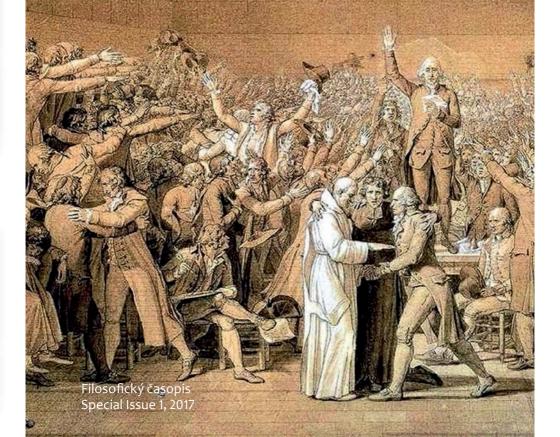# A CRISIS OF DEMOCRACY AND REPRESENTATION

Jan Bíba, Milan Znoj (eds.)

A Crisis of Democracy and Representation

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One can seldom reach unanimous agreement on any topic in democratic politics. This is probably because democratic politics feeds on disagreement. However, there is one topic that seems to have reached the status of a generally accepted truth, and it can be summarized in the frequently heard cry: "We find ourselves amid a crisis of democracy!" This sentiment of crisis has become so ubiquitous; spreading both in new and established democracies. Almost everyone in academia today accepts the crisis as an undeniable fact; we can all list examples proving its existence, and we all either strive to defend our jeopardized democracies or at least worry about our democratic future. Nevertheless, there seems to be little agreement on the meaning of the crisis itself, its causes and its cures. In this volume, we intend to add to the ongoing debate on the contemporary crisis of democracy, understand its roots, and propose possible solutions. As the title of the volume suggests, we believe that there is a strong connection between the crisis of democracy and changes in the nature of political representation. Before delving into the details of that relationship, we must first answer the crucial question: what is a crisis of democracy?

What is a crisis (of democracy)?

The polyvalent character of the phrase "a crisis of democracy" has become a pre--condition for its success as a catchphrase. Therefore, we believe that some clarification of concepts is needed. To tackle this task, we suggest to put aside – at least for a moment – the concept of democracy and to concentrate more on the concept of crisis. As has been noted by other authors, the concept of crisis has its origin in the Greek word κρίνω that covers a whole range of meanings from separate to choose, judge or fight. Reinhart Koselleck has followed the development of the concept in juridical, theological and medical discourses and suggests that "(a)t all times the concept is applied to life-deciding alternatives meant to answer questi-

ons about what is just or unjust, what contributes to salvation or damnation, what furthers health or brings death."[1] This double meaning of the word crisis – crisis as a moment of extreme difficulty threatening the very existence of the political order, and crisis as a moment that demands our ability to act and use judgement – has been preserved and later applied to various social and political phenomena.

Taking this into consideration, can we talk about a crisis of democracy at all? Should we not tell the story of its inconceivable success instead? Just a little over a hundred years ago, there were hardly any democratic regimes. Since then, we have seen a somewhat steady growth in the number of democratic regimes worldwide. While different democracies' rankings and indexes vary, it is estimated that almost half of the world population lives in some form of a democratic regime today. The exceptional position of democracy among world political regimes is partly acknowledged through authoritarian regimes' misuse of the name of democracy or through references to the will of the people in order to render themselves legitimate. In addition, recent findings of the World Values Survey show that more than 90% of their 73.000 respondents from fifty-seven countries around the world believe that democracy is a good form of government.[2] To put it simply, after dethroning monarchy in the 19th century as well as defeating diverse forms of authoritarian and totalitarian regimes in the 20th century, democracy has undeniably established itself as the only game in town today.

If we take democracy's success seriously, the position that there is a crisis of democracy becomes even less coherent. There are many explanations of the nature of the crisis at hand: while some deny its very existence and claim that it is actually a fiction of empirically ignorant theoreticians, others understand the crisis as a permanent (and not necessarily unhealthy) precondition of democracy, as a consequence of a national state's failing autonomy in the process of globalization, as a result of the welfare-state retrenchment caused by neoliberal hegemony, as caused by an overload of democratic demands that states are unable to meet, as an outcome of late capitalism's legitimation deficit, as connected to a public sphere that is privatized and fragmented by new means of communication, or simply as a misperception caused by our unrealistically high democratic expectations, to name just a few explanations.[3] While we believe that these app-

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1   Koselleck, R. – Richter, M., Crisis. *Journal of the History of Ideas*, 67, 2006, No. 2, p. 361.
2   Van Reybrouck, D., *Against Elections: The Case for Democracy*. London, Bodley Head 2016, p. 1.
3   See respectively Merkel, W., Is There a Crisis of Democracy? *Democratic Theory*, 1. 2. 2014, pp. 11–
    –25; Runciman, D., *The Confidence Trap: A History of Democracy in Crisis from World War I to the
    Present*. Princeton and Oxford, Princeton University Press 2013; Allan, J., *Democracy in Decline:
    Steps in the Wrong Direction*. Montreal, McGill-Queen's University Press 2014; Della Porta, D.,
    Can Democracy be Saved?: Participation, Deliberation and Social Movements. Cambridge, Polity
    Press 2013; Crozier, M. – Huntington, S. – Watanuki, J., *The Crisis of Democracy: Report on the
    Governability of Democracies to the Trilateral Commission*. New York, New York University Press
    1975; Habermas, J., *Legitimation Crisis*. Cambridge, UK, Polity Press 1976; Cass R., *#Republic:*

roaches can provide useful partial insights into the contemporary crisis of democracy, we also believe that they can distract our attention from some of its crucial aspects. Therefore, to understand the nature of the contemporary crisis, we propose examining its symptoms rather than its causes.

So, what are the symptoms of the crisis? There appears to be a form of consensus about what constitutes the main symptoms, and we believe they can be divided into two non-exclusionary and overlapping clusters. While the first cluster concerns the workings of the political system (in a narrow sense) in democratic countries and its main constitutive elements, the second cluster encompasses citizens' perspectives on the working of the political system. A crucial symptom that belongs to the first cluster is the decline in voter turnout and the transformation of political parties and partisanship. Despite some differences, all liberal democratic countries have been facing a steady decline in voter turnout in the last few decades which testifies to citizens' increasing disinterest in politics and therefore challenges the very sources of democratic legitimacy. Analogous to the decline of voter turnout, the decline of political partisanship also challenges sources of democratic legitimacy. Despite the firm grip of the iron law of oligarchy, mass political parties not only made mass democracy possible, but they have also provided mediation between parties' grass-roots and parties' elites thereby successfully mediating between society and its political representation. However, in the last few decades, we have witnessed a steep decline in political party membership, an upsurge of voter volatility damaging traditional mass political parties, and a shift towards the personalization of politics coupled with an emergence of a new form of political movements. Contrary to traditional ideology-based political parties, these new political movements provide support for their (charismatic) leader(s) instead of functioning as vehicles for promoting party line. The decline of traditional forms of political representation linked to election and political parties is accompanied with the emergence of new forms of non-elected representatives (e.g. NGOs, international organizations, prominent media figures) who challenge traditional representative channels through their representative claims.

The second cluster of symptoms looks at the crisis from citizens' perspectives. The main feature of this perspective is the rise of citizen distrust in governments and political institutions. For example, the trust in government in OECD countries has lately fallen to 40%.[4] We should include among the symptoms connected to this decline in trust the upsurge of citizen initiatives pursuing what Pierre Rosanvallon calls "politics of distrust". As Rosanvallon suggests, from antiquity until present

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Divided Democracy in the Age of Social Media. Princeton and Oxford, Princeton University Press 2017; Bobbio, N., *The Future of Democracy: A Defence of the Rules of the Game*. Cambridge, UK, Polity Press 1987.

4   http://www.oecd.org/gov/trust-in-government.htm, visited on 21st of August, 2017.

time the democratic ideal has contained two interlocking parts; the idea of legitimacy based on elections that bestow political power upon the selected few, and the idea of mistrust towards political representatives. However, as Rosanvallon makes clear, profound changes in modern societies, including limits on the ability of democratic governments to make decisions *vis-à-vis* the global market economy and international organizations, the influence of mass-media and social networks, and the growth of education levels enabling citizens to take more active roles, all have led to a shift in balance between the two parts of the democratic ideal towards mistrust. Rosanvallon further argues that in modern societies of distrust, citizens' roles have shifted from forming policy decisions via selecting their representatives toward vigilance, denunciation, and the evaluation of political leaders and their actions. Therefore, the distrust itself is not a problem, as it has always been an integral part of the democratic experience. The problem is the high level of distrust that undermines the working of democratic institutions.[5]

Another manifestation of citizen's distrust is the recent upsurge of protest movements. It should be emphasized that the very existence of protest movements does not necessarily testify to a crisis of democracy. In fact, the existence of a vibrant and contesting public sphere might be a sign of democracy's good health. Hence, what we understand as a symptom of the crisis is not the existence of protest movements *per se,* but their peculiar character. Ivan Krastev's analysis of seventy protest movements that emerged throughout the world after the 2008 economic crisis has shown that these movements – while different in many aspects – share an anti-political stance. In other words, these protest movements (Aganaktismenoi, Indignados, and Occupy are perfect examples in liberal-democratic regimes) deliberately abstain from traditional politics because they see it as irredeemably flawed and corrupt, and propose instead a horizontal notion of politics that is incommensurable with the traditional understanding of representative politics.[6]And finally, the ubiquitous citizen mistrust materializes in the concomitant emergence of diverse forms of populist movements and politicians – be they either left or right-wing – who challenge traditional representative channels and instead claim to represent the people directly either via instruments of direct democracy or via charismatic leadership.

We believe that taking this into consideration allows us to disclose the nature of the contemporary crisis of democracy. As we have seen, all these symptoms are connected to representation and traditional representative channels (political parties, parliamentary politics). However, we also believe that these symptoms do

5   Rosanvallon, P., *Counter-Democracy: Politics in an Age of Distrust*. New York, Cambridge University Press 2008.

6   Krastev, I., *Democracy Disrupted: The Politics of Global Protest*. New York, University of Pennsylvania Press 2014. For a critique of horizontalism see also Mouffe, C., *Agonistics: Thinking the World Politically*. London, Verso 2013.

not suggest the end of representative politics but rather – to use Bernard Manin's concept – its "metamorphosis".[7] In our view, even though traditional forms of representative politics face a crisis, we do not face neither the end of representative politics and representative democracy nor the advent of post-representative politics as some believe[8]. This is primarily because new forms of representation are emerging. In other words, we agree with Nadia Urbinati that at the core of the contemporary crisis of democracy is a crisis of parliamentary democracy that is being supplanted with illiberal democracy either in the form of populism or plebiscitarianism.[9] While we do not understand these new democratic forms as utterly undemocratic, we believe that they depreciate democracy as they lower citizens' ability to influence decision-making processes.[10]

The present crisis of democracy and the representative turn in democratic theory

Our account of the contemporary crisis of democracy as a crisis of a specific form of representation should be differentiated from democratic theory's traditional suspicion of representation – under the spell of Rousseau and ancient democracy – usually prefers participation to representation and sees the latter as inherently undemocratic, oligarchic or, at best; as an expedient device that makes democracy possible in the messy reality of modern societies. In other words, representative democracy is understood as the second-best option to direct participation. However, our understanding of the contemporary crisis of democracy and representation has been informed by recent development in democratic theory that have challenged the old-fashioned view of the incommensurability between representation and democracy under the banner of "the representative turn" Plotke articulates the main impetus of the representative turn well: "the opposite of representation is not participation. The opposite of representation is exclusion. And the opposite of participation is abstention. Rather than opposing participation to representation, we should try to improve representative practices and forms to make them more open, effective, and fair."[11]

Included in this volume is a review article titled *The Representative Turn: A New Way of Thinking about the Relationship between Representation and Democracy*,

7   See Manin, B., *The Principles of Representative Government*. New York, Cambridge University Press 1997.

8   Tormey, S., *The End of Representative Politics*. Malden, Mass., Polity Press 2015.

9   Urbinati, N., Reflections on the Meaning of the "Crisis of Democracy". *Democratic Theory*, 3, 2016, No. 1, pp. 6–31.

10 Nadia Urbinati has – as we believe – rightly called populism and plebiscitarianis as democracy's disfigurations. See Urbinati, N., *Democracy Disfigured: Opinion, Truth, and the People*. Cambridge, Mass., Harvard University Press 2014.

11 Plotke, D., Representation is Democracy. *Constellations*, 4, 1997, No. 1, p. 19.

in which Markéta Mottlová thoroughly discusses several key works and aspects of the representative turn. Therefore, we want to briefly emphasize only three facets of the representative turn which allow us to differentiate our position from the traditional view of the incommensurability of democracy and representation. We do so in order to better understand the challenges of the contemporary crisis, and to acknowledge the democratic potential of representation.

Firstly, we address the thinking about the relationship between representation and democracy after the representative turn overcomes the limits of the electoral notion of representation. Electoral representation connects representation (almost) exclusively with elections and claims that ballots are the main or the only means that citizens can use to influence political decision-making. This view has been adopted by Schumpeterians and proponents of minimalist democracy among others and has been rightly criticized for its elitism.[12] In arguing against the electoral notion of representation, proponents of the representative turn emphasize that representation is a continuous process that entitles citizens to influence political decision-making even in between elections, which in turn renders it more democratic or egalitarian than is usually acknowledged.

This takes us to the second facet of the representative turn that concerns citizen power. As should be clear by now, citizen power should comprise more than the ballot. For example, Nadia Urbinati conceptualizes representative democracy as a diarchy suggesting that it contains "will" and "opinion" as the two powers of the sovereign citizen. By "will" Urbinati means decision-making power stemming from citizens' ballots and practiced inside a democratic state's institutions. Yet, by "opinion" Urbinati means non-formal power that has its origin in citizens' discussions and deliberations. "The conceptualization of representative democracy as diarchy makes two claims: that 'will' and 'opinion' are the two powers of the sovereign citizens, and that they are different and should remain distinct, although in need of constant communication."[13] This is what differentiates representative democracy from direct democracy and indeed makes representative democracy superior to direct democracy. Whereas representative democracy is diarchical – meaning that the final decision is always a result of a never-ending conversation between "will" and "opinion" – direct democracy is mono-archical as a citizen's "opinion" immediately translates into political "will". Affirming the "opinion" as one of two powers of a sovereign citizen links representation to the citizen's judgment and enables bridging representation and some progressive models of democracy such as the deliberative one.

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12 Schumpeter, J. A., *Capitalism, Socialism and Democracy*. New York, Harper Torchbooks 1976; Przeworski, A., Minimalist Conception of Democracy: A Defense. In: Shapiro, I. – Casiano, H., *Democracy's Value*. Cambridge, Cambridge University Press 1999, pp. 23–55; Manin, B., *The Principles of Representative Government*, op. cit.

13 Urbinati, N., *Democracy Disfigured*, op. cit., p. 2.

The third facet of the representative turn that we would like to highlight is representation's constructivist dimension. The traditional understanding of democratic representation views its legitimacy in "mirroring"; in correspondence between the interests of the represented and the actions of the representatives. Hence, in her seminal works, Hanna Pitkin claims that "representing … means acting in the interest of the represented, in a manner responsive to them."[14] However, this osmotic view of representation has been recently challenged by some proponents of the representative turn. Many theoreticians suggest that representation has performative or constructivist dimensions, and therefore that the interests and identities of both of the represented and the representative are outputs of the representative process rather than its inputs. While proponents of representations' constructivist dimension vary in their understandings of the construction mechanics of the represented and their limits[15], the constructivist turn – through its rethinking of representation – shows that representation is an open double-sided process that challenges our traditional understanding of democratic accountability based on a representative ability/willingness to meet the demands of the represented.

We believe that all three aspects of the representative turn and the innovations they bring into thinking about representation can help us understand the nature of representative democracy as well as its predicament. The articles collected in this volume therefore endeavour to use the insights of the representative turn to develop our understanding of representation's democratic character, to understand the contemporary crisis of democracy as a crisis of a specific form of representation, and for a critical discussion of theoretical attempts that justify the emergence of new forms of representation such as populism and plebiscitarism.

In the first article, *Political Will and Public Opinion: On Hegel's Theory of Representation,* Milan Znoj provides a genealogy of the concepts of political will and public opinion that he finds paradigmatically explicated in Hegel's political philosophy. Znoj's analysis focuses on Hegel's notion of representation based on his critiques of Rousseaustic direct democracy and of liberal contractualism. He suggests that the main problem in Hegel's notion of representation is not the fact that it presupposes representation of estates (Stände), but rather an utter suppression of representation's democratic features. In this view, parliamentary representati-

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14 Pitkin, H., *The Concept of Representation*. 5. [Dr.]. Berkeley, Calif., University of California Press 1985.
15 See e.g. Ankersmit, F. R., *Aesthetic Politics: Political Philosophy Beyond Fact and Value*. Stanford, Calif., Stanford University Press c1996; Disch, L., Toward a Mobilization Conception of Democratic Representation. *American Political Science Review*, 105, 2011, No. 1, pp. 100–114; Disch, L., The "Constructivist Turn" in Democratic Representation: A Normative Dead-End? *Constellations*, 22, 2015, No. 4, pp. 487–499; Laclau, E., *On Populist Reason*. London, Verso 2005; Saward, M., *The Representative Claim*. New York, Oxford University Press 2010.

on is intended to be nothing more than an educational theatre that turns common people into state citizens who learn their rights and accept their duties.

In his article *Democracy without the* Demos: *Rosanvallon's Decentering of Democratic theory,* Pavel Barša analyzes the crisis of democracy from Pierre Rosanvallon's point of view. Barša is primarily concerned with Rosanvallon's claim that contemporary democracies have proved unable to represent the people and their legitimacy. Therefore, democracies shifted from providing proper representation to becoming "good governments". Barša suggests that the shift from representing to governing necessitates a radical break from traditional democratic theory which finds sources of democratic legitimacy in the desirable and impossible identification of the governors with the governed.

The perils of populism are discussed by Giuseppe Ballacci in his article *The Creation of the "People" in Laclau's Theory of Populism: A Critical Assessment*. Ballacci claims that Ernesto Laclau's defence of populism as a project of democracy's radicalization implicitly endorses decisionist and authoritarian views of power. To prove this thesis, Ballacci differentiates Laclau's approach towards the construction of 'the people' from approaches of other proponents of the constructivist turn and suggests that Laclau's theory completely misses the role of judgment and deliberation, which other constructivists see as a crucial part of the relationship between representatives and the represented. Ballacci further argues that this lack is a result of Laclau's strictly formalistic understanding of rhetoric. He also suggests that a return to the Aristostotelian-Ciceronian tradition of rhetoric could not only enrich Laclau's theory but could also overcome its democratic deficit.

In his article *Democratic Spectatorship beyond Plebiscitarianism: On Jeffrey Green's Ocular Democracy,* Jan Bíba disputes the plebiscitarian revival in democratic theory. His main focus is Jeffrey Green's theory of ocular democracy and Green's notion of spectatorship. Bíba suggests that Green's rendering of spectatorship is impoverished because it presupposes a spectator's essential passivity. In contrast to Green, Bíba argues that not only are seeing and spectatorship both active processes, but also that spectatorship is compatible with representative democracy.

In his article *How to Escape from the Dead End of Post-Democracy? Representation and the Principle of Popular Sovereignty,* Michael Augustín discusses the destiny of the concept of post-democracy. This study presents three approaches to post--democracy from three theorists: Jacques Rancière, Jürgen Habermas and Colin Crouch. Augustín claims that various conceptualizations of post-democracy represent different perspectives on the changing paradigm of representative democracy as it was established in Western Europe after the Second World War. Further, he introduces post-democracy as a theoretical attempt to escape from the trap of the end of history – the definitive paradigmatic victory of liberal democracy and market capitalism – and to revitalize the internal critique of the democratic regime using a specific periodization and temporalization of the era of liberal democracy.

Our aim was not to provide a definitive solution to the contemporary crisis of democracy. The articles collected in this volume point from different perspectives to the fact that the contemporary crisis of democracy has its origin in a failure of established forms of citizen's representation. However, their authors do not plead for a revival of direct democracy but - building on the insights of the representative turn - instead examine a possibility of opening democracy's new dimensions that, while entrusting citizens with political power, avoid perils of populism and plebiscitarianism.

Jan Bíba, Milan Znoj

Political Will and Public Opinion: On Hegel's Theory of Representation[1]

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Abstract: The article accepts Ritter's dictum that Hegel is a philosopher of the French Revolution. Admittedly, Hegel considers the French Revolution to be the political birth of the modern era, nevertheless he also sees this historical event as the warning example of democracy based on the general will of the people which results in a terror. The article seeks to explain the argument that Hegel's mature theory of representation makes both against Rousseau's conception of the general will and against the modern tradition of liberal contractualism. Of key importance in this respect are the concepts "political will" and "public opinion", which play, as Urbinati has argued, a key role in the theory of representation. The starting point of the argument is Schmitt's distinction between representation and identity as two principles of political form, which is to some extent shared also by Hegel in his polemic with Rousseau as a theorist of democratic revolution. Hegel understands the State as the unification of civil society in political will, which is mediated by a number of institutions. This mediation of will is seen as a process of political representation, in which the fundamental role is played by the estates (*Stände*). Hegel's theory of representation also sets it against the tradition of liberal contractualism, as shown in a polemic with Kant's conception of the public. But Hegel's conception of public opinion betrays his considerable mistrust of the subversive potential of democracy. Nevertheless, his theory of representation offers us a fundamental way to think about the concepts of political will and public opinion, thus creating an alternative tradition of modern political theory and providing us with a theoretical instrument for contemplating the contemporary crisis of representative democracy.

Keywords: democracy, representation, political will, public opinion, contractualism

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1   Translated from the Czech by Derek and Marzia Paton.

1. Representation and the political unity of society (Schmitt and Hegel)

The outstanding, albeit controversial, twentieth-century theorist Carl Schmitt argues that representation is a concept that is fundamentally political in the sense that it can occur only in the public sphere, where invisible political unity is made visible in a way that is paradoxical, existential, and cannot be subsumed under any normative scheme, particularly under the liberal idea of the contract,[2] so that representation means a political process by which "the enhanced type of being"[3] is capable of acquiring existence and rising into public being.

According to Schmitt, there are two distinctive ways that political unity can exist. First of all, it can be immediately given as a present group of many people identified politically and capable of collective action. Or, second, it can be mediated through the decisions and acts of several people thereby representing the whole society. Schmitt calls the first way the "principle of identity" and the second "the principle of representation", arguing that in their combination these are principles of political form.[4]

Both of these principles are quite different. Nevertheless, as Schmitt points out, they work together, because political community mostly has its representatives, who act in its name, but at the same time a certain number of people must actually exist who can act together. Pure representation without an actually present people would perhaps appear only in an absolute monarchy, where the monarch can claim "L'état, c'est moi – I am the State". Pure identity would, on the other hand, be a principle of direct democracy, where only the actually present people would act politically directly in an assembly.[5] Schmitt sets the principle of identity and the principle of representation against each other, yet claims that they are complementary and that all political regimes can ultimately be understood as some combination of them.[6]

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2   Schmitt, C., *Verfassungslehre*. Munich and Leipzig, Duncker & Humblot 1928, § 16, pp. 208–209.
3   Political unity is described here in somewhat mythopoeic terms. But conceptually, Schmitt understands the development of political unity as a matter of *Freund* vs *Feind* – "the most extreme point, that of the friend-enemy grouping" (der äußerste Intensitätsgrad einer Verbindung oder Trennung, einer Assoziation oder Dissoziation) –, thereby claiming that the concept of the State presupposes this conflictual concept of the political. Schmitt, C., *Der Begriff des Politischen*. Munich and Leipzig, Duncker und Humblot 1932, p. 14.
4   Schmitt, C., *Verfassungslehre*, op. cit., § 16, pp. 204–205.
5   That is why Schmitt looked at democracy mainly using the model of Athenian direct democracy. Mostly, he referred to Rousseau.
6   Schmitt characterizes liberal democracy as a contradictory and unsustainable mix of liberal representation and democratic identity, which is made clear in the conditions of a mass democracy born in the early twentieth century. See ibid., p. 201 ff.

The principles of identity and representation explain how the political form of a society takes shape, comprising many different individuals who otherwise pursue their own aims to their common political unity. Putting it in more legal terms, we can say that both principles explain how a society comprised of many individuals with different interests can create a collective person able to act politically and be the source of the rights and obligations of its members.

As we are also focusing on Hegel's critique of liberalism in thinking about representation, it is useful to recall the theory of the social contract, particularly Hobbes's, which has fundamentally influenced modern political thought.

In the well-known picture from the frontispiece of Hobbes's Leviathan,[7] a figure of a man, comprised of a great number of individuals, rises up above a landscape in the background, holding in his hands the joint symbols of secular and ecclesiastical power. That, Hobbes says, is Leviathan, an artificial person, alias the State, who emerged by mean of the association of a great number of individuals in a political commonwealth on the basis of a contract of all with all.[8] Actually, we also see in the picture the sovereign, whom the members of society have entrusted with the power to act in their names. In Hobbes, this is the individual who acts as the representative of every member. A concrete individual and the representative figure, identity and representation, both of Schmitt's principles of political form are at play here, but are connected in a way that is typical of autocratic regimes in which the representative acts in the name of the represented without their consent, so that society has no say in political action.

Amongst theorists of representation, Hobbes holds a quite extreme position on these ideas. Quentin Skinner, an important contemporary historian of ideas, by contrast, emphasizes that in the republican tradition, society plays an active role in political action and decision-making. Skinner suggests conceiving of the State as an abstract unity of society that is different both from the governing and the governed, and is the source of their commitments.[9] Following on somewhat from Hobbes, he then argues that the State is thus an artificial person, indeed, even a fictitious person. But in Skinner's republican theory the sovereign is not a single ruling representative person; it is instead civil society divided into the ruling and the ruled, though in

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7 Frontispiece of Thomas Hobbes's Leviathan, by Abraham Bosse, with creative input from Thomas Hobbes, 1651.

8 Hobbes, T., *Leviathan*. With selected variants from the Latin edition of 1668. Ed. E. Curley. Indianapolis and Cambridge, Hackett 1994, ch. XVII, p. 106 ff.

9 Skinner, Q., "The State", in: Ball, T. – Farr, J. – Hanson, R. L. (eds.), *Political Innovation and Conceptual Change*. Cambridge, Cambridge University Press 1989, p. 90 ff.

democracy it holds that the ruled have the power to defend themselves against arbitrary rule by their rulers. The concrete action of the State and the political will of society therefore emerge from the competition between the ruling and the ruled. This can fruitfully be understood as a conflictual way of creating the political unity of society and its political representation.

Hegel understands the relationship between society and the State differently at than. In his mature Berlin period, set out in the *Grundlinien der Philosophie des Rechts,* he was the first to conceptually differentiate between civil society and the State. He conceived of civil society as a sphere of difference, which emerged between the family and the State.[10] The State stands above civil society. Yet, it comes into being in an intermediary way in the processes of the political representation of civil society. The process of mediation begins in the sphere of the private efforts of individuals to earn a living, that is, in the economy, which Hegel, however, calls civil society. At this level, the coordination of individual efforts continues by means of the estates and corporations, until they are transferred to the sphere of public and political institutions, consisting in the public, parliament, the bureaucracy, and, ultimately, the ruler. In them, an awareness of the political unity among members of society eventually emerges. In no case, therefore, can one understand the State as an abstract unity of society, let alone as some artificial person such as we see in Hobbes and Skinner. On the contrary, Hegel sees the State as an organic whole of society, which is the concrete political unity of the universal, the particular, and the individual. Interestingly enough, the conflictual civil society holds its place incorporated in political-representation processes. This becomes the main question in our further considerations.

It is this organic conception of the political unity of society which is expressed by Hegel's basic definitions of the State. Firstly, he defines it as the "actuality of the ethical Idea".[11] This is not easy to understand, because we are coming to the metaphysical heights of Hegel's philosophy. The Idea for Hegel was not a mere idea in the mind; nor did he understand it in Platonic terms as the true reality separated from existent things. Rather, he understood it pantheistically, as the unity of concept and reality. The State thus names the real State that has a true effect on the lives of people, and the sentence holds that no State exists which is not a real State. Consequently, the State has various historical forms, so that the theory of the State is concerned with

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10 "Die bürgerliche Gesellschaft ist die Differenz, welche zwischen die Familie und den Staat tritt." Hegel, G. W. F., *Grundlinien der Philosophie des Rechts. Werke*, Bd. 7, Frankfurt am Main, Suhrkamp 1986, Zusatz § 182, p. 339; further shortened as *Philosophie des Rechts*. To avoid misunderstanding, I prefer not to translate Hegel's quotations.

11 "Der Staat ist die Wirklichkeit der sittlichen Idee", ibid., § 257, p. 398.

what is common and essential in various historically existing States. Hegel thought that the Idea of the State had been made a reality in the long history of the European West, from classical antiquity to the modern era, when what was essential about the State gradually achieved its fulfilment. At the end of history, the State in its rational essence thus became a reality.[12] One should mention two other definitions of the State, which we will also be concerned with in this essay. On the one hand, the "state in and by itself is the ethical whole, the actualisation of freedom".[13] This definition refers to the fact that the modern State is the realization of freedom not of the one, or the few, but of the multitude of people, that is, the freedom of the one is to be merged with the freedom of the others,[14] which is precisely what differentiates the modern era from the classical. And, on the other hand, it is the "actuality of the substantial will".[15] This definition refers to the fact that the modern State is not determined from outside, either in religious terms or by Nature. Rather, it is built from within as the united will of society. In that regard, Hegel's theory of representation can serve as a good example of foundationalism in thinking about political will.[16]

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12 "Was vernünftig ist, das ist wirklich; und was wirklich ist, das ist vernünftig." This renowned claim appears in the preface to *Philosophie des Rechts* (op. cit., p. 24). In this work, Hegel repeatedly refers to his *Wissenschaft der Logik*, in which he systematically interprets how the structure of reality is (becomes) rational. Moreover, the rationality takes its structure from logical judgement, which ultimately links what is universal, particular, and individual. Consequently, the modern State (the political unity of society) is to be thought of not only as the realization of the rational unity of the universal, the particular, and the individual in people's lives and their social existence, but also as the fulfilment of human history with its metaphysical design. In the rest of my article, however, I leave aside this hinted-at metaphysical dimension of Hegel's political theory.

13 Hegel, G. W. F., *Philosophie des Rechts*, op. cit., § 258, p. 399.

14 Hegel repeats this Kantian formulation both in the *Phänomenologie des Geistes* and in *Philosophie des Rechts*, though he gives it a quite different meaning, which is the topic of my article.

15 Hegel, G. W. F., *Philosophie des Rechts*, op. cit., § 258, p. 399.

16 In the period between the two world wars, there emerged in German scholarship an important school of legal theory, which came out of Hegel's theory of representation. It understood politics as the formation of the unified will of society, and then saw representation as the integration of the individual in society. The founder of the school was Rudolf Smend, an important legal theorist of the Weimar Republic, who polemicized even with Carl Schmitt. Both men rejected the legal positivism of Hans Kelsen, but were divided on their defence of the Weimar Republic. Schmitt understood the creation of political unity as a conflict, as the political unification of the members of society along a friend–enemy axis, and thus sought the defence of the Weimar Republic in the political decision-making of the President of the Republic, who, face to face with the enemy, assumes his role as the political representative of society. Smend, by contrast, emphasized the wider integrational role of the public and political institutions in a divided civil society, which enable the emergence of *Willensvereinheitlichung* in the State. Both believed that in the conditions of mass democracy liberal constitutionalism, that is, elections, the responsibility of political leaders, parliamentary approval of the state budget, and other constitutional procedures, would not suffice to save the republic. But Smend emphasized the need for deeper integration and the further education of the citizenry, which would be based on

2. The common will and its intermediation (Hegel and Rousseau)

As we have seen, the State is for Hegel "the realization of ethical life", "the concrete freedom", and "the substantial will", so that we might expect that defining the State as the general will, as Rousseau did, would be endorsed by Hegel. He himself says emphatically that the being of the State consists in the conscious activity of individuals "raised to universality" and that the aim of the individual is "to live a universal life".[17] But it is actually a more ambiguous approach. Criticism of Rousseau's conception of the general will is a *leitmotif* of Hegel's political theory almost ever since Hegel's early years. But it was always criticism linked with admiration. Thus, in the *Philosophy of Right* Hegel praises Rousseau for his having conceived the principle of the State as being a will, a will conceived by the people, that is, a conscious will, not merely a will given by Nature as a social urge and so forth. In that regard, Rousseau is the leading political thinker of modern times. But Hegel immediately afterwards emphasizes Rousseau's mistake. He points out that when people brought to life the general will in a Rousseauean way, it led to revolution, "which ended in frightfulness and terror".[18] Nevertheless, Hegel's attitude to the French Revolution is fundamental for his political theory, and the concept of political representation is the key to understanding his approach.[19]

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common and shared value positions. For the polemics between Schmitt and Smend, see Kelly, E., Introduction, in: Schmitt, C., *The Crisis of Parliamentary Democracy*. Cambridge, Mass., MIT Press 1988.

17 "Der Staat ist als die Wirklichkeit des substantiellen Willens, die er in dem zu seiner *Allgemeinheit erhobenen* besonderen Selbstbewusstsein hat, das an und für sich Vernünftige. [...] Die Vereinigung als solche ist selbst der wahrhafte Inhalt und Zweck, und die Bestimmung der Individuen ist, *ein allgemeines Leben* zu führen." Ibid., § 258, p. 399. Italics added.

18 "In Ansehung des Aufsuchens dieses Begriffes hat Rousseau das Verdienst gehabt, ein Prinzip, das nicht nur seiner Form nach (wie etwa der Sozialitätstrieb, die göttliche Autorität), sondern dem Inhalte nach Gedanke ist, und zwar das Denken selbst ist, nämlich den Willen als Prinzip des Staates aufgestellt zu haben. Allein indem er den Willen nur in bestimmter Form als einzelnen Willens und den allgemeinen Willen nicht als das an und für sich Vernünftige des Willens, sondern nur als das Gemeinschaftliche, das aus diesem einzelnen Willen als bewusstem hervorgehe, fasste, so wird die Vereinigung der Einzelnen im Staat zu einem Vertrag, der somit ihre Willkür, Meinung und beliebige, ausdrückliche Einwilligung zur Grundlage hat, und es folgen die weiteren bloss verständigen, das an und für sich seiende Göttliche und dessen absolute Autorität und Majestät zerstörenden Konsequenzen. Zur Gewalt gediehen, haben diese Abstraktionen deswegen wohl einerseits das, seit wir vom Menschengeschlechte wissen, erste ungeheure Schauspiel hervorgebracht, die Verfassung eines grossen wirklichen Staates mit Umsturz alles Bestehenden und Gegebenen nun ganz von vorne und vom Gedanken anzufangen und ihr bloss das vermeinte Vernünftige zur Basis geben zu wollen; anderseits, weil es nur ideenlose Abstraktionen sind, haben sie den Versuch zur fürchterlichsten und grellsten Begebenheit gemacht." Ibid., § 258, pp. 400–401.

19 Here, I embrace the position that Joachim Ritter explores in his *Hegel und die Französische Revolution* (Frankfurt am Main, Suhrkamp 1965). In this publication, he convincingly demonstrates

What, then, did Rousseau's mistake consist in? Let's look first at the mentioned passage in the *Philosophy of Right*. Here, Hegel points out that Rousseau understood the general will as a contract and that that was a mistake, because in this way the behavior of a State is explained in terms adopted from civil society. But it was not only Rousseau who made this mistake; rather, it was modern liberalism in general.[20] This objection is fundamental. Here, Hegel takes a critical position on the whole tradition of modern natural law, Rousseau included.

Let us look for the reasons for this in Hegel's conception of civil society. He understands civil society liberally as a sphere of human collaboration based on individual rights and freedoms, in other words, as a market society. But no unity of society, which could be directly represented in the will of the State, emerges in such a civil society. Civil society is divided into classes, and various interests, possibly antithetical, emerge in it. These private, group, and class interests are mediated by a great number of manifold contracts. Thus, a system of cooperation and collaboration emerges, linking individuals together, but as Hegel argues, it is only a system of the mutual dependence of these individuals, which does not allow a unified will to emerge; it is at most an indirect universality of such a society. As long as the aim of the State is considered to be only that the system of individual needs is to operate without disruption on the basis of contracts, as liberalism understands the State, then in Hegel's perspective it is only a matter of the external State and the State based on need,[21] whose political unity will be represented by some private or arbitrary group will. From Hegel's standpoint, it will be an arbitrary representation of political unity. If, moreover, some group begins to present itself as the general will, as it was in the French Revolution, that, according to Hegel will lead to the destruction of the whole society.

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the fundamental significance of the French Revolution for Hegel's political theory. I try to clear up the apparent ambiguity by interpreting Hegel's concept of political representation.

20 "Wenn der Staat mit der bürgerlichen Gesellschaft verwechselt und seine Bestimmung in die Sicherheit und den Schutz des Eigentums und der persönlichen Freiheit gesetzt wird, so ist das Interesse der Einzelnen als solcher der letzte Zweck, zu welchem sie vereinigt sind […]." Hegel, G. W. F., *Philosophie des Rechts*, op. cit., § 258, p. 399.

21 "Der selbstsüchtige Zweck in seiner Verwirklichung, so durch die Allgemeinheit bedingt, begründet ein System allseitiger Abhängigkeit das Recht, dass die Subsistenz und das Wohl des Einzelnen und sein rechtliches Dasein in die Subsistenz, das Wohl und Recht aller verflochten, darauf gegründet und nur in diesem Zusammenhange wirklich und gesichert ist. – Man kann dies System zunächst als den äusseren Staat, – Not- und Verstandesstaat ansehen." Ibid., § 183, p. 340. We can differentiate three concepts of the state: i) as "die Wirklichkeit der sittlichen Idee", ii) "der Not-Staat", iii) "der politische Staat". Cf. Westphal, K., The Basic Context and Structure of Hegel's Philosophy of Right. In: Beiser F. C. (ed.), *The Cambridge Companion to Hegel*. Cambridge, Cambridge University Press 1993, p. 234–269.

Hegel asserts that Rousseau, by conceiving of political unity as the general will and the general will as a contract, thus situated the creation of political unity directly into civil society with its contradictory particular interests arbitrarily claiming their general significance.[22] Hegel subsequently demonstrates that such a general will politically realized disrupts rather than unifies political society. He sees the reasons for this in the fact that concepts taken from civil society, like contract, civil liberty, and civil rights, become instruments of political power for a particular group arbitrarily claiming its representative universality. Apparently, these notions are taken out of their particular social context, which is why Hegel calls them abstractions.[23] But the concrete dependencies linked with these definite interests remain concealed behind these abstractions. The masking of these interests, however, can conceal in themselves civil conflicts or even violence.

A slightly different interpretation of the Terror during the French Revolution appears in Hegel's *Phänomenologie des Geistes* from his earlier, Jena period. Here, the interpretation is focused on the concept of the general will, without discussing the topic of liberalism and its contractualist conception of society. In a passage entitled "Absolute Freedom and Terror", the general will appears as the cultural form of the spirit in the history of the West, which follows the Enlightenment. Hegel claims that in the French Revolution this general will "puts itself on the throne of the world, without any power being able to offer effectual resistance".[24] The general will is not understood here in liberal terms, as contract among individuals, but rather as a political claim for the real identity of all individuals in society, not merely some tacit consent with government, as it is in Locke's contractual theory; nor is it assent through a representative of others, as in the clear allusion to Rousseau's rejection of the representation of the general will. [25] The general will is the nonmediated actual identity of all members in the collective activity. [26]

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22 For a similar approach to the critique of Rousseau's general will, see Arendt, H., *On Revolution*. New York, Viking 1963. She, however, emphasizes mainly the contamination of the general will by social antagonism and class hatred. Hegel and Arendt thus reveal their republican approach.

23 See the quotation in note 18.

24 Hegel, G. W. F., *Phänomenologie des Geistes*. *Werke*. Bd. 3. Frankfurt am Main, Suhrkamp 1989, p. 433.

25 "Dieses [Das Selbstbewusstsein] läßt sich dabei nicht durch die *Vorstellung* des Gehorsams unter *selbstgegebenen* Gesetzen, die ihm einen Teil zuwiesen, noch durch seine *Repräsentation* beim Gesetzgeben und allgemeinen Tun um die *Wirklichkeit* betrügen, – nicht um die Wirklichkeit, *selbst* das Gesetz zu geben und nicht ein einzelnes Werk, sondern das Allgemeine selbst zu vollbringen; denn wobei das Selbst nur *repräsentiert* und *vorgestellt* ist, da ist es nicht *wirklich*; wo es *vertreten* ist, ist es nicht." Ibid., p. 435.

26 "[Das Selbstbewusstsein] ist [sich] seiner reinen Persönlichkeit und darin aller geistigen Realität bewußt, und alle Realität ist nur Geistiges; die Welt ist ihm schlechthin sein Wille, und dieser ist allgemeiner Wille. Und zwar ist er nicht der leere Gedanke des Willens, der in stillschweigen-

The French Revolution is therefore seen as the historical bringing to life of freedom in the form of the general will. But Hegel points out that no action can only be general. We know that according to Hegel every action bears in itself the connection of the universal, the particular, and the individual, which here means that action, in order to become real, must be mediated by concrete relations with other people.[27] Hegel regards with suspicion the idea of the collective action of a great number of individuals in their immediate identity, which we perceive in the foundations of Rousseau's idea of democracy based on the general will, and from which Schmitt also starts when he sets democratic identity and mediating representation against each other. Joint action, in Hegel, is always socially mediated concrete human cooperation. The immediate doings of all can only be an abstract claim masking particular interests, or even arbitrary domination of concrete individuals. That is what, according to Hegel, also stands behind the "tragic fate" of the Revolution.

We shall now focus further on Rousseau's theory of representation, which plays its decisive role in Hegel's understanding of the revolutionary events. One of Rousseau's basic ideas is the claim that the general will cannot be represented. Rousseau thus rejects the liberal conception of representation, according to which representation is an agreement that leaves the representative an opportunity to act at his or her own discretion. For Rousseau, it is unacceptable, because he believes that no political unity would emerge in this way.[28]

The point of this argument is made in the claim that "there is no mediation". Either an identical general will of the sovereign people actually exists, which it can then exercise collectively, that is, the people can deputize

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de oder repräsentierte Einwilligung gesetzt wird, sondern reell allgemeiner Wille, Wille aller *Einzelnen* als solcher. [...] so daß jeder immer ungeteilt alles tut und [daß,] was als Tun des Ganzen auftritt, das unmittelbare und bewußte Tun eines *Jeden* ist." Ibid., pp. 432–433.

27 It is Hegel's fundamental position that "Being is real" only as historically and socially mediated being. In P*hänomenologie des Geistes* we read more about that, for example, in Hegel's analysis of physiognomy. "Der sprechende Mund, die arbeitende Hand, wenn man will auch noch die Beine dazu, sind die verwirklichenden und vollbringenden Organe, welche das Tun als Tun oder das Innere als solches an ihnen haben; die Äußerlichkeit aber, welche es durch sie gewinnt, ist die Tat als eine von dem Individuum abgetrennte Wirklichkeit. Sprache und Arbeit sind Äußerungen, worin das Individuum nicht mehr an ihm selbst sich behält und besitzt, sondern das Innere ganz außer sich kommen läßt und dasselbe Anderem preisgibt." Ibid., p. 235.

28 "La souveraineté ne peut être représentée, par la même raison qu'elle ne peut être aliénée; elle consiste essentiellement dans la volonté générale, & la volonté ne se représente point: elle est la même, ou elle est autre; il n'y a point de milieu. Les députés du peuple ne sont donc ni ne peuvent être ses représentants, ils ne sont que ses commissaires; ils ne peuvent rien conclure définitivement. Toute loi que le peuple en personne n'a pas ratifiée est nulle; ce n'est point une loi." Rousseau, J.-J., *Du contrat social*. Paris, Union Générale d'Éditions 1963 [1762], ch. 3.15, p. 80.

someone to carry it out, or such an identical general will does not exist, which is the case when some individual or group comes forward with the claim that they, in their doings, represent the general will. No third possibility exists, Rousseau says; *tertium non datur*.

As we have seen, Hegel fundamentally rejects Rousseau's democratic idea about the direct identity of a multitude of individuals acting in common according to their general will. Instead, he believes that the general will must accept otherness, and he therefore proposes precisely the third possibility, which Rousseau denies, that is, "mediation" between the identity of the general will and representation of pluralistic society.

This is a view we should consider in greater detail, because Hegel starts from here when elaborating his own theory of representation, in which the general will is not presented as the identity of the people acting directly, but as being mediated by social and political institutions, in which the representatives come forth in public, but remain rooted in a concrete social milieu. In *Phänomenologie des Geistes*, Hegel does not yet have such a theory of representation; consequently, his attitude to Rousseau's theory of the general will tends to be ambiguous. On the one hand, Hegel fundamentally rejects Rousseau's conception of the general will (*volonté générale*); on the other, he embraces Rousseau's belief that the general will cannot be represented. At the same time, Hegel, like Rousseau, rejects the liberal conception of representation, in which one person stands in for another on the basis of a contract. When, in *Phänomenologie des Geistes*, he explains the emergence of destructive political conflicts during the Revolution, he is thus recalling Rousseau's tenet that where a person is represented, that person is not truly present. [29] Hegel here accepts this argument, but deduces from it the irreconcilability and uprootedness of the Rousseauean citizen, who wants directly to act politically as a *citoyen* and does not want to let himself or herself be deprived of his or her identity with the general will. But, subsequently, he or she comes into conflict with the wills of others who also come forth with their claims to the universality of the will. Yet the Rousseauean

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[29] In his analysis of Hegel's theory of representation, R. K. Hočevar (see the following note) concludes that this conception of representation is the reason why representation is paid little attention in *Phänomenologie des Geistes* and why this concept "temporarily vanishes from Hegel's thinking." Hočevar, R. K., *Stände und Repräsentation beim jungen Hegel: Ein Beitrag zu seiner Staats- und Gesellschaftslehre sowie zur Theorie der Repräsentation*. Munich, C. H. Beck 1968, p. 38. In fact, in *Phänomenologie des Geistes* we do not find a political theory of the modern State. The next chapter in *Phänomenologie des Geistes* is on the internalization of the experience of the Revolution and the birth of Kantian morality. The internalization of morality and the birth of the morally responsible individual are something Hegel always considered to be the factors without which a modern State founded on freedom and law, which will be the realization of ethical life, cannot exist.

citoyen does not want at any cost to be deceived, and is therefore willing to fight to the death if necessary.

When Hegel, in *Phänomenologie des Geistes*, criticizes the Rousseauean conception of the general will, he is thus emphasizing that this conception both negates the social anchoring of the individual and disintegrates the economic, social, and political institutions into which the individuals have been set to live. He had in mind not only the corrosion of the social structure of the *ancien régime*, which the Revolution had brought down, but mainly the inability of the Revolution to give the lives of the individuals who had become free citizens some other social anchoring in the division of labor and in political institutions. Nevertheless, one would be profoundly wrong to see in Hegel's theory of the representation of social interests an attempt to return to the pre-Revolutionary society of the *ancien régime*. It still holds that Hegel shares the standpoint of the French Revolution and considers it the historical beginning of the modern era. Similarly, he does not understand the social structure of civil society at all in the old way. Instead, he thinks about it as a modern market society on the English model of political economy, albeit he also criticizes liberalism for its abstract individualism in which the individual appears only as an abstract person, a holder of rights to private ownership.

These ideas are also strikingly applied in his mature theory of representation. Consequently, we should bear in mind that in Hegel's interpretation the social structure in which the interests of the individual are formed and then represented in politics will fundamentally differ from that of feudal estates-based society, but nor will it be possible to understand it only as the division of labor in modern industrial society.

The basis of his theory of representation, as we shall see in the next part of this article, is Hegel's conception of civil society, where the concept of the estates and corporations is also elaborated. In the theory of representation, he then talks about the representation of the *Stände* (the estates).[30] Corpora-

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30 I will use the terms "*Stand*" and "*Stände* representation", since the term "estate" is unsuitable, referring as it does to the *ancien régime*. Similarly, the term "class", which Knox, for example, uses in his English translation of *Philosophie des Rechts*, refers to later theories of capitalism. In his thoughts on the representation of *Stände*, Hegel is somewhere between these two extremes. Almost the only thorough analysis of Hegel's conception of representation is conveyed in Hočevar, R. K., *Stände und Repräsentation beim jungen Hegel* (op. cit.). Hočevar follows on from Smend's writings about representation as integration. But he interprets Hegel's theory of representation too conservatively, diminishing the significance of the French Revolution (and English political economy) and accentuating the role of German tradition. There is a lot of scholarship dealing with the Hegels theory of the civil society and the state, which is not mentioned here, as we are focused on his theory of representation. But some contributions are quite substantial, esp. Thom Brooks. *Hegel's Political Philosophy: A Systematic Reading of the Philosophy of Right*. Edinburgh, Edinburgh University Press 2007.

tions, in his view, can be industrial associations, business groups, but, in the old way, so can the guilds, and he ranks even the communities among them. They are special institutions, which somehow regulate the operation of the market and its social impact on the life of the individual. The estates in the feudal interpretation were rejected by Hegel since his youth. He considered them a source of bondage and political despotism in the State.[31] Nor did he hesitate to use the term "contract" to describe the relationship between the representation of the feudal estates and the monarch. By this term he meant an agreement about privileges, which he considered to be a cause of arbitrariness in the behavior of feudal estates that could lead them all the way to breaking apart the political unity of the State, as, by the way, he claims in his Frankfurt and Jena writings about the Constitution of the Reich. "Germany is no longer a State," claims the famous first sentence.[32] Yet in his *Philosophie des Rechts*, written in Berlin, he claims that the city estates under feudalism were States within the State, which disintegrated the political unity of the State. Nevertheless, this corporative element could, according to him, also be the source of the State's strength, as had sometimes been the case in the past. Without that, there is a danger only of an abstract unity of society in the State, which he considers to be a danger of the modern era. Hegel blames this legacy on the French Revolution, or on the Napoleonic reforms of the state administration, for forcing the French State, probably to its detriment, to make do without these corporations, because it substituted a purely bureaucratic administration for them.[33]

3. "Stände" representation and the public sphere (Hegel and Kant)

The concept of *Stände* representation becomes a key argument in Hegel's theory of the constitutional State. This theory, however, developed gradually, and it appears in several versions. The decisive version was from his Jena period, in which Hegel gradually elaborated three drafts of his philosoph-

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31 The young Hegel was of a more revolutionary spirit. He set out on the path of philosophy as a follower of revolutionary Kantianism, which he reinterprets in a republican way when he introduces the concept of Volksreligion (popular religion). See Lukács, G., *Der junge Hegel: Über die Beziehungen von Dialektik und Ökonomie*. Zurich and Vienna, Europe Verlag 1948. Hočevar concludes, somewhat imprecisely, that Hegel was at that time a proponent of Kantian liberal constitutionalism. It is reasonable to object to that, since he rejected the feudal estates as a republican, not as a liberal, and as an advocate of the contractual theory of the State. Nevertheless, it is true that from 1802 onward Hegel no longer mentions the representation of the people, only the representation of *Stände*. See Hočevar, R. K., *Stände und Repräsentation*, op. cit., pp. 66 and 80.

32 Hegel, G. W. F., *Die Verfassung Deutschlands*. *Werke*. Bd. 1. Frankfurt am Main, Suhrkamp 1986, p. 461.

33 Hegel, G. W. F., *Philosophie des Rechts*, op. cit., Zusatz § 290, p. 460.

ical system, including the philosophy of spirit (or mind), a discussion of the "actual mind" and "ethical life", which was in fact Hegel's social and political philosophy. Already as a young man, Hegel had, in his thinking about society, accepted the standpoint of English political economy. Nevertheless, in his theory of representation he tended to stick to Plato's and Aristotle's ideas about the classes in the political community.[34] But he sought to reinterpret their ideas so that they fit into his own thinking about the modern constitutional State. The strong influence of the modern republican tradition, particularly Montesquieu's, should not also be underestimated. Nevertheless, the final version of his political theory was not elaborated until his lectures at Heidelberg in 1817/18.[35] His theory of representation does not appear in its mature form as part of a systematic political theory until *Philosophie des Rechts* from his Berlin period, which we are focused on here.[36]

In *Philosophie des Rechts*, the parts of civil society in which the "masses of labor"[37] are organized in are called estates, and are thus part of the economy.[38] Hegel sees the economy on the model of English political economy, yet holistically, and thus points out that the production of goods and their

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34 Still in the Jena lectures from 1805 to 1806, he distinguishes in the State (on the classical model of talking about the constitution) only *Stände* and government, further dividing *Stände* into (a) the lower *Stände*, in which he ranks the peasants as the *Stand* of immediate confidence and their substantiality, then (b) the bourgeoisie – the trades and the merchants and the active *Stand* of abstract (property) law, and (c) the *Stand* of commonality (*Stand der Allgemeinheit*), which includes the police (from the Greek *politeia*, government), justice, administration, and the military *Stand*, but scholars too are included. This *Stand* works for the State and it forms the public. According to Hegel, society gains its consciousness in the thinking of its *Stände*. Above *Stände* there stands the government as the political unity of the *Stände*-based society. Hegel sometimes uses the words "Stand" and "class" alternately, but it would be erroneous to see in that the germ of a class conception of civil society. See Hegel, G. W. F., *Jenaer Realphilosophie*. Ed. J. Hoffmeister. Berlin, Akademie-Verlag 1969, pp. 253–262.

35 Hegel, G. W. F., *Vorlesungen über Naturrecht und Staatswissenschaft*. Transcribed by P. Wannenmann. Hamburg, Felix Meiner Verlag 1983.

36 The decisive change that Hegel made in his conception of civil society in relation to the State is understandable in the context both of the classical tradition of natural right, whose concepts he partly adopted, and of the modern theory of natural right, which he took issue with. See Riedel, M., *Between Tradition and Revolution: The Hegelian Transformation of Political Philosophy*. Trans. from the German by W. Wright. Cambridge and New York, Cambridge University Press 1984.

37 "Massen der Arbeit" is the term Hegel uses to describe the division of labour and the institutional structure of modern industrial society; the term is evidence of his commitment to English political economy.

38 "Die unendlich mannigfachen Mittel und deren ebenso unendlich sich verschränkende Bewegung in der gegenseitigen Hervorbringung und Austauschung sammelt durch die ihrem Inhalte inwohnende Allgemeinheit und unterscheidet sich in allgemeinen Massen, so dass der ganze Zusammenhang sich zu besonderen Systemen der Bedürfnisse, ihrer Mittel und Arbeiten, der Arten und Weisen der Befriedigung und der theoretischen und praktischen Bildung – Systemen, denen die Individuen zugeteilt sind –, zu einem Unterschiede der Stände ausbildet." Hegel, G. W. F., *Philosophie des Rechts*, op. cit., § 201.

exchange link together the behavior of people in the system, which has its own universality (*Allgemeinheit*). He has in mind the universality produced on the market, which makes it an indirect, unconscious universality that works behind the backs of the producers and consumers. Nevertheless, Hegel does not share the liberal optimism as much as the economists do with regard to the market economy, and thus also reveals the contradictions in the market economy and points out its destructive tendencies. That is why he claims that in civil society corporations and *Stände*, which emerge as particular systems of the division and organization of labor, have an important place; they can regulate any possible negative impact that the market has on producers.

The political unity of the State, however, emerges only in public institutions located above civil society. From this perspective, the *Stände* are then institutions in which the members of civil society can come out in public and join in the creation of the political will of the State. It is therefore fair to say that the *Stände* publicly represent a divided society in its sense of belonging.[39] Hegel adopted from Plato and Aristotle the division into three classes. The class that worked directly for the community was always the decisive one, which in Plato consisted of the aristocratic guardians (rulers). For Hegel, the link with a hereditary aristocracy was, however, extremely doubtful, and he thus reinterprets this class in various ways, gradually moving from largely military notion to a more administrative one.[40] In his mature theory, Hegel distinguishes three *Stände*: first of all, "the *substantial* or immediate class", which is the farmers; second, "the reflecting or *formal* class", which comprises industry and commerce, and, thirdly, "the *general class*", which comprises the civil servants.[41] Hegel calls this last *Stand* the general class,

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39 In this respect, Hegel calls the *Stände* the "mediating organ" that stands between the government and society, the latter of which is divided into "particular circles and individuals". This position requires of individuals that they acquire "the sense and thinking of the State and government", as well as the "interests of particular circles and individuals". "Als vermittelndes Organ betrachtet, stehen *Stände* zwischen der Regierung überhaupt einerseits und dem in die besonderen Sphären und Individuen aufgelösten Volke andererseits. Ihre Bestimmung fordert an sie so sehr den Sinn und die Gesinnung des Staats und der Regierung als der Interessen der besonderen Kreise und der Einzelnen." Ibid., § 302.

40 Though he claims that Hegel, in "Die Verfassung Deutchlands in principle barely doubts the noble military and employee estate", Hočevar too admits that "the nobility is faced with the competition of the bourgeoisie, which, in the later period, rose to greater importance." Hočevar, R. K., *Stände und Repräsentation*, op.cit, p. 108. Consequently, this type of aristocracy tends to bring to mind Kant's "Amtsadel", which historically took the place of the hereditary nobility, as Kant writes in *Zum ewigen Frieden*. The hereditary nobility owes its positions to privilege, which Hegel also rejects. Kant, I., *Zum ewigen Frieden*. In: *Werkausgabe*. Bd. 11. Ed. W. Weischedel. Frankfurt am Main, Suhrkamp 1997, p. 205.

41 Hegel, G. W. F., *Philosophie des Rechts*, op. cit., § 202, p. 355.

which means that its aim is to work directly for the common affairs of the State.

The political role of the *Stände* is important, because the *Stände* also represent the members of civil society in the public creation of a unified political will. By means of the *Stände* and their representatives, society achieves self-consciousness, which Hegel understands as a process by which the social will (indirectly and unconsciously created within a contradictory civil society) becomes, by means of *Stände* representation, the public will, which is conscious and unified. But the role of the representation is to make private individuals into citizens, members of the State.[42] Thus, in the representation of Stände, a public is formed from the opinions and ideas of the multitude of individuals. Consequently, as Hegel claims, general affairs are not only substantially a matter of the members of society, but also become an currently relevant matter for them, because people have a share in them. Yet it is worth recalling that Hegel continues to refuse to understand representation as it is understood in the theory of the social contract in the liberal tradition, that is, as the representation of individuals and their interests on the basis of a contract amongst equals.

Representation thus means the public presentation of the particular and group interests that have emerged in the system of needs and mutual dependencies of individuals in civil society. The interests appear publicly in political institutions, and it is in the process of their representation that the members of civil society become aware of their group identity in relation to other people, unify their wills, and create political unity. Hegel therefore talks about delegating rather than representing. A representative of a *Stand* does not represent an individual and his or her interests; instead, he or she acts as a delegate or deputy (*Abgeordnete*) of a group and its interests.[43]

Hegel clearly does not understand representation in the liberal sense, that is, as a contractual relationship. Nor does he necessarily link delegation with elections. Though elections can play a useful role in the selection of delegates, Hegel generally considers them to be superfluous. In Hegel's conception, what is important in representation is, rather, the anchoring

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42 "Das ständische Element hat die Bestimmung, dass die allgemeine Angelegenheit nicht nur an sich, sondern auch für sich, d.i. dass das Moment der subjektiven formellen Freiheit, das öffentliche Bewusstsein als empirische Allgemeinheit der Ansichten und Gedanken der Vielen, darin zur Existenz komme." Ibid., § 301, pp. 468–469.

43 "Wenn die Abgeordneten als Repräsentanten betrachtet werden, so hat dies einen organisch vernünftigen Sinn nur dann, dass sie nicht Repräsentanten als von Einzelnen, von einer Menge seien, sondern Repräsentanten einer der wesentlichen Sphären der Gesellschaft, Repräsentanten ihrer grossen Interessen." Ibid., § 311, p. 480. It is necessary therefore to distinguish between Hegel's "Abgeordneter" and Rousseau's "commissaire", who is a commissioner of the people.

of the delegate in a certain social milieu, together with his or her familiarity with the group interests that he or she helps to make people aware of and form in public. The representative represents a particular group and its interests, which originally emerge in civil society. He even calls this the "objective element", which the representative "belongs" to and because of which, as Hegel says, he or she is "here" as a representative.[44] The representative expresses these group interests in public, gives voice to them, and helps people to become aware of them. But he does not represent the individual or individual interests.

It is important to emphasize that the rejection of the liberal theory of representation as a contract must not be understood simply as the rejection of liberalism. Undoubtedly, *Stände* representation cannot properly be understood contractually, but it still holds that representation cannot take place without acknowledgement of the subjective rights of individuals. Political representation still comes out from the right to subjectivity. Hegel even calls the individual freedom "the principle of the modern World".[45] Without it, public opinion and political thinking could not emerge from the opinion of the multitude of individuals, and that is, as we have seen, the political task of *Stände* representation. In sum, then, the *Stände* represents civil society in the political sphere, where the individuals, taking advantage of their subjective rights, are aware of their belonging to others, and share in the creation of the State.

Hegel's theory of representation, nevertheless, does not include only *Stände* and the public. The political unity of the State is ultimately represented by the monarch, who stands at the apex of the state institutions. He alone completes the process of creating the unified political will of society. But Hegel's statements about the monarch have a wide range of meanings. On the one hand, he claims, in an almost Schmittian way, that "the absolutely decisive factor of the whole is not individuality in general, but a single individual, the monarch".[46] On the other side, in the lecture notes, we read that "in a completely organised state, it is only a question of the culminating point of formal decision (and a natural bulwark against passion. It is wrong therefore to demand objective qualities in a monarch); he has only to say

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44 "Das Repräsentieren hat damit auch nicht mehr die Bedeutung, daß einer an der Stelle eines anderen sei, sondern das Interesse selbst ist in seinem Repräsentanten wirklich gegenwärtig, so wie der Repräsentant für sein eigenes objektives Element da ist." Ibid.

45 "Das Prinzip der neueren Welt überhaupt ist Freiheit der Subjektivität, dass alle wesentlichen Seiten, die in der geistigen Totalität vorhanden sind, zu ihrem Rechte kommend sich entwickeln." Ibid., Zusatz § 273, p. 439.

46 Ibid., § 279, p. 444.

'yes' and dot the 'i'".[47] Moreover, who becomes the monarch is something both given by Nature and random. Considered as something physical, the monarch is only a random person at the end of a chain of representation. Being from Nature, the monarch is even named by Hegel an "ungrounded existence" (*grundlose Existenz*).[48]

Importantly enough, Hegel distinguishes the State from civil society, although their relationship runs both ways. Hegel claims that, on the one hand, for civil society the State is an external necessity and a higher power, to which civil society is subordinated, and that, on the other hand, the State is an *immanent aim* of civil society, an aim that draws its power from the link between the ultimate aim of the State and the special interests of all individuals who are its members. Consequently, Hegel can, in the liberal spirit, emphasize that individuals have a duty towards the State to the same extent that they have rights.[49] The fact that the State is an internal aim of civil society and, at the same time, also its external necessity can, however, be interpreted in various ways. Certain autocratic motifs in Hegel's theory of representation will, however, never completely go away. They are particularly clear in his tenets that to be a member of a State is the supreme obligation of an individual and that the State has a sovereign right over him or her.[50]

Unsurprisingly, Hegel calls the constitutional monarchy a political regime of this type. It is fair to say that it is actually a representative monarchy. But it is clear that this differs considerably from Locke's or Kant's theory of the same subject. Especially in comparison with Kant's conception of the public, some autocratic features of Hegel's conception of public sphere clearly emerge.

Kant, in *Die Beantwortung der Frage: Was ist Aufklärung?*, distinguished between the *burgher* and the *scholar*, and does so even in some connection with Rousseau's differentiation between *bourgeois* and *citoyen*. Nevertheless, he places the scholar and the scholar's reading public (*Leserwelt*, *Publikum*) beyond politics, and thus the attitude of the public towards political authority becomes unclear. The burgher is, Kant remarks, an individual who uses his or her reason privately. It would seem that Kant sees this like Rousseau, who says that the bourgeois is someone who looks after his or her own private interests. But Kant calls the private use of reason that which one observes, for example, in the clerk who seeks to carry out the orders of his superior. It is therefore more like the instrumental use of reason, when

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47 Ibid., Zusatz § 280, p. 451.
48 Ibid., § 281, p. 451.
49 Ibid., § 261.
50 Ibid., § 258.

the individual thinks only about the means of acting, but lacks the freedom or courage[51] to judge the ends of his or her actions. Privately, then, it is when one is placed into the hierarchy of power and must obey it. By contrast, the public use of reason consists in free thinking about the aims and values of human action that takes place in open discourse amongst the members of the public in conditions of the equality and freedom of its members. Kant's terms in this regard are instructive. The private use of reason does not create any community, any sense of belonging, let alone unity, amongst people; at most it makes people functional cogs in the hierarchical machinery of power. By contrast, the public use of reason unites people and emancipates them. It even makes them, as Kant says, members of a cosmopolitan society. The creation of a public civil sense of belonging is seen by Kant in the purely liberal terms of free discussion amongst equal rational individuals. But he speaks with restraint only about a public, a reading public, and a cosmopolitan society.

But what is the attitude of this public society towards political authority? In this regard, Kant's ideas are vague. Political authority is doubtless a mainstay of the hierarchy of power and, in this sense, a source of obedience. The sphere of free public opinion thus opens up somewhere beyond the political order. Kant, undoubtedly, thinks that freedom of discussion is a necessary condition of human development, which is even the aim of the whole history. But how is one to develop one's human dignity within the State? Since Kant rejects revolution, the question arises how one is to formulate suitable political reformism. Nevertheless, in this essay Kant describes the attitude of the holder of political power towards the public only in allusions to the historic conditions then prevailing in Prussia. First of all, the monarch should, according to Kant, allow public opinion to be free, because he himself should also be enlightened and the monarch's majesty suffers when his government censors the writing. "This age is the age of the Enlightenment, the century of Frederick [the Great]," Kant remarks.[52] The second condition is even more odious, as he adds with clear reference to Frederick: "Only one who, himself enlightened, is not afraid of phantoms, but at the same time has a well-disciplined and numerous army ready to guarantee public peace, can say what a free state may not dare to say: Argue as much as you will and about what you will; only obey."[53] That is not particularly encouraging advice for an advocate of a liberal, democratic public.

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51 The free use of reasons is, in Kant, linked with courage. See the beginning of his essay on the Enlightenment, *Beantwortung der Frage: Was ist Aufklärung?* In: *Werkausgabe*. Bd. 11. Ed. W. Weischedel. Frankfurt am Main, Suhrkamp 1977, p. 53.

52 Ibid., p. 59.

53 Ibid., p. 61.

Kant wrote his essay on the Enlightenment before the French Revolution, so the republic is mentioned here purely in theory. But he clearly has a preference for constitutional monarchy. Kant at that time had not yet elaborated a concept of a republican system or a concept of the rule of law, which later would serve him as a basis for his political and legal ideas. In the essay, as we have noted, political power is seen only as a hierarchical order, and Kant does not raise the topic of political representation at all; he discusses, rather, the question of obedience. Nevertheless, we are looking at a moral theory of liberal cosmopolitism in a nascent form.

In this Kant essay, the public cannot properly be seen as the sphere of political representation, because here one does not act as a member of concrete society, but shares as a member of cosmopolitan society in the creation of knowledge of the universal human good. The individual here appears as a representative of common humanity. For Kant, however, this moral world of human equality, freedom, and rationality opens up beyond politics only as the world of education and culture. One should perhaps speak instead about cultural representation. Kant discusses political representation only in his later theory of a republican system, where, however, he restricts himself to the legal institutions of the rule of law, and the public sphere is barely mentioned.

I would argue that Hegel's conception of representation has many advantages over Kant's theory of liberal constitutionalism. Political representation takes place in the public sphere, which, rather than standing outside politics as it is according to Kant, is part of the creation of the political unity of society. In it, the individual does not appear as an abstract person, but as a member of a particular social group, so that this notion enables one to understand the creation of public opinion in the context of the social conflicts of civil society. Consequently, representation should not be seen as a contract, nor as a rational agreement in public deliberation; rather, it should be seen as a public action that serves the defense of the social interests of the members of society. This conception of representation, I believe, is fruitful, but in Hegel's grasp it lags at the end behind Kant's with regard to one essential argument. Hegel completely eliminates all possible democratic features.

4. Democracy suspected

Hegel's theory of *Stände* representation explains the sense in which it may be said that representatives are acting in the interests of the citizens. Yet it is striking to what extent the citizens are only passive observers here. We are told that the representatives help the citizens to become aware of their

group interests, and that they put forward their interests publicly and make them a part of the shared political will. But, when we look at this process of the representation of interests from the perspective of the citizens, we learn that without representatives the citizens alone cannot defend their interests, and alone are unable even to understand how their interests are connected to those of others. Hegel rather harshly concludes: "If 'people' means a particular section of the members of the State, then it means precisely that section which does not know what it wills."[54] As he argued, people become aware of their interests only when they hear the words and see the deeds of their representatives in public. *Stände* representation seems rather to be a theatre that presents "an educational play" to a civil audience.[55] Undoubtedly, Stände representation and public opinion cannot serve as a domain of criticism, control, and civil self-defense, but is rather the sphere of the subordination, disciplining, and obedience of the citizens.

What is the section of the citizenry which is here called "the people"? Definitely, they are not the people as the source of the State's legitimacy. Hegel considers the sovereignty of the people to be a fiction. One recalls Kant saying something similar in the sense that the people giving itself a constitution is a legal fiction.[56] Hegel, however, does not talk about the legal fiction of the people being the source of the State's legitimacy, but about the people as an empty abstraction, which is something quite different. For Hegel, the idea of the people's sovereignty makes some sense only when talking about the nation's sovereignty in regard to other nations, for example, when we think about history or about nations that have their own States. In discussions concerning the nation's constitutional order, however, it is a "confused idea".[57] Certainly, Hegel refuses the idea that the people can give themselves a constitution, because such a notion assumes that a real people exists prior to the

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54 "[Es] ist vielmehr der Fall, dass das Volk, insofern mit diesem Worte ein besonderer Teil der Mitglieder eines Staates bezeichnet ist, den Teil ausdrückt, der nicht weiss, was er will. Zu wissen, was man will, und noch mehr, was der an und für sich seiende Wille, die Vernunft, will, ist die Frucht tiefer Erkenntnis und Einsicht, welche eben nicht die Sache des Volkes ist." Hegel, G. W. F., *Philosophie des Rechts*, op. cit., § 301, p. 469.

55 "Die Öffentlichkeit der Ständeversammlungen ist ein grosses, die Bürger vorzüglich bildendes Schauspiel, und das Volk lernt daran am meisten das Wahrhafte seiner Interessen kennen." Ibid., Zusatz § 315, p. 482.

56 Kant, following on from Sieyès's theory of institutional representation, reckons on the constituting of the State as a hypothetical act of the people, in order to rationally explain why the Rechtsstaat can legitimately come forward with the claim that it represents the will of the people. The Constitution = "der Akt des allgemeinen Willens, wodurch die Menge ein Volk wird". See Kant, I., *Zum ewigen Frieden*, op. cit., pp. 206–207.

57 "In diesem Gegensatze [gegen die im Monarchen existierende Souveränität] gehört die Volkssouveränität zu den verworrenen Gedanken." Hegel, G. W. F., *Philosophie des Rechts*, op. cit., § 279, pp. 446–447.

constitution, but such a people outside a constitution, according to Hegel, is merely "the formless masses", or "an agglomeration of atomic individuals" which are incapable of any political activity, let alone framing a constitution.[58] Hegel's fundamental argument is that to act politically, or to consent to and decide on something, can be done only by a people who are already politically formed, that is, a people living in a political order and governed by leaders who decide questions and inform the people about what to do and how to act.[59] As we know, to take part in the political unity of society, people must be represented by delegates, which is the core of Hegel's idea of *Stände* representation.[60]

But, as we have seen, there are also real "people" viewed as a section of members of the State, who can be said to stand outside constitutional institutions. Yet it is this sort of people, Hegel argues, who make public opinion.

Public opinion contains a general factor that results mainly from the *Stände* representational activity in its role of acquiring common knowledge (*Mitwissen*), co-advising (*Mitberaten*), and participating in decision-making (*Mitbeschliessen*). In that respect, Hegel argues, the sphere of the political in civil society achieves "its widening" in the publicity of *Stände* sessions.[61] As we know, that is where subjective freedoms and individual rights are applied. Yet they are fulfilled precisely in making public opinion, with the result, however, that public opinion becomes remote from the true knowledge of what the political will of society should be. Nevertheless, there is a particular kind of unity of civil society which can be achieved by means of public discussion, but it is only an empirical, random, and unsubstantiated political unity.

58 "Sie [Die Frage: wer die Verfassung machen soll] scheint deutlich, zeigt sich aber bei näherer Betrachtung sogleich sinnlos. Denn sie setzt voraus, dass keine Verfassung vorhanden, somit ein blosser atomistischer Haufen von Individuen beisammen sei." Ibid., § 273, p. 439.

59 "Das Volk, ohne seinen Monarchen und die eben damit notwendig und unmittelbar zusammenhängende Gliederung des Ganzen genommen, ist die formlose Masse, die kein Staat mehr ist und der keine der Bestimmungen, die nur in dem in sich geformten Ganzen vorhanden sind – Souveränität, Regierung, Gerichte, Obrigkeit, Stände und was es sei –, mehr zukommt." Ibid., § 279, p. 447.

60 "Insofern diese [Abgeordnete] von der bürgerlichen Gesellschaft abgeordnet werden, liegt es unmittelbar nahe, dass dies diese tut als das, was sie ist, – somit nicht als in die Einzelnen atomistisch aufgelöst und nur für einen einzelnen und temporären Akt sich auf einen Augenblick ohne weitere Haltung versammelnd [a clear allusion to voting in elections], sondern als in ihre ohnehin konstituierten Genossenschaften, Gemeinden und Korporationen gegliedert, welche auf diese Weise einen politischen Zusammenhang erhalten." Ibid., § 308, p. 476.

61 "Ihre [Stände] unterscheidende Bestimmung darin besteht, dass in ihrem Mitwissen, Mitberaten und Mitbeschliessen über die allgemeinen Angelegenheiten in Rücksicht der an der Regierung nicht teilhabenden Glieder der bürgerlichen Gesellschaft das Moment der formellen Freiheit sein Recht erlange, so erhält zunächst das Moment der allgemeinen Kenntnis durch die Öffentlichkeit der Ständeverhandlungen seine Ausdehnung." Ibid., § 314, p. 482.

According to Hegel, such political unity is in itself contradictory.[62] Public opinion can be praised as well as belittled.[63] That is why he approves such contradictory views about it as "Vox Populi, Vox Dei", and, quoting from Ariosto's *Orlando furioso*, "Che 'l volgare ignorante ognun riprenda/E parli più di quel che meno intenda".[64] Arguably, public opinion brings forward the same matters as the constitution of the political nation should convey, but that occurs at most in the form of common sense,[65] which Hegel finds quite unsuitable for the success and well-being of any political nation in a world history that aims to achieve freedom for the multitude of people.

As we have seen, public opinion is developed outside the institutional framework for making the unified political will of civil society. Significantly, Hegel speaks about the inorganic way that people can make known what they wish or mean.[66] As we know, the organic way, by contrast, consists in the institutional creation of the political unity of civil society, during which *Stände* representation plays the fundamental role.

It is obvious that Hegel's distrust of democracy gets the upper hand here. Once again we are informed that the great political decisions are in the hands of great men, and are not a matter of the people. To recognize what the times require is only up to the "great Man of the time". Public opinion is never fit for Greatness, argues Hegel.[67] In these thoughts, Hegel clearly stands far from the revolutionary enthusiasm of his youth.

5. Conclusion

Concerning a democratic constitution, Carl Schmitt mentions two roles the people can play in. Firstly, there is the people "anterior to" and "above" the constitution. Secondly, there is the people, who appear "within" the consti-

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62 "Die formelle, subjektive Freiheit [...] hat in dem Zusammen, welches öffentliche Meinung heisst, ihre Erscheinung. Das an und für sich Allgemeine, das Substantielle und Wahre, ist darin mit seinem Gegenteile, dem für sich Eigentümlichen und Besonderen des Meinen der Vielen, verknüpft; diese Existenz ist daher der vorhandene Widerspruch ihrer selbst, das Erkennen als Erscheinung; die Wesentlichkeit ebenso unmittelbar als die Unwesentlichkeit." Ibid., § 316, p. 483.

63 "Die öffentliche Meinung verdient daher ebenso geachtet als verachtet zu werden." Ibid., § 318, p. 485.

64 Ibid., § 317, p. 484.

65 Ibid., p. 483.

66 "Die öffentliche Meinung ist die unorganische Weise, wie sich das, was Volk will und meint, zu erkennen gibt." Ibid., Zusatz § 316, p. 483.

67 "In der öffentlichen Meinung ist alles Falsche und Wahre, aber das Wahre in ihr zu finden, ist die Sache des grossen Mannes. Wer, was seine Zeit will und ausspricht, ihr sagt und vollbringt, ist der grosse Man der Zeit. Er tut, was das Innere und Wesen der Zeit ist, verwirklicht sie, – und wer die öffentliche Meinung, wie er sie hier und da hört, nicht zu verachten versteht, wird es nie zu Grossem bringen." Ibid., Zusatz § 318, p. 486.

tution, the people who exercise constitutionally regulated powers, that is to say, by means of elections, referendums, and so forth.[68] The people in the former meaning are a subject of the constitution-making power in the sense that the constitution is premised as "resting on the concrete political decisions of the people capable of political action".[69] Regarding these notions, one may rightly conclude that in Hegel's understanding of the constitution there is little place for the people in either of these senses.

We have seen that Hegel defends the constitutional monarchy in which the people are represented by public institutions and ultimately by the monarch. He rejects attempts to build political representation by means of elections, let alone letting the people exercise power directly in a way that is regulated by the constitution. He considers such proposals to be the road to what he rather contemptuously calls "elective monarchy" (*Wahlreich*) and the "enfeeblement of the power of the state".[70]

Hegel is particularly suspicious of the people who allegedly stand "anterior to" or "above" the constitution. As we have seen, the people, according to him, cannot act directly as a collectivity. Perhaps only in a less developed society, as he says, would it be possible to realize a democracy. But, according to the mature Hegel, even in the ancient Greek democracy the people did not act directly; instead, their leaders took political decisions.[71] At that time, however, it was a political order with a religious background. That is because the political unity of society was not based internally on the mediation of the political will of modern civil society. But the political decisions of the leaders were often taken randomly and arbitrarily from the outside world, because in decisive cases it was a "*fatum*, determining affairs from without".[72] According to Hegel, however, democracy in the modern era, understood as the identity of a people capable of direct political action, is even more dangerous, as was demonstrated by the events of the French Revolution.

In his mature political theory, Hegel sets democracy in opposition to representation, and leaves no place for such a political order in a modern pluralistic civil society. His efforts to see the State as the realization of the moral Idea, or concrete freedom, or substantial will, has as a consequence

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68 Schmitt, C., *Verfassungslehre*, op. cit., § 18, p. 238 ff.

69 Ibid. Schmitt, however, changes the meaning of the distinction between *pouvoir constituant* and *pouvoir constitué* which had been made by Sieyès. He continues to admit the original ability of a democratic people to act politically directly, as he leaves a place for them in the constitution – the political part of the constitution, which, however, only recalls that original political decision made by a democratic people.

70 Hegel, G. W. F., *Philosophie des Rechts*, op. cit., § 281, p. 452.

71 Ibid., § 279, p. 448.

72 Ibid., Zusatz § 279, p. 449.

that the State is understood institutionally as the organic totality of civil society, which can be represented only in its wholeness. The political will sets the order, and public opinion can do nothing to influence that. Consequently, people living in civil society have very limited public space to freely question, control, or counter the decisions made by their representatives. As an objection to these thoughts of Hegel, it is useful to recall Skinner's republican concept of the State, which was mentioned at the beginning of our considerations. Undoubtedly, it would provide a more democratic option for a theory of representation also using the concepts of political will and public opinion.

Hegel was highly suspicious of the people acting politically. But we would be wrong to deduce from this that the "fate" of States is decided only by their leaders. To be sure, States in Hegel's understanding do not stand outside the real struggles of people in history. Hegel assures us that the modern constitution is premised on the logos of History. For him there could be no political part of the constitution which would, as Schmitt thought, stand for some concrete political decision taken by the people in the course of historical events. Yet it is reasonable to say that the constitution theoretically assumes real history and political events in which nations act and states and constitutions change. Though in his political theory the people are not the creators of the constitution, Hegel does discuss the people as the creators of history. There is a discussion of the history-creating people at the end of his interpretation in P*hilosophie des Rechts*, where the theory of the State and law moves into the philosophy of history. One learns here that states, or constitutions, are placed before the judgement of history. In history, the people also always appear as somehow politically formed, but one cannot say that the leaders, let alone individuals, act, for it is whole nations (peoples) that act.

Among Hegel's fundamental convictions is that without revolutions there would be no modern constitutions. The people as *pouvoir constituant* therefore somehow appear in the mask of the Spirit of History. But Hegel's constitutional theory does not assume that the people are the source of power, and *Philosophie des Rechts*, the book itself, starts from theoretical discussions of concepts of the will and is based on his *Wissenschaft der Logik*, which, definitely, does not provide the best foundations for a theory of democracy.

Democracy without the Demos: Rosanvallon's Decentering of Democratic Theory

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Abstract: This paper explores the core of Pierre Rosanvallon's revision of democratic theory. In his view, today's democratic institutions cannot make good on their 200 year-old promise of representation because their very nature has fundamentally transformed from merely representing to also governing. Moreover, due to the shift from an industrial to post-industrial society, homogeneous collective categories of representation such as class, nation or people have broken down. This process has undermined the mainstream assumption that democratic legitimacy stems mainly from "the people" as a unified collective subject that projects itself "positively" into the future with the help of universal suffrage and parliamentary legislation. Democratic theory has to adjust to these changes. It should stop insisting that the centre of democratic systems is the electoral expression of the people's will. Other, less direct forms of legitimacy have to be theorized and promoted while purely "negative" or "counter-democratic" civic practices of oversight, limitation and judging of established governments should be considered.

Keywords: the myth of the demos, democratic legitimacy, social generality, decentered democracy

"For two centuries the history of democracy was a history of polarization. It was as if the general will existed as a genuine force only when enshrined in a central government by way of an election. (…) Today (…) [a] logic of dissemination, diffraction, and multiplication has supplanted the previous logic of concentration (…) the search for generality through mere aggregation of opinions and wills has proved inadequate, and new negative, reflexive, and embedded forms have begun to develop."[1]

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1   Rosanvallon, P., *Democratic Legitimacy: Impartiality, Reflexivity, Proximity*. Princeton, Princeton University Press 2011, p. 219.

The core of Rosanvallon's contribution to democratic theory can be broken down to two parts: a diagnosis of contemporary democracies' malady (whose symptoms appeared in the 1970s and 1980s), and a proposal for its cure. Rosanvallon agrees with the contemporary conventional wisdom that democratic institutions are unable to properly fulfill their function of representation today. However, he departs from this wisdom in the way in which he specifies his claim and conclusions. In his view, the ideal cure for this illness has to be one that addresses the root cause; it should not strive to make institutions more representative, and should certainly stop investing exaggerated hopes of representation in them.

As for the diagnosis, Rosanvallon places the crisis of representation in the context of an in-depth analysis of modern democracies' long term transformation. This transformation consists of the shift in their center of gravity from a representative to a governing function. This is the root cause of the illness – its structural source. The current feelings of discontent and unease are not caused by minor or partial defects which can be fixed with some democratic engineering. Rather, they stem from false expectations. Hence, we should return to the question that was at the core of pre-modern and pre-democratic political philosophy: what is a good government?[2] Moreover, due to the shift from an industrial to post-industrial society, homogeneous collective categories of representation have broken down. Today's societies are internally diverse and heterogeneous. As a result, the task of their representation cannot be fully discharged by parliaments and has to be, to a certain extent, taken over by "parliaments of the invisibles" – various fora constituted amidst the civil society in which people share their life stories and experiences.[3]

The erosion of salient categories of class and nation through which the industrial society represented itself has also undermined the mainstream assumption that democratic legitimacy stems mainly from "the people" as a homogeneous collective subject that projects itself "positively" into the future with the help of universal suffrage and parliamentary legislation. Other, less direct forms of legitimacy – ensured by other institutions and practices – have to be theorized and promoted.[4] Last but not least, the demise of the category of the homogeneous people allows us to appreciate a purely "negative" or "counter-democratic" side of democracy – institutions

2   Rosanvallon, P., *Le bon gouvernement.* Paris, Seuil 2015.
3   Rosanvallon, P., *Le Parlement des invisibles*. Paris, Seuil 2014.
4   Rosanvallon, P., *Democratic Legitimacy*, op. cit.

and practices through which citizens and non-governmental organizations oversee, limit and judge governments.[5]

This paper will elaborate on a few select aspects of Rosanvallon's revision of democratic theory. *The first section* will specify his idea of the shift from "representing" to "governing" (encapsulated in the term "presidentialization") as well as the shift from industrialism to post-industrialism. *The second section* will outline his enlargement of democratic legitimacy into three indirect forms: *proximity, impartiality and reflexivity. The third section* will explain his call for the replacement of a "democracy of identification" with a "democracy of appropriation".

Presidentialization and post-industrialism

Rosanvallon claims that whereas during the first hundred years or so after the French and American revolutions the practical and theoretical focus was on the relationship between the representatives and the represented, in the last hundred years or so, the focus has shifted to the relationship between the governing and the governed. Originally, the core of democracy was the legislative body – that is, the parliament. However, this has shifted now to the state's executive branch.

Two hundred years ago, the goal of democracy was to allow for an expression of the power of the people in legislative acts.[6] While for the American revolutionaries "the people" were the "fountain of power", to the French revolutionaries it was the "sovereign". The main question was how to ensure that the people take their fate into their own hands. In the course of the last two centuries, various measures, procedures or institutions whose purpose was to increase the representativeness of the political institutions have been suggested or tried out. This includes for example primaries in the elections of the president in the United States, imperative mandates, political parties representing social classes or referenda on crucial issues. Recently, other remedies to the deficient representation have been proposed, including special quota for minorities (*e.g. parité* in France), various schemes of participative democratic institutions or even the suggestion to re-introduce ancient Greek procedures of drawing a lot. All of these measures were meant to make state institutions – and particularly the legislature – more representative.

In the meantime, however, the core of democracy's role and of its perception among large publics shifted from the representative to the governing

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5   Rosanvallon, P., *Counter-Democracy. Politics in an Age of Distrust*. Cambridge, Cambridge University Press 2008.
6   Rosanvallon, P., *Le bon gouvernement*, op. cit., pp. 16–20.

function.[7] What was increasingly at stake was not the relationship of the representatives to the represented but rather the relationship of the governing to the governed. By the same token, the focus shifted from the legislative to the executive power. This was the answer to what Carl Schmitt called "the crisis of parliamentary democracy".[8] In his view, the crisis could be overcome by the shift of democracies' center of gravity from the parliaments' legislative acts to the sovereign decisions of the heads of the executive branch. And, indeed, as Rosanvallon claims, there was a long term rise in the popularity of electing a president through a direct vote as a form of compensation for the frustration with parliaments.[9] Even in countries in which parliamentary republics have been well entrenched, parliamentary elections have increasingly become "masked elections" of the head of the executive branch – prime ministers have taken over several responsibilities that have been traditionally expected from presidents. Simultaneously, the trend of personalization/polarization of electoral politics has set in. In Rosanvallon's terms, a parliamentary-representative model of democracy has been replaced by a presidential-governing model: the dominance of legislative power has been replaced by the dominance of the executive power.

Since the end of the 19th century, this trend was driven by an incessant proliferation of the state's obligations vis-à-vis society and, simultaneously, by their increasing complexity. On the one hand, parliaments became less and less able to participate in the completely professionalized functions of administering the society as a whole. On the other hand, to the extent that the parliamentary representatives could participate in such functions, they became themselves members of a professional governing class rather than representatives of the people. The same can be argued about political parties. Their crisis has been one of the symptoms of the aforementioned shift. Even if they have occupied the seats of parliamentary opposition they have behaved primarily not as the delegates of the people but rather as the alternative holders of governing powers. Consequently, their ability to fulfill the function of representation has weakened.[10]

If the first and long term cause of the shift in the democratic model is a quantitative increase and qualitative complication of governing tasks, the second and more recent cause is the transformation of western societies themselves.[11] They have shifted from an industrial to a post-industrial stage. This has amounted to the collapse of a clear class structure and the devel-

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7 Ibid., pp. 20–23.
8 Schmitt, C.,*The Crisis of Parliamentary Democracy*. Boston, MIT 1988.
9 Rosanvallon, P., *Le bon gouvernement*, op. cit., pp. 11–14.
10 Ibid., pp. 26–27.
11 Rosanvallon, P., *Democratic Legitimacy*, op. cit., ch. 3: The Great Transformation, pp. 60–71.

opment of highly individualized and diversified ways of life. As a result, the nature of social conflicts has changed. Because of its relatively clear societal frontlines, the industrial conflict was able to be represented in the parliamentary arena by class-based parties. The individuals were subsumed under wide socio-economic and status categories. The multicultural "politics of presence" (A. Phillips) have not changed this framework substantially, rather they have enlarged the range of categories to be represented by gender, race, ethnicity, etc.[12]

The increasing fluidity of socio-economic and status categories and a growing cultural diversification have led to an unprecedented individualization of life trajectories which in turn has rendered the concept of political representation less and less satisfactory. In Rosanvallon's view, people who want to have their social suffering or victimhood publicly recognized have to look for other spaces than parliaments. Their personal trials cannot be subsumed under sociological categories, but have to be presented in their singularity through narratives so that other people can empathize with them. In other words, their public recognition is mediated not by a macro-identity but rather by exemplary events and stories.[13] In this sense, instances of invisible social suffering are too diverse and too many to be able to find their visibility on the parliamentary stage. Instead, Rosanvallon proposes, their subjects should share and exchange their experiences in extra-parliamentary fora of the civil society.[14] From there, they should try to reach a larger public in order to gain recognition or reparation. The government's legitimacy rests, among other things, on the ability of those in power to be ready to receive their messages and take into consideration their demands. Rosanvallon calls this virtue "proximity" and conceives of it, alongside impartiality and reflexivity, as an additional source which complements the legitimacy stemming from electoral-representative procedures. This amendment of mainstream democratic theory is outlined in the next section.

From the general will to social generality

"The government of the people, by the people, for the people" – Abraham Lincoln's famous phrase from *The Gettysburg Address* (1863) encapsulates the idea of democracy as a political regime that arises from and expresses the will of the people. The most obvious and necessary condition for fulfilling this idea is universal suffrage. Thus, it is assumed that the closest approxi-

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12 Phillips, A., *The Politics of Presence*. Oxford, Oxford University Press 1998.
13 Rosanvallon, P., *Democratic Legitimacy*, op. cit., pp. 188–190.
14 Rosanvallon, P., *Le parlament des invisibles,* op. cit.

mate of the general will of the people is the majority of votes which should therefore determine who will govern.

Besides the *procedural* legitimacy of the ballot box, there is the *substantive* legitimacy of the supposedly universal norms that are instituted and maintained by the knowledgeable and competent experts, civil servants and judges who are not *elected* but rather *selected* through meritocratic examinations. These two sources of legitimacy complement and correct one another. However, *substantive* legitimacy is often suspected to be rather a limitation than a constitutive part of democracy, the core of which presumably lies in the electoral-representative principle.

As has been argued in the previous section, most of the institutional amendments which have been suggested and/or tried out since the great democratic revolutions in the United States and France at the end of the 18th century have aimed at bettering the representativeness of political institutions and strengthening their ties to the people and their presumed will. In democratic theory, both the multiculturalist "politics of the presence" as conceptualized by Anne Phillips as well as Jürgen Habermas' concept of deliberative democracy – not to mention the defense of populism by Ernesto Laclau – have conceived of a democratic deficit or crisis in terms of the government's alienation from society.[15] Accordingly, they have tried to bridge this gap so that the people could again identify with the government as an expression of their will and as their legitimate representative.

The distinctive nature of Rosanvallon's contribution to democratic theory consists of the rejection of the key assumption that the most important source of legitimate government is the will of the people. He claims that the category of "the people" is a useful fiction similar to fictitious legal concepts recognizable as such in legal theory. Democratic theory should follow legal theory's example and acknowledge that the *demos* endowed with a unified people's will does not exist, without denying the usefulness of this fiction at the same time. Such recognition would lower the empirical majority's elevated position as the primary channel of legitimacy. This high position is reflected in the assumption that a majority of votes is the closest approximation of a people's general will. Once the concept of the people's will is relegated to the status of a useful fiction, the rule of the ballot box cannot be fetishized any longer. Rather, "[m]ajority rule should […] be understood, prosaically, as a mere *empirical convention,* which remains subject to the need for higher levels of justification. Its legitimacy is *imperfect* and must be

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15 Phillips, A., *The Politics of Presence*, op. cit.; Habermas, J., *Between Facts and Norms. Contributins to a Discourse Theory of Law and Democracy.* Cambridge, Polity Press 1997; Laclau, E., *On Populist Reason.* New York, Verso 2007.

strengthened by other modes of democratic legitimation."[16] In other words, elections would be downgraded from the most important and foundational act of society's self-expression to one of the many ways in which "social generality" is expressed and government institutions are legitimized. Striving for the most direct ways of catching and institutionalizing the general will would be replaced by taking into consideration indirect expressions of social generality. This includes for example various independent regulatory and overseeing bodies whose authority is based on impartiality, or constitutional courts and similar institutions. The latter bodies would make the public arena increasingly self-reflexive by introducing new points of view other than the one supposedly emanating from the popular sovereign.

Both *impartiality* (taking equal distance from particular cases) and *reflexivity* (the proliferation of alternative points of view) look at democratic institutions, rules and conflicts from a distance – they reach social generality through "an ascent".[17] Rosanvallon complements them with the above mentioned *proximity* which reaches social generality through "a descent": "It is by immersing oneself in particularities deemed to be exemplary that one gives palpable solidity to the idea of a 'people'. Generality is thus conceived as that which equally honors all particularities."[18] This last kind of generality is not embodied in certain institutions but rather manifests itself in the art of governing – in the way those in power are present among the people, empathize with and care about their sufferings.

From Identification to Appropriation

Impartiality, reflexivity and proximity amount to three additional sources of legitimacy which enrich the electoral-representative axis of democracy. Only proximity, however, shifts our attention from this axis towards a different dimension in the relation between political authorities and society. Whereas the former perspective views this relation to be primarily between those who represent and those who are represented, the latter views it as the relation between those who govern and those who are governed. These dimensions of democracy cannot be reduced to one another. In this sense,

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16 Rosanvallon, P., *Democratic Legitimacy*, op. cit., p. 14.
17 "The expression 'ascent into generality' describes the procedure by which analysis of facts leads to the enuciation of concepts. It is also the process by which the political field as such is constituted." Rosanvallon, P., *Democratic Legitimacy*, op. cit., p. 191. Similar to impartiality and reflexivity, proximity is neither a purely procedural, nor purely substantive approach, but rather "occupies an intermediate position" between them. Ibid.
18 Ibid.

they are incommensurable, but they co-exist as two complementary sides of democracy that are defined by opposite presuppositions. One implies an ideal of *identity* between the government and the society (expressed in the very term "self-government"), the other takes for granted their *difference.*

In Rosanvallon's terminology, the former perspective conceives of democracy as a "regime", the latter sees it as an "art of government".[19] Rosanvallon's three additional sources of legitimacy may be divided according to which of those dimensions they refer to. While even indirect expressions of social generality such as impartiality and reflexivity still assume a continuity and, ideally, an *identity* between the government and the governed, proximity assumes their *difference* which is implied by the very definition of the government: in order to fulfill the governing function, those who govern have to be different from those who are governed.

If we want to criticize political institutions from an art of government standpoint rather than from a position of a regime, we have to replace the question of whether those in power *represent* their society well, with the question of whether they *govern* it well. Then, the goodness or badness of a government will not depend on the extent to which it incarnates its society (impossible task conjured up by various ceasarists and populists, past and present) but rather on how well it exercises its governing tasks and functions. Rosanvallon sets the normative guidelines of such a "democracy of exercise" along three axes – legibility (accessibility to scrutiny), accountability and responsiveness (ability to listen to and interact with society).[20] The government that is able to live up to those demands will be able to re-establish the trust between itself and society without a pretension to embody it.

Such an approach goes against the grain of mainstream democratic theory. Its advocates assume that the more a government can be identified with the people, the better, although most of them acknowledge that a full identity (as preached by the proponents of direct democracy) is beyond reach. Some democratic theorists such as Claude Lefort and, in his steps, Ernesto Laclau propose an idea of democracy that consists of a dialectical contradiction between a government's ideal identification with the people and its indefinite deferral or absence.[21] According to them, the second term of contradiction is as necessary as the first: once a government acts on the assumption that it completely embodies the general will of the people, democracy reverses itself into tyranny. Hence, the democratic game consists of *both*

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19 Ibid., p. 11.
20 Rosanvallon, P., *Le bon gouvernement*, op. cit., pp. 215–303.
21 Lefort, C., *Democracy and Political Theory*. Cambridge, Polity Press 1988; Laclau, E., *On Populist Reason*, op. cit.

striving for such an identity, *and* its constant faltering. To a certain extent, Rosanvallon appropriates this line of thought, but takes it a step further when he distorts the balance between the two sides by giving less weight to the process of striving than to its failures. He does so by stressing the discontinuity between the government and society against the ideal of their unity. He arrives at this position precisely through the switching of perspectives from a democracy as a regime to a democracy as an art of government. Whereas in terms of the former any loosening of the ideal of continuity between the government and the people breaks one of the two legs on which democracy supposedly stands, the latter takes for granted the discontinuity between them.

Democracy as a regime reaches its prominence during the elections where people identify with their would-be representatives by voting for them. In the periods between elections, however, trust and hopes are often replaced by disillusionment and distrust. According to mainstream democratic theorists, these periods of alienation testify to the deficit or crisis of democracy. Having diagnosed the illness, they suggest various remedies. Some promote procedures to strengthen the representativeness of political institutions or they add participatory and deliberative procedures to standard electoral processes. Others propose to revive democracy through populism. All these approaches search for ways to overcome the government's alienation from the people which is characteristic of the periods between elections. They all want to facilitate the people's re-identification with the government.

Rosanvallon diagnoses the periods of distrust and disillusionment in-between elections differently. In his view, such sentiments do not stem only from the mistakes and failures of politicians but also – and more fundamentally – from the structural impossibility of fulfilling the promise of an identity between the people and the government. Instead of fueling new attempts at reaching this impossible goal, we should realistically acknowledge its illusionary nature. Rather than strive to close the gap between society and the government or maintain the dialectics between this striving and its constant failing (as Lefort and Laclau, each in his own way, suggest), we should build as many bridges over the gap as possible. Democracy does not consist of the society's *identification* with the government but rather of an *appropriation* of the distance between them.

Finally, and in contrast to the "minimalist realism" of Joseph Schumpeter or Karl R. Popper – who are, according to Rosanvallon, ready to forgo democracy for purely liberal proceduralism and elitism – Rosanvallon proposes "positive realism". This form of realism divorces democratic expectations from their exclusive fixation on the electoral-representative axis and marries them with other sources of legitimacy such as impartiality, reflexivity and

proximity.[22] Another amendment includes complementing democratic practices such as electoral trust and identification with "counter-democratic" practices of post-electoral distrust and alienation including for example an *oversight* of the government by non-governmental organizations, civil resistance to and *vetoing* of government decisions and permanent scrutinizing and *judging* of government actions by independent civic bodies.[23] In these practices and institutions "the people" are not a positive source of governmental power but rather its external overseer, veto-holder and judge.

To sum up, according to Rosanvallon, both the additional sources of legitimacy, and the negative powers of citizens who place limits on what and how the government can do, are not to be conceived of as an *ad hoc* reaction to an exceptional emergency situation of withering democracy in the 1970s and 1980s. Rather, they should be understood as part and parcel of the fully-fledged concept of a "decentered" democracy after the demise of its centre in the myth of "the people" and their general will.[24] No matter how convincing Rosanvallon's argument seems to be in theory, the question is whether contemporary democracies are ready to burry their foundational myth in practice. The upsurge of various kinds of populism in recent times seems to show rather the opposite. Only the time will tell whether this populist wave is merely a last gasp or a beginning of a new life of the *demos*.

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22 Rosanvallon, P., *Le bon gouvernement*, op. cit., p. 221.
23 Rosanvallon, P., *Counter-Democracy. Politics in an Age of Distrust*, op. cit.
24 For Rosanvallon's sketch of the processes of "a vast 'decentering' of democratic systems", an abreviation of which serves as a motto to this article, see *Democratic Legitimacy*, op. cit., p. 219.

The Creation of the "People" in Laclau's Theory of Populism: A Critical Assessment

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Abstract: Defining populism as a political articulation, rather than a specific ideology, Laclau has been one of the first scholars to show why the form and content of this phenomenon are strictly related. According to him, stylistic features such as vague, polarising and strong emotive discourse are not merely epiphenomenal elements of populism, which prove the irrationality of its ideology. They are constitutive elements of populism as they are necessary to create and maintain the division of society into two antagonistic blocs. Laclau's theory of populism, however, has also been criticised for implicitly endorsing an authoritarian view of power. In this paper I argue that to better identify the source of the democratic deficit in such theory, we need to explore the combination of form and content it endorses. In order to do this I analyse Laclau's account of the articulatory practices of populism, focusing on their rhetorical character in particular. My argument is that this account is democratically problematic, since being based on a merely formal understanding of rhetoric, inevitably reduces the rhetorical dimension of these practices to an instrumental and thus potentially manipulative logic. This logic presupposes and promotes a homogenised, passive, and unreflective idea of the "people".

Keywords: Laclau, populism, rhetoric, leadership, deliberation

1. Introduction

Many scholars have noticed the ambiguous intimacy that exists between populism and political representation in democratic regimes. At its most superficial level, the relationship appears clearly as a conflicted one. The assertion that the people are not truly represented by traditional parties, and

the promise to ensure more direct expression of their will is indeed a basic feat of populist movements. At the same time, however, populism thrives on the tension between substantive and formal dimensions of representative democracy. In this regard, one can argue that populism is inherent to representative democracy, to the extent that it is the inevitable effect of the paradoxical nature of a regime that claims to receive its legitimacy from the demos, but confers to the demos only a highly mediated access to rule. It is because of this conflicted, but at the same time intimate relationship between populism and representative democracy that the former has been labelled variously as the "shadow", "mirror", "internal periphery", or even as the "parasite" of the latter.[1]

However, there is a further dimension to the relationship between populism and political representation. Populist movements cannot deny that even under populist forms the people cannot act politically without being represented in some way or another. Thus, populism itself cannot be but a form of political representation. As I will show later on, this conclusion has been clearly corroborated also by Ernesto Laclau, who indeed is regarded not only as a leading theorist of populism, but also as an important theorist of representation. Lisa Disch, one of the exponents of the so-called current "constructivist turn" in representation theory, has identified Laclau's (and Moffe's) radical democratic pluralism as a primary inspiration for this influential new paradigm.[2]

A significant difference however can be observed between Laclau's view of representation on the one hand and that of theorists of the constructivist turn on the other. In the latter case, what we see is that the question of the conditions and possibilities that the representative relationship creates for

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1 See respectively Canovan, M., Trust the People! Populism and the Two Faces of Democracy. *Political Studies*, 47, 1999, No. 1, pp. 2–16; Panizza, F., Introduction: Populism and the Mirror of Democracy. In: Panizza, F. (ed.), *Populism and the Mirror of Democracy*. London, Verso 2005, pp. 1–31; Arditi, B., Populism as an Internal Periphery of Democratic Politics. In: ibid., pp. 72–98; Urbinati, N., *Democracy Disfigured: Opinion, Truth, and the People*. Cambridge, Mass., Harvard University Press 2014.

2 Disch, L., The "Constructivist Turn" in Democratic Representation: A Normative Dead-End? *Constellations*, 22, 2015, p. 490; Laclau, E. – Mouffe, C., *Hegemony and Socialist Strategy*. London, Verso, 1985. The "constructivist turn" in political representation is a relatively new theoretical approach in the literature on this regime. It sees representation as a constitutive relationship that does not merely mirror some pre-existing political identities, but rather essentially contributes to bringing them into life. See e.g. Ankersmit, F. R., *Aesthetic Politics: Political Philosophy beyond Fact and Value*. Stanford, CA, Stanford University Press 1996; Urbinati, N., *Representative Democracy. Principles and Genealogy*. Chicago, University of Chicago Press 2006; Saward, M., *The Representative Claim*. New York, Oxford University Press 2010; Disch, L., Toward a Mobilization Conception of Democratic Representation. *American Political Science Review*, 105, 2011, No. 1, pp. 100–114; and Disch, L., The "Constructivist Turn" in Democratic Representation: A Normative Dead-End?, op. cit.

the exercise of judgment among the parts (the represented and the representatives) is emerging, even if not always explicitly, as a key element to assess the democratic nature of such a relationship. In this case, the importance of judgment appears as an inevitable consequence of the constructivist approach's emphasis on the role representation plays in creating political identities. In describing political representation as a constitutive and dynamic relationship that creates, rather than merely mirroring, political identities, these theories reveal that the democratic character of the representative relationship depends, beyond its institutional and legal framework, on the instauration of an ongoing and circular flux of communication, judgment, and influence among the parts.[3]

Despite its evident constructivism, the same kind of emphasis on judgment is almost completely absent in Laclau's theory of populism. The fact that Laclau's constructive process has a much broader application, as it concerns the creation of a political subject as wide-ranging as the concept of a singular unified "people", renders this absence even more problematic. In this sense, Laclau's theory shows a serious democratic deficit. It is a theory that suffers from excessive voluntarism and decisionism, as it concentrates all agency in the master signifier that assumes the lead in the process of constructing the "people". The "democratic demands' to be represented, on the other hand, remain in a passive position, as mere receivers of a hegemonic articulation that seems to be completely external to them.

Another question that Laclau's theory of populism leaves unexplored is the kind of rationality employed by the master signifier in the construction of the "people". Such inattention, as I will demonstrate, is equally problematic from a democratic point of view. This is because it makes Laclau's theory incapable of avoiding the reduction of the representative logic to a merely instrumental, and thus potentially manipulative, one. In this sense, one can argue that it is the very logic of representation, which is implicit in Laclau's theory of populism that reveals an anti-democratic character.

Laclau's contribution to the understanding of populism is his demonstration of the ways in which populism's ideological content and stylistic form are interdependent. By questioning the priority given to content-based theories of populism, he has advanced an explanation of populism as a political logic of articulation, particularly relevant in junctures of structural crisis, which divides society into two antagonistic blocks. For Laclau, the form in which populism claims to represent the "people" is ontologically constitu-

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3   See e.g. Urbinati, N., *Representative Democracy. Principles and Genealogy*, op. cit.; Disch, L., Toward a Mobilization Conception of Democratic Representation, op. cit.; Disch, L., The "Constructivist Turn" in Democratic Representation: A Normative Dead-End?, op. cit.

tive, since its style – characterized as vague, radical, strongly emotive and figurative – is fundamental for fostering the division of society into two blocs.[4] Critics of populism often censure this form of politics for the threat it poses to the basic institutions of liberal democracy and the pluralism they intend to protect. Likewise, the critiques of Laclau's theory of populism are often cast in these terms.[5] According to some of his critics, it is the same logic of populism – which Laclau has contributed to explaining and formalizing – that is democratically problematic, to the extent that it presupposes and promotes an idealized conception of the "people" created through the opposition to a constitutive Other, which can easily lead to a totalitarian suppression of pluralism.[6]

Laclau's critics certainly bring to the fore a serious drawback of his theory. Nevertheless, it is possible to reply to this kind of critique: if Laclau's theory of populism is characterized by a clear decisionism, at the same time it is also a theory based on poststructuralist principles, which view the social realm as characterized by an ultimate undecidability and contingency. Indeed, according to Laclau, populist movements' occupation of power is always temporary, partial, and unstable. This is because his fundamental premise is the recognition of an irreducible heterogeneity and a constitutive failure of representation.[7] Therefore, the key elements to consider when assessing whether Laclau's theory of populism suffers from a democratic deficit are the very mechanisms of articulation, which according to him create the populist subject.

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4   Laclau, E., *On Populist Reason*. London, Verso 2005.

5   See e.g. Ochoa Espejo, P., Power to Whom? The People between Procedure and Populism. In: Torre, C. de la (ed.), *The Promise and Perils of Populism: Global Perspective*. Lexington, University Press of Kentucky 2015, pp. 59–90; Urbinati, N., *Democracy Disfigured: Opinion, Truth, and the People*, op. cit.; Diehl, P., Populist Twist: The Relationship between the Leader and the People in Populism. In: Castiglione, D. - Pollak, J. (eds.), *Giving Presence: The New Politics of Democratic Representation*. Chicago, University of Chicago Press 2017 (forthcoming).

6   See Stavrakakis, Y., Re-Activating the Democratic Revolution: the Politics of Transformation beyond Reoccupation and Conformism. *Parallax*, 9, 2003, No. 2, pp. 56–71; Žižek, S., Against the Populist Temptation. *Critical Inquiry*, 32, 2006, No. 3, pp. 551–574; Arato, A., Political Theology and Populism. In: Torre, C. de la (ed.), *The Promise and Perils of Populism: Global Perspective*, op. cit., pp. 31–58; cf. Müller, J-W., *What Is Populism?* Philadelphia, University of Pennsylvania Press 2016.

7   In this sense, it is inaccurate to argue – as Urbinati has done – that the partiality of power's occupation by populist movements in Laclau's theory is more "a limit that the human practice of consent formation cannot avoid or overcome than a normative principle". On the contrary, it is a consequence of its theoretical assumptions. (Urbinati, N., *Democracy Disfigured: Opinion, Truth, and the People*, op. cit., p. 132). As Laclau and Mouffe write in *Hegemony and Socialist Strategy*: "The … dimension of structural undecidability is the very condition of hegemony." Laclau, E. – Mouffe, C., *Hegemony and Socialist Strategy*, op. cit., p. 12.

Now, an important way in which Laclau characterizes the articulatory practices of populist projects (and of every political project in general) is that of being rhetorical. Rhetoric in effect has increasingly become a central theme for Laclau[8], in what can be read as a continuation of his early interest in language, as well as of the influence Gramsci's theory of cultural hegemony as an alternative to Marxist economic determinism had on him.[9] Not only the articulatory practices of populism, but the same ontological structure of society is described by Laclau as rhetorical. Constituted as a system of differences, society's ontological structure is something that permanently defies full representability – a final and definitive literality – and thus it always calls for a rhetorical process of re-signification through displacement of meaning.[10] This process of displacement occurs through the different logics provided by the different rhetorical *tropoi*. For Laclau, this process is vital for forming political subjectivities out of irreducible social heterogeneity.[11]

My argument in this paper is that it is precisely by focusing on the rhetorical character of the populist subject's practices of articulation that we can better grasp the anti-democratic dimension of Laclau's project. As mentioned before, a significant merit of Laclau's work is the deconstruction of the distinction between the ideological content of populism and its stylistic, discursive, and performative form, by showing that the latter is not an extrinsic but a constitutive element of the former. In Laclau's words: "the distinction between a movement and its ideology is not only hopeless, but also irrelevant – what matters is the determination of the discursive sequences through which a social force or movement carries out its overall political performance."[12] But if we apply this (correct) insight to the same populist model Laclau proposes, by analysing its articulatory practices as constitutive of political contents, then we will see that these practices presuppose and promote a homogenized, passive, and unreflective idea of the "people" to the extent that they don't include any sort of deliberative engagement. As I will argue, this results essentially from the fact that Laclau's

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8 Laclau, E., *The Rhetorical Foundations of Society*. London, Verso 2014; see also Kaplan, M., The Rhetoric of Hegemony: Laclau, Radical Democracy, and the Rule of Tropes. *Philosophy and Rhetoric*, 43, 2010, No. 3, pp. 253–283; Gaonkar, D., The Primacy of the Political and the Trope of the People in Laclau on Populist Reason. *Cultural Studies*, 26, 2012, No. 2–3, pp. 185–206; Finlayson, A., Rhetoric and the Political Theory of Ideologies. *Political Studies*, 60, 2012, No. 4, pp. 751–767.

9 Laclau, E. – Mouffe, C., *Hegemony and Socialist Strategy*, op. cit.

10 Laclau, E., *On Populist Reason*, op. cit., p. 71.

11 For Laclau, "far from being mere rhetoric, rhetoric would actually be the anatomy of the ideological world". Ibid., pp. 12–13.

12 Ibid., p. 13.

understanding of rhetoric remains at a merely formal level: as a tropological characterization of the articulatory practices involved in populist projects. This way Laclau misses the perspective of the Aristotelian-Ciceronian tradition of rhetoric altogether. That perspective understands rhetoric as a form of practical reasoning based on the union between *ethos-pathos-logos* and involves both the speaker and the audience in a process of common deliberation. The neglect of this understanding of rhetoric corroborates the impression that Laclau's conception of representation remains at a too high level of abstraction and responds only to the systemic logic of populism, leaving no space for a moment of reflexivity through deliberation.

Before moving to the analysis of the rhetorical dimension of Laclau's populist theory, however, it is necessary to explore the constructivism of his understanding of representation. This is because it is precisely this aspect that renders the absence of judgment and reflexivity particularly relevant in such a theory. The next section, thus, proposes a comparison between Laclau's theory of populism and a few recent constructivist theories of representation, with the aim of demonstrating how judgment and reflexivity become central in the latter case, while they seem to play no role in the former.

2. Laclau's theory of populism and the "constructivist turn" in political representation

In the last few years, we have witnessed an interesting wave of new theories on representative democracy which have put forward two main ideas that question what has been referred to as the "standard account" of representation.[13] First, these theorists have argued that political representation is not antithetical to participation, but rather something that elicits democratic participation as it creates a permanent flow of interaction – in the form of judging, influencing, deliberating – among the represented and representatives. Second, they have proposed a "constructivist" interpretation of political representation, stressing that the creation of political identities does not occur prior to representation, but rather that it is a product of the same process of representation.[14] These two arguments, as I will show, are interre-

13 Urbinati, N. – Warren, M. E., The Concept of Representation in Contemporary Democratic Theory. *Annual Review of Political Science*, 11, 2008, No. 1, p. 389.
14 See e.g. Ankersmit, F. R., *Aesthetic Politics: Political Philosophy beyond Fact and Value*, op. cit.; Plotke, D., Representation is Democracy. *Constellations*, 4, 1997, No. 1, pp. 19–34.; Mansbridge, J., Rethinking Representation. *The American Political Science Review*, 97, 2003, No. 4, pp. 515–528; Urbinati, N., *Representative Democracy. Principles and Genealogy*, op. cit.; Saward, M., *The Representative Claim*, op. cit.; Disch, L., Toward a Mobilization Conception of Democrat-

lated: the question of representation's democratic potential indeed becomes even more significant once we reveal its constructivist dimension.

The importance of the constructivist dimension in Laclau's idea of representation and generally of political action is already clear in *Hegemony and Socialist Strategy* and becomes absolutely patent in *On Populist Reason*.[15] In the former book, Laclau and Mouffe present a critique of the way in which Marxist thought has traditionally understood political subjectivities: as fixed entities whose identities are pre-determined by an economic logic and whose political actions (and in particular their articulation in hegemonic blocs) have no effect on these identities, because they respond to a logic external to the political domain. For Laclau and Mouffe, this view is based on a rudimentary understanding of political subjectification: it presupposes the erroneous ideas that political representation can be completely transparent and that the interests and beliefs of the social subject are independently determined prior to the subject's engagement in political action.

Contrary to this view, Laclau and Mouffe argue that because of the overdetermination and non-objective character of the social field, political identities cannot but depend on the particular and contingent discursive articulation through which they are represented and mobilized in the public arena. The link between the discursive articulation and the formation of a political identity becomes especially strong in the instauration of a new hegemony, to the extent that this process implies the reduction of a plurality of dispersed and evanescent social identities to unity (even if unstable and temporary). In this sense, representation is central to the constructivist process, to the extent that the unification of plurality through ideological realignment operates for Laclau and Mouffe more on a symbolic dimension rather than on a "material" economic basis.[16]

The same constructivist logic becomes even more central in *On Populist Reason*, as in this work it involves the creation of a subject as broad as the "people". Here, the constructivism of representation reaches its apex in the moment when the different democratic demands are brought together in a new populist subject. Such process requires not only the creation of a chain of equivalences and an agonistic frontier, but also the identifica-

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ic Representation, op. cit.; Disch, L., The "Constructivist Turn" in Democratic Representation: A Normative Dead-End?, op. cit.

15 However, as Moffitt correctly points out, a constructivism dimension in Laclau's view of representation can be detected in his earlier works as well. See Laclau, E., *Politics and Ideology in Marxist Theory*. London, NLB 1977; and Laclau, E., Populist Rupture and Discourse. *Screen Education*, 34, 1980, pp. 87–93; Moffitt, B., *The Global Rise of Populism: Performance, Political Style, and Representation*. Stanford, Stanford University Press 2016, p. 24.

16 Laclau, E. – Mouffe, C., *Hegemony and Socialist Strategy*, op. cit.

tion of a particular element of this chain as the symbol of such unity: the embodiment of a new (particular) universality, whose meaning will in turn determine the political identities of each of all its finite elements.[17] At this moment, Laclau argues, the equivalential chain – which is only ancillary to the democratic demands at first – starts reacting "over them and, through an inversion of the relationship, start behaving as their ground." It is this inversion that crystallizes the subject's new identity and therefore modifies the particular identities of the elements included in this new subject.[18]

However, constructivist understandings of political representation highlight an important conundrum. They bring to the fore a tension between the democratic expectation that representatives should be responsive to their constituents' interests and values, on the one hand, and the recognition that such interests and values are formed also through the same process of representation, on the other.[19] This problem is evident in Laclau's theory of populism as well. And Laclau is perfectly aware of it. As I have said, he explicitly describes political representation as radically constructivist. As he writes: "the main difficulty with classical theories of political representation is that most of them conceived the will of the 'people' as something that was constituted before representation." On the contrary, "the empty signifier is something more than the image of a pre-given totality: it is what *constitutes* that totality". But if political representation is inherently constructivist, Laclau stresses, then in order to maintain its democratic character, the empty signifier that represents the chains' different elements "must actually represent them; it cannot become entirely autonomous from them." A constructivist understanding of political representation then clearly makes patent the problem of "how to respect the will of those represented."[20]

In my view, Laclau's response to this question is unsatisfactory and suffers from a problem of circularity. Indeed his response consists essentially in reiterating that it is the same logic of democracy – if we understand it, as Lefort has suggested, as an emptiness that needs to be continuously filled[21] – that entails the creation of the democratic subject of the "people" through

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17 Laclau, E., *On Populist Reason*, op. cit., p. 111.

18 Ibid. p. 93; cf. Laclau, E., Populism: What's in a Name? In: Panizza, F. (ed.), *Populism and the Mirror of Democracy*, op. cit., p. 33.

19 Disch, L., The "Constructivist Turn" in Democratic Representation: A Normative Dead-End?, op. cit.

20 Laclau, E., *On Populist Reason*, op. cit., p. 162–164. As we will see later this problem is accentuated by the fact that in Laclau's theory, as it generally happens in all forms of populism, the process of representation and construction of the "people" assumes a strongly vertical form, to the extent that the empty signifier is clearly associated with the figure of a leader. I will return to this question in the next section.

21 Lefort, C., *Democracy and Political Theory*. Cambridge, Polity Press 1988.

a process of hegemonic configuration. A different path could have been taken, I think, had Laclau underscored the moments of judgment and creation of consensus through deliberation the representative relation calls for, in the way Nadia Urbinati and other theorists of representation have done.

The centrality of judgment and deliberation for political representation has started to appear as a central topic at least since Hannah Pitkin's seminal theory of representation advanced in her book, *The Concept of Representation*.[22] On the one hand, Pitkin rendered the concept of "responsiveness" central for assessing the democratic nature of representation; but on the other, she defended the idea that representing is a "substantive" activity – an "acting for" – which requires a considerable autonomy for the representative. In this way, as Lisa Dish has argued, Pitkin came to question "the intuition, definitive for late twentieth-century liberalism, that citizen preferences are and ought to be the 'principal force in a representative system'."[23] Thus, Pitkin's theory makes two distinctive and potentially conflictive aspects of representation central to its definition. The result is that beyond its institutional arrangements, representation comes to depend on the interaction among two kinds of judgment. First, that of the representatives who have a free mandate to interpret and give form to the interests, opinions, and beliefs of the represented. Second, that of the represented who have to assess the representatives' activity, taking into consideration also the "judgmental" nature of such activity (and thus the fact that it requires a significant level of autonomy).

If the question of judgment was only implicitly evoked by Pitkin; it has become much more explicit in some more recent theories of representation. These theories have broadened the scope of representation much beyond the institutional framework of representative democracy (parliamentary elections, primarily) and the simple juridical relation of principal-agent.[24] As a consequence of the more complex view of representation it defends, the constructivist turn has rendered the moment of judgment in representation even more evident. It forces us to see political identities as invoked or summoned, political meaning as dependent on context, and representa-

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22 Pitkin, H., *The Concept of Representation. Berkeley*. Berkeley–Los Angeles–London, University of California Press 1972.

23 Disch, L., Democratic Representation and the Constituency Paradox. *Perspectives on Politics*, 10, 2012, No. 3, p. 599.

24 See Plotke, D., Representation is Democracy, op. cit.; Mansbridge, J., Rethinking Representation. op. cit.; Rehfeld, A., Towards a General Theory of Representation. *Journal of Politics*, 68, 2006, pp. 1–21; Rehfeld, A., Representation Rethought: On Trustees, Delegates, and Gyroscopes in the Study of Political Representation and Democracy. *American Political Science Review*, 103, 2009, No. 2, pp. 214–230; Urbinati, N. – Warren, M. E., The Concept of Representation in Contemporary Democratic Theory, op. cit.

tion as an activity that constantly permeates the entire political domain.[25] By doing so, this approach has made clear how an authentically democratic representative relationship requires the creation of a continuous and circular flux of communication, judgment, and influence between the parts within and outside its institutional framework. Therefore, to inquire into the quality and conditions of such a moment of reflexivity appears as the only possible solution to the normative challenge that the constructivist turn has raised by expanding the scope of representation so much and, in particular, by evacuating the most familiar basis for assessing its democratic legitimacy: the interests and beliefs of the electors.[26]

Among the theorists of the constructivist turn, the one who has come closest to embrace this conclusion is Nadia Urbinati. In defending the idea of representation as a form of advocacy – the creation of an "ideological sympathy" – she is the theorist who has stressed more the role of judgment in representation (and in particular, the judgement of the represented). Urbinati argues that the democratic potential of such a form of politics dwells precisely in making judgment, rather than will, the central political faculty. The constructivist dimension of Urbinati's theory of representation can be identified in her idea of representation as an indirect form of politics, which aims to transform social demands into political subjects through the creation of ideological narratives around which they coalesce. It is such a process of transformation, from the social to the political, which according to Urbinati calls for an exercise of reflective judgment – as she defines it: an *as if* kind of thinking based on imagination, that is, thinking *as if* the common good would really exist and *as if* we would be in someone else's place.[27]

We can locate references to the significance of judgment in the works of other theorists of the constructivist turn, even if more implicitly. Lisa Disch, for instance, has argued that we should stop worrying about the capacity of the elites to manipulate citizen preference formation, and instead try to develop arrangements that promote what she calls a "systemic" reflexivity: an exercise of reflexivity disseminated through a plurality of interlocked sites and beyond the dyadic relation of representative-represented.[28]

In addition, in the case of Michael Saward – who has proposed the most radically constructivist and the least explicitly normative theory of repre-

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25 Saward, M., *The Representative Claim*, op. cit., pp. 43–44.

26 Disch, L., The "Constructivist Turn" in Democratic Representation: A Normative Dead-End?, op. cit., p. 488.

27 The adjective "reflective" used by Urbinati in relation to judgment refers to Kant's known distinction between "reflective" and "determinant" judgments. Urbinati, N., *Representative Democracy. Principles and Genealogy*, op. cit., p. 121.

28 Disch, L., Toward a Mobilization Conception of Democratic Representation, op. cit.

sentation – we can find analytical instruments with which to critically inspect the conditions that enable the citizens' judgment. The fact that in Saward's theory, as in Weber's, the legitimacy of representative claims ultimately depends only on their "perception" as "legitimate" "by appropriate constituencies under reasonable conditions of judgment" clearly demonstrates the non-normative orientation of his theory.[29] The rich set of theoretical classifications and categories he develops for the analysis of representative claims do not provide normative standards of legitimacy. This is because what counts for Saward are "the judgments of appropriate constituencies, not independent theoretical judgment that matter to democrats."[30] Nevertheless, these classifications and categories do provide important heuristic instruments to understand how "representative claims" are formed – the rhetorical resources on which they are based, their symbolic and affective dimension, their strategic use, etc. – and thus to explore the forms and conditions of such judgments of legitimacy.

For Laclau, the constructivist dimension of representation is what makes representation democratic. He understands representation as a process of articulation that allows ascribing a common ideological vision and a common enemy to different social forces, thus bringing them together in the form of a political subject with a common purpose. This is particularly clear in the case of populism, since what is at stake is the creation of the "people" through the mobilization of the masses against the elites.[31] For Laclau, populist representation is radically democratic precisely because it makes possible the passage from the social to the political and from the particular to the general. In his words:

The function of the representative is not only to transmit the will of those he represents, but to give credibility to that will in a milieu different from the one in which it was originally constituted. That will is always the will of a sectorial group, and the representative has to show that it is compatible with the interests of the community as a whole.[32]

The difference between his position and those of the constructivist theorists cited earlier, however, is that in Laclau's account there seems to be no room for the exercise of judgment and deliberation that is needed to guarantee that the process of articulation entailed by representation remains democratic. In my opinion, this is what constitutes the main democratic

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29 Saward, M., *The Representative Claim*, op. cit., pp. 144–145.
30 Ibid., p. 159.
31 Laclau, E., *Emancipations*. New York, Verso 1996, pp. 84–103; Laclau, E. – Mouffe, C., *Hegemony and Socialist Strategy*, op. cit., pp. 118–140; Laclau, E., *On Populist Reason*, op. cit., ch. 6; cf. Disch, L., The "Constructivist Turn" in Democratic Representation: A Normative Dead-End?, op. cit.
32 Laclau, E., *On Populist Reason*, op. cit., p. 158.

deficit in his theory. A deficit which is aggravated by the fact that such reflexivity is made, at the same time, more urgent by the extension that the constructivist operation reaches in his theory (the construction of a hegemonic subject identified with the "people") and more difficult precisely by this very extension.

3. What is wrong with Laclau's idea of rhetoric?

In order to better grasp the absence of judgment as common deliberation in Laclau's theory of populism, we need to focus on the process through which "democratic demands" are brought together in a populist subject. I will focus on two operations that play a particularly significant role in this process: first, the moment of identification with a leader, which Laclau sees as decisive in constituting the "people"; second, the tropological articulation that brings to the constitution of the equivalential chain. As I will demonstrate in this section, both operations can be examined using rhetorical categories. Through this analysis, it will become clear that both operations systematically exclude any significant role for a common deliberation among the parts involved in the construction of the "people".

The first element, identification with the leader, is particularly important for Laclau. Drawing on Freud's mass psychology he argues that without identification there can be no identity, and thus no constitution of a new political subject. Identification is the result of what Laclau defines as a "radical investment" (this time drawing on Lacan): a process that brings about the ontological transformation of a particular finite element of the equivalential chain into the master signifier – the leader of the movement – and of the democratic demands into elements of a new political subject. This particular element is chosen as the symbol of the entire equivalential chain and as such assumes the role of its leader. Assuming the main role in the articulation process, the leader is what makes possible the new political subject's emergence into existence. However, if we examine the process of identification closely, we will see that it has two aspects that make it democratically problematic: a stark asymmetry among the leader and the led and a neat separation between the affective and the deliberative moments.

To defend his view about the role of identification and the leader in *On Populist Reason*, Laclau engages directly with Hannah Pitkin, who takes a different position on this question. In *The Concept of Representation,* Pitkin strongly rejects symbolic representation arguing that identification operates only on an irrational level and therefore makes possible the manipulation of the popular will, as exemplified by Fascism. Opposing this argument, Laclau underlines instead how identification is central to representation

since only by way of identification with a leader can social identities overcome their political indefiniteness and come together in a new political subject. Laclau however does not disregard Pitkin's concern for manipulation. As he argues, the representative cannot be completely external to the represented. The representative must provide reasons to explain and justify her activity to the latter. But the moment of identification – which for Laclau happens essentially on an affective, extra-rational level – is ontologically prior to reason providing.[33] The key point here is that in Laclau's theory between the affective investment in the leader and the rational process of asking for reasons about her decisions, there is a constitutive and hierarchical hiatus. It is precisely such a hiatus, I think, that can create the possibility of a manipulative use of emotions and can open the path to anti-democratic conceptions of representation.

Laclau's radically constructivist theory of representation concentrates all agency in the creation of the new political identity on the side of the representative (and in particular of the leader), relegating the represented to a mere passive position.[34] As we have seen, the decisive moment in such a process, is reached when the representative relationship changes its direction, starting to operate from the representative to the represented rather than from the represented to the representatives. It is at this moment that, according to Laclau, a new identity arises. Thus, despite Laclau's proviso that the leader should be considered a *primus inter pares,* his theory remains vulnerable to the serious objection that it does not rule out the possibility that the relation leader-people could assume a starkly vertical and potentially manipulative form. Indeed, to argue that the moment of extra-rational identification is prior to a secondary moment of reasons providing opens the possibility that the reasons provided are not substantive ones, but rather merely instrumental arguments given to justify *a posteriori* an unreflective attachment to the leader. In this sense, it is difficult to see how populist leaders can be chosen according to a method other than plebiscitary acclamation. Similarly, Laclau's insistence on the idea that the leadership is the embodiment of a fullness always incomplete,[35] which can always be re-signified by those who identify with it, is not enough to ensure its democratic nature. This possibility is not transformed in a common deliberative process, but remains at the level of a cacophonic play of individual re-significations.

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33 Laclau, E., *On Populist Reason*, op. cit., pp. 111, 161–162.
34 See ibid., pp. 161–162, cf. 93.
35 Laclau, E., Glimpsing the Future. In: Critchley, S. – Marchart, O. (eds.), *Laclau: A Critical Reader*. London, Routledge 2004, p. 287; Laclau, E., *On Populist Reason*, op. cit., pp. 115–116.

If Pitkin, as Laclau correctly argues, in her *tout court* condemnation of symbolic representation is unable to draw the necessary distinction between manipulation of popular will and the constitution of this will through symbolic identification; then Laclau arrives at a complementary impasse: giving an unwarranted priority to a symbolic representation whose meaning is reduced to extra-rational identification, he provides no instruments to differentiate between them.

I think we can find a separation between the extra-rational and the rational also in the second process that Laclau sees as central to the construction of the "people": the creation of the equivalential chain through mechanisms of associations that work according to the logics of rhetorical *tropoi*. Here the rhetorical dimension of the process is clearer and the dissociation between the extra-rational and the rational assumes the aspect of an implicit dissociation between form and content. But the effect of such dissociation is similar to that which occurs in the process of identifying with the leader. Indeed in this case as well such dissociation implies a situation in which merely instrumental and thus manipulative considerations can prevail over more substantive ones, thereby placing the process's democratic nature at risk.

As I have mentioned earlier, Laclau has increasingly employed the category of rhetoric to describe the ways in which the social world is constructed. However, his understanding of rhetoric has remained at a purely formal level: as a theory of language based on the centrality of *tropoi* and then applied for understanding society. More specifically, when Laclau talks about the rhetorical construction of society he is referring to the "contingent, discursive, and fundamentally tropological process that brings objective reality into existence by imposing on an array of heterogeneous elements the semblance of a structure within which they acquire identity/meaning."[36] Among the different rhetorical *tropoi,* For Laclau *catachresis* acquires a decisive, almost constitutive, role. This is because its mechanism of employing words, or phrases, in ways that drastically depart from conventional usage exemplifies how social meaning is created through a continual distortion of (an ultimately impossible) literal meaning.[37] Once the collapse of the distinction between the literal and the figurative is assumed, Laclau demonstrates that the articulation of social meaning can be explained only according to the logics of the rhetorical *tropoi.* Mechanisms of association such as those provided by metaphors, metonymies, synecdoches and so on, allow for the creation of links between the different elements of society and articulate

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36 Kaplan, M., The Rhetoric of Hegemony: Laclau, Radical Democracy, and the Rule of Tropes, op. cit., p. 258.

37 Laclau, E., *On Populist Reason*, op. cit., pp. 12, 71.

a new political identity. Among them, also the synecdoche is very important for Laclau, as it represents the mechanism through which a part (the leader) is taken as standing for a whole that exceeds it. Metaphors and metonymies, two other key *tropoi*, operate instead at the horizontal level providing the mechanisms of association – analogy for metaphors and contagion for metonymy – through which different elements combine in a new subject that aspires to become hegemonic.[38]

However, reducing rhetoric to its tropological and stylistic dimension – a reduction that corresponds to Laclau's highly formalistic conception of society – is highly problematic. This is because it means (once again) to be unable to provide any instruments to avoid reducing this rhetorical rationality to a form of manipulation moved exclusively by an external aim: the creation of a populist subject and the conquest of power . What Laclau is missing is an entirely different idea of rhetorical rationality as a form of practical reason; an understanding that constitutes the most prominent strand in the tradition of this art, which goes from Aristotle, Cicero, up to Perelman, Gadamer, and some contemporary theorists as Eugene Garver or Bryan Garsten.[39] It is a conception of rhetoric that conceives it as an art of arguing and deliberating in the realm of contingency using verisimilar arguments and a combination of rational, emotional, and ethical ones (*logos, pathos,* and *ethos*). It is precisely the union of these three elements, *logos-pathos-ethos,* that avoids the transformation of this art into an instrument of manipulation according to this understanding of rhetoric. This is because it turns emotions and ethical displays into a constitutive part of a situated and contextual way of reasoning.[40]

I cannot expand on this tradition of rhetoric here. But some brief remarks can be made to exemplify how it can contribute to avoid reducing rhetoric to a mere formalistic rationality and thus to a potentially manipulative instrument. For instance, according to this tradition, a good political leader must also be a good orator. A process of identification is considered indispensable for persuasion to the extent that, as Aristotle argues, persuasion requires

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38 Ibid., pp. 19, 72; Laclau, E., Articulation and the Limits of Metaphor. In: Laclau, E., *The Rhetorical Foundations of Society*, op. cit., pp. 53–78.

39 Aristotle, *On Rhetoric: A Theory of Civic Discourse*. New York–Oxford, Oxford University Press 1991; Cicero, M. T., *De Oratore*. Cambridge, Mass., Harvard University Press 1942; Perelman, C. M. – Olbrechts-Tyteca, L., *Traité de l'argumentation. La nouvelle rhétorique*. Bruxelles, Editions de l'Université de Bruxelles 1988; Gadamer, H.-G., *Truth and Method*. London–New York, Continuum 1993; Garver, E., *Aristotle's Rhetoric: An Art of Character*. Chicago–London, University of Chicago Press, 1994; Garsten, B., *Saving Persuasion: A Defense of Rhetoric and Judgment*. Cambridge, Mass., Harvard University Press 2006.

40 See e.g., Garsten, B., The Rhetoric Revival in Political Theory. *Annual Review of Political Science*, 14, 2011, p. 169; Garver, E., *Aristotle's Rhetoric: An Art of Character*, op. cit.

not only a solid argument, but also a proper emotive involvement and a positive assessment of the speaker's personal attributes. The dialectic between distinction and similarity in the relation between the leader and the people is central to this tradition of rhetoric, as it is in Laclau's theory of populism. The political leader is expected to appear close to the people, as long as she is expected to understand their background, beliefs and interests. But at the same time she is also expected to embody in a distinctive manner virtues and qualities considered important by the community. It is also because of these virtues and qualities, which the people recognize in their political leader, that they accept her arguments and follow the course of action she indicates. However, the crucial point is that those personal qualities and virtues – whose power of persuasion operates at an extra-rational level as well: the creation of trust – have to be, according to Aristotle, part of the very deliberative process through which persuasion is attained. They have to become, so to speak, principles in action: principles that manifest themselves through and in the practice of deliberating in common.[41]

As for the question of the employment of *tropoi*, Laclau's theory does not clarify questions such as how can these *tropoi* be used, what are their limits, why are some accepted and others rejected, and so on. In the ancient tradition of rhetoric, the employment of rhetorical figures is part and parcel of a more general practical rationality that the orator should be able to develop. Quintilian, for instance, extols the capacity of metaphors to translate the meaning of a term from its original context to a new one, thereby providing a meaning for everything; or the possibility through the technique of re-description (*paradiastole*) to present reality under different perspectives by highlighting or obscuring one specific aspect or another.[42] However, this stylistic mastery must be understood in the context of a more general practical rationality developed through education and practice, which combines the rational and the extra-rational, the capacity to understand the context and to reason in terms that are more abstract. In particular, it requires a capacity that in ancient rhetoric was referred to as *decorum:* a principle of behavior that determines the more appropriate words to the context, the subject matter, and the audience, combining political, ethical, and aesthetic considerations.

One might object to the above by claiming that the philosophical roots of Laclau's version of rhetoric (that is, Discourse Theory) lie far away from this ancient tradition. They can be found in Wittgenstein's philosophy of language, the phenomenology of Heidegger, the structuralism of Saus-

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41 Ibid.
42 See Skinner, Q., *Reason and Rhetoric in the Philosophy of Hobbes.* Cambridge, Cambridge University Press 1996, ch. 5.

sure and the post-structuralism of Barthes, Derrida, and Lacan. However, the basic premise that Laclau derives from these thinkers – that our access to reality is inevitably mediated by discourse – does not imply that his theory is completely incompatible with the insights of that ancient tradition. To say it quite bluntly: for Laclau, not everything can be created through language. Hence, rationality cannot be reduced to its formal dimension. In other words, Laclau does not deny the existence and significance of something we could call the "real" in opposition to the "symbolic". What he affirms is that our access to it is always discursively mediated. This implies, crucially, that a more substantive form of rationality – i.e. a form of rationality that operates while engaging both with the "real" and the "symbolic" – is at the same time possible and desirable.

For example, in responding to the objection that his theory lacks the resources to take a normative position, Laclau argues that there is a distance between the "unachievable fullness" we try to signify and "what actually exists" and that this distance is "the source of the ethical experience."[43] Then he adds:

> the ethical subject … is never an unencumbered moral subject; it fully participates in normative order not all of which is put into question at the same time. That is the reason why moral argument can frequently take the form of showing the consequences that would necessarily derive from some actions and, in this way, appeal to shared values which are presented as grounds for preferring some course of action rather than others.[44]

The kind of reasoning at work when we must "show the consequences…" or "appeal to shared values…" is precisely the kind of practical reasoning of which Aristotelian rhetoric is an essential part. Or, to take a thinker closer to Laclau, it is the kind of reasoning described by Richard Rorty, which is centered on the hermeneutic capacity to understand the context and, through rhetoric (or as Rorty says the "art of rediscription"), to put in dialogue different or even incommensurable vocabularies.[45] In this regard,

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43 Laclau is responding here to a criticism made by Simon Crithcley. See Crithcley, S., Is There a Normative Deficit in the Theory of Hegemony? In: Critchley, S. – Marchart, O. (eds.) *Laclau: A Critical Reader*, op. cit., pp. 113–122.

44 Laclau, E., Glimpsing the Future, op. cit., p. 287.

45 The philosophy of Richard Rorty offers a very interesting example of the possibility (and the limits as well) of combining the ancient conception of rhetoric as a form of practical reason with contemporary post-modern, or post-structuralist positions. See: Ballacci, G., Richard Rorty's Unfulfilled Humanism and the Public/Private Divide. *Review of Politics*, 79, 2017, No. 3, pp. 427–450.

I think we can say that if Laclau's perspective is incompatible with the idealization of dialogue and consent of contemporary rationalist theory of deliberation,[46] it is not incompatible with conceptions of rhetoric that understand the process of persuasion as always incomplete, biased, and unstable, but nevertheless necessary.

4. Conclusion: Laclau's democratic deficit

What the constructivist turn in political representation has clearly shown us is that once the constitutive nature of the representative relationship is fully recognized, it becomes crucial from a democratic perspective to ensure that this construction is conducted through a process as deliberative as possible. The fact that this deliberative process is recognized as always incomplete, biased, and unstable is not a sufficient reason to forsake it.

Laclau's theory of populism is a very important contribution primarily because, explaining populism as a logic of articulation, it helps us understand the intrinsic connection that populism constitutes between its form and its content. Nevertheless, it is a theory that is very problematic from a normative point of view to the extent that it completely disregards the role of deliberation and judgment in the construction of the "people". Such disregard, as I have argued, it is caused also by a reductive understanding of rhetoric. This is a serious drawback especially from Laclau's own perspective, since he theorizes populism as a way to radicalize democracy.

What Laclau is unable to do, in my view, is to move from an idea of radical democracy as a celebration of difference to a project of collective action based on the democratic practice of deliberation. Difference is celebrated through the insight that the reducible opacity of representation and the impossibility of a literal language open the space for an ongoing play of re-significations. However, to the extent that Laclau completely neglects the question of deliberation, it is difficult to see how the ongoing play of re-significations can move from a cacophony to a common political project, if not through a starkly decisionist gesture.[47] It is for this reason indeed that the act of "naming" performed by the leader becomes so preponderant in the articulation of the new populist subject according to Laclau's theory. This occurs in a way that recalls quite closely Hobbes's solution to attribute an absolute authority to the Leviathan to decide the meaning of words once and for all, in order to avoid that a plurality of interpretations could put at

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46 Mouffe, C., *The Democratic Paradox.* London, Verso Books 2000.

47 Gaonkar, D., The Primacy of the Political and the Trope of the People in Laclau on Populist Reason, op. cit.

risk the stability of political authority. After all we do not have to forget that, as I have mentioned before, Laclau's theory of populism is also and crucially a theory about how to seize power. In this respect I think the key point is to realize that, if as Laclau argues the conquest of power is essentially a discursive undertaking, then there is a difference between understanding rhetoric as a means to obtain our ends and as the medium in which these ends are constituted by way of deliberation.[48] Without this insight, rhetorical rationality cannot but become a cunning deployment of linguistic techniques used strategically with the aim of conquering power.

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48 See e.g., Beiner, R., *Political Judgment*. Chicago, University of Chicago Press 1993, pp. 94–95.

Democratic Spectatorship beyond Plebiscitarianism: On Jeffrey Green's Ocular Democracy

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Abstract: Contemporary democracies have been witnessing many profound changes, including an unprecedented rise of the power of mass media enhanced by new technologies, a crisis of traditional forms of representation and participation, leading towards a new emphasis on the role of political leadership in democracy. These changes have also raised many challenges to our traditional understanding of democracy, becoming a source for many innovations in democratic thought. One of these rehabilitated innovations is concerned with the role of citizens as spectators, one that has generally been overlooked or ignored by democratic theorists. The paper is concerned with Jeffrey Green's book, *The Eyes of the People*, that belongs to the most important exceptions to this trend. While I agree with the key role that Green attributes to spectatorship, the paper criticizes a strong relation between spectatorship and plebiscitarianism that Green establishes, and attempts instead to develop a theory of democratic spectatorship suitable for representative democracy.

Keywords: ocular democracy, plebiscitarianism, representation, spectatorship, synopticism

"We are all democrats now…", as Wendy Brown recently claimed,[1] but we are also puzzled democrats. The sources of our puzzlement are many, ranging from the fact that the name democracy is (mis)used by diverse authoritarian regimes to the fact that the so-called democracies employ the name to justify atrocities of war, nativism, exclusion or callousness towards humans in need. We are also puzzled because we do not know what democracy should mean

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1 Brown, W., We Are All Democrats Now… In: Agamben, G. et al., *Democracy in What State?* New York, Columbia University Press 2012, pp. 44–57.

today. Democracy as "government of the people, by the people and for the people", does anyone still believe? We are puzzled because our lofty democratic ideals contained in the numerous and multifarious literature on democratic theory are incommensurable with the workings of existing democracies and the gap seems to be widening. Norberto Bobbio was undoubtedly right when he claimed that the experienced democracy's discontent has its source in the fact that the democratic ideals we still cherish were designed for societies that were very different from ours.[2]

However, it seems that recent development has challenged even the modest remnants of democracy that democratic realists like Bobbio hoped for. Challenged has been the very idea of purposefulness of democratic elections and citizens' ability to influence policies by using their voices and ballots.[3] Many claim that thanks to a coalescence of complexity of our societies demanding technocratic rule and the iron cage of the global market economy, that both set insuperable limits on democratic decisionmaking, and new forms of political communication that concentrate rather on leaders' personal characteristics than on the political programs they represent, a completely new form of democracy was born, one whose main features are the separation of "politically active and politically passive elements",[4] charismatic leadership, passive citizenry and a concomitant decline of parliamentary politics coupled with a surge of the role of executive power and presidentialism. While some – as I believe mistakenly – designate this new democratic form as populism and others have coined new labels like "audience"[5] or "leader"[6] democracy to give this form a name, I believe that its proper name is plebiscitarianism.[7] This shift towards plebiscitarianism brings about a collapse

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2 Bobbio, N., *The future of democracy: a defence of the rules of the game*. Cambridge, Polity Press 1987, p. 37.

3 In Pierre Rosanvallon's words: "The function of elections has been whittled down: elections are simply the process by which we designate those who govern. They no longer provide a priori legitimation for policies to be enacted later." Rosanvallon, P., *Democratic Legitimacy: Impartiality, Reflexivity, Proximity*. Princeton, Princeton University Press 2011, p. 4.

4 Weber, M., The Profession and Vocation of Politics. *Weber: Political Writings*. Eds. P. Lassman – R. Speirs. New York, Cambridge University Press 1994, p. 385.

5 Manin, B., *The Principles of Representative Government*. New York, Cambridge University Press 1997.

6 Körösenyi, A., Political Representation in Leader Democracy. *Government and Opposition*, 40, 2005, No. 3, pp. 358–378.

7 The concept of plebiscitarianism has its origin in Roman *plebiscitum,* meaning yes/no decisions on proposals presented to Roman plebs to approval by tribunes of the plebs. Lately, plebiscitarianism became synonymous with formal popular approval of decisions that were already done by political elites or leaders. As Nadia Urbinati explains, "(t)he meaning of plebiscitary consensus is popular *pronunciation* more than popular *decision*." Urbinati, N., *Democracy Disfigured: Opinion, Truth, and the People*. Cambridge, Mass., Harvard University Press 2014, p. 176 (italics by Urbinati). Theory of plebiscitarian democracy was first formulated in works of Max

not only of our traditional understanding of democratic legitimacy, representation, responsiveness and accountability, but also of our understanding of democratic citizenship based on ideals of active participation and deliberation.

However, this situation of a collapse of our traditional democratic imaginary and of fecklessness of traditional forms of democratic participation[8] also opens a possibility of emergence of new forms of democratic involvement and participation that traditional democratic theory finds difficult to adopt.[9] In other words, our predicament demands that we reconsider the foundations of democratic theory and invent new forms of democratic practices beyond voting, participation and deliberation. This broadening of democratic theory's scope entails (among others) an inclusion of "democracy's ordinary", i.e. some of the everyday practices that democratic theorists tend to ignore because they do not consider them political practices at all.[10] One of these generally overlooked or ignored citizens' practices, spectatorship, has recently attracted attention of several democratic theorists.[11] In this paper, I will be concerned with Jeffrey Green's book, *The Eyes of the People: Democracy in an Age of Spectatorship*, that seems to be the most ambitious work in the field as it attempts to completely re-build democratic theory around a citizen-spectator.

Green's work is undoubtedly a very original and thoughtful piece of political theory that deserves the attention of political theorists (and theorists of democracy in particular) both for its criticism of unsubstantiated preference of speech over other democratic experiences (i.e. logocentrism in Derri-

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Weber and Carl Schmitt. For a recent revival of interest in plebiscitarianism see Green, J. E., *The Eyes of the People: Democracy in an Age of Spectatorship*. New York, Oxford University Press 2010; Posner, E. A. – Vermeule, A., *The Executive Unbound: After the Madisonian Republic*. New York, Oxford University Press 2010. It should be noted that plebiscitarian theory of democracy that has recently resurrected from oblivion is still rather a "nascent theory". See Green, J. E., *The Eyes of the People*, op. cit., p. 120.

8   Krastev, I., *Democracy Disrupted: The Politics of Global Protest*. New York, University of Pennsylvania Press 2014.

9   Warren, M. E. , What Can Democratic Participation Mean Today? *Political Theory*, 30, 2002, No. 5, pp. 677–701.

10 This approach would involve not only different sensory aspects of democratic experience but also phenomena such as apathy or extrapoliticism. For the concept of sensory democracy, see Dobson, A., *Listening for Democracy: Recognition, Representation, Reconciliation*. Oxford, Oxford University Press 2014; for apathy and extrapoliticism, see respectively Green, J. E., Apathy: the Democratic Disease. *Philosophy*, 30, 2004, No. 5–6, pp. 745–768; and Green, J. E., *The Shadow of Unfairness: a Plebeian Theory of Liberal Democracy*. New York, Oxford University Press 2016, pp. 130–164.

11 See e.g. Manin, B., *The Principles of Representative Government*, op. cit.; Rosanvallon, P., *Counter-Democracy: Politics in an Age of Distrust*. New York, Cambridge University Press 2008; Fitzgerald, S., *Spectators in the Field of Politics*. New York, NY, Palgrave Macmillan 2015.

da's parlance) that haunts most of democratic theory, and for the attention it pays to ordinary democratic life as experienced by most of the citizens in mass liberal democracies (that is to say rather to "citizens-being-ruled" than to "citizens-governors"). The logocentrism of democratic theory and its concomitant neglect of the ordinary is – as I believe – premised upon the problematic equation of democracy and participation (broadly conceived) and I also believe that this equation depletes our understanding of democracy and democratic practices. Therefore, I understand the widening of our view of ordinary democratic practises beyond voting, participation and deliberation as the main achievement of Green's work. However, Green's work also has several drawbacks and the main task of this paper is to shed light upon them. My main concerns relate to Green's refusal of representative democracy and the connection he established between spectatorship and plebiscitarianism. While Green believes that representative democracy is a pedigree of an outmoded and unrealistic vocal model of democracy that should be supplanted with ocular plebiscitarian democracy based on citizens-spectators, I claim – contra Green – that spectatorship is, together with speech, an indispensable feature of representative democracy and that proper attention to spectatorship is destined to strengthen rather than weaken representative democracy. In other words, while Green claims that recognizing spectatorship as a prominent democratic practice will lead us beyond representative democracy, I see a proper form of spectatorship as its necessary component.

To disentangle the connection between spectatorship and plebiscitarianism established by Green, I will pay attention to the key presuppositions of Green's argument: Firstly, I intend to criticize Green's assertion of a non-representative character of contemporary democracies and to claim that Green works with an impoverished notion of representation, and that had he taken into consideration some of the insights provided by theoreticians of the representative turn (mainly the role of judgment and the constructivist aspect of representation), he would have had to come to a different conclusion. And secondly, that Green works with a problematic notion of spectatorship that presupposes inherent passivity in the spectator. Building on a body of literature on spectatorship, I intend to show that spectatorship is far from passive. I believe that affirmation of this point enables us to assign a proper place to spectatorship in democratic theory and practice, one that sees sight and speech as two complementary powers of the democratic citizen.

The paper's structure and line of argumentation is, therefore, as follows. In the first part, I introduce the key aspects of Green's argument. In the second and third parts, I dispute Green's claim that contemporary democracies are essentially non-representative and his notion of spectatorship, and

in the last section, I refer to Wittgenstein's concepts of aspect perception and aspect change to suggest a different way of conceiving the relationship between vocal and ocular aspects of democracy.

Green's ocular democracy

Green's starting point is the belief that "democratic theorists … are not free to choose their protagonists, but must be guided in their selection by the nature of political experience available to everyday citizens".[12] And because the everyday experience in contemporary plebiscitarian democracies is rather one of citizen-spectator than citizen-governor, democratic theory should provide us with "non-ideal" theories, i.e. it should – instead of designing ideal democratic regimes – strive to deepen progressive elements in existing democracies. In other words, Green sets his task as democratization of plebiscitarianism. This allows him to come with the blasphemous statement that the main currents of democratic thought from ancient Athens to the present have provided us with an inadequate understanding of democracy. The nature of this failure, Green claims, can be found in the fact that democratic theorists have always preferred voice over sight, that we have understood the workings of democracy almost exclusively from the perspective of a talking subject. Green suggests that instead of insisting upon an inadequate traditional model of democracy based on speech and on the ideal of active participation, we should rather concentrate on the sensory aspects of democratic experience.[13]

Green's discussion of the role of sight and spectatorship in democracy is underpinned by his distinction between the vocal and the ocular models of democracy. Green claims that, should we change our perspective from understanding democracy based on the ideal of citizen-governor who actively participates in discussion, deliberation and decisionmaking, to the perspective of citizen-spectator who does not deliberate, does not decide and "only" watches politics, we would get two completely different models of democracy. While the first model (the vocal model) encapsulates a traditional understanding of democracy based on the idea of empowerment through citizens' voice and speech, the latter (the ocular model) connects empowerment with the power of gaze. These two models differ on three levels. The first level concerns the object of rule: while the vocal model sees as its main object laws "that are written, debated, and enacted",[14] the ocular

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12 Green, J. E., *The Eyes of the People*, op. cit., p. 48.
13 Green particularly accentuates sight but also mentions hearing. Ibid., p. 40.
14 Ibid., p. 8.

model concentrates on political leaders and their conduct. The second level refers to the organ of rule: the vocal model understands popular decision as an organ of rule, while the ocular model follows Foucault's analysis of panopticism[15] and emphasises the role of disciplinary gaze as a "hierarchical form of visualisation that inspects, observes, and achieves surveillance".[16] Third, the models differ in what they conceive as their critical ideal: while the vocal model is committed to the ideal of popular autonomy (that is to the people being in control of "the means of lawmaking"), the ocular model is premised on the ideal of candour that gives the people negative control of the decision-making made by political elites by bestowing upon the people "control of the means of publicity".[17]

Green claims that the shift of our perspective from talking to vision has several important advantages. Firstly, it provides us with a realistic and descriptively accurate understanding of modern democracy because in contemporary liberal-democratic societies, citizens are rather spectators of the actions of political leaders than autonomous decision makers. It also makes us see contemporary democracies as non-representative, and invites us to think "outside the normative rubric of representation" because the ocular model "does not depend on citizens having pre-existing preferences, interests, or opinions…, it does not depend on citizens deciding at all".[18]

In this respect, Green's theory of democracy resembles Schumpeter's "another theory of democracy" because of its elitism and a conviction that political will is not forged by ordinary citizens but by political leaders. However, Green believes that his ocular model, in comparison to Schumpeterianism, introduces several democratic (i.e. egalitarian) elements: Firstly, people's sight is a form of democratic empowerment that is more inclusive than speech as the capacity to watch is distributed more evenly than the capacity and ability to voice one's views and make oneself heard. Secondly, the ocular model – even though it presupposes that people do not contribute to lawmaking – can provide a certain progressive or egalitarian twist by placing the burden of "candour" on disproportionately powerful elites. By candour, Green means an "institutional requirement that leaders not be in control of the conditions of their publicity", and not a norm of personal sincerity.[19] In other words, citizens-spectators are endowed with a quasi-Foucauldian power of gaze that enables them to inspect and survey the actions of political leaders and this can take place particularly in situa-

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15 Foucault, M., *Discipline and Punish: the Birth of the Prison*. London, Penguin Books 1991.
16 Green, J. E., *The Eyes of the People*, op. cit., p. 9.
17 Ibid., p. 14.
18 Ibid., p. 17.
19 Ibid., p. 13.

tions when leaders' "public appearances are neither rehearsed, preplanned, nor managed from above, but rather contain all the risk and uncertainty of spontaneous public events".[20] Hence, in Green's ocular model, the main site of democracy has shifted from legislative and deliberative assemblies to situations where political leaders are subjected to momentary involuntary candid appearance that is observed, judged and evaluated by ordinary people. Among the possible sites of such candid appearances, Green lists a whole set of events ranging from cross-examination of political leaders during public debates, press conferences, public investigations and trials to heckling.[21]

The emphasis on the role of candour also highlights "eventfulness", i.e. an egalitarian aesthetic value of ocular democracy. Green claims that candour allows us to differentiate between pseudo-events and candid events. While pseudo-events are predictable, unspontaneous, acclamatory and aimed at manipulation of the observer, candid events are political happenings that are spontaneous, unpredictable, and potentially critical and therefore able to reveal to spectators something previously unknown – and this is what makes candid events "worthy of being watched".[22] However, eventfulness should not be understood only as something that allows us to differentiate between pseudo-events and genuine events, but also as an intrinsic political value that "links democracy to the cultivation and institutionalization of spontaneity".[23] Green refers to Hannah Arendt who – as he claims – not only defined political space as a space of appearance but also "celebrated political life for its capacity to break free from the automatic and repetitive processes of nature, to generate new and historical events". From this point of view, eventfulness becomes a crucial political value that should "be enjoyed, not simply by the political actors who perform the event, but even more by spectators who behold it". As Green insists, the demand for greater eventfulness in politics has "*democratic* aspiration precisely because it seeks a political life that will satisfy not only the few who enjoy the fame and responsibility of self-disclosure on the public stage but the many who routinely watch such figures as they appear".[24]

And finally, by focusing on the role of citizens-spectators of political events rather than citizens-governors, the ocular model allows us to restore the People (capitalized throughout the book) as a meaningful concept

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20 Ibid., p. 14.

21 Ibid., pp. 178–200; see also Green, J. E., Analysing Legislative Performance: A Plebeian Perspective. *Democratization*, 20, 2013, pp. 417–437.

22 Green, J. E., *The Eyes of the People*, op. cit., p. 20.

23 Ibid., 21.

24 Ibid. (italics by Green).

of democratic theory. Green is right when he claims that recent (and not-so-recent) democratic theory has dealt with the concept at least with suspicion, suggesting that it is an unrealistic and potentially dangerous philosophical abstraction that belongs either to the pre-modern notion of democracy or to the world of populism and totalitarianism. However, Green suggests that the ocular model enables us to see the People not as a homogeneous political actor with a single will but rather as a collective spectator. Green believes that defining "the People in its collective capacity as a mass spectator of political elites" avoids totalitarian danger for two reasons: firstly, the People as the mass spectator do not have to share the same identity or collective will but only a collective interest that consists merely in the fact that citizens-spectators want to watch a political spectacle that is worthy of being watched; and secondly, the People as a mass spectator is passive, it does not act, and therefore, it cannot be a source of gravitation towards totalitarianism.

The paradox of the spectator

Green's position has been met with many objections. Its critics suggested that Green had resigned *vis-à-vis* liberal-democratic malaises, and that the defensiveness of his position betrays some key democratic values like autonomy, celebrating passivity instead. Some objected Green's elitism, others focused on his allegedly naïve belief in the ability of mass media to provide moments of "candour" and, finally, some claimed that the state of permanent distrust towards politicians, which is the necessary corollary of permanent surveillance, would stall the process of decisionmaking.[25] I subscribe to most of this criticism. However, there is an element that seems to be shared by Green, some of his critics and democratic theory more generally. This element could be expressed in terms of Rancière's paradox of the spectator. What is the nature of the paradox?

"(T)here is no theatre without a spectator… But according to the accusers, being a spectator is a bad thing for two reasons. First, viewing is the opposite of knowing: the spectator is held before an appearance in a state of ignorance… Second, it is the opposite of acting: the spectator remains immo-

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25 See respectively Dobson, A., *Listening for Democracy*, op. cit., p. 18–35; Urbinati, N., *Democracy Disfigured*, op. cit. pp. 200–207; Fitzgerald, S., Is There a Role for Spectators in Democratic Politics? A Reflection on the Theater Metaphor in Green's "Ocular Democracy". *Constellations*, 22, 2015, No. 2, pp. 302–313; Avramenko, R. – Schwartzberg, M., Symposium. *Political Theory*, 42, 2014, No. 2, pp. 188–217.

bile in her seat, passive. To be a spectator is to be separated from both the capacity to know and the power to act."[26]

Hence, the paradox of the spectator is based on a presupposition of an insuperable inferiority of a spectator *vis-à-vis* an actor, of subordination of (political) auditorium to (political) stage. A spectator is always secondary, less powerful, and passive in comparison to a (political) drama that takes place on the stage. As I have already mentioned, I believe that this hierarchical topography and hierarchical network of presuppositions – or "distribution of the sensible" in Rancièrian terms – is shared by Green, some of his critics, and by democratic theorists in general. However, while for Green the spectator's passivity leads to a rather defensive posture and affirmation of plebiscitarianism, many democratic theorists attempt to overcome the paradox by turning the spectator into an actor, by tearing down the metaphorical "wall" separating auditorium and stage, or at least by showing that the wall is more permeable than we usually think.

Even though this latter approach is commendable, I believe that by acknowledging it we miss an important aspect of democratic experience that Green highlights, i.e. that of "citizens-being-ruled" that is connected to spectatorship in modern democracies. In other words, taking into consideration that even the most active citizens turn into spectators just after casting their ballot or coming home from a deliberative assembly, democratic theorists should take spectatorship seriously — not only as an aberration to be cured by turning spectators into actors (participatory and/or deliberative democracy) or as an impoverished last vestige of ocular plebiscitarian democracy whose main virtue is that it is still better than nothing (Green). Hence, we desperately need a more pronounced theory of spectatorship and a more pronounced understanding of the role of spectatorship in democracy. To tackle this task, I will re-read some key aspects of Green's argument, focusing mainly on his treatment of representation and spectatorship and on the connection between vocal and ocular models of democracy.

Is there a non-representative democracy?

Green's vindication of plebiscitarianism and his call for an ocular model of democracy are underpinned by his criticism of the vocal model that comprises both direct and representative democracy. It should therefore be emphasized that the aim of Green's discussion of representation and repre-

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26 Rancière, J., *The Emancipated Spectator*. London, Verso 2011, p. 2.

sentative democracy is not the "uneasy alliance"[27] between representation and democracy but a refusal of the ideal of self-legislation in democratic theory that can be pronounced both via direct and representative democracy.[28] In other words, an ocular model of democracy can do not only without citizens directly participating in the lawmaking, it can also do without citizens being represented, because the task of citizens-spectators consists merely in surveying the actions of political elites. Hence, a crucial part of Green's argument consists in his claim that contemporary mass democracies are by their nature non-representative and that this makes ocular democracy the only democratic model suitable for contemporary societies. In this section I argue – against Green – that his claim that contemporary democracies are non-representative is unsubstantiated and works with a rather impoverished notion of representation. I also believe that acknowledging the representative nature of our democracies invites us to rethink the place of spectatorship inside the normative rubric of representation.

Unfortunately, Green does not provide an unambiguous definition of representative democracy to support his thesis that representative democracy is not only contradictory per se but also hopelessly unrealistic. However, his understandings of these two concepts could be reconstructed from several instances where he talks about representation and representative democracy. Green, for example, claims that "representation transmits the preferences of the electorate" and that representative democracy should be seen "as a regime in which government … carries out the aims, policies, and interests of the electorate through the central vehicle of periodic elections for leadership".[29] This suggests that Green's view of representation is similar to the traditional model that Jane Mansbridge calls "promissory representation". The promissory representation model presupposes that citizens' interests provide the main input for the democratic process and that elections are the crucial instrument that makes representatives responsive and accountable to their constituency.[30] However, Green claims that this model is unrealistic for two reasons: firstly, because citizens do not possess any coherent or stable interest and, secondly, because electoral process is curbed and unable to provide responsive government. While Green's discussion of electoral

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27 Pitkin, H. F., Representation and Democracy: Uneasy Alliance. *Scandinavian Political Studies*, 27, 2004, No. 3, pp. 335–342.

28 Green, J. E., *The Eyes of the People*, op. cit., p. 19.

29 Ibid., p. 44 and 18.

30 "Promissory representation … comes closer than any other model to an ideal in which the simple imprint of the voter's will is transmitted through institutions to an equal exertion of power on the final policy." Mansbridge, J., Rethinking Representation. *American Political Science Review,* 97, 2003, No. 4, p. 516.

process builds especially on Bernard Manin's notion of electoral aristoc-racy, in discussing citizens' ability to possess and articulate coherent inter-ests that could become a basis for governmental decisions, Green builds on a body of empirical literature that emphasises citizens' "nonattitudes" and "ambivalence" on many policy issues.[31]

It may seem that acknowledging the fact that citizens do not have "underlying preferences that are stable and thus capable of representation" together with recognizing the impossibility of transmission of these fluid preferences via electoral mechanism makes representation and representa-tive democracy inconceivable. However, this inference seems less plausible if we leave the terrain of promissory representation. In other words, the recognition of the impossibility and non-factualness of promissory repre-sentation does not necessarily mean that we should renounce the very possi-bility of (democratic) representation. Firstly, it has been acknowledged many times that citizens' preferences are not as fluid and unstable or non-existent as Green believes and that the relatively low level of responsive-ness of democratic governments is not caused by citizens' "nonattitudes" on many policy issues but rather by the fact that governments tend to be more responsive towards the preferences of economic elites and business interest groups than toward those of the average citizen and mass interest groups.[32] Secondly, by persisting on the promissory notion of representation, Green disregards some of the most important stimuli that the representa-tive turn brings to democratic theory, mainly its emphasis on the construc-tivist aspect of representation and the role of judgement and/or opinion. As different proponents of the constructivist approach have shown, democratic representation should not be considered simply as a transmission of voters' pre-existing interests and will but rather as a dynamic process that consti-tutes both the represented and the representative. As Monica Brito-Vieira and David Runciman eloquently claimed: "Interests do not need to consti-tute an objective category, established prior to representation. Indeed, they hardly ever do. They are rather established within the process of representa-tion itself."[33] It also seems that Green's notion of representation emphasises elections as its main venue and undervalues citizens' ability to influence decisionmaking in between elections. In Nadia Urbinati's parlance, while Green recognizes the diarchic nature of modern representative democracy

31 Green, J. E., *The Eyes of the People*, op. cit., pp. 45–47.

32 See e.g. Manza, J. – Cook, F. L., A Democratic Polity? Three Views of Policy Responsiveness to Public Opinion in the United States. *American Politics Research*, 30, 2002, No. 2, pp. 630–667; Gilens, M. – Page, B. I., Testing Theories of American Politics: Elites, Interest Groups, and Aver-age Citizens. *Perspectives on Politics*, 12, 2014, No. 3, pp. 564–581.

33 Brito-Vieira, M. – Runciman, D., *Representation*. Cambridge, UK, Polity 2008, p. 101.

that consists in the fact that "will" (decisions taken in representative institutions of the modern state whose origin should be found in popular vote) and "opinion" (a citizen's exercise of judgement that influences decision-makers also in between elections) "are the two powers of the democratic sovereign, and that they are different and should remain distinct, although in need of constant communication",[34] he also reduces opinion only to its aesthetic function and therefore debilitates its potential to influence the decision-making process.[35] To sum up the previous argument, it seems to me that Green's claim that contemporary democracies are non-representative is unsubstantiated because it is based on a very problematic notion of representation and representative democracy. This way of rethinking the meaning and role of representation will allow us to place spectatorship inside the rubric of representative democracy, which will be the task of the next section.

Towards a Theory of Democratic Spectatorship

The refusal of Green's argument about the non-representative nature of contemporary democracies accentuates the need to understand the relation between democratic spectatorship and representative democracy, the need to include democratic spectatorship as a part and parcel of citizens' ordinary experience in representative democracy. However, as we have seen, democratic theorists are rather suspicious of spectatorship because of its alleged passivity, and Green's subordination of spectatorship under the rubric of plebiscitarianism is destined to strengthen their concerns. Therefore, in this section, I intend both to "deconstruct" the passive-spectator/active-actor dichotomy and to outline some of the components of democratic spectatorship. What I offer are preliminary notes on the subject matter of democratic spectatorship and not a full-fledged theory of democratic spectatorship, one that – as I believe – still awaits its formulation.

Let me start with the question of spectator's passivity. To tackle the task, I will begin with a short quotation from Hannah Arendt's *Lectures on Kant's Political Philosophy*:

"We … are inclined to think that in order to judge a spectacle you must first have the spectacle – that the spectator is secondary to the actor; we

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34 Urbinati, N., *Democracy Disfigured*, op. cit., p. 22.
35 According to Urbinati, "opinion" has three different functions – cognitive, political and aesthetical. Plebiscitarianism reduces opinion to its aesthetic function, i.e. it transforms "the role of opinion in an aesthetic spectacle performed by leaders to which citizens passively attend". See ibid., p. 80.

tend to forget that no one in his right mind would ever put on a spectacle without being sure of having spectators to watch it."[36]

We usually think that the spectator is secondary to the drama or spectacle which takes place on the stage. In sum, we usually cling to the paradox of the spectator. However, Arendt invites us to reconsider this element, because no one "would ever put on a spectacle without being sure of having spectators." If so, is it still possible to consider spectators and spectatorship as subordinated or secondary to a (political) spectacle? Or, in other words, should we not think of a spectator, in some sense, prior to a spectacle? And if not its sole originator, then should we not think of her, at least, as the co-originator of the spectacle performed? Once we accept this position, it becomes clear that the meaning, course and fortune of that very performance depend – at least partially – on its spectators. This necessary "participation" of spectators on what is being seen has been emphasized by many different disciplines including art and theatre theory, visual culture studies and neuroscience, to name just a few.[37] For example, prominent art critic John Berger states in his probably most famous work, *Ways of Seeing*:

"(S)eeing … comes before words, and can never be quite covered by them… We only see what we look at. To look is an act of choice. As a result of this act, what we see is brought within our reach… We never look at just one thing; we are always looking at the relation between things and ourselves. Our vision is continually active, continually moving, continually holding things in a circle around itself, constituting what is present to us as we are."[38]

In other words, sight and thus also spectatorship are far from being passive. A spectator is always active: by using sight she forms the world around her and her place in it, she selects, interprets, and compares what she sees. She also links what she sees to what she has seen before etc. This form of spectatorship is different both from Green's passive spectators, waiting in the darkness of an auditorium for a politician's slip, and from attempts to transform spectators into actors. In other words, what we get is spectatorship as an activity of its own.

Taking this into consideration, we can overcome the passive-spectator/active-actor dichotomy that is underpinned by Green's understanding of sight and hearing as "the passive organs of sense".[39] To claim that seeing

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36 Arendt, H., *Lectures on Kant's Political Philosophy.* Chicago, University of Chicago Press 1982, pp. 61–62.

37 Mirzoeff, N., *How to See the World.* London, Pelican 2014; Bishop, C., *Artificial Hells: Participatory art and the Politics of Spectatorship.* New York, Verso 2012; Berger, J., *Ways of Seeing.* London, Penguin 2008.

38 Berger, J., *Ways of Seeing*, op. cit., pp. 8–9.

39 Green, J. E., *The Eyes of the People*, op. cit., p. 40.

and spectating are activities of their own and that they are also a necessary component of the very spectacle performed allows us to "deconstruct" the passivity/activity dichotomy by showing that what Green sees as passive is – at least – contaminated with an activity. In other words, instead of thinking in terms of insuperable dichotomy, we shall see political spectatorship and participation as two different forms of political activity. It also seems to me that a confirmation of spectatorship as a form of activity can surprisingly (or paradoxically) be found in Green's own writings, where Green – while persistently declaring the passivity of the spectator – acknowledges the necessary activism of spectating because his ocular model – even though he never makes this distinction – presupposes two forms of spectators: *passive* spectators waiting in the darkness of an auditorium and *active* spectators[40] (journalists, hecklers, late night show hosts etc.) who by their conduct turn pseudo-events into candid ones and thus make these events worthy of being watched.

I believe that what prevents Green from seeing spectatorship as a specific form of activity and from developing a more pronounced theory of democratic spectatorship is the fact that his notion of synopticist spectatorship[41] is based on Foucault's and Bentham's account of panopticism.[42] I suggest that the limits of Foucault's and Bentham's approach for democratic theory consist mainly in the fact that they both pay attention to the workings of disciplinary gaze on those who are being watched and they pay almost no attention to those who are watching. This, I believe, makes Bentham's and Foucault's understanding of spectatorship inapt for democratic theory.[43]

Hence, I believe that proper attention to democratic spectatorship that would take us beyond the logic of panopticism is needed. Therefore, in

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40 In Green's parlance, these active spectators can only be spectators because they are not citizen-governors, because they do not make political decisions.

41 The main difference between synopticism and panopticism concerns the numbers of those who are watching and those who are being watched. While panopticism means that few watches many, the synopticism of modern media enables "*the many to see and contemplate the few*". This difference, however, is not supposed to change the nature of the gaze as a peculiar form of disciplinary power. Hence, synopticism and panopticism should not be seen as opposites but rather as two complementary forms of disciplinary mechanism. See Mathiesen, T., The Viewer Society: Michel Foucault's "Panopticon" Revisited. *Theoretical Criminology*, 1, 1997, No. 2, p. 219 (italics by Mathiesen).

42 See Bentham, J., *The Panopticon Writings*. London, Verso 2010; Foucault, M., *Discipline and Punish*, op. cit.

43 It seems that Bentham's panopticon would function better if there were no guards, no watchmen, because their presence always contains the risk of being acknowledged by inmates, and so, it would become possible for them to also recognize moments when guards are not present and inmates are not being watched.

the following, I will suggest what I believe should be some of the features of democratic spectatorship. I also believe that to overcome the paradigm of panopticism, we need to look more closely at the activity of spectating and the nature of political spectacle.[44] As should be clear by now, Green builds on a long tradition of political thought: that because politics is a public activity that takes place before someone's eyes defines political space as an optical one, as a space of visibility, appearance, spectacle, and therefore performance.[45] Hence, some form of theatricality is a necessary dimension of politics and political activity. However, what is the nature of theatricality? Mitsuya Mori suggests that the structure of any theatrical performance ("Actor plays character for Audience") comprises two levels: (a) the physical level and (b) the fictional level. While the physical level (a) entails that a concrete person plays a concrete role, which means she makes certain moves, gestures, utters certain words, and she does so in front of other people (spectators), the fictional level (b) entails an actor who represents a character and does so in front of an audience. This level is fictional because a character is constructed by the actor's acting but it exists only thanks to the audience's imagination. (An actor representing Hamlet is not the real Hamlet, he can be a Hamlet only thanks to the imagination of his spectators.) Hence, politicians should also be seen as playing their roles (they are concrete persons uttering speeches, doing certain moves), but they are also acting. It means they become characters politically acting in front of the many. (When politically acting, i.e. acting in front of the public, a politician does not stand merely for her own person, she always stands for something else, she is always a character; i.e. she is not speaking only as a particular person but she is speaking as a character: as a prime minister, leader of opposition, presidential candidate, protester etc.) According to Mori, then, "theatricality emerges when the (a) breaks into, and yet, does not destroy, the (b), that is, the (a) and the (b) are combined in the stylized performance, which actually stands on the edge of fictionality".[46] The existence of the fictional level of spectacle is possible only because it is represented by the physical level, but this representation is never perfect: the physical and the fictional never merge, the physical is never absorbed by the fictional and vice versa,

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44 My task is not to criticise Foucault's rendering of the disciplinary power of gaze and panopticism. I am rather concerned with the limits of the panopticist paradigm for democratic theory.

45 Green's main reference here is the work of Hannah Arendt, but it should be emphasized that the notion of political space as an optical space dates at least to Machiavelli's teaching of "double perspective". Green acknowledges the influence of both of these thinkers on his work.

46 Mori, M., The Structure of Theater: A Japanese View of Theatricality. *SubStance*, 31, 2002, No. 2, p. 89. See also Fitzgerald, S., *Spectators in the Field of Politics*, op. cit., pp. 76–80.

the physical always announces itself in the fictional and dislocates it. In other words, the performance is always destined to fail.[47]

This impossibility of merging of the fictional and the physical part of spectacle allows us to specify both the nature of democratic spectatorship and its relation towards representative democracy. As far as democratic spectatorship is concerned, (citizens-) spectators are required to acknowledge both levels, including the impossibility of their merging, and to understand this failure of representation as a necessary precondition of the political spectacle. In other words, citizens-spectators should exhibit "willing suspension of disbelief",[48] citizens-spectators are required to approach a spectacle and actors with generosity that has its origin in citizens/spectators' confidence that the performance will succeed. However, Green's notion of political spectatorship seems to be the antithesis of this approach. Green believes that the purpose of political spectatorship is to make sure that an intrusion of the physical into the fictional destroys the fictional. Proper spectatorship, as Green believes, is meant to disclose the fictional as mere dissimulation and so turn a pseudo-event into a candid event. This disclosing power of spectatorship can be demonstrated on Green's favourite example of ocular democratic practise, Shakespeare's *Coriolanus*: Coriolanus wooing support to be elected as consul is literally baited by tribunes and plebeians to reveal his secret hatred towards the plebs. While democracy needs some form of "intelligent distrust"[49] and suspicion towards members of the political class, democracy reduced to quasi-nondemocratic practices of distrust is impossible. Sandey Fitzgerald is undoubtedly right when she points out that Green's approach towards the (political) actor is "sadistic" and can bring only embarrassment and humiliation.[50] In other words, instead of democratic spectatorship, Green offers a theory of popular sadistic voyeurism. This confusion of democratic spectatorship and voyeurism is – as I believe – premised upon Green's persuasion of a non-representative character of contemporary democracies. Since citizens, as Green claims, cannot – because of their "non-attitudes" and "ambivalence" on policy issues – have any stable interest that could be represented, the only reason for watching the political spectacle that remains

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47 This also means that we can refute Green's dichotomy of pseudo-/candid events, because every political event is simultaneously both candid and pseudo-event. From this point of view, it becomes more important to keep certain dialectics between these two sides of the political event than to disclose it as a pseudo-event.

48 Fitzgerald, S., Is There a Role for Spectators in Democratic Politics?, op. cit., p. 308.

49 Hook, S., Democracy as a Way of Life. *The Southern Review*, 1938, No. 4, p. 51.

50 Fitzgerald, S., Is There a Role for Spectators in Democratic Politics?, op. cit., p. 309; see also Dobson, A., *Listening for Democracy*, op. cit., p. 27.

is – as Greens makes clear– malignity, the malicious joy of someone else's failure.[51]

This brings us back to the question of the relation between spectatorship and representative democracy. Perhaps surprisingly, many important aspects of theatricality and democratic spectatorship conform to democratic representation. As I have already mentioned, democratic spectatorship presupposes a dialectic relationship between the physical and the fictional aspects of performance, i.e. that the physical always breaks into the fictional without destroying it, and it is this dialectic that allows us to realize that an actor "represents" her character without being consubstantial with it. In the case of democratic political spectacle, a political actor is always a political character, which means that she "represents" and holds power, however, this representation is always undermined; a political actor is never consubstantial with the political power she represents. In Claude Lefort's parlance: in democracy, political actors are "mere mortals, who hold political authority" only temporarily; they are always prevented from "incorporating [power] into themselves", so that "(t)he locus of power becomes *an empty place*".[52] This coincidence between spectatorship and representation is premised upon a distance between spectator and actor, one that is the ontological condition of both representation and spectatorship: seeing is, as Jean-Luc Nancy claims, a "deferred touch"[53] and identity of the representative with the represented makes representation unthinkable.[54] However, this distance, while insuperable, makes spectatorship and representation both possible and impossible. When the distance is too large, we can doubt both whether the representative can *sympathize* with her constituencies and therefore act "in the interest of the represented, in a manner responsive to them"[55] and whether the represented can exhibit "willing suspension of disbelief", i.e. whether spectators can *sympathize* with the representative as a necessary precondition of any performance. And, on the contrary, when the distance is too small, the spectator can only uncritically *empathize* with the character, the represented can only uncritically endorse the representative. I believe that while the malady of populism could be described as

51 In his later work, Green goes as far as to defend a kind of Machiavellianism for the people based on a "principled vulgarity" of the plebs. See Green, J., *The Shadow of Unfairness*, op. cit., pp. 101–129.

52 Lefort, C., *Democracy and Political Theory*. Cambridge, Polity Press 1988, p. 17 (italics by Lefort).

53 Nancy, J.-L., *Noli Me Tangere: On the Raising of the Body*. New York, Fordham University Press 2008, p. 49.

54 While direct democracy presupposes identity of governors and the governed, representative democracy is based on insuperability of the distance between them.

55 Pitkin, H., *The Concept of Representation*. Berkeley, University of California Press 1972, p. 209.

the latter disfiguration of distance, Green's ocular plebiscitarianism is an example of the former.

Finally, we can sum up some features of democratic spectatorship: firstly, democratic spectatorship is far from being passive, and acknowledging this fact invites us to think of spectatorship not in terms of the passive/active dichotomy but in terms of different forms of democratic activities and practices. Secondly, democratic spectatorship is different from quasi-Foucauldian panopticism, and therefore, it cannot be reduced to a disciplinary gaze that inspects, observes and achieves surveillance. Thirdly, on the contrary, democratic spectatorship demands that spectators and actors share common interest in the spectacle, which means that spectators must exhibit some confidence in the fictional aspect of the performance. And finally, spectatorship demands proper distance between spectators and actors that allows interplay between trust and distrust and therefore approximates democratic spectatorship and representation.

Spectatorship and aspect change

After this brief delimitation of democratic spectatorship, let me finally turn to the question of the place of spectatorship in democratic theory and mainly to the question of the incommensurability of ocular and vocal aspects of democratic experience that as I believe is shared by democratic theoreticians in general. I will again use Green's approach as a convenient starting point. As I have already mentioned, Green's discussion of spectatorship is underpinned by his distinction between the vocal and ocular models of democracy. However, the distinction between these two models in Green's thought also corresponds to the active/passive opposition that is contained in the paradox of the spectator. The vocal model sees citizens as active participants in political decisionmaking, while the ocular model attributes to citizens the passive role of spectators "gazing" at the drama performed by political elites. Hence, from this point of view, the "deconstructive" reading of the dichotomy of passive spectator/active actor suggested in the previous section must necessarily reformulate the relation between the vocal and the ocular models.

However, as I have already suggested, Green – as I believe - unintentionally acknowledges the activism of spectatorship when his model presupposes the existence of active spectators who turn pseudo-events into candid events. So, let me follow Green's argument more closely. On one hand, he suggests that the ocular and the vocal model are somewhat contradictory and that the ocular model should supplant, substitute or at least be privileged over the outdated and utopian vocal model. On the other hand, Green

emphasises on several occasions that these two models do not have to be always contradictory and that they may sometimes even overlap. So, it seems that the relation between them is far from clear. To confuse us even more, Green claims that both models have their origins in some *extravocal* and *extraocular* sources such as elections. Considering the ocular model, it is in fact the fear of losing an election, claims Green, what compels leaders to appear on the public stage and expose themselves to observation and surveillance. And as far as the vocal model is concerned, Green claims that it is not the intrinsic power of speaking but the *silent* electoral institutions and coercive force of the state that enforce popular will. So, Green claims that "(t) he choice between ocular and vocal methods of popular empowerment … is less a debate about the origins of popular power than a question about how the power should be applied".[56]

In his response to critics, who accused him of inconsistency on this point, Green explains that the difference between both models cannot be found at the level of the origin of popular power, but instead in the field of its manifestations. In fact, the distinction between the ocular and the vocal model seems to be rather a matter of two different perspectives on the same subject than one of existence of two different or separate entities. To support this interpretation, Green gives several examples of how democratic practices are read differently from an ocular and a vocal point of view:

"(A)n 'ocular democrat' … would support having leaders … compelled to provide public testimony about their conduct … – a practice which might seem unhelpful (because retrospective, non-legislative, and disruptive) from the perspective of the vocal model, but deeply satisfying (because providing an institutional source of candour) when considered in ocular terms."[57]

It should be clear by now that with Green's analysis we have moved onto a terrain that somehow resembles Wittgenstein's analysis of aspect perception and aspect change. As is well known, Wittgenstein's exposition of aspect perception in *Philosophical Investigations* refers to Jastrow's duck-rabbit optical illusion. The essence of this illusion consists in the fact that the picture has two different and incommensurable meanings or aspects. We can read the duck-rabbit either as a duck or as a rabbit. It is impossible to see both animals simultaneously.

An important feature of Wittgenstein's treatment of aspect perception is the element of "aspect dawning" when we realize that the picture we have seen so far under one aspect, say as a duck, has another aspect to it, a rabbit. There are two important elements of aspect dawning that must be empha-

56 Green, J. E., *The Eyes of the People*, op. cit., p. 12.
57 Green in Avramenko, R. – Schwartzberg, M., Symposium, op. cit., p. 22–23.

sized. First, the dawning of a new aspect does not presuppose any change in the picture, with no new information or parts added to the drawing. Aspect change is based on "drawing new connections" between parts of the picture. "When the aspect changes parts of the picture go together which before did not."[58] Hence, aspect dawning entails that a concrete democratic practice, say public testimony of political leaders, remains the same, yet we can see it and understand it in a new way, in our case either from a vocal or an ocular perspective.

Second and most important, when a new aspect has been noticed, it becomes impossible to reduce the drawing to the former or the new aspect. It becomes impossible to see only a duck or a rabbit. Even though we can see only one aspect at a time, we know about the presence of the second aspect. Once we understand a concrete democratic practice from both the vocal and the ocular perspective, it becomes impossible to reduce only to one of those perspectives. According to Wittgenstein, in this paradoxical situation of being faced with incommensurable aspects that we must nevertheless hold all, "new types of language, new language games come to existence".[59] In other words, this situation calls for new democratic practices. As should be clear by now, these new democratic language games or political grammars[60] should allow us to offer "challenge to contemporary equation of participation and democracy",[61] yet without renouncing either the former or the latter.

In lieu of a conclusion

Let me now briefly summarize my argument. As has been emphasized many times, contemporary societies have been witnessing many new challenges to their democracies. Innovative mass media technologies, the crisis of traditional forms of representation, the steady decline in party membership and the advent of an "audience" or "leadership" democracy are just several examples of this profound change. There are also new challenges to our traditional understanding of democracy that have given rise to many innovations in democratic theory. One of these rehabilitated innovations is concerned with the role of citizens as spectators, one that has been usually overlooked.

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58 Wittgenstein, L. *Philosophical investigations*. 3rd ed. Transl. G. E. M. Anscombe. Oxford, Blackwell 1984, p. 208e.

59 Ibid., § 23.

60 I use the term political grammar in the sense used by Aletta J. Norval, as a kind of horizon that provides limits to what is "sayable" and "doable". See Norval, A. J., *Aversive Democracy: Inheritance and Originality in the Democratic Tradition*. New York, Cambridge University Press 2007.

61 Bishop, C., *Artificial Hells*, op. cit., p. 40.

Green's book, *The Eyes of the People,* is among the most important exceptions to this trend.

However, I have claimed that Green's attempt to build democratic theory and practice around spectatorship has several important setbacks that make his approach seem less attractive; that the reason of this unattractiveness can be found in Green's persistence on the paradox of the spectator that presupposes a hierarchical division between political actors and spectators based on the activity/passivity dichotomy; that persistence of this paradox in other areas of democratic theory has lead democratic theorists to conceive of spectatorship as something at least suspicious, something that we should overcome by turning citizen-spectators into political actors; and that this approach prevents us from understanding and appreciating spectatorship as a specific and important democratic experience.

I have suggested, instead, that a "deconstructive" reading of the dichotomy of passive spectator/active actor can distract democrats from fear of spectatorship and open new possibilities to enriching our understanding of democratic theory and practice. To fulfil this task, I reformulated Green's understanding of the relation between the vocal and the ocular model by using Wittgenstein's concepts of aspect change and aspect perception. I also believe that this Wittgensteinian turn has revealed a key danger of "aspect blindness" (i.e. inability or unwillingness to accept the ambiguity of democratic practices as a starting point of democratic thought) that has been haunting the attempts to enrich our democratic grammars.

How to Escape from the Dead End of Post-Democracy?

Representation and Principle of Popular Sovereignty

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Abstract: Discussion around the concept of post-democracy in political science partially overlaps with a long-term narrative about the crisis of democracy. While there seems to be a general consensus on the concept of post-democracy, this notion is rather controversial. The current paper analyzes the treatment of the concept of post-democracy in the works of Jacques Rancière, Jürgen Habermas, Colin Crouch and others. The paper seeks to problematize temporal and spatial reductionism present in some conceptualisations of post-democracy, pointing to the contingency, temporality and contextuality of the forms of representative democracy as a possible way out of the melancholy nostalgia for a "golden age" of democracy and a way to seek a modus vivendi of democracy and representation in new conditions.

Keywords: post-democracy, representation, liberal democracy, democratic legitimacy, popular sovereignty

Many contemporary political scientists and analysts contend that current representative democracies are overlaid by a new phenomenon - post-democracy. Discourse on post-democracy presents one of the partial discourses which point out the crisis of democracy. In order to suggest a certain breakthrough spirit in the current events as they are unfolding, social scientists tend to use the prefix "post-". Terms such as postmodern, post-industrial, post-communist, and many others serve as cognitive shortcuts to express a turning point in the evolution of thought and political or economic development or to designate some new historical period. The prefix "post-" is not only an absolute negation or denial of previous period. It also indicates the continuation of a certain development, trends or some way of think-

ing.[1] Often, however, this rather vague statement summarises a whole set of phenomena that should be differentiated.

There is currently no homogeneous or compact theory regarding post-democracy, for when analysing democratic regimes we find ourselves in a space of large plurality and diversity of theoretical assumptions and approaches. The concept of post-democracy is filled with diverse content and apparently creates an impression of disorder. One could say that it has become a kind of buzzword. In scientific debates or among intellectuals, journalists and reporters, it is usually used as a simplified description of the current state of representative democracies.

The concept of post-democracy is most commonly associated with British sociologist Colin Crouch and his book *Post-Democracy* (2004). Crouch wrote about coping with post-democracy even before the publication of his book of the same title (*Coping with Post-Democracy* (2000). The term itself had been coined and introduced earlier, by French philosopher Jacques Rancière in his book *On the Shores of Politics (Aux Bords du politique*, 1990). He developed his conceptualization of post-democracy in the title *Disagreement: Politics and Philosophy (La mésentente: Politique et philosophie*, 1995). Political scientist Sheldon Wolin operates within a similar theoretical framework and conceptual understanding of post-democracy as Rancière, for the first time in his work *Tocqueville between Two Worlds: The Making of a Political and Theoretical Life* (2001). In the same year as the publication of the first edition of Crouch's Post-Democracy made its appearance, philosopher Richard Rorty published his essay entitled *Post-Democracy* (2004) in which he described the securitization of violence as a result of the adoption of controversial security measures in the fight against terrorism, while one of the undesirable side effect is an erosion of democratic architecture and socio-political institutions as they had been established after the bourgeois revolution in America, Europe and the Great Britain.

The concept of post-democracy serves to describe the various transformations of institutions and mechanisms of representative democracy as well as their workings, where emphasis is put on the fact that this trend is negative, presenting an undesirable departure from the form in which representative democracy established itself in the countries to the west of the Eastern bloc following World War II. This concept is rather descriptive and analytical in

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1   There is an example of post-modernism: according to some autohrs, it does not necessarily a total breakthrough, rejection of modernism. Many see postmodernism as a continuation or rather an extension or radicalization of modernism. Lyotard, J.-F., *The Postmodern Condition: A Report on Knowledge*. Manchester, Manchester University Press 1984.

nature, criticising the decline of current forms of representative democracy, than a normative one, as will be seen below.[2]

The emergence of the concept of post-democracy can be seen in the context of the ongoing evolution of regime oppositions. We can see that the first conflict that the republican tradition got involved in was the conflict with the monarchy: *"democracy and aristocracy have united in opposition to monarchy in the process of legitimization of the representative government"*.[3] Montesquieu, who shares a similar view, distinguishes among three forms of government: Republican, by which he understands aristocracy and democracy, monarchical, and despotic.[4] Although Montesquieu largely juxtaposes the republic and the rule of an individual, in principle he does not dismiss monarchy, for there, the ruling is based on fixed laws, which sets the difference between monarchy and despotism, where the rule of law is absent.[5] While over the 19th century, the main axis of political conflict was the contrast between democracy and autocracy, i.e., any establishment legitimizing the rule by a minority, whereby democracy acquired a new enemy alongside monarchy - aristocracy, during the 20th century this antithesis was reformulated into that of democracy versus dictatorship.[6]

After the fall of authoritarian regimes of real socialism, this development culminated in the so-called end of history, where a configuration of liberal representative democracy with market capitalism emerged as the winner.[7] Democracy now would face no external enemy in the form of a competitive regime. The effect would be that the need to dispute democracy gradually vanished. Removal of the contrast between formal democracy and true democracy would consist in overlaying real democracy with, and making it tantamount to, the fulfilment of the formal criteria of democratic process.[8]

2 Bayoumi, S., *Notes on Post-Democracy.* Paper presented at the Post-Democracy Workshop, Brown University 2015 [cit. 21. 03. 17]. Retrieved from https://www.academia.edu/17170185/On_the_Concept_of_Post-Democracy.

3 Znoj, M., Neorepublikanismus v polemice s liberalismem o demokracii [Neo-Republicanism in a Polemic about Democracy with Liberalism]. In: Bíba, J. – Znoj, M. – Vargovčíková, J., *Demokracie v postliberální konstelaci* [*Democracy in Post-Liberal Constellation*]. Praha, Karolinum 2015, p. 28.

4 Montesquieu, C. S. – Mavor, J., *The Spirit of Laws: Translated from the French of M. de Secondat, Baron de Montesquieu: In Two Volumes.* Edinburgh, Printed by A. Donaldson and J. Reid 1762, bk. 2, ch. 1.

5 Ibid., bk. 3, ch. 2.

6 Znoj, M., *Neo-Republicanism in a Polemic about Democracy with Liberalism*, op. cit., p. 28.

7 Fukuyama, F., *The End of History and the Last Man*. New York, Free Press 1992.

8 Rancière, J., *Disagreement: Politics and philosophy*. Minneapolis, University of Minnesota Press 1998, p. 96. We have in mind a phenomenon associated with various rankings and indices which serve to assess and place individual countries into diverse levels of democracy according to some formal criteria.

However, the thesis of end of history related to the theoretical debate on definitive paradigmatic victory of liberal democracy have not been confirmed.

Thus, there was a search for ways to restore the critique of democracy in an atmosphere of its proclaimed triumph, because the internal dynamics of development of representative democracies by no means proved that the historical development had stopped. It was therefore necessary to revise the conceptual framework for the critique of the regime in such a way that it could capture processes which, while not bringing about a change of the form of ruling or a change of the regime, yet are still rated as "alarming mutations".[9] Hence, the concept of post-democracy serves as a third way, which at the turn of the 21st century goes beyond the classical dichotomy of democracy - non democracy by a synthesis of historical oppositions persisting in the theories of democracy for the sake of a more precise and concise description of events and processes in contemporary representative democracies.[10] Post-democracy was born as an attempt to escape from the trap of the end of history. It suggests that the history of democracy continues into the next phase, and that its victory is not necessarily decisive.

This study presents three approaches to post-democracy by three authors: Jacques Rancière, Jürgen Habermas and Colin Crouch. Naturally, a disproportionately larger space is given to Colin Crouch since the term post-democracy is central for his reflections on democracy and he has attempted a truly precise and consistent conceptualization of this concept. The aim of this study is not only separately identify the various segments of post-democratic discourse and their differences but primarily trace out the common topics that occur in particular approaches. This text observes how particular authors display post-democracy actors, their behavior and how they act. The study refers to internal inconsistencies and reductionism hidden in different conceptualization post-democracy. At the same time I describe how the authors strive to revitalize the internal critique of democratic regime within the paradigm which proclaims the victory of liberal democracy. This

9   Urbinati, N., *Democracy Disfigured: Opinion, Truth, and the People*. Cambridge, Harvard University Press 2014, p. 2. For instance, the aforementioned political scientist Nadia Urbinati uses the analogy with body figure to explore some disfigurements of democracy in order to be able to capture changes in the "phenotype" of representative democracy, singles out "the power of will" (institutional component of democracy involving the right to vote and the procedures and institutions that regulate the making of authoritative decisions) and "the power of opinion" (extrainstitutional domain of political opinions). Within this second pillar of the diarchic system, which also includes representative democracy, it sets apart three disfigurations of democracy's body: epistemic and unpolitical twists of deliberation; and the menace of populism and of the plebiscite of the audience against representative democracy.

10 Ballangé, A., Post-Democracy: Principles and Ambiguities. *French Politics*, 15, 2017, No. 1, pp. 1–18. Retrieved from http://link.springer.com/article/10.1057/s41253-016-0024-3.

study observes how the conceptual framework of representative democracy critique is formulated in recent decades of social changes that have changed the world of politics. In conclusion, I am trying to generalize different theoretical levels of post-democracy and subsequently place this generalization in the relationship between democratic legitimacy and representation.

Over the recent years, the concept of post-democracy, or the adjective "post-democratic" has resounded frequently not only in academic circles. Does the term carry enough weight to successfully establish itself in political theory and public discourse in the long term? To what extent is it reasonable to extrapolate a complete replacement of the term as a more likely alternative than the semantic adaptation of the concept of democracy? And, finally, to what extent is the concept of post-democracy able to resurrect the debate on the crisis of democracy and bring it up to date? Does post-democracy represent a viable concept, able to provide a new impetus to the current discourse and to offer any new prospects?

I claim that although post-democracy provides a useful analytical framework and field for criticism of representative democracy, it does not allow us to abandon the usual perception of democratic legitimacy. It becomes especially difficult in the circumstances of the widening gap between the legitimacy of governors derived from elections and the legitimacy of their actions. It is more and more common that citizens call for accountability in the period between the elections if they feel that politician no longer represents their interests or seriously harms interests of citizens. Politicians in this situation often refer to the fact that they have won more votes in the polls than is the number of protestors in the streets demanding their resignation. In short, there is growing pressure on the view, according to which the legitimacy is a strictly procedural attribute and is undeniably linked to the election process and is embedded in the principle of multitude or majority. Despite the fact that post-democracy critique refers to these circumstances, it is not able to bring a satisfying answer. Therefore it is necessary to put forward a new articulation of democratic representation of citizens' judgment that would help to offset an ongoing imbalance in order to strengthen the legitimacy dimension of representative democracy in accordance with the principle of popular sovereignty. This imbalance is caused by the complexity of relationships in the process of making political decisions, including the presence of many different actors who are entering into this process and are trying to influence it, at the expense of voters participating in elections. To this purpose, it is necessary to broaden the notion of representation and render it more flexible.

Rancière's post-democracy: disappearance of politics

The topic of post-democracy is treated by Jacques Rancière in the context of his criticism of the end of politics, whose accompanying signs are decay of parliamentary representation and strengthening of political powers of actors without democratic legitimacy, in short, loss of interest in the system of representative democracy. He clearly defines what distinguishes democracy as a regime of disagreement from the consensus system in which erasure of democratic policies goes hand in hand with economic rationalization and expertisation of political institutions so as to achieve smooth and easy subordination of the state to the imperatives of global market and global capitalism.

Democracy as an establishment of politics as such is not always present, but exists only if there is a specific sphere of appearance of the people, of "part of those who have no part", specific political collectives disrupting the regime in which community appears as given and natural, where all are incorporated in advance.[11] Post-democracy is a

> "consensual practice of effacing the forms of democratic action. Post-democracy is the government practice and conceptual legitimization of a democracy after the *demos*. [...] It is, in a word, the disappearance of politics."[12]

In order to make the *demos* invisible, politics must be made invisible first and foremost, by means of "the pincers of economic necessity and juridical rule".[13] Democracy has thus abandoned its ambition to be presented as a power of the people, and remains reduced to a mere state of social relations, being identified with the rule of law, parliamentary regime, liberalism or the regime of public opinion.[14]

While Jacques Rancière does not strip the notion of post-democracy of its real historical context, his vision of democracy is rather different. Ranciere points to a widespread discourse according to which we are in a period of triumph of liberal democracy over its regime adversaries, of the tremor of the end of history, when democracy has proven itself as the most effective political form for achieving the objectives of the political community as well as economic objectives of wealth production and satisfactory material condi-

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11 Rancière, J., *Disagreement: Politics and philosophy*, op. cit., pp. 99–101.
12 Ibid., pp. 101–102.
13 Ibid., p. 110.
14 Ibid., pp. 96–101.

tions for all.[15] Hence, Rancière's post-democracy also presents an attempt at critique of democracy in this historic configuration: it suggests that history has not stopped and that it is necessary to reject a consensus stating that there is no part of people without part - in other words, there is and there should be no politics.[16]

However, for Rancière, the prefix post- is not associated with any particular historical stage and rather relates to a certain practice, a *modus operandi*.[17] Such definition of post-democracy is therefore not diachronic; "post-democracy is not a democracy in the post-modern era"[18], it does not start or last, but rather appears and disappears depending on the particular political practice. Thus, such understanding of post-democracy is different from Crouch's or Habermas's, who place it in a certain point in time from which it continues to exist. There is a parallel with other authors who likewise draft post-democracy as a certain political practice. Rancière associates post-democracy with democracy "not in a historical but in an ontological way"[19]: it is not only a subject of the current metamorphoses of representative democracy. For Rancière, the focus of interest is the point of inception of politics rather than the institutional framework or procedures of representative democracy. As he writes, no issue is political just on the grounds of power relations operating within it; neither elections, nor strikes or protests are political in nature, but they may become such, only on the condition that there is a confrontation between police logic and egalitarian logic.[20] In accordance with Rancière, post-democracy is present wherever there are any attempts to remove the public from the sphere of political deliberation and decision-making, regardless of the motives.[21] In some sense, post-democracy presents a tantalizing temptation to democracy.

15 Ibid., p. 95.
16 Ibid., p. 25.
17 Ballangé, A., *Post-Democracy: Principles and Ambiguities*, op. cit.
18 Rancière, J., *Disagreement: Politics and Philosophy*, op. cit., p. 101.
19 Ballangé, A., *Post-Democracy: Principles and Ambiguities*, op. cit.
20 Rancière, J., *Disagreement: Politics and Philosophy*, op. cit., p. 40. The logic of the police, Rancière's terminus technicus, is to distribute and legitimate places and roles in society, ways of doing, being and saying. It claims that in the given political order all of the community parts have been (ac)counted (for) and that each has been assigned its proper place and prevents from the appearance of part of those who have no part that is the basic presumption of the presence of politics.
21 Kursar, T., *In a Post-Democracy Trap.* Bordeaux, Paper for the 7th ECPR General Conference 4-7th September 2013 [cit. 23. 03. 2017], p. 8. Retrieved from https://ecpr.eu/Filestore/PaperProposal/d300b9fc-6795-488a-8950-5f03ff5aabd2.pdf.

Habermas'post-democracy: democracy deprived of substance

In his book *The Crisis of the European Union: A Response* (2012), philosopher Jürgen Habermas suggests that the European Union now enters the era of post-democracy. Habermas notes that the post-democratic elites, extending the executive federalism of the Lisbon Treaty are trying to push forth the intergovernmental rule of the European Council.[22] Habermas refers to the system that Angela Merkel and Nicolas Sarkozy enforced during the crisis and calls it "post-democracy".[23] He contends that the European Parliament has hardly any leverage. In his opinion, the European Commission has found itself in a similar strange position. Yet, the Lisbon Treaty attributed a central role to the the European Council, which Habermas sees as an "anomaly" and "step back" in the development process of European integration.[24]

Habermas' grip on post-democracy is probably the most shallow and the most vague. He gives no qualitative criteria that could be used for conceptual anchoring of post-democracy, we cannot assess whether the prefix "post-" refers to a distinct phase of democracy, its culmination or completion of projects, democracy in post-modern era, or as "anti-democracy" or the antithesis of democracy. Only on closer observation of Habermas's thinking can one deduce that he viewed post-democracy as something he describes as *"facade democracy"*:

> "Behind the façades democratic political elites technocratically implement the imperatives of the markets almost without resistance. Trapped in their national perspectives, they have no other choice. [...] We can see our political institutions being robbed more and more of their democratic substance during the course of the technocratic adjustment to global market imperatives. Our capitalist democracies are about to shrink to mere façade democracies."[25]

22 Habermas, J., *The Crisis of the European Union: A Response*. Cambridge, Polity Press 2012, p. 14.

23 Habermas, J., The Crisis of the European Union in the Light of a Constitutionalization of International Law. *The European Journal of International Law*, 23, 2012, No. 2, pp. 335-348. Retrieved from http://www.ejil.org/pdfs/23/2/2277.pdf.

24 Diez, G., Habermas, the Last European. A Philosopher's Mission to Save the EU. *Der Spiegel*, 25. 11. 2011 [cit. 22. 03. 2017]. Retrieved from http://www.spiegel.de/international/europe/habermas-the-last-european-a-philosopher-s-mission-to-save-the-eu-a-799237.html.

25 Foessel, M., Critique and Communication: Philosophy's Missions. A Conversation with Jürgen Habermas. *Eurozine*, 25. 10. 2015 [cit. 22. 3. 2017]. Retrieved from http://www.eurozine.com/critique-and-communication-philosophys-missions/.

Habermas criticises depoliticisation while making it tantamount to marketization, politicians are portrayed as helpless actors, who have no choice at the nation-state but to technocratically implement the imperatives of the market. The substance of democracy is increasingly being hollowed out and all that is left of it is but its institutional facade. But we do not know what he exactly means by this substance and consequently we are not able to image what this substance should be in fact. Yet, Habermas speaks of post-democracy only at the level of EU institutions in the context of strengthening of the intergovernmental decision-making. This institutional rebalancing continues with the trend of hybridization of EU's political system, which prevents the European Parliament from becoming a regular authority of the legislature with strong legislative competence. This move is in contrast to transforming the institutional system of the EU according to the standard model of representative democracy with the proper division of competences in legislative, executive and judiciary.

However convincing Habermas's argument may seem, it must be confronted with the history of European integration. The post-democratic nature of the EU could be disputed from the very beginning: the European project was, at its inception, intended as a technocratic and apolitical, as lessons learned from the development of parliamentarism in the 1930s, and thus remained resilient to fluctuations in voter behavior and the influence of political parties. Expertocracy and the exclusion of the public was already present in the Schuman Plan. It is therefore appropriate to consider whether the Lisbon Treaty was a real negative rupture and a starting point of the recession of the democratization process of the EU institutional system or whether post-democracy constitutes the *raison d'être* of the European project, and its *de facto* point of departure.[26]

Crouch's post-democracy: democracy after democratic peak

Colin Crouch in his book *Post-Democracy* (2004), and even four years earlier, in the work *Coping with Post-Democracy*, Colin Crouch comes up with a definition of what he calls post-democracy. Although in post-democracy, elections are held and, as a result, governments change, public election debate is a closely monitored performance controlled by the rival teams of professional experts in the techniques of persuasion. Public at large is passive, peaceful, even apathetic and responds only to signals that are directed at it. In the background of the election game, politics is shaped in private through

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26 Ballangé, A., *Post-Democracy: Principles and Ambiguities*, op. cit.

the interaction between elected governments and elites that represent the interests of business.[27]

Crouch's concept of post-democracy is not a complete negation of democracy: elections and political parties continue to function. While the tools and forms of democracy remain in place - and today they are actually strengthened in some respects - politics and the government are increasingly getting back under the control of the privileged elites in a manner characteristic of the pre-democratic era.[28] Crouch illustrates this with the following abstract model: let us denote by pre-X time-interval 1. This interval is characterized by a lack of X. Time-interval 2 is marked by a high inflow of X, which results in the transformation of things affected by this change from the original state 1. The third time-interval is denoted by post-X, which implies that something new has been created that caused the importance of X to diminish; some things will subsequently be different from those existing in both time-interval 1 and time-interval 2. Although X still leaves its clear footprint, some things start to resemble those typical of time-interval 1.[29]

The evolution of democracy in Crouch's conceptualisation follows the trends in economy and in the area of transformation of the labour market, the growing importance of the service sector at the expense of agriculture and heavy industry, general improvement in living conditions for broad segments of population including the working class and subsequent class restructuring of the entire population. Crouch presents a rather detailed catalogue of current mechanisms of elections, political parties and political marketing under democracy, noting close links between politicians and lobbyists of multinational financial and corporate groupings and writes about current changes in the structure of social classes. Furthermore, he identifies a central feature of contemporary democracy, namely, the emergence of a new dominant entity – a combination of political and economic class.

Crouch adopts the development model of democracy from that applied to the evolution of the working class in Britain and represents it as a parabola. Over the 20th century, the working class, which evolved from a poor, ostracized social force yet gradually increasing in number, besieged the gates of political life to find itself, within a brief period of time, shortly before and after World War II, at its centre. In the 1940s and 1950s, political involvement was a result of the participation of the general public in the post-war recon-

27 Crouch, C., *Coping with Post-Democracy*. London, The Fabian Society 2000, p. 2. Retrieved from http://www.fabians.org.uk/wp-content/uploads/2012/07/Post-Democracy.pdf.

28 Ibid., p. 4.

29 Crouch, C., *Post-Democracy*. London, Polity Press 2004, p. 20.

struction; in this period the enthusiasm for democracy was widespread, but with an incipient crisis of the Keynesian system, the role of the working class began to decline, participation in political organizations dwindled and even the very act of elections started to experience apathy and declining participation.[30] He marks post-democracy on the timeline to illustrate how much our times begin to bear resemblance to the pre-democratic era, when social elites, which had dominated economic and social life, also had a monopoly on political influence and positions in public life.

Crouch's normative perspective

Through post-democracy, Crouch seeks to revive the critique of democracy in an atmosphere of its declared victory. His approach - post-democracy as a governance of institutional forms of representative democracy in conjunction with the oligarchic forms – provides a means for bridging the traditional dichotomy of democracy - non-democracy at a descriptive level. Crouch places democracy in a diachronic scheme, describing its evolution towards post-democracy as "inevitable entropy of democracy"[31]: he presents it as a living organism, which has its beginning, its culmination and its decline.[32] While Crouch's concept of post-democracy is tinged with a sense of nostalgia and even melancholy for the heyday of democracy, he is rather reconciled with this development, claiming that it is "important to understand the forces at work within this and to adjust our approach to political participation to it".[33] This is why he speaks of "coping with" post-democracy, rather than of reversing or overcoming it.

Crouch's normative perspective - representative democracy in its all-time high[34] – can be contemplated as the rule of Aristotelian moderation: the most distinctive feature of the democratic moment of the mid-20th century, as defined by Crouch, was that

> "business interests learned to accept certain limitations on their capacity to use their power. And democratic political capacity

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30 Ibid., pp. 5–10.
31 Ibid., p. 104.
32 Ballangé, A., *Post-Democracy: Principles and Ambiguities*, op. cit.
33 Crouch, C., *Coping with Post-Democracy*, op. cit., p. 4.
34 Parallel to Crouch's democratic "peak" can be found in Bernard Manin's concept of party democracy (Manin, B., *The Principles of Representative Government.* Cambridge, Cambridge University Press 1997, p. 206).

concentrated at the level of the nation state was able to guarantee those limitations".[35]

This moderation is embodied in mutual neutralization of the two systems of "antagonistic cohabitation"[36] - the system of representative democracy and market capitalism: while the former lays the foundations for political equality, the latter generates economic inequality, thereby tipping the scales of political equality. Aristotle defined Politeia as a mixture of oligarchy and democracy.[37] Aristotle's theory on virtue is based on the golden mean between the extremes: "moderation and the mean are best". The idea of balance, the government of "right extent", represented by the middle classes, forms the basis of what is called Politeia.[38] Of all Aristotelian forms of government it is the Politeia which is closest to the representative democracies of today, just as is a mixture of elements of moderate democracy and moderate oligarchy.[39] What makes Crouch post-democracy stand out is the upsetting of the said balance and gradual prevalence of the oligarchic element.

Crouch regards the prefix "post-" not as a disappearance of democracy, not as its negation, but only as a partial return to its earlier stage. Post-democracy is not an exact replica of pre-democracy, for it retains many features of the democratic age. He understands post-democracy as a specific phase of democracy. Such temporal framing of post-democracy (like with Habermas) – i.e., post-democracy understood as a certain time period - raises several questions. The term post-democracy implies unidirectional historical movement, without a possibility of returning to an earlier historical point, which could, in a sense, be said of postmodern thinking or the post-industrial era. Like with other post-terms, a hypothetical question arises of vindicating the term post-democracy in the case of a sinusoidal shift to a new level of democratic age, or of finding a name for any new stage which would follow after post-democracy.

35 Crouch, C., *Post-Democracy,* op. cit., pp. 7–8.
36 Dahl, R., *On Democracy*. New Haven, Yale University Press 1998, p. 181.
37 *Aristotle's Politics*. 2nd edition. Ed. C. Lord. Chicago, The University of Chicago Press 2013, bk. IV.
38 Lysý, J., Dejiny politického myslenia I. (staroveký Blízky Východ, antika, Čína, India, Islam) [History of Political Thought I. (Ancient Middle East, Ancient China, India, Islam)]. Bratislava, Univerzita Komenského 2006, p. 55.
39 Manin, B., *The Principles of Representative Government.* op. cit.; Novák, M., Aristotelova politická sociologie a moderní reprezentativní demokracie [Aristotle´s Political Sociology and Modern Representative Democracy]. *Sociologický časopis*, 37, 2001, No. 4, pp. 405–423.

Post-democratic distortion

Yet, in his work, Crouch makes a number of logical blunders, of temporal and spatial reductionism. He does not attach any importance to the ascending phase of democratization, which took place, with a certain lapse of time, in the US, UK, Northern Europe and Western Europe. In this initial stage the foundations of representative democracy were laid and new civil and political rights, including the expansion of the electoral law, were anchored. During the 19th century, in the United States, Britain and France (from the 1870s onwards), parliamentary governments existed continually. Crouch, however, considers this era to be pre-democratic, reserving only a relatively short period of the 20th century for the democratic stage. Nonetheless, workers' socialist and social-democratic political parties with mass membership in Germany, France or Britain were shaped in the latter half of the 19th century. They gained importance in the early the 20th century and became part of the governments already in the 1920s. Crouch, however, estimates the democratic moment to have started even later.

Crouch offers a rose-coloured and idealised picture of the democratic moment. What is more, he seems to overlook that the problem of elites in democracies was ever-present, even in the period he calls "the pinnacle of democracy". The mid-1950s saw the release of *The Power Elite*, a book by sociologist Charles Wright Mills, which draws a picture of American society of the time where all the power is concentrated in the hands of a small, interconnected group of people, consisting of political leaders, military commanders and heads of large corporations. Even then the power was held by a handful of individuals. Hence, the problem existed throughout the entire period which Crouch calls a democratic moment.

By meticulously focusing on the democratic struggle of the working class in Great Britain, he ignores many other democratic struggles that took place at a time when the working class (or at least part thereof) found itself in the very arena of political life. As an example, even during the 1950s, USA still practiced a policy of racial segregation, while the struggle for civil rights for the black people (many of whom doubtlessly belonged to the working class) was still under way. In Western Europe of the 1950s and 1960s new proletariat was emerging. This social stratum was referred to as *Gastarbeiter*, i.e., "guest workers", who were recruited to work in Germany and other European countries where migrants moved in large numbers; often as a cheap labour force, many stayed in these countries without a permanent residence and, naturally, without citizenship, being deprived of many political and social rights.

Trapped in the post-war paradigm of representative democracy

The world of Crouch's post-democracy is highly structured. There are several types of actors: corporations, politicians, marketing professionals, salaried employees in service of political parties, who have replaced party activists, blue-collar and white-collar workers and unions. The dealings of multinational companies, corporate lobbyists and representatives of trade interests are portrayed in a negative light. Their manners are shrewd and cunning, they leverage political decisions, and they use the state, which they have turned into a private cash cow, to their advantage.[40] Like with the previous authors of post-democracy, here, too, there is an issue of democratic legitimacy of political decisions. The scales in this case are tipped in favour of the commercial interests of big businesses rather than in favour of the interests of citizens and voters.

Politicians are attributed a negative role. Unlike Habermas, who views the politicians of nation states as powerless to oppose the agenda promoted by economic elites, Crouch depicts politicians as co-responsible for post-democracy, as active and directly involved in promoting the interests coming from elsewhere than from their constituents. They are far removed from the needs of citizens, and quickly learn to manipulate public opinion, but at the same time anxiously and abashedly spend enormous resources to glean public opinion to be able to respond. They are under constant scrutiny of "democratic gaze" and under pressure to unveil their secrets to "make government more open and more responsible". At the same time, however, they are in constant interaction with a corporate lobby. Its members are drafted into government positions, which they leave to devote themselves to lobbying for big companies. Interaction with a corporate lobby, in Crouch's view, fundamentally distorts and transforms even the structure of political parties.[41]

Citizens are portrayed as apathetic, they turn away from politics with disgust. At present, according to Crouch, a model of the so-called negative citizenship is prevalent: rather than promoting pro-active, engaged citizenship and political participation of citizens in elections, political parties and organizations, developing group identities, emphasis is put on the idea that politics is exclusively for the elites and, if a scandal or political blunder comes to light, enormous media pressure is exerted on those involved in the case, the political class becomes a scapegoat, which is to be held accountable, defamed, accused and exposed to aggression.

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40 Crouch, C., *Post-Democracy,* op. cit., pp. 19.
41 Ibid., pp. 70–77.

Crouch's normative ideas are intimately linked to the form of representative democracy of a highly advanced industrial society, which evolved after World War II: compared to today, more voters used to come to the polls with mass activism and party loyalty, as well as association in trade unions. Although Crouch sees activism within civil society as an expression of positive citizenship, as "democracy's creative energy"[42] and the way out of post-democracy, he, too, remains trapped in the post-war paradigm of representative democracy. For example, by still preferring "political parties as a necessary instrument for transferring the will of people to the political level of the community": Crouch believes in the success of the combination of traditional forms of political activity with the "new creative demos" which is not "too far from radical-identity pluralism which is socially and culturally rooted in the last quarter of the previous century".[43]

Conclusion

In the contemporary political thought, which is concerned with reflections on the current development and transformations of representative democracies amidst the crisis of liberal democracy, and which, above all, focuses on the discourse on post-democracy, we encounter two dominant ways of thinking about post-democracy we have attempted to outline in this study.

The first is based on a diachronic line of thought, following the advance of democracy in a time continuum and its division into different historical periods. This way of thinking is represented by the aforementioned Colin Crouch or Jürgen Habermas. Yet, within this mindset, we may arrive at a much wider range of positions based on various axiological assumptions.[44]

First, the understanding of democracy as a permanent phenomenon, which is in the process of democratization and continuous improvement. Within this context, thinking about post-democracy is not very acceptable because democracy is constantly present. This mostly refers to the American tradition of understanding of democracy – fulfilling the formal criteria of democracy including regularly recurring free, fair and competitive elections in connection with human rights and market capitalism.

Second, the concept of democracy as a gradually diminishing, receding form, which exists in some sort of semi-democratic mode and which is on the decline. Within the second model, we apparently arrive at the prevailing trend of thought, which sees post-democracy as a certain phase in the devel-

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42 Ibid., pp. 13–14.
43 Kursar, T., *In a Post-Democracy Trap*, op. cit., pp. 4–5.
44 Ballangé, A., *Post-Democracy: Principles and Ambiguities*, op. cit.

opment of democracy, a stage of decline or demise, yet as one in which demo-cratic and semi-democratic elements are still somehow present (represented here by Colin Crouch, Jürgen Habermas, Richard Rorty, or by Czech philoso-pher and social scientist Marek Hrubec[45]). In this context, democracy is seen as an attainable goal, which requires bold and active citizens; it must be defended and democratized in order to be cured of post-democracy.

Third, the concept of democracy as a currently non-existing phenomenon, which had already been experienced or which had never existed at all. Post-democracy here features not as a certain tendency but as a negative outcome of the advent of postmodernism (in the sense of epistemological or value relativism) and expert, apolitical EU decision-making, which has destroyed democracy (this pessimistic, conservative position, which is even further away from Crouch's melancholy).

Fourth approach also declares the absence of democracy while noting that, in fact, we have never had a democracy, restores the gap between formal and actual democracy as an ideal, but strives for something more: it unmasks the current regime called democracy, exposing it as a hollow vessel, utilised as an excuse and legitimation of capitalism and of wars waged in the name of democracy (e.g. contemporary Marxist criticism, for example authors resurrecting the idea of democratic communism like Alain Badiou or Slavoj Žižek). Post-democracy can be perceived neutrally as a political opportunity for the establishment of a genuine democracy or as an opportu-nity to go beyond democracy and bring a whole new system of governance of human society.

The second line of thought on post-democracy is based on an under-standing of democracy as a very specific, relatively narrowly defined political practice. Post-democracy in this sense does not come about as a particular historical stage, but is rather established as a result of suppression, erasure or circumvention of the democratic procedures of forming political will and political decisions or of reducing the importance of institutions of repre-sentative democracy. To Jacques Rancière, post-democracy is a specific consensual practice with the effects of erasing the logic of politics, which has taken root in liberal democracies in recent decades; yet these effects are not new or pioneering. According to Rancière, all identities embodying injustice have fused into a single identity – humanity, whose individual parts differ from each other solely by their racial or ethnic identity. Meanwhile, decision-making powers are seized by institutions and actors without demo-cratic legitimacy. Democracy has become synonymous with the parliamen-

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45 Hrubec, M. (ed.), *Spor o Evropu: postdemokracie, nebo demokracie?* [*Dispute about Europe: Post-Democracy, or Democracy?*]. Praha, Filosofia 2005.

tary regime, the rule of law, with a certain social way of life, which eliminates democracy as a constituting element of politics, that is, the principle of equality, for the political nature of any act is neither an object nor a place where it occurs.

Both in the scholarly circles and in a range of analytical or media genres, post-democracy is a useful term. In day-to-day politics, however, there is still an ongoing debate over hegemonic articulation of the concept of democracy and all related concepts or projects.[46] In the shadow of the struggle over appropriating democratic ethos, post-democracy stands no chance of taking deep roots and replacing the idea of democracy. Democracy is a term that has proved to be highly flexible and it is obvious that it will be able to absorb also the latest changes in democratic regimes. The semantic limits of this concept, which has proven in history to be particularly adaptable to the identification with the division of power, rule of law, representative government and large territorial state units, are really hard to fathom.[47]

All of the above conceptualizations of post-democracy present a distinct response to the paradigm of the end of history, developed in Western political thought since 1990s. We have already seen how individual authors revised their assumptions and normative attitudes in order to restore the criticism of evolution - not extrinsic criticism from the position of vindication of its regime's adversary, but rather criticism from the inside, based on the defence of the idea of popular sovereignty - of representative liberal democracy in the atmosphere of its proclaimed triumph, which did not allow criticism or even suppressed it. It may be confirmed that various approaches to the articulation of the concept of post-democracy are characterized by the plurality of temporal placement of post-democracy as well as by ideological, axiological plurality, and thus are distinguished from one another by their normative attitudes. Although, based on our examination of a variety of approaches both to the substance and to the semantic articulation of the concept of post-democracy, there appears to be no compact or comprehensive theory concerning post-democracy, we have seen that individual authors come up with common or at least similar themes, which are becoming the hallmarks for the definition of post-democracy.

One could say that all these conceptualizations are trapped in the same discourse pertaining to the legitimacy of various ways of political decision-making in representative democracies under the influence of various transitions in the sphere of will-formation and public opinion. At the core of any

46 Norval, A., *Averzivní demokracie*. [*Aversive Democracy*] Praha, Karolinum 2016, pp. 60–61.
47 Buchstein, H., The Dynamics of Conceptual Change. In: Ihalainen, P. et al., *Redescription: Yearbook of Political Thought and Conceptual History*. Berlin, Lit Verlag 2006, pp. 5–12.

concept of post-democracy is an idea that the focal point of decision-making is transferred to the sphere of influence of actors without democratic legitimacy, whereby it is important that: 1. the penetration of these actors takes place outside the institutions and procedures of representative democracy, which are somehow undermined or questioned; 2. the bond between the citizens-voters and their elected representatives is always weakened or broken; 3. a powerful minority or different non-personified processes inhibit the influence of citizens in the state. In Crouch's view, behind the "curtain" of politics, interaction takes place between elected representatives out of touch with the interests of the citizens and corporate lobbyists. According to Habermas, behind a facade of democratic institutions increasingly stripped of their democratic nature, political elites at the national level seek to implement the imperatives of the market without facing resistance, while the EU institutions lack a true federal legislature endowed with full legislative authority, and thus the main say in the decision-making process is either with the unelected technocrats or with intergovernmental mediating institutions. Rancière, too, mentions loss of interest in the forms of representative democracy, decline of parliamentary representation, strengthening of the powers of politically unaccountable institutions and submission of politics to the needs of the market. And the list could be continued.

If we advanced one level higher in abstraction, we could sum up that in post-democracy, the point is always that people are, one way or another, excluded from the deliberation or decision-making process, with the result that the principle of popular sovereignty becomes violated or at least jeopardised. The enlightenment idea that the power of the State originates and derives from the people, found at the core of the principle of people's sovereignty, is the one which gave rise to modern democracy. Democracy was born out of countless struggles of different groups of citizens who had been marginalized and disenfranchised, "as the only feasible way for the achievement of legitimacy".[48] In other words, democracy with its promises involving a normative expectation of political inclusion of citizens has historically proven capable, in the conditions of modernity, of ensuring the legitimacy of political power once the source of legitimacy of the previous arrangements of political community had been exhausted. Democracy, however, is never fully inclusive and not everyone is an object of inclusion to the same extent. This implies that we can talk of democracy as of a "perpetually unfinished system"[49] or as of a reality that has never been brought to completion.

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48 Dussel, E., *Twenty Theses On Politics*. Durham, Duke University Press 2008, p. 51.
49 Ibid., p. 51.

Such a response cannot be satisfactory as long as we admit that we are now faced with a real problem with the democratic legitimacy of political decisions, which Pierre Rosanvallon describes as follows:

> "The voters grant their mandate in a world that is politically less predictable, by which I mean that it is a world no longer defined by disciplined political organizations with well-defined platforms offering a clear range of political choices. Hence there is a much greater gap than in the past between the legitimacy of governors and the legitimacy of their actions. In the past, elections tied these two dimensions closely together; today, their influence is more limited. [...] The legitimacy of the policies they adopt is permanently under scrutiny and must be reconquered day after day and case by case."[50]

The source of sovereignty of democratic regimes – popular sovereignty– still remains undisputed. The problem is how parliament and political parties, of which it is composed, are depicted. In line with Nadia Urbinati, we agree that if we are to talk about the crisis of democracy, then it is not a crisis of democracy as a constitutional order but of one single specific form of democracy – "parliamentary democracy based on the centrality of suffrage, political parties, and the priorities of the law-making power over the executive".[51] The prevailing decline of trust and dissatisfaction of citizens does not apply to the representative democracy *per se*, only to its parliamentary forms.[52] It is the process of seeking a *modus vivendi* of representative democracy in the new conditions. In the complexity of today's politics, it is necessary to constantly review the legitimacy of the adopted policies and ask whether they represent the reasoning of citizens, serve the common good, take into account fundamental values and improve the living conditions of broad masses. These issues can no longer be left until they are decided in the following elections. To go beyond the horizon of post-democracy means to re-articulate the question of *"Who represents whom?"* and search for the answer in the light of tension between the principle of popular sovereignty and representative principle: these are the labour pains of a people which is looking for a new form of its self-presentation.

50 Rosanvallon, P., *Counter-Democracy: Politics in an Age of Distrust*. Cambridge, Cambridge University Press 2008, pp. 116–117.
51 Urbinati, N., Reflections on the Meaning of the "Crisis of Democracy". *Democratic Theory*, 3, 2016, No. 1, pp. 6–31. Retrieved from http://www.berghahnjournals.com/abstract/journals/democratic-theory/3/1/dt030102.xml?
52 Ibid., p. 8.

Review study

Representative Turn: New Way of Thinking about the Relationship between Representation and Democracy[1]

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Michael Saward, *The Representative Claim.* New York, Oxford University Press 2010

Nadia Urbinati, *Representative Democracy. Principles and Genealogy.* Chicago, University of Chicago Press 2008

Mónica B. Vieira – David Runcimanm, *Representation.* London, Polity Press 2008

Abstract: The three reviewed books constitute part of a representative turn that attempts to restore the value of representation to democracy in changed circumstances under which representative democracy operates, such as the rise of new actors (nongovernmental organizations, social movements), non-electoral forms of representation or the existence of representatives beyond boundaries of the nation-state. I argue that the authors of representative turn manage to respond to current challenges by conceptualizing representation as a dynamic process of making and receiving representative claims that include new forms of representation while still keeping a significant role of traditional formal representative institutions.

Keywords: democracy, interests, judgement, NGOs, representation, representative turn, will

The review essay considers three books that constitute part of a representative turn in democratic theory that introduces a new way of looking at political representation. The purpose of this essay is to introduce the main features of the representative turn and argue that it can help us think about current challenges that representative democracy is facing. This approach counters classical arguments against the idea that democracy can become representative or that we can have a democratic political system of representation. Apart from finding overlapping moments in the reviewed books, I also pay attention to the differences among them.

The key point of representative turn is that it suggests that representation need not be based on election in order count as representation. This approach offers a way of looking at political representation in more than formal, parliamentary, nation-state terms and it takes into consideration non-electoral modes of representation. As a consequence, representation is seen as a dynamic, shifting process and as crucial to the constitution of politics, not as a mere static fact of political life resulting from elections.[2] Last but not least, at the heart of this approach is the idea that political representation is a process of constructing the represented, the active making of symbols or images of what is to be represented.

I have chosen these three particular books because they capture the representative turn while showing its broad range. At this point I will shortly explore the distinctions among the three reviewed books. First of all, the authors differ in terms of the aspects they apply within the concept of representation. While in the case of Vieira, Runciman and Urbinati, a significant part of their text is devoted to the historical origins of representation and the relation between democracy and representation, Saward concentrates more on the analytical tool suitable for representation and does not deal with history of the idea of political representation.

Particularly Nadia Urbinati provides an in-depth analysis regarding the genealogy of representative democracy – from ancient Greek and Roman republics through Rousseau, Kant, Sieyès to Paine or Condorcet. The argument made by Urbinati as well as by Vieira and Runciman is that representation came before democracy in the history of modern politics and that representation is the key concept for understanding the workings of modern democratic states. The main focus of Saward's book constitutes an application of the tool of representative claim. He approaches representation as a dynamic process through representative claims. This tool has the advantage in that it takes into consideration that interests are rather a product of the system of representation than a precondition for it and that it pays

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2   Saward, M., *The Representative Claim*. New York, Oxford University Press 2010.

attention to representation both within and beyond the boundaries of the nation-state.

New challenges and democratic accountability

In the past few decades, we have witnessed a change of the conditions under which representative democracy operates - such as a decline in voters' turnout and a disaffection with representative politics, the decline of party loyalty and a rising distrust of politicians, the rise of populism, the appearance of self-appointed representatives, the increasing role of non-governmental organizations, especially in global politics, which are often seen as unrepresentative, or demands for better representation of marginalized groups such as women and minorities.[3] I claim that instead of perceiving altered conditions under which representative democracy operates as new constrains and symptoms of the crisis of representative democracy, theorists of the representative turn see them as opportunities for reassessing the relation between representation and democracy by reconsidering the concept of representation. All factors mentioned above actually require fresh thinking since it seems that traditional prevailing ideas about representation are challenged as outdated and do not correspond to the world we live in nowadays.

For example, Jane Mansbridge, in an effort to capture new empirical realities of representation, outlines besides the traditional "promissory" account of representation three alternative forms of representation – anticipatory, gyroscopic and surrogate. Whereas promissory representation, which is based on promises that the elected representative makes to the electorate, follows the traditional dichotomy of mandate and trustee, the three new forms of representation challenge our traditional understanding of democratic accountability. In case of anticipatory representation, the representative tries to anticipate the preferences of future voters and tries to please them (in some cases representatives use their power and influence to affect the preferences of voters). In the second form of alternative representation, gyroscopic representation, voters select representatives who can be expected to act in ways the voter approves. The representatives are not accountable to their constituencies, their accountability is only to their own beliefs and principles. Finally, surrogate representation occurs when legislators represent constituents outside their own districts. For example, gay and lesbian citizens could identify with a gay representative and his actions

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3   Näsström, S., Where is the Representative Turn Going? *European Journal of Political Theory*, 10, 2011, No. 4, p. 501.

around a common experience of discrimination or social stigma although he is not a representative from their district. Obviously in this particular case, the representative and the represented have no electoral relationship and accountability is also completely absent.[4]

Monica Vieira and David Runciman refer to surrogate representation in order to highlight new empirical realities as follows: *„Those who are the electoral losers in their own district, are increasingly turning to representatives with whom they identify, but have no electoral relationship, to help advance their interests, whether material or value-based. We thus see within formally territorial representational systems increasing signs of individuals identifying with representatives who are not accountable to them in any traditional way."*[5] On the one hand, the representative turn builds upon such innovative theories, on the other hand it shows the limits of current thinking about political representation. Unlike for instance Hanna Pitkin in her seminal work *The Concept of Representation*,[6] the authors of the representative turn do not provide us with a taxonomy of types of representation.

Representation as a dynamic process

The representative turn shows that viewing representation in standard principal-agent terms remains a narrow framework and emphasizes instead the dynamic character of representation. The representative process is seen as interactive and dynamic.[7] As a result, theorists of the representative turn stress the need to move beyond constraining typologies such as mandate-independence and delegate-trustee frames because such perspectives assume a fixed, knowable set of interests for the represented.[8] As Monica Vieira and David Runciman point out: *„… Interests do not need to constitute an objective category, established prior to representation. Indeed, they hardly ever do. They are rather established within the process of representation itself."*[9] Since interests are never absolutely objective and are constructed in the

4   Mansbridge, J., Rethinking Representation. *The American Political Science Review*, 97, 2003, No. 4, pp. 515–528.

5   Vieira, M. B. – Runciman, D., *Representation*. London, Polity Press 2008, p. 119.

6   Hanna Pitkin remains the most cited theorist of representation in literature on political science. She recognizes formalistic views of representation (with two categories – authorization and accountability), descriptive representation, symbolic representation and "acting for" account of representation. Pitkin, H., *The Concept of Representation*. Los Angeles, University of California Press 1972.

7   Vieira, M. B. – Runciman, D., *Representation*, op. cit., p. 73; Disch, L., Towards a Mobilization Conception of Democratic Representation. *American Political Science Review*, 105, 2011, No. 1, pp. 100–114.

8   Saward, M., The Subject of Representation. *Representation*, 44, 2008, No. 2, p. 95.

9   Vieira, M. B. – Runciman, D., *Representation*, op. cit., p. 101.

process of representation itself, they become a contested category. When representative interprets a group's interest, s/he puts forth a claim to be representing it. This claim is then open to be challenged by rival claims made by different representatives.

The representative turn presupposes that representation is constitutive in a way that images of the people and their interests are created through the act of representing itself.[10] Instead of conceiving representation as simply standing for a predefined constituency, representation is better understood as practices of constructing social groups and claiming legitimacy as a representative of such constructed identities and interests.[11] As Sofia Nässtrm puts it *„The central point is that constituencies do not exist beforehand, but they are constantly made and remade through representative politics. Who 'we, the people' are is an ongoing thing."*[12] This is what marks out political representation as a dynamic form of politics.

Michael Saward's contribution to the representative turn lies in his concept of representative claim which is an analytical tool interconnecting five central elements[13] of representation – the maker, the subject, the object, the referent and the audience and enables us to capture multiple particularities of political representation. Representative claims are, according to Saward, unstable, highly variable and they depend on whether they can triumph over competing claims to represent. That is why he regards representation *„… as an ongoing process of making and receiving, accepting and rejecting claims – in, between, and outside electoral cycles."*[14] Since claims to representation prove themselves in competition with one another, it is crucial to look closely at how, and by whom representative claims are made, received and judged.

The authors of the reviewed books overlap when they assert that a necessary condition for something to count as an act of representation requires an audience of some kind since it is the audience that contributes to the success or failure of the representative claim itself.[15] In my opinion, conceiving of representation in terms of representative claims rather than simply in terms of principal-agent relationship allows the concept of representation

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10 For constitutive aspect of representation see: Bíba, J., Symbolic Representation and the Paradox of Responsive Performativity. *Human Affairs*, 25, 2015, No. 2, pp. 153–163.
11 Selboe, E. – Stokke, K., Symbolic Representation as Political Practice. In: Stokke, K. – Thornquist, O. – Webster, N. (eds.), *Rethinking Popular Representation*. New York, Palgrave Macmillan 2009, p. 60.
12 Nässtrm, S., Where is the Representative turn Going?, op. cit., p. 506.
13 Representation is often understood as three sided – a subject stands for an object that is an account of a referent.
14 Saward, M., *The Representative Claim*, op. cit., p. 36.
15 Vieira, M. B. – Runciman, D., *Representation*, op. cit., p. 80.

a greater flexibility to adjust in the face of existing non-electoral modes of representation. Therefore, there is no reason to suppose that representative politics could not incorporate thinking about the challenges the world currently faces. As we could see, the representative turn makes it possible to include all the variety of political representation's examples.

Non-electoral representation

What about cases when a representative is not elected, does it still count as representation? The answer of the theorist of the representative turn is positive, according to them representation can be non-electoral as well as electoral. They add that representation need not presuppose the appointment of a representative. S/he could be self-selected and bring forward a claim to act on the group's behalf. Saward and also Vieira with Runciman illustrate well self-appointed guardians of those who cannot act for themselves on the example of the rock singer Bono who claims to represent the African poor. Bono explains that these people lack in representation and that they need to be spoken for because they have no voice at all. Apparently, he chose himself as a representative, he was not appointed by African poor to represent them, nor by elected officials in the poor people's home countries.[16] It is obvious that the example of Bono and Africa or other self-appointed public figures, acting as spokespersons, does not fit the straightforward principal-agent model. Last but not least, Bono's claim to speak for the poor of Africa also takes us beyond the nation-state representation framework.

At this point it is important to underline that the intention of the representative turn is not to downgrade the significance of free elections or suggest that non-elective representation is more democratic. Theorists of the representative turn do not reject electoral representation, but they open up the possibility to recognize and analyze non-electoral forms. Conventional representative institutions (political parties, national parliaments etc.) still remain crucial.[17] Nevertheless, in the context of non-electoral forms of representation theorists also pay attention to the role of non-governmental organizations and social movements, especially in international politics since national level does not remain the sole site of representation.[18]

The concept of representation has revolved primarily around the state. But state representation has increasingly had to coexist with various sorts of

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16 Ibid., pp. 146–147.

17 Saward, M., *The Representative Claim*, op. cit., pp. 82–110.

18 Cornwall, A. – Goetz, A. M., Democratizing Democracy: Feminist Perspectives. *Democratization*, 12, 2005, No. 5, pp. 783–800.

political representation that have been proliferating outside of it.[19] Since the second half of the twentieth century on, we have witnessed representation provided by alternative bodies, including NGOs and other kinds of international organizations that have become more significant. The representative turn in democratic theory has managed to respond to these changed circumstances by including forms of political representation that do not depend on the narrow criteria of electoral accountability. Needless to say, paying attention to new actors involved in representation beyond borders does not mean the end of the state's representative role.

The three reviewed books intend to restore the value of representation for democracy. Rather than seeing representative government as an elitist form of government[20] or as a by-product of the workings of democracy, they believe democracy and representation are complementary. They disagree with contemporary political thought that treats democracy as the founding principle of modern political life and representation as its mere appendage. Unfortunately, the widespread use of the phrase representative democracy also reflects a general sense that political representation is nothing without its democratic underpinnings. In other words that without democracy, representation is just a word.[21] By contrast, representative democracy is not, according to the authors of the representative turn, merely a pragmatic alternative to direct democracy, representation is primed to expand democratic participation and is essential to democracy.[22]

From will to judgement

Finally, one of the main characteristics of the representative turn includes the notion that representation is rather a matter of judgment than a matter of will. Will and judgement are two different modes of participation in representative democracy and only the latter is in the hands of all the citizens all the time. Whereas will is mirrored in voting, judgement is reflected in forming and expressing political opinions.[23] Theorists of the representa-

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19 Vieira, M. B. – Runciman, D., *Representation*, op. cit., p. 140.

20 Bernard Manin shows inegalitarian and aristocratic effects of election due to four factors – the unequal treatment of candidates by voters, the distinction of candidates required by a situation of choice, the cognitive advantage conferred by salience and the cost of disseminating information. Manin, B., *The Principles of Representative Government*. Cambridge, Cambridge University Press 1997.

21 Vieira, M. B. – Runciman, D., *Representation*, op. cit., pp. 59–60.

22 Urbinati, N., *Representative Democracy. Principles and Genealogy*. Chicago, University of Chicago Press 2008.

23 Urbinati, N., *Democracy Disfigured: Opinion, Truth, and the People*. Cambridge, Harvard University Press 2014, pp. 17–20.

tive turn argue that we cannot narrow democratic participation only to the final act of voting. Compared to direct democracy, representative democracy compels citizens to be always more than voters, to transcend the act of suffrage (will). Democracy cannot ignore what citizens say when they act as citizens, not electors. The emphasis on judgement consequently means that deliberation comes to the core of the concept of representation.[24]

By reorienting the attention of representative democracy from will to judgement, it does not aim to close the gap between representatives and the represented. On the contrary, it is essential to retain the gap so that citizens could carry out their critical function of watching their representatives. *„Approaching representation and participation from the perspective of judgement rather than the will makes us fully appreciate the worth of indirectness in democratic politics. (…) Representation can encourage political participation insofar as its deliberative and judgemental character expands politics beyond the narrow limits of decision and voting."*[25]

It is obvious that the representative turn approach pays much more attention to the time between elections compared to concepts of representation that are based on will. Nadia Urbinati compares representative democracy with direct democracy as a system of decision-making that presents citizens with yes/no questions and therefore cannot accommodate a pluralism of opinions. The direct presence of citizens is much less representative of their ideas than their indirect presence in a representative democracy.[26] As a consequence, representation is not seen as the second-best form of government following direct democracy.

Representative turn – new angle

From my point of view the main contribution of the reviewed books lies in the ability to include "non-conventional" forms of representation, such as non-electoral representation or representation beyond boundaries of the nation-state. Thanks to the representative turn in democratic theory we are able to conceptualize these cases of representation that have recently been on the rise and that used to be beyond the scope of thinking about political representation. On the one hand, the representative turn therefore enables us to enrich the concept of political representation with a new angle. On the other hand, authors still take into consideration the crucial role of formal,

24 Dryzek, J., *Deliberative Democracy and Beyond*. Oxford, Oxford University Press 2002; Gutmann, A. – Thompson, D., *Why Deliberative Democracy?* Princeton, Princeton University Press 2004.
25 Urbinati, N., *Representative Democracy. Principles and Genealogy*, op. cit., p. 16.
26 Ibid., p. 113.

electoral modes of representation and representative systems based on the nation-state remain the norm. While comparing the reviewed books among themselves, I found out that they stress different aspects of representation – while books by Nadia Urbinati, Monica Vieira and David Runciman concentrate on the history of the idea of political representation, the text written by Michael Saward introduces an analytical tool for the concept of representation.

A Crisis of Democracy and Representation

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