

EDITORIAL

PARLIAMENTARISM AS A RHETORICAL CONDITION OF DEMOCRACY

This volume of *Redescriptions* contains several articles discussing the present state and the future prospects of democracy. In their articles Pierre Rosanvallon (based on an authorised translation of the introduction of his *La légitimité démocratique*), Michael Th. Greven, Maija Setälä, Tuija Pulkkinen and José María Rosales approach the crises and problems of democracy from different perspectives. None of them has definite devices to offer, and they also slightly differ in their assessment of the present and future of democratic politics or, as Pulkkinen puts it with Derrida, of the democracy as something to come, *à venir*.

In this editorial I want to reconnect the discussions of democracy to an older debate, touched on in the pieces by Rosanvallon, Setälä and Rosales, namely those on the relationship between democracy and parliament(arism). My perspective is, once again, indebted to Max Weber (see also my essay on his study on ‘objectivity’ in *Redescriptions* vol. 12).

Weber’s essay *Wahlrecht und Demokratie in Deutschland* was written in the late 1917, after the failed attempts of the main Reichstag parties to introduce a parliamentary government to Wilhelmine Germany. The pamphlet was directed, above all, against proposals to replace the manhood suffrage of the Reichstag with corporatist models (*berufsständische Vertretung*), which were popular especially among the academics and *literati*. In 1917, after the Russian revolution in March, the left-wing anti-parliamentary models also gained ground

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in Germany. The councils or soviets (*Räte*) were problematic in their relationship to democracy, resembling the corporatist models in their use of the workplace as a basis of delegation and committed to the anti-parliamentary principles of imperative mandate and revocation. The "government by discussion" (Bagehot) was equally suspect to both right and left wing anti-parliamentarism in Germany at the end of World War I.

Towards the end of his *Wahlrecht* essay, Weber discusses what would happen in a democracy without a parliament. The key passage deserves to be quoted:¹

Firstly, *what organ would democracy have with which to control the administration by officials in turn*, if one imagines that parliamentary power did not exist? There is no answer to this. Secondly, *what would it put in place of the rule by parliamentary 'cliques'*? Rule by much more hidden – and usually – smaller cliques whose influence would be even more inescapable. The system of so-called direct democracy is technically possible only in a small state (canton). In all mass states democracy leads to bureaucratic administration and, without parliamentarisation, to pure rule by officials. (*Political Writings*, ed. by Lassman & Speirs, 1994, 126-127)

The Weberian point, also crucial to the contemporary problems of democracy, lies in his keen insistence of the dangers of bureaucratisation – the rule of the officialdom, today also of experts and specialists – as an untended consequence of all un- or anti-parliamentary forms of democracy. For example, the legitimisation by impartiality and proximity, which Rosanvallon analyses in *La légitimité démocratique*, might be asked to answer to the parliamentary perspective of Weber. The same applies to the 'deliberative democrats' discussed by Setälä.

Rosanvallon as well as the deliberative democrats tend to rely on the constitutional courts in order to limit the powers of elected parliaments, whereas Greven criticises such an imitation of the US model in representative democracies outside Westminster. In Richard Bellamy's *Political Constitutionalism*, which Christopher McCorkindale reviews in this volume, this dispute is named as one between the legal and the political forms of constitutionalism. For the proponents of legal constitutionalism, the impartiality of the courts appears as a device for avoiding the partisanship and arbitrariness of democratic politics. From the Weberian point of view, the parallels with the

claims of the German officialdom in the Wilhelmine Empire to impartiality are striking. The 'legitimation by proximity' in the current local and other activist movements manifest similar problems of direct democracy that were faced by the *Räte* in Weber's time.

Here I want to discuss impartiality and arbitrariness theses as the two faces of the current critiques of democracy. Like freedom and equality, (im)partiality can only be spoken of in relation to something. At least in the simplified versions of the Habermasian view, a discussion should be decided on the basis of 'the best argument'. Such a thesis denies this 'in relation to what'-argument either by supposing that the criteria of the best are 'given' to the participants, as if they were 'found in nature' or by assuming that they must be a privileged 'relation' shared by all. I will call them the naturalist and the consensualist version of the best argument. The naturalist view presupposes a mirror theory of knowledge which can hardly be taken seriously today. The consensualist version is defended today, for example, by the Rawls or Habermas fan clubs, although they attribute to disputes as a purifying cathartic role before the reach of the consensus. The criteria of the best are taken to be beyond the controversy itself, and the discussions concern merely their application. We can ask, whether such a consensus is possible or desirable at all?

A central consensualist argument lies in the accusation of the role of arbitrary interests, as it is expressed in the clash of the partners in bargaining or lobbying, for example, with the means of strikes, compromises or majority votes. Here we can ask, is not such a clash in any case better than setting some persons or instances as arbiters above the conflict, as the consensualist position claims to do. In diplomacy, in the labour market or in the negotiations between majorities and minorities such measures and practices are indispensable. All the figures of negotiation are, however, based on a 'we'-rhetoric, in which the doubts of the unity of the 'we'-side are already signs of treason or at least a weakness in the face of the opposite side. Or, to connect this to what Pulkkinen writes on Jacques Derrida's discussion of fraternity, we could also say, with Jean-Paul Sartre, that the converse side of every fraternity-we is always terror against the enemies and the excluded and never a deliberation and a debate with them.

It is here that parliamentarism as a rhetorical political style *par excellence* enters into the debate. In the twentieth century views on parliament, two types of rhetoric, negotiation and deliberation, are not

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always clearly distinguished, although the distinction is decisive for the understanding of parliamentary politics. The negotiation view on parliamentarism is programmatically defended in Gerhard Leibholz's interpretation of the German 1949 *Grundgesetz*. For him, the parliament is merely one specific arena of negotiations between parties. During a visit in the *Bundestag* I noticed that this view is recognised, as long as the results are announced on the basis of the fractions supporting or opposing a proposal, instead of counting the votes of the individual members. However, the Leibholzian *Parteienstaat* has had numerous critics among German constitutional lawyers, political scientists and politicians, who have defended, above all, the free mandate of the parliamentarians, also included in the *Grundgesetz*.

Both conceptually and historically, the free mandate is inherently connected to the parliament as a deliberative – and not merely as a representative or legislative – assembly. As the studies on both the English Renaissance rhetorical culture and the history of the parliamentary procedure indicate, speaking *in utramque partem* is the rhetorical condition of the parliamentary style of politics. The point is not how to decide – a vote is always, as Weber says, the *ultima ratio* – but how to treat items on the parliamentary agenda. The parliamentary procedure is the best historical example of the institutionalisation of a rhetorical epistemology: in order to properly understand and judge a proposal or an interpretation of the situation, you have to invent objections, above all, opposite points of view, as indispensable tools of comparison. Only with such comparisons between different perspectives we can estimate the pros and cons of a proposal or a situational analysis.

One characteristic of the parliamentary politics and rhetoric is the availability of an institutionalised procedure, which regulates all the parliamentary activities, and to which the deliberations *pro et contra* in different stages are built in. The parliamentary procedure also serves as a model for parliamentary elements in other assemblies, meetings and organisations. The procedure allows us, above all, to distinguish, whether the questions are treated in a 'parliamentary' manner. One of the 'direct democracies' obvious weaknesses is that they do not have any procedural alternative of their own. Therefore, they are either doomed to contempt all procedures as formalism, preventing direct action, or must imitate parts of the parliamentary procedure, but in a form watered down by the we-figures of the negotiation rhetoric.

In the courts, the opposed points of view are, of course, of equal value as in the parliament. However, in parliamentary deliberations there is, and cannot be, any neutral judge above the members, but it is up to the parliamentarians themselves to dispute and decide on the issues. The Speaker of the parliament is a kind of a referee, who can, for example, sanction the use of 'unparliamentary language' in the treatment of the parliament or its members, but who does not take stand in the issues themselves and does not even have a vote in many parliaments.

From the rhetorical point of view, it is less important how a parliament finally decides upon an item than that it has been subjected to the procedure of deliberating on it *pro et contra*, allowing the members alter their stand in the course of the debate. Even if this is rarely the case – if measured by 'crossing the floor' in the vote – and the systematic deliberations of pros and cons largely occur behind the closed doors of the committees, this does not alter the principle. The rare changes of standpoint are rather an expression of the great number of items on the agenda and of members wanting to speak on them: the parliamentary practice is largely regulated by the fair distribution of the scarce time between items and members (see also my *The Politics of Limited Times*, 2008).

The parliamentary procedure thus institutionalises the simple insight that in political struggles there cannot be any 'best argument' that could silence the objections and the opponents. The political action is not merely contingent – having alternative courses of action available – but controversial in principle – no proposal can be simply accepted without giving systematic occasions to dispute it – and contested in practice. In other words, the parliamentary procedure expresses the dissensus constituting political action on the three levels – contingency, controversy and contestation.

The procedural view of parliamentarism is the key point in Max Weber's pamphlet *Parlament und Regierung im neugeordneten Deutschland* (published in 1918 and written roughly parallel to the *Wahlrecht* essay) for a control of the officialdom in the modern state. The rhetorical practices known from Westminster, in particular, are for Weber effective parliamentary means of control of the alleged superior knowledge of the officials, their *Fachwissen*, *Dienstwissen*, *Geheimwissen*, as he puts it. Principles analogical to the parliamentary

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practices are applicable to the control of the 'monocratic' knowledge of experts, courts or academics.

Instead of applying à la 'deliberative democrats' the academic seminar practice to politics, Weber's re-thinking of 'objectivity' in the rhetorical-cum-parliamentary terms of speaking *pro et contra* also offers a model for revising the academic debates. Of course, it is equally relevant for contemporary debates on democracy and parliamentarism. When even the Westminster Parliament now gives the impression of having lost its reputation, I claim that this is rather an expression of an unparliamentary transfer of powers to governments and parties. Instead of complementing the parliamentary democracy by plebiscitary elements or by the reliance on 'networks and experts' (judged critically also by Frank Ankersmit in his *Political Representation* 2002), it is time to re-parliamentarise democracy.

By the re-parliamentarisation of democracy I do not mean any return to an ideal past. On the contrary, I simply mean that the understanding of democracy should not be separated from the parliamentary procedural paradigm and from the corresponding rhetorical political culture. In order to strengthen this link, the parliamentarisation as a procedural rhetorical principle should be expanded within the parliaments themselves. The political disputes no longer concern mere *pro et contra* answers to the same questions, but also what questions are set and allowed to enter on the political agenda. The rhetorical principle of deliberating *pro et contra* should be extended from the issues already on the agenda to the disputes on the parliamentary agenda itself.

Of course, the agenda disputes are time-consuming, and the suffocation of parliaments due to lack of time might be an obvious objection. Nonetheless, concentration of the controversies on the initial point of agenda-setting, or ordering and ranking of the items on the parliamentary agenda, can also offer chances to reorganise the entire parliamentary calendar and make the selection of questions worth detailed controversies more open and explicit. Such a reform of the parliamentary calendar can politicise the questions of agenda and render the aspects of timing explicit as inherent parts of political struggles for the parliamentarians as well as for the citizens, that is, for the parliamentarians of the election day.

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1. Denn 1. Welches Organ hat, wenn man sich die Parlamentsmacht fortdenkt, die Demokratie, um die Verwaltung der Beamten ihrerseits zu kontrollieren? Hierauf gibt es überhaupt keine Antwort. Ferner: 2. Was tauscht sie für die Herrschaft der parlamentarischen »Kliquen« ein? Die Herrschaft noch weit verborgenerer und – meist – noch weit kleinerer, vor allem unentrinnbarer Kliken. Das System der sogenannten unmittelbaren Demokratie ist technisch nur in einem Kleinstaat (Kanton) möglich. In jedem Massenstaat führt Demokratie zur bürokratischen Verwaltung, und, ohne Parlamentarisierung, zur reinen Beamtenherrschaft. (*Max-Weber-Studienausgabe* 1/15, 1984, 187)