ASSOCIATIVE DEMOCRACY AND POLITICAL REPRESENTATION[1]

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Introduction

An instrumental approach to the definition of Democracy, characteristic of liberal societies, as it was put forward by Joseph A. Schumpeter,

> […] means that: the role of the people is to produce a government, or else an intermediate body which in turn will produce a national executive or government. And we define: the democratic method is that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote. (Schumpeter, 1942/2003: 269)

Indirect Democracy or Representative Democracy is an effective and recognizably fair mechanism whereby political institutions regulate, administrate, and attempt to resolve the conflicts that naturally emerge in everyday life within social communities. They do, through the electoral system, sustain that exceptional and in many ways incomprehensible virtue of the prevalence of the will of the majority that, most of the times, ignores the profound legitimate, democratic, and morally sustained claims of the minorities that also take an important role in the health of a democratic regime. Commonly, we understand the justice of this mechanism, that is, the fair relations between the exercise of power and the citizens' liberty, because they are established in constitutional texts that not only institute power, but also characterize the regime or model of society, ensuring liberty

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for all in conditions of equality and aiming to accomplish fraternity among the people. So, constitutionalism becomes the anchor where the legitimation for the existence of modern democracies relies on.

On a historical approach, we may affirm that the definition of democracy and what it implies for a society or a community in its classical meaning as the *rule of the people* becomes, in particular after the French Revolution, the *rule of the law* of a nation. Precisely, after the French Revolution, National State seems to be a key concept to understand modern political life and many scholars have been devoting their attention to it. On one hand, they intend to demonstrate that we are witnessing a failure of national states in providing the needed answers to modern claims that nowadays can only be solved at international levels. On the other hand, national states seem to be the only type of social organization through which, especially in democratic regimes, people become capable of shaping the kind of world they aim to live in. This shift mixes the old order of meaning with the newer. The older does not have meaningful grounds to be justified in itself in modern and complex societies, but the newer is not, during this process of change, yet consolidated.

The processes of affirmation of this new understanding based on the rule of law was only established during the 19th century in the Anglo-Saxon world, especially in England and in the United States, but it only reached its peak in Europe after the Word War II. Once consolidated, constitutionalism in the 20th century is mostly conceived, in its strict and normative sense, as a set of rules or conventions, engaged in democratic principles and values that structure and provide the architectural mechanisms for the exercise of power, establishing its authority and its limits.

If we compare the constitutional texts in occidental democratic societies, the democratic principles and values in which this set of rules relies on, we may find, among others, similar features such as: freedom and equality before and under the law; popular sovereignty and the power to control the exercise of power (namely, through elections), and the right to political representation (see Lutz, 2008). It is precisely the right to political representation and its effectiveness that we aim to explain and put in question, trying to show how political representa-

tion has its limits and how it could be conceived as representation of all the *people*.

Some current risks in Political Representation

What seems to be a well-designed and good political arrangement has its own intrinsic risks. Ginsburg and Huq identify one of those risks as *Constitutional Retrogression*, meaning that there are regimes that could still be considered as constitutional regimes, but are hardly democratic. For them, constitutional retrogression involves a

> […] simultaneous decay in three institutional predicates of democracy: the quality of elections, speech and associational rights, and the rule of law» (…) [and] five specific mechanisms by which constitutional retrogression unfolds. These are: (i) constitutional amendment; (ii) the elimination of institutional checks; (iii) the centralization and politicization of executive power; (iv) the contraction or distortion of a shared public sphere; and (v) the elimination of political competition. (Ginsburg & Huq, 2018: 117-118)[2]

Starting with this enumeration, we may identify other different problems and issues that can be addressed when analysing the quality of our democracies, but they are much subtler.

In a democratic neo liberal context, one of the most important aspects that keeps people living together without major conflicts among themselves is economic security, that is, the means to pursue their interests and to flourish by achieving their personal or communal objectives and living a meaning and fruitful live. That implies having the opportunities to climb up the social ladder; to access better jobs and functions available in society and to benefit from a fair social welfare system, which is presented as one of the most important conquests in the outcome of World War II, as well as higher degrees of industriali-

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[2] For this subject, see also: PHARR, S. J. & PUTNAM, R. D. (2000) or PLATTNER, M. F. (2017).

zation and consequent economic development, that specially contributed to the pacification, not only between societies, but also among citizens.

Combined, equality in political liberty and economic security are the foremost characteristics that endorse the importance of national states in shaping of modern societies since the second half of the 20th century. However, that has not prevented the rise of other kind of problems and challenges to the spread of democracy worldwide. As mentioned by Adam Przeworski:

> […] this mechanism functions well only if the stakes are not very large, if losing an election is not a disaster, and if the defeated political forces have a reasonable chance to win in the future. When deeply ideological parties come to office seeking to remove institutional obstacles in order to solidify their political advantage and gain discretion in making policies, democracy deteriorates, or "backslides". (Przeworski, 2019: 143)

That could be a fact, and indeed most of the countries represented in the United Nations are democratic ones, based on the rule of law established in constitutions. But the constitutional order, even in those modern democracies of the Western Word, is not enough to ensure a fair and peaceful cohabitation among citizens and communities living in the same political organized territory. In fact, constitutionalism has presented itself, in several and worrisome occasions, in abusive forms, i.e., under the supposed democratic rule of law, warranted for the sovereignty of the people, in expressions such as "We the People", "For the People and by the People". In the 21st century, we have been witnessing a significant spread of examples of abusive constitutionalism across the world in order to control or perpetuate the power over the people, and that is becoming a common practice to both right and left elites.

For example, the constitutional revisionism in some countries, that allegedly legitimizes the perpetuation of the power of their leaders, may be considered an abusive strategy that undermines the spirit and the nature of the understanding of what is and should be a constitution in the so-called free world. Nonetheless, those countries

remain, at least formally, despite the conditions in which those changes took place, as national states characterized by the rule of law. Those regimes could still be considered constitutional regimes, but hardly democratic ones.

In the United States of America (USA), for example, we may identify a constitutional ideology as a form of affirmation of the oldest, freest, most successful and distinctive modern democracy, but which also enables a worldwide projection of economic and military power over other national states confining their liberties and sovereignty. At the same time, the exceptionalism of their representative arrangements in presidential elections shows that the support of the economic lobbies is far more important than the support of the citizens by attending to their claims. At the same time, the well-known propaganda strategy of identifying a common enemy – the internal political institutions or the media – is a means of undertaking restrictive actions against the liberty of the people. The unjustified and questionable legal federal interference in the policies of particular states is a mere example of it. It goes to the point of questioning the legitimacy of elections that are or were ongoing.

The justification for it relies on the fact that, as societies become more complex and people's relations and interactions increase and become more intricated, so does the bureaucratic level of administration, as well as the level of expertise to deal with such a complex way of political organization. As a result, professional politicians are required to do the job, and those politicians, from top to bottom, do not recognize the ability of an average citizen to address such complicated social matters. Of course, there are and there will always be means to deal with this kind of constitutional retrogression. Unfortunately, the answers that have been put forward are, from top to bottom, forms of authoritarianism and elitism, and from bottom to top, as Kriesi identifies, populism:

> While their "host" ideology connects these parties to the fundamental structural conflicts in society, the "thin" populist "ideology" connects them to the narrower political sphere and to the political discontent of their constituencies. More specifically, the populist "ideology" refers to

the tension between "the elites" and "the people." This "ideology" puts the emphasis on the fundamental role of "the people" in politics, claims that "the people" have been betrayed by "the elites" in charge who are abusing their position of power, and demands that the sovereignty of the people be restored. (Kriesi, 2020: 248)

Let us first address the political issues that have slowly undermined the cohesion of national states. In this regard, despite the differences concerning other moments in history, modern national states have evolved into a particular form of party system, administrated and controlled by two major parties, more or less similar to each other, typically referred to as being representatives of a left or a right wing, fighting for power in favour of their own interests and not always in favour of who they represent. This party system composed normally by two or, in some but fewer cases, three parties, has been engaged in a rotative but permanent exercise of power, that has been showed to be more and more distant from those who elected them, making occasional arrangements and "concessions" to respond to the claims of the voters.

That is, the party system has become an arrangement for some elites and by the elites. The bureaucratic political complexity and the level of expertise that are inherent to the effective efficacy of a modern state clearly justify the fact that governments in our days are composed by professional politicians that are, in the large majority of the well-known cases, lawyers, judges, economists, entrepreneurs, and other highly skilled professionals because they seem to be the only type of people that can lead modern life. At the same time, common citizens acknowledge their inability and lack of expertise to engage in political parties or even comprehend and contribute to solve the problems that they must deal with in their ordinary lives.

In Western neo-liberal societies, there is, we suppose, a much deeper sign, a sign that shows or anticipates the end of ideologies. People no long care whether left- or right-wing parties control political institutions. But that, we may think, is only the superficial outlook of a misguided or distorted interpretation. We are starting to witness a growing sentiment of frustration, especially because participation in

political life, to be involved in determining the shape of our societies, is an important aspect of affirming our own personal identity.

New mechanisms of representation are needed and should require also new forms of accountability for the representants. Responsibility and transparency are the effective means to endow the system with trust. Trust is, was and it always will be the key factor that provides cohesion to the relation among electors and elected and when that sentiment of trust is questioned or is undermined by the bureaucratic structures of the political system, the immediate consequence is the depoliticization or lack of political participation of de citizens. It is needed to endow the system of representativeness with a juridical framework that reinforces the accountability of politicians in office, punishing them when, by their actions, they misrepresent the manifested will and the claims of their electors.

What we are suggesting is not only an implicit contract, but an explicit contract where it becomes possible not only swear to obey the constitution but also to obey to the mandate that is attribute to them by the electors. This kind of accountability demands a response, a demonstration of what is done, how it was done and why it is done what is done in the name of that mandate. That requires transparency; requires regular communication between representants and the represented to allow the scrutiny of the action of the formers by the latter and, eventually, the possibility of substitution, in legal terms, of those representants. This mere possibility would, by itself, endorses transparency in the exercise of power, and transparency is needed to strength that sentiment of trust between the contract parts.

Responsibility, transparency (communication and proximity) and trust are core values inherent to democratic regimes. In face of the so-called decay of democracy, it is not necessary to change the political regime; what is necessary is to strengthen it. And that is justified if we consider the alternatives that have been presented, more or less populist, that have degenerate, as history has showed, to forms of authoritarianism. What seems to be necessary is to find a form to endow those core values to a greater effectiveness and a more preponderant role in the exercise of power and for that we must rethink, reinvent, rediscover new models of representativeness that may endorse the

concrete claims of local communities and of those that compose them, allowing them to affirm their one identity in the public sphere and in the political context of their lives.

Political participation

Historically speaking, the rationalism of the Enlightenment that presided the elaboration of the theory of the separation of powers and government by the *Rule of Law* were at the basis of the institution of parliamentarianism and representativity that motivated the spread of the scope of civil rights. Especially since World War II, those ideas spread throughout the world and originated the liberal democracies that we know today, characterised by the sovereignty that resides in the people and by the legitimacy of the exercise of power that derives from its representativeness materialized by electoral mechanisms. In the name of the equality of all citizens, the same rationalism produced a quantitative criterion for determining the legitimacy of the exercise of power. Thus, all votes count the same, and even in indirect electoral systems, it is the quantitative criterion that determines representativeness and, consequently, the legitimacy in the exercise of power by expressing the will of the majority sustained by the power and independence of the judiciary.

Departing from the classical study of Lon Fuller (1969), we agree that there must be a strong relation between the laws and those who are subjected to them. That relation, ultimately, is a relation between the legislator and the constituency, a relation between representatives and those who are represented, but also a wider relation between the judiciary and the people. That strong bond only emerges when the law presents itself as knowledgeable and comprehensive, predictable, stable, and coherent. Those features are a result of a commitment between legislators and the people, and that commitment assumes a form of compromise, a moral compromise between them because the referred bond is not to an authority, it is not grounded in relation of exercise of power and obedience, it is a bond that results from an agreement on the quality of content the law.

The moral values that underlie the law, any law, justify its existence and acceptance by those who are subject to it, particularly in democratic societies. In fact, the *Rule of Law* can only be understood if it is an extension of the *Rule of the People*, not as a formal constitution of a political regime or a formal way to understand the organization of public life, but, first of all, as an admissible imperative that aims to protect core values and the basic structure of particular societies.

As Paul Gowder writes, the morality of the rule of law derives immediately of the fact that it requires to treat all subjects as equals and must

> […] satisfy the following three conditions ("the three principles"): *Regularity*: Officials are reliably constrained to use the state's coercive power only when authorized by good faith and reasonable interpretations of pre-existing, reason ably specific, legal rules.(…) *Publicity*: The rules on which officials rely to authorize coercion are available for subjects of law to learn – the public at large may observe these reasons and the arguments about them (…). *Generality*: Neither the rules under which officials exercise coercion nor officials use of discretion under those rules make irrelevant distinctions between subjects of law; a distinction is irrelevant if it is not justifiable by public reasons to all concerned. (Gowder, 2016: 7)

Those features foster the need of reciprocity among citizens in sharing the costs and benefits that result from the enforcement of order by the law, aiming for a public good that pretends to be scattered to all, leaving no one behind. In this sense, justice is as much a political value as a moral value. The state, by enforcing its power through the law, must treat each individual with equal respect and take each of their interests into due account; otherwise, democracy becomes undermined. Putting it in other words, «the rule of law depends (practically) on a commitment to its preservation on the part of those whom the law protects» (Gowder, 2016: 11). If it does not provide such a moral commitment, if it does not motivate such an alliance and agreement among citizens, then it is not recognized as fair or just.

That leaves us with another problem, which takes equality has its core value of the rule of law, and that may be considered discretionary

and discriminatory among citizens. Citizens may not hold the same sense of justice in what regards to their particular position in society, to their moral background, to their cultural, ethnic, religious identities. For those, the ideal of equality may presents itself as unfair because it does not address the significant and comprehensive differences among persons, groups, or communities. The normal answer for this problem is that the state coercive power is exercised only in what regards to generals' laws that may be applied to all citizens, but that implies conceiving the law in its formal conception, not in its material or substantial content, that requires conceiving the law regarding its normative values.

Let us illustrate with an example: many of the democratic constitutions establish the liberty of cult, the right to profess any religion. However, if we look to the constitutions in most of the countries in Western Europe, we may see that is not unconstitutional that the law establishes holydays, granted, and mandatory to all, for Catholic celebrations and not for other religions or confessions. That is why so many must "call in sick" when they need to celebrate their religious festivities… Does this mean that the needed commitment is impossible to achieve if the society holds significant differences among its citizens? No, for sure. Such a commitment is possible, even in its full length, but it must be compromised between stability and changeability, in its substantial content, between those who enforce it and those who are subject to it. Has Gowder states:

> To build a legal system that is regular, public, and general is to set the state on a course in which its overwhelming power is to be used against the people in the community only when those who wield it can explain, to the satisfaction of a watchful public, how its use is consistent with the equal standing of those against whom it is to be used. To establish such a system is to declare a commitment to equality; to maintain it is to rely on that commitment across the political community. (Gowder, 2016: 189)

For what it stands, we may conclude that the *Rule of the Law* is nothing but a particular form to exercise or a way to put in practice the

Rule of the People, and that is why the quality of political representation becomes so important to measure the quality of democracies.

We believe that it is this mechanism that must now be questioned and rethought in order to reverse what has been called democratic decay, motivated or accentuated by the internal dynamisms inevitably inherent to nations that are increasingly composed of multiple minorities, scattered by divergent values and interests, and by the global dynamism of interaction and interdependence of the different nations in a globalised world, especially at an economic level. One way or another, we believe that the health and well-being of modern democracies will arise from the capacity to implement new mechanisms of political representation that are based, not on an egalitarian quantitative criterion, but on an equitable qualitative criterion. This is what the new modes of political participation, the new models of citizenship stress, i.e., the need for a reconstruction of the mechanisms of representativeness in the various layers of representation, from local, to national and global, which will have to be concretized from the bottom to top as a proper way to strengthen the feeling that an election really has political consequences.

This bottom-up movement is not, of course, carried out by atomized individuals, since they do not have the capacity to articulate what is collectively established, that is, the moral sources that make up the collective identity and that present themselves as a significant horizon for the construction of a personal identity. It will have to be the local communities, in first place, to forge a political project that meets their collective needs and aspirations discovered and made explicit through dialogue. From here, according to Charles Taylor, we can identify the conditions that could make it possible:

> We distinguish four different building blocks of this change:
> (I) It involves an existential shift in stance: from a sense that we as a community are the victims of powerful forces beyond our control, such as the "globalizing elites" or "distant technocrats," or the disloyal competition of foreigners, we come to see ourselves as capable of taking initiative, of doing something to alter our own predicament. Therefore, the emergence of a deliberative community, of the "political" in Arendt's sense, generates

an empowering consciousness of collective agency and possibility among the local community.

(II) At the same time, the fact that we have to join forces and work with others, from different organizations, confessions, outlooks, and even political convictions, makes us listen to each other: deliberative communities build new inclusive solidarities and trust among the participants.

(III) We also can open up new alleys to creativity, a realignment of both knowledge and motivation, both a clearer vision and shared power around this vision.

(IV) Our standing as a group has significantly changed. Our interpretation and understanding of the situation, our interests and goals, and even our motivations, values, and vision have become aligned. Once a responsive connection to the political system has been successfully established, we feel empowered because we are empowered. Because of its potential for the alignment of goals, knowledge, and motivation, the rebuilding of local deliberative communities is both a mode of organization and a means of political mobilization. (Taylor, 2020: 22-25)

A democratic renewal implies: "(1) to define new and potentially fruitful policies or programs to meet important needs of citizens, and (2) to create commitment, cohesion, or solidarity around these policies" (Taylor, 2020: 85) and, we add, forms of effective political representation.

Empirical data show that this is not the affirmation of an inconsequent idealism. It is a proposal based on a new way of designing democracy in a context in which political institutions and their party system and representative mechanisms have proved to be ineffective in meeting citizen's needs. What is at stake is the bond of justice that unites people around a common good that is greater than the sum of private interests, at both the national and global levels. It is necessary to continue to respect the need to satisfy private needs in a way that is harmonized with the common good. This implies a combined action among political parties, nonpartisan social movements, and a solid local community, with a strong civic sense, and organized around needs and aspirations consistent with the preservation of collective identity.

If the representation mechanism must be reformulated to respond a claim from bottom to top by the qualified participation of the members of local communities, by the formal or informal movements, more or less organized and institutionalized in what is classical named as civil society, that claim only becomes effective and successful by the alteration of the mechanisms of representativeness inscribed in constitutional texts. As a means to combat the announced democratic decline that we are experience and, at the same time, as a means to strengthen the link that bides representants and the represented, it is also necessary that the same claim finds acknowledgement among the political institutions, from top to the bottom, has a necessary condition for change of mechanism of representativeness in constitutional texts.

As mentioned before, representativeness must be grounded in a qualitative criterion that allows a more effective political expression of local communities with shared interests that, regardless of the number of its members, presents distinct specificities and particularities between each other's. Those particularities could be justified by the possibilities that a specific territory and environment provides for its flourishment, or also, for example, due to the industrialization and mechanization of labour that dissolves professional communities and their identities (see, for instance, the local communities of fisherman, lumberjacks, small farmers, that are eroded not only professionally but as an inevitable consequence in its identitary component), and even also, most preeminent of all, linguistic, cultural and religious minoritarian communities.

Maybe we may conceive a quote system for the election of representants of those communities; a qualified vote that could have a significant greater numerical expression, although in equitable terms, that represents one´s community and not only the sum of the votes of the individuals that compose them. Maybe it could be reasonable the creation of an indirect representation based on "qualified electors" of different local communities that could nominate the legislative and the executive powers. It seems that it could be a more adequate and effective way to address the different claims of different communities that, being in majority or in minority, remain legitim claims.

If something like this does not happen, the feeling of belonging to a nation and a political community becomes even more flattened. But there are other options.

Rethinking Political Representation

In rethinking political representation, we may start to quote Montesquieu when we conceive an electoral mechanism of political representation as an aristocratic nature, while a lottery mechanism is more adequate to a democratic regime. The sense is that the representative government is a form of elected aristocracy because it discriminates citizens and excludes some of them from de decision-making process. As we know, for Rousseau political representation is essentially non-democratic. Quoting Urbinati:

> After Rousseau, representative politics is increasingly understood as having the potential to unify and connect the plural forms of association within civil society, in part by projecting the horizons of citizens beyond their immediate attachments, and in part by provoking citizens to reflect on future perspectives and conflicts in the process of devising national politics. (Urbinati, 2014: 391)

Despite of the correctness of this statement, what we may observe is that there are increasing forms of political authoritarianism and populism, and many scholars are dealing with that kind of problems and pointing out some solutions. Although the solutions are often questionable, the causes they endorse are too exhaustive to be summarized in the scope of this article. However, for our intents, the political problems with democratic representation here presented are at the core of the weakness of the modern party system and at the same time of the weakness of the state as the sovereign entity that can provide citizens with a meaning and fruitful life. The growing abstention in election procedures is not just a sign that people do not care about who governs them anymore. They seem to care only about their economic conditions: their wages; whether they will be able to have a comfortable

house; a good car; education for their children; the opportunity to live in a safe neighbourhood, and so on, as if there should be some kind of agreement or a trade between the amount of taxes that are to be paid and the goods that are to be received. As Benoist affirm: «This triumph of the economy over politics is interpreted by liberals as the victory of liberty, while it in fact amounts to a dispossession of the self because it translates into the inability for collectivities to take control of their destiny.» (Benoist, 2011: 7-8)

As such, we are starting to witness a growing sentiment of frustration, especially because participation in political life, the involvement in determining the shape of our societies, is an important way of asserting our own personal identity. In fact, we must not forget that "Democracy implies the existence of a democratic subject, the citizen. The atomized individual as conceived by liberal theory cannot be a citizen because he is, by definition, alien to the desire to live in a community" (Benoist, 2011: 6). Despite our agreement on these assertions, they are made in a perspective that we cannot address. For Benoist

> Modern democracy is intrinsically linked to modernity, but only by way of a tie to liberalism, which tends to undermine it. The profound cause of the crisis is the unnatural alliance of democracy and liberalism. (…) The expression "liberal democracy" joins together two terms as if they were complementary, when in fact they are contradictory. (2011: 4)

In fact, liberalism and even neoliberalism are compatible with democracy. Empirical data provides evidence for it. Nevertheless, Benoist touches an important chord: the spread of individualism in national life.

When properly interpreted, the concept of national states must be addressed at an instrumental level and not in its essence or as an end in itself. In fact, democracies are grounded on a core of values and practices that allow the manifestation of different identities. Those values, attitudes, and practices have a democratic structure that involves respect, recognition, and liberty of expression of differences, but the excesses that were committed regarding its deregulation have led to the diminished importance of citizen participation in political

life and, therefore, to the diminished trust in their national states. Nevertheless, we are witnessing the manifestation of a desire to ensure some kind of moral regeneration at a national level, which is what opposes the citizens to their economic, political, and even cultural elites.

Nowadays, the debate focuses not on indirect representation but on the proximity and on the direct engagement of citizens and their communities of moral or social belonging. Kymlicka (1995) raises the question of collective representation among traditional democratic institutions of representativeness, conceiving that individual representation is not enough nor even sufficient for the development and affirmation of a personal identity since that depends on the relations and the resources provided by the collective groups that persons belong to. Like Kymlicka, Williams (1998) sustains that considering individuals only as individuals and not as members of groups is the main reason for the lack of response to social discriminations of minorities by the institutions of representativeness. This situation – the outcome of a Lockean conception of individual constituency – undermines the possibility of representativeness of collective minority identities and, consequently, the impossibility of representativeness of a personal identity. It means that an individual is not just an individual, it is a person with an identity that is collective formed and, if is not part of the majority of the people, simply does not have political representativeness.

This diagnosis is fed by the spread of migrations movements, the mobility of workers, and the consequent implications on the sense of belonging to a political community identified by a territorial based criterion which increases the sense of misrepresentation. The claims, interests, and objectives of those people do not rely on the characteristics of a given territory. The identity and uniformity of those traditional communities becomes threatened among people that inhabit those territories, by those who arrive in search of a better live. On the other hand, along with the challenge of territorial mobility, we must consider, from time to time, the number of inhabitants of those communities to measure their political representation on national level. Often, by economic or environment reasons, in specific regions, we witness to massive movements of depopulation and those who remain in those

regions lose their political influence, and their political representative-ness is weakened, precisely when, in virtue of those economic and en-vironmental reasons, that representativeness should be strengthened forward.

The equality among citizens under the law, with the same political rights such as the right to representation, once grounded on a territori-al-based criterion, is, by reasons of equity, engaged with a proportional criterion. Both criterions, territorial-based and proportionality, sustain that representativeness is considered in quantitative terms and not on qualitative ones. And that is plenty justifiable if we consider democra-cy as the rule of the majority. However, the classical comprehension of this form of political regime was stablished when there where political and social conditions for the exercise of a direct democracy. That does not mean that those criterion and justification are still adequate if we consider the question in terms of a representative democracy in which the rule is not of the people, as Schumpeter has showed, but of the rule of law.

At the present moment, we are witnessing the rise of new forms of non-electoral representation; civic groups and forums of opinion and decision-making processes for the implementation of political policies in environmental issues, for example; demands for represent-ativeness from different forces and movements of the civil society, specially by legal and business interests added to the claims of repre-sentativeness of identities, religious minorities, cultural, linguistic, but also by gender or professional orders are creating new challenges to classical mechanisms of political representation. At another level, the quantitative criterion, in which each individual as the same weight and political influence because it represents one vote, is becoming questionable because many of the contemporary political agents are now transnational and extraterritorial, or even nonterritorial ones that group themselves in numerous nongovernmental organizations, transnational social movements and associations, worldwide social networks that demand political representation to affirm their claims, their causes and interests. By their nature, these entities are endowed with representative functions and powers. They represent those who constitute them and, paradoxically, they are becoming more effective

in political representation through indirect mechanisms such as lobbies activities or media pressure.

These forms of non-electoral representation expand and strength the democratic spirit of modern societies but, at the same time, weaken the legitimacy of political representation in the traditional sense, as mentioned, aroused by the French Revolution with the emergence and spread of the national states as a form of political organization of the people based on a constitutional arrangement. The tension that we are referring to has been identified as a tension between a model of representativeness sustained by the elites and the crescent political and social democratisation of societies that is not reduced anymore to political parties or to the territorial and numeric criterion.

New Mechanisms of Political Representation

The electoral mechanism and the stability of elected representatives is a slow process to give response to an emergent constituency or a marginalised constituency. Those constituencies aim a greater power in the decision-making process, a major political impact of their choices to satisfy their needs and those are goods that the traditional electoral representation is not able to provide. Quoting:

> Given the complex and evolving landscape of democracy, however, neither the standard model of representation nor the participatory ideal can encompass the democratic ideal of inclusion of all affected by collective decisions. To move closer to this ideal, we shall need complex forms of representation. (Urbinati & Warren, 2008: 407)

In fact, in our modern democracies, we are witnessing the expansion and pluralisation of the spheres of political decision. Self-legitimated political agents emerge due to the needs of who they represent, either associations of interests, such as lobbies, groups of civil society, international organizations, or media groups with worldwide influence, alongside with institutionalized political actions that aim to give voice to nonelected representants through panels of citizens, plots,

deliberative forums, and referendums. These self-legitimated political agents are not new, but even more pluralised in number and diversity. They intend to represent a wide variety of goods: human rights, wealth and safety, education, animal rights, rain forests, spirituality, peace, environment and so one… Representation of this kind may be attached to a specific dimension of human agency, but it is more flexible and faster in responding to urgent needs of their representatives specially because they are not territorial-based representants.

What we might call the *quantitative problem* is related to the increase of depopulation, mobility, and pluralization of societies implies a permanent redefinition of constituency; migration, global scale trade, environmental issues are extraterritorial claims that cannot be addressed by political mechanisms grounded on a territorial-based criterion. Many transnational and extraterritorial institutions and public actors are organized one nonterritorial entities such as the United Nations, the World Bank, NGOs, and diverse social movements, more or less institutionalised, more or less formalized, in associations of spontaneous nature that become effectives through the media impacts of their actions, which agents perform functions of representation and demand political representativeness. The action of those agents is often much more effective that the exercise inherent to procedural and bureaucratic legislatures but, on the other hand, those agents do not acquire formal legitimacy and a clear accountability from those who are affected by their actions and their decisions.

We might also find a *qualitative problem* in what regards the access to information and communication, as well as the corruption that exists or may exist among the representants or even between representants and representatives; issues of identity such as religion, ethnicity, nationalism, professional identity, gender are questions in turn of which social movements are shaped, with different nature and different objectives. Equally, these collective issues are only partially corresponded on a definition of a constituency grounded on a territorial-based criterion that provides a sense of equality of all citizens but, in fact, does not promote it.

So, the quantitative and qualitative problems are unified when «for minorities whose claims consistently fail to be present within political

institutions, representation based on formal equality also fails basic fairness. Yet the strongest historical argument for fair representation has not been based on group advantage or disadvantage, but rather the proportional representation of individual interests. If all individuals have an equal claim to representation, their representatives should have presence in representative institutions in proportion to the numbers of individuals who hold interests they wish to be represented» (Urbinati & Warren, 2008: 395) In fact, proportional representation (Dahl, 1989; Amy, 1996; Barber, 2001) seems to be more adequate to allow political representation for disadvantaged groups.

Another perspective that is being put forward as a solution to these problems is Random Representation (Rehfeld, 2005; Landemore, 2020; Abizadeh, [forthcoming]). The random selection should be geographical independent, that is, not on a ground based territorial criterion. At the same time, minorities would have a proportional representation suited to their dimension in society, allowing to endow back people their political power, articulating their preferences without sacrificing the representative efficacy, such as it happens in indirect representation. It would be like a combination between a direct and indirect representation through political parties on a ground based territorial selection.

It could be admissible that a random selection may be combined with a percentual of representatives of a cause, of an ethnicity, a religion, speakers of a specific language or professional interests, in a stratified assembly randomly constituted. By this process it would be possible to assure that the variations on preferences and interests of the constituency should be addressed on a national political level on the terms of a legislature.

Taking as an advisory chamber, random representation should be able to sanction and improve public opinion since it provides better information to participate in plots, civic groups or movements, deliberative forums, and other forms of political participation of citizens. In this way, it would be possible to conciliate the expertise and technicism of representatives appointed by political parties to address the complexity of political policies with the preferences of the constituencies that on each moment may be scrutinized without the necessity

to systematically go back to referendums and other means of direct democracy (Dahl, 1970).

Random representation would allow that any claims in a specific period become more effective for citizens, nor only in proportion of their interests but also as means to respond to the intensity that those claims may be made. So, in face of the danger of increased inequities in political representation and the consequent decrease of political citizens´ influence, random choice presents itself as potentially fairer and more adequate mechanism. Nevertheless, we may intent another type of political representation if we start our reflection questioning political equality.

Political equality may involve a plenty number of possibilities and arrangements and we address some of those in what we have called the quantitative problem, but now, when we are taking in our hands the qualitative problem, we must consider that there are differences between political participation and political representation. It is undeniable that the notion of political equality involves at some degree the notion of political participation, but political participation is very divergent when we take in consideration differences of social classes, of gender or ethnics and that is an evidence of political inequality.

Claims for equal representation of men and women, claims for a more equal equilibrium in representation among different ethnic groups that compose each society, claims for political inclusion of marginalised groups, demand for new political rearrangements addressing democratic representation based on who is represented and not so much in what is represented.

Democracy, in itself, is characterised not only by the participation of the people in the process of decision-making policies, but also by the possibility of self-determination and that means that each individual has the same value and must have the same capacity to pursuit their interests and goals through political participation in order to be able to live a good life.

The inner nature of democratic representation is not compatible with the direct participation of each and every citizen in each and every political decision; in fact, democratic representation is a mechanism that aims to proportionate political equality, at least in quanti-

tative terms, to all citizens, but that means that someone could be left behind. Nevertheless, there are other ways in which people can be engaged in political activities, particularly for those who are left behind or are misrepresented, in particular minority groups based on religion, culture, ethnicity, language or even at economic and professional identities and other social movements with their proper agendas. At the level of civil society, those groups can and in fact do exercise pressure on states to achieve their goals, and that pressure becomes more effective when they provide the satisfaction of the claims and necessities of its members in a complementary way or even by assuming responsibilities that are in first-hand governmental responsibilities.

In these cases, it seems more likely that those who are best informed and most proactive in the defence of their claims and ambitions, by expressing, sustaining, and arguing in favour of the justification of their existence, should be, more or less explicitly, in charge of the representation of its members. In due context, such an expression represents the group and what they aim for. That puts political pressure on the governors and elected representants and is in those cases that minorities can become political active and effective.

Turning back to the question of political representation, if we want the same results, the same outcomes for all, then, particular for minorities or for those who are left behind, we must give additional weight or value to their votes in order to achieve a more equal representation. It is a question of simple mathematics, but to an extreme we will have to admit that any person has is one claims and its one particular needs, and its one reasons to felt left behind, and, if so, it would be impossible to even speak about representation. As so, and again, it seems clearer that democratic representation it is much more about qualitative representation than quantitative representation.

In the words of Anne Phillips:

All this depends in turn on some guarantee of political presence, for if certain groups have been permanently excluded, the process of deliberation cannot even begin (…) where there are social group differences and some groups are privileged and others are oppressed, group representation is necessary to produce a legitimate communicative democratic forum. De-

liberative processes will be improved, not undermined, if mechanisms are instituted to ensure that multiple groups have access to the process and are actually present when decisions are made. Proportional or group representation, precisely by having this effect, would ensure that diverse views are expressed on an ongoing basis in the representative process, where they might otherwise be excluded. (Philips, 1998: 151-152)

We must find other forms of representation, other mechanisms that promote a more equal political participation, other ways of putting into political agendas new issues and concerns of those minorities that are often left behind.

In the traditional form of representation (Pitkin, 1967) through political parties in parliament, many of the questions and claims of constituents are not taken in due account because they were not explicit and debated during the electoral process; on the other hand, representants are, most of the times, tied up to the agenda of the party and not so much to who they represent or in the name of what they were elected. In both cases, representation becomes undermined and representants must address to their own judgment about conflictual claims. In the first case, when people do not explicitly articulate their necessities, we need to provide the resources or the means to clarify their public speech, by enforcing the informal mechanisms of civil society, namely through the support of civic assemblies, meetings or gatherings that may be a source of political enlightenment. In the second case, we must change the models or the patterns of political representation. In fact, the success of the former depends on the opportunities that may be given by the latter. There is no strong appeal to be politically engage in institutions of political nature in civil society if that engagement does not produce effective outcomes.

As Philips writes:

The case for gender parity in politics, or for a more even-handed balance between the different ethnic groups that make up the society, or indeed for a greater than proportionate representation of numerically small groups always depends on analysis of existing structures of exclusion. (Philips, 1998: 46-47)

When different groups have different kinds of interests, the lack of an equitable distribution of political positions undermines the believe that public policies are equally address to all citizens. That increases the distrust in political institutions and fosters the dismiss in political participation and that affects the way how a personal identity is formed, since political expression and effectiveness are conditions for self-awareness and recognition – two key elements in the process of identity formation. Disrupted identities lead to disrupted societies and that is one of the major causes of the democracy crises that we are witnessing. A society that acknowledges human identity and human difference is a society that promotes fair and just means of collective political deliberation; it is a healthy democratic society.

So, the question that we must face is not a question of proportionality in representation – that is the quantitative approach – is a question of proportionality of ideas, claims, and necessities of different nature, that only could be acceptable or legitimized through their moral content by different groups. We need to challenge the presupposed political consent that keeps so many left aside, as well as to challenge the political agendas with new ideas. In this sense, it is not particularly important who the representants are, but essentially what they represent and what they do in order to promote not only political but also cultural intervention.

We need to have a different kind of group representation together with representation through parties, group representation, with responsibility and accountability, and deliberative power engaging with parties, otherwise it would be a never-ending story in political debates.

What we are suggesting is some kind of middle term between associative democracy, in the sense that Paul Hirst has formulated, and deliberative democracy.

According to Hirst:

Associative democracy is a normative political theory. Its core propositions are as follows: 1. That as many social activities as possible should be devolved to self-governing voluntary associations. 2. That by doing so the complexity of the state will be reduced and the classical mechanisms of

democratic representative government will be able to work better. 3.That
self-governing voluntary associations should, wherever possible, replace
forms of hierarchical corporate power. This would give the affected in-
terests voice and thus promote government by consent throughout soci-
ety and not merely formally in the state. 4.That for many essential public
functions, such as health provision, education and welfare, voluntary as-
sociations should provide the service and receive public funds for doing
so. (Hirst, 2002: 1)

Despite its virtues, we believe that civil society does not have the
capacity to provide such functions, and, above all, it is not its nature
one a democratic regime characterized by the rule of law. It will be
easily captured by particular interests, allowing the spread of corrup-
tion and the increase of conflicts between different factions or groups
fighting for public funds.

The presence of representants of disadvantaged groups in parlia-
ment may alter the definition and resolution on the decision-making
process of public policies, increasing the quality of our democracies
by providing an approximation of the rule of law to the rule of people
by the law. It will increase an active exercise of citizenship through
political participation and foster the sense that each identity is formed
and recognized also in the public sphere of their lives. Returning to
Philips:

> Those concerned with the under-representation of particular social groups
> look to the development of more deliberatory processes of decision-mak-
> ing within the representative assemblies. They also look to the develop-
> ment of new mechanisms of consultation, perhaps even accountability,
> that will link representatives more responsively to the various groups'
> emerging concerns. (Philips, 1998: 190)

But group representation demands a mechanism through which
may be established what the group thinks, wants or needs. That mech-
anism involves creating a different type of representation, namely a
representation in the decision-making process that could be assured
by a second or third complementary chamber in parliament, not only

as an advisory bord, but with negotiated deliberative power that could open the political spectrum to those who are traditionally or historically excluded, in particular, the aforementioned minorities.

What we propose is a chamber constituted by appointed representants from minority groups and not from any kind of association of civil society. What we have in mind is the representation of those who in fact offer good reasons to feel excluded from a representation grounded on a quantitative selection process of representants appointed by their parties. On an historical account we may easy identify those who are being left behind under the category of identity minorities grounded on religion, ethnicity, culture, language, and gender. On a sociological account we may identify, case to case, society to society, others that are also left behind such as foreign communities and migrants, professional associations, and youth. In any case, the mentioned examples are just examples, for ultimately it would depend on the informal mechanisms that gave birth to such social movements and their significant presence on society. It is the need for representation, the feeling of being left behind, the frustration on affirming an identity in the public sphere that will enforce such movements and their claims to be represented. It is a bottom-up process that must be accepted and accommodated from top to bottom.

That kind of chamber would be endowed with deliberative power, essentially on questions about education, health, and culture, for those are the basic areas that will foster the affirmation and satisfaction of minority identities claims. On other issues, that kind of chamber would serve as an advisory board.

Conclusion

Following Urbinati and Warren, we agree that

> Representation serves to unify and connect citizens, while also pulling them out of the immediate present and projecting them into future-oriented perspectives. Representation, when intertwined with citizens' reflexivity and participation, evokes, and focuses the natality of politics, through

which individuals transcend the immediacy of their interests, biographical experience, and social and cultural attachments, and enlarge their political judgment on their own and others' opinions. (Urbinati & Warren, 2008: 401)

Yet, there is an increased erosion in the commitment with political inclusion at the same time that we face a problem of exclusion motivated by territorial or geographical criterions. The issues of political inclusion are not only external, but they are also internal to national states since it is difficult to understand, nowadays, who is effectively the people, not even to assure that all the members of a political community that are subject to the same political decisions have an active voice in the decision-making process in equal terms. To assert who the people is implies questioning if all of those who are subjected to political decisions have equal rights in the decision-making process of those policies.

It seems that the democratic representation as we understand it does not provide or explain how citizens could identify themselves with the laws and policies that rule them, nor even they can assume those laws and policies as their own as the ideal of democratic self-government implies. In representative democracy, it is expected that citizens delegate in their representants the political decisions, yet it is needed some control over the action of representatives, otherwise the capability of political participation of citizens becomes undermined.

Another symptom of a distorted political representation is the understanding that political decisions are to complex and require some degree of expertise beyond ordinary knowledge of common sense and, for that reason, the power of decision should rest on professional politicians, by elites, and should be followed by the ordinary citizen that do not have the critical capacity to evaluate and anticipate the justifications of those decisions.

Nor the government of the majority grounded on the political elitism of parties give plausible interpretations to satisfy the democratic ideal of self-government or the rule of the people. None of these conceptions are capable to provide the institutional mechanisms that are needed to correct the distortions of representative democracy,

allowing that the claims, interests, objectives of the citizens may be satisfied through political decisions. On the contrary, those solutions undermine the capacity of citizens to exercise their democratic control over political decisions. Even so, it does not seem possible that citizens become engaged in a political project of self-government.

To overcome the gaps of representative democracies, regarding the representation of all, without internal or external exclusions, without elitisms that demand an acritical adoption of policies made by experts, some scholars are advancing some solutions for a representativeness based on lottery or sortition, on a random selection of representatives among ordinary citizens, instead of an electoral mechanism based on party choices. Those solutions aim to stablish the democratic proceedings in decision-making processes through assemblies of citizens, juries, plots with deliberative power, referendums, and so one. By those means, all the citizens will have an equal opportunity on being selected and, in that way, the political inclusion and equality among all will be preserved.

Although those solutions may be welcomed, we think that the problem remains[3]: the citizens that are not selected should, passively or blindly, accept the decisions of those citizens that were randomly selected under the presumption that randomness will assure by itself better choices and better results.

Associative democracy must be combined with deliberative democracy and that would be possible if we create a chamber in parliament constituted by appointed representants of active social movements that claim to be included. We think that with such a mechanism the rule of the law will turn the ideal of the rule of the people more tangible.

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[3] See: LAFONT, C. (2020).

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