, the representational relationship seems an important presupposition of different forms of decision-making, ranging from government tot governance decision-making. Whether it are citizens, clients, stakeholders or shareholders, they are the ones delegating power to an authority that represents their interests. Representation thus crucially consists in the delegation of power of one pole to the other and checking whether this power is adequately used. Focusing first on the representational relationship enables a more qualified way of looking at the legitimacy-issue[4]. There

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4 It should be noted however that representation and legitimacy can not be clearly separated. Representation seems to appeal by definition (delegating power and controlling the use of power) to some form of legitimacy.

are two aspects that need to be specified in order to come up with a criterion for legitimacy that starts from the given of the representational relation. First, in democratic theory authors have defended opposing views on the room of manoeuvre that the representative should have at its disposal in order to use the power that is delegated to him. Some have argued that the representative is better informed than the represented and should be given the freedom to exercise his power, i.e. an elitist rendition of representation, while the opposing view defends the need for close scrutiny of the representative. In the following I will try to show that an intermediary position is possible as well. Secondly, one should specify the ones partaking in the representational relationship, because it is the answer to 'legitimacy of what?'. For example, while representation in a 'government-system' consists in a relation between state and society, representation in a 'governance-system' does not consist in this unique relationship but consists in a plurality of representation-relationships arising in the overlapping zones between state, society and market. By making explicit the underlying representational relationship, and hence 'who' the representative and represented are, one can offer a more specific account of one's view on legitimacy. To illustrate this: The examples in the subsection on *Governance in search of legitimacy* show that there exist contrasting views on who should be the ones offering input: Scharpf is thinking of a pre-existing demos (which is more in line with the 'government-model'), while others, like Risse, talk about participatory input of specific groups in specific policy-making issues (which is more in line with the 'governance-model').

Below I will deal with these two aspects of legitimacy in representation. First I will present two different models of representation, which have implications for the normative question of the scope of manoeuvre that should be attributed to the representative. Secondly, on the basis of the most appropriate descriptive term I will look into a comprehensive theory of representation (the representative claim) that offers an untraditional answer to the 'legitimacy of what'-question.

A rather formalistic way of formulating representation is the principal-agent relationship. It consists in authorization of the agent by the principal and accountability of the agent to the principal. The use of the terms authorization and accountability suggest that the agent

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should act as accurate as possible in accordance with the wishes of the principal, as this is the only way the agent can continue his task. I will argue here that this formalistic view is too limited and accordingly blind to a core that is the same for all representational relations. The "etymology" of the word re-presentation tells us that something/-one that is not here is presented again through something/-one else (Ankersmit 2002, 108). The one(s) functioning as substitute or as replacement will never be a perfect copy of the one(s) represented. Ankersmit tries to elucidate this given by referring to the way in which a portrait represents the one portrayed. "Portraits will differ dramatically from the persons portrayed, yet this fact alone will not make us say that the portrait is a distortion of reality, or a misrepresentation" (Ibid., 113). That representation would be capable of mimicking the represented is an illusion. The reason for this is that the one who represents cannot 'read off' the transparent and authentic characteristics and interests of the represented, simply because they are not transparently given (Saward 2010, 77). This should not be seen as a deviation. It is a functional and creative freedom at the side of the representative to give a particular interpretation of the identity of the represented. In the words of Ankersmit there is an "aesthetic gap" between the represented and its representatives. What happens in representation is that the represented are depicted as such and such. Their (collective) identity is created, by making something visible that was only there before implicitly. The aesthetic gap thus creates the opportunity for the representative to "partly determine the nature of what they represent" (Ankersmit 2002, 114). This is in contrast with the framing of representation as a principal-agent relationship, as the focus is there explicitly on the correct transmission of information from the principal to the agent and on mechanisms that prevent the agent from deviating from the preferences of the principal. Both the principal-agent and the aesthetic model have different implications for the first legitimacy-question. While the principal-agent view wants to constrain the freedom of the representative as much as possible, the aesthetic view acknowledges that the representative should possess an adequate scope for manoeuvre. This last view lies between the elitist and the principal-agent view and differs from both as it accentuates the role of representation as constituting the identity of the represented.

In the rest of this paper I will take the aesthetic understanding of representation as the one that is best able to inform our understanding of political representation. Saward's theory of the representative claim also draws on this understanding. What he calls the representative claim is the 'basic currency of political representation' (Saward 2006, 299). It is a detailed analysis of what I called before the core that is characteristic of all forms of representation. The definition is as follows:

> A *maker* of representations ('M') puts forward a *subject* ('S') which stands for an *object* ('O') that is related to a *referent* ('R') and is offered to an *audience* ('A') (Saward 2010, 36).[5]

Here, Saward captures the aesthetic understanding of representation in a clear definition. As we saw, the etymology of the concept designates only two instances literally: something that is absent (the represented) is made present by something else (the representative). Saward however states that represented and representative can both be split up in respectively a referent and an object, and a maker and a subject. By inserting these divisions Saward makes explicit in what the aesthetic gap between the representative and represented exists. On the side of the represented, we should differentiate between the image that is created of the represented (the object) and the represented itself (referent). On the side of the representative: the one who stands for the object, who presents him/herself as the representative (the subject) is not always the same as the maker of the claim. The maker of the claim to represent can for example be a spin doctor who creates an image of how the subject should present the object. This complex interrelationship of presentations is seen, perceived by the audience, which than rejects, accepts or ignores the claim. As Saward's definition takes into account that the 'objectively given referent' is always depicted in a specific way (O) and the one who represents is an actor taking on

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5 Schematically it would look like this:

M ----   S
           |
           O ----   R
       ⎝_____⎠
            A
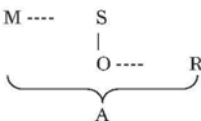
a particular role or character (S), it recognizes the constitutive role of representational relationships.

This definition not only gives insight to the aesthetic capacity of representation, but also tries to capture the instance that is similar for all representation-relations. Decoupled from any specific context or institutional set-up it is applicable to an extensive possibility of cases which can vary along the lines of formality, explicitness, externality, generalness, and multiplicity (Saward 2010, 57-66). This broad applicability is necessary in today's context as "constituencies are no longer only singular, territorial, fixed and possessed of transparent interests. Rather 'constituency' is fluid, functional and cultural, permanent or temporary, within or across borders, evoked as well as given" (Ibid., 109). It is the contemporary situation that induces Saward to point to the fact that much more cases than elections, can be seen as political representation. In our analysis of democracy we should add non-electoral representative claims emanating "across societies, taking in a range of 'public' and 'private' actors and organizations" (Ibid., 141) to the classic representative model of elections. A popular example in this regard is Bono's representative claim in the Make Poverty History campaign in 2004. "I represent a lot of people [in Africa] who have no voice at all... They haven't asked me to represent them. It's cheeky but I hope they are glad I do" (Saward 2008, 1). As constituencies are more fluid and variable, Saward sees governance as a potential way of complementing the shortcomings of electoral representation.

> New modes of non-electoral citizen engagement and interaction with policymakers and managers [...] challenge received notions of public and private in terms of who the makers and recipients of policy are. This opens up new domains in which representation happens, or is claimed, by actors and groups which seek legitimacy and access in these new governance arrangements (Saward 2005, 182).

Furthermore, Saward also sees governance practices as possible opportunities for empowerment. The importance of Saward's view is that he recognizes the representational relation that is behind any political request for recognition of interests, identity, opinion, etc. Moreover, we saw that he distances himself from the principal-agent view, of the

managerial sciences, that is most commonly used in policy analyses and practices. As we accept here the constitutive capacity of representative practices, the 'representative claim-model' is much more apt to gain insight and theorize contemporary governance practices, than the principal-agent model. However much this theory seems to offer a new and inspiring perspective on representation in the governance-era, it should be noted that it might be overrated to assume that it is applicable to all governance practices. While it seems appropriate to call the claims arising in the border zone between state and society 'political representative claims', this might be less the case for the claims arising in the border zone between state and market (Figure 1). I will come back to this issue in the conclusion.

Up till now I have presented the characteristics of 'the representative claim' and pointed to the fact that its aesthetic understanding implies that the representative has enough scope of manouevre at its disposal to determine partly the identity of the represented. This does not answer yet the 'legitimacy of what'-question. By opening up 'political representation' to non-electoral representation, Saward has to attribute the assessment of legitimacy to the judgment of the actual constituency, i.e. the constituency that is intended by the claim plus the ones who "recognize their interests as being implicated in the claim" (2010,148). The ones partaking in the representational relationship is any self-claimed representative on the one hand and his supporting constituency on the other hand. This differs from electoral representation where the constituency encompasses every citizen in society and legitimacy is per definition coupled to the judgment of *all* citizens. By elaborating on the way representation functions and legitimacy is brought about in the government-model, I will argue that this difference gives us important insight into the legitimacy 'deficit' of governance practices.

Representative democracy: state and society coupled in spatial and temporal sense

In the previous section I have pointed to the fact that representation is presupposed in decision-making processes. The scrutiny of the characteristics of representation and Saward's model of the representative

claim, made it possible to give a different characterization of governance: one that takes into account the (constitutive) representational aspect of the separate units of governance decision-making. However inspiring the representative claim-model is in this regard, I want to contrast it here with representative democracy that characterizes the 'classical' government-model. In order to get a better insight in to that which we admire in 'representative democracy' and to know what it is exactly that we will miss when switching to the governance-model, it is necessary to uncover the elements that make representative democracy so valuable.

Spatial division

Nadia Urbinati differentiates between three theories of representation which can be traced back to the history of representation that started with liberal parliamentarism. She speaks about a juridical, institutional and political theory of representation. The separation between state and society is the basic trait of the three theories. Without this division there is no representative 'democracy'. The chronologically two first systems, juridical and institutional representation, are essentially and almost exclusively about this relationship. Urbinati associates these theories amongst others with Hobbes, one of the first to install this clear division between state and society on the basis of a contract. The contract-relationship is a relation of authorization. In such a relation, when the representative has to be appointed, the focus is on the individual and his/her personal qualities and not on a political issue itself. The content of decision-making is in a contract-relation only of concern to the one who is authorized[6]. "It makes representation into a rigorously state-centered institution whose relation to society is left to the judgment of the representative (trustee); and it restricts popular participation to a procedural minimum (election as magistracy designation)" (Urbinati 2006, 23). This is why these forms of representation

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6 "[...] The juridical configures the relationship between represented and representative along the lines of an individualistic and nonpolitical logic insofar as it presumes that electors pass judgment on candidates' personal qualities, rather than their political ideas and projects" (Urbinati 2006, 22).

are better suited by the name 'representative government' than by the name 'representative democracy'[7].

In the transition from the represented to the representative something *absent* is made *present*. We refer here to the absence in reality of the abstract idea of the pre-existing unity of the community which is made present by installing the sovereign as possessing state power (Ibid., 22). Urbinati herself states that in this framework we can't really speak of a *representing* of the people, but rather about a "system of *organization* of the people and the will of the nation" (Ibid., 23). This organization comes about by transcending the social realities proper to society.

These first two models of representation generated both in its own terms *isonomia,* which can be translated as legal equality (Ibid., 40). In its most basal form this is guaranteed by the rule of law and the state of right. Gradually this was translated into universal suffrage, generating an equal right to vote, i.e. an equal right to voice for everyone. It must be clear that such legal equality can only be realized on a territorial basis.

Temporal narrative

However, those two theories of representation (juridical, institutional) are incomplete. They miss a 'political' element which adds to the representational relationship a broader narrative. Besides the guarantee of legal equality, the necessary complement of another form of equality is needed in order to create justice.

What is different in the political conception of representation is the *circularity* between state and society. In order for the state to represent it must constantly be re-inspired by society. This is guaranteed by a communicative link between state and society, instead of confining deliberation to the sphere of the assembly. Both the formal mechanisms of the system (such as elections) as well as multiple forms of participation as part of a rich political life (e.g. social movements)

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7 "[...] eighteenth-century American and French revolutionaries used two distinct terms to denote their innovative enterprises: *representative government* and *representative democracy*" (Urbinati 2006, 27).

provide citizens with the means to protest against the direction taken by the state-apparatus.

Elections in political representation are not about the aggregation of individual preferences but about the opinions and beliefs of citizens. Aggregating individual preferences is what happens in direct voting, whereby every vote means a new beginning. Electing a person on the basis of his/her ideas, however, creates a narrative. "[...] opinions create a narrative that links voters through time and makes ideological accounts a representation of the entire society, its aspirations and problems" (Urbinati 2006, 31). The moment of elections are just a sequel to what happened before. The 'losers' of one election know that they have a chance to rephrase their claims in view of the following elections. The full realization of a political narrative where citizens can assume the role of counter-power is only possible when elections are preceded and followed by "a rich political life that promotes competing political agendas and conditions the will of the lawmakers on an ongoing basis" (Ibid., 26). The citizens hold their right to "negative power that allows them to investigate, judge, influence and censure their lawmakers" (Ibid., 28).

We can understand now how representative democracy is a peaceful means to accommodate discord in society. The right to discord can be seen as another aspect of the ideal of equality that is characteristic of representative democracy. This is what Urbinati calls, with the other Greek term, *isegoria*. It is the equal "right [of the citizen] to support or oppose laws or government policies" (Ibid., 42). It is thus the right to participate in the political process that takes place at all time and not just at the very instant of casting a vote. This right is crucial as not every citizen is equal in practice although everyone formally possesses legal equality. Practicing the right to be heard when one feels that the promise of equality (for example through discrimination) is injured is the basis of politics. In contrast to legal equality, which is blind to differences, political equality takes differences in to account because only by doing this there is a chance for "proportional equality (all ideas should have a chance to be represented, not only those that get the majority of the votes)" (Ibid., 40). Introducing the time dimension in the representational relation changes representation

from something that is an instant of delegation into a political process of representation.

This theory brings with it the second surplus. Representation is coupled with a temporal framework, or a temporal narrative. In this way representation itself becomes the telling of a *story*, the process of hi*story*, as the circular relationship between state and society is a never-ending play taking place from election to election.

Power and Politics

After having pointed to the two surpluses that are characteristic of representative democracy, I will now look at what it means for the role of power and for our understanding of politics. The characterization of representation as having constitutive capacities makes us aware of the "dark side" of political representation (Saward 2006, 314). Giving decision-making capacities to a representative is the basic trait of the creation of power. For Ankersmit power finds its origin in the aesthetic gap between the ruler and the ruled (1996, 105).[8] As representation is suited with the power to create and possibly transform the identity of the represented it also disposes of the power to misrepresent and to commit a coup on the identity of the represented. It is a thin line between using and abusing the power to represent.

It is clear that the juridical and institutional theories of representation leave too much space to the representative to (ab)use the delegated power. The contract-relation we there described can be read in light of what we know as trusteeship. It is an elitist rendition of representation, as the representative is entrusted to judge about its relation to society. There can be good reasons to give extensive room of manoeuvre to the representative, for example because "no citizen can participate in all decisions that affect them", but as Castiglione and Warren correctly remark, "as pure trustees, no democratic element remains, and representatives are little more than paternalistic aristocrats" (2006, 8-9).

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8 I want to remark that he contests the vision of "Lefort [who] situates its origin in a sphere beyond both the ruler and the ruled" (Ankersmit 1996, 108). The topic of the origin and localization of power needs further investigation.

The democratic element is brought in by the theory of political representation as it sets the context for the permanent possibility of feedback, i.e. the continuous circularity between state and society. Representative *democracy* is thus incomplete without the process-element (the temporal narrative). To sum up: the (spatial) division between ruler and ruled installs power, and the division of time in different legislatures creates the possibility of control to power. Periodic rule and the implied opportunities for contestation form the conditions for a system in which the representative can appropriately and creatively 'use' the (originated) power. The temporal sequence thus prevents the embodiment or possession of power and ascertains that the place of power remains empty.

Representation becomes a democratic instrument once the representational relationship becomes political.[9] I am alluding here to the way in which a partisan, and thus particular, viewpoint can temporarily fulfill the role of representing the whole of society and thus represent the general. The plurality of social and cultural identities that exist in society gets translated into political "alliances and programs" (Urbinati 2006, 37). These alliances try to provide an answer to the fragmentation of society, by "articulat[ing] the 'universal interest' from peripheral viewpoints" (Ibid.). Although partisanship is concerned with the interests of its followers, the fact that their aspirations are "to represent the general" makes that they translate their partial interests "in a language that is general" (Ibid.). Laclau gives the same characterisation of "the only truly political society". "Universality only exists incarnating – and subverting – particularity, but, conversely, no particularity can become political without being the locus of universalizing effects" (Laclau 2001, 10).

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9 Urbinati states this clearly in the following citation. "This temporal perspective transforms representation into a political resource, a way to perfect democracy by emancipating it from the destabilizing force of presentism and the one-dimensional character of the will" (Urbinati 2006, 225). But we could phrase the sentence also the other way around. Politics would not be politics without the role of representation as it fulfills the role of mediation through "voice and gesture, spacing and temporality" (Ibid., 37).

Conclusion

Recognizing the strengths of the model of representative democracy and at the same time realizing that this model belongs more and more to the past, it is necessary to see which valuable characteristics will be lost when moving from government to governance. I will try to elucidate this by referring to two problems that we might get confronted with in Saward's model related to the two aspects of legitimacy in representation: the 'legitimacy of what'-question and the scope of manoeuvre of the representative.

Urbinati offers an interesting reading of the value of the institutional constellation of representative democracy by argumenting that the spatial and temporal characteristics of the government-model enable democratic politics. The interplay between the struggle for power and the continuity of this struggle form together the conditions for the ongoing attempt of contesting groups to represent the general. The attempt to represent the general at state-level is a crucial characteristic of 'political representation' in the 'government'-model and can be explained by referring to the 'legitimacy of what'-question. Because the relationship between state and society is the central one in a representative democracy it follows that legitimacy is dependent on the judgment of *all* citizens who may hold different partisan viewpoints. Hence, the candidate-representatives are prompted to come up with a general story in order to apply for a representative function at the state-level. With the transition from government to governance, the centrality and unicity of the relationship between state and society gradually evaporates and makes place for a plurality of decision-making units relating to specific constituencies. Saward recognizes this trend in contemporary politics and wants the reader to acknowledge the representational nature that characterizes every single claim for identity- or interest-recognition. For Saward electoral representation should no longer retain its unique status. In his view it is just one of the many areas in which representational claims are made, and therefore he argues that representation is *primarily* a dynamic quality of political life spread unevenly across societies. For him "civil society contains the state and [...] civil society is where representation – unevenly, diversely – happens". The answer to the 'legitimacy

of what'-question is here opposed to that of the 'government'-model. It boils down to a system with a multiplicity of representative claims creating little decision-making units which gain their legitimacy by way of the approval of the ones partaking in the unit. There seem to arise two potential problems here. Firstly, the strength and visibility of political claims of citizens (the negative power of citizens) might get lost when they are not formulated against a public decision-making centre, but only against the decision-making unit of which they form the constituency. In Urbinati's description of representative democracy negative power only arose in the 'second phase' with the birth of the temporal narrative. In this second phase the spatial division, that creates a visible centre, is presupposed. Hence, when the state no longer functions as the central representative institution how than should we conceive of the negative power of citizens? Related to this is the second problem. When losing sight of the centre (the state) the attempt to represent the general is lost and so the contest among different ideologies or partisan viewpoints is lost. And exactly this is what turns representation into politics, as was said above.

Saward's theory also confronts us with another problem that relates to the room of manoeuvre for the representative. Saward clearly focuses on the role of (civil) society and in this regard his theory attempts to create opportunities for the empowerment of the sphere of societal actors and the therein excluded groups in the new governance-context. Yet, we should realize that in practice governance not only takes place at the border between state and society, but also (and maybe more) at the border between state and market. In this latter border zone effectiveness and output of decisions are the main preoccupations. That is why it should not surprise us that the principal/agent relationship is used to measure the legitimacy of these kind of governance-acts. If the principal asks the agent to realize some particular output, than the principal wants to prevent as much as possible that during the realization (the representation) any transformation of the original request arises. In other words, by constantly controlling the agent, the principal tries to prevent that an (aesthetic) gap comes in to being. Again this should not surprise us, as the governance-decisions we are here referring to comprise market-actors. Traditionally they are not part of political representation, and thus the contemporary attempt

to keep 'politics' out of economic governance is very natural. Whereas representative democracy used to take place between state and society, today market actors start infiltrating 'political' decision-making. One of the challenges for further research thus lies in studying the 'political' role of decision-making that by its very nature (i.e. the market) is hesitant towards politics (in the sense of recognizing the creative and transformative nature of representation). The role of society in governance-cooperations is often categorized in a more positive light. It is assumed that in the border zone between state and society the political aspect (formulating representative claims about one's identity) remains prominent. This is the idea that Saward tries to defend by way of the 'representative claim'. But Swyngedouw states that not only 'economic governance' but also governance emanating from civil society seems to be drawn in to the logic of managerialism[10]. Thus also here we will have to question what the 'political' role can be of decision-making that by its practices ('managerial civil society') is hesitant towards politics.

It is clear that we have no univocal answer yet to how we should conceive of legitimacy in governance-practices. The 'legitimacy of what'-question pointed to the fact that the role of a centre that functions as an anchor point has always been crucial for politics. As governance practices are used more and more, the visibility of the political centre declines. That is why it might be useful when analyzing an act of governance to at least try to denominate the societal spheres partaking in the governance cooperation. Denominating decision-makers is a different way to pursue visibility in politics. Hence, in order to get a better grasp on the plurality of governance-forms an important role is waiting for us to conceive appropriate categories for different sorts of decision-making bodies that match the existing complexities we are facing in reality.

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[10] His statement draws on Foucault's notion of governmentality and leads him to say that newly created technologies of government are nicely internalized by citizens, corporations and NGOs alike. "Ironically, while these technologies are often advocated [...] by civil organizations speaking for the disempowered [...], these actors often fail to see how these instruments are an integral part of the consolidation of an imposed and authoritarian neo-liberalism, celebrating the virtues of self-managed risk, prudence and self-responsibility" (Swyngedouw, 2005, 1998).

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**GOVERNANCE
THROUGH THE LENS OF
REPRESENTATION**

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PART II
CONTEMPORARY THEORIES

DEMOCRATIC VIRTUES

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I

THE PROJECT FROM WHICH I DRAW THIS PAPER MAKES THREE MAIN ARGUMENTS ABOUT CONTEMPORARY DEMOCRACY AND DEMOCRATIC THEORY.

First, there is probably no such thing as the 'minimal democracy' that some authors recommend and others criticize vigorously. There is just democracy.

Second, in democracies all good democratic virtues do not go easily together. Tensions and conflicts make choices among these virtues unavoidable in developing distinctive forms of democracy.

Third, different forms of representation relate closely to different models of democracy in which one or more virtues gain a central place. In making these choices, interest representation should play a basic role in contemporary democratic politics.

This paper presents brief versions of the first two arguments. I start with a discussion of minimal democracy. Then I consider tensions among democratic virtues and forms of democracy. In the larger project, I assess different forms of representation. I am interested in assessing the advantages and problems of different kinds of representation. This question is important *per se* and a good way to move further beyond debates about whether democracy requires representation. (It does.)

To assess forms of representation, one needs criteria. These can be provided by looking at how modes of representation enact different democratic virtues. To have that discussion in a useful way requires dispensing with views of democracy in which all good democratic things happily go together.

1. Minimal democracy and democracy

There can certainly be bad and unfair democracies, but it is hard to imagine an actual 'minimal' democracy in the sense that this concept has often been used in the last sixty years.

Proponents of a 'minimal' definition of democracy, from Schumpeter on, have achieved large political effects and limited analytical results.

Minimal definitions of democracy do notable work in rejecting the democratic claims of many regimes and political forces. This is valuable work in a world where no licensing procedure prevents a tyranny from declaring itself democratic.

Yet analytically these efforts have not been so successful. They narrow the meaning of their own concepts so severely as to leave them with little substance. An election, to take the key term, cannot be nearly as limited an event as most definitions of minimal democracy claim or imply, or else the term is simply misapplied. We do not recognize a contest with one candidate as an election. Nor do we regard an election without real competition and uncertainty as an election. Nor do we accept an election under conditions in which citizens cannot express their views of candidates openly and actively. In these ways and many more, elections contain a robust range of political and cultural elements. There is not much minimal about this complex of conditions.

Usually the debate goes like this. Someone – famously Joseph Schumpeter or more recently Adam Przeworski – tries to provide a narrow and limited definition of democracy: democracies choose rulers via elections.

Here is Schumpeter's definition:

"[...W]e now take the view that the role of the people is to produce a government, or else an intermediate body which in turn will produce a

national executive or government. And we define: the democratic method is that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote."[1]

Here is Przeworski's statement:

"Yet suppose this is all there is to democracy: that rulers are elected. Is it little? That depends on the point of departure...Yet if the point of departure is that in any society there are conflicts, of values and of interests, electing rulers appears nothing short of miraculous."[2] (44)

These definitions focus on choosing a government via elections – 'electing rulers' in Przeworski's terms or a 'competitive struggle for the peoples' vote' in Schumpeter's.

Taking the bait, critics then claim that this definition is too narrow, often that it is only electoral or formal rather than substantive.

The argument goes on and on, for at least six or seven decades now. While critics of minimal definitions are guilty of simplification and analytical sloppiness, their arguments get life from the basic wrong move of those who propose minimal definitions. The minimal definitions are either wrong or not really minimal. Unless we are playing with words, election means an open competition with real choices. It is a rich and expansive concept, and it contains a number of important political and cultural elements. We can recognize the polemical aims of efforts to establish a minimal definition, but not accept them as plausible ways to define the concept or as an adequate analytical framework.

Proponents of allegedly minimal definitions have been wrong about what they have produced. Their core statements are either not valid definitions of something we would recognize as democracy, or more often, these statements are not at all minimal in what they require and strongly imply. Again, there may well be something called

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[1] Joseph A. Schumpeter, *Capitalism, Socialism and Democracy* (New York: Harper & Row, 1950): 269.
[2] Adam Przeworski, "Minimalist conception of democracy: a defense," in Ian Shapiro and Casiano Hacker-Cordon, editors, *Democracy's Value*: 44.

bad democracy, but I doubt whether there is such a thing as minimal democracy in the contemporary world.

Minimal definitions are effective in one crucial respect, in distinguishing between democratic and nondemocratic political forms. That is a core purpose of any definition – it can separate a hat from a glove, almost always with practical aims in mind. Because democracy occupies the normative high ground in international politics, rather than simply naming one category of rule among others in the political science literature, any scheme that identifies democratic regimes also ascribes virtues and defects. This is bound to be controversial, and the stakes are high. They reach the question of regime legitimacy, via the interpretation of international law and agreements.

Since I don't think that minimal definitions are really minimal, I don't accept what critics are doing at face value. I think that they have three kinds of objections to what they call minimal, formal, or purely procedural democracy. Two of these have merit but none is acceptable. I will call these the apologetic critique, the perfectionist critique, and the unitarian critique.

The apologetic critique

The apologetic critique is often transparent in its effort to save a government from condemnation by rejecting a definition that would deny it any serious claim to being democratic. Thus supporters of Castro or Mugabe or perhaps the regime in Kazakhstan want to emphasize that medical services are widely available in Cuba, that Mugabe's party fought colonialism, and that Kazakhstan is a decently prosperous country for much of the population. All true (and Kazakhstan is relatively liberal compared to the others).

Should we say that because such regimes can have positive attributes, they must also be democratic? If democracy is the only virtue of a government, then by logic this must be so – if medical care is okay in Cuba, then Cuba must be some kind of democracy. If democracy is the basic and in some sense the only political and social good, then anything good must be democratic.

Given the weakness of this logic, those who make versions of this apologetic critique usually end up rejecting a definition of democracy

that includes open elections. They are almost compelled to call any such conception purely formal as against a substantive notion of democracy as welfarist, anticolonial, or developmental.

Allegedly minimal definitions of democracy are useful in ruling out the use of that term to describe authoritarian regimes with social or cultural purposes that someone wants to affirm – good health care, safe streets, religious virtue.

The perfectionist critique

The perfectionist critique is more analytically interesting. In this critique, the problem with the minimal definition is that it does not recognize the central value of one or another democratic virtue – say participation. Sometimes a similar claim is made about a policy – extensive redistribution or strengthening communal ties.

Perfectionist critics aim to make a double move. First, they attach their program – for redistribution, or heightened participation – to the general positive valuation of democracy and claim that democracy really must mean this specific course. Instead of arguing for the program they can then make it true by definition for those who approve of democracy. This is not a bad rhetorical move but it is transparent, which makes it vulnerable – why does democracy require this amount of participation rather than some other?

In the other key move the term perfectionist applies most strongly. The idea is that real democracy means the maximal achievement of a particular virtue such as participation or deliberation. As with most perfectionist schemes, the first casualties of this line of argument are complexity and realism in a world where virtues collide and tradeoffs have to be weighed. Simply maximizing deliberation, say, is not a recipe for a wonderful democracy, but past a certain point it would mean a deeply flawed regime in which many other democratic virtues were diminished.

Rather than rejecting an allegedly minimal democracy, perfectionists should justify their own normative and policy choices as a valid interpretation of how democracy should look. This is hard work and opens the way for serious objections. Understandably many perfectionist critics of minimal democracy prefer to make it simple by claiming that only their view deserves to be called genuinely democratic.

Unitarian critiques

Unitarian critiques target the alleged formalism and proceduralism of basic concepts of democracy. When they reject formalism they really mean to reject politics.

They argue for a substantive democracy. This often goes beyond the moves of the perfectionist critique, which aim to establish a particular virtue as central and decisive. It usually heads toward rejecting politics *per se* as a separate area of social life with its own dynamics and demands.

Unitarian critics would like to merge democratic politics with some other process (economic self-management, communal self-organization, religious and cultural expression). Democracy then means the result of this merging, in which political and social elements fuse, or politics and culture unite.

From this perspective it makes sense to oppose any concept of democracy that underlines the autonomy and distinctiveness of politics. This line of criticism of democracy as autonomous politics has a long history on both left and right in political and social thought in the last several centuries.

Instead we should insist on the value of a specifically democratic politics, which means a politics at some distance from other social relations. Within that politics, deliberation, participation, agenda control, and all the rest have independent standing as virtues that might be achieved in varying degrees and in different combinations. That is what it means to assess democracy as a political project.

2. Democratic virtues and forms of democracy

Accounts of democracy often propose a happily positive view of a number of distinct elements of politics, such as participation and deliberation, without thinking much about their possible tensions. At relatively low levels, these attributes do tend to go together. Yet at higher values there are conflicts among these democratic virtues (e.g., between participation and inclusion; or between deliberation and agenda control).

Given these tensions, *enhancing democracy could not mean simultaneously maximizing all of its main elements*. Beyond a basic level that distinguishes between democratic and undemocratic politics, citizens and polities need to choose which attributes to make a priority and how to do so. These choices produce different forms of democracy, with distinct strengths and weaknesses. And different forms of democracy imply preferred forms of representation. (I mean to reach judgments such as: "If we want democracy to maximize [x] then the most appropriate form of representation is probably [y]." Thus answering questions about good representation depends to a significant extent on answering questions about what democratic virtue(s) we mean to emphasize.)

With democracy we always have to start at the beginning with a definition. To identify the main elements of democracy, I begin with Robert Dahl's criteria of a democratic political process in *Democracy and its Critics*.[3] These are similar to the attributes specified by many authors – Dahl spells them out clearly:

– Effective participation
– Voting equality
– Enlightened understanding
– Control of the agenda
– Inclusion

The first two attributes establish a polity as democratic in its procedures. The third expands democracy to include key processes within the terms of a given political agenda. The fourth feature, control of the agenda, means that a polity is egalitarian with respect to a *demos*. Adding inclusion, the fifth element, makes the polity fully democratic within a society.   All these virtues entail multiple political elements, well beyond what we would normally call procedural.

One big set of questions is about the extent to which democracy means an equal distribution of these attributes among individuals – equality of voting, or of agenda control. Another group of questions

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[3] Robert Dahl, *Democracy and its Critics*: 109-113.

concerns the level at which these attributes need to be present for a polity to be democratic at all – how much participation is required, or how much deliberation? – and relations among these virtues.

Here I am mainly concerned with the levels at which these attributes are present, rather than their distribution.[4] Dahl's main concern is with determining what equality should mean with respect to the attributes of democracy that he identifies. He focuses on assessing the extent to which equality is or should be achieved along one or another dimension

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4 I will comment briefly on the distributive issue, to follow Dahl and the most frequent discussions of what democracy means. What distribution of these attributes is sufficient to warrant the term democratic? Does equality refer to floors, opportunities, or maximal values? Equal participation could mean that everyone engages in at least a modest amount of political action, and this is sufficient to define them as an actively participating member of the polity. Or it could mean that there should be no formal obstacles to participation, and everyone should have a decent practical ability to participate. Equality could also mean that all members of the polity actually participate to the same extent in a specified period.

Dahl at first seems to prefer the most explicitly egalitarian interpretation according to which democracy would mean fully equal participation, agenda control, and so forth. On this view, democracy means radical political equality among citizens and a thoroughly egalitarian set of institutions and norms. Yet he does not sustain this stance. For the most part he interprets democracy as requiring "substantial opportunities" along these dimensions.

Voting equality is probably distinctive among the attributes that Dahl lists in varying least from minimal to maximal interpretations of equality. This is so if one holds to the narrowest reading of voting equality – everyone's vote counts as 1. Beyond that, however, voting equality is complicated because it refers to forms of representation and election procedures in which everyone's vote is counted as 1 but inequality of effects is common. (In the United States, a vote for the Senate in Rhode Island and a vote for the Senate in Texas do not count the same, although both count as one vote.) For Dahl there is at least one clear result, but it is not sufficient to decide all the issues that are involved. Majority rule is the least unacceptable way of interpreting voting equality, because other formulations count some individuals' votes as worth more than those of members of a majority.

With the other features, such as control of the agenda, the distance between a thin and a maximal interpretation of equality seems larger. And the maximal interpretation is sometimes difficult to spell out in any very clear way. To take agenda control as an example - how could everyone share equally in controlling the political agenda? How would we know when this had occurred? Any practical scheme aimed at maximal equality of agenda control would certainly involve not only a radical dispersal of political power but an even more difficult to imagine equality of interest in and commitment to politics as against other forms of life. As he proceeds, Dahl tends to interpret the requirement that these attributes be equally present across individuals as meaning that individuals should have substantial capacities in each area (equality of opportunity), along with the stipulation that large barriers to action not exist (equality as a floor).

of democracy (such as participation or inclusion). Dahl does not give much attention to whether these attributes of democracy are compatible at all and if so at what values or levels. He intends that participation should be equal among citizens, and is not much interested in how participation relates to, say, deliberation.

Here I am concerned less with the question of how equal the distribution of these goods among individuals should be than with relations among the goods. Participation, agenda control, and inclusion are crucial democratic goods. But democracy would be extraordinary and even unique among political and social forms if all good things went together at all levels.

I have never been a member of a firm, university, political organization, or family where this was so – or where people expected it to be so. With democracy, however, this extraordinary expectation seems almost routine among political theorists, even if it is rarely spelled out fully.

By democracy I mean that *equal citizens choose a government through open elections*. For analytical purposes this means starting with a relatively robust interpretation of all five elements – effective participation, voting equality, enlightened understanding, control of the agenda, and inclusion.

Participation, for example, means that it is plausible for an individual to embark on a course of activity that would be relevant for a political process or issue. Participation means a practical capacity for such action. Thus it goes well beyond the idea that formal barriers to action are not impassable.

Dahl's account of the core features of democracy provides a good point of reference for surveying many of the main models of democracy on offer in contemporary discussions about its meaning and dynamics. We can identify these different models of democracy based on which of Dahl's requirements they emphasize.

The requirement of effective participation is a core theme for accounts of *participatory democracy*.

The insistence on voting equality is central for accounts of what I will call basic democracy or simply *democracy*.

The emphasis on understanding of alternative choices is a major feature of *deliberative democracy*.

A focus on control of the agenda identifies a strong egalitarian strain in concepts of *radical democracy*.

Inclusion is a key theme for accounts of democracy as generalized *recognition.*

Linking Dahl's requirements of democracy to major contending views of democracy means a good deal of simplification. Yet these contending views are each closely linked to central features of democracy. Linking Dahl's requirements to contending accounts of democracy directs attention to this question: Does democracy mean that we seek to maximize all of these attributes at the same time? Thus advocates of participatory democracy stress the need to enhance participation. Proponents of one view rarely disparage the other attributes *per se.* Instead they argue or imply that increasing or maximizing one attribute will also cause the values of the others to increase appropriately. With more deliberation, inclusion is apt to follow.

Yet it is hard to imagine that positive relations prevail among these relations at all levels. One might think so if the only reference were levels near the threshold at which the polity can be regarded as democratic. *At low levels of these goods, relations among them are usually positive and sometimes strongly reinforcing.* Absent voting equality, agenda control would be very difficult – how would actors ensure that their preferences about the agenda were taken seriously? Absent deliberation, participation would be very difficult to initiate and sustain – how would actors be able to define the aims and forms of their participation? Given that positive relations among these goods do exist at some levels, it is tempting to infer that maximizing one dimension of democracy – as in deliberative or participatory democracy - would also achieve maximum or nearly maximum values as regards inclusion or agenda control.

If these democratic virtues tend to go together at lower levels, positive relations cannot be presumed at all levels. Could we increase all levels of these attributes to their maximum points? *It seems not to be possible to maximize the levels of all of these democratic goods at the same time.*[5]

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[5] A full analysis of relations among attributes of democracy, or democratic virtues, could be attempted in one of two ways. One approach would hold all but one attribute

3. Deliberation and democracy – an example

What Dahl terms enlightened understanding is close to what is meant by a robust level of deliberation in one strand of democratic theory.

Deliberation is clearly a democratic virtue - it is better that citizens discuss and understand the meanings and consequences of the choices they need to make. It is also desirable that citizens understand each other more fully than is needed in pure bargaining relations, and that they try to reach a substantial agreement. Yet if we increase deliberation to very high levels, growing tensions with other basic features of democracy seem likely.

Deliberation and participation compete for time and resources. One can try to erase this tension by declaring them to be versions of the same thing, but this makes little sense if one thinks about any actual political context. Deliberating about a program or an issue takes time. Participating in a sustained way in an effort to influence relevant views and decisions also takes time. And it is not the same activity, or the same kind of time. There is also a tension between the relatively more reflective stance entailed in deliberation and the more partisan stance that is usually part of participation. Unless time is unlimited, then, more deliberation does not mean more participation, and it may well mean less.

Deliberation and equality of voting have no particularly strong relation. Increasing deliberation should not cause voting equality to diminish – the likely relation is neutral.

constant at a relatively low level, above but near the threshold of democracy. Then we would consider what happens as the level of the remaining attribute was increased (e.g., rising levels of participation). We could then make judgments about how this increase influences the other attributes.

The second approach would focus on pair wise analyses of the five main attributes of democracy indicated by Dahl. We would start by examining each of the ten pairs (such as inclusion and agenda control). What happens to one of the two attributes in each set as we increase the level of the other – what happens to deliberation as participation increases, for example? Does increasing one attribute produce a positive or negative result with the other? The next step would be to see whether there are some properties of the relations that allow us to group them in a theoretically interesting way.

The second route might be more rigorous, although it would risk becoming impossibly complex. The first route risks oversimplification, but the advantages in clarity and directness are large. I will not undertake either procedure here – my purpose in discussing them is to suggest the size of this relatively unexplored theoretical territory.

Deliberation and equal control of the agenda are in tension. The practical logic of deliberation will tend to empower those with the best arguments, who will then have a greater capacity to shape the agenda. This logic is strong unless one redefines deliberation to mean something other than discourse among equals aimed at reaching agreement about choices. If deliberation is redefined as bargaining in which arguments are proxies for blunt statements of preferences, then the tension with agenda control diminishes. But most proponents of deliberation mean the concept to refer to open and serious discussion in which participants are not entirely bound by their prior views. Deliberation should produce not only a decision about a given issue but an agenda about what needs attention when. This result is apt to conflict with an equal distribution among agents of influence over the agenda.

Deliberation and inclusion have a complicated relationship. At low levels, just above a democratic threshold, they are strongly linked. More deliberation means increased information, and it may encourage the appearance of new arguments in politics, both of which are apt to benefit inclusion. Thus relations between deliberation and inclusion may be positive as deliberation expands.

Deliberation and inclusion will be in tension as deliberation continues to increase. With rising levels of deliberation, time costs grow, and inclusion (now meaning full engagement in deliberative processes) becomes harder for a growing number of citizens. If deliberation implies an eventual preference for the best argument, there may be a further tension, as the effort to identify and reach agreement about that argument may not encourage full inclusion of all citizens.

One can try to avoid this tension by redefining deliberation – rather than designating reasonable arguments, consistency, or a systematic use of evidence, deliberation means any form of sincere expression relevant to the subject. This makes deliberation more or less equivalent to expressing preferences in whatever form actors wish. Without such a change in meaning, it appears that positive relations between deliberation and inclusion will become less positive and probably negative as deliberation increases to high levels.

It would be hard to conceive of democracy without substantial deliberative elements. Yet increasing deliberation to high levels will at some point diminish participation, agenda control, and even inclusion.

That does not mean we should reject "deliberative democracy" – it means we should recognize that this model places limits on what can be achieved regarding other attributes of democracy. *Such conflicts are not peculiar to deliberation as distinct from other core democratic virtues.* Costs and tensions cannot be disqualifying, or else there would be no acceptable model of democracy. Instead we consider the advantages and problems of different models, and this means normative debate about which attributes of democracy we should emphasize and why.

There are many tensions among the main democratic virtues. For example, the commitment to agenda control, as an egalitarian project, means that the choice of subjects for more extensive political attention will be closely tied to the expressed preferences of individuals. This commitment, if put into practice at high levels, is apt to constrain deliberation. People want to shape the agenda to advance their own issues and claims – this may limit their willingness to engage in an open-ended process of deliberation with uncertain results. This tension can be banished if it is stipulated that people want to control the agenda simply in order to advance what they see as in the public interest. But this is an implausible account of any actual polity. Thus a strong commitment to agenda control is apt to limit the space for deliberation.

If inclusion is taken as a central democratic virtue and it is interpreted as requiring measures that recognize political and cultural diversity, we have the basis for a distinctive model of democracy focused on recognition and on identities. Here conflicts will arise between the drive for recognition and the commitment to voting equality. An emphasis on inclusion is likely to mean that minorities will demand electoral and legal provisions that protect their practices and preferences. Such provisions usually give more weight to the votes of individuals in the protected groups than to others, at least on certain issues.

The value of participation defines participatory models of democracy. At high levels, participation is likely to be in considerable tension with voting equality. This happens when participatory forms are given decision making power at the local or regional level. The votes of those citizens who are heavily engaged in the participatory schemes will count more than the votes of those citizens who are not similarly engaged. The most ambitious participatory budgeting schemes, for

example, involve a real devolution of power to nonparliamentary organizations and groups. When this happens, those who vote in the normal elections but are not involved in the participatory projects will be right to judge that their votes in regular elections have been diminished in value.

4. Choosing among democratic virtues?

Theories of democracy gain little by targeting allegedly minimal models. This approach radically understates the political and cultural requirements of basic democratic practices. It allows proponents of various kinds of allegedly richer democracy to avoid analyzing relations among democratic virtues. They can simply praise the ones they prefer. Rather than contrasting minimal and full democracy we need to appreciate the challenging problems that appear as soon as we presume that democratic virtues collide and often conflict. We do not really understand many of these relations. Relations among democratic virtues vary widely at higher levels, and we should presume that many of the relations are complex and not necessarily linear. This creates many opportunities for research and for practical efforts.

How should we think about choosing among forms of democracy and among different levels of the main democratic virtues? I conclude with four points, based on the idea that sustaining democracy is a valid aim.

First, we should recognize a strong constraint. In normative terms it is undesirable to go below a basic level as regards any of the main democratic virtues. Models that propose to give up one or more in order to maximize another allegedly essential virtue should be regarded with great skepticism.

Second, we should resist choices about relations among virtues that seem likely to generate grave political instability which could plausibly jeopardize the maintenance of democratic institutions.

Third, choices are contextual. Democracy is always somewhere. Choosing forms of democracy and relations among democratic virtues should consider how different paths will be more or less workable given the political and social history and main features of the country

in question. It might well be that inclusion should be given a primary role in one country due to its distinctive history while participation is similarly crucial somewhere else.

Finally, as democracy is about self-government and the development and expression of political preferences, we should expect a widening range of democratic political trajectories. There can be convergence on the idea that democracy requires a certain basic level of each of the main democratic virtues. Beyond that, a democratic logic will increase the range of choices actually made by different polities (and across jurisdictions within them). Perhaps at some points almost everyone will agree on the appropriate choices for shaping the best democracy, but such agreements will be relatively brief. Everyone might favor a kind of deliberative democracy – but not for long.

The main democratic virtues as actually practiced will interact to create new possibilities and problems. New political forces (political movements and other forms) will take shape. They will often make claims about expanding the presence of one or another democratic virtue, as a core theme. These efforts amount to probes that challenge current settlements and raise new possibilities. Thus a democratic horizon contains a plural and expanding set of practical choices about relations among democratic virtues, and a growing range of theoretical problems that arise under unexpected circumstances.

DEMOCRATIC VIRTUES

David Plotke

OS DESÍGNIOS DA DEMOCRACIA GLOBAL INTERNACIONAL NA UTOPIA REALISTA RAWLSIANA

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NA ÚLTIMA DÉCADA TÊM EMERGIDO NO SEIO DA TEORIA POLÍTICA E DAS RELAÇÕES INTERNACIONAIS APOLOGIAS DA "DEMOCRACIA GLOBAL" (Richard Falk, Daniele Archibugi, Tony McGrew e David Held, entre outros), em paralelo às apologias da "justiça global" (Barry, Beitz, Onorra O'Neil, Pogge, Shue e Peter Singer, entre outros). Se neste âmbito é visível o influxo da teoria abrangente da justiça como equidade, como desenvolvida por John Rawls em *A Theory of Justice* (1971), aquele ressente-se especialmente da viragem rawlsiana para o domínio meramente político, em *Political Liberalism* (1993), e das suas reflexões sobre a sociedade internacional, condensadas na utopia realista de *The Law of Peoples* (1999).

Conquanto não tenha desenvolvido uma teoria da democracia, Rawls contribuiu para o pensamento democrático[1]: primeiramente, através de uma concepção de justiça cujas ideias e fins substanciam a concepção filosófica mais razoável para uma democracia constitucional[2]; depois, através das suas reflexões sobre a razão pública e o ideal

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[1] Remetemos para Cohen, 2003.

[2] No prefácio à edição revista de *ATJ*, Rawls escreve:"The central ideas and aims of this conception [*justice as fairness*] I see as those of a philosophical conception for a constitutional democracy. My hope is that justice as fairness will seem reasonable and useful, even if not fully convincing, to a wide range of thoughtful political opinions and thereby express an essential part of the common core of the democratic tradition", in Rawls, 1999b: xi.

de cidadania democrática (1993), a democracia deliberativa (1997), a paz democrática e os direitos humanos (1999). Especialmente concorreu para a compreensão da democracia num sentido mais amplo do de "mero escrutínio e eleições", como "exercício da razão pública", para uma visão que, como sublinhado por Amartya Sen, permite apreender as suas raízes para lá das suas instituições tradicionais[3].

No âmbito da sociedade internacional, Rawls questiona-se sobre a exequibilidade de uma utopia realista e as condições que a expressam, sobre o alargamento dos limites possíveis da prática política que reconcilia o indivíduo com o mundo social. A ideia de utopia realista apoia-se em duas concepções, a saber : 1) os grande males da humanidade derivam da injusta política; e 2) uma vez suprimida a injustiça política, seguindo-se políticas sociais justas (ou no mínimo decentes) e estabelecendo-se instituições básicas justas (ou no mínimo decentes), esse tipo de males extinguir-se-á[4]. A utopia realista substancia, deste modo, "um mundo em que esses grandes males tenham desaparecido e tenham sido estabelecidas instituições básicas justas (ou pelo menos decentes) quer pelos povos liberais quer pelos povos decentes que honrem a Lei dos Povos"[5]. E em última instância, demonstra a possibilidade de uma democracia constitucional razoavelmente justa no contexto de uma sociedade de povos bem ordenada.

A utopia realista rawlsiana referencia, deste modo, dois níveis de democracia: a democracia das sociedades domésticas e a democracia global internacional. No primeiro, sublinhando que "as bases de uma democracia constitucional e as bases dos seus direitos e deveres precisam de ser continuamente discutidas em todas as muitas associações da

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Posição reafirmada pelo filósofo no âmbito do liberalismo politico - "(...) the aim of justice as fairness as a political conception is to resolve the impasse in the democratic tradition as to the way in which social institutions are to be arranged if they are to conform to the freedom and equality of citizens as moral persons" , in Rawls, 1993a: 338.

3 "La vision beaucoup plus large de la démocratie en termes de débat public nous permet (...) de comprendre pourquoi les racines de la démocratie vont bien au-delà des limites étroites de certains récits et chroniques rapportant des pratiques définies et considérées maintenant comme des institutions spécifiquement démocratiques», in Sen, 2003: 15.

4 Remetemos para Rawls, 1999: 6s.

5 "(...) a world in which these great evils have been eliminated and just (or at least decent) basic institutions established by both liberal and decent peoples who honor the Law of Peoples", in Rawls, 1999: 126.

sociedade civil como parte da compreensão e da educação dos cidadãos antes de tomarem parte na vida política"[6], reconhece a democracia constitucional como uma democracia deliberativa; no segundo, esbarrando contra as fronteiras da realidade avança com a proposta de uma "democracia global" que, distintamente da cosmopolita, assenta na tendência expansiva da sociedade dos povos bem ordenados, numa cooperação internacional que integra valores e práticas distintas das ocidentais e que fomenta o respeito pelos direitos humanos básicos.

Comecemos por analisar a noção rawlsiana de "democracia deliberativa". Caracteriza-se, tal como esclarece em "The Idea of Public Reason Revisited", por três elementos essenciais - uma ideia de razão pública; um enquadramento institucional que determina a concretização dos corpos legislativos deliberativos; e pelo conhecimento e desejo dos cidadãos em prosseguirem a razão pública e concretizarem o seu ideal na sua conduta política (Rawls, 1997: 139) - que têm por implicações imediatas o financiamento público das eleições e o proporcionar de eventos públicos onde se debate seriamente sobre questões políticas fundamentais. A democracia deliberativa é exequível porque os cidadãos possuem as capacidades necessárias à sua participação no debate político, são pessoas racionais e razoáveis, e estão informados sobre os problemas mais prementes da sua sociedade. Por outro lado, é importante que a deliberação pública se imiscua dos interesses económicos e corporativistas, pois só assim se constitui como característica básica da democracia.

Focalizemo-nos na ideia de razão pública, crucial à noção de que o debate público estimula a revisão da opinião política. Como assinalado em *Political Liberalism*: "numa sociedade democrática a razão pública é a razão de iguais cidadãos que, como corpo colectivo, exercem um poder político e coercivo decisivo uns sobre os outros por intermédio da produção de legislação corrente e das emendas à sua constituição"[7]. Consequentemente, os seus limites coincidem com o

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[6] "(...) the grounds of constitutional democracy and the basis of its rights and duties need to be continually discussed in all the many associations of civil society as part of citizens' understanding and education prior to taking part in political life", in Idem: 102.

[7] " (...) in a democratic society public reason is the reason of equal citizens who, as a collective body, exercise final political and coercive power over one another in enacting law and in amending their constitution", in Rawls, 1993a: 214.

conjunto de questões políticas que abarcam elementos constitucionais essenciais e matérias de justiça básica à governação. Isto significa que nem sempre as questões políticas são resolvidas pela invocação dos valores da razão pública - quando ocorram, por exemplo, nos contextos meramente pessoal e familiar ou associativista. Num regime constitucional o domínio político não é afectivo, como é no domínio pessoal e familiar, nem voluntário é no domínio associativo. A ideia de razão pública aplica-se apenas à discussão de questões políticas do fórum público – aos discursos dos juízes, dos funcionários governamentais, dos candidatos a cargos públicos e dos directores de campanha[8]. Diferentemente, quando os cidadãos se envolvem no debate político do fórum público - quer seja pelo seu voto eleitoral, pela sua participação partidária, ou ainda pela sua candidatura - o que prevalece é o ideal de razão pública.

O princípio da legitimidade liberal alumia a razão pela qual os cidadãos devem respeitar os limites da razão pública no decurso do debate e da votação sobre questões políticas fundamentais. O exercício do poder político é legítimo quando praticado de acordo com uma constituição, cujos elementos essenciais são subscritos pelos cidadãos em face de princípios e ideais aceites como razoáveis e racionais. E porque o poder político deve ser legítimo, o ideal de cidadania impõe como dever moral que os cidadãos sejam capazes de explicar uns aos

Os elementos constitucionais essenciais são de dois tipos: os que descrevem a estrutura geral do sistema de governo e do processo político; e os que especificam os iguais direitos e liberdades básicas dos cidadãos. No primeiro caso concernem aos poderes legislativo, executivo e judicial, ao espectro de aplicação da regra da maioria; no segundo dizem respeito ao direito de voto e de participação na vida política, às liberdades de consciência, de pensamento e de associação, ou às protecções resultantes do princípio do domínio da lei. Neste segundo grupo não cabem quer a igualdade equitativa de oportunidades, quer o princípio da diferença, princípios da justiça como equidade que cobrem as desigualdades económicas e sociais. Mas isto não significa que estes princípios não expressem valores políticos, tanto assim que estão na origem do estabelecimento de instituições de fundo da justiça social e económica apropriadas a cidadãos livres e iguais.

8 «It is imperative to realize that the idea of public reason does not apply to all political discussions of fundamental questions, but only to discussions of those questions in what I refer to as the public political forum. This forum may be divided into three parts: the discourse of judges in their decisions, and especially of the judges of a supreme court; the discourse of government officials, especially chief executives and legislators; and finally, the discourse of candidates for public office and their campaign managers, especially in their public oratory, party platforms, and political statements», in Rawls, 1997: 133s.

outros o modo como os princípios e as políticas que advogam e votam se fundamentam nos valores políticos da razão pública – trata-se aqui do dever de civilidade. Este dever inclui, igualmente, a predisposição para se ouvir a argumentação dos outros e um espírito de lealdade e equidade na deliberação sobre os ajustamentos a fazer de modo a acolher as suas perspectivas[9]. No contexto da sociedade doméstica, os cidadãos cumprem o dever de civilidade caso façam o possível para que os detentores do poder se guiem pela razão pública.

A fusão do dever de civilidade com os valores políticos produz o ideal de cidadania democrática - trata-se, como assinalado por Rawls, «[d]o ideal de cidadãos que se orientam e governam a si próprios segundo preceitos que cada um acredita que os outros podem razoavelmente aceitar; e, por sua vez, este ideal é favorecido pelas doutrinas abrangentes que as pessoas razoáveis defendem»[10]. O liberalismo político apoia-se no suposto de que os direitos e os deveres básicos e os valores em questão são suficientemente determinantes para que os limites da razão pública sejam justificados pelas avaliações globais das doutrinas abrangentes razoáveis, quando estas tenham perfilhado a concepção política da justiça como equidade.

Sucintamente, os limites da razão pública são os limites que honramos quando respeitamos o ideal de cidadãos democráticos. A razão pública pede-nos que acreditemos que a ponderação dos valores políticos que assumimos como razoável o seja igualmente para os outros; ou, caso isso não seja possível, que não seja tida como irrazoável. Segundo Rawls, esta partilha de sentido preserva os laços de solidariedade cívica e é consistente com o dever de civilidade.

No âmbito da Sociedade dos Povos, a razão pública desempenha um papel entre povos livres e iguais análogo ao exercido numa democracia constitucional entre cidadãos livres e iguais. Nas palavras do filósofo,

OS DESÍGNIOS DA DEMOCRACIA GLOBAL INTERNACIONAL NA UTOPIA REALISTA RAWLSIANA

Maria João Cabrita

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[9] «(…) Since the exercise of the political power itself must be legitimate, the ideal of citizenship imposes a moral, not a legal, duty - the duty of civility – to be able to explain to one another on those fundamental questions how the principles and policies they advocate and vote for can be supported by the political values of public reason. This duty also involves a willingness to listen to others and a fairmindedness in deciding when accommodations to their views should reasonably be made», Rawls, 1993a: 217.

[10] «(…) The ideal of citizens governing themselves in ways that each thinks the others might reasonably be expected to accept; and this ideal in turn is supported by the comprehensive doctrines reasonable persons affirm», Idem, p. 218.

trata-se "da razão pública de povos liberais livres e iguais debatendo as suas relações mútuas como povos"[11], cujo conteúdo se revê nos oito princípios da Lei dos Povos[12] e não na família de princípios liberais de justiça de um regime democrática constitucional. Por outro lado, do mesmo modo que o ideal de razão pública leva o cidadão a questionar as práticas políticas da sua sociedade doméstica, leva-o a indignar-se ante qualquer prática que viole a razão pública dos povos livres e iguais.

Uma vez elucidadas as noções de democracia constitucional como democracia deliberativa e de razão pública, centralizemo-nos na noção de "democracia global internacional". Sob este intuito, recorrerei à autoridade de um dos seus mais acérrimos defensores, Kok-Chor Tan. Ao questionar-se sobre a possibilidade de rectificação do défice democrático - este constitui, a par das disparidades e assimetrias, um dos efeitos adversos da globalização sobre a democracia - Tan argumenta que a solução passa pela reconceptualização da democracia não tanto como ideal nacional quanto como um ideal global (Tan, 2008). Neste âmbito, emergem duas concepções: a cosmopolita e a internacional. Os democratas cosmopolitas propõem que a democracia seja tida primordialmente como ideal transnacional, aplicado directamente aos indivíduos do mundo, tomado como um esquema social simples. Esta via assenta na ideia de que os indivíduos são cidadãos do mundo e não apenas cidadãos do seu país, de que devem ser tidos como membros participativos da comunidade global. Todavia, ao enjeitar a defesa de um "estado mundial" restringe a ideia de "cidadão do mundo" ao domínio moral, incorrendo numa linguagem política excessivamente metafórica.

À contraluz desta perspectiva, a via internacional concebe a democracia global como uma democracia entre os representantes das nações democráticas. Distintamente da democracia cosmopolita, pressupõe duas etapas - a primeira consiste na democratização das nações; a segunda, na democratização das instituições internacionais

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11 "I distinguish between the public reason of liberal peoples and the public reason of liberal peoples and the public reason of the Society of the Peoples. The first is the public reason of equal citizens of domestic society debating the constitutional essentials and matters of basic justice concerning their own government; the second is the public reason of free and equal liberal peoples debating their mutual relations as peoples", in Rawls, 1999: 55.
12 Idem: 37.

existentes - e mostra como a cidadania global se inicia com a educação dos cidadãos democratas[13]. Esta perspectiva coaduna-se com a adopção rawlsiana do contrato internacional, cuja aplicação configura um processo ascendente a dois níveis - iniciado com os princípios da justiça da estrutura básica da sociedade doméstica e, só depois, progredindo a uma sociedade de povos bem ordenados.

Na utopia realista rawlsiana os desígnios da democracia global internacional assentam nas ideias de "paz democrática" e de "direitos humanos" - conquanto estas sejam normalmente associadas à visão cosmopolita[14]. Antes de analisar estas duas ideias, gostaria de relembrar duas questões fundamentais. Em primeiro lugar, que na Lei dos Povos Rawls atribui protagonismo aos povos e não aos Estados - os povos justos estão preparados para garantir o mesmo respeito e reconhecer os outros como seus iguais no seio da sociedade internacional. O conceito de "povo" substancia um dispositivo de representação no âmbito do contrato internacional rawlsiano, conferindo aos indivíduos o estatuto de "membros dos povos" e não de "cidadãos do mundo" - acepção que revela o afastamento de Rawls da visão cosmopolita quer sobre a justiça, quer sobre a democracia, e que confere protagonismo às pessoas individuais no mundo global.

Em segundo lugar, que conquanto a Lei dos Povos se constitua a partir de uma concepção liberal de justiça política, não é etnocêntrica e puramente ocidental. Não se trata de aplicar um modelo ideal de sociedade doméstica - a democracia constitucional - no contexto internacional, mas antes de exigir de qualquer sociedade decente que imponha deveres e obrigações morais a todas as pessoas que se encontram no seu território, através de um sistema jurídico guiado por uma concepção de justiça que visa o bem comum e que respeite as regras da paz e os direitos humanos básicos. Ao estabelecer a distinção entre dois tipos de sociedade bem ordenada, as democracias constitucionais e as

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[13] "We must take education for democratic *citizenship* at the national level seriously if this is necessary for greater global democracy, and if the nation is the place where individuals can best act effectively to promote justice both at home and abroad. With respect to the last point, Gutmann writes: 'Democratic citizens have institutional means at their disposal that solidarity individuals, or citizens of the world only, do not' (1996: 71). Global democracy, in short, begins with the education of democratic *citizens*" in Tan, 2008: 175.

[14] Sobre a relação entre direitos humanos e democracia global remetemos para Goodhart (2008).

hierarquias de consulta, Rawls acaba por reforçar a visão internacional da democracia global.

É no contexto da teoria ideal da Lei dos Povos que o filósofo analisa a ideia de "paz democrática"[15], ou o debate sobre a ausência de conflitos bélicos entre estados democráticos. Encetado por Kant no opúsculo "Paz Perpétua" (1795) e estimulado na actualidade por teóricos como Michael Doyle, esta perspectiva sobre a democratização do sistema internacional sustenta que a estabilidade nacional leva à estabilidade internacional. Rawls subscreve esta consideração e, à contraluz da "estabilidade por equilíbrio de forças" ou como um *modus vivendi*, dilucida a noção de "estabilidade por razões correctas" - numa sociedade doméstica liberal esta descreve a situação na qual, ao longo do tempo, os cidadãos adquirem um sentido de justiça que os leva a aceitarem os princípios de justiça política e a actuarem em sua conformidade[16].

A sociedade dos povos deve integrar um processo similar ao da sociedade doméstica, que leve os povos liberais e decentes a aceitarem a Lei dos Povos e a actuarem em sua conformidade; que, com o tempo, crie laços de confiança entre eles e os leve a adoptar aquela lei como um ideal de conduta[17]. Neste sentido, uma vez estabelecido o conteúdo da Lei dos Povos, os princípios que definem a igualdade básica entre povos, estabelecem-se três tipos de organizações cooperativas - uma comercial, tendo em vista assegurar o comércio justo entre povos; uma financeira, que permite a um povo pedir empréstimos; e uma confederação de povos, com um papel similar ao das Nações Unidas, que exerça uma espécie de vigília sobre o mundo, «denunciando publicamente as instituições injustas e cruéis dos regimes opressores e expansionistas, assim como as suas violações dos direitos humanos»[18].

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[15] Remetemos para Rawls, 1999: 44-54.

[16] "Stability for the right reasons means stability brought about by citizens acting correctly according to the appropriate principles of their sense of justice, which they have acquired by growing up under and participating in just institutions", Idem: 13, n.2.

[17] "The hypothesis of democratic peace plays a central role in explaining why the defense and extension of the society of liberal and decent peoples should be the fundamental goal of liberal foreign policy" in Beitz, 2000: 671.

[18] «This federative center may be used both to formulate and to express the opinion of the well-ordered societies. There they may expose to express the opinion of the well-ordered societies. There they may expose to public view the unjust and cruel institutions of oppressive and expansionist regimes and their violations of human rights», Rawls, 1993b: 557.

A estabilidade da sociedade internacional carece, tanto quanto a estabilidade da sociedade doméstica, duma progressiva aprendizagem moral dos indivíduos - este processo psicológico constitui um aspecto fundamental à ideia de utopia realista para a Lei dos Povos. Os povos, distintamente dos estados, têm uma natureza moral - incorporada no seu orgulho próprio e no seu sentido de honra - e são movidos por interesses racionais, guiados em consonância à igualdade e respeito entre eles, interesses que tornam possível a paz democrática. Todavia, esta suposição exige a confirmação histórica - o sucesso da sociedade dos povos liberais concerne, como sublinha o filósofo, à "realização de justiça política e social para todos os seus cidadãos, assegurando as suas liberdades básicas, à completa expressão cultural da sociedade civil, assim como a um decente bem-estar económico para todo o seu povo"[19].

A "paz democrática", conquanto a ausência de guerra entre as democracias estabelecidas a comprove empiricamente, não constitui um dado adquirido. Na perspectiva rawlsiana, a conduta dos povos democráticos constitucionais é conforme esta ideia de paz quando assegure: (a) um certo grau de justa igualdade de oportunidades; (b) uma distribuição decente de rendimentos e riqueza; (c) a sociedade como empregador de último recurso através do governo central ou local, ou por meio de outras políticas económicas e sociais; (d) cuidados de saúde básicos a todos os cidadãos; e (e) financiamento público das eleições e a disponibilidade pública de informação em matérias políticas[20]. Neste caso, os povos democráticos empreenderão a guerra só e apenas em legítima defesa.

No conceito de paz democrática convergem duas ideias: a de que entre as constantes misérias da vida, por um lado, e os fatalismos, por outro, existem instituições políticas e sociais que podem ser mudadas pelo povo, de modo a torná-los mais felizes e satisfeitos[21]; e a de *moeurs*

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[19] "Here success refers not to a society's military prowess or the lack of it, but to other kinds of success: achievement of political and social justice for all its citizens, securing their basic freedoms, the fullness and expressiveness of the society's civic cultures, as well as the decent economic well-being of all its people", in Rawls, 1999: 45.

[20] Veja-se Idem: 50.

[21] "(...) political and social institutions could be revised and reformed for the purpose of making peoples happier and more satisfied", Idem: 46.

douces de Montesquieu, de que as virtude promovidas pela sociedade comercial nos cidadãos, como a assiduidade, a diligência, a pontualidade e a integridade, conduzem à paz. Nas sociedades liberais, ou democracias constitucionais, e entre elas, vive-se num estado de paz por satisfação, como descrito por Raymond Aron em *Paix et Guerre Entre les Nations* (1962) à contraluz da "paz por impotência" e "paz pelo poder"[22]; situação tanto mais duradouro quanto mais geral e conforme à ordem da lei internacional. Neste sentido, sob a égide da Lei dos Povos, a sociedade de povos bem ordenados carece desenvolver novas instituições e práticas - entre estas destaca-se o respeito e a promoção dos direitos humanos.

Rawls concebe os direitos humanos como direitos imprescindíveis ao sistema jurídico da sociedade – os direitos à vida (aos meios de subsistência e segurança), à propriedade pessoal, à liberdade (o direito de resistência à escravatura e à servidão e uma certa liberdade de consciência e associação) e à igualdade formal, tal como expressa pelas regras da justiça natural –, de direitos que estabelecem a fronteira do pluralismo entre povos; que especificam os limites da soberania interna de um Estado; e que justificam a guerra em caso de autodefesa[23]. A imposição das obrigações que deles decorrem pressupõe uma concepção de justiça que visa o bem comum e a boa fé da justificação legal do direito - condições cuja aplicação subentende a concepção de "pessoa" como membro responsável e cooperante dos grupos a que pertence, peculiar a uma sociedade associativista como a hierárquica decente, e não a concepção liberal de "pessoa como cidadão livre e igual".

Politicamente não paroquiais, os direitos humanos substanciam as condições necessárias a qualquer sistema de cooperação social. Tratam-se de direitos universais na medida em que "são intrínsecos à Lei dos Povos e possuem um efeito político (moral) sejam ou não apoiados localmente"[24] - isto significa que são vinculativos a todos os povos, mesmo àqueles que não lograram ainda estabelecer instituições

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22 Aron, 1962: 231s.
23 Rawls, 1999: 65.
24 "The list of human rights honored by both liberal and decent hierarchical regimes should be understood as universal rights in the following sense: they are intrinsic to the Law of Peoples and have a political (moral) effect whether or not they are supported locally", Idem: 80.

políticas e sociais justas, ou no mínimo decentes, como é o caso dos estados fora da lei. Não decorrendo de uma concepção sobre a natureza humana, nem de um contrato intercultural e inter-social, a concepção rawlsiana de direitos humanos centraliza-se na sua função política, no seu papel especial na razão pública da Sociedade de Povos. Trata-se, como assinalado por Beitz (2009: 102s), de uma concepção prática.

Ao alargar a base da sociedade dos povos pela inclusão dos povos decentes, cuja cultura política é distinta da dos povos liberais, Rawls acaba por apresentar uma lista mínima de direitos humanos e de cuja a fasquia é fixada pelos princípios políticos que regem aquelas sociedades. Mas a exclusão de certos direitos democráticos - como os da participação política, da liberdade de expressão e da liberdade de associação - desta lista não significa que não constituam um ideal a que todas as sociedades devam aspirar[25]. Não obstante, este não é imposto pela comunidade internacional, à qual cabe assegurar as condições de fundo que possibilitam o florescimento das sociedades bem ordenadas. Isto não invalida que, a longo prazo, a sociedade de povos não tenha por objectivo "subterrâneo" aumentar o seu horizonte de alcance, sob a ideia de que a democracia global exige a civilidade democrata mas, antes de mais, a educação das pessoas para a democracia.

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25 Veja-se Freeman, 2006: 35.

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DEMOCRACY, HOPE AND NIHILISM
ON THE CONCEPT OF HOPE IN LACLAU AND MOUFFE

Thomas Decreus

SINCE THOMAS MORE'S *UTOPIA*, many thinkers have emphasized the importance of a utopian or hopeful perspective. Most have even stressed the unavoidability of this perspective. Oscar Wilde, for example, called utopia 'the country at which humanity is always landing'.[1] That line of thought is also the one Ernesto Laclau seems to start from when he states: 'without hope there is no society, because no society is able to cope with what simply exists.'[2] Chantal Mouffe, with whom Laclau wrote *Hegemony and Socialist Strategy*, also emphasizes the importance of hope in politics. In her latest book, *On the Political*, she makes a plea for a passionate politics, one that can offer hope to the people. Yet, despite this stress on a politics of hope, both authors theorize starting from a political ontology in which hope seems to have no place. In order to show this, I will first highlight some essential features of the political ontology developed by Laclau and Mouffe. This will enable us to see why this ontology is very difficult to combine with the concept of hope, but rather leads to the opposite of hope namely, nihilism. I do not wish to stick with this purely negative conclusion, however, but seek to show how hope is still possible despite the nihilism inherent

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[1] Wilde (2001) 141.
[2] Zournazi (2002) 128

to Laclau's and Mouffe's political ontology. To do this I will use some insights from Maurice Blanchot's thinking on literature and writing, and will attempt to show how these insights can make sense of hope within a (radical) democratic context.

A political ontology

In order to see why the concept of hope is difficult to conceive within Laclau's and Mouffe's shared theoretical framework, we have to summarize some ontological-political standpoints on which their framework rests.

According to Laclau and Mouffe, there can be no distinction between the discursive and the extradiscursive.[3] Everything appears within a discourse, which makes appearance as such possible. A discourse itself consists of elements structured around certain nodal points. Meaning is thereby construed through the differential relations in which the elements engage each other. Meaning, identity or objectivity are thus relative and differential. As Laclau puts it:

> "[...] 'relation' and 'objectivity' are synonymous. Saussure asserted that there are no positive terms in language, only differences – something is what it is only through its differential relations to something else. And what is true of language conceived in its strict sense is also true of any signifying system (i.e. objective) element: an action is what it is only through its differences from other possible actions and from other signifying elements."[4]

But here a problem arises. If differential relations are only possible within the totality of a discourse, how should this totality itself be conceived? If we think of a discourse as being just another differential identity, then this can only mean that the discourse is part of another, larger discourse in which differential identities are established. This opens the door to infinity, and infinity makes any meaning impossible

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[3] Laclau and Mouffe (2001) 105
[4] Laclau (2007) 68.

because in it there would be constant shifting of the signifier under the signified. A psychotic universe this would be.[5] So a discourse has to be limited in a non-differential manner in order to sustain meaning. The impossibility of a differential determination of the limit of a discourse simply means that the limits of any signifying system or discourse cannot themselves be signified. Meaning is only possible due to the final impossibility of meaning. Or, to be more precise: meaning can only emerge if the endless play of differences is limited, but this limit only shows itself as the breakdown of all meaning.[6]

Limits are thus constitutive of meaning. But they are not only constitutive. Every limit also excludes something. Besides being *constitutive*, the limit is also *exclusive*. The limit is a break or a cut in the endless play of differences. But, since a discourse can only exist by limiting the play of differences, this means that what is excluded always continues to threaten the discourse. To shift the limit is to fundamentally transform meaning, and to take away the limit is to make meaning itself impossible. But, in fact, the limit can always be shifted because it is contingent in nature. Where the limit is drawn involves no necessity, because if it did, it would only be because the limit itself was part of another discourse.[7] Besides being constitutive and exclusive, therefore, the limit of any signifying system is also *contingent* in nature.

This characterization of the limit of any signifying system or discourse allows us to understand why the 'relationship'[8] towards what is excluded is always a potentially antagonistic one. What is excluded is always threatening to the existing order since it is able to destroy the order as such. The possibility of destruction can never be totally avoided because the limit is contingent in nature and can always be shifted. Antagonism is the unavoidable dark side of every signifying system. If an antagonistic confrontation occurs, it manifests itself as a struggle that can only be won or lost. The only decisive factor in who will win the antagonistic struggle is power. Since antagonism is inevitable in any signifying system, we should draw the conclusion that only power is constitutive for the existence of our social reality

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5 Marchart (2007) 136.
6 Laclau (1996) 37.
7 Marchart (2007) 146
8 Of course we cannot really speak about a relationship here.

and that, as long as there is any social reality, it will be characterized by conflicts or antagonisms. This inevitable antagonistic dimension of social reality is what Mouffe calls 'the political'. And, as everything is discursive, 'the political' itself   becomes an ontological category. That is why we can speak about a political ontology. Before I continue, let me briefly summarize the points made above:

1. There exists no distinction between the discursive and the extra-discursive. Every reality is discursive in nature.
2. A discourse can only exist through an act of exclusion
3. The 'relation' towards what is excluded, is always a potentially antagonistic one, because what is excluded forms a threat to the existing order.
4. This inevitable, antagonistic dimension is called 'the political'.
5. As such, everything is political.

The statement 'everything is political', must be understood in the right way. It does not mean that everything is the object of politics; that would be similar to a totalitarian situation where in every aspect of life is dominated by politics. Rather, it should be understood in the way in which Carl Schmitt described the political. For Schmitt, the domain of politics changes constantly as result of shifting power configurations. In this Schmittian view, the political acts like a ghost: the social is haunted by the political. Every aspect of social life, whether it be health, religion or economics, can suddenly become the object of political contestation.[9] But, and this is important, the political can never appear in every aspect of the social at the same time. That would be equivalent to a Hobbesian state of nature or the psychotic universe mentioned above. So, instead of saying 'everything is political', it would be better to say 'everything can become (ever again) political'.

At this point we start to see glimpses of the relevance of this ontological position. Indeed, if what is excluded from a signifying system is not the result of an underlying necessity, it can only be the result of a decision. The act of the decision, is an authoritarian moment which has no foundation except in itself. To make this decision acceptable is the result of a successful hegemonic operation. Since the decision

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9 Schmitt (1979) 38.

is never the result of an underlying necessity, however, it follows that every hegemony is susceptible to counter-hegemonic practices. In brief, if things could always be different, it can always be claimed that things *should* be different. Everything can become the object of political struggle.

However, this positive consequence hangs together with a less positive one. If we accept this ontological position, we also have to accept that an all-inclusive, fixed system of meaning is impossible. There can be no meaning or identity without excluding something. Every identity meets in the end a limit which can no longer be grasped in a meaningful way. What lies beyond the limit is fundamentally threatening towards what lies inside. But if we start speaking about collective identities, this implies the following:

> "we are always dealing with the creation of a 'we' which can exist only by the demarcation of a 'they'... [and] [s]ince all forms of political identities entail a we/they distinction, this means that the possibility of emergence of antagonism can never be eliminated. It is therefore an illusion to believe in a society from which antagonism would have been eradicated."[10]

This quotation from Mouffe points to the impossibility of society as such. Society becomes impossible in the sense that there will always be a 'they', something that cannot be included but that necessarily must be excluded. This impossibility of society makes every society political. But every society can institute the political in different ways. The concrete way in which antagonism is dealt with in particular societies is what Mouffe calls politics. Let us now look at how democracies deal with antagonism.

Democratic politics and hope

A democratic regime differs from other regimes in the way that it recognizes its own contingency as well as the antagonistic nature of the social. The latter is even cultivated by institutionalizing a space for contestation

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10 Mouffe (2005) 15, 16.

and discussion.[11] In this characterization of democracy, Mouffe and Laclau draw from Claude Lefort. For Lefort, modern democracy differs from the Ancient Regime in the way the former recognizes that society can no longer be thought as a unity. In the Ancient Regime, the King brought unity. He was the mediator between a transcendent order and society. As such, he functioned as the foundation of Knowledge, Power and Law. In a democracy, this foundation disappears. Instead of a foundation, there is a constant debate about what can be accepted as truth, how law can be grounded and how power can be legitimate. Democracy is a never-ending search, a discussion or even a conflict in which every victory is temporary and every certainty disappears. The fundamental difference between democracy and other regimes lies not in the fact that it is contingent and characterized by conflicts, because that characterizes every political order, but in the public recognition and cultivation of contingency and conflict:

> "What is specific and valuable about modern democracy is that, when properly understood, it creates a space in which [...] confrontation is kept open, power relations are always put into question and no victory can be final. However, such an 'agonistic' democracy requires accepting that conflict and division are inherent to politics and that there is no place where reconciliation could be definitively achieved as the full actualization of 'the people'."[12]

Starting from this description of democracy, it should become clear that democracy manifests itself as an impossible possibility. Indeed, the moment we can manage contestation in a perfect way, we can no longer speak of contestation, and democracy would be lost. Real plurality requires that we never fully agree with each other. A perfect democracy is a contradiction in terms. As Mouffe puts it:

> "To imagine that pluralist democracy could ever be perfectly instantiated is to transform it into a self-refuting ideal, since the condition of possibility

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11 When an antagonism is 'institutionalized' it means that it has become an agonism. That is why, from now on, we will mostly be speaking about an agonistic democracy. For details concerning the difference between antagonism and agonism, cf. Mouffe (2005) 31.

12 Mouffe (2009)15-16.

of a pluralist democracy is at the same time the condition of impossibility of its perfect implementation. Hence, the importance of acknowledging its paradoxical nature."[13]

According to Mouffe, contemporary politics fails to acknowledge this paradoxical nature of pluralist democracy. Inspired by philosophers like Rawls and Habermas, contemporary politics pays a good deal of attention to dialogue and consensus but neglects the important role of conflict and contestation. As a consequence, political parties gather in the centre, and the traditional left-right division seems to fade away. The idea arises that we have overcome this division and instituted a more or less perfect democratic way of living together – at least in the minds of politicians. But we pay a heavy price for this. We fail to represent existing antagonisms in the public realm, and, as a result, these antagonisms are often criminalized or marginalized. Terrorism or blind violence could be seen as symptoms of this evolution. Another symptom is growing political indifference, as we all seem to agree that it no longer matters if we participate in politics or not.

Indifference and radicalization are the result of a politics which is no longer able to offer alternatives to the existing situation, and, as such, precludes the possibility of hope. According to Mouffe, an agonistic model of democracy that keeps conflict and contestation alive can avoid this. In an agonistic democracy, several legitimate but irreconcilable alternatives are recognized and the possibility of change is always kept open. This results in the flourishing of hope, because people can truly believe in change, and politics can claim to realize this change. That is why Mouffe holds a plea for the re-institutionalization of the traditional left-right division:

> "A well functioning democracy calls for a clash of legitimate democratic positions. This is what the confrontation between left and right needs to be about. Such a confrontation should provide forms of identification strong enough to mobilize political passions."[14]

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13 Mouffe (2009) 16.
14 Mouffe (2005) 30.

From Hope to Nihilism

Is an agonistic democracy enough to establish a politics of passions and, ultimately, hope? It is certainly a step in the good direction. It is probably true that emphasizing the importance of contestation leads to more genuine pluralism. And this pluralism will certainly lead to more passionate political debates. But can it offer hope? At first glance we can say it does, because an agonistic model of democracy offers alternatives to the existing order. Yet what are these alternatives worth? Are they worth investing our desires and passions in them? Having an alternative does not automatically lead to hope. Something more is needed. In the following paragraph, I will try to explain what is missing in Laclau's and Mouffe's theory and why this leads to nihilism rather than hope.

In Laclau's and Mouffe's political ontology and in Mouffe's concept of agonistic democracy the notion of impossibility occupies a central place. From an ontological perspective, as it was stated above, society as such is impossible, and an agonistic democracy accepts and culti-vates this impossibility. This means that there can never be a perfectly harmonious or just society. It is ontologically impossible, and being democratic means accepting this impossibility without reservations. So, being democratic implies giving up on striving for a perfectly just society, that is, utopia. Utopia has finally become a *u-topos*, 'a place that does not exist'. The question, however, is whether utopia is not a necessary illusion for every hope? And can an agonistic democracy which establishes a new left-right division even exist without having some glimpses of utopia?

First of all, when Mouffe defends the re-institution of the left-right division in society, she seems to forget one crucial dimension. The left has always been driven by a utopian spirit. The goal has always been a society without classes, without capitalism, inhabited by free and equal people. Of course, people within the left disagreed about how to reach this state, what it should look like, and thousands of other things. But it cannot be denied that there always existed, somewhere in the background, this utopian hope. This leftist utopian hope collapsed after 1989 and the left lost itself in an intellectual crisis that continues today. By emphasizing the impossibility of society, Lalcau and Mouffe do not solve this crisis. On the contrary, they contribute to it.

Let me illustrate this with a remark made by Mark Devenney.[15] According Devenney, Mouffe's model of agonistic democracy can be compared with the marxist notion of a 'permanent revolution'. But the big difference with Marx and other authors who used the concept of 'permanent revolution', of course, is that for these authors the notion of permanent revolution was framed by the grand emancipatory story of Marxism – the kind of story that can no longer be accepted if we underwrite the political-ontological framework of Laclau and Mouffe. But what is left then? What is left is the pure notion of a permanent revolution without any possible end point. Such an end point is ontologically impossible because it would be equivalent to a signifying system which does not exclude. But this leaves us not only with a revolution without a purpose, but also a whole history we cannot make sense of.

In the political ontology of Laclau and Mouffe, history is without purpose and thus without hope. The antagonism is unavoidable and forms part of our human condition. Every victory and every change is always partial and in the end doomed to fail. There is no exit. The revolution is *necessarily* permanent. History itself rests without meaning and it appears as an accumulation of rubble and needless bloodshed. On the question of the 'why' after all this, the answer can only be silence. The historical-philosophical position towards which the political ontology of Laclau and Mouffe leads is nihilism: there is no transcendent order which gives us a mainstay for our lives, no eternal truths and no absolute good or evil. As Nietzsche already noticed, once people realize this, they suffer from a kind of split mind:

> "But as soon as man finds out how that world [of truth, SC] is fabricated solely from psychological needs, and how he has absolutely no right to it, the last form of nihilism comes into being: it includes disbelief in any metaphysical world and forbids itself any belief in a true world. Having reached this standpoint, one grants the reality of becoming as the only reality, forbids oneself every clandestine access to afterworlds and false divinities – but cannot endure this world though one does not want to deny it."[16]

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15 Devenney (2009) 135.
16 Quote taken from Critchley (2004) 9.

A split mind leads to strange behavior. Two answers or attitudes are possible in facing nihilism. These two answers are inspired by what Nietzsche called active and passive nihilism. The first is what I would simply call 'indifference'. Indifference is born from the insight that nothing really makes sense: in the end it all comes to the same and, fundamentally, nobody can change the way things are. So why bother any longer? This attitude means withdrawing from public life and seeking happiness in the safe cocoon of private life. It leads to conformism and resignation. The second possible attitude is in some ways the opposite of the first. As an answer to nihilism, one aims for the total destruction of what exists. The act of destroying the existent order is more important the establishment of a new order. The most clear example of this second attitude, of course, are acts of terrorism. But maybe terrorism is just the tip of the iceberg. The destructive attitude from which terrorism starts is shared by a larger group than just terrorists. It is also present in radical nationalist, racist or fundamentalist groups and, by and large, in any group with totalitarian characteristics.[17]

Some consequences of nihilism are thus indifference and radicalism. Indeed, Mouffe was right in claiming that lack of hope leads to indifference and radicalism. For her, an agonistic democracy would solve this problem. We just showed, however, that it ultimately leads to exactly the same problems. We could even ask ourselves whether what Mouffe describes as the post-political or consensus-models of democracy is not the consequence of nihilism and lack of hope rather than what produces lack of hope and nihilism. Does not post-politics correspond to a kind of indifference? Instead of dreaming of a bright future, it claims only that things should be 'managed' and that we all should get along. Nothing more. To me, it seems that it is more like a product of nihilism than the engine behind nihilism.

However, one could argue that the latter only makes sense if we hold to the political-ontological framework developed by Laclau and Mouffe. If we just get rid of this political-ontological framework, then

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[17] Apart from inspired by Nietzsche, the identification of these two attitudes as a reaction towards nihilism are also partly defined by Devenny and Critchley. Cf. Critchley (2004) 12-13 and Devenney (2009) 135.

the problem just sketched would evaporate. Yet this does not count as an objection, and for two reasons. In the first place, at the beginning of this essay I claimed that I wanted to show how there is a tension between the theoretical framework on which Laclau and Mouffe base their claims and the particular claim they make for a politics of hope, a point that was just demonstrated. But, in the second place, this point corresponds to a problem that largely exceeds a discussion within Laclau and Mouffe. When Laclau states in the very first line of *New Reflections on the Revolution of our Time*, 'Every age adopts an image of itself', this also holds for his own philosophy.[18] The political ontology of Laclau and Mouffe is a conceptual image of a time in which nihilism is a fact. Every transcendent order has indeed disappeared: there are no grand ideologies or Great Stories anymore. We can be sad about that, but have no other choice than to acknowledge it. It is in this way that Mouffe and Laclau bring us into confrontation with a problem that exceeds their own philosophy: the fact of nihilism.

The central issue we will deal with in the next part of this paper is the question of how this nihilism can be overcome. I will specify the question by considering how to localize hope within the political-ontological framework sketched above, but I also aim to say something more general about hope within a democratic context. My answer to these questions, however, should be considered as an experiment in two ways. Firstly, I cannot claim to solve the problem in this short essay. The only thing I can do is give a direction as to where hope can be localized. Secondly, my answer will be an experiment because I make use of an analogy to give this direction: namely, the analogy of the writer's writing.

The Writer's Writing

The most central idea in the political ontology of Laclau and Mouffe is that of the impossible possibility of every order, which has as its consequence the unavoidability of antagonism. The latter results in the difficulty of making a place for hope. To show that hope is still

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18 Laclau (1990) 3.

possible without denying the real possibility and threat of nihilism, I wish to use the analogy of the writer's writing. Why this analogy? I see two arguments for it. First, writing has to do with language, with building signifying systems and discourses, and it therefore stands close to the language and discourse-based theory of Laclau and Mouffe. Second, analogy must be used in order to broaden the horizon of the problem, because in Mouffe's and Laclau's philosophy we are simply left with a tension, and there are few, if any, clues towards a solution. Analogy is an important tool for solving problems, although we should also be aware of its limits. Analogy is never a literal translation of the problem to be solved. In the same way, the analogical answer cannot be interpreted as a literal answer, but instead must be conceived as a direction in which we should search for an answer.

I use the analogy of a writer's writing because I think the writer is constantly confronted with the impossible possibility of writing itself. The possibility of writing can only exist through the final impossibility of writing. A writer never succeeds in writing the Ultimate Book which contains everything he ever wanted to say or that ever can be said. The writer's writing never comes to an end. And, if it ever came to an end, writing itself would no longer be possible. A writer can only continue to write by virtue of the ever-unfinished nature of his activity.[19] This is a necessary consequence of the nature of art itself. Art always seeks to capture the infinite in a finite object – whether it be a picture, a poem or a symphony.[20] The infinite can only be captured through the finite, yet, of course, the finite can never fully capture the infinite. If we are blinded by the illusion of fully capturing the infinite through the finite, then the infinite as such disappears.

This same idea is present in Blanchot's interpretation of the myth of Orpheus and Eurydice. In this myth, Orpheus is offered the chance to recover his deceased lover Eurydice from the underworld. Hades was thrilled by the way Orpheus sung about his lost Eurydice, and that is why Orpheus had the opportunity to get Eurydice back. But Hades set one condition: Orpheus was not allowed to look back at Eurydice while he guided her out of the underworld. Only in broad daylight could

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[19] Critchley (2004) 36.
[20] Compare to Badiou (2005) 37.

he look at her again. But Orpheus was unable to resist the temptation and looked back at her before daylight. The moment he looked back, Eurydice was forever lost in the darkness of the underworld.

According to Blachot, Orpheus made the crucial mistake of desiring to possess Eurydice in a direct way, whereas he could only posses or even access her in his songs about her. Reaching to Eurydice beyond the limits of the song results in her disappearance. Blanchot writes:

> "[...]only in the song does Orpheus have power over Eurydice. But in the song too, Eurydice is already lost, and Orpheus himself is the dispersed Orpheus; the song immediately makes him 'infinitely dead'. He loses Eurydice because he desires her beyond the measured limits of the song, and he loses himself, but his desire, and Eurydice lost, and Orpheus dispersed are necessary to the song, just as the ordeal of eternal inertia is necessary to the work."[21]

Orpheus looked back because he wanted a pure representation of Eurydice, a Eurydice existing outside the limits of the song or the language – the Eurydice who made him write songs. But the desire itself can never be perfectly represented or expressed. The writer can never come to such an expression because of the nature of language. The personal longing is always destroyed by the public nature of language itself.[22] As Gregory De Vleeschouwer writes in 'Into the White': "The origin of work is the longing to capture the private feeling with a public representation. That is impossible."[23] Indeed, from the moment that a private desire is expressed in language, it can no longer be private because it involves a multiplicity of possible interpretations. Yet the writer's utopia is the transcending of this contradiction: showing the infinite as infinite and bridging the gap between public and private. That is why Orpheus looked back.

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21 Blanchot (1982) 173.
22 De Vleeschouwer (forthcoming) 61.
23 De Vleeschouwer (forthcoming) 55-56. Simon Critchley comes to the same conclusion when he states: "Is there not a performative contradiction at the heart of literature insofar as its use of language is premised upon the generality of meaning and communication, but where what is expressed in language is the writer's solitude?" Cf. Critchley (2004) 37.

But it is extremely important to realize that Orpheus' looking-back was only possible because of the beauty of Eurydice that he had sung about. The beauty of his songs was the only reason he gained access to the underworld. The longing for a pure representation of Eurydice was cultivated through nothing but the songs he sung. The moment Orpheus looked back, the object of desire was touched but immediately disappeared again. Orpheus is definitively condemned again to meet Eurydice only within the limits of the song. The moment of looking back is what Blanchot calls the birth of literature. But this is a paradoxical statement, because looking back was only possible through the singing about Eurydice. This is the paradox of writing itself. One must only write to find the opening to what one longs for, yet the writing itself is only possible through the longing itself. As Blanchot himself puts it:

> "[…]one writes only if one reaches that instant which nevertheless one can only approach in the space opened by the movement of writing. To write, one has to write already."[24]

Thus, the hope and the longing of the writer are inextricably bound to the act of writing itself. The longing is born out of the act of writing and the writing is born out of the longing. Longing and writing are like head and tail of a snake which bites itself. The impossible moment in which the snake has eaten itself is the moment when Orpheus looks back and faces the true impossibility of his writing. But what keeps the writer writing despite this fundamental impossibility is the longing evoked in the very act of writing. In the act of writing, the longing becomes an impossible promise. Writing can only exist by virtue of this promise.

Wanted: a Discourse of Hope

Of crucial importance is the connection between longing and writing, or, more generally, between acting and hoping. What counts for writing

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[24] Blanchot (1982) 176.

as an act also counts for political action. Despite the impossibility of utopia, every political act is inextricably connected with hope and hope with political action. Hope and political action presuppose each other. Even within a nihilistic context, there remains a fundamental connection between action and hope. Nihilism can destroy religious or metaphysical imaginaries, but cannot destroy hope as such:

> "We can do away with the teleological and eschatological dimensions, we can even do away with all the actual contents of the historical messianisms, but what we cannot do away with is the 'promise' because it is inscribed in the structure of all experience."[25]

In my view, the threat of nihilism can only be overcome if hope is inscribed in the structure of experience as such. If that is the case, we can state that hope is 'the country at which humanity is always landing', and explain why hope is indeed ineradicable despite a nihilistic universe. Only if we connect hope with the conditions of experience can we start to make sense of concepts like 'democracy to come' – a model of democracy that Mouffe often refers to in order to illustrate the impossible possibility of democracy.[26]

Yet not all of the problems are thereby solved. Although we cannot strictly distinguish between longing and writing or between political action and hope, it remains legitimate to ask what initiates hope and political action. Why write in the first place? Why undertake political action? What counts for writing in this case also counts for political action. Orpheus' singing found its origin in the experience of a lack called Eurydice. Writing starts with the experience of a lack. The same holds for political action.[27] The experience of lack, however, is never enough. The demand of being free from oppression does not necessarily

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25 Laclau (1996) 75.
26 Mouffe (2009) 136.
27 This position is related to what Laclau states in On Populist Reason. To understand the becoming of a populistic front, Laclau states, one must not focus on an existing populist front but understand the grieves and demands from which it started to exist. Those demands are always the result of experiencing a lack, a shortage, an injustice, etc. And as populism is, according to Laclau, a central political logic – one of the most important ways of constituting the social – it can be claimed that the experience of a lack is the central feature in starting up political action. Laclau (2007) 73.

follow from oppression as such. There has to be a discourse that makes oppression visible as oppression. As Camus puts it in 'The Rebel':

> "The spirit of rebellion can exist only in a society where a theoretical equality conceals great factual inequalities. [...] We can only deduce from this observation that rebellion is the act of an educated man who is aware of his own rights."[28]

In the light of this quotation, we can offer a new interpretation of Mouffe's plea for the re-institution of a left-right division. What is necessary is not conflict as such (although it is unavoidable), but a (leftist) discourse which shows suppression as suppression, thereby encouraging political action, and thus, hope. Of course, such a discourse is not totally exterior to political action and hope. It is interwoven with it and receives its shape and content through it, but it retains a degree of exteriority. What, then, is the relationship between action and hope, on the one hand, and discourse that initiates action, on the other hand? I would say that a discourse is on the side of the ontic: it is the instance through which action and hope come into existence and express themselves. The particular content that will express the ontological relation between action and hope is a contingent matter. Hope can be embodied by a fascist, nationalist or leftist discourse. The ontological connection between action and hope does not determine which particular discourse will express it. The latter will become the subject of a hegemonic struggle.[29]

Democracy: a tragic hope?

The nihilistic challenge can therefore only be overcome if we accept the ontological connection between action and hope. This means that

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28 Camus (1960) 14.

29 Zournazi (2002) 127:"Hope is always related to a certain lack which is the reverse of the discourse of hope. The point is [...] that the concrete content which is going to incarnate that need for something which is unspecified is not given from the beginning... What we have to define in this hegemonic game is the attempt to channel this particular content and this broad social hope which has no precise content of its own."

hope precedes nihilism. Nihilism can only be a response to failed hope, to actions which did not succeed. As such, nihilism can never be completely overcome. Misfortune and despair are always just around the corner. Being nihilistic means being paralyzed by the unavoidability of failure. Since democracy reveals and recognizes the public failures of state officials, government, presidents and more, it will always be vulnerable to nihilism. And yet, besides this vulnerability to nihilism, it is also the only regime in which citizens have so many possibilities to undertake political action. Political hope lives through this action, and nihilism can only be cured by undertaking action again. So, if democracy seeks to be a political regime of hope, it will have to be able to create and stimulate discourses by which people are encouraged to take action. But which discourse and which action?

Let me begin with action. By this emphasis on action, we come close to what some republicanists claim.[30] Yet we have to be careful about embracing republicanism fully. Often, although not always, republicanism is about undertaking political action in order to uphold a regime, certain rights or benefits. Democracy has to be more radical than this, in my view. It should not only stimulate those actions that benefit the existing regime, but also ones that radically challenge the regime. As such, there should be room for public contestations, extra-parliamentary action, civil disobedience, manifestations, deviant art and the more. This goes further than republicanism.

But this raises an important question concerning the discourse of hope. If hope is necessary for a democracy to survive, then which kind of hopeful discourses can be conciliated with democracy? Which hope is democratic? This is a question for further research. But it should be clear by everything said so far that it should be a kind of open-ended hope, a hope in which a kind of contingency, a recognition of its own hegemonic nature and final impossibility, are recognized. Otherwise, we would become like Orpheus and make every kind of hope impossible by seeking a direct representation of what we are longing for. There will thus always be something tragic about democratic hope because

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30 Pettit says "...people must be willing to go along with one another in associations and movements that are essential for republican success but that inevitably require patterns of mutual reliance and personal trust." Pettit (1997) 266.

it has to acknowledge its own final impossibility. This tragedy can only be neutralized by undertaking renewed action: the writer starts writing again because he feels that not everything has been told in his last piece of work. In doing this, the writer holds the words of Beckett in his mind: "Ever tried. Ever failed. No matter. Try again. Fail again. Fail better."[31] This is also the kind of attitude which corresponds to a democratic hope because it puts emphasis on action (it is about 'trying' and 'failing', not 'thinking' or 'praying'), and it recognizes the contingency of every action and hope.

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DEMOCRACY, HOPE AND NIHILISM

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PART III
DEMOCRACY IN CONTEXT

DESIGNING THE PUBLIC REALM
A PREREQUISITE FOR DEMOCRATIC INNOVATION

Marco Walter

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DESIGNING THE PUBLIC
REALM – A PREREQUISITE
FOR DEMOCRATIC
INNOVATION

Marco Walter

WHENEVER THE STATE OF PRESENT DAY DEMOCRACIES IS CONSIDERED, one finds the widespread view that they developed in a rather unpleasant way: The gap between citizens and political establishments is widening, represented by declining voter turn-out, waning trust in politicians and decreasing membership of traditional political organisations (e.g. Furedi 2005: 30ff. Smith 2009: 4, Schmitter/Trechsel (draft): 100-103). Furthermore, there is concern that well-organised interest-groups and economic constraints are dominating the political process, thereby fostering disillusionment of ordinary citizen participation (e.g. Linder 1999: 103, Crouch 2004, Shapiro 1999, Walzer 1999). The question therefore arises, of how these developments can be countered and the citizen encouraged to reengage. However, there are as many approaches to solving this problem as there are concepts of democracy. This paper will address two of these possible solutions and briefly discuss the results they yielded when tested in practice. After that, the argument is put forth that any particular approach is likely to miss the intended aims if it does not include a properly designed public sphere in its model. Since the concept of the public sphere is both extensively used and poorly defined, a careful analysis is carried out in order to delineate its crucial elements, drawing heavily on the theory and practices of ancient Athenian democracy. This proceeding allows in the end for advice regarding future democratic innovations.

Before considering the types of political involvement, one might ask why the participation of broader parts of the population is desirable at all. Following Schumpeter (in Schmidt 2000: 203) ordinary citizens are not suited to engage in political processes. Instead, they are viewed as incompetent, infantile and giving way to their affects, which leads to irrational decisions and behaviour. While this image of the incompetent citizen has partly been confirmed by political psychologists (e.g. Jervis 2004: 259-263), the contrasting opinion states that the process of participation is conducive to civic skills and that it should therefore be promoted first and foremost (e.g. Hüller 2010: 88, Miller 2001: 416). A claim that can also count on some support from political psychology (e.g. Kuklinski et al. 2001). The present paper will follow this line of thought, which is also sustained by what neuroscientists usually call "use it or lose it", a formula that refers to the simple insight that only skills which are practiced regularly can be maintained and developed (e.g. Bauer 2006: 57). Clearly, this only relates to the ability of a citizen to act in a participatory process and does not say anything about the quality of its outcome.[1] This topic will be addressed again at the end of the paper.

A variety of approaches has already been applied and tested in order to increase citizen participation in political processes. At the same time, it is difficult to differentiate the diverse perspectives clearly from one another, as for example, deliberative, participatory, direct, difference and cosmopolitan democracy (Smith 2009: 5) surely overlap in more than one respect. Therefore, the further proceeding will concentrate exemplarily on deliberative democracy – which is perhaps the most prominent the mentioned approaches – and on information and communication technologies – particularly the internet – as a potential facilitator of citizen participation of any kind.

A whole range of deliberative forums have been organised, carried out and analysed so far. In spite of their differing designs, all of them aimed at bringing citizens together on an equal basis to discuss some specific political problem (e.g. Fishkin/Luskin 2005). In line

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[1] Following the distinction by Scharpf (1970) between the input- and output-perspective, this approach – as participatory approaches usually do (cf. Schmidt 2000: 547) – adopts the former, stressing the value of citizen-participation in principle.

with this similar composition are the results of the research: The most common finding is that participants were able to elaborate and refine their knowledge about the debated issue (Fung 2003: 341). However, with regard to effects that point to an impact beyond the deliberation itself, hardly any success can be reported. Whenever an official or representative is involved to transfer the results into real political life, discussions become uneven and one-sided (Button/Mattson 1999: 625-628). If some specific policy is agreed on and recommended, it is either ignored by the wider public or dismissed due to a lack of financial opportunities (ibid. 629f., Smith 2009: 23). One must therefore conclude that contemporary deliberative debating remains largely disconnected from real political decision-making (Lösch 2003: 12).

Similar conclusions have been drawn in relation to the internet as a facilitator of citizen participation. First of all, the most important finding is that the internet does not generate entirely new forms of participation, but rather provides opportunities for those who were already active. It therefore simply reinforces existing patterns of commitment (Metje 2005: 28/43).[2] Moreover, the effects of online participation are the same as with deliberation: there is no substantial impact on real political processes (Smith 2009: 147/155) and in some cases it is impossible to overlook the "consistent and systematic disregard" on the part of political entities (Hüller 2010: 97). It is sometimes noted that the internet fails to create a public sphere, not only because people have unequal opportunity to participate, but also because of its non-binding structure and overwhelming commercialisation (Ackerly 2006: 125). This observation suggests that the internet might be suitable for building up and maintaining networks between interested and experienced activists, but not for facilitating political participation in general.

If not the web, what else is capable of hosting genuine democratic participation? To answer this question, the hypothesis is examined that this can only happen within the framework of an accurately designed public sphere. This concept is generally well-known and often employed by democratic theorists who are aware of their ancient ancestors,

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[2] Smith (2009: 148) argues in a very similar way. It must therefore be concluded that regarding the competition among the thesis of reinforcement and that of mobilization through internet-based participation (Metje 2005: 20) the former seems to be more adequate.

which makes it all the more surprising that the vast application and recognised importance for a democracy is not matched by equal concern about what its central features are. For example, "The Encyclopedia of Democracy" (1995) does not even list the term.[3]

When trying to find a definition, the first hurdle to overcome is the widespread use of different expressions: Everything from "public sphere" and "public space" to "public realm" and even simply "public" is employed, as well as the closely related term "public opinion". From now on, the expression "public realm" shall be adopted, following Hannah Arendt in her seminal work "The Human Condition" (1973). This is not only justified because she is perhaps the most consequent theorist of the public realm in relation to antiquity, but also because it demarcates the concept from the public sphere whose meaning is usually strongly linked to Jürgen Habermas' influential study "The Structural Transformation of the Public Sphere" (1991). In his work, the public sphere refers to a space between state and society in which civil society debates and reflects upon public concerns in an open, mostly unstructured environment. As will be shown, this notion is different from its meaning in the context of ancient Athens, where the public realm formed the focal point of the community and was structured in several ways.[4] The political reality there, 2'500 years ago, is now to be described in order to highlight the central features of a public realm (if not indicated differently, the description follows Bleicken 1995).

For some 150 years, Athenian democracy was characterised by an outstanding amount of participation by its citizens. The two main democratic institutions were the plenary assembly and the courts. Both were ascribed detailed proceedings and competences and also a corresponding site where meetings were held and which was physically defined.[5] To prevent a single person or a faction from dominating

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3 A glance at various encyclopaedias of democracy or political science in general reveals that the term 'public sphere', or a close correlate, is usually granted minor attention – if listed at all – with respect to the more dominant expression of 'public opinion'.

4 It is remarkable that this difference in conclusion is contrasted by a great deal of agreement regarding the analysis of the problem, especially that the public sphere has increasingly been invaded by intimate and economic elements which in antiquity were ascribed to the private realm (*oikos*) (e.g. Habermas 1991: 57/76/262, Arendt 2002: 39/60/88/157).

5 The plenary assembly originally met at the *agora* but had to change site, because it became too small as more people were enabled to participate. They moved to the *Pnyx* that allowed

political decisions, a series of measures was taken: The underlying political units were mixed, in that each of them consisted of three geographically different parts: a city, coastal and inland region. The chair of the coordinating council with its 500 members rotated among these units throughout the year and rotation was also a key element of the offices. Moreover, office holders were mostly assigned by drawing lots, while this was true for all the 201 or more judges who populated the courts. Unlike today, where elections are usually viewed as the key democratic mechanism, back then, it was drawing lots.[6] In order to enable every citizen to participate, allowances were granted for attendance of the plenary assembly and the courts. This measure underlines the immense value that the Athenians attached to political life and that is expressed by Pericles who states that a person staying away from it is regarded as useless (Thuc. II, 40). Similarly, Aristotle defines the citizen as sharing in the administration of justice and in offices (*Pol.*, 1275a).

The importance of participation is reflected by the competence of the two institutions: They could literally decide everything. Limitations in this respect would have been considered as a negation of the freedom that the Athenians as an independent *polis* enjoyed. Furthermore, the budget constraints that shape large parts of today's politics did not exist to the same extent, as funds were raised when needed and wealthier citizens expected to contribute.[7] Still, decision-making was not completely unrestricted, since every resolution had to comply with the existing laws. The laws in turn were not seen as the central issue

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up to 15'000 people to meet. Occasionally, meetings were held in the theatre of Dyonisus or – if marine issues were to be decided – in the theatres of Piraeus. Most of the courts of jurisdiction were situated next to the *agora* (Bleicken 1995: 192 and 247).

[6] This is implied by Aristotle's statement that the people were the master of the state (*politeia*) because they were the masters of the *psēphos* (the pebbles with which the judges voted on the trials) (*Ath. Pol.* 9) and likewise Ober (2008: 8) maintains that the institutions of democracy were never centred on elections. However, while drawing lots was the crucial mechanism, it was not exclusively applied but often combined with elections, as Buchstein (2009: 91-99) has pointed out.

[7] Bleicken (1995: 291-299) gives an overview of the financial sources of the Athenian *polis* and Finley (1977: 176ff.) points out the peculiar characteristic of *leitourgia,* oscillating between its compulsory and honorific meaning to wealthier citizens. The overall attitude of the Greeks towards fund raising is concisely summarized in Demosthenes' speech on the Navy (14, 26): "The money, I say, we have when it is really needed, but not before".

of the political process,[8] but instead as a pre-political condition that created the *polis* as a political entity in the first place (Arendt 2002: 78). To quote Hannah Arendt again: they were necessary to contain the immoderateness that is inherent in every political action (2003: 118).

In effect, it was not the resolutions that were subject to judicial examination, but the person who proposed them. In the same way, literally everyone who exposed themselves in the public realm was in danger of being accused of acting against the community. Office holders and military generals ran an especially high risk, as their control was institutionalised and they were often summoned to the courts which, for the latter group, frequently ended with death penalty. A milder sentence was ostracism, a punishment that regularly affected citizens who were considered to have become too influential and powerful, and thus a threat to the fundamental equality of all citizens.

This description of ancient Athenian democracy allows extracting three key elements of their public realm which, it is argued, must be present in any participatory design:[9]

- *Equality*: Equality among the politically involved is so crucial that the terms related to it, like *isonomia* (equal-law) and *isegoria* (equal-public address), could be used as synonyms to democracy (Ober 2008: 6). Its importance is further underlined by the increasingly refined variety of instruments designed to secure equality of participation, such as office rotation, drawing lots[10] and allowances.
- *Decision-making ability*: Once the institutional framework was set up in form of laws – a task that in Athens was perceived to have been accomplished by Drakon, and above all, Solon – the citizens were free

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[8] After the collection of laws in the wake of the oligarchy of 404/403 BC only seven new *nomoi* were enacted until the end of the democratic order (Bleicken 1995: 223).

[9] Clearly, to establish such fixed criteria narrows the scope of what can rightly be called political participation. This consequence is recognised and actually intended. Crouch (2004: 16) and Furedi (2005: 36f.) likewise pointed out the danger of labelling any form of activity as political, thereby overstating the degree of general participation and shifting the focus away of existing problems. Instead, the three categories serve as a heuristic either to distinguish political participation or to establish it in the first place.

[10] Aristotle (*Ath. Pol.* 63-65) gives an impressive and detailed, yet hardly understandable description of the process itself. For a comprehensive account see Buchstein (2009: 30-34) and especially Bleicken (1995: 316f.).

to debate and decide on any topic they wanted to. And indeed, they did so, not only metaphorically but with decisions that yielded real and sometimes unfavourable consequences.

- *Accountability*: The constant political involvement did not take place under the protection of shadowy anonymity but in the light of the public realm, under the observant eyes of fellow citizens. Therefore, anyone could and was held accountable for what they did, which found its formal expression in the permanent control of office holders. However, it also affected less formally involved citizens, as the tragic case of Socrates demonstrates.

- Having elaborated on these three key elements[11] of the public realm and turning back to the participatory experiments discussed before, it becomes apparent that their failure can be traced back to the absence of one or more of these elements:

- *Equality:* Organisers of deliberative forums usually emphasise the importance of equality among participants. However, this premise was violated as soon as an official person joined the discussion. This finding shows that equality is not established by simply positing it, but – as the ancient example teaches – it has to be maintained and reinforced through cleverly designed institutions and mechanisms that must be refined as soon as people find ways to by-pass them.

- *Decision-making ability*: Admittedly, most deliberative forums do not intend nor promise to have a direct effect on real policy decisions. Yet, this is also a major source of disillusionment among participants of those experiments (Button/Mattson 1999: 629f.). Support for such forums would be far more enthusiastic if they actually had an influence on political processes. The same is true for online participation where in some cases increased citizen involvement in the decision-making process was overtly aspired to, but it obviously had zero

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11 It is telling that the second of these elements 'decision-making ability' is often either ignored or taken for granted in normative democratic designs. For example, Hüller (2010: 84) identifies three principles of democracy: "political equality and/or reciprocity, publicity and accountability" and seems to assume that the influence on actual decisions is implied in those principles. Smith (2009: 22-24) is aware of this problem and therefore includes "popular control" as a feature to test the quality of democratic innovations. In consequence, the present paper corroborates that decision-making ability can neither be taken for granted nor will it naturally arise out of other prerequisites, but has to be established explicitly at the outset of democratic processes.

effect (Hüller 2010). At least some degree of decision-making ability would significantly improve these experiments and enhance people's willingness to participate (Münkler/Wassermann 2008: 18).

- *Accountability:* The last factor reveals the iterative character of the three elements: if equality among participants is not guaranteed, the process is not democratic and therefore need no longer be considered. If there is equality but no decision-making ability, the question about account-ability remains irrelevant, since there is nothing to account for. As has been pointed out, most deliberative forums do not go so far as to attempt direct influence on real policy decisions and thus there is no record of accountability that could be judged. However, it can be asserted that their widespread design as a one-shot affair would have to be extended if the participants were to be held responsible for their decisions (cf. Fung 2003: 354f. for the case of deliberative polling). Similarly, the absence of impact had to be acknowledged regarding online communities. Yet, in principle, there are no obstacles for internet-based approaches to pro-vide accountability, but this can only happen under the conditions that credible rules are established to secure privacy protection and if users are willing to give up their anonymity. It must therefore be concluded that "the internet will not be a tool *for* democracy unless its users choose to use it that way" (Ackerly 2006: 136, original emphasis).

Alongside these far from ideal examples, there exist more promis-ing experiments. Maybe the most successful and prominent is partici-patory budgeting in Porto Alegre, where citizens are allowed to decide on the spending of a fixed part of the city budget within an institutional design that combines direct and representative elements (for an over-view see Fung 2003: 360-362, Smith 2009: 33-39). An analysis taking into consideration the three elements of the public realm shows that they are all present, at least to some degree: Equality is provided in that popular assemblies are open to every citizen and terms in offices and councils are strictly limited. Furthermore, a cleverly-designed mechanism seeks to equalise demands over districts with regard to the number of participants in each neighbourhood.[12] Decision-making

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12 Following Baiocchi, Fung (2003: 361, note 51) describes the mechanism – by which one is immediately reminded of the Greeks' efforts to secure equal participation – as follows:

ability is granted as citizens have a fixed part of the city budget at their disposal. In theory, the legislative body could reject their decision, but thanks to its strong legitimacy, this is unlikely to happen (Santos 2005: 316). Finally, past performance is scrutinised every year in popular assemblies and delegates are subject to recall at any time. Overall, the balanced design of participatory budgeting has led to increased participation and to recognition and imitation worldwide. At the same time, its complex and long-lasting processes suggest that such experiments are primarily suited for the communal level (Fetscher 2007: 94, Münkler/Wassermann 2008: 17), while at higher levels one cannot help but ask what other forms of governance might be employed (Volkmann 2002: 609).

In the light of the presented findings it is recommended that any participatory experiment should first and foremost check whether each of the three elements of the public realm are to some extent integrated into its design, above all, if it is to be more than an informative, or at best, educational event. As Zhu (2004: 241) has correctly observed it was "[t]hanks to Aristotle's contribution, [that] politics for the first time had its proper domain". As a distinctive domain, the political realm has its distinctive characteristics and to define these from a participatory standpoint was the aim of the present paper.

However, it must be added that securing participation as suggested does not guarantee good governance and Hannah Arendt's claim that the more perspectives included in a judgment, the more qualified it is, might be too optimistic a generalisation (2006: 28). Instead, as many authors have acknowledged, courage will remain the central political virtue (Arendt 2002: 45, Cic. *Rep.* I, 3, Nordmann 2007: 62, Riecker 2006, Thuc. II, 39, Vowinckel 2007: 51). First, on a personal level, to be able to expose oneself in the light of the public realm, and, second, on a communal level, to be prepared to accept the decisions the community takes, which will always be insecure at the outset and will always include the risk of disastrous consequences, as exemplified by the Athenian expedition to Sicily.

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"The number of delegates for a district is determined as follows: for the first 100 persons, one delegate for every ten persons; for the next 150 persons, one for twenty; for the next 150, one for thirty; for each additional forty persons after that, one delegate. To cite an example, a district that had 520 persons in attendance would have twenty-six delegates".

Still, one should not conclude that democratic engagement be dismissed and its forbearers ignored (Finley 1980: 25), but rather ask what the basic features of democratic institutions are and how they can be refined in order to reach the most balanced outcome. In this respect, Athens continues to be a shining example as the community in which the proportionally highest number of citizens governed itself over a significantly long period of time (Ottmann 2001: 105).

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PART III
DEMOCRACY IN CONTEXT

FREEDOM, POWER AND REPRESENTATION:
GROUP FREEDOM AND DEMOCRACY IN SOUTH AFRICA

Lawrence Hamilton

LIBERAL AND REPUBLICAN PROPONENTS OF FREEDOM HAVE BEEN THE MAIN PROTAGONISTS IN A CENTURIES OLD IDEOLOGICAL BATTLE. So it is therefore one of the ironies of history that, despite this conflict, the accounts of freedom they defend share a central trait: they both conceive of freedom in terms of individual freedom and state freedom alone, either making them analogous to one another or making one a condition for the other.[1] This means that normally little or nothing is offered regarding the freedom of groups, thereby excluding from consideration a whole range of conditions that can limit or enable our *freedom of action*. Most of these conditions are to be found within and between the groups intermediate between individuals and the state: the various and cross-cutting groups to which all individuals find themselves associated and out of which many of the more important forms of

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1 Eg., Machiavelli, *Discourses*, ed. Crick (Penguin 2003), pp. 104-11, 116, 153-7, 197-8; Rousseau, *Social Contract*, ed. Gourevitch (CUP 1997), pp. 54, 82, 116; Hobbes, *Leviathan*, ed. Tuck (CUP 1996), p. 149; Locke, *Two Treatises of Government*, ed. Laslett (CUP 1967), Bk II, 4, 22, 27, 57-59, 61, 87, 95, 121-24, 217; J. S. Mill, *On Liberty*, in *On Liberty and Other Essays*, ed. Gray (OUP 1991), pp. 16-17; 121-2; 124-5; Rawls, *A Theory of Justice* (Harvard UP 1971); Rawls, *Political Liberalism* (Columbia UP 1994); Skinner, *Liberty Before Liberalism* (CUP 1998); Skinner, *Hobbes and Republican Liberty* (CUP 2008); Pettit, *Republicanism: A Theory of Freedom and Government* (OUP 1997); Feinberg, 'Freedom and Liberty', in E. Craig (ed.), *Routledge Encyclopedia of Philosophy* (Routledge 1998).

representation emerge. It should therefore come as no surprise that accounts of political representation have generally been conceived in similarly stark terms: either representation of the state or representation of individuals' opinions or preferences; or, in other words, the representation of 'unity' – the collective whole and its interests – or extreme 'diversity' – directly tracking the expressed interests of the represented (usually via some means of aggregation).[2]

With reference to South Africa I argue here that we can enhance our understanding of freedom and representative democracy if we buck this trend of reducing freedom and representation to the level of either that of the individual or that of the state. Rather, a more realistic conception of both emerges if we focus our attention on the freedom and representation of groups that cut across not only one another but also the various ways in which individuals and states are represented. This is only possible, however, on the basis of a more substantive and concrete account of freedom than is the norm within contemporary political philosophy, an account in which freedom is understood not exclusively in terms of the lack of humanly-generated impediments (the liberal position) or living freely within free states (the republican version), but in terms of freedom of action, or more particularly in terms of the power to act and the requirements for that power. I then go on to argue that groups can be agents, and even when they are not agents themselves their representatives give them agency; and the dynamics of this relationship of representation is one vital determinant of a group's freedom. The main claim I defend, following aesthetic accounts of representation, is that the freedom of the group is dependent upon whether or not the representative of the group can generate the right kinds of new interests *and* then defend them in the relevant formal institutions of representation. Representation is thereby a central component of individuals, groups and states powers to act. Like individuals and states, since groups can be represented, they can be more or less free.

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2 For examples of the former, see Hobbes, *Leviathan*, pp. 121, 128, 184; Burke, 'Speech to the Electors of Bristol', in *Selected Works of Edmund Burke* (Liberty Fund 1999); Rousseau, *Social Contract*, pp. 41, 58-65; Siéyès, *Political Writings*, ed. M. Sonenscher (Hackett 2003). For examples of the latter, see Dahl, *Democracy and its Critics* (Yale UP 1989); Przeworski, Stokes and Manin, *Democracy, Accountability and Representation* (CUP 1999), p. 2.

Freedom as Power

The account of freedom as power that underpins this argument is distinct from both the Liberal and Republican mainstream in that it does not *reduce* freedom to one defining feature, be that mere absence of (external) impediments, the ability to decide for oneself what to do (self-determination) or active citizenship within a free state. These are Berlin's 'negative' and 'positive' conceptions of freedom and the rival Republican account respectively.[3] Rather, this alternative account of freedom rejects the common tendency to favour a minimalist conception of freedom above a realistic one. It captures the substantive, concrete nature of freedom by identifying freedom with power in at least one important way. When I say 'I am free' normally I am not saying, 'I am externally unimpeded' or 'I am self-determining'; no, what I usually mean is 'I am free to do *X*' which concretely means 'I have the power or ability to do *X*'. So real modern freedom here is identified with and as power in that it conceives of freedom as a *combination of my ability to determine what I will do and my power to do it or bring it about*.

This way of thinking about freedom chimes very well with a number of the reasons and concerns that have driven most, if not all, of the various struggles for freedom across the ages, from the sharp distinction between freedom and slavery in Antiquity and beyond, and the various associated slave revolts, via the myriad liberation struggles against colonialism, apartheid, and domination based on race, gender or class (or some mixture of all of these), to the everyday attempts to gain more independence and freedom from others, the state, the law, poverty or crime. In other words, it captures well an important fact about human existence: people are interested in freedom as a human ideal, goal or aspiration not in and of itself but because it is thought to be connected with the actual attainment of 'something', that is, some good or set of goods; and the actual attainment of that 'something' depends on my having the *power* to attain it. The liberation struggle in South Africa did not have as its goal the abstract idea of being

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3 Berlin, 'Two Concepts of Liberty', *Four Essays on Liberty* (OUP 1996), pp. 118-172; Skinner, 'The Idea of negative Liberty', *Vision of Politics Vol II* (CUP 2002), pp. 160-185; Pettit, *Republicanism*; Taylor, 'What's Wrong With Negative Liberty?', *The Idea of Freedom*, ed. Ryan (OUP 1979), pp. 175-93.

'free from impediment' or 'living in a free state', but rather a series of much more concrete political, economic and social goals: being free to determine who rules and how they rule; being free to produce, exchange and consume wherever and whenever; being free to love, procreate, entertain oneself and others, bring up one's children and so on in conditions free of poverty and racial and gender discrimination and domination.

It turns out, moreover, that thinking about freedom as both about being able to *determine* what one will do and having the *power* to do what one decides to do is more common than is normally supposed. A surprising number and variety of political theorists associate freedom and power in exactly these terms. It is a mainstay of much of Antiquity, in particular Roman thought and practice. As Livy put it, 'freedom is to be in one's own power'.[4] Then, at the beginning of the modern era, Hobbes argues that: 'A FREE-MAN, *is he, that in those things, which by his strength and wit he is able to do, is not hindred to doe what he has a will to do*'. Hobbes therefore sees two essential elements in the concept of human freedom. a) The idea of possessing an underlying power or ability to act: it is in relation to a 'man's power to do what hee would that we speak of his being or not being at liberty'.[5] b) The matter of being unimpeded in the exercise of such powers. Rousseau too argues that power is one of two essential elements in freedom: 'Every free action has two causes which concur in producing it, one moral, namely the will which determines it, the other physical, namely the power which executes it'.[6] And then Burke, a very different sort of political thinker, argues that 'liberty, when men act in bodies, is *power*'.[7] Even Mill, late in *On Liberty*, argues that, amongst other things the 'political education of a free people' requires 'habituating them to act from public or semi-public motives' and that '[w]ithout these habits and powers, a free constitution can neither be worked nor preserved.'[8] In other words, a whole array of thinkers, even thinkers that Berlin lauds as

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4 *'Libertas suis stat viribus'*: Livy, *Ab Urbe Condita*, Book 35, Ch 32, 11.
5 Hobbes, *Leviathan*, pp. 146, 62, 91.
6 Rousseau, *Social Contract*, p. 82.
7 Burke, *Reflections on the Revolution in France*, ed. Conor Cruise O'Brien (Penguin 2004), p. 91.
8 Mill, *On Liberty*, pp. 121-2; and pp. 7, 16-17, 116.

standard-bearers for his 'negative' conception of freedom, are ultimately concerned with whether or not someone is able to exercise his or her power to act, that is to bring something about, to do something.

But it is in the work of Marx that we see the full efflorescence of the substantive, concrete account of modern freedom as power that underpins my argument here. Marx unequivocally identifies freedom with power. Unlike Berlin's distinction between two concepts of freedom, Marx distinguishes three concepts of freedom. The first is what Marx associates with the anarchism of Max Stirner, but in today's parlance we would call 'negative' freedom or the 'freedom' of libertarianism.[9] The second concept of freedom Marx discusses he identifies with Kant's view of freedom and which he defines as the ability a creature has to make its own decisions, or govern itself.[10] The third concept is the one Marx calls the 'materialist' notion of freedom that identifies freedom with power and that he thinks is the full, sophisticated notion. He argues that in this account, freedom comprises the 'the conjunction of the ability to determine what one will do and the power to do what one decides to do', and anything less than this is a mere shadow of the concept of freedom.[11] This means that for Marx the other two concepts he discusses, and *a fortiori* the main three concepts analysed in the modern literature, are poor approximations of this real form of freedom.

Another way of construing the importance of this more substantive account of freedom is that it provides a means of thinking about how freedom relates to the exercise of our powers as individuals and how we are enabled and disabled by a variety of internal and external abilities, obstacles, mechanisms and power relations. This is something, again, that a number of other thinkers have identified and stressed from a wide range of political perspectives. Here freedom is conceived as 'effective power', that is, freedom is rightly identified as a precondition

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9 Marx and Engels, *The German Ideology*, in *MECW, Vol 5* (Lawrence and Wishart 1976), pp. 304-6.

10 *Ibid.*, pp. 193-5. For Kant, freedom is the mere ability to determine the will, irrespective of whether this is even translated into actual action in the world. Geuss, *Politics and the Imagination* (Princeton UP 2009), p. 57.

11 Marx and Engels, *The German Ideology*, pp. 305-6; quote is from Geuss, 'Metaphysics of Right', p. 57.

for certain desirable 'beings and doings'. Nietzsche, for example, puts the association well: 'That we are *effective* beings, forces, is our fundamental belief. *Free* means: 'not pushed and shoved, without a *feeling of compulsion*'... Where we encounter a resistance and have to give way to it, we feel *unfree*: where we don't give way to it but compel it to give way to us, we feel *free*... – man's most dreadful and deep-rooted craving, his drive to power – this drive is known as 'freedom'.[12]

Then, in another key, there is Dewey's famous identification: 'Liberty is power, effective power to do specific things... The demand of liberty is the demand for power.'[13] And this association is even evident at the heart of contemporary analytical political philosophy, in Feinberg's account of freedom: 'There are at least two basic ideas in the conceptual complex we call 'freedom'; namely, rightful self-government (autonomy), and the overall ability to do, choose or achieve things, which can be called 'optionality'...'[14]

As I argue at length in my forthcoming book, *Freedom is Power*, the main liberal argument that to be free is to act in the absence of impediments or obstacles, in particular those that result from conscious deliberate human action, rests on a series of mistaken assumptions that mask a deep misapprehension about political and social life. I cannot summarise the argument here, suffice to say the following: liberals are concerned with external obstacles because they think it is better to have *more* possible courses of action rather than fewer. That is obviously true of some situations, but it is not clear that it is true of all; but whether or not it is always a good thing to have more rather than less options open, the number of options open depends not merely on the presence or absence of obstacles, but the conjunction of one's power and the internal or external obstacles that stand in one's way. Moreover, whether or not a person, act or institution constitutes an obstacle will itself often depend on my relative power, in particular my position within existing power relations and groups and the power of my groups' representatives. I maintain therefore that freedom is relative to power and control across four dimensions. Freedom involves:

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[12] F. Nietzsche, 'Notebook 34, April-June 1885' 34[250] and 'Notebook I, autumn 1885-spring 1886' I[33], in *Writings from the Late Notebooks*, ed. Bittner (CUP 2003), pp. 16; 57.

[13] Dewey, *Problems of Men* (Greenwood Press 1968), p. 111.

[14] Feinberg, 'Freedom and Liberty', p. 1.

1) the power to get what I want, to act or be as I would choose in the absence of either internal or external obstacles or both; 2) the power to determine the government of my political association or community; 3) the ability to develop and exercise my powers and capacities self-reflectively within and against existing norms, expectations and power relations; and 4) the power to determine my social and economic environment via meaningful control over my and my groups' economic and political representatives. Freedom is power in the sense therefore that it depends upon my power, control and self-control within these four domains.

Freedom as power depends upon avoiding or overcoming situations of domination by ensuring control over the four above-listed domains. However, given the economic and political reality within large, complex modern capitalist states, our individual freedom as power will normally not be a simple matter of direct individual control over these domains. Given that our lives within complex modern capitalist states are characterised by membership of a whole variety of overlapping and interdependent groups, our freedom (and avoidance of domination) is determined to a significant degree by three associated matrices of freedom as power, as I argue below: a) the material conditions and power of the groups that we find ourselves (or in some cases choose) to be members of; b) the relative power of our groups' representatives; and c) the relationship between our groups' representatives and our formal political representatives.[15]

Since this account conceives of freedom as power in fully substantive and material terms and conceives of group freedom in terms of the power of a group's representative(s), it avoids the mistakes of its predecessors, especially regarding the stubborn tendency to focus uniquely on individual and state freedom, and the associated libertarian position that '[t]he freedom of the group is nothing other than the sum total of the degrees of freedom of its individual members'.[16] And it remains realistic about freedom and domination. As Foucault, Lukes and Geuss have argued convincingly, the concept of 'power' is a relation

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15 I prefer the term 'group' to 'class' because the former is a more catch-all category for collections of individuals who are connected with each other in relevant and meaningful ways that affect their behaviour or that of others.

16 Carter, *Measure of Freedom*, p. 267.

rather than a resource or property of persons and is connected to the abilities of agents to bring about significant affects, either by furthering their own interests or affecting the interests of others, positively or negatively.[17] I have argued elsewhere that these abilities depend upon the extent to which individuals are able to determine and satisfy their vital and agency needs.[18] The ability to determine and satisfy my needs depends upon the prevailing political and economic institutions and representatives and whether or not I find myself in situations of domination. A situation of domination arises when the existing power relations do not give me (or my group) the power to determine my (or our) needs. This can take various forms. Existing power relations can: a) mislead me in my attempts to *identify* my needs, e.g., patriarchy; b) ensure that I do not have the means or voice to *express* my needs, e.g., apartheid South Africa; c) disable meaningful *evaluation* of needs, e.g. unregulated liberal capitalism.[19]

Groups

First, though, what is a group? A contemporary definition provides a good starting point: a group is 'a collective of individuals who are connected with each other in ways that are relevant to them, and/or others, and thereby affect their behaviour and/or that of others'.[20] The connection that binds the members of a group may be as a result of their gender, class, form of employment, lack of employment, material condition, political cause, and so on. A group is therefore distinct from other kinds of associations since it is characterised by a durable connection amongst the members and one that is of significance or is meaningful. So a gathering of a collection of friends on a Sunday morning in the park is not a group in this sense, unless of course they happen to be gathering as members of, say, the Westdene Sunday

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[17] Geuss, *Philosophy and Real Politics* (Princeton UP 2008), p. 27; Lukes, *Power: A Radical View*, 2nd Ed. (Palgrave 2005), pp. 63, 65, 109.
[18] *The Political Philosophy of Needs* (CUP 2003).
[19] *Cf.* 'domination' in Pettit, *Republicanism* and Lovett, *A General Theory of Domination and Justice* (CUP 2010).
[20] Vieira and Runciman, *Representation* (Polity 2008), p. 86.

morning football club, where the same (or similar) set of individuals gathers every Sunday.

There exist various kinds of groups. First, voluntary and involuntary groups: the latter are normally groups into which we are born, not ones we choose or can exit at our own discretion; the former, are groups we join by choice and also exit freely. Then there are cooperative groups, in which the members are jointly committed to some agreed goal and non-cooperative groups where this shared commitment does not exist. An example of the former is a class-based pressure group and the later a group of actual or potential creditors. Finally, groups can be agents and non-agents. The former have the capacity to *act* in ways that resembles individuals: they can define goals for themselves, perform tasks, appoint representatives, and so on, for example, committees, governments and joint stock companies. Groups that are non-agents lack any formal organization and have no capacity to coordinate their efforts, although they share common interests, for instance the unemployed. These three kinds of distinctions often cut across one another: so a group can be voluntary and cooperative and have agency, such as a labour union, and a group can be involuntary, cooperative and not have agency, such as those born into a group of unemployed but cooperatively organized shack dwellers on the margins of Johannesburg, and so on and so forth.

The assumption is often made that for groups to act they must have clear and explicit rules for the election or selection of representatives, which is only therefore possible for groups with agency. But this is to miss the most important fact of the nature of many groups and their relation to various forms of economic and political representation: groups normally acquire agency by virtue not of direct rules for the selection of representatives but more informal forms of representation that arise as a consequence of shared identities or interests or both; and, given the contested nature of identities and interests, these more common forms of group representation are characterised by the fact that often the representatives themselves are important in determining the relevant identities or interests (about which more below).

Group Representation

All modern states contain at least two distinct groups of people: the rulers and the ruled. In formal political terms the rulers are the government, sovereign powers, law-makers, or the *representatives*; while the ruled are the citizens, people, voters, or the *represented*.[21] The relationship of representation is what holds these two groups together, and in representative democracies it is what enables the rulers to exercise some form of control over the rulers (at the very least via the ballot box). But this picture is too stark: even 'the rulers' may be comprised of various different groups, not to mention the large number and diversity of groups that make up 'the ruled'. The extent of control or power any subsection of the ruled have over the rulers will depend therefore upon the relationship of representation their group or groups have with the ruled.

The representative of a group can be given a warrant to act on behalf of the group in one of a number of a ways. First, if the group is an agent and thus can act as a principal, a principal-agent relation of representation can exist. In this case the group (the *principal*) appoints another (the *agent*) to perform some action or function on their behalf. Here rules must exist by means of which the decisions of the group's members are put together to generate a collective decision, normally achieved though unanimity or majority decision. But the latter warrant is always subject to the possibility of the 'tyranny of the majority', where a majority may rule at the expense of the interests of the numerical minority.[22] There is no clear solution to this persistent problem. What is clear, though, is that the scope for groups to act on each side of this principal-agent relation is very narrow. These groups will need to be sure of the consent of individual members and the representative will have to further the specified directives of the group. There are some groups like this, such as small-scale workers cooperatives, but many groups do not fit this model, mainly because they lack the capacity for collectivized reason and robust exit mechanisms, e.g. states. But the

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[21] *Ibid.*, p. 126.

[22] Madison, 'Federalist No. 10' in Hamilton, Madison and Jay, *The Federalist Papers* (CUP 2003), pp. 40-6.

main problem with this account is that it assumes that a group has a capacity to act prior to the action of its representatives, which is very unusual in the case of groups.

Second, one possible candidate for overcoming these problems comes from the legal model of a 'trust'. In common law, a trust is an arrangement whereby property is managed by an entity – the trustee – for the benefit of another entity – the beneficiary – without the latter being said to own the property in question. This is achieved through the creation of a legal fiction: representatives act in the group's name and on its behalf, in accordance with rules that treat the group as if it were a principal. Trustees act independently, but in the interest of their beneficiaries without having to be given any direct orders or directives.[23] In other words, even though the corporation cannot act on its own, its representatives (or 'officers') can act for it. The idea is that the representatives act in the best interests of the corporation. But what if they don't? Whose responsibility is it to ensure they do act in the interests of the corporation? The answers to these questions are not clear, but this form of group representation highlights the fact that groups can have identities and interests of their own that are separate from those of their individual members, and these identities and interests are not only given agency by the representatives in question, but they are also often directly determined by the representatives without any recourse to collectivized reason. The problem with this model is that the rules of representation that allow the group to act as an artificial principal have to be external to the group, since the group cannot act without its representative.

A third form of representation does not depend upon this condition: that of the identification of interests or identities. Here an individual or group of individuals can bring forward a claim to represent a group, evidence for which is found in her or their capacity to attract a following, for example NGO representation; *or* a group can make someone or group into their representative because they identify with something they stand for based, say, on commonality of class, employment and so on, for example the representation common amongst national

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23 Maitland, *State, Trust and Corporation*, ed. Runciman and Ryan (CUP 2003).

creditors;[24] *or*, it can arise out of the sharing of some form of basic identity, for example, those ascriptive identity groups into which we are born, such as country or family, where identity acts as an external indicator of the likelihood of the representative acting as the group members would in the face of similar circumstances – representation by someone who is 'one of us'. In these forms of representation the important component is *identification* not authorisation, incorporation or accountability, though these may also be present. The group members see themselves as having a *presence* in the actions of the representative by dint of what they have in common with the group. These can be common interests, similar descriptive characteristics or social perspectives, values and insights.[25]

But, is this the whole story? Some of the more subtle contemporary political theorists think not. This is especially true of those that have developed an 'aesthetic' theory of political representation, which overcomes the shortcomings of the other three accounts of representation because it does not depend on one or both of two assumptions that they make: i) that the interests of group members cohere in such a way as to make them a plausible principal; and ii) that there exist a set of shared interests/identities prior to or as preconditions for political representation. Instead, these theorists borrow from the world of art and literature 'the idea that any form of representation is never simply the copy of some pre-existing external reality'.[26] Rather representation always creates something new: Tolstoy's account of the Napoleonic War does not simply replicate the historical events, it creates a new version of it in the act of representing it. In other words, there is always a 'gap' between an object and the representation of that object and this holds in politics too: as Ankersmit puts it, 'political reality is not first given to us and subsequently represented; political reality comes into being after and due to representation'.[27] Political representatives can never therefore merely speak for the interests of the people as they existed

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[24] Hamilton and Viegi, 'Debt, Democracy and Representation in South Africa', *Representation*, 45.2, pp. 193-212.

[25] Vieira and Runciman, *Representation*, pp. 111, 103.

[26] *Ibid.*, pp. 138-9.

[27] Ankersmit, *Aesthetic Politics: Political Philosophy Beyond Fact and Value* (Stanford UP 1997), p. 47.

before being represented; instead the act of representing them creates a new version of the people and their interests, and this creative process gives representation its dynamism. Political representation is not designed therefore as a means either to 'track' pre-existing interests or provide a reflection of the people and their interests/identities; 'rather it is designed to give the people an image of themselves to reflect on'.[28] This 'gap' between the rulers and ruled is itself filled by groups and their representatives, and so it is in this gap that the degree of a group's freedom is therefore played out.

Group Representation and Group Freedom

The freedom of the group will depend ultimately not on the individual freedom of any of its constitutive members (however that may be measured or aggregated) but on the relationship of representation that exists between the group and its representative and the power of the representative in question. The internal warrant for a representative to act 'for' the group can come from any (or a mix) of the four kinds of representation outlined above. However, the extent to which the representative (and by extension the group) is free to act will depend not only on internal warrant, but also on a number of other powers, capacities and conditions, such as the power to overcome any internal and external obstacles to its decisions and actions and its relative power vis-à-vis other representatives. This relationship between representation and freedom is most obvious in the case of a group with the collective agency to act as a principal, but given that the principal-agent relation of representation in groups is the exception rather than the rule, we have to look elsewhere for the normal relation between group representation and group freedom. This is where the 'aesthetic' theory of representation really comes into its own, particularly with regard to the nature of representation and the role of representation in the formation of interests.

First, the aesthetic theory of representation establishes that what matters is not whether representatives establish a mimetic form of

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[28] Vieira and Runciman, *Representation*, p. 139; Ankersmit, *Political Representation* (Stanford UP 2002), pp. 112ff.

identity between themselves and the groups they represent or between rulers and ruled, that is, that they provide a copy of the people and their interests, but that they give the people an image of themselves to reflect on. This is why the most important forms of representation have developed within the gap that representation itself opens up between the government and the people.[29] To this I add the idea that it is possible to see this best if we analyse in any given context how this gap is filled by a variety of group representatives with varying relations of power between themselves and those that govern, power relations that are characterised by more or less domination and thus enable more or less freedom as power for the representatives and thereby the groups in question. The relation between freedom, power and domination discussed above is thus better conceived here as one regarding the relationship between groups and their representatives and these representatives and the rulers.

Second, needs and interests are never pre-existing and fixed in politics. On the contrary, they require identification, articulation, expression, evaluation and so on. Needs and interests are more objective than wishes, opinions and preferences, in that they are more easily detached from any specific group of 'holders' (e.g. the collective interest in a sustainable environment), but they are never totally unattached either. Like needs, interests have a dualistic nature – they are attached and unattached, subjective and objective – and this lies at the heart of the ambiguities of any form of interest group representation.[30] Moreover, individual and group interests are more often than not constructed in the process of representation itself. In other words, *pace* the assumptions of both 'aggregative' and 'deliberative' models of democracy, needs and interests are never simply objective givens waiting to be tracked through representation.[31] They often only become *present* as a result of representation, that is, they may only be experienced, identified and

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29 Ankersmit, *Aesthetic Politics*; Ankersmit, *Political Representation*; Lefort, *Democracy and Political Theory* (University of Minnesota Press 1988).

30 Pitkin, *The Concept of Representation* (University of California Press 1967).

31 Despite many other differences, 'aggregative' and 'deliberative' models share the assumption that legitimate representation must track interests. For more on the problems of both models, see Hayward, 'On representation and democratic legitimacy', in Shapiro et al, *Political Representation*, pp. 111-35; Mouffe, *The Democratic Paradox* (Verso 2000); and Wolin, 'Fugitive Democracy', in Benhabib (ed.) *Democracy and Difference*.

expressed as a result of the actions and concerns of representatives. And this fact undermines the very notion of the idea of representatives directly tracking existing interests or identities.

It follows from this that if group representation and representative institutions in general are to be freedom enhancing they cannot simply 'track' interests; rather, they must encourage the formation of new political interests, especially in conditions in which existing relations of power create or reinforce situations of domination. The new interests will be freedom-enhancing if they enable groups to escape these situations of domination. And therefore here the relationship between group representation and group freedom is one in which the freedom of the group is dependent upon whether or not the representative of the group can generate the right kinds of new interests *and* then defend them in the relevant formal institutions of representation. Depending on context this combines representation as aesthetic reflection, interest identification and even principal-agent representation.

The conditions in South Africa today illustrate well these facts about interests and the shared shortcomings of the 'aggregative and 'deliberative' accounts of democracy: historical inequalities and the interests formed by conditions of poverty, crime, fear and the persistance of extreme inequalities cannot be overcome by means of representation simply 'tracking' interests (or post-deliberative interests). Since individual needs and interests are formed within particular institutional contexts and these contexts are, amongst either things, characterised by membership of cross-cutting groups and their representatives embedded in power relations which may or may not generate domination, it follows that the individual power to act as one would otherwise act, to satisfy one's needs, to evaluate and criticise the norms and institutions of one's society and to control one's economic and social environment depends upon four associated variables (or components of representation): a) the nature and relative power of the groups of which one is a member; b) the relationship of representation that exists between the members of the group and the group's representatives; c) the relative power of the groups' representatives; and d) the relationship between one's groups' representatives and the formal political representatives of one's polity.

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Third, in any system of representative democracy there will always therefore be more than one version of 'the people' at work. There is 'the people' conjured up by formal political representatives in the act of speaking for them; there are conflicting views of 'the people' generated by group membership and representation; and there are 'the people' who pass judgement on these conjuring acts. 'Indeed, the functioning of representative democracy depends upon politicians being able to offer competing versions *of* the people *to* the people, in order for the voters to be able to choose the one they prefer'.[32] It follows from this that the aesthetic theory of representation is advantageous for a further reason: it allows us to view representative democracy as a form of politics that accommodates aspects of all three of the other models. If groups and their representatives are given greater and greater parity of power and control (and thus freedom) it is possible to see how groups and their representatives can have principal-agent, trustee and interest/identity relationships of representation: the people with an active role, as the arbiters of representation, act much like principals; the people with a passive role, as the objects of representation, act much like the legal fictions characteristic of trusteeship; and in judging in their active role what they think of the image offered to them by their various representatives, individual citizens often side with whom they identify best or with whom they think will defend best their particular interests.

Finally, none of the versions of the 'the people' on offer to 'the people' ought ever to succeed in closing the gap between the represented and their representatives. If they do succeed in closing the gap, or even aspire to do so, they open up the possibility for tyranny or despotism, the best recipe for unfreedom. As Ankersmit has argued, the attempt to close the gap between the people and their representatives is futile and dangerous: it is not the realization of democracy but an invitation to tyranny because it thwarts any opportunity for the people to reflect on and judge the actions of their representatives.[33] As Machiavelli, Constant and Madison have all argued, this is the case because the effect of closing the gap – and at the extreme the complete identification of

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32 Vieira and Runciman, *Representation*, p. 141.
33 Ankersmit, *Aesthetic Politics*, pp. 51-6; and Ankersmit, *Political Representation*, pp. 112ff.

the rulers and the ruled – is (paradoxically) to *exclude* the people from politics in their active or judgmental, role. If the gap is closed there is no longer any room for the various groups that constitute 'the people' to evaluate the images of themselves on offer, in most cases because the effect of closing the gap will be to remove the possibility for the portrayal of other competing images or visions of the polity. When functioning properly, therefore, political representation understood in these aesthetic terms highlights the advantages of some institutional arrangements over others.

Group Representation and Group Freedom in South Africa

To articulate this overall insight regarding representation is to identify which groups and their representatives are kept off the agenda, either through lack of meaningful representative or via one group or set of representatives successfully closing the gap. In South Africa the unemployed as a group tend not to have meaningful representation, despite dubious claims to the contrary by the African National Congress (ANC) that they represent them, not only because they lack organization and representatives, but also because their situation of poverty makes their immediate interests poor competitors in the race to reflect a successful version or vision of 'the people'. Moreover, the system of party list proportional representation used in South Africa excludes alternative versions or visions of the polity since it is based on a completely different (and deeply problematic) conception of representation: that the legislature should directly reflect the electoral tally of parties rather than either the interests of the electorate as a whole or a vision of that whole. It sacrifices the 'gap' and the potential for competition amongst various visions for an alleged exact copy of 'the people' via replicating in parliament identical proportionality of party support.[34]

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34 South Africa's electoral system is in fact very rare. Only Israel has the same system. In every other democracy in the world, citizens are represented by where they live (though exactly how and what proportion of the representatives are elected in this fashion varies quite widely). A. Rehfeld, *The Concept of Constituency: Political Representation, Democratic Legitimacy, and Institutional Design* (CUP 2005), p. 3.

The fact that one party is still so dominant only exacerbates this problem and consequent lack of freedom, as does the fact that the party rules as part of a tri-partite alliance with another party (the SACP) and the main Trade Union umbrella body (COSATU). In recent times this gap has been further reduced by the tendency of the ruling part to claim constantly and aggressively that it, and it alone, represents 'the people', and that not only are other claims to represent 'the people' dubious but also worthy of being silenced. This is most obvious in two related quarters: a) the constant eroding of the power of the legislature in favour of the power of the executive; and b) an associated tendency to fail to distinguish between the state and the party. The latter is exemplified by the fact that when the party makes a decision it claims that it is a decision made by 'the people' (as with the recall of Mbeki as president); and when it is suggested that the strength of the ruling party and the lack of a viable opposition party does not undermine democracy since 'the party' structures are themselves fully democratic. These claims mistakenly identify 'the party' with 'the people' and thus 'the state', which not only gives the party the unique and complete legitimacy of rule that it seeks, but also silences all other groups and their representatives. This is a deeply ironic and unfortunate development since in healthy polities the party acts as one of the many important groups and (sets of) representatives that occupy the gap between the rulers and the ruled.[35] At present in South Africa not only is the executive usurping the power of the legislature, but the ruling party is usurping the power of the people as it situates itself as a microcosm or exact copy of the democratic polity it ought to be creating: the party attempts to represent the people (in the sense of copying them) rather than act as one amongst many representative versions of the people for the people to judge and choose.

This tendency by the ANC to silence opposing groups and their representatives prior even to judgement by 'the people', is a perfect instance of erosion not only of particular freedoms in society, but also the freedoms of these silenced groups and thus the freedom of their members. The various groups that constitute South African society are represented in different ways, and have differing levels of power to

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[35] Ankersmit, *Political Representation*, pp. 125-32.

determine social and economic policy. The formal political representatives and institutions would maintain and advance freedom not only by empowering those who lack power (which requires effective 'service delivery'), but also enabling a polity in which the representatives of all groups are given equal access to those that rule, in particular to those that determine macro-economic policy.

This is very far from the case in South Africa. At least one third of the population is either unemployed or no longer economically active (either as a consequence of illness, age and disability or because they are discouraged workers). The number of South African's unemployed stands at 4.3 million, or a formal unemployment rate of 25.3%; the number of economically inactive workers stands at a staggering 14.35 million (with actively discouraged work-seekers comprising just under 2 million of this total); so even if we only consider the actively discouraged work-seekers and the formally unemployed, we have a real unemployment rate of approximately 37% of the population.[36] If this percentage is combined with that proportion of the population that is involved in menial and underpaid jobs (quintiles two and three, see footnote below), most of whose representatives give them little or no meaningful means of criticising macro-economic decision-making since they fall under a set of trade unions whose umbrella body is in a ruling alliance with the ANC, and if we assume that the unemployed household heads occupy the lowest quintile, on a conservative estimate a staggering figure of 77% of South Africa's population has little or no meaningful representation.[37] This large group is a relatively homogeneous group – in the apartheid era categorizations that are

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[36] 'Labour Force Survey 2009' in Statistics South Africa Quarterly Labour Force Survey Quarter 2, 2010 at http://www.statssa.gov.za/publications/P0211/P02112ndQuarter2010.pdf .

[37] There are five quintiles of household head income. The three lower quintiles include all those with an income of R30 000 ($4000) per annum or less; 72.5% of the 'black' population, 44% of the 'coloured' population, 15% of the 'indian' population and 3% of the 'white' population are situated within these lowest three quintiles, so given the demographics of South Africa the lower three quintiles comprise 55% of the population earning a monetary income. The figure of 77% is reached by adding together the real proportion of the population that is unemployed (37%) and the percentage of the population that is employed but occupy quintiles two and three (40%). Statistics South Africa .2009. *Income and expenditure of households* 2005/2006. http://www.statssa.gov.za/publications/P0100/P01002005.pdf .

still in use today, it is the 'black', 'coloured' and 'indian' marginalized or working class group of South Africans. If this economic situation is coupled with the macro-political situation with regard to representation discussed above, it is beyond dispute to conclude that most groups in South Africa remain unfree as a direct result of their lack of meaningful representation: *either* they have no agents, trustees, defenders of their identities/interests or varieties of possible images upon which to reflect *or* they have powerless representatives, whose powerlessness is a consequence of the persistence of domination within extant power relations or institutional arrangements that do not enable effective representation.

One of the ruling party's responses to these problems regarding meaningful representation has been to try and enhance democratic participation of the citizenry at local government level. But this is not a response to the problem since it is based on the premise that the problem regarding national representative politics arises as a consequence of lack of citizen participation and is thus best resolvable via greater participation and deliberation at local level. As I have argued above, the problem is not about the degree or form of citizen political participation but about the way in which representation is being enacted in South Africa. Moreover, even if we were to assume for argument's sake that the logic behind these initiatives is a good one, it amounts to nothing more than window-dressing. This is the case because although citizens are given some access to deliberation prior to decision-making, it is ward councillors who ultimately make the decisions behind closed doors and most have firm party loyalty, not least of all because, in accordance with the electoral system specified in the constitution, half of the councillors are instated through proportional representation, whilst the remaining half are ward constituent representatives. Therefore, as is the case at national level, councillors are not accountable to their constituencies but accountable to party leaders.[38]

This condition of little or no meaningful representation is unhealthy for any state, let alone a new, emerging democracy and nor does it bode

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[38] Tapscott, 'The Challenges of Building Participatory Government', in Thompson (ed), *Participatory Governance: Citizens and the State in South Africa* (University of the Western Cape 2007), p. 87.

well for the future: 'Any system of representation will contain elements of these different models and how they interact with each other will go a long way to determining how the state evolves over time'.[39] The exact causes of the poor health of South Africa's polity and economy may not be plain for all to see, but what is currently unambiguously clear is that large cracks are beginning to appear in the ruling alliance's representation of 'the people'. Ever since before the FIFA Football World Cup of June-July 2010, the country has been wracked by prolonged strikes and service delivery protests. The lucky few that have employment as well as those that are supposed to be reaping the benefits of a party 'for the people' in terms of the satisfaction of vital needs such as the provision of water, housing, electricity and so on are contesting the image that the ruling alliance has tried to conjure up of them. Outrage over years of jobless growth and very poor service delivery driven by corruption and incompetence is manifest and there is evidence that the three parts of the ruling alliance no longer portray the same unified image. The possible outcomes are revolution or a successful decoupling of the alliance and the institutionalisation of effective and meaningful representation for all groups.[40] Needless to say, the latter choice would be better for all concerned. South Africa must change now the power relations that exist between groups, their representatives and the people's formal political representatives; and in order to do that it has to transform not only its electoral system and the structure of its ruling party, but also its property ownership, distributive mechanisms and macro-economic policies. My main submission in this paper is that few will see this unless and until representative democracy is understood in terms not just of individual and state freedom and representation, but also of group freedom and group representation, linked together via an account of freedom as power, in particular the power of individuals and groups to determine their economies and polities via the relative power of their representatives.

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[39] Vieira and Runciman, *Representation*, pp. 143-4.
[40] *Cf.* A. Mngxitama, 'Tripartite Tussle? Get real, it's just a game', *Mail & Guardian* September 3 to 9 2010.

DEMOCRATIC COMPROMISE OR COMPROMISING DEMOCRACY: RETHINKING PARTICIPATION

Heidi Matisonn

UKZN SOUTH AFRICA

DEMOCRACY HAS WON. WHETHER IN THE FACE OF EXTERNAL FORCES OR INTERNAL PRESSURES, the label 'democracy' has become the ultimate legitimiser. A political regime is justified when it is 'a democracy'; policies, laws and actions are acceptable when they are 'democratic'. As John Dryzek puts it 'democracy is today a near-universal validating principle for political systems' (Dryzek 2005: 218). In practice, however, although professing to conform to the notion of democracy, these regimes, policies, laws and actions often differ substantially from one another. In theory too, interest in democracy is evident from the amount of scholarly attention given to and time spent on it, whether the attention is positive or critical. Less evident are the normative justifications for democracy today given the meritocratic and competitive global society (in other ways) in which we live. With the exception of a select few, philosophers from the time of Plato have been very negative about 'democracy', however conceived. Even those who appear to have supported something resembling what we know as democracy did not do so unequivocally, with some, like Jean Jacques Rousseau, James Madison and Karl Marx, being unwilling to use the term itself. Today, however, despite there being significant disagreement as to what democracy's value is, there seems to be widespread agreement that it does have a value. But while vastly differing political regimes throughout the

world claim to be democracies – what democracy actually means in practice is sometimes quite difficult to discern. It is all very well for Ian Shapiro to claim that 'different people understand different things by democracy' (Shapiro 2003: 3) but surely the term cannot extend from the very narrow - majority rule – to the very broad - encompassing all that is humanly good? Leaving the empirical questions aside for the moment, in the theoretical debates too, there is significant divergence: as Larry Diamond noted a decade ago, 'so serious is the conceptual disarray that more than five hundred and fifty subtypes of democracy are identified in Collier and Levitsky's review of one hundred and fifty (mostly recent) studies' (Diamond and Plattner 1996: 20).

The lack of consensus around the meaning of democracy has created significant problems such that some have alluded to a 'crisis' in modern political science (Ricci 1984: 297; Held 1987: 272). David Ricci, in *The Tragedy of Political Science* (1984) suggests that the conflict between the commitment to science and the commitment to the good is responsible for this crisis: that is, that research is driven by empirical (specifically quantitative) concerns on the one hand and by normative concerns on the other and the two seldom meet. What is somewhat curious about this divergence is that when political science began to emerge as a modern academic discipline in the late nineteenth and early twentieth centuries, classical political theory had a great impact: political philosophy began with moral reflections on and attempts to justify political structures in the context of established cultural, social, economic and historical considerations. The concern with political ideals and duties was accompanied by a preoccupation with ascertaining which political institutions produce the optimum – usually in the normative sense – type of society and individuals. Evidence of this can be seen in the works of Plato, Aristotle, Machiavelli, Hobbes, Locke, and Rousseau among others. Today however, political science is concerned with that which is empirically manageable; and because concepts such as justice, nation, rights, patriotism, society, virtue and tyranny cannot be operationalised, they are devalued, studied only by an 'insightful minority' who

> remain faithful to the conversation concerned with the good life, wisdom, genuine human needs, illuminated by the intelligence derived from a study

of history and rewarded by an appreciation of the political verities to be found in the good or great books (Riemer 1962: 69).

Thus more than twenty years on, Ricci's observation holds true: he argues that the 'critical, normatively charged questions about the foundations of politics and democracy' have been relegated to political philosophy, replaced, 'in the brave new world of mass data and policy analysis, by bloodless technical concepts like "attitude", "cognition", "socialisation" and "system"' (Ricci 1984: 297). This means that those scholars concerned with the concept of democracy and its relation to other concepts such as liberty, truth, justice and equality, tend not to be the same people who have expertise in political institutions.

The result of this 'sitting at separate tables, like Rattigan's actors' (Almond 1988: 828) has meant that 'democracy' is treated either as a strangely scientific matter on the one hand or as an abstract and idealised notion on the other. Empirical positivists are moving from an assumption of democracy as the hegemonic model of (acceptable) political systems while normative idealists construct democracy in relation to certain key values so this separation is somewhat understandable. That said, its consequences for current conceptions of 'democracy' are significant. Many contemporary contributions of 'political scientists' seem to be offering a 'blueprint' for achieving accountable and legitimate government, whether it is more democracy or less. Alternatively, 'political philosophers' seem to be caught up in naïve abstraction, detached from the reality of actual politics. For example, Simon Thompson and Paul Hoggett suggest that much of the literature (specifically on deliberative democracy) exists 'at such a high level of abstraction' that it seems 'quite unaware' of the many empirical issues that actually characterise contemporary democracies (Thompson and Hoggett 2001: 354). As such, the importance of treating the study of democracy in an engaged and concrete manner has been all but lost.

The implications of the separation of political philosophy and political science are not simply a matter of methodology: what is at stake is what democracy means in substantive terms as the second part of this paper aims to show. So just how should we treat the study

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of democracy? I suggest that the twains of political philosophy and political science need to (re)meet. Alone, neither normative political philosophy nor empirical political science can succeed because both approaches make a series of assumptions about the nature of politics. While we should not pursue morally desirable but culturally or socially unacceptable goals, we should also not uphold a morally undesirable political conception solely because it is acceptable (and achievable). The methodological bifurcation in the study of democracy has been to its detriment since each version grasps only partially the central feature of democracy, namely participation.

Although both the (pseudo-)scientific and normative approaches recognise political equality and popular control as democracy's fundamental characteristics, neither seems to tell the full or indeed accurate picture of democracy today. Of course, not all scholars of democracy are trying to provide the full or accurate picture of democracy today: some (particularly the deliberative democrats) offer purely normative arguments as to what they think democracy ought to be or become. I think that both sides neglect another value of participation, perhaps even the primary one: that democracy provides the opportunity for facilitating human fulfillment *irrespective* of its benefits for creating legitimate, accountable and responsive government[1].

That is ultimately my task: to posit another value of participation, what I term its 'categorical' value, or the justification of participation on moral grounds rather than (purely) political ones. This conception of participation is not meant to replace the instrumentalist conceptions but rather, signal a shift in emphasis. I want to argue that *both* minimalist and deliberative accounts of democracy neglect the value of participation as being about the development of agency in a collective process. I think that the accounts by minimalists and deliberative democrats are actually much more similar than either side recognises. The essential difference between them is simply a practical one: they offer opposing conceptions of what constitutes 'equal participation'. In essence, minimalist democrats argue that voting is the most egalitarian form of participation, whereas deliberative (and other normative)

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1 Supposedly achieved through simple aggregation (minimalist democrats) or extensive deliberation (deliberative democrats).

accounts of democracy suggest that voting is meaningless if it is not accompanied by deliberation. Participation is thus justified primarily on its instrumental benefits: it brings about better governments and better decisions.

This is because even if we disregard for the moment, the difference between minimalists, for whom voting plays the crucial role, and deliberative democrats, who argue that while its significance cannot be denied, it should not be overstated, it seems that for both sides, the decisive test of a democracy is participation, and participation that is egalitarian. I reject the common argument that the divergence between the two in terms of what constitutes egalitarian participation is because one is pessimistic about citizens' capacity while the other is optimistic: there is enough evidence to suggest that the basis for limiting participation by minimalist democrats is not necessarily due to a suspicion of the competence of the masses; conversely, many deliberative democrats seem to accept the unflattering picture of citizens' capabilities (and/or their democratic tendencies). Even if this supposed disagreement on people's capabilities is at the centre of the two conceptions, finding ways to 'prove' either generalisation of people's competence is methodologically difficult and even if we can find a way, the evidence will be subject to fluctuations across space and time. It seems much more reasonable to regard the minimalist versus deliberative accounts as being two different ways of interpreting political equality rather than two different conceptions of humanity's 'goodness'. In other words, the division between minimalist and deliberative democrats appears to be less about the quality of citizens themselves and more about the optimum institutional design to ensure equality. For minimalists, voting is less unequal than other forms of participation; for deliberative democrats, voting that is not preceded by deliberation is flawed.

It would appear then, on both minimalist and deliberative account, the objective of democratic politics is one of influencing decision-making with the aim of securing one's interests. In other words, participation, whether more or less, is valued because it is viewed as the optimum means of achieving good government whether this is defined as legiti-

mate[2] government; accountable[3] government, efficient[4] government or a government able to solve conflicts without resorting to violence[5]. While there is little doubt that these benefits are both desirable and (sometimes) achievable, in the event that participation fails to bring about good government, what then?

It is in response to this 'what then?' that I propose we shift our conception of participation away from seeing it as a mechanism (whether think or thin) for the governed to select and control the governors (and hence to produce legitimacy, responsiveness and accountability). Instead, I want to consider the value of participation as being categorical, a conception in which the citizen is considered as a moral entity rather than one that is purely political.

Although the use of the term 'categorical' in this context is (I think) original (and hence its moral rather than political dimension), the idea of democracy as having 'intrinsic' value (Swift 2006: 203-213) or 'non-instrumental' value (Ober 2007) is not. Adam Swift discusses three 'intrinsic' values of democracy, all of which are linked to political participation: 1) autonomy; 2) self-realisation; and 3) equality but interesingly, he considers the 'intellectual and moral development of citizens' (Swift 2006: 218) under the 'instrumental' benefits of democracy (along with 'good or correct decisions' and 'perceived legitimacy'). Swift argues non-democratic systems are thus 'infantilising' because they 'deprive adults of the chance to develop their intellectual and moral powers' (Swift 2006: 218).

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2 Since a legitimate government is one that is recognised by others as having the right to govern, it stands to reason that if the majority of 'others', that is, the citizens, has chosen that government, they recognise this right.

3 In a functioning democracy, the threat of being voted out is usually sufficient to ensure at least a degree of accountable and responsive government: as Thomas Pempel explains, 'democracy is predicated on the ability to throw the rascals out' (1990: 7).

4 A la Condorcet who argued that as the number of people participating in a decision increases, so too does the probability that the majority decision is correct. Of course the theorem only holds if we assume that each voter is more likely to vote correctly than not. Be that as it may, this is often the argument used in supporting broad-based participation.

5 Because of the pluralist nature of most democracies, there is often no powerful decision-making centre: because there is a balance of resources obtained through an overlapping membership between factions, no single group can achieve a permanent majority and hence marginalise other groups ad infinitum. Instead of resorting to violence, groups wanting to advance their interests have only to wait for the next election to do so.

But Swift has fallen into a trap: although he speaks of 'personal development' as being an instrumental benefit, he then explains it terms of an intrinsic one, albeit using the term 'outcomes'. The 'outcome' of moral and intellectual development is instrumental in terms of its effect on decision-making (and hence on the quality of those selected to rule): the moral development is that through participation (and hearing the views of others) citizens will be less selfish and the intellectual development is that citizens will be 'better at gathering and assessing information' (Swift 2006: 218). In other words, participation is still (primarily) linked to its ability to produce better decisions rather than to its effect on citizens' self-realisation. Thus while Swift acknowledges that participation 'acts over time to change people for the better' (Swift 2006: 219) he suggests, somewhat strangely, that someone who took part in politics only for self-development 'wouldn't be seriously engaging with the arguments of others, or responsibly exercising her agency as a member of her political community' (Swift 2006: 219). But surely this is in fact what we mean by participation – or at least, what we ought to mean if we are going to argue that participation has intrinsic value, that is, is a requirement of being fully human? If we do not mean this, then any kind of participation must be seen as contributing to self-realisation: participation in vigilante groups, separatist movements and organisations that discriminate on the basis of race, gender, nationality and so on would also qualify as an essential part of human flourishing. The point is that any definition of participation must include meaningful engagement with others where 'meaningful' necessarily entails certain conditions: we must engage with those with whom we disagree, substantive debate and/ or action on collective political issues must occur under conditions of freedom and equality and participation must conform to the rule of law. These conditions are required if engagement is to contribute to moral self-development[6].

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[6] In previous work I have argued that 'participatory' responses to crime in South Africa (in other words, non-state policing) can be categorised either as 'responsible citizen responses' or 'autonomous citizen responses'. The former is where citizens seek to find solutions to crime and security concerns that are within the ambit of the law; the latter are generally characterised by reactive, ad hoc and often violent methods of control.

Josiah Ober's account of democracy as a 'non-instrumental good-in-itself' (2007: 59) is, in essence, a claim that 'association in decision is necessary (although insufficient) for happiness' (Ober 2007: 59) where happiness is interpreted in the sense of Aristotle's 'eudaimonia'. Ober sees participation as being a good-in-itself that is 'both inherently happiness-producing and necessary to our full happiness' (Ober 2007: 60). This is linked to the Aristotelian premise that we are political animals and thus have a 'natural capacity' for participation (or 'association in decision' as Aristotle calls it). Ober claims that we have a 'moral responsibility' (Ober 2007: 73) to encourage the expression of this natural capacity (while simultaneously acknowledging possible unintended – and 'bad' – consequences of allowing every natural capacity of every 'being-kind' to be expressed). We therefore do not value democracy as substantive participation because of its 'self-realisation' effects (even though it may have these) but because it is part of our duty as citizens: a commitment to democracy means a commitment to participating in decision-making that affects our collective futures.

I think Ober is on to something here, implicit in his reference to moral duty. In the moral philosophy of Immanuel Kant, there is something 'moral', or worthy of admiration about a person who does her duty for no other reason than that it is her duty. The difference between the moral and immoral person is not that one is good and the other bad, it is that one does what is right whether it will bring her happiness or not, while the other is concerned only with her welfare.

In order to be good, or moral, one must possess a good will. But a good will does not, according to Kant, derive its goodness from being directed to the achievement of intelligence, courage or wealth, for these things are good only when directed by a will that is already good. Kant's belief in equality is evident in his claim that every human capable of rational thought is capable of developing a good will. The ideal state to which he aspires – the 'Kingdom of Ends' – is one in which free, rational agents achieve autonomy, or self-rule, simultaneously living the life of ruler and subject[7].

Regulated citizen responses therefore signal the conditions of meaningful engagement considered here whereas autonomous, unregulated responses do not.

7 What is critical to understand is that in the Kingdom of Ends, one is subject only to laws and rules which one has derived through pure reason. As for Rousseau, being a

For Kant, the source of value is 'humanity', or free, rational, agency. He argues that we should recognise that others also possess humanity, and as such we ought to respect it in everyone equally. And if we do so, we will realise that autonomy is not simply a case of 'achieving one's own selfish ends' but rather, a state in which it is agreed that all ends are equally valid and as such, one ought not be swayed by the special circumstances of particular cases, (especially one's own). Fulfilling the criterion of universality and the recognition of humanity in ourselves and in others is the only way of achieving a 'good will', the possession of which is the true test of morality.

While democrats are unlikely to be committed to a Kantian position in moral philosophy, given that Kant himself was not a democrat, anyone who respects Kant's supreme principle of morality, the autonomy of the will, will find democracy intrinsically valuable. Autonomy is not a consequence of democracy; it does not arise after or because of democracy. In it, as in no other system of government, this principle is clearly and fully embodied because participation, the direction and control of agents from within, is moral autonomy. And while it may not be sufficient, it is necessary for the most praiseworthy conduct. If the rules governing individuals do not arise from our own participation, but are imposed from without or by some despotic element within, the moral character of the individual suffers, even if the decisions imposed are good ones. If however we see democracy as being synonymous with autonomy, that is, the expression of self-government as a moral ideal, we may begin to understand that the value of participation is categorical, it is worthy of being prized for its own sake, and not because of the government or system it gives rise to. If we acknowledge that autonomy, rationality and indeed morality are accessible (only, or at least largely) through interaction between citizens, we find value in such interaction irrespective of whether it brings about 'good government'. Put differently, 'the human results that accrue through the participatory process provide an important justification for a participatory system' (Pateman 1970: 25).

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subject is not a limit to or constraint on one's freedom or autonomy, but an expression of it because a participant in the Kingdom of Ends is someone who 'legislates in it universal laws while also being themselves subject to such laws' (Kant 1785: 433ff).

I have used Carole Pateman's comment intentionally because I think that the value of the participatory conceptions of democracy offered by Pateman *et al* in the 1970s is where we should be looking if we are to understand the categorical value of participation. I think that deliberative democrats are not the natural successors of participatory democrats as many of them claim because the vision of this new cohort of democratic theorists stops 'well short of the sweeping changes participatory theorists believed must be part of the process of democratisation' (Hauptmann 2001: 398).

Part of the reason why real interest in participatory democracy was relatively short-lived is I think because participatory theorists in the main were offering critiques of actually existing democracy, but their accounts were not always backed up with empirical evidence. Mark Warren for example argues that 'although the transformative ideals of radical democracy are attractive for many reasons, they are beset by a fuzzy utopianism that fails to confront limitations of complexity, size and scale of advanced industrial societies' (Warren 1996: 242). I think that advances in our abilities to conduct research mean that we can revisit participatory democracy and back it up with research. And I want to suggest that the place to start is not in the north, or west, but in the developing world because it is here where we find a lot of this kind of talk – especially Latin America but in South Africa too. Participatory theorists focus not only, and not even mainly, on the impact participation has on political decisions, but rather, on the impact it has on citizens themselves. Although as Jane Mansbridge explains, participation can generate 'greater feelings of political efficacy and ultimately benefit the larger society by anchoring it in a citizenry clearer about its interests and responsive to the claims of justice and the public weal' (Mansbridge 1997: 424), it is the claim that less participant citizens have a reduced capacity to develop their faculties through joining with others that provides support for the claim that participation has a categorical value in addition to its instrumental one.

So my final point is this: as political philosophers, we need to incorporate the reality of our complex world into our theories if we are to make any meaningful contribution to democracy. And I think we need to start with a re-evaluation of participation, one which takes seriously the participatory theories that grew out of the 1960s considering

them in and for the twenty-first century. In so doing, we may be closer to a conception of democratic participation that does not compromise democracy.

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YOUNG AFRICAN WOMEN ENGAGE THE PUBLIC SPHERE; PROSPECTS FOR AN INTERDISCIPLINARY INQUIRY?

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INTRODUCTION

Revisiting the Think Piece

WRITING IN 2005 AT THE REQUEST OF THE COUNCIL FOR THE DEVELOPMENT OF SOCIAL SCIENCE RESEARCH IN AFRICA (CODESRIA) for a special issue of their Bulletin dedicated to the African woman and, which was to mark 20 years of development or is it non-progress in gender related questions, many issues, termed feminist issues, struck me as completely lacking a social base. Quite a sweeping statement, one would argue. Nonetheless, my view was that the missing social base is in the sense that it was a struggle by a few for many who did not recognize with the resistance, and if they did, saw the agenda as speaking out of context. Taking stock, as I termed my introductory paragraph in the think piece, looked at the incremental gains that the women's movement had achieved so far. My analysis then was based on the well researched and highly provocative United Nation Research in Development (UNRISD) 2005 Report[1]. Some of the achievements that the report identified were as follows: In the educational sector. The write-up made mention of the increased number of girl-children and their move from primary

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[1] Gender equality: striving for justice in an unequal world. UNRISD 2005, http://www.unrisd.org/publication/html

level education on to tertiary educational levels. Remarkable was the increased number of females taking on science related subjects, changes in curriculum, especially at tertiary levels to include feminist epistemologies and the embrace of gender sensitive issues by many who were hither-forth gender blind. The report further pointed out the gains made in the health sector singling out some of the successful reproductive rights campaigns on to the increased access, by women, to crucial health care systems.

The treatise acknowledged that despite the entry of many women in the economic sector, the continued informalization of the market and the non-recognition of women's contribution to this critical sector had served not to lessen the burden of poverty but rather to accelerate its vicious cycle. Such a dismal gain was also noted in yet another critical arena in society and that is the political sphere. The report recognized that despite an increased number of women in critical political economic positions, no meaningful gains have been realized. It is on these identified lacunae that my contributions rested. Here in, I singled out the participation or continued non-participation of young women in critical social-economic and political spheres with examples drawn from the Kenyan context.

Contextualisation:
Analysing the changing African Demographic Make-up

The African environment is currently facing what is defined as an intergenerational shift. This, in demographic terms, is basically defined as a demographic transition brought about by a population change whereby the age structures of especially the labour force experiences a change either because of a low or a high fertility rate (Hirschman 1994, Lucas 1994). For example, The United Nations Economic Commission for Africa-UNECA (2001) report discusses the state of Africa's population and asserts that because of the high fertility rate coupled to low infant mortality rates due to better and accessible health care systems, Africa's population is changing to comprise of a more youthful population (UNECA 2001:4). Socially, economically and politically, it necessarily means that a different generational age-set takes up positions of

influence and begins to map out societal changes. Nonetheless, how they do this and with which hypothesised consequences is a question that still warrants scientific inquiry.

It is with this question in mind that this paper tasks itself. The point of departure is that society has several spheres of influence. Without relegating the other spheres dismal positions, of importance are the governance and economic spheres. For the purposes of the issue at hand, the governance sphere takes centre stage. The main line of questioning is: with the coming of age of a new generation, especially young African women, to take up positions of influence at the public domain and thereby contributing to governance issues of the day, which new institutional forms are necessary? Importantly which are the old institutional forms of legitimacy that act as structures of exclusion and which need to be transformed to accommodate this emerging category?

Forms of Social Exclusion
Cultural legitimacy – of marriage, motherhood and seniority

Analysis of predominant forms of African social structures abound[2].. For women, three institutions cut across and necessarily marked entry into society and thereby accorded women access to entitlements and a voice in society. These are institutions of cultural legitimacy that can be broadly categorised as marriage, motherhood and seniority. However, with the advent of the demographic transition several significant shifts, which can be attributed to certain predetermining conditions, can be witnessed. Population analysis show that, not only are we witnessing a bulge in the category of single unmarried women or delayed marriages (UNECA 2001: 32-38) at the socio-economic level we are also witnessing an increase in young women who are engaged in both the formal and the informal labour markets (Achieng' 2004). Again, studies in demography provide us with an interesting insight into the

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[2] An up-to-date bibliographic reference on the social structures of the different communities in Africa and who consider themselves African is availed by different paper authors featured in the CODESRIA Bulletin, Special Issue: The African Woman, Nos. 1&2, 2006

types of life and career choices that this newly emerging category of young women[3] pursues. Of importance is the institutional change that is heralded with this demographic shift. Not only are the cultural institutions of legitimacy absconded as new forms of rules and regulations negotiated, but also a new kind of assertiveness among young women is being witnessed. Young African women are more aware of their femininity and in doing this project a new kind of consciousness which hinges on a slight modification of what I have conceptualised in an earlier article (Achieng' 2006) as the three C's, that is, Capacity, Capability and Cooperation. In short, their new consciousness capitalises on the power within[4] – translated as these 3 C's.

Nonetheless, an analysis of the 3 C's that young African women exhibit necessarily means that first and foremost, we have to analyse the paths to power that young African women have to negotiate with. Secondly, an analysis of how these paths to power coupled to the cultural legitimacy become the persisting forms of exclusion is called for. Lastly, how, amidst these contravening processes, young African women are able to negotiate forms of inclusion albeit on the periphery through the exercise of the 3 C's , forms further analytic interest.

Further Forms of Social Exclusion: Paths to Power

Studies on power[5] demonstrate that society is constituted on a power maze principally known as the power web. Certain prerequisites underscore an understanding of this power web. Of importance are:

    i.   the rules of entry i.e. who is allowed in, under what conditions and why. Here the line of inquiry is what capabilities do they bring with

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3 CODESRIA has carried out a number of initial research inquiries into this demographic shifts. For an analysis see the reports of the Child and Youth Studies Institute 2004 that focused on Children and Youth in the labour market and a conference on Youth in the Global South held in 2006. For a current analysis on the youth bulge see documents available from the Child, Youth and Family Studies Programme of the Human Science Research Council.

4 See select bibliography for reference that informed this point

5 See select bibliography for reference that informed this point

them and how does it fit to the established power web/disrupt the
power web

ii.   an understanding of shifting power boundaries where of necessity is
       a comprehension of who the guardians and opinion makers are. In
       short understanding the shakers, breakers and makers.

iii.   in further understanding the power boundaries a comprehension
       of the role of mentors/protectors is crucial as points of reference in
       negotiating entry

iv.   the communicative practice and the rules of engagement i.e the secret
       codes of behaviour, language and conduct

v.   an acknowledgement of the 'invisible hand of power' and thereby
       strategically positioning oneself in order to access this power

These paths to power have worked to the contrary in allowing
young African women critical access and thus enabling them partake
fully in governance issues of the day. Despite these persistent forms of
social exclusion, young African women using their agency show inge-
nuity in negotiating new institutional forms and have thus created for
themselves transformative spaces, or new forms on social inclusion,
albeit on the periphery. These are:

A. Capacity Development –
Enhancement of Individual Endowments

The United Nations Research Institute for Social Development
(UNRISD) report[6] pinpoints to many of the gains that women and
especially young women have accomplished.. The report demonstrates
that young African women have made great leaps in following career
choices that were previously reserved for men only. Not only have
they excelled in these fields, but they are also projecting a new kind of
professionalism that significantly departs from the 'old boys club' rites
of passage and rules of engagement. Despite these individual endow-
ments, dismayingly, young women face new structural discrepancies
which they are either unaware of or are ill-equipped to challenge.

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6 See http://www.unrisd.org/publications

This is partly due to their continued lack of engagement in critical issues and partly because of the restrictions imposed on their agency to act otherwise. The latter arises through being cut off by their 'older' counterparts, the continued denial or diminishing of their voices in a society that refuses to acknowledge this new category with rules of engagement that depart from the status quo, their lack of transformative alliances/lack of alliances. Again, a glaring example is the public sphere (here taken to mean the political space in society). In countries such as Kenya, Democratic Republic of Congo, Cote d'ivoire where we have young men congregating in the public space, vying for posts and representing their communities in various capacities, we hardly witness women in the same age group engaged in similar political actions. An analysis provided by African Woman and Child Features (AWC Features 2004) shows the hard road faced by women seeking entry into the public sphere. Two articles in a recently realised publication on Kenya: the struggle for democracy (2007) clearly illustrate the double edged sword women have to contemplate with when engaged in governance issues (Nasong'o and Ayot 2007:164 – 196) not to mention the social boundaries erected to keep young people out of governance issues at the pretence that they have not come to age (Mwangola 2007:129 – 163). The constitution making process in Kenya is telling in this regard. Young Kenyan women constituted a univocal 'yes' to the adaptation of the new constitution and some of its guiding principles, which spoke to issues of social justice, social economic development and equity in political participation. However, certain political and church led groups reduced their (young women's) agenda of seeking social redress through support of a new constitution that better spoke to the changing social-economic and political order, to a reproductive rights debate and demonized the 'yes' agenda for pursuing calls for abortion, increase in the use of contraceptives and rights to ones own body (divorce, pursuing justice in the case of rape or knowledgeable infection by HIV/AIDs positive other i.e. criminalisation of deliberate infection). Such that, the dilemma that is being dealt with is: one the one hand, an emerging category of young African women with individual endowments and enhanced individual capacities but societal structures that have refused to allow them entry. The question therefore is, are there other windows of opportunity for these young African women

and how have they capitalised/should they capitalise on this in order to create further rooms for manoeuvre for themselves?

B. Cooperation

i. *Strategic positioning – a paradigmatic shift from wrestling the phallus to exploring cooperation with pro-feminist men*

With certitude young African women cannot go it alone. There is need for cooperation at several fronts. These can be conceptualised as the formation of transformative alliances. A strategic positioning has to be envisaged whereby young women have to be aware of hegemonic masculine structures. Sadly, these are being perpetuated not only by men but more so by women themselves (see Tamale 1999 and Sall 2000 for an analysis of such structures in the public sphere and in the academy respectively). In my opinion, a paradigmatic shift has to occur. This, I envisage as a shift from wrestling the phallus (which earlier generation feminists had embraced) to exploring opportunities of transformative alliances being offered by especially pro-feminist men and who are taking over positions of influence in the governance structures. Already some female networks – for example FEMNET[7] are working with 'Men to Men' agendas. Nevertheless, this cooperation and alliance does not mean that women are not better placed to address structures that oppress them and bring about significant changes. It rather means the negotiation with men about changing structures that perpetuate inequalities. It is here that indeed power within has to be exercised. Thus, the communicative practice becomes of major importance. This means being aware of the secret codes of behaviour, the use of language and conduct that exhibits a certain kind of stance and that pushes forward a transformative agenda and which contributes to a positive change in governance and policy issues. Conceptually, it culminates to exercising women's agency through appealing to social relations in a gendered manner.

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[7] FEMNET is the acronym of African Women's Development and Communications Network

ii. Trans-local Networking among Female Movements at various levels

Global geopolitics, especially women mobilising at the international level has had positive effects on the course of women's regional networking (Tripp 2003, Mbilinyi 2006: 46 - 48). Incremental gains can be recounted: from government's relaxing some of the coercive means of governance to a renewed interest in bringing the state back in on developmental and governance issues and holding it accountable through global and regional checks. Notable among these global and regional checks are social movements, UN bodies and the recently enacted International Criminal Court. Due to their nature of formation, social movements manifest a more communal spirit, participatory democracy, mutual support and networking. Above all, they offer new visions of society (Mamdani, Mkandawire and Wamba dia Wamba 1988). For young women, these different forms of socially embedded movements offer avenues for self-organisation and arenas for interaction, discussion and information sharing on critical social and political issues. Increasingly, young women are forming professional groups which are linked in one way or another to the enterprise of society. They (the young women) not only meet their peers in such groups but are often accorded opportunities for mentorship by other feminist women holding positions of influence and who have defined themselves as agents of a transformative agenda (Mbilinyi 2006:46 – 48).

However, I am of the opinion that young women have not yet fully capitalised on the opportunities offered by trans-local networking. This, as earlier explored, is either because governance issues and agendas that could form the basis for inter-linkages are still poorly defined. This could be due to different factors, for example, either being overwhelmed by information, not having the correct information/having no information that could enlighten the basis of analysis of major issues. This leaves young women isolated and forces them to trend the 'known paths' before branching off by which time many of the issues are passé and devoid of their (young women) points of views. It seems to me that men have developed better coping mechanisms in this regard, which help them quickly sieve through information, get correct information and thus stay abreast of governance issues, thereby being competitive

in offering up-beat, timely decisions that serve to push forward their agendas. Indeed, the issue of dissemination of critical information in a timely manner is crucial. The task however is of first defining those common agendas of interest for the different groups seeking to network trans-locally and there-after remaining vigilant in translating these agendas accordingly across time and space. This I conceptualise as the oscillation of agendas in the articulation of voice, a matter I will now turn to in the next section.

C. Capabilities

i. articulation of transformative voices through the inter-linkage of agendas at different levels

As already touched upon in the foregoing paragraph, how one articulates issues (exercising a transformative voice) is of crucial importance in how young African women engage governance issues. Here the critical point is a thorough knowledge of the modes of articulation. This means being informed of what the agenda is (both overtly and inertly), knowing how to speak to these different agendas and with whom to speak. I will provide an example: At a workshop on Muslim women negotiating development[8] a whither rights debate ensued. The critical question was: whereas at an international level a discourse of rights is the buzz-word, can we comfortably claim the same of local contexts? In critically analysing women's life worlds and their lived experiences and especially young women's everyday experiences, can one argue on the basis of a rights discourse? Indeed, the tension that still exists in African environments is this in-between position, that is, between tradition and modernity. The issue then is how one does negotiate (articulate a transformative voice) with this in-between position in mind?

First and foremost, as already discussed, young women have to recognise their endowments and achievements and appreciate their competencies and abilities as individuals. With this comes an

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8 The workshop was titled, Negotiating Development: Trans-local Gendered Spaces in Muslim Societies, 13 – 15 October 2005, University of Bielefeld, Germany

assertiveness and a consciousness that goes a long way into changing some of the taken for granted cultural assumptions and goes along way into changing the order from that of purely cultural legitimacy to a recognition of achievements, competencies and abilities as a basis for entitlement. Thereafter, young women have to be vigilant enough not to take for granted agendas being articulated at different fronts and applying this unquestioningly in their various environments. A critical and questioning stance has to be adopted with the aim of ensuring that an oscillation of agendas through its translation into different contexts occurs. For example, agendas being propounded at the international level could be distilled and translated into different African contexts, not with an aim of adopting them unquestioningly but rather with the objective of using these as mirrors into further reflecting on the context specific changes and the new modes of action required. The reverse could hold, whereby the context specific agendas are refracted on to the international scene with the aim of gauging whether changes occurring at the international level necessitate different ways of conceptualisation and modes of action when translated in specific contexts.

ii. Strategic use of places as spaces for critical reflection

From the aforementioned discussions, one cannot but appreciate the constant need for critical reflection. In an earlier article Achieng (2006: 72), I explicated how the religious space is now being transformed into a political space. The church has acquired the quality of a public space where pertinent political issues are exposed, debated upon and concerted efforts at changing the prevailing order engaged in. For young women, more secularized places are sought for. For example, the work-place is increasingly being transformed as a space for critical reflection and information sharing on emerging governance issues. Increasingly, recreational centres and public forums have become spaces for an engagement in debates and critical reflection. This phenomenon is mostly found in the urban centres where pubs, cinema halls, recreational parks and youth sports clubs provide spaces for critical engagement on issues of governance.

One cannot ignore here the proliferation of the radio and television series and of course the music arena as some of the spaces being used by young people to express their voices. From the music arena, we see a move from classical love songs to political songs from the eyes of young people castigating some of the 'wrongs' society is unleashing on its young generation. Young women have not been left behind in expressing transformative agendas through their use of voice. An analysis of music generated by young women show a certain political consciousness, whereby structures of oppression are exposed and remedial governance measures appealed to. Again, in an earlier article (Achieng 2005) I discussed at length the accelerated use of radio as space where critical voice is increasingly being exercised.

The internet has become a common phenomenon in most African cities and town centres. Although this means of communication is still being used as a way of keeping in touch with friends, some groups of young people are exploiting this means as a way of keeping abreast governance issues. The controversial elections in Kenya in 2007 and the violent aftermath that followed in its wake and that left many people displaced and returned them to a state of destitution is clearly a case in point. Blogs were set up that allowed public opinion on governance issues of the day to be critically debated upon. Worth mentioning is the current page 'Mzalendo' meaning Citizen, which is being run by two young people. This Blog not only informs on pertinent issues but also offers space for critical discussion among young people (women and men alike). Indeed, the role of the media in building a consciousness on governance issues especially among young African women cannot be underestimated.

Despite all these forms of trials at social inclusion, young women still face animosity at various levels. The question that begs further research analysis is: Do young African women's agendas lack a social base? Are young women living in contexts which are still traditional and conservative, meanwhile they are progressive and forward looking? How do young women strive to bring about social change in the face of relentless, repressive and exclusionary social structures? How is society changing and how are young women using their agency to negotiate new rooms for manoeuvre?

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Conclusion: A note on Inter-disciplinarity

One will readily agree that the magnitude, depth and complexity of analysis that the foregoing questions warrant cannot be tackled univocally. There is an increasing corpus of scholars who argue for an interdisciplinary approach in studying the rapidly changing nature of African lived realities (Chege 2004, Achieng 2010) through unravelling its complexity and multidimensionality, and understanding the segmentation and fragmentation of different processes. Borrowing from sociological studies, demography and political philosophy, the paper at hand has shown how an interdisciplinary inquiry could proceed.

The paper departed by asking a basic question, i.e. why there is a continuous lack of articulation of a critical voice by a significant group in society. In it, I showed that two conflicting processes are evident. On the one hand, whereas indeed young African women are articulating a critical voice, there seems to be reluctance from the rest of society to integrate these issues into broader ones that being put across. In this manner, social inclusion of this significant group is denied. Young African women's issues are either being reduced or ridiculed, and in this manner ridding them of a strong social base from which to legitimize their voices and institutionalize their actions. On the other hand, young African women as a social group are continually ignored as a group that has not yet come of age. Although young African women using their agency have come up with strategies in a bid to create rooms for manoeuvre for themselves and thus get their issues across, the need for a strong social base on which to rest these concerns and thus give these a wider legitimacy is still lacking. Indeed, as one author in a recently ended conference expressed, it is a matter of gaining an edge, being relevant and obtaining preferential status[9]. This calls for research into social contexts and processes that are integrating young women's voices, legitimizing their concerns and institutionalizing decisions arrived at. This is critical given the demographic shift that is on-going and the democratic processes that are being institutionalised in many African contexts.

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FEDERALISM, DIRECT DEMOCRACY AND THE QUALITY OF PUBLIC DELIBERATION: THE GMO DEBATE

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1. Introduction

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WHILE A FEDERALIST DISTRIBUTION OF POLITICAL COMPETENCES inside the State is often considered as a good way to improve public deliberation (regarding on both institutional and civic actors); the link between high quality deliberation and direct democracy is unclear (Habermas, J. (1985). *Erläuterungen zur Diskursethik*).

The exciting public debate about GMO food will serve us to focus on the relationship between federalism, direct democracy and deliberation's quality. Our paper will present an empirical contrast between the way in which regional newspapers of Bayern (Germany), Saint-Gallen (Switzerland), Aragon and Murcia (Spain) informed about this topic between 2003 and 2010.

Taking into account elements as the number of pieces of information per year (as regards to Switzerland considering also the press activity around the key days in which a referendum took place), the bias of news and editorials and the source and geographical attachment of the information (international, national or regional parties, institutional actors, associations, corporations,...), we will get hold of some objective dates about the way in which federalism and direct

democracy give an incentive to political deliberation in newspapers, a small but important part of the public sphere.

2. Some Agricultural and Industrial of Features Murcia: Absence of GMO Cultivations not Politically Motivated

Murcia is a region of the southeast of Spain that had experienced in the last decades an important growing and modernisation of the agriculture, which is an important economy sector in the whole south of the Iberian Peninsula.

An intensive farming of citrus, fruits and vegetables (lettuce, tomato, cucumber and so on) is characteristic in this region, where the cultivated area are 600.000 ha. (53'5% of the regions area).

	MURCIA				SPAIN
	2001	2002	2003	2004	2004
CULTIVATION AREA	606.000	606.000	606.000	605.839	25.175.260
AVERAGE	3.5	3.5	3.5	3.5	2.9

Table 1: Evolution of greenhouses cultures (1978-2004). Modified from "Atlas de Murcia", *Diario La Verdad, http://www.atlasdemurcia.com/index.php/secciones/2/la-agricultura/*

Agriculture in Murcia is directed to exportation. That implies the parallel development of a transport network able to take out products to the principal markets in Europe. An industry which works in the

elaboration of tinned food, juices and other products created with the fruits and vegetables of the region is also consolidated.

Taking into account the commercial nature of Murcia's agriculture, new techniques that increase the rhythm of production have proliferated from the eighties. The number of greenhouses has specially increased in contrast with the traditional vegetables gardens. This kind of culture represents already 1/6 of total fields (100.000 ha).
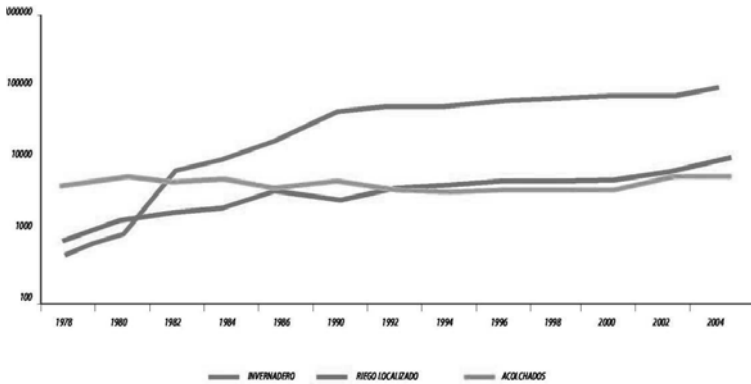
Figure 1. Evolution of cultivation in greenhouses (1978-2004)[1]

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Even if the technique is nowadays very important in the region, at the end of 2009, Murcia didn't product any GMO. It is very important to mention that until Mars 2, 2010, when the European Commission authorised the culture of Amflora potatoe (BASF), the only GMO culture allowed in the EU was maize MON810. Production of maize in particular and other cereals in Murcia is much reduced and is decreasing in the last years. This fact is very important to understand why Murcia has been almost preserved from the introduction of GMO technology in recent past.

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[1] Source: "Atlas de Murcia", *Diario La Verdad,* *http://www.atlasdemurcia.com/index.php/ secciones/2/la-agricultura/*

PRODUCTS	2001	2002	2003	2004 (*)	2005 (*)
Cereals................	**0,99**	**0,82**	**0,76**	**1,04**	**0,56**
Vegetables................	31,70	38,28	45,67	39,49	37,34
Citrics	11,85	12,40	11,89	11,90	10,64
Fruits	10,99	8,98	12,09	8,79	10,32
Plantations	1,47	3,38	1,01	0,86	1,12
Wine	3,27	3,11	2,42	3,62	4,46
Nursery................	2,92	2,46	2,28	2,41	2,42
Flowers................	3,44	2,33	2,41	3,02	2,29
Industrial plants	1,22	1,21	0,70	0,97	0,92
Forage................	25,57	20,58	15,49	19,27	20,89
Milk................	0,87	1,06	0,82	0,96	0,97
Other products	5,71	5,38	4,47	7,68	8,04
P.R.A................	100,00	100,00	100,00	100,00	100,00

Table 2: Agriculture's evolution. Murcia region 2001- 2005. From: Consejería de Agricultura y Agua. Dirección General de Industrias y Asociacionismo Agrario.

Figure 2. Free GMO regions in Spain. From Amigos de la Tierra, http://www.tierra.org/spip/spip.php?article433

We can also speak from a growing ecological sensibility in Murcia and in other regions of Spain that, nevertheless, is not predominant. In June 2010 bio farmers used 60.742 ha, one of the best averages in Spain, especially if we compare it to bigger regions like Catalonia (71.734 ha) or Valencia (38.754 ha), where irrigated lands are also an important part of the fields[2].

On the other hand, in Murcia there is a low success of European initiatives like GMO free regions. Only the little village of Bullas (with a famous wine production) has adhered to the initiative, widely supported in other regions of Spain (Fig 2).

We can say that even if Murcia is a *de facto* free GMO region, there is not a social pressure in order to make the Autonomy adhere to some *de iure* compromise.

We will try to explain this estrange situation as a fact related to the little discussion about GMO food topic in the public sphere of Murcia. Newspapers keep little traces of the debate, small with regards to the huge system in which the social formation of public opinion takes place, but perhaps enough to have some evidences about the quality of the public debate about GMO cultures in the region.

In our opinion, we can speak about an anomalous situation if we consider that Murcia's fields have already been cultivated with GMO

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[2] http://www.interempresas.net/Agricola/Articulos/41118-Espana-lider-en-cultivo-de-productos-bio-en-la-UE-exporta-el-80-por-ciento-de-la.html

seeds in 2004 and 2007, facts that we will study after taking a brief look over the agriculture in Aragon.

3. Some Agricultural and Industrial Characteristics of Aragon: European Leader in GMO Cultures

In contrast to Murcia, Aragon is a north-east region of Spain with a characteristic continental climate of cold winters and dry summers, not very good to produce vegetables. However, cereals culture is consequently the basis of regional agriculture. In 2009, the hectares cultivated with wheat, maize or malt was more than the double than the area of other plants (Table 3).

Cult.	**Cereals**	Legu-mes	Oils	Forage	Vegeta-bles	Fruits	Wine	Olives
Hectares	**822.394**	12.149	20.826	115.967	8.948	101.411	43.203	46.471

Table 3: Aragon cultures in 2009. From: Secretaría General Técnica. Servicio de Planificación y Análisis. Departamento de Agricultura y Alimentación. Gobierno de Aragón.

Around 600.000 ha of maize where cultivated in 2008, the whole agricultural area of Murcia (Fig. 3). This is a very important fact to understand the huge and increasing number of GMO plants that are being cultivated in Aragon, European leader in GMO plants' production.
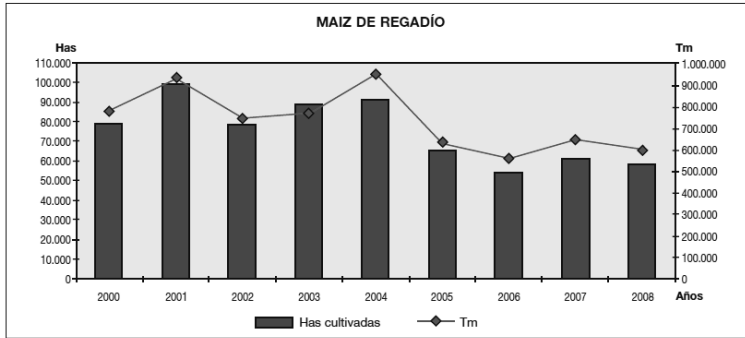
Figure 3. Evolution of maize cultures in Aragon (2000 – 2008). From: Anuario estadístico agrario de Aragón 2008-2009, Sección de Estadística del Departamento de Agricultura y Alimentación del Gobierno de Aragón.

4. Evolution of GMO Fields in Spain, Aragon and Murcia

The contrast of the number of hectares cultivated with GMO plants in Murcia, Aragon and in the whole Spain (Table 4) will allow us to set in a better context our analysis of the regional press news about GMO food in Murcia and Aragon.

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	Spain	ARAGON	MURCIA
2009	76.075	29.540	
2008	79.269	31.857	
2007	75.148	35.860	24
2006	53.667	23.734	
2005	53.226	21.259	
2004	58.219	25.547	12
2003	32.249	12.592	
2002	23.280	9.200	
2001	11.540	4.250	
2000	25.816	9.000	
1999	24.952	7.300	
1998	22.317	11.500	

Table 4: Distribution of the hectares cultivated with OMG in Spain. From: Cuaderno transgénicos 2009. Informe elaborado por Plataforma Rural y Ecologistas en Acción.

In 2009, Spain was the first EU GMO plants producer (76.075 ha of 94.750 ha, total production of the EU). Besides, Spanish authorities are more tolerant to GMO plants than EU administrators. Between 1998 and 2005 culture of maize Bt 176 was not authorised by the EU. It was, in contrast, allowed in Spain.

In spite of their great extension, GMO cultivated area in Spain is far away from the areas in USA (64 millions of ha.), Brasil (21'4 m.ha), Argentina (21'3m.ha) or India (8'4 m.ha).

Inside Europe, Aragon is clearly the first region in GMO plants production, while in Murcia, climate characteristics have stimulated an only occasional cultivation. In the next section, we will try to determine how these economic conditions have an influence in the discussion about GMO plants and food in Murcia's and Aragon's main newspapers.

5. Some Political Philosophy Questions about GMO cultivation and federalism

While discussing about GMO plants and food, we should take into account that we are facing a debate in which two irreconcilable visions of nature are fighting. For the partisans of gen technologies, the innovations in that field allow us to increase the global production of food (a solution to huger in the world) and the nutritional qualities of some plants. On the other hand, ecologists, green and left groups underline some health risk usually associated to the use of gen techniques and alert about the increasing economic influence of great pharmaceutical and agricultural enterprises like Syngenta or Bayern. They are some of the economic groups, associations and lobbyers that take part in a complicated debate where there is not and perhaps, there cannot be a satisfactory solution to all the actors involved.

Is federalism a good political model to carry on discussing about problems with a non evident solution? Subsidiary application of communitarian decisions about GMO food has been the key tool in the EU regulation of GMO plants cultures and importation. While the WTO agreements avoid any attempt of limiting the importation of GMO, Article 23 of Directive 2001/18 give the State members the pos-

sibility of employ a national ban to MON 810 (in force in France, Italy, Luxembourg, Germany, Austria, Hungary, Poland and Greece[3]).

The case of Swiss federalism, also important for our research is even more complicated in some aspects. Swiss politics benefits from its national autonomy as a non-EU member. On the other hand, the pressure of the WTO agreements is similar to that experienced by EU members. National politics are finally conditioned by some specific citizens' political rights, characteristics of a semi-direct democracy.

As a result of a popular initiative, submitted in September 13, 2003 and voted in November 27, 2005, GMO plants cultivation is banned in Switzerland. Is this practice of direct democracy in opposition to the federalist principles? For their critics, in the Swiss case we are dealing with the imposition of a majority of national citizens against some local and particular interests, heavily damaged. On the contrary, partisans of direct democracy consider popular initiatives and referendums as the culmination of federalist principles: separation of governmental powers and active role of regions and their citizens.

Our analysis of the debate about GMO plants in regional press and public spheres of Murcia, Aragon and Saint-Gallen will provide us some objective arguments in our quest about the link between political rights, deliberation and federalist principles.

We will try to give an empirically founded answer to the following questions:

- Do the relations of production determine society's other relationship and ideas? (Marxist approach)
- How can political rights' theory improve the Marxist conception about the relationship between facts and ideas?
- How does the economical structure of this regions influence the discussion?
- Are citizens' political rights important regarding to the way in which the debate takes place? As a result of the difference between Spanish and Swiss democratic systems we will observe two different types of public deliberation.

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3 Source: http://www.gmo-free-regions.org/gmo-free-regions/bans.html

Pursuing a better understanding of the link between direct democracy and good quality deliberation our press analysis will focus in the following elements:

A. Number of information's about GMO plants per year. For the Swiss case it is also important to carefully study the press activity just before and after the popular initiative of November 27, 2005.
B. Presence of international, national and regional topics and actors in newspapers, related to the federalist importance of local politics.
C. Plurality of institutional agents and groups of civil society.
D. Partiality of information.

6. GMO Plants in la Opinión de Murcia

- Second regional newspaper of Murcia. Daily circulation: 23.650.
- Presence of local correspondents in the towns and villages of Murcia.
- Dependent on national and international press agencies with regards to non-regional news.
- Period of news' compilation: June 2004-11 March 2010.
- Key word of the research: **transgénico/a/s**
- http://www.laopiniondemurcia.es/servicios/hemeroteca/hemeroteca.jsp

INFORMATION PRO YEAR TOTAL : 34						
2004s.June	2005	2006	2007	2008	2009	2010u.Mars
2	0	2	2	16	11	1

Table 5: Information about GMO plants in *La Opinión* newspaper

Opinion about GMO in the news	Quite positive	Quite negative	Almost neutral
	7	25	2

Table 6: Opinion about GMO plants in the news of *La Opinión* newspaper

SECTION OR GEOGRAPHIC AREA OF INFORMATION	NUMBER OF NEWS
Regional	2
National	3
International	17 (all concerning the EU, apart from one information about China)
National/International (news concerning both Spain and the EU)	2
Editors	7
People	3 (opinions of Prince Charles of England)

Table 7: Section of the newspaper where information about GMO appears. Geographic provenance of the news.

POLITICAL AND SOCIAL ACTORS	NUMBER OF NEWS
Ecologist	13
Institutions	5
Parties	1
Biotechnological companies	3
Scientist, experts	3
Editors	4
People	3 (Prince Charles of England)
Other medias	2
Religious groups	1

Table 8: Political and social actors who explain their point of view or whose opinions are reported

As a preliminary interpretation of the information gathered, we should remark:

- *La Opinión* says anything about the GMO cultures in the region (2004-2007)
- The Spanish EU-leadership in GMO plants is only two times mentioned. There is even more information about foreign countries like France or Germany
- Predominance of EU information where European institutions are criticised. Local and national authorities are almost absolved when problems related to GMO cultivations and consume are discussed.
- European institutions and ecologist (Greenpeace) usually speak about the problem. Political parties, farmers or consumers don't appear in the articles written on *La Opinión*.

7. GMO Plants in *El Periódico de Aragón*

- Second regional newspaper of Aragón. Daily circulation: 15.000.
- Presence of local correspondents in the towns and villages of Aragón.
- Dependent on national and international press agencies with regards to non-regional news.
- Period of news' compilation: 2003-11 March 2010.
- Key word of the research: transgénico/a/s
- http://www.elperiodicodearagon.com/noticias/hemeroteca.asp

INFORMATION PRO YEAR. TOTAL : 41							
2003	2004	2005	2006	2007	2008	2009	2010u. mars
9	8	5	1	4	6	7	1

Table 9: Information about GMO plants in *El Periódico de Aragón* newspaper

Opinion about GMO in the news	Quite positive	Quite negative	Almost neutral
	14	23	4

Table 10: Opinion about GMO plants in the news of *El Periódico de Aragón* newspaper

SECTION OR GEOGRAPHIC AREA OF INFORMATION	NUMBER OF NEWS
Regional	12
Regional/National	9
National/International	2 (all concerning the EU)
Regional/National/International (information concerning Aragon, Spain and the EU)	6
Opinion	7

Table 11: Section of the newspaper where information about GMO appears. Geographic provenance of the news.

POLITICAL AND SOCIAL ACTORS	NUMBER OF NEWS
Ecologist	12
Institutions	5
Parties	9
Companies	3
Experts, scientists	5
Editors	3
Farmers organisations GMO friendly	5
Farmers organisations against GMO	18
Consumers	6

Table 12: Political and social actors who explain their point of view or whose opinions are reported

 After studying the information about GMO plants that was published in *El Periódico de Aragón*, we can state that:

- There is a similar number of articles pro year in *El Periódico* and in *La Opinión*.
- *El Periódico* offers more information about regional and national problems
- *El Periódico* offers news where interrelated facets of the GMO debate are discussed. Their news are then, more relevant and interesting than *La Opinión* ones.
- The regional economy, where local farmers use GMO crops, creates a debate between them (ASAJA) and traditional or bio farmers (UAGA). We can then confirm a part of the Marxist approach to political ideology. Economic forces create organisations and discourses in order to fight for their common goals.
- The position of Spain and Aragon as leaders in GMO plants production is constantly underlined by UAGA and ecologist (Greenpeace)
- There is a tendency to neutrality in the information concerning GMO plants offered by *El Periódico*.
- The opposition of rival economic groups is in favour of a more interesting and rich information.
- Only the critical political parties (IU, CA) take part in the debate
- We notice a positive evolution of *El Periódico*. In 2004 and 2005 they only received and published press releases from parties, farmers and so on. In 2006 they began to prepare their own information.

8. GMO and Economic Lobbyes in German Speaking Switzerland

Following the structure that we chose in the precedent sections we will take a brief look on the German speaking Switzerland economic elements that have a real influence upon the GMO plants debate.

It is important to underline the great diversity of economic sectors involved in the GMO Swiss debate. As a main actor in favour of new gen techniques we find the agribusiness company Syngenta, third world producer of genetically modified crops. Syngenta claims for more public support to their activities. The principal goal of its communication strategy is to reduce the perception of risk associated to gen technologies by investors and consumers. In the last years, Syngenta

has invested great capitals in the research on applied biotechnology. The prestigious ETH Zürich, one of the greatest beneficiaries of these investments and a key actor in Swiss debate usually shares and defends the opinions of the company. A high alarm about GMO will influence very negatively the allocation of public and private founds to the biotechnological research.

On the other side of the barricade, the Union of Swiss Farmers considers the reject of GMO plants as a mark of distinction and quality of Swiss products. One of the first strategies in their fight against GMO plants was the creation of the Suisse garantie labels in 2004. The renunciation to the employ of gen techniques is a sine qua non requisite for national and regional products, which benefits from a great national costumers' trust.

Consumers associations are also highly concerned about technological evolution and their hypothetical risks. All the political parties made their own statements about the matter. The complexity of the Swiss federal system, in which very important rights to vote in referendum or promote a popular initiative are accorded to citizens, is one of the main causes of the great diversity of opinions between the parties and also inside the parties (CVP, SVP,...). That is why the Green Party, introducer of the popular initiative plays a key role but doesn't monopolize the creation of public opinion in Switzerland.

9. GMO Plants in Saint Galler Tagblatt

- First regional newspaper in Eastern Switzerland. Daily circulation: 99.000.
- Presence of local editorial offices in 11 towns of the region.
- Less dependent on national and international press agencies than *La Opinión* or *El Periódico*.
- Period of news' compilation: 2004-11 March 2010.
- Key word of the research: gentechnisch, gentechnologie.
- http://www.tagblatt.ch/suche/

INFORMATION PRO YEAR. TOTAL : 337						
2004	2005	2006	2007	2008	2009	2010u.mars
64	132 (94 from October 27 to November 30)	31	35	46	22	7

Table 13: Information about GMO plants in *Saint Galler Tagblatt* newspaper

Opinion about GMO in the news	Quite positive	Quite negative	Almost neutral
	58	134	145

Table 14: Opinion about GMO plants in the news of *Saint Galler Tagblatt* newspaper

SECTION OR GEOGRAPHIC AREA OF INFORMATION	NUMBER OF NEWS
National	124
Regional	78
Regional/National	21
Regional/International	11
National/International Total	48
National-EU	21
National-Other nations	28
Regional/National/International	4
International	61
International EU	26
International-Other nations	35
REGIONAL TOTAL	114
NATIONAL TOTAL	197
INTERNATIONAL TOTAL	123

Table 15: Section of the newspaper where information about GMO appears. Geographic provenance of the news.

POLITICAL AND SOCIAL ACTORS	NUMBER OF NEWS
Ecologists	42
Institutions	103
Parties	89
Companies (Syngenta, Monsanto,...)	52
Experts, scientists	61
Editors	6
Farmers against GMO	64 (exception : 2 farmers pro GMO)
Consumers	19

Table 16: Political and social actors who explain their point of view or whose opinions are reported

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GMO DEBATE**

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After reflecting about the wide range of information appeared in *Saint-Galler Tagblatt*, we notice that:

- Public sphere grows around the 27th November. The popular initiative plays a key direct role.
- The indirect role of this direct democratic tool is also important if we consider PNR 59 "Uses and risks in spreading genetically modified plants" as an effect of the popular initiative and the moratorium to GMO cultivations. Considering the vote as a popular will of more information about gen technologies, Swiss institutions an interest groups are already preparing new scientific arguments that will influence next deliberations and decisions.
- The combination between direct and indirect procedures of decision creates permanent and temporary discussion groups. As a result of this great number of actors taking part in the GMO debate, there is also an increasing number of news about that topic which are spread in the public sphere
- *Saint-Galler Tagblatt* considers as the most important sources the federal ones. It is logical considering that GMO legislation is established at the federal level

- The cantonal and municipal actors are also key actors in political communication. A lot of local committees and parties' sections send releases to the press.
- The international sources, very important and usually considered as references in the debate about national politics, are taken into account. In fact, *Saint-Galler Tagblatt* gives more information about EU GMO legislation than Spanish regional journals. As we know, Spain is an EU member and Switzerland only cooperates with EU in some policies.
- *Saint-Galler Tagblatt* offers more information than *El Periódico* or *La Opinión* about foreign GMO producers like India, Panamá, South Africa, Brazil, Argentina and resistance to European Commission decisions about GMO plants in neighbour countries (Austria, Germany,...). International conferences of WTO, FAO or even the International Conference of Bodensee Regions are considered as important sources of information.
- In contrast with other democratic countries, where members of government and main political parties concentrate the media's attention, Swiss public sphere of deliberation is occupied by a great number of different political actors.
- Federal Conseil's members don't take part directly in the debate about GMO plants. On the contrary, we notice some political interventions of the executive institutions and leaders of other States or multinational organisations in our press analysis.
- The presence of other social or civic organisations doesn't mean a reduction of the role of the parties. On the contrary, the pressure that popular initiative exerts over parties and over the whole political system coincides with an increasing number of parties' assemblies and press releases.
- Democratic tools force the parties to be clear with regards to their own position, something important when unpopular measures are being discussed.
- There is an increasing transparency in SVP and CVP positions. At the beginning they where doubtful or didn't want to state an official position about such a topic, which divides their political supporters (farmers, Catholics, big companies,...).

- Civil society groups (ecologist, consumers, farmers, corporations,...) make a great effort in the communication of their opinion about GMO plants. The possibility of influencing the course of a debate about their main interests that ends into a crucial vote stimulates their communicative abilities
- The wide range of political, ecological or economical associations which take part in the discussion creates a tendency to neutrality in the information. Neutral articles that detail, for instance, an institutional decision and the opinions or both partisans and opponents to that decision are a large majority.
- Nevertheless, there is a difference between negative articles (134) and positive opinions (58) about GMO. Owing to the great number of organisations who refuse GMO plants, their important presence in public sphere can be considered as something logic.
- The effort of *Saint-Galler Tagblatt* in the elaboration of non biased articles and even pedagogical contents must be praised.

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10. Conclusion: Swiss Federalism has still Specific Deliberative Qualities

The contrast between the way in which the GMO food debate appears in the three cases of Spanish and Swiss regional press that we have studied is surely a tiny empiric base to make general statements about federal systems, direct democracy and plurality of public opinion.

Our little analysis allows us to show only some signs in favour of a general hypothesis whose confirmation would need a further compilation of information in which other regions, mass-medias and debate topics were included.

Our deliberative approach to politics, in which the organisation of the public sphere and the possibilities offered to parties, citizens and associations to communicate about politics are considered as the most important characteristic of a political system is an impulse to focus on different aspects while speaking about federal systems.

Other academic scholars keep on limiting their comparative analysis of federations to the study of the distribution of competences between federal and local entities. Federations can nevertheless be compared by

taking into account other elements of the political systems. The nature of their public sphere and the conditions and instruments of formation of public opinion in such systems is perhaps as important for the democratic nature of the whole system as the local-central division of political tasks and rights. In fact, what would be the democratic role of a citizen or interest group in a federal system where they can hardly communicate? Our work can only show little signs of how insignificant and superficial public debates can be when a federal system lack of instruments allowing the real interaction of individual citizens, local and regional groups.

As we saw, Spanish regional press presents great differences in the way the GMO debate is set out. El Periódico and La Opinión offered a very different perspective about GMO cultivations and that is, obviously, a result from the division of political competences in Spanish federal system, a division which allows the existence of very different regional public spheres

The Swiss federal system goes on in the promotion of plurality in public sphere. Our paper offers some irrefutable facts that link the specific direct democratic rights of Swiss citizens to the good quality of public debates about irreconcilable matters like the GMO debate.

In order to conclude, we can state that even if, in the last years, other countries have also created federal structures (Spain, Germany, India, Belgium,...), Swiss federalism, due to the rights of referendum and popular initiative granted to their citizens has still particular deliberative qualities. In our opinion, these qualities are extremely important if we take into account the key role of public information and discussion to guarantee the democratic nature of highly complex societies.

The philosophical implications of that problem should be still discussed. As Kant stated in *The Conflict of Faculties*:

> "It is said that a superior power can fairly take our freedom to speak and to write. But, could we think a lot and good if we were not able to think, so to say, in community with the others?"[4]

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4 Kant, Inmanuel, *Der Streit der Fakultäten (1798)*, English translation by Mary J. Gregor, New York, Abaris Book, 1979.

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DEMOCRACIA
GLOBAL, IDENTIDAD Y
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A BUEN SEGURO, uno de los grandes desafíos de las democracias avanzadas de carácter liberal apunta a la necesidad de persuadir a sus ciudadanos de que la libertad conlleva inseparablemente una responsabilidad cooperativa en aras del interés público. Porque una democracia fortalecida requiere no sólo una garantía jurídica eficaz de los derechos fundamentales, sino también la asunción de una ética pública compartida y de unos deberes cívicos por parte de la ciudadanía. No obstante, como ha afirmado recientemente Victoria Camps [Camps, 2010], la realidad es muy otra, pues la configuración de las actuales democracias liberales conduce a la angustiosa constatación de unas "democracias sin ciudadanos" o, en palabras de Marcel Gauchet, de una "democracia contra sí misma". Las causas son bien conocidas: el individualismo posesivo y atomizador, el talante posmoderno y "líquido" de un ser humano fragmentado, indeciso y pragmático hasta llegar a la amoralidad, la desafección ciudadana frente a los problemas de interés público y la paupérrima participación en la vida sociopolítica de la *Res Publica*, el poder avasallador de los medios de comunicación en la conformación de la opinión pública, la influencia todopoderosa de la economía en la toma de decisiones de los dirigentes políticos –a menudo incluso contra la voluntad democrática del pueblo soberano...

Ante este panorama desalentador, que evidencia unas deficiencias graves tanto en la concepción como en el funcionamiento de los sistemas democráticos occidentales, hayamos en la filosofía moral y política contemporánea unas primeras respuestas para la recuperación de una sólida ética pública y el paralelo robustecimiento de una ciudadanía más activa y participativa. Se trata, evidentemente, de las contribuciones realizadas desde el republicanismo y el comunitarismo a modo de crítica al liberalismo político de corte clásico.

Sin embargo, como multitud de estudios sobre ciudadanía y democracia han desvelado durante los últimos veinticinco años, ambos vectores de ideas sufren a su vez carencias de distinta índole que dificultan en gran medida su adaptación a sociedades democráticas profundamente plurales en lo político y diversas en lo sociocultural y religioso. Ya que, por un lado, un discurso republicano como el de Jürgen Habermas, a pesar de sus avances en el reconocimiento de una razón práctica intersubjetiva apta para la consecución del consenso, adolece aún de un marcado cariz de abstracción formal, ciego a la situación concreta del ciudadano en cuanto a sus necesidades y adscripciones identitarias, así como de un peligro innato a todo discurso republicano: la tendencia hacia un laicismo estatal que impone valores morales, cuando no identitarios, pretendidamente neutrales [Habermas, 1998]. Por otro lado, el comunitarismo en su versión más dura, expresada en la obra de Alasdair McIntary o de Michael Sandel [McIntary, 1987], se encamina hacia un holismo centrípeto de valores morales que ahoga irremisiblemente el pluralismo ético y político de la ciudadanía, imprescindible para poder hablar de una auténtica democracia viva y dinámica.

De esta manera, en relación a las críticas vertidas sobre el republicanismo habermasiano y el comunitarismo más radical, la evolución del debate teórico nos dirige hacia la confrontación de puntos de vista más conciliadores y, en cierta medida, integradores de algunos aspectos propios de posiciones en principio contrarias. En medio de esta sana interrelación de perspectivas, cabe destacar las contribuciones de la tercera generación de la Teoría Crítica frankfurtiana (Axel Honneth, Seyla Benhabib, Claus Offe, Albrecht Wellmer...) junto a la elaboración de un liberalismo comunitario de la mano, sobretodo, de Charles Taylor y Michael Walzer [Taylor, 2003]. Indefectiblemente, todas estas

propuestas favorecen, de forma complementaria aunque en tensión dialéctica, la profundización en una democracia liberal de estructuras cada vez más sensibles al fenómeno de la multiculturalidad. Y ello, en la línea de un reconocimiento paulatino de nuevos derechos de tercera generación a grupos culturales diferenciados (minorías nacionales, inmigrantes, homosexuales...), supone la integración compleja de los principios de diferencia e igualdad democrática a la hora de acomodar la legítima diversidad sociocultural en el seno de las instituciones [Fernández Ruiz-Gálvez, 2003; Benhabib, 2002]. Pero además, no cabe olvidar que, a un nivel superior, también comporta una revisión de los grandes conceptos definidos por la modernidad política y jurídica, dado que surgen formas novedosas de concebir el vínculo entre el individuo y la sociedad política [de Lucas, 2002]. Por ejemplo, el ciudadano ya no sólo aparece como sujeto abstracto de derechos sino como una alteridad moral en sus circunstancias concretas; la división taxativa entre lo privado y lo público se relativiza, ampliando el espacio de acción de la sociedad civil frente al Estado; la noción de universalidad abandona su formulación abstracta y trascendental pura y, de acuerdo con la bipolaridad entre lo local y lo global, adopta un sentido más enraizado en las vicisitudes vitales del sujeto moral; e incluso, en cuanto a la base epistemológica se refiere, la razón práctica intersubjetiva, sin menospreciar su articulación procedimental, se abre a la narratividad en la conformación de las identidades personales y comunitarias.

Es por tanto dentro de estas coordenadas donde surge el objeto específico de este trabajo, a saber, el análisis y la confrontación entre la teoría crítica de Seyla Benhabib y lo que consideramos un precedente cercano pero no reconocido del liberalismo comunitario actual: el federalismo integral del s.XX. Con ello pretendemos mostrar como dichos discursos filosóficos, desde orígenes y tradiciones de pensamiento distintos, están en disposición no sólo de dialogar de forma fructífera en beneficio de una mejor fundamentación de la teoría sobre la democracia, sino también de converger en interacción mutua en pro de cambios innovadores en las prácticas y las estructuras de nuestras instituciones democráticas.

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I

Seyla Benhabib, desde parámetros comunes al resto de miembros de la tercera generación de la Escuela crítica de Frankfurt, busca reelaborar, sin desmantelar por completo, los ideales morales y políticos de la modernidad, la Ilustración y la democracia liberalrepublicana, en medio de una atmósfera posmoderna de franco escepticismo respecto a su actual vigencia [Sánchez Muñoz, 2009]. Semejante objetivo lo aborda a través de dos reflexiones ligadas entre sí. En primer lugar, un replanteamiento de las ideas de sus antecesores frankfurtianos facilitado en gran medida por la inspiración de Hannah Arendt, centrándose sobretodo en las limitaciones y constricciones detectadas en la obra de Habermas [Benhabib, 1986 y 1996]. Y, en segundo lugar, una apertura al diálogo con las más destacadas corrientes del pensamiento hodierno: el liberalismo de Rawls, los comunitaristas, las feministas y los pensadores posmodernos.

En esta línea de trabajo, el legado universalista de la modernidad aún tiene mucho que decir frente a las fragmentaciones culturales y nacionales y los ataques constantes a los derechos humanos desde visiones relativistas. Para Benhabib, los elementos más sobresalientes de la herencia moderna que cabría salvaguardar a toda costa serían: 1) un universalismo comprometido con el respeto universal de cada persona en virtud de su humanidad; 2) la autonomía moral de los individuos; 3) la consecución de la igualdad y de la justicia socioeconómica; 4) la participación democrática; 5) el más extenso sistema de libertades políticas y civiles compatibles con principios de justicia; y 6) la formación de asociaciones humanas solidarias. En todo caso, cabría atender también a las certeras y sagaces críticas lanzadas sobre las teorías universalistas por parte del comunitarismo, el feminismo y el posmodernismo. Y de forma especialmente perentoria a las siguientes tres cuestiones: 1) el escepticismo hacia la posibilidad de que una *razón legisladora* por sí sola sea capaz de vertebrar un "punto de vista moral" ("posición original" en lenguaje rawlsiano o "situación ideal de habla" en lenguaje habermasiano); 2) el cuestionamiento del carácter abstracto y desarraigado del sujeto autónomo moderno, nostálgico del ego masculino; y 3) la inadecuación de esa razón legisladora o normativa para dar cuenta de la indeterminación y multiplicidad de

los contextos y situaciones vitales con las que se enfrenta la razón práctica [Benhabib, 1992].

Ante los retos suscitados, Benhabib responde planteando alternativas válidas *desde* la misma ética discursiva en provecho de una democracia deliberativa remozada. Estas reformas internas a la propia Teoría Crítica se plasman en un conjunto de cambios de perspectiva respecto a algunos de los conceptos más importantes de la tradición universalista que va de Kant a Rawls y Habermas. Tales revisiones, efectuadas según la autora de origen turco mediante el uso estricto de recursos proporcionados por el mismo pensamiento moderno surgido a partir del s.XVI, versan básicamente sobre los siguientes elementos: la razón práctica, el sujeto político y de derecho, el proyecto de universalización y, por último, el papel de la ética pública conectado con la relación entre lo público y lo privado dentro de la sociedad democrática [Benhabib, 1992].

1. En cuanto al tipo de razón práctica, gracias al influjo arendtiano, se da un giro narrativo a la razón comunicativa trazada por Habermas, con lo cual corrige el trazo meramente normativo que le había dado el filósofo alemán. Tal proceso se produce mediante dos transformaciones: a) una primera asunción de la postura universalista posmetafísica que lleva a cabo Habermas por medio del paso de un concepto sustancialista-trascendental de la racionalidad a otro de carácter discursivo-comunicativo, explicitado en la formulación de una razón práctica intersubjetiva de carácter formal; b) un segundo paso que supone el reconocimiento de los sujetos de la razón, no como *cogitos* incorpóreos o unidades abstractas de percepción trascendental, sino como criaturas finitas, corporeizadas y frágiles. En definitiva, aparece aquí una razón práctica intersubjetiva no sólo comunicativa-discursiva sino también narrativa.

2. Por lo que se refiere al sujeto político y de derecho que se identifica con la figura del ciudadano, se plantea una distinción inicial entre el "punto de vista del otro generalizado" y el "punto de vista del otro concreto". El primero, propio de la modernidad de raíz ilustrada, destaca los elementos comunes que constituyen la dignidad humana de individuos abstractos, simétricos, racionales y autónomos, los cuales, mediante normas de igualdad formal y reciprocidad, poseen

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unos mismos derechos y deberes en el ámbito público e institucional. El segundo hace abstracción de lo común y considera a cada persona en su individualidad específica, con su historia, su identidad particular y su constitución afectivo-emocional, lo cual conlleva normas privadas de equidad, amistad, amor y cuidado. A partir de esta diferenciación, se postula una relación entre los puntos de vista del "otro generalizado" y el del "otro concreto" como un *continuum*, ya que la visión del "otro generalizado" es necesaria pero no suficiente para definir el "punto de vista moral" en las sociedades modernas. Por consiguiente, la incorporación del otro concreto resalta el carácter situado o contextual del ciudadano, quien se halla entretejido en una red de narrativas identitarias, intereses privados y relaciones afectivas, alcanzando la autonomía en un proceso de comunicación y reconocimiento mutuo.

3. Dado lo anterior, el anhelo de universalización ya no puede revestir las características de abstracción formal e idealismo trascendental inherentes a la Ilustración dieciochesca. Un proyecto de universalismo posilustrado debe ser pues interactivo y globalizado, es decir, no circunscrito tan sólo a la dimensión legislativa o normativa, sino abierto también a conocer y expresar las diferencias entre géneros así como las distintas situaciones contextuales. Es por ello que este universalismo interactivo se encuentra íntimamente ligado, de una banda, a la visión de un yo encarnado en las relaciones humanas a través de identidades narrativas, y de otra, a la formulación de un "punto de vista moral" entendido a modo de realización contingente de una forma interactiva de racionalidad práctica, más que como punto de vista ahistórico y abstracto de una razón meramente legislativa.

4. Por último, recogiendo lo que acabamos de decir, el papel de la ética pública parte de la afirmación de un "punto de vista moral" de carácter contingente, pragmático e interactivo, posibilitado por medio de una razón práctica intersubjetiva no sólo comunicativa-discursiva, sino también abierta al contexto situacional y a la narratividad identitaria. A este respecto cabe señalar dos puntualizaciones. Por un lado, la reformulación de la tradición universalista en el campo de la filosofía moral dirige a Benhabib hacia la construcción de un "punto de vista moral" basado en el diálogo sobre cuestiones éticas y políticas

desde los parámetros de "pensamiento ampliado" y "reversibilidad de perspectivas" elaborados anteriormente por Arendt. Este pensar representativo que nos coloca en el lugar de los demás, circunscribe el objetivo del diálogo no al hecho de lograr un consenso sustantivo sobre el interés general, sino, más bien, a la intención de conseguir "llegar a un acuerdo" sobre él a guisa de simple ideal regulativo. Por otro lado, aunque ciertamente se comparta la necesidad de un estado constitucional democrático garante de los derechos fundamentales y el procedimentalismo en la toma de decisiones, hay aquí también un replanteamiento de la esfera pública en el modelo de democracia deliberativa. Ya que, frente al modelo liberal de esfera pública, presente tanto en Rawls como inevitablemente en el republicanismo de Habermas, se critican las importantes restricciones al diálogo público nacidas del principio de neutralidad, el cual, con un excesivo formalismo, silencia a los grupos excluidos por mor de la misma neutralidad y establece rígidas fronteras entre lo público y lo privado, justicia y felicidad, intereses públicos y necesidades privadas. Todo ello conduce finalmente a una interpretación más laxa de los límites entre lo público y lo privado, así como, a través de la deliberación procedimental, a la ampliación de lo político hacia temas "privados" de carácter sociocultural. Las distinciones entre justicia y vida buena, entre normas y valores, no resultan entonces anteriores al proceso deliberativo, sino posteriores y subsecuentes, a guisa de resultado de la propia deliberación, pudiendo ser renegociadas y reformuladas. En conclusión, se incrementa el espacio de decisión de la esfera pública a la vez que aumenta el número y la pluralidad de interlocutores (partidos, asociaciones civiles, iglesias, iniciativas ciudadanas...), fortaleciendo en último término el protagonismo de la sociedad civil y la participación ciudadana en la vida de las democracias contemporáneas.

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Después de este somero análisis, no cabe duda de que la gran virtud del modelo de democracia deliberativa de Seyla Benhabib radica en que articula una doble vía para el diálogo sociocultural y político así como para el desarrollo de la ética comunicativa: uno el clásico liberal, reflejado en un modelo jurídico-legalista de derechos, y otro de impronta democrático-participativa a través de los mecanismos

discursivos propios de la sociedad civil. Además, esta última vía sirve de principal motor de impulso para el proceso utópico de emancipación ciudadana, porque permite, desde el interior mismo del *demos*, renegociar el reconocimiento de derechos de ciudadanía a los grupos excluidos de la esfera pública por no cumplir con los requisitos de pertenencia [Benhabib, 1992].

Esta cuestión no es por tanto baladí y aparece con especial relieve en lo que respecta a la acomodación democrática de la multiculturalidad. Tanto es así que Benhabib, rechazando de entrada toda fragmentación nacionalista o guetización comunitarista, postula la reivindicación de derechos de minorías culturales o nacionales desde una óptica de constructivismo social no esencialista –coherente con su universalismo interactivo–, lo cual se encamina hacia una propuesta de síntesis entre solidaridades colectivas e identidades pluralmente constituidas. Muestra así una aproximación parcial y crítica al liberalismo comunitario, denominado en su obra "participacionista" (Taylor, Walzer, Kymlicka…) por oposición al comunitarismo "integracionista" (McIntyre, Sandel…) –considerado incompatible con los valores de autonomía, pluralismo, reflexividad y tolerancia de las sociedades modernas. Tal confluencia parcial de perspectivas se puede mostrar en un triple acuerdo: 1) La admisión de que la identidad está constituida de forma narrativa mediante una trama de interlocuciones. Aunque Benhabib pone en tela de juicio las consecuencias que de ello concluye Taylor, es decir, la derivación partiendo de una tesis ontológico-hermenéutica sobre la identidad personal de una justificación normativa acerca de las pretensiones jurídicas de los grupos. 2) En caso de conflicto entre la norma universal de autonomía moral y las demandas culturales de vida buena, las libertades liberales triunfan sobre los derechos culturales. 3) La posibilidad de conciliación entre el universalismo democrático y el pluralismo legal a la hora de estructurar un equilibrio entre los principios de igualdad democrática y diversidad cultural [Benhabib, 2002].

Por otra parte, en la actualidad, un último reto a la democracia deliberativa diseñada por medio de un universalismo interactivo radica en su globalización, y en consecuencia, en la creación de un "punto de vista moral" válido para toda la humanidad mediante una ética discursiva mundial. Benhabib afronta este desafío construyendo un

proyecto de solidaridad posnacional fundamentado en la democracia y los derechos humanos. De esta manera, acoge en su seno una teoría de la justicia no centrada en esquemas de distribución justa, sino en los principios y prácticas que determinan el "derecho de pertenencia" al *demos* o comunidad político-jurídica. En este sentido, aprovecha la idea del "derecho a tener derechos" de la filosofía arendtiana en virtud del cual plantea una pertenencia política transnacional sensible al reconocimiento de las demandas y derechos de "los otros" (extranjeros, refugiados, demandantes de asilo...). En definitiva, semejante renegociación en términos de democracia deliberativa de los "derechos de pertenencia" al *demos* tiene como finalidad la atenuación, que no eliminación, de lo que llama la "paradoja de la legitimidad democrática", a saber: el hecho de que la legitimidad de los Estados dependa del respeto a principios universales expresados en el régimen de derechos humanos, aunque éstos se concreten en derechos restringidos de ciudadanía, respondiendo así a la soberanía singular de cada Estado [Benhabib, 2004 y 2006].

II

En la introducción a este trabajo hemos afirmado que la filosofía sociopolítica del federalismo integral constituye un antecedente próximo, pero no reconocido, del actual liberalismo comunitario, con el que comparte puntos de vista bastante similares en muchos aspectos. Abordemos pues el análisis detallado de esta aseveración.

En cuanto a sus orígenes intelectuales, esta doctrina federalista posee un carácter omnicomprensivo de los distintos aspectos de la vida social del ser humano al estilo proudhoniano, sin dejar de encontrar su inspiración básica desde sus inicios en la antropología filosófica del personalismo comunitario. Su *corpus* teórico principal ha sido desarrollado exclusivamente por autores europeos como Alexandre Marc, Denis de Rougemont, Henri Brugmans o Guy Héraud desde la década de 1930, pero sobretodo desde después de la Segunda Guerra Mundial, hasta fines del s.XX, aunque su huella continúa presente hoy gracias a un elevado elenco de discípulos estrechamente vinculados al

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europeísmo político (Dusan Sidjanski, Ferdinand Kinsky, José Manuel Durão Barroso...).

Como veremos mejor a continuación, al centrarnos en concreto en el estudio de la obra paradigmática de Denis de Rougemont dentro del tercer bloque del presente trabajo, sus postulados personalistas y federalistas, preocupados por recuperar la vivencia comunitaria en el seno de las sociedades modernas y democráticas más avanzadas durante la segunda posguerra e incluso con posterioridad al mayo de 1968, van a tener un reflejo claro en ciertos parámetros del debate filosófico-político más actual. Esta confluencia de ideas se observa, evidentemente, respecto a las posiciones intermedias o más conciliadoras y autocríticas que irán apareciendo en medio de la disputa posmoderna entre liberales y comunitaristas, en unas ocasiones con planteamientos de fondo paralelos o casi miméticos y en otras más distanciados, aunque siempre con el tamiz diferenciador del uso de un lenguaje terminológico distinto, de una conjunción de fuentes filosóficas heterogéneas y, aún, de un alcance normativo en la práctica política e institucional diverso. Tal controversia, que durante las últimas décadas ha buscado un ajustamiento ecuánime entre los principios de igualdad democrática y legítima diferencia cultural, ha tenido la virtualidad de mostrar así los íntimos lazos de unión que conectan el federalismo integral de raíz personalista con las propuestas más recientes del "liberalismo sustantivo" de Charles Taylor y Michael Walzer o, asimismo, con las de un "comunitarismo liberal de carácter posconvencional o dialógico" de autores como Adela Cortina, Pietro Barcellona o Boaventura de Sousa Santos. Y ello sin olvidar tampoco la proximidad con aquellos liberales que rozan la heterodoxia a causa de su sensibilidad hacia los desafíos teóricos de la multiculturalidad, lo cual, en el caso de Will Kymlicka o Rainer Bauböck, les lleva a poner en tela de juicio el procedimentalismo formal, unilateral y atomista del liberalismo clásico. Vayamos por partes.

De una banda, cabe resaltar como este "comunitarismo liberal de cuño dialógico" rechaza de plano todo retroceso nostálgico en pro de algún tipo de comunidad organicista o premoderna –como es el caso del comunitarismo anglosajón más holista de los años ochenta (A. McIntyre, M. Sandel...). Consecuentemente, junto a la defensa básica del contrato social democráticoliberal, propugna compensar el exceso

de individualismo, abstracción jurídica y utilitarismo economicista que rige en él por medio de una pluralización del vínculo social que reconozca las potencialidades de una idea abierta y autocrítica de comunidad [Cortina, 2001]. En opinión de Pietro Barcellona: "Hoy sabemos que la idea de comunidad no puede pensarse como un espacio opresivo y autoritario, sino como elección libre basada en la conciencia de que sólo en la reciprocidad de las relaciones no dinerarias se produce el verdadero reconocimiento de la diferencia y de la particularidad. La comunidad puede ser el lugar donde [...] se evite la conversión de todos nosotros en «analfabetos sociales»" [Barcellona, 1996, p. 125].

De otra banda, por lo que respecta al "liberalismo comunitario", es interesante analizar brevemente la evolución intelectual sufrida por Charles Taylor para comprender mejor el trasfondo común que une su disertación filosófica con la de Denis de Rougemont. En este sentido, es relevante destacar previamente que, como es sabido, el liberalismo social de John Rawls y sus esfuerzos constructivistas para integrar la ebullición de la diversidad identitaria dentro del pluralismo formal liberal no dan un resultado satisfactorio. Mientras que el conjunto del liberalismo más doctrinario e individualista no oculta la total ausencia en él de una teoría normativa ante la necesidad de acomodar el fenómeno multicultural. Así, argumenta únicamente soluciones de carácter pragmático y niega a los "multiculturalistas" la posibilidad de conseguir una teoría política genuinamente liberal para legitimar políticas de reconocimiento de grupos culturales, bajo la acusación, en caso contrario, de connivencia con el nacionalismo [Rivero, 1999].

Precisamente, conforme recalca Àngel Castiñeira, Taylor padecía en su biografía intelectual de una cierta esquizofrenia, que desvinculaba la filosofía política liberal, aprendida de sus estudios en Oxford, y la realidad de su militancia política en el Québec, en medio de las tensas transformaciones del federalismo canadiense. De la constatación de ese reduccionismo metodológico inoperante, al que conducía el individualismo liberal, se engendra su interés por la antropología filosófica, en especial por la dimensión comunitaria en la formación del yo, y, en consecuencia, el giro hacia una razón práctica intersubjetiva de carácter hermenéutico [Castiñeira, 1999]. No obstante, a nuestro parecer, en

semejante trayectoria tayloriana se adivina la impronta de uno de sus maestros en la sede académica inglesa: Isaiah Berlin. Quien, desde posiciones inequívocamente liberales y universalistas –primando la libertad negativa de los modernos sobre la libertad positiva de los antiguos–, pero alérgico a la deriva autoritaria de un racionalismo formal y desarraigado –en la línea que va de Platón al jacobinismo y, como colofón, al totalitarismo marxista–, se abre a una tensión enriquecedora en referencia a la diversidad de afectos comunitarios y sentimientos de pertenencia identitaria, propios de la faceta romántica de la condición humana [Berlin, 1997 y Serna, 2002].

Es debido a esto que, según Castiñeira, en Taylor las dos identidades (individual y colectiva) se ven retroalimentadas, pero con la característica de que la identidad individual no depende exclusivamente de una cultura, sino que puede superarla. La identidad del individuo moderno es así una "identidad compleja", constituida por un lado mediante lealtades a valores universales (supragrupales) y, por otro lado, mediante la lealtad y la pertenencia a una comunidad histórica particular y a su modo de vida. Su tesis de un liberalismo 2 de carácter sustantivo representa pues el auspicio de un Estado comprometido con el principio de reconocimiento de la diversidad identitaria. Y ello, tanto a nivel de preservación moral y jurídica de las libertades individuales clásicas, como de protección y fomento, a través de un proyecto político federativo, de las minorías culturales que dan forma a una identidad colectiva compleja dentro del mismo Estado [Castiñeira, 1999, p. 108, 116-117]. El mismo Taylor explica, con sencillez, todo este proceso de introducción filosófica del derecho a la diferencia, gracias a un enriquecimiento del concepto de igualdad heredado de la modernidad.

> "Es así como el discurso del reconocimiento se ha vuelto familiar para nosotros en dos niveles: primero, en la esfera íntima, donde comprendemos que la formación de la identidad y del yo tiene lugar en un diálogo sostenido y en pugna con los otros significantes. Y luego en la esfera pública, donde la política del reconocimiento igualitario ha llegado a desempeñar un papel cada vez mayor. [...] Deseo concentrarme aquí en la esfera pública [...]. En realidad ha llegado a significar dos cosas bastante distintas, relacionadas, respectivamente, con [...] dos cambios

principales [...]. Con el tránsito del honor a la dignidad sobrevino la política del universalismo que subraya la dignidad igual de todos los ciudadanos. [...] Por contraste, el segundo cambio, el desarrollo del concepto moderno de identidad, hizo surgir la política de la diferencia. Desde luego, también ésta tiene una base universalista, que causa [...] una confusión entre ambas. [...] Con la política de la dignidad igualitaria lo que se establece pretende ser universalmente lo mismo, una «canasta» idéntica de derechos e inmunidades; con la política de la diferencia, lo que pedimos que sea reconocido es la identidad única de este individuo o de este grupo, el hecho de que es distinto de todos los demás. La idea es que, precisamente, esta condición de ser distinto es la que se ha pasado por alto, ha sido objeto de glosas y asimilada por una identidad dominante y mayoritaria. Y esta asimilación es el pecado cardinal contra el ideal de autenticidad" [Taylor, 2003, p. 59-61].

La salvaguarda de este desiderátum moderno de autenticidad o fidelidad a uno mismo, aunque integrando el factor comunitario en la modelación del yo personal, acerca a Taylor al designio rougemontiano de búsqueda de sentido existencial dentro de la vocación individual de cada ser humano. La común orientación de ambos pensadores, epistemológicamente hermenéutica y antropológicamente relacional, lo facilita en mayor grado.

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III

En beneficio de una mejor fundamentación de la democracia moderna así como de una mejor respuesta a los problemas y desafíos futuros que acompañan su desarrollo presente, finalmente, en este último apartado vamos a contrastar la convergencia de perspectivas, parcial pero complementaria, que, desde parámetros filosóficos y metodologías diferentes aunque en diálogo, se puede detectar entre la teoría crítica de una democracia deliberativa abierta a un universalismo interactivo y globalizado en Seyla Benhabib, el "liberalismo sustantivo o comunitario" de Charles Taylor y el federalismo integral de Denis de Rougemont. Se trata, por tanto, de una apuesta común, aunque desde plurales y

a veces muy diferentes matices, a favor de un ser humano auténticamente libre pero enraizado en su entorno sociocultural, a la vez que ética y cívicamente responsable de los otros ciudadanos en pro de la creación de las mejores condiciones político-jurídicas e institucionales para el desarrollo de la personalidad de todos los miembros del *demos* o comunidad democrática.

En esta labor, tras haber comentado ya los posicionamientos de Benhabib y Taylor con anterioridad, nos corresponde ahora exponer, en síntesis, el pensamiento rougemontiano: un federalismo integral de base personalista que bien podría traducirse en la actualidad como un humanismo cívico y federalista a favor de una posmodernidad constructiva [Martínez i Seguí, 2009].

Al aproximarnos a la figura y a la obra del suizo Denis de Rougemont (1906-1985), nos hallamos, si se nos permite la expresión, ante un auténtico humanista del siglo XX en el sentido clásico de la palabra. Hay en él una reflexión centrada en la dignidad y la libertad inalienables de toda persona humana, siempre desde la exigencia de arraigo al contexto histórico y, más profundamente, a la experiencia vital que le ha tocado vivir a cada persona concreta. Tal perspectiva lo acerca, indiscutiblemente, al nervio intelectual de otros grandes moralistas coetáneos, como José Ortega y Gasset, George Orwell o Albert Camus. Aunque, a diferencia de éstos, mantiene una voluntad constante de diálogo filosófico entre su fe cristiana, de confesión reformada, y la cultura moderna, de cuño laico y plural. En este sentido, elabora una antropología filosófica propia, inserta dentro de la esfera de los variados personalismos comunitarios, llegando incluso, durante sus últimos años posteriores al mayo de 1968, a cultivar un pionero discurso posmoderno de carácter ecologista y cívicamente constructivo, lejano en todo caso del nihilismo y el relativismo cultural.

Asimismo, la reciente conmemoración de la efeméride del 500 aniversario del nacimiento de Juan Calvino en 1509 junto a la emergencia, a lo largo de las últimas décadas, de una renovada y más profundizada investigación historiográfica en torno al influjo directo ejercido por la reforma protestante sobre el surgimiento del vector libertario y federalista de la modernidad política –ampliando e incluso corrigiendo en distintos puntos la visión tradicional fijada por Georg Jellinek y Max

Weber–, incitan hoy a acometer la actualización crítica del humanismo social de inspiración calvinista [Rivera, 1999]. Una tradición de ideas preliberales, casi olvidada por falta de estudios, que inspiró a Europa el tránsito del Renacimiento al Barroco, oponiendo el modelo de unas instituciones republicanas y federalistas al asentamiento triunfante de la soberanía del Estado moderno absolutista. De esta manera, en medio del s.XX, conforme bien explicita André Biéler [Biéler, 1961], la filosofía personalista de inspiración protestante, de autores como Rougemont, representa un fiel reflejo evolucionado de ese humanismo social genuino de Calvino, aunque no distorsionado por el postrer puritanismo. Además, lo mismo se puede afirmar de la filosofía social y política rougemontiana, el federalismo integral, heredera de autores calvinistas de primera hora como Johannes Althusius, como también del Rousseau elogioso de las virtudes de la pequeña república ginebrina, de los *Federalist Papers* norteamericanos y, en gran medida, del segundo Proudhon, aquél que apostaba por el federalismo político y el mutualismo socioeconómico.

En consecuencia, desde estos parámetros, a continuación esbozaremos de forma breve los perfiles de la obra rougemontiana, en verdad copiosa y multidisciplinar, refiriéndonos sobretodo a su filosofía moral, social, política e incluso jurídica. Propósito que no nos evitará la necesidad de plasmar también las bases metafísicas, antropológicas y epistemológicas sobre las que se levanta su modelo de "federalismo integral", enraizado, ciertamente, en el ejemplo histórico de su Suiza natal.

En primer lugar, la variedad de estudios y matices propios de Rougemont no obstan a la integración del conjunto de las materias tratadas dentro de una perspectiva global no sistemática, deudora en gran medida de las ideas de P.-J. Proudhon. Es el método dialéctico de la antinomia constructiva en diálogo permanente, una paradoja estructurada con argumentos *a contrario*. Se trata pues de un enfoque relacional de la realidad humana, basado en la razonabilidad práctica y opuesto a cualquier tipo de sistema racionalista y formal cerrado en sí mismo; en especial al del idealismo hegeliano con sus derivaciones y al del cientificismo positivista. Sin embargo, sería erróneo deducir de aquí una organicidad metodológica indescifrable que ocultara las partes en el todo. Semejante peligro se conjura con

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éxito desde una doble acción complementaria: 1) La percepción clara del conflicto antinómico a modo de una dinámica entre lo uno y lo diverso, entre la unidad y la pluralidad, valores ambos esenciales. 2) La lectura hermenéutica circular de la globalidad de la obra que, no obstante, incide de igual forma sobre la autonomía de cada uno de los niveles.

En segundo lugar, cabe destacar que, desde el decenio de 1930 hasta su muerte, el personalismo comunitario se mantendría como la filosofía matriz y nunca abandonada desde la que Rougemont construiría la visión del mundo que le es singular; estrechamente imbricada en una sensibilidad existencial emanada del protestantismo de inspiración calvinista y, más concretamente, de la obra teológica de Karl Barth. De ahí que, desde una actitud de "pesimismo activo", se encuentre lejos del planteamiento de una renovada cristiandad, desde la autonomía de lo temporal, propuesta por el neotomista Jacques Maritain y, en contraste, mucho más cercano a la nueva civilización secularizada buscada por Emmanuel Mounier, es decir, a una sociedad plural de hombres libres y responsables, donde la "primacía de lo espiritual" guíe a cristianos y no creyentes.

Seguidamente, Rougemont considera que este humanismo de base cristiana debe ponerse en comunicación dialógica con el otro humanismo occidental, el surgido de la modernidad, el cual, no obstante, sería parcialmente rechazado por lo que respecta a las notas de individualismo y racionalismo que lo acompañan. Con esto, el pensador helvético, de acuerdo con el conjunto del personalismo, alimenta una aspiración sincera a "rehacer el Renacimiento", como decía Mounier, a enmendar los déficits y los errores detectados en el interior de la tradición cultural moderna sin renunciar a sus éxitos obvios. Por eso mismo, utilizando la terminología acuñada por la Escuela de Frankfurt, su pensamiento se torna una respuesta a tener en cuenta cuando se constatan los fracasos y las carencias surgidos de la propia "dialéctica de la Ilustración".

Sin embargo, a pesar de esta coherencia ejemplar en las ideas, expresada también en un compromiso cívico y político consecuente, su figura no se libró de graves ataques y difamaciones en medio de las frecuentes controversias intelectuales y vaivenes ideológicos que salpicaron el pasado siglo. Así, en referencia a la última década del

período de entreguerras, un sector historiográfico minoritario (Zeev Sternhell, Bernard-Henri Lévy…) le ha acusado, junto al grueso de jóvenes personalistas, de colaborar al deterioro de las ya de por sí debilitadas instituciones democráticas con el uso de un lenguaje contestatario, próximo al del fascismo. Esta reprobación es difícilmente sostenible no sólo por sus numerosos compromisos mantenidos, a lo largo de los años, a favor de las libertades y en contra de las hegemonías autoritarias –colaboración con *Vendredi* (órgano de expresión del Frente Popular francés), crítica lúcida al nazismo (*Journal d'Allemagne*, 1938) y apoyo a la resistencia interior a Hitler (movimiento evangélico de la Iglesia Confesante)…–, sino también y sobretodo por la labor fundamental de regeneración democrática que el ideario personalista propició después de 1945.

Además, durante la segunda posguerra hasta finales de los sesenta, el comunismo junto a la izquierda neutralista y filocomunista, Mounier y la revista francesa *Esprit* incluidos, le acusaron, junto al resto de miembros del federalismo integral, de atlantista y subordinado a los intereses norteamericanos en razón de su apoyo decidido al europeísmo. Hasta incluso, después del mayo de 1968 y del pavor ante el descubrimiento del *Gulag* soviético –que, por fín, permitió superar los impedimentos para la generalización del discurso antitotalitario en Occidente–, el giro de Rougemont hacia la ecología política y el diálogo con la contracultura de izquierda, en especial con el sector más preocupado por la recreación de la dimensión comunitaria del vínculo social, le causó el menosprecio y las injurias más feroces por parte del neoconservadurismo liberal naciente.

En tercer lugar, transfiriendo los conceptos antropológicos y epistemológicos al orden de la filosofía moral y jurídica, la dignidad de la persona humana, libre y responsable ante la comunidad, junto a la dinámica antinómica de la unidad en la diversidad, expresan una exigencia ética básica: la urgencia de su garantía complementaria a través de una "común medida humana" o mínimo común de ética pública. De esta manera, atendiendo al iusnaturalismo formal o deontológico formulado por Barth en términos teológicos y trasladado por Rougemont al ámbito filosófico, esta ética objetiva de carácter minimalista, acordada desde el diálogo entre las diferentes éticas de máximos presentes en la sociedad civil (religiones, culturas, filosofías

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de vida...), constituye un "derecho natural humano de contenido histórico y variable". En última instancia, esta "común medida humana", llamada a nutrir un prolífico civismo ciudadano, sirve de legitimación para dotar a los derechos humanos de una fundamentación universalista y, además, representa el elemento axiológico ineludible que el contrato político debe tener en cuenta a la hora de vertebrar un Estado democrático de derecho.

En cuarto lugar, a nivel de filosofía sociopolítica, el federalismo integral, desde la separación entre sociedad civil y Estado, se muestra como una concepción global de la actividad humana y, en concreto, de las relaciones públicas, con un sentido extenso de la política, abarcando, de forma complementaria, tanto una dimensión público-social como una dimensión público-estatal. Así, la filosofía política federalista, emanada del personalismo y no carente de inspiración helvética, se define en Rougemont a modo de un "contractualismo cooperativo", que, según él, encuentra sus raíces históricas en la tradición democratizadora y libertaria de la modernidad.

Enfrentada pues, dentro de un esquema dual, a la otra tradición política moderna, la unitaria –que de Maquiavelo y Bodin conduce al Estado-nación, al nacionalismo y, en último término, al totalitarismo–, esa línea de pensamiento rougemontiano, regida por la meta de organización de las libertades humanas, se remontaría al institucionalismo republicano de inspiración renacentista, culminado con la obra del calvinista Althusius. Quien, en tránsito entre el adiós al organicismo medieval y el anuncio del liberalismo posterior, formuló un primer federalismo. Asimismo, heredero de éste en el contexto del s.XX, el federalismo integral de raíz personalista postula, por medio de la política, la necesaria transformación de la razón de Estado –de los fines uniformizadores excluyentes hacia el interior y de conquista hacia el exterior– en unos fines cívicos de la persona. Y, por tanto, se ubica, a título de tercera vía, tanto entre el liberalismo individualista y el socialismo colectivista, como también entre el mismo individualismo liberal y el comunitarismo holista, cerrado sobre sí mismo.

De esta manera, la relación federativa se entiende a guisa de una comunidad de comunidades orgánicas y, a la vez, autónomas, donde cada una de ellas se estructura en una democracia de la participación

cívico-política y de la previsión socioeconómica (en pro de un mínimo social garantizado). Bajo la influencia autogestionaria de Proudhon, la organización política de inspiración federal se vertebra de abajo hacia arriba, a través de una especie de teoría de conjuntos, más o menos concéntricos. Estos círculos de articulación de la convivencia humana, que también connotan una identificación comunitaria del vínculo social, crean la red de una democracia ascendente, que, progresivamente, va ampliándose del espacio local y regional al continental, pasando por el estatal, hasta llegar al mundial. En todo caso, la región, definida a la vez por criterios socioeconómicos y étnico-culturales, es concebida como ente principal de participación cívico-política. No es casualidad pues que, desde inicios de los años sesenta, Rougemont fuera uno de los impulsores más decididos de la idea de la "Europa de las regiones" ("Europa de los pueblos o de las etnias" en la versión más etnicista de Guy Héraud).

Cabe enfatizar, como ya se presumirá, que el "contractualismo cooperativo" rougemontiano está sustentado en los cuatro principios básicos que destila la tradición federalista, es decir, autonomía, cooperación-solidaridad, participación y subsidiariedad. Debido a ello, este discurso conduce, en definitiva, a diseñar una auténtica democracia sustantiva, superadora del modelo democrático formal del liberalismo clásico. Se trata de la suma, en interacción complementaria, entre una democracia liberal y representativa y una democracia participativa. Hecho que produce el resultado de dividir y distribuir en mayor medida los poderes, así como de difundir la iniciativas y los controles, más allá del cuadro institucional y vertical del Estado, en dirección hacia la sociedad civil de estructura horizontal. Lo cual redunda en beneficio de unos ciudadanos y unos grupos sociales que ven aumentada la responsabilidad sobre su futuro, a la vez que incrementan la posibilidad activa de ejercer sus derechos y libertades.

Para una mejor comprensión, lo resumimos en la siguiente tabla, donde se puede apreciar la tensión complementaria entre dos conjuntos de ideas-fuerza:

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Democracia liberal y representativa (clásica)	Democracia participativa
• Elemento cuantitativo.	• Elemento cualitativo.
• Razón teórica o *mos geometricus*.	• Razón práctica o razonabilidad.
• Autonomía.	• Responsabilidad.
• Igualación jurídica de carácter formal.	• Igual dignidad moral de todo ser humano dentro de la diferencia, la alteridad y el conflicto.
• Sujetos: individuo abstracto y Estado.	• Sujetos: Persona concreta en sus circunstancias vitales y comunidades intermedias o "naturales".
• Contrato: intersubjetividad simétrica y formal dentro de los campos del Estado y del derecho. Se corresponde con el espacio público-estatal.	• Alianza comunitaria: intersubjetividad asimétrica y sustantiva dentro de los ámbitos de la sociedad civil y de la ética pública. Se identifica con el espacio público-social.
• Principio de legalidad.	• Principio minimalista de justicia pública (que sirve de conexión entre las éticas privadas de máximos y el derecho, desde los parámetros de un iusnaturalismo formal o deontológico).
• Lógica de los derechos, individuales o colectivos, con primacía de los primeros sobre los segundos.	• Lógica de los deberes morales, basada en el respeto a la ética pública, que se resume en un único deber jurídico de respeto a los derechos de los otros.
• División de poderes del Estado y representación política de los ciudadanos.	• Autogestión directa y organización subsidiaria de abajo hacia arriba.

Por otro lado, el federalismo integral, en virtud del instrumento metodológico que le proporciona la hermenéutica fenomenológica, plantea un paradigma identitario basado en el "pluralismo de fidelidades" o pluripertenencia a distintas comunidades de sentido, más o menos concéntricas. Abjura así de cualquier tipo de monismo etnocéntrico, reductor de la condición humana, y, en especial, del que se identifica como nacionalista. Pero también se aleja de toda fragmentación

atomizadora que, desde el relativismo cultural, quiera legitimar alguna forma de discurso multiculturalista de carácter formal, el cual, a la postre, llega a legitimar paradójicamente los guetos comunitaristas. Así pues, en oposición a un cosmopolitismo abstracto y racionalista de origen ilustrado, Rougemont opta por otro discurso universalista que, no obstante, mantiene su arraigo en las realidades concretas vividas por la persona. Aquí se haya una voluntad de búsqueda constante de la comunión humana, de relación intercultural feraz –diríamos en terminología actual–, mediante la tensión flexible entre la unidad y la diversidad. Encontramos, por tanto, una misma y sola actitud espiritual y filosófica que se repite y atraviesa de forma similar los diferentes niveles del pensamiento rougemontiano: desde la antropología personalista y la política federalista hasta el fomento del ecumenismo cristiano e incluso de un pionero "diálogo de las culturas" –diseño inicial, ya desde comienzos del decenio de 1960 en medio del marco poco propicio de la Guerra Fría, de lo que hoy se conoce como diálogo intercultural.

En quinto lugar, se evidencia, desde inicios de la década de 1970, la confección de una ecología política de impronta personalista, colaborando así en la génesis de la ecoética contemporánea. Próximo al ecologismo humanista de Fritz Schumacher, el "ecologismo personalista" de Rougemont constituye una resistencia contra la civilización industrial moderna, contra la tecnocracia estatalista y el gigantismo cuantitativo macroeconómico y, como no podría ser de otra manera, contra su violencia destructiva del equilibrio medioambiental y del hábitat natural de la persona. Hay aquí una llamada a la responsabilidad solidaria y al cultivo de unas mejores condiciones cualitativas para la vida humana, que, irremisiblemente, pasan por la revalorización de lo pequeño y frugal.

Sobre estas perspectivas, promotoras de un desarrollo sostenible, se engendra un patrón socioeconómico rougemontiano de carácter autogestionario, ecoregionalista y federalista, bastante alejado del neoliberalismo imperante hoy. Y de ahí surge el requerimiento a la unidad de acción entre los movimientos ecologistas, regionalistas y federalistas europeos, ya que los tres se encuentran vinculados, orgánicamente, como rechazo a un mundo de opresiones uniformizadoras.

En sexto lugar, cabe enfatizar el reiterado talante utópico de la obra de Denis de Rougemont, que radica en el uso de la razón práctica en

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provecho de una revisión crítica de la utopía moderna. Pues, al rehuir el idealismo irrealizable de inspiración platónica, se acoge a un tipo de utopía caracterizado por la adopción de una teleología realista, crítica y humanista. Realista, porque, desde una conciencia temporal reflexiva, arraiga en la historia y cuenta con los conocimientos prospectivos de las ciencias (en cuestiones como la demografía, la ecología...). Crítica, porque se fundamenta en un conocimiento prudencial y razonable de rasgos éticos. Y humanista, porque, incluyendo la dimensión afectiva de los sentimientos, está abierta a la prospección intuitiva de un futuro progresivamente más liberador o emancipador de la condición humana.

Tal razón práctica de cuño utópico se erige a modo de una "prospectiva personalista" del sujeto humano inmerso en la historia. Consecuentemente, la política asume el papel de instrumento privilegiado de esa prospectiva hacia la satisfacción de mayores cuotas de libertad y justicia para toda la humanidad.

En séptimo y último lugar, en atención a una de las reflexiones rougemontianas más influyentes en la historia reciente, la meditación sobre Europa, cabe señalar la interrelación entre dos conceptos clave: el de europeidad cultural y el de europeísmo político. Ya en 1945, a penas finalizada la Segunda Guerra Mundial, Denis de Rougemont insistiría en su centralidad al adherirse a los postulados del político demócrata cristiano francés Robert Schuman, quien se refería a la posibilidad de construcción política del continente europeo sobre el cimiento de una unidad cultural de base, compartida por todos los ciudadanos de los distintos paises europeos. Evidentemente, esta óptica distaba de la meramente economicista y dominante apadrinada por Jean Monnet.

Tanto es así que, en opinión del pensador suizo, el núcleo identitario más genuino de la europeidad, conformado por la suma histórica de infinitud de esfuerzos personales y comunitarios, se contiene en esos dos valores objetivos que definen por ellos mismos la herencia cultural de Europa: de una banda, el hombre de la contradicción, esto es, el hombre relacional, que se formula mediante una antropología filosófica de matriz humanista y muy pluralista, y de otra banda, el diálogo entre lo uno y lo diverso, entre la necesidad de unión y de pluralidad. De esta forma, la idea rougemontiana de Europa se acoge al modelo clásico de la tradición humanista proveniente del Renacimiento, pues para él las fuentes grecorromanas y judeocristianas son fundamentales. Aunque,

integrando además la sensibilidad existencial contemporánea –a través de la filosofía personalista–, renueva el perfil de una Europa que queda abierta a la contradicción interna, al diálogo constante con otros espacios de civilización y, a la postre, a la creación renovadora fruto de las inacabables y sucesivas tensiones. En resumen, para Rougemont, la orientación histórica de la cultura europea tiende hacia la articulación de un cosmopolitismo pluralista y arraigado en la realidad concreta.

Asimismo, la europeidad, como memoria cultural y fuente de valores teleológicos para proyectar el futuro, requiere, según él, un correlativo europeísmo político de inspiración federalista. Este último aparece a modo de culminación y garantía de la cultura europea que lo ha modelado en su nacimiento. Inevitablemente, dentro de tal perspectiva, el referente helvético está presente en contra de una indeseable balcanización. En ese sentido, el filósofo alemán Karl Jaspers apoyaría esta visión rougemontiana durante los primeros años de la segunda posguerra, identificándose así con la definición de una Europa circunscrita no por criterios geográficos o políticos, sino culturales y espirituales. En la más inmediata actualidad, intelectuales influyentes en el proceso de construcción europea, como el francés Edgar Morin y el polaco Bronislaw Geremek, reivindican también el influjo vigoroso de Rougemont sobre sus respectivas visiones del hecho europeo [Morin, 1989 y Geremek, 2007].

En todo caso, para evitar cualquier acusación de eurocentrismo, al hilo de lo que decimos, el pensador suizo remarca la vocación universal y universalizante de la cultura europea y del federalismo que le es propio. Actitud que, opuesta al unilateralismo actual de la teoría realista neoconservadora en relaciones internacionales, se aleja de cualquier aspiración neoimperialista. Y, por tanto, responde, más bien, a un discurso articulador de la sociedad internacional, no sólo europea sino también mundial, buscando fundamentarse en el derecho y en las instituciones multilaterales de cooperación, abiertas a una creciente red de poderes supranacionales multinivel.

En conclusión, después de analizar de forma resumida el conjunto de la filosofía sociopolítica de Denis de Rougemont, es conveniente realizar una reflexión final de carácter general. Así, atendiendo a todo lo expuesto con antelación, podemos aseverar que, más allá del cuadro de coordenadas históricas en que fueron concebidos los diferentes

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escritos rougemontianos [de Rougemont, 1934, 1936, 1937, 1939, 1942, 1977, 1994a, 1994b], en el tiempo presente gozan de un valor aleccionador para fecundar una posmodernidad humanista y resistente –antagónica de aquella más popularizada que se suele asociar con un pensamiento débil, líquido y nihilista. Y, en fin, su contemporaneidad, parangonable en muchos aspectos a reflexiones coincidentes de Ch. Taylor y S. Benhabib –a pesar de las orientaciones epistemológicas y de contenido filosófico que les diferencian–, es palpable cuando se considera la realidad de diversos problemas actuales ya tratados, o al menos intuidos de forma prematura, en su *corpus* filosófico, a saber: la fundamentación universalista de los derechos humanos como justificación irrenunciable de la democracia; la conformación de unos derechos de tercera generación, marcados por el valor de solidaridad humana, como salvaguarda de la diferencia cultural y del respeto al medio ambiente; el diálogo como instrumento de conciliación entre culturas y religiones diversas; la promoción de una democracia participativa basada en una sociedad civil activa y responsable que se sustente en una mínima ética pública compartida; la crisis del Estado-nación, tanto a nivel supranacional como infraestatal, y el consiguiente reto en pro de una política de inspiración federalista que garantice la unidad en la diversidad entre los distintos niveles de decisión política...

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DEVELOPMENT OF TODAY'S DEMOCRACY: PEOPLE, POWER, AND HUMAN PERSONALITY

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DEMOCRACY IS NOW ONE OF THE MOST COMMON TERMS USED IN PUBLIC RHETO-RIC; however, it seldom serves as an object of philosophical reflection. Democracy could sometimes appear as a 'worn out', devaluated notion, deprived of any clear sense. The specific situation with democracy in post-communist countries in fact resembles their recent past – the usage of the word 'democracy' equals to that of 'communism' several decades ago: the term is being widely used in official discourse, but nobody takes it for real. As Ukrainian sociologist Iryna Popova explains that situation:

> ...parading the 'democracy' of our society, constant usage of the term 'democracy' in the situation of lawlessness and actual violation of people's rights, considerable spreading of poorness and poverty is a blasphemy, because it leads to devaluation of that word, to the commonplace perception of democracy as a situation where 'everything goes', and 'a plain man' has no protection against that. In other words, against the background of our practices that term obtains the sense directly opposite to what a researcher means by it [Popova, 2008, p. 19–20].

That is, the today's popular term 'democracy' often describes a situation quite different from what democracy really (classically and

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theoretically) is. And the fact that many today's born democrats in Ukraine and other countries of the ex-USSR are former convinced communists only strengthens the idea that 'democracy' could be perceived rather as a keyword that denotes belonging of titular 'democrats' to the self-proclaimed '*power party*'. Indeed, some leaders of the former USSR republics in 1991 have just renamed their parties 'democratic' instead of 'communist', and then they were elected presidents. At the same time, authors from both East and West, like Alexander Zinovyev or Colin Crouch, tend to describe the contemporary social situation as a 'post-democracy' [Crouch, 2004; Zinovyev, 2006].

Nevertheless, we still believe that phenomenon of democracy should not be reduced to its 'Realpolitik' connotation, providing the space for its philosophical comprehension – and its true realization. Democracy from the philosophical perspective is *not just a given state of affairs*, a certain way of organizing the political system (featuring general elections, parliament, freedom of speech etc. etc.) – it is rather an ideal image of harmonious social life, which could indeed be presented as a *process* of its development and its implementation in reality for every human person.

Our position here is close to the tradition of participatory democracy and opposes a neo-classical understanding of democracy, that of Schumpeter or Sartori, who present democracy as a limited form of élite activity. We would like to cite the criticism of that position by Canadian theoretician of participatory democracy, C. B. Macpherson:

The model of democracy that has been raised to orthodoxy in American political science... is counter-democratic (by the older concept of democracy) in that it empties out, as being normative, unrealistic, or utopian, the egalitarian and developmental moral ideal of the original liberal-democratic theory, and accepts as an adequate model (and proclaims as the only accurate model) of democracy, a competition between two or more élite groups for the power to govern the whole society. Democracy is held to be consistent with, and even to require, a low level of citizen participation: only so, it is said, is the political system likely to stay in equilibrium. Democracy is reduced from a humanist aspiration to a market equilibrium system. And although the new orthodox theory

claims scientific neutrality, its value judgment is clear enough: whatever works, is right – that is, whatever enables the existing class-stratified society to operate without intolerable friction is best [Macpherson, 1973, p. 78–79].

At the same time, striving for representing democracy as a process of achieving the ideal without any limitations and reservations is not necessarily an unreal enterprise criticized by theoreticians of élite democracy for its utopist inclinations. In fact, American champion of participatory democracy Benjamin Barber argues that there are already two types of democracy present in today's society: official democracy with its 'Big politics', party intrigues, corruption and bureaucracy, – and real 'neighborhood democracy' with its practice of local self-government and grassroots voluntary activities. That's why, according to Barber, we have to expand our understanding of what counts as democratic, rather than expanding democracy itself [Barber, 1984, p.XIV]. However we think that the philosophical approach to democracy is aimed at *limiting* that understanding rather than expanding it – for every philosophical definition sets strict limitations to a term in order to differentiate the entity it designates out from things unfit for the notion in question. In other words, democracy is to be distinguished from other phenomena that exist in our society and title themselves as democracy while being indeed something very different.

So, how should philosophy understand the term 'democracy'? The most simple and usual one is the understanding of democracy as just 'power of the people', as the people's sovereignty, where the people are the source, the bearers, and the conductors of power. Such a formulation presented an adequate guideline and served as a roadmap for social and political structure during the age of Absolutism, for then the usual reality was the dominance of a sole monarch or a narrow circle of persons possessing power either by force or by the right of birth. Then the ideal of the power for all the people – and not one single person or single exclusive estate – was progressive and revolutionary.

But today such an approach to understanding and defining democracy turns out to be very abstract – that is, not clear enough in order to serve as a lodestar in the semidarkness of the political life

of our society, which already titles itself as 'democratic'. As Barber states, "The history of democracy itself is contained in the history of the word *democracy*" [Barber, 1984, p. 195]. In our opinion, the history of democracy is *a development of both people ('δῆμος') and power ('κράτος')*, concretizing the phenomena that constitute democracy notion. In Ancient times, the democracy of poleis was based on the labor of masses of slaves, deprived of any rights, even of the right to be considered as a human being. The 'δῆμος' (the people who can be and are subjects of democracy) never meant all the population in general. In other words, 'the people' here are certainly not the demos we often refer to when we talk about true democracy in the contemporary meaning of the word. Medieval European cities, which also featured some form of democracy, supplied obstacles of similar kind as well. Until the end of the 18th c., strict qualifications based on property or social status prevented many people from participating in political life, let alone providing for their ability to serve as subjects of power. Gradually, in the course of time, the slaves, the serfs, the workers, the poor, women, national minorities, and other groups and strata are tending to be included into the notion of 'demos', into the volume of people *formally* subject to be bearers and conductors of power.

Thus, 'national democracy' discovers that different ethnic groups have equal rights for participation in the life of society. Similarly, social democracy defends rights of the poor, and stands for equality of all human beings irrelevant to their social and economical positions. In 20th c., we could observe those two ways of comprehending the notion of people serving as ideologies under emerged state organizations alternative to the older liberal representative democracy that prevailed mostly in Western Europe and North America: the USSR and other socialist countries preferred a social aspect of democracy, their 'people democracy' being quite anti-liberal, but with a considerable level of social justice achieved; while young democracies of the so called 'Third world' represented mostly colonial and post-colonial countries fighting for their national freedom and comprehending democracy from its national perspective. We prefer to use Greek words denoting different aspects of 'the people' notion to accentuate such ways of comprehending democracy (See Fig. 1).
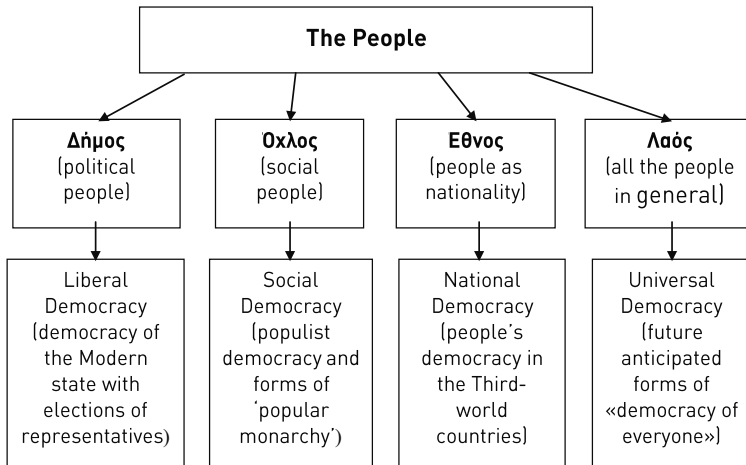
Fig. 1. Different aspects of 'the people' notion and forms of democracy related to them.

Those named forms of democracy, – or, it would be better to say, those *stages of democracy as a process* that *augment* each other rather than oppose each other, – while remaining actual under present-day situation, are still abstract in relation to *further* possible (theoretical) concretization of what democracy really is. Thus, the idea of national democracy faces irreversible impact of globalization processes; socialist ideas of people's democracy are mostly collapsed as well. Another problem with formal empowerment of greater and greater number of people with the right to be bearers and conductors of power is that the keyword here is 'formal'. It is of no use to go into length while proving that proclamation of the power of the people, let with the most progressive and expanded meaning of the latter notion, is in no way the real ability of each person to act as the subject of the life of his or her society. That is, the next stage of development would involve a development of universal notion of people regardless of their political, social, or national status.

On the other hand, the notion of *power* is no less complex and subject to development. In Greek, as well as in other languages, there are different nuances of the word 'power'. First, it is the initial term 'κράτος', power as wraparound dominance and possession, peculiar to the past historical forms of total supremacy. Second, it is a more gentile 'ÜÜÜÜ – power as guidance, management, rule, and administration. Regardless

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of the two terms since Aristotle's time being used mostly as synonyms (say, both monarchy and aristocracy were described by the philosopher as 'right' forms of government, while oligarchy and democracy having been declared to be 'deviant'), their etymological distinction is not casuistic nor idle philological whimsy. French poet and journalist Charles Péguy, one of the few thinkers who stated the substantial difference of the two types of power, a hundred years ago used to construct a whole conception: power as dominance is the power *over somebody*, while power-governance is the power *to do something* [Péguy, 1987, p.1803]. However, there is a third notion of power not mentioned by Péguy, – it is 'εξουσία' – *power-ability*, which is more than power-governance entitled to be denoted as power to act and to create something.

By the way, it is the third word that is being used to designate the notion of power in the Greek text of the New Testament, in the well-known words by Apostle Paul: "For there is no power but of God" (Rom. 13:1). This expression, especially in the 20th c., has aroused much bewilderment of interpreters: does any power really originate in God according to the Christian teaching, even that of Hitler or Stalin? Such bewilderment is indeed an example of unjustified (both philologically and philosophically) mixture of different meanings of 'power'': it is ÜÜÜÜÜÜ being used in the original, and neither 'kratos' nor 'archos', which are not to be equaled to 'eksousia' – as ability to create anything is beyond all doubts given by God, and that's what the epistle in question states.
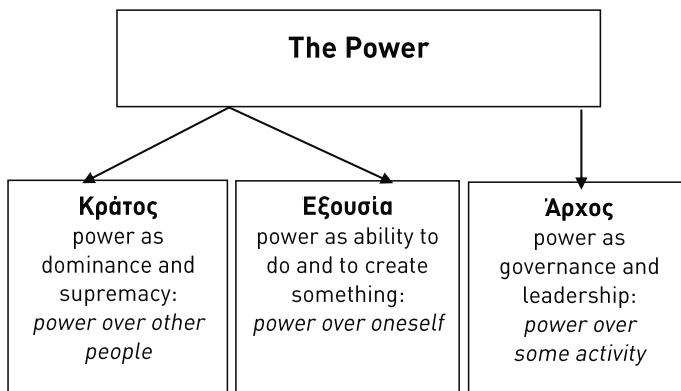
Fig. 2. The three types of power and their connotation

The distinction of the three denoted types of power [Fig. 2, See: Tolstoukhov, Parapan, Mielkov, 2008], *power as dominance, power as administration, and power as ability*, can help us to follow the history of the becoming of power phenomenon (and that of our understanding of this complex social entity), as well as to ground philosophy of democracy as the activity on forming values and goals of human social development as well. Following the distinction of notions we propose, democracy is literally not 'people's power', but rather 'people's supremacy'. However, as we already noted, it historically became a custom that such usual Greek terms as, for instance, 'autocracy' and 'monarchy', are practically identical. Basing on our point of view, that is not always the case. Under *formal supremacy* of the people (in all the historical variety of the latter term) *the real governance* often turns to be a monopolized property of one person or several social élite groups. In this sense one can even speak of the existence of, so to say, 'democracy-monarchy' or 'democracy-oligarchy'. In the first case, the formal supremacy of the people is realized under 'the guidance' of one single person (an excellent example of such 'democratic monarchy' is truly the Soviet Union under Stalin); the second case represents an élite-based form of social and state government organization (which, by the way, is a much more frequent phenomenon – referring to most contemporary representative democracies).

At the same time, since Edmund Burke and Joseph de Maistre, up to Nikolai Berdyaev and Pavel Florenskiy – a great number of prominent thinkers had lamented that in the course of democratization, as new and new senses and population strata were tended to be included into 'demos' entitled with power, – *the quantitative side started to dominate over the qualitative one*. Instead of considering a question on the base of its correspondence to the truth, there was a simple voting conducted, the issue being approved or rejected by the majority of voices – while the opinion of the majority is in no way the most correct, wise, and optimal, as many respected authors had stated. In other words, the *power-ability* had never practically been considered as a necessary supplement (and a form) of democracy.

That means that the concretization of the notion of power must necessarily follow the formal expansion of the notion of people. Events of the 20th c. provide but evidence in support of Vilfredo Pareto's

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observation: history is a cemetery of aristocracies. And while sharing in many senses the criticism of formal democracy by aristocratically (qualitatively) minded thinkers, resolving that contradiction is possible only in the direction of further *democratization*.

That direction could be designated by Barber's apt turn of phrase: 'An aristocracy of everyone' [Barber, 1994]. In the preceding historical times the development of one person (monarchy) or that of a narrow circle of persons (aristocracy/oligarchy) was possible due to slave labor and ignorance of peasants and artisans, who were considered by 'noble and educated' circles first as common and lowdown people, and later as depersonalized masses, while opposing them to the intelligent human personality. However 'the revolt of the masses' of our days does not have its goal in the death of personality, quite the opposite: the death of historical blind 'mass', its own transformation into *community of developed personalities* is required here, and that's what indicates the course of future development. Using the proposed terminology set, that idea for the future development of democracy could be named 'democracy-*panarchy*' meaning that *each human person* should be entitled not just with formal status of bearer of power, but with *real power-exercising ability* as well. As Lenin used to explain, any human being, with no exception, regardless of personal wealth, occupation and gender, has to carry his/her share of burden on governing the state. One could think that such a vision is rather utopian, but let us remember ancient poleis where every citizen did have similar responsibilities, and members of democratic city councils – βουλαί – were chosen *by lot* annually. In other words, *any* person out of the number of 'political people' could govern the state, – and the major difference between that historical example and the current situation is just the already noted augmentation of 'the people' notion.

That means that the denoted direction of democratic development implies the change of the democracy's *subject and scale* as well. Until today, the major actor of democratic power and the main space for democracy's outer development and expansion was *the state* – more precisely, 'nation-state' of the Modern Age, which under globalization represents a rather archaic institute on historical arena, not coping with its tasks and trying to disguise its helplessness and even uselessness. Identification of democracy with structures related to state organization,

– like electoral system, division of power, and parliamentarianism, – peculiar to some investigators, contradicts both traditions of classical understanding of democracy as the power of all the people, and the already present real trends of democratization. Democracy is not simply the division of power, neither is it a many-party system or elections of representatives, – democracy is just means for optimizing social life so that it would better suit interests of each person. Democracy is the supremacy of interests neither of democrats nor of democracy itself, but of those of each human person.

In our times, under globalization, the humanity faces the becoming of the new form, new space of democracy development – the third one, after (1) its antique and medieval poleis form, and (2) its nation-state Modern form, – the space encompassing humanity as a whole. There is a criticism of the nation-state postulating its irrelevance and uselessness in our times and appearing both from the left and from the right. We can just mention two books with the identical title – "The end of the nation state" – published in 1995. According to Japanese business-consultant Kenichi Ohmae, such a state lacks any meaning for global economy, it hampers the development of the economy with its barriers and borders [Ohmae, 1995, p.5]. And French diplomat Jean-Marie Guéhenno, who stands for more humanistic positions, thinks that nation-state is still too remote from the daily life in order to be able to satisfy the needs of concrete persons, and appears increasingly like 'a straitjacket' relating not only to economical globalization of the world, but to sovereignty, defense, and social justice as well [Guéhenno, 1995, p.12-13].

Champions of liberal representative democracy grounded their views on sincere beliefs that state power exercised by 'all the people' is technically impossible, – 'real (direct) democracy' was only realizable in poleis or in small tribes [Schumpeter, 1975, p.245]. Should we agree with such a position, democracy then must be described as an exclusively historical phenomenon, its contemporary embodiment having not much in common with its glorious predecessors. Indeed, each and every person can never become a ruler of Modern nation state – but we believe *that indicates not the demise of democracy* (nor its transformation into post-democracy) *under the power of such states, but rather a death of a nation state under the development of democracy*. Every human cannot be a president and govern a state – but every human

can be a personality and govern one's own life, while being able to follow one's own mind, in Kant's famous words, and not trying to relieve oneself of that burden in favor of some elected representatives and/or parties. The cultural development of human personality is the key to achieving a democracy in society – as Maxim Gorkiy used to note in turbulent times of the Great Russian 1917 revolution, democracy is *a phenomenon of culture, and not of politics nor of economy* [Gorkiy, 1995].

That means that democracy now depends on (and is now to develop) *inner human qualities* rather than external social and political institutions like those of state government. Indeed, it is representative democracy that is found to be less possible under present-day situation. Representation is a form of (strictly speaking) democracy-oligarchy enabled by a low-level development of personalities represented – so that their social and political interests could be quite easily expressed and delegated. On the contrary, educated and culturally developed human personalities have political interests and preferences so vast and complex that they are nearly impossible to be represented by any *other* person different from the one whose interests and preferences we are talking about here. Complexity in interests means concretization: each specific case is unique for each specific human person, so his or her interests and his/her power as ability to feel, to think and to act under concrete situation could no longer be alienated towards a – presumably even more competent and/or educated – representative as a 'professional politician'.

Indeed, we believe that the future development of democracy under globalization lies not so in the disappearance of politics, as in its *losing its status of a specific profession*, – as well as not in the disappearance of nation-states, as in them losing their exclusive quality of being the arena and the embodiment of political and social human life. State, as predicted by Friedrich Engels more than a hundred years ago, is being replaced by Gemeinwesen, that is – by 'a commonwealth of communities', with each personality participating in activities of different self-organized communities, holding 'power' authority positions basing on his or her *imminent competence in the relevant practice*, the dichotomy of private/public sphere obviously losing its relevance. The power as the ability to act and to create, as opposed to power as dominance, and politics as an activity of exercising the said power,

is being decentralized and spread out in all multitudes of spheres of human life and activity, from family, workplace, and neighborhood, up to the humankind in general.

Thus, we can summarize that today's democratization processes of the world are indeed correlative to philosophical musings on democracy as the process of approaching the optimal social and political organization. Democracy process as formal extension of 'demos' notion entitling all the people with no exception with the right to be subjects of power must be followed by concretization of the notion of power, providing for the realization of that right in practice, developing from dominance – through government and management – to competent activity and creativity of self-organized and culturally eminent human personalities as new subjects of democracy process.

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STATE OF EXCEPTION AND IMPASSE DYNAMICS

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THOUSANDS OF TROOPS ARE CURRENTLY BEING DEPLOYED IN ITALIAN CITIES.
They patrol alongside state and paramilitary police and guard "sensitive
sites". Military forces are able to stop, search and identify suspects. With
the explicit intent to help police fight crime, boost security and curb
illegal immigration, these new measures have been enacted through
an emergency decree issued in May 2008 by the government and then,
after two months, converted into the law (July 25, 2008, n.125). Secure
Streets – that is the name of the "temporary" operation inscribed in
this legal framework – was renewed on May 2009 and is valid until
the end of December 2010.

If we add that some of these troops were previously employed in
war zones such as Afghanistan, Iraq and Bosnia[1], it is difficult not
to say that we are now moving a step forward towards a full state of
exception. As a result it is not a mere accident that nowadays, as it was

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[1] Interview with the undersecretary of defense Guido Crosetto, in Brega (2008). In this
framework it is interesting to notice that the Italian Ministry of Defense is promoting
several initiatives with the aim of transferring knowledge on counterinsurgency from
the several international war scenarios in which Italy has been involved into its own
national borders (La Rosa, 2009; Coticchia, 2009).

at the beginning of the past century, political theory is still haunted by the specter of emergency[2].

Recent literature[3] has pointed out that "the jargon of exception" –especially the one adopted by Carl Schmitt and Giorgio Agamben– has, as its drawback, the fact of completely erasing the fundamental role of societal forces into the modern political arena. Thus, if it seems to be unavoidable to use the notion of exception, at the same time the main frameworks provided on it appear to be somewhat lacking. To address this very difficult issue a new theoretical analysis is needed.

I will start by considering an apparently unrelated piece of literature – the one on constitutive rules, developed mainly in analytical philosophy. More specifically, my investigation, to give a contribution to the topic of exception, needs to find an answer to the following question: what happens when something goes wrong while following this kind of rules, viz. when either a mismatch between rules and facts or an internal contradiction among rules causes an *impasse*?

If it is fairly clear that this may endanger the life of institutions, on the other hand, in a lot of other situations, impasses could happen without being fatal to them. To understand this, an analysis of the *dynamic evolution* of impasses in institutional settings will be provided. When a state of exception is declared, we face a similar paradoxical situation, were law is suspended against itself. But, here, this situation is not an unwanted outcome of regulated action, it is something that belongs to a strategy of power. By explaining how this strategy combines with the impasse dynamics, I will try to show how it is possible to find room for societal forces to come democratically into play.

1   A problem in exceptionalism

"Sovereign is he who decides the exception". This is the always-quoted beginning of Carl Schmitt's *Political Theology*. In a state of exception

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[2] To this respect, Italy is not, so to speak, an exception in the exception. International military interventions, counter terrorism policies and increasing controls over immigration are just few situations in which the notion of emergency is at stake. The literature that deals with the problem is huge, for a survey, see for example Sheuerman (2006).

[3] Huysmans (2008); Kisner (2007).

law is suspended by those who are the primary decision makers in the State, that is by those who declared the exception. This triggers an entire chain of power that allows the creation of new spaces of decision. These relevant actors, having more influence over decision-making than others, are able to take advantage over these others by forcing the system in a peculiar manner at the level of the institution and/or at the level of its application. That is, because of an emergency situation, when a state of exception is declared, what is ordinarily valid by the law is not valid anymore. New, and to some extent, arbitrary power is given to some figures such as police, army and so on. Potentially this allows the space of decision to be unlimited:

> The precise details of an emergency cannot be anticipated, nor can one spell out what may take place in such a case, especially when it is truly a matter of an extreme emergency and of how it is to be eliminated. The precondition as well as the content of jurisdictional competence in such a case must necessarily be unlimited. From the liberal constitutional point of view, there would be no jurisdictional competence at all. The most guidance the constitution can provide is to indicate who can act in such a case. If such action is not subject to controls, if it is not hampered in some way by checks and balances, as is the case in a liberal constitution, then it is clear who the sovereign is. He decides whether there is an extreme emergency as well as what must be done to eliminate it. Although he stands outside the normally valid legal system, he nevertheless belongs to it, for it is he who must decide whether the constitution needs to be suspended in its entirety[4].

A State (or, better, some of its decision makers) in order to save itself from something that threatens its own existence suspends some of its own rules. But there is no one above the primary decision makers of a State. Hence Schmitt conducts his investigation to the disarticulation of the idea that it would be possible to build a way to limit this sovereign power, along the lines of "who controls the controllers?". At the same time Schmitt wants to give a legal framework for this power: the sovereign who decides on exception is partially subsumed under

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4 Schmitt (1985): pp. 6-7.

the law. Here Schmitt's decisionism fully departs from the normative approach that characterizes liberalism. Exception is not simply discretion. Even if it lies on the same axis for some of its elements, exception has a peculiar relationship with its own limits.

Discretion has been interestingly characterized by Ronald Dworkin as the hole in the doughnut, something that "does not exist except as an area left open by a surrounding belt of restriction[5] ". Thus, discretion is not outside the law but internal to the law. What it has in common with exception is that discretion allows decision-making:

> An official's discretion means not that he is free to decide without recourse to standards of sense and fairness, but only that his decision is not controlled by a standard furnished by the particular authority we have in mind when we raise the question of discretion[6].

But, has we said, what matters in exception is the scope of what it is possible to do. Here, during the exception, it is the one who has actual power who can go beyond the rules. The striking fact is that Schmitt wants to give a legal justification of it and he does it by saying that the one who suspends the law "nevertheless belongs to it". But how is it possible to suspend (some or, in principle, all) rules that make an institution and at the very same time to be inside the framework of the very same rules? Under this justification of exception – no mystery— lies an extremely authoritarian philosophy. This is enough to say that in this framework social forces are completely powerless[7], and what Schmitt wrote about De Maistre also applies for his own account:

> [...] we can [...] see a reduction of the state to the moment of the decision, to a pure decision not based on reason and discussion and not justifing itself, that is, to an absolute decision created out of nothingness[8].

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5 Dworkin (1977): p. 31. I am touching very briefly this very complex topic. For the sake of simplicity I choose to point to Dworkin's characterization that, in contemporary theory of law, is still considered one of the most relevant (see Klatt, 2007).

6 *Ibid*.: p. 33.

7 For the sake of brevity we will not enter into further details to support this claim, for more see Huysmans (2008).

8 Schmitt (1985): pp. 66.

For Agamben to accept this conception of law and power is to give a chance to indeterminacy and arbitrariness and, moreover, he correctly emphasizes Schmitt's account as aporetic:

> The specific contribution of Schmitt's theory is precisely to have made such an articulation between state of exception and juridical order possible. It is a paradoxical articulation, for what must be inscribed within the law is something that is essentially exterior to it, that is, nothing less than the suspension of the juridical order itself (hence the aporetical formulation: "In a juridical sense, an order still exists... even if it is not a juridical order ")[9].

Even if one could find a bit strange to say how this aporia could be a *contribution*[10], Agamben point is quite clear: one cannot justify as law something that is completely against it. We could say, pushing further Dworkin's metaphor, that here, at the same time, there is and there is not a doughnut or, saying it in another way, that the hole in the doughnut is the doughnut itself.

To highlight this aporetic "juridicization" of exception is for Agamben essential, and it is what marks his conceptual move as completely opposite with respect to Schmitt's one. If for Schmitt this aporia is somehow hidden (exception is something that he politically endorses), for Agamben exception and its aporetic status culminate in an obscene paradigm that characterize the modern way of understanding the articulation between law and power. Within a state of exception the norm is in force, is *in potentia*, but it is not applied, is not *in actus*; conversely, acts that do not have the value of law acquire the force of law. It is because of this contradictory situation posed by the juridicization of exception that for Agamben our times are *ultima facie* governed by fiction:

> The state of exception is an anomic space in which what is a stake is a force of law without law (which should therefore be written: force of ~~law~~). Such

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9 Agamben (2005): p. 33.

10 In fact Agamben in the Italian text uses the word *prestazione* that points more correctly to the less positive semantic field of 'service' or 'performance', see Agamben (2003): p. 45.

a "force of ~~law~~", in which potentiality and act are radically separated, is certainly something like a mystical element, or rather a *fictio* by means of which law seeks to annex anomie itself[11].

To emphasize the fictitious character of governmentality is not to say that the machine of power is not efficient. On the contrary, it has worked almost without interruption from WWII to Terrorism Act, Guantanamo and today's emergency decrees, passing through fascism and Nazi Camps:

> [...] the state of exception has today reached its maximum worldwide deployment. The normative aspect of law can thus be obliterated and contradicted with impunity by a governmental violence that – while ignoring international law externally and producing a permanent state of exception internally— nevertheless still claims to be applying the law[12] .

Intuitively, we can follow Agamben on this[13]: even if we just take into consideration the specific case of the emergency decrees in Italy, we can see this fictional, contradictory character of today's power. In Italy there is a systematic and increasing recourse to the issuing of emergency decrees in such an extent that now many jurists call this situation, not without complaining, an "ordinary" way of law-making[14]. Given such a situation, the span of time between august-september 1999 becomes something really exceptional. And this is because in those two months no decree was in existence. Something similar happened in the fifties; before the fifties there was fascism, were the "normal" policy was made, again, by emergency decrees. It is difficult to say how this daily and endless emergency could not be a fiction.

Our problem is with Agamben's somewhat lacking treatment of this notion of fiction. There is no explanation on how this fiction exactly

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[11] Agamben (2005): p. 38.

[12] *Ibid*.: p. 87.

[13] Agamben has developed his notion of exception also in Agamben (1998; 2000). We are well aware that a deep study on the merits and appropriateness of analysis of exception in Agamben is needed, but this is certainly out of the limits of this essay. For an overview of the criticisms against Agamben's position on exception see Neal (2007).

[14] Marazzita (2003); Simoncini (2006).

works within the social system. I think that this is due to the fact that the role of social forces is not enough considered. If the mechanism of exception works, it is because this mechanism is accepted or not contrasted enough by the actors that are involved into it. I will later try to show how crucial this is in order to find, at least, a theoretical move to put again the social forces into play; for the moment let's stay on the problem of depoliticization. As Jef Husmans puts it:

> Even if one would argue that Agamben's framing of the current political conditions are valuable for understanding important changes that have taken place in the twentieth century and that are continuing in the twenty first, they also are to a considerable extent depoliticizing[15].

I believe that the main problem Agamben faces lies in his messianic answer to the question of halting the machine of emergency. That is, his messianic idea, borrowed from Benjamin, of revolution conceived as a moment of real state of emergency. If the 'emergency situation' in which we live is the rule, then the point is "to bring about a real state of emergency, and this will improve our position in the struggle against fascism"[16]. Being this a messianic claim, one can imagine how difficult it is to explain how this state of liberation will be reached. Messianism as such prevents the very possibility of thinking about a way to change things. If we do not share Benjamin's and Agamben's messianism, but we share the same need to halt the machine, is there any possibility of a rational reconstruction of exceptionalism such as to provide a 'logical space' for describing bottom-up social processes able to bring the real state of exception?

2 An analytical view on rules

In order to provide a reliable solution to this problem, I will recur to a completely different field: 'analytical' social ontology. One of the pioneers and the prominent figures in this specific debate is certainly John

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[15] Huysmans, J. (2008): p. 33.
[16] Benjamin (2003): vii, p. 392.

Searle. The analysis of social reality brought about by Searle has as its basis the idea that speaking is acting according to some social rules, these rule have not just a regulatory character, they define linguistic sentences[17]. Take for example the case of promising, promising is not a representation of the intention of doing what someone has promised, it is also, in front of other speakers, to undertake the obligation of doing so by following the rules of promising. This leaded him to investigate what sociality is[18], but his approach is quite different from those of Schmitt or Agamben.

According to Searle the classical approach in political philosophy usually seeks to investigate "the ideal society, the nature of justice, the sources of sovereignty, the origins of political obligation, and the requirements for effective political leadership[19]". The problem with this conception is not that it gives the wrong answer to its questions, the problem is that this approach lacks a rigorous *foundational* analysis:

> Prior to answering such questions as "What is a just society?" and "What is the proper exercise of political power?" it seems to me we should answer the more fundamental questions: "What is a society in the first place?" and "What sort of power is political power anyhow?"[20].

In his later work he develops a logical analysis of the social realm that at its end touches many topics in political theory. I will not focus on this latter part, rather I will briefly take into consideration two of the main building blocks of his huge philosophical building, the notion of *rule* and the notion of *collective acceptance* and I will try to see the merits and demerits of these two notions for a new conceptual framework of the exception.

The notion of constitutive rule is quite popular[21], so I will not go into this very much. Moreover, what is needed here is to understand the basic idea behind constitutive rules, and not to develop a theory of them. This basic idea is that constitutive rules create the very conditions

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[17] His famous theory on speech acts was developed primarily in Searle (1969, 1979).
[18] Searle (1995, 2010).
[19] Searle (2008): p. 19.
[20] *Ibid.*: p. 20.
[21] On this see, for example, the recent work by Hindrinks (2009).

of existence of certain social facts. They are the posed, definitional part in a social system[22].

Searle distinguishes between what he calls regulative rules and constitutive rules. The former are rules like "drive on the right side of the road" or "do not feed the monkeys" and they regulate an already existing behavior: driving or feeding the monkeys can exist regardless of the rules that apply to them. Constitutive rules instead create new behaviors, to say it a bit more correctly, they specify a *new meaning* associated to a certain behavior and their fundamental structure is the famous count as formula:

X count as *Y* in context *C*

For example, the bills (*X*) printed at the mint count as money (*Y*) in a certain State (*C*). Or, what (*X*) counts as a particular piece in a game of chess (*Y*), e.g., a king, or a rook, is determined by the rules of chess (*C*). What a certain piece is, it is determined by the constitutive rules of chess, which prescribe *how* that piece can be used in playing chess. A single constitutive rule can define what a certain piece is just within the broader system of the other constitutive rules, that then play the role of the context (*C*) in the formula. Without the system of constitutive rules of money those bills in our wallet are just paper and it would be impossible to understand a checkmate without the constitutive rules of chess. In this sense these rules are *definitional* and *creative*: because of them new, institutional facts come into existence, that is a status (*Y*) is imposed to a certain entity. This imposition is a speech act, a declarative. To be Prime Minister, a citizen or an illegal immigrant in a certain country such as Italy, USA or France is a matter also of status functions and declarations. Without an explicit codification no one of this status can validly be applied.

But how is this status imposed on those entities? Social and institutional facts come into existence through collective intentionality. Pieces of paper function as money because we intend them to do so.

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[22] See Searle (1969, 1995). This is neither the only account on constitutive rules nor the first, but it is one of the most discussed in literature. For an historical account on such topic see Conte (1988).

Whenever two or more agents share a belief, desire, intention or other intentional state, and when they are aware of such sharing, the agents in question have collective intentionality. Collective acceptance is that part of collective intentionality that allows the social object to have a function within a certain social system. Therefore social facts exist through collective acceptance of a speech act that imposes the status *Y* over the element *X* in the count as formula.

In this framework power is essentially a question of collective acceptance of imposition of status functions. Whenever –in the proper context– we impose a status as 'President of United States of America' on someone, this person has now new rights, duties, obligation, and, conversely, this holds for people who interact with this very person in his or her role. These are deontic powers that exist because we accept this status assignment.

This approach that I have very brutally sketched out, has, among the others, the advantage of being quite compact and intuitive, but it has also its deficiencies[23]. For example Searle is not that much interested in coping with 'negative' cases in his philosophy of society. But these cases are quite frequent in the social realm and they acquire much more significance in the context of our study, that is when we deal with exception. Wolfgang Balzer, for instance, claims that "the account provides a too harmonious and thoroughly positive view of, and approach to, social institutions[24]", as he does not take into account that the subjects involved in the mechanism of collective acceptance are not peers, but social subjects that experience inequality conditions.

In reality, the creation of some central social facts, the assignment of certain powers is made by a small set of people almost regardless of the will of others. This consideration should at least lead to a more neutral notion of collective acceptance. We could then consider acceptance as a term that can sum up in itself a positive vision, as the searlian one, alongside with a negative one, such as that of Jean-Paul Sartre[25] , where acceptance could be also endurance, that is a kind of internalization

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23 As we already noticed in Bottazzi and Ferrario (2010).

24 Balzer (2002): p. 198.

25 Sartre (1982).

of the impossibility of resisting to a certain authority[26]. Said that, for collective acceptance the question of rules is still open. What happens if something goes wrong with the rules that we established? This leads me to discuss my account of the notion of impasse[27].

3   Impasse Dynamics

Intuitively, an impasse is an undesired situation that goes against the rules, which actors who follow the rules may end up in. In a true impasse situation we cannot go on following the rules. Because of an internal or an external problem in the rules we cannot say which further step is the one we should do without going against them. An analysis of this notion can be seen as an effort to analyze what Ludwig Wittgenstein called the *civic status of contradiction*:

> [...] we lay down rules, a technique, for playing a game, and that then, when we follow the rules, things don't turn out as we had assumed. So that we are, as it were, entangled in our own rules.
> This entanglement in our rules is what we want to understand: that is, to survey.
> It throws light on our concept of meaning something. For in those cases, things turn out otherwise than we had meant, foreseen. That is just what we say when, for example, a contradiction appears: "That's not the way I meant it."
> The civic status of a contradiction, or its status in civic life – that is the philosophical problem[28].

Here we do not want to enter into the meaning of the notion of contradiction –in this case many approaches would be viable in an enormous range that goes from paraconsistent logic to marxism– but

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26 A similar criticism has been developed by Jennifer Hudin (2007). Recently, Searle himself recognized the existence of this problem, and remarked that his position (2010), is actually more neutral than the one appeared in Searle (1995), but according to Hudin (2010) the question is far from being resolved.
27 Introduced in Bottazzi and Ferrario (2009); Bottazzi (2010).
28 Wittgenstein (1953): sect. 125.

to see its effect within a social domain. What strikes the most is the fact that this phenomenon, although being so central in Wittgenstein's words, seems almost ignored, at least in literature of analytical heritage that deals with social ontology.

The strategy adopted is firstly to isolate two main kinds of impasses depending on the fact that they are caused by a mismatch between rules and facts or by an internal contradiction among rules. Then, given the definitional character of constitutive rules, one could say that they set a new 'logical space' for action, and that impasses push the action out of such space, thus threatening the identity of the regulated interaction and coordination. I will show then –by illustrating what I called the dynamics or propagation of impasses– how we can accommodate this intuition with the opposite one that in a lot of situations similar issues can arise in systems of constitutive rules that are not fatal to them.

We can isolate then the two main kinds of impasses:

1. *Nomic impasse*. (gr. νόμος, "law"). It occurs even in cases where rules of a certain institution are perfectly followed. It is thus due to a lack in the design of the rules; there is an 'internal' incoherence such that, even in a perfect execution of institutional activities in accordance with the rules, the result would nevertheless be an impasse situation; it is definitionally necessary. This means that the necessity of the impasse depends on what the rules prescribe, on the fact that they are entangled.

2. *Anti-nomic impasse*. (gr. ἀντι, "against" and νόμος, "law"). It can be due to a bad execution of the regulated activities or to an execution that goes against the rules of the institution (nothing to do with Kantian antinomy). The lack at its basis is a lack of capability of foreseeing all the possible ways the agents have at their disposal to go against the rules. In this sense we could say that it is the result of a sort of "external" incoherence.

I will characterize better these two kinds by enriching them with examples: I will describe the case of cheating and the case of rule entanglement in voting, linked respectively with the notions of anti-nomic and nomic impasse and we will see, at the same time, their dynamical character.

Cheating. An interesting account of cheating has been given by Stuart Green[29], were cheating is defined as a violation of a certain rule with the intent to obtain an advantage over a party with whom we are in a cooperative, rule-bound relationship. Green considers a huge spectrum of phenomena labeled as cheating. I will not enter into details about this[30], for the purpose of this paper, I would like to restrict the case of cheating were constitutive rules are involved and to emphasize that:

- cheating involves rule breaking;
- cheating is often (if not always, when it involves constitutive rules) a practice that needs a kind of covertness.

Let's take into consideration the first part of the problem. Cheating involves rule breaking. When we cheat we break something we previously agreed upon, e.g. a rule, in this case a constitutive one –we drive, antinomically, the system to a strange situation. On one hand, it seems that breaking a constitutive rule implies going outside the logical space of the considered activity: moving a pawn of three positions is not playing chess badly, it is not playing chess at all: "omitting to do something which one has formally acknowledged as required of one is rather like contradicting oneself[31]". On the other hand, we have an opposite intuition. Michael Sean Quinn, in his paper *Practice-Defining Rules*, says :

> I think that we should allow that (at least) some people who cheats in games are nevertheless playing the game. Otherwise, whenever we say of a person that he plays but cheats every chance he gets, we are contradicting ourselves (unless what we mean is that he is playing whenever he is ostensibly playing and not cheating)[32].

We are thus faced with a dilemma: if constitutive rules create the meaning of an institution, how is it possible that many institutions

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29 Green (2004).
30 For more about impasse dynamics and cheating see Bottazzi and Ferrario (2010).
31 Cameron (1972): p. 319.
32 Quinn (1975): p. 78.

survive even though experiencing violations of their constitutive rules? To have some understanding of this situation we should go a bit deeper into the covertness of cheating.

Let's consider firstly the case of effective cheating. Everything it's fine –surely for me, the cheater, not at all for my opponent and ambiguously for the game– if no one spots me. The destiny of my strategy in the game is somehow linked to an epistemic feature. But not just of my strategy. As we saw in the case of Searle's collective acceptance, a social fact holds if, collectively, it is accepted as valid. If they don't spot me, even if I'm doing something that is outside the logical space of the game, the game is still valid, even from an ontological standpoint, because it is accepted as valid. It is true, at the same time, that from the standpoint of the rules of the game, by definition, the game is in a sort of impasse. No other move is allowed and we do not have a clear way to overcome the deadlock.

Let's try to fit a cheating situation into a scheme, provided in table 1, where it is shown a dynamical view on impasse. First of all it must be said that that the passage from one phase to another, numbered in the table from 1 to 5, is not strictly necessary, but it explains a relevant mechanism in the dynamics of institutions, thus the symbol "Ü", that has no formal meaning here, should be read as "may lead to". It indicates the direction of a path that leads from an initial impasse (1) to its institutional effects (5).

1. Definitional impasse
↓
2. Epistemic recognition
↓
3. Impasse declaration
↓
4. Collective acceptance
↓
5. Institutional impasse

Table 1: Impasse propagation

At the *definitional level* (1), what could happen is that, with respect to how the institution is designed and constituted, this very activity is logically stuck in a deadlock. If it happens, then this holds by definition, independently from the minds of the actors involved. Therefore, in this restricted sense, we can say that here there is an actual impasse. Whenever we establish the rules, if something wrong occurs to them, this harms the meaning of the regulated activity and it does it by definition. This may lead to the *recognition* (2), by one of the actors involved, of what is happening as an impasse. To make this step is something *epistemic*, because it depends on the cognitive capabilities of the actors. Now, the one who recognizes the impasse situation has to choose whether to *declare* (3) or not the definitional impasse. This step is not necessary at all, it could be done, but it could equally well not be done. Depending, maybe, on the strategic interests of the actor, we can imagine that she could have some advantage in declaring (or not) that an impasse occurred. If this declaration occurs now it is up to the other actor(s) to *collectively accept* (4) that this was actually the case. Obviously this level presupposes that each actor involved *recognizes* the impasse or trusts the declarer. Moreover it can involve also additional declaration(s). Again, also at this level strategic considerations may occur. In any case if definitional impasse is collectively accepted this leads to the *institutional impasse*. This is the effective deadlock in interaction that can lead either to the death of the institutional activity or to a transformation of the system by changing its rules[33].

Now let's consider the simple and often used example of the game of chess. Suppose I move, to take advantage, a tower as if it were a bishop, thus I break the rules: by definition, I am not playing chess anymore, there is no possible further move. But I am smart or lucky enough: no one spots me, neither my opponent, nor the referee. If no one sees me, it seems likely that no one would say anything to protest against my move. This means that they (implicitly) accept it. Actually, they don't accept my move as irregular. I made them believe that this was regular. This is the covertness of cheating: the move appears regular, but it is not. Then the game goes on, there is no impasse at the institutional

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[33] By introducing what we called (in Bottazzi and Ferrario, 2009) rules with an arbitral function, viz. rules that preserve the institution from its own destruction.

level. And this level is the level that counts. Therefore, the game is *definitionally* invalid but *institutionally* valid.

If cheating is ineffective these two logical levels coincide, in a sense. Again, I break the rules. I move, to take advantage, a tower as if it were a bishop: by definition, I am not playing chess anymore, there is no possible further move. But now I am neither smart nor lucky enough: they spot me. Because of this, someone protests against the move I made. This convinces the other players and/or the referee not to accept the move. I was a bit rough here, because we should say that we have two steps in one: recognition of the invalid move by the other participants, and their collective acceptance of the fact that the move is invalid. This phase opens the possibility of "protesting" the game, it offers good reasons to declare the impossibility of acting further and opposing a part or the whole institution. At the final step, the game faces the impasse. The definitional impasse has propagated its effects to the institutional layer: depending on its rules, it can be halted, it can lead to a penalty, and so on. The complete deadlock happens when there are no rules to manage this situation: we could call this a strict institutional impasse.

Rule entanglement in voting. An interesting case of nomic impasse is discursive dilemma. This dilemma –firstly proposed and analyzed by Philip Petitt[34]– is relative to a decision that has to be taken on the basis of the opinions of a number of agents who have to express a majority voting on a certain set of problems, which are logically connected. Petitt has mathematically shown[35] that it is always possible that, though each agent gives her own vote coherently, an incoherent majority is nonetheless generated.

Let's suppose to have a group composed by three agents A, B, and C that should express their opinions on each of the following points:

- *First Premise*: "increase expenses for defense";
- *Second Premise*: "increase other expenses";
- *Conclusion*: "increase taxes"

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34 Pettit (2001).
35 List and Pettit (2002, 2004).

Let's further suppose that it is not possible to increase all expenses (by voting "Yes" to both premises) without also increasing taxes (without also voting "Yes" to the conclusion). Votes that are individually coherent generate a contradiction. It is not possible to vote "Yes" to both premises and "No" to the conclusion; even though voters respect such a rule, the result of the majority voting is not to increase taxes ("No" to the conclusion) and, at the same time, increase expenses for defense ("Yes" to the first premise) and the other expenses ("Yes" to the second premise). But this, as already noted, ends up in a contradiction.

The problem is that every method for voting which treats equally every point and every voter has been shown to suffer from this contradiction. There is a form of democratic voting that, for its very nature, brings to a situation of impasse. We have to emphasize this: it was discovered that it is impossible to escape from these situations in majority voting. This means that even in this case we have an impasse dynamics. At the definitional level the system is flawed. We can have an actual voting that encounters this incoherence. At the epistemic level this can be recognized or not. If it is not recognized –because people in charge of checking the voting are far away or stupid– this leads to considering institutionally valid a completely crazy result. Which effect does this produce on the institutional situation at stake? We can imagine that this incoherent voting could affect other decisions, a sort of chain effect that makes them definitionally invalid but institutionally valid too. Everything appears to be valid, but is flawed in its fundaments, nonetheless it is accepted.

4 Conclusion: the Dynamics of Exception.

Let's now come back to the main issue of this paper: how to save the intuitions we have on Agamben's account on exceptionalism and to find room, at the same time, for the essential bottom-up social processes that make up a society.

First of all we must come back to Agamben's treatment of the aporetic character of today's exceptionalism. Before introducing the dynamic characterization of impasse I supported Agamben in his

claim[36]. But now, after introducing my approach, I urge to make more precise the level of agreement I have with him. I do agree on the fact that the concept of exception is suspicious from a logical point of view. My disagreement shows up in some essential details. If we go into it and try to solve some of the hidden issues, we will see that a different framework for exception emerges.

In his account the state of exception is an *anomic space*. There is no clear explanation of what Agamben exactly means for anomie. Here we fully support Searle's need for a foundational analysis of the basic elements in political philosophy. Given this, we can just rely on etymology. The word 'anomie' comes from Greek, namely the alpha privativum 'α' that could be interpreted here as 'without' and the word νόμος that can be interpreted as 'law'. Therefore we could say that, for Agamben, exception produces *normlessness*. If this is Agamben's intended meaning of anomie I have to disagree with him on this point. On the contrary, to me *the state of exception puts a social system into a nomic and an antinomic impasse*.

Nomic impasse caused by the state of exception. A legal system that provides the possibility of exception is flawed at its fundaments. For example, take article 77 of the Italian constitution that provides some limitation to exception[37]. By giving limitation to emergency, exception was put inside the very core of the Italian law. It is interesting to notice that those limitations –that in many respects are quite similar to those posed during fascism[38] – where put with the intent to "prevent and sanction abuses" as was said by one of the ratifiers at the constitutional convention in 1946. But even if limited, it was already

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[36] Sect. 1, p. 3.

[37] "(1) The government may not issue decrees with the force of law unless empowered by a proper delegation of the chambers. (2) As an exception by necessity and urgency, government may issue provisional measures with the force of law and submits them on the same day to the chambers for confirmation; if the chambers are not in session, they have to be summoned for that purpose within five days. (3) Legal decrees lose effect at the date of issue if they are not confirmed within sixty days of their publication. However, chambers may sanction rights and obligations arising out of decrees are not confirmed". Italian Const. Art. 77 (1-3), translated in A. Tschentscher (ed.), *International Constitutional Law* (last modified May 23th, 2003) (F.R.G.).

[38] As pointed out by many, beside Agamben (2003): for more on this, see Marazzita (2003); Simoncini (2006).

stated that it is impossible to really give some limits if we are still in the paradigm of exception "by necessity and urgency". Also jurists cannot guarantee that such an article can avoid the suspension of law in its entirety[39].

Likewise, to allow for a piece of law to range on the entirety of a normative system creates a *logical impossibility*: that is, a collapse of the *meta-level* (a rule that states the possibility of emergency) and the *object level* (the law). A logically impossible system is much worse than an anomic one. Being without law is anarchy, being under a logically impossible law is being under the heel of complete arbitrariness. And it is worse than simple contradiction, as it is in the voting paradox we cited in the previous section, where in *some* of the possible patterns of voting we have, at the definitional level, a contradiction. The discursive dilemma says that in all systems with majority voting on interconnected issues there will be at least one contradictory outcome. This means that there are also some outcomes free from contradiction. On the contrary, in a system that embeds exception, we have a logical impossibility that automatically produces an impasse at the definitional level.

Antinomic impasse caused by the state of exception. Now let's consider the second impasse created by exception, the antinomic one. When we talked about cheating we saw it as a way of taking advantage from deception. There is a behavior that goes against the system in such a way that at the definitional level the system is in an impasse; in order to take advantage, the cheater acts at the level of recognition to avoid his or her irregular move to be spotted. In exception some relevant actors, having more influence over decision-making than others, are able to take an advantage over these others by forcing the system in a peculiar manner at the level of the institution and/or at the level of its application.

This antinomic impasse starts at the declarative level. A state of exception is justified by emergency, that is by something that endanger the system. A specific disposition is enacted arbitrarily because exception is declared, and this happens in order to save the commonwealth. In a sense exception would be the remedy to avoid impasse. But here we see a sort of distortion with respect to the schema of impasse propagation

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[39] Marazzita (2003).

proposed in the previous section. Here there is not an actual impasse by definition, there is a *perception of risk* of impasse, something that is at the level of recognition and exception is declared because of it. This leads to the fact that it is necessary for the one who declared it, to act at the level of recognition of the other actors involved –e.g. by using propaganda and so on– to convince them that the commonwealth is on the verge of a catastrophe and that the exception was needed, asking ultimately for acceptance. But the state of exception is, as we saw, intrinsically a state of impasse. This means that, paradoxically, *we have at this point a real, actual impasse that has been expressly caused to avoid a possible one*. The ones in control enact an impasse on the void of pure possibility that destroys the meaning of the institution. Then, here it goes the further fiction, that is the attempt to maintain an apparent coherence of the system in front of this complete failure.

If a system is pervasively in a situation of impasse this obviously means that it is weak. How would this be possible? How this machine is not in a state of institutional impasse? Because of the level of acceptance. Actual political systems are strongly based on consensus. An institutional system that embeds exception needs fiction, we can show now how the fiction works by showing what needs to be hidden, that is that the system is flawed both at declarative and at definitional level.

Acceptance and power. Now there is room –at the level of recognition and acceptance– for societal forces to be in the framework of a philosophy of exception. Ultimately, if, though the system is so deeply flawed but yet not collapsed, this is because at its bottom it is somehow accepted.

In the last fifty years there has been a strong emphasis on studying the level of recognition and ideology, by for example trying to 'deconstruct' the strategies of propaganda; the problem that we face now is that it is necessary to work deeper on other levels: that is, the level of collective acceptance and that of declaration. This latter level may be seen as the level of political action, where we do things with words. I don't want to say anything about it, because it is far beyond the scope of this paper, I just want to emphasize how crucial this level is. At this level the first move that should be done is going further in translating what has been done in the description of the dynamics of exception in terms of who exerts more controls on others in a social

system. Whenever the majority of social forces are not able to have the control on the coherence of the social system which they are part of and, moreover, to intervene in it by taking decisions, whenever they just exert their power by mere pressure or passive acceptance, it is impossible to halt the machine of exception. To create a new strategy to make this possible is a hard task that political philosophy should not abdicate to.

Less ambitiously, I would like to conclude with a remark on acceptance. Acceptance is what brings exception into being. Therefore, we came back to one of the main themes of analytical social ontology, that is, collective intentionality. It is by some form of collective acceptance that we give some functions to some individuals. It is also true, as we stated about Searle, that it is not possible to consider social acceptance as such, as something positive. If revolution is not a cocktail party, it is also true that governmentality is not a tennis match between noble and a bit decadent peers, where fair play is the basis for a tranquil acceptance of each action.

That is the reason why I tried to introduce a more general notion of acceptance as something very neutral that can comprehend each degree of disposition in the phenomenon of being subject to a chain of power. We should call this kind of acceptance "acceptance*", with the "*" symbol that indicates the fact that this notion is the general, neutral one that includes phenomena that span from enthusiastic approval to mere endurance. In this sense we all accept* the impossible system we live in: at the end of the day "one man is king only because other men stand in the relation of subjects to him. They, on the contrary, imagine that they are subjects because he is king"[40].

Acknowledgments

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40 Marx and Engels (1967):p. 66.

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STATE OF EXCEPTION AND IMPASSE DYNAMICS

Emanuele Bottazzi

As sociedades actuais confrontam diversos desafios de ordem
social, cultural e política, desafios estes que nos impelem para
uma reavaliação do nosso sistema de práticas, assim como
do próprio sistema discursivo. Nas sociedades democráticas
pluralistas de hoje, podemos identificar um abismo crescente entre
os cidadãos e a esfera política formal. As abordagens avançadas
por uma política do reconhecimento ou de redistribuição,
habituadas a traduzir reivindicações na esfera pública, parecem
hoje ser insuficientes perante este novo paradigma trazido por um
mundo globalizado e uma política transnacional. Neste sentido,
o sentido que geralmente atribuímos ao conceito de democracia
deve ser revisto e, em última análise, redefinido. Partindo deste
pressuposto, procuramos neste livro realizar duas tarefas em
simultâneo: por um lado, dar conta da multiplicidade de sentidos
de ʻdemocraciaʼ e das *nuances* conceptuais. Aqui exploraremos
os conceitos e relações entre democracia, representação,
participação, deliberação, igualdade e liberdade. Por outro
lado, pretendemos dar conta das diferentes instanciações de
ʻdemocraciaʼ e das práticas que lhe são inerentes, olhando para
contextos específicos.