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SPLIJTSTOF

Editorial

Dear reader,

The edited volume before you is a special edition of *Splijtstof*, the journal belonging to the Faculty of Philosophy, Theology and Religious Studies at Radboud University, Nijmegen. The volume consists of a collection of essays that are the final product of the second-year Philosophy bachelor's course 'Project'.

The purpose of this course is to train the students in research, presentation, writing, and cooperation skills on the basis of an overarching topic. Each student formulates a specific research question related to this topic and writes an essay about it. Peer feedback is a pivotal part of this process. Besides every student's individual effort and contribution resulting in a collection of essays, the students work towards composing an edited volume, which now lies before you.

The volume you are holding is a collection of essays concerning the overarching theme, 'Democracy and Representation'. This collection was written and produced under the guidance of Janneke Toonders. This particular volume was selected by a jury to be published by *Splijtstof*. This special issue is the eleventh of its kind, and hopefully, many more will come. We hope you enjoy reading it as much as we did.

On behalf of the editorial team,

Sophie Ingle, Charlie Chowdhry, and Angie Bonett
Editors-in-Chief of *Splijtstof*

SPLIJTSTOF

General Introduction

Marinke Ridderhof and Bente

Democracy and representation are two concepts with a variety of meanings (theory) and realities (practice). Intriguingly, anyone living in a democratic state engages directly or indirectly with both theory and practice—through news articles, opinions of friends and family, elections, protests, statements by representatives, et cetera. Even those uninterested in politics cannot avoid contact with democracy and representation, whether in practice or theory. Moreover, it seems that any inhabitant is permitted to judge whether practices are democratic, regardless of their educational status.

Why, then, should one attempt to describe democratic practice and the representation of this? The issues within the field of democracy and representation are not isolated but intertwined, often giving rise to complexity. Behind these seemingly clear terms lies an ambiguous domain shaped by assumptions, power dynamics, and various interpretations that influence our democratic practices and types of representation. Exploring these layers reveals hidden tensions and contradictions, challenging us to rethink the very foundations of democracy and representation.

Discerning tensions, meanings, and phenomena is a typical skill of philosophers. In this volume, each author employs this skill to explore how notions differ and relate to one another. While each paper addresses specific questions, tensions, or case studies, all contributions ultimately relate to the central inquiry: *Which philosophical principles, notions, and ideas underpin the understanding of a representative democracy and its practices?* The articles in this volume intentionally overlap in themes, highlighting how seemingly distinct practices or theories reveal commonalities. To illustrate this interconnectedness, the volume is divided into four interrelated sections, each transitioning into the next through its final paper, which overlaps thematically with both its own section and the one that follows.

The first section opens the volume with a fundamental question: What does it mean to represent? Milou Zwijnenburg critically examines the foundations of democratic theory by analysing the delegate and trustee models, as well as Pitkin's reconciliation of these two approaches. Siiri Jansson extends this inquiry by exploring the boundaries of representation, focusing on how non-human entities can be represented. Jasper Klomp then shifts attention to the representation of refugees, engaging with Hannah Arendt's concept of the 'right to have rights'.

Building on the exclusion of refugees from democratic rights, the second section turns to participation within a democracy: Why does the 'demos' in 'democracy' have the right to govern itself? And if participation declines, how

can it be revitalised? Dani Goedman addresses these questions by comparing the perspectives of Plato and Aristotle on the role of ‘the general population’ in democratic governance. Bente Brekveld follows by investigating the philosophical legitimacy of voting age restrictions. Andrea Memmo’s transition piece explores the phenomenon of abstention, analysing its causes and proposing ways to counteract it.

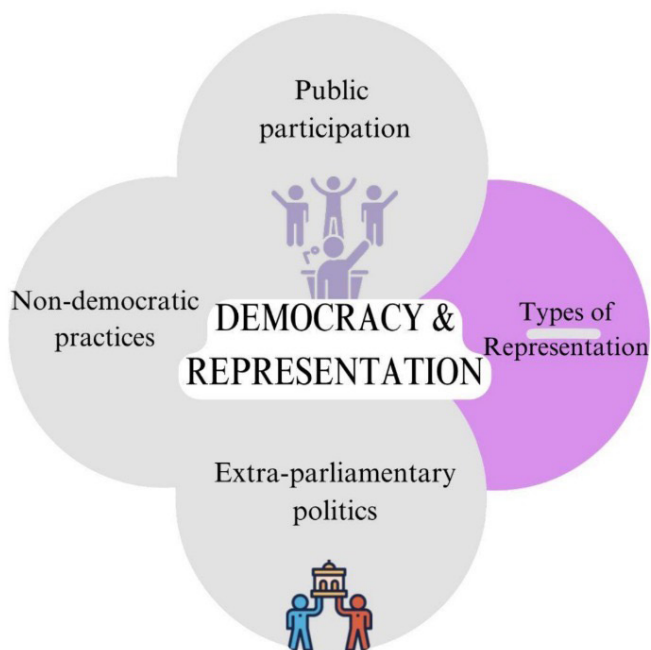
As abstention challenges democracy, the third section shifts focus to the limits of democracy. Frederique Bots examines the paradox between the need for inclusion and the necessity of excluding actors who are not inclusive. She uses Donald Trump as a case study to illustrate this tension. Staying within the scope of American politics, Indy Ouwerling examines electoral law through the lenses of John Rawls and Montesquieu, highlighting the importance of neutrality in the U.S. Supreme Court’s decision-making. Marinke Ridderhof delves into Bruno Latour’s cycle of collective decision-making, focussing on its capacity to include marginalised opinions in democratic processes. Roos Becker explores ‘truth’ in a political context with an analysis of post-truth politics in the digital age, reflecting on the impact of misinformation on democracies.

The final section revisits the limits of democracy, this time from an extra-parliamentary perspective: Which extraparlimentary practices qualify as democratical practices? Isa Habraken explores whether climate activists’ use of gluing tactics can be considered an act of civil disobedience, drawing on the theories of John Rawls and Hannah Arendt. Similarly, Fabian Fischer discusses the Animal Liberation Movement and evaluates the legitimacy of disruptive strategies. Finally, Gioia Klein investigates the political identity of LGBTQ+ individuals through a constructivist lens, engaging with thinkers such as Lisa Disch and Judith Butler. Her paper brings the volume full circle, as it connects to the first section’s explorations of types of representation by emphasising the dynamic relationships between institutional representation and the performative acts of marginalised communities, showing how these forms together redefine political agency. Through this structure, the volume is distinguished by its awareness of thematic interconnectedness.

Notably, the purpose of this volume is not to resolve democratic theory or provide a definitive answer to the central inquiry: such an endeavour would not only be overly ambitious, but the volume also has its limitations. Firstly, the authors are second-year philosophy students. While the research is conducted diligently and adheres to academic standards, the authors are not experts in the field. Secondly, the papers are compact; this makes them accessible to first- and second-year students, however, their brevity limits

either the breadth or depth of analysis. Thirdly, it is important to note that the case-studies addressed are either Western themselves, or analysed through a Western lens, which constrains the diversity of perspectives.

In conclusion, we aim to inspire a sense of wonder in the reader by unpacking the ambiguity and philosophical challenges within democratic theory, while providing real-life examples. To foster this sense of wonder, the reader is invited to reflect on the mentioned overarching question before engaging with the volume, considering which ideas and challenges emerge in the attempt to answer it. After all, the legitimacy of democracy is not merely a philosophical desideratum, but also something that people grapple with in their daily lives—often without the recourse to theories or renowned authors.



1. Electoral Representation

Interests and Wishes

Milou Zwijnenburg

1.1 Introduction

Gun violence is a big problem in the United States. Last year, 43,000 people died from gun violence, not to mention all the people who suffer from physical and mental health problems caused by gun violence (Washburn 2024). Even though it has been proven that gun control laws are effective, and that homes with a gun are not safer, US citizens are divided on the issue. In 2022, half of the population valued protecting gun rights over controlling gun ownership (Schaeffer 2024). Among Republicans, 83% valued gun rights more.

So, what should the politicians in the United States do? Should they protect gun rights, adhering to what half of the US citizens want, or should they try to implement laws that control gun ownership and save lives? The gun right/gun control debate illustrates a debate in political philosophy that has been going on for a few hundred years, namely the debate on how a politician should represent her voters in an electoral democracy. The specific tension that I will be looking at is what politicians should advocate for: what the people exactly want, or what politicians think is in the interests of their constituency. Should they make a decision based on what others think is the right choice or what they themselves think is the right choice? So, the question for my research paper is the following: How should an elected politician represent their voters in an electoral democracy¹ on issues where the opinions of politicians and their voters differ?

I will start by giving you some background information in the first section. I will explain that it is important that there is good electoral representation, because otherwise the voice of the voters is not heard and it negatively impacts our democracy. In the second section I will introduce you to the delegate and trustee models, which are models that describe a possible way for a politician to represent. Then, I will criticise the delegate and trustee models. Following this, I will come to the conclusion that neither

¹ See “Representative Democracy on Trial: Philosophical Perspectives on Inclusion and Exclusion of Anti-Democratic Actors” on page 69 and “Exploring Ecological Representation through Indigenous Epistemologies: The Limits of Non-Human Personhood” on “Exploring Ecological Representation through Indigenous Epistemologies” on page 23 for a focus on a different specific type or aspect of democracy. See the former for militant democracy and the latter for ecological democracy.

model is sufficient on its own, and in the third section I look at a different option devised by Pitkin²: combining the two models and introducing the value of responsiveness. In the fourth section I will connect Pitkin's option with the gun right/gun control debate and answer my research question with Pitkin's ideas.

1.2 Background Information

In this section and paragraph I will give some background information and explain why my research question is an important and relevant question.

It is important to have an answer to this question, because how an elected politician will represent us has an enormous impact on what our lives (will) look like. We have politicians because we cannot all participate in democracy ourselves. Electing these politicians enables us to have mass democracy (Castiglione and Warren 2006, 1). Representation is when you make something present which is not literally present (Pitkin 1967, 144). Thus, elected politicians should make sure that the constituents' interests are, in a way, present in the political sphere. If this does not happen or is badly done, then important decisions that are made in the political sphere are bad decisions. Moreover, considering representation enables us to have democracy, you could also say that bad representation definitely does not contribute to that democracy. By all means, bad decisions and a less democratic society do not have a good impact on our life.

In short, how an elected politician represents her voters is an important question. The way she represents them will impact decisions, which will impact their lives.

1.3 The delegate and trustee model

Now that I have made clear why this is an important question, we can start with the argumentation of the paper. In this section, I will give definitions for the delegate and trustee model, which are two models that have been used for a long time to describe how a politician should represent. Then I will critique both models and come to the conclusion that on their own neither model is sufficient for representing as an elected politician.

First, the delegate model is when a politician is basically a mouthpiece for what the people want her to say. The politician is 'sent to pursue his constituent's will and not his own' (Pitkin 1967, 146). They make decisions

2 See "The Political Representation of Refugees in Modern Democratic Nation-States (or lack thereof)" on page 35 for a comparison of Pitkin's idea of political representation and the situation of refugees. Cited work for this essay is also *The Concept of Representation* (1967).

based on the judgement of their constituents rather than their own judgement (Rehfeld et al. 2009, 215). If the majority of the constituents want 'A', then the politician will advocate 'A'. How this model would work in the gun right/gun control debate is that the politician advocates for what she thinks her constituents would want. So, in half of the cases as we have seen in the introduction, that would be for gun rights, and the other half for gun control laws.

Second, the trustee model is when a politician "uses their best judgement on behalf of those they represent" (Castiglione and Warren 2019, 8). Politicians advocate for what they think is best for the constituents. They make decisions based on their own judgement rather than on the judgement of their constituents (Rehfeld et al. 2009, 215). If the majority of the constituents want 'A', but the politician thinks that 'B' is better for the constituents, then the politician will advocate for 'B'. There are four possibilities for how this trustee model could work out in the gun right/gun control debate. The politician could agree with the constituents and argue either for gun rights or gun control, or the politician could disagree with the constituents and also argue either way. As you see, there is an incongruence at the last possibility.

Now I have given the definitions of the models, I will critique both models, starting with the delegate model. The first critique is from Kuklinski and McCrone. They argue that there are two conditions necessary for a representative to be a delegate (1979, 280). The first is that the politician considers themselves a delegate and the second is that the constituency can "express its preferences in a way that allows the representative to develop a reasonably accurate perception of constituency opinion" (Kuklinski and McCrone 1979, 280). Their critique is that the second condition is impossible to fulfil, according to the research they have conducted, and in that way it is impossible to be a delegate. A reason, not necessarily named by Kuklinski and McCrone, why this might be the case is that voters do not have an opinion on everything, so they cannot give their preference to the delegate. Additionally, another reason might be that it is practically impossible to get everyone's opinion on a matter, because there are so many matters and so many constituents.

The second critique on the delegate model is that I would argue that it is morally impermissible to advocate for a purpose that goes against the welfare or even just the interests of the people you represent, even if the constituents want it themselves. The politician might have more information, resources or time to see that something is not in their best interests and has a moral duty to do the best she can for the people she represents. The gun right/gun control debate illustrates this well. If a politician would argue for gun rights,

because her constituents want gun rights, but these guns later kill some of those constituents, I would argue that the politician did not act morally. With that said, you could take this idea or principle to the extremes to argue that, since walking outside sometimes causes people to be run over by a car, I as a politician am justified in deciding that no one gets to walk outside anymore. Thus, this is a grey area. However, I think the gun right/ gun control debate is clear in that it causes people a great deal of harm and it brings no good, while walking outside might bring people harm but also brings much good.

On the other hand, there is also critique on the trustee model. This critique is that this model is undemocratic, because as a politician you deviate from the will of the people. Democracy is the rule of the people, thus the rule of the constituents. When a politician decides to advocate for something other than her constituents that elected her would want, then there is a discrepancy between the wishes of her constituents and the actual vote in the house or senate as well as what will become the reality, because of the vote. The people are not really ruling when only a few people make decisions and do not listen to the constituency, which makes it undemocratic.

To conclude this section, I have given the definitions of the delegate and trustee model, but I have also critiqued both models. For the delegate model it is impossible to be a delegate and it is also morally unjust sometimes to make decisions like a delegate does. And on the other hand, the trustee model is undemocratic, which also makes the role of representative irrelevant. This leads me to the conclusion that both models do not work on their own.

1.4 Combining the Two Models: Responsiveness

As I concluded with the paragraphs above, both models do not work on their own, therefore maybe a combination of the models would be a solution? In this section I will look at the ideas that Pitkin proposes. She also thinks both models do not work on their own. So, she proposes to kind of combine both and use this combination and the value of responsiveness as an answer to the question of how should an elected politician represent specifically when there is a difference of opinion. I will first explain why Pitkin does not think the two models work on their own and why this question is actually wrongly asked. After that, I will explain her ideas on how an elected representative should represent.

According to Pitkin, representation is the activity of making present something which is not literally present (1967, 144). Both models lack something with regards to this definition (151). The delegate model in the extreme sense is not acting anymore, because she is just a direct reflection of the actions of the constituents. Additionally, the trustee model is acting, but when she “habitually does the opposite of what her constituents would do”,

she is not representing them (151). Pitkin argues that the delegate/trustee dilemma is a paradox which is making us choose between two elements that are both within the concept of representation: constituents' wishes (delegate) or representative judgement (trustee) (165). This is a false dilemma. In short, both models lack something and both models have an element that is needed in the concept of representation.

As we have seen, we need both elements, thus we need to combine both the models. I will first explain Pitkin's idea and it will become apparent how she has combined both. Pitkin says that there is a difference between objective interests and wishes. Interests are what is good for a person and wishes are what a person wants (Pitkin 1967, 159). Pitkin says that a representative must act in constituents' interests, but she also must be responsive to their wishes, because their wishes are relevant to their interests (162). "Normally wishes and welfare will coincide" (162). So, what a person wants and what is good for her will normally be the same. If a representative acts in the interests of the represented, then the represented will agree with it, since it is in accordance with her wishes. But it is not always the case that someone's interests and wishes are the same, as we have seen with the gun right/gun control debate, to illustrate: some people want guns in their homes (wishes), but it is not safer for them to have guns in their homes (interests). The question is: what should a representative do when she is about to be in conflict with constituents' wishes?

The representative must not normally come into conflict with the expressed will of the represented (Pitkin 1967, 163). "When this happens, we assume that there must be an explanation (...) for the discrepancy" (162). There is a reason why the representative's judgement of the interests of the people is different from the will of the people.

Pitkin writes what a representative should do when there is a discrepancy:

Thus, when a representative finds himself in conflict with his constituents' wishes, this fact must give him pause. It calls for a consideration of the reasons for the discrepancy; it may call for a reconsideration of his own views. It is not sufficient for him to choose; it is necessary that the choice be justifiable. (Pitkin 1967, 163-64)

In other words, the representative needs to think about what the reason is that there is a discrepancy. She has two options: either reconsider her own views or be able to justify her choice not to change her views. An example of such a justification might be "they would agree with me if they knew all the facts" (Pitkin 1967, 164). This is a satisfactory justification, but other

explanations, for example that she chose it because it is good for herself, are not. When a representative acts, either reconsidering or justifying her choice because of a discrepancy, she is responsive to the will of the people and thus representing. In this way of representing, both the elements are seen, because the representative can use her own judgement (trustee) and she also needs to make sure she does not deviate normally from the constituents' wishes or come into conflict with them (delegate).

To sum up this section, we have seen how, according to Pitkin, an elected representative should represent. The bottom line is that the representative must always be acting in the interests of the constituents. When there is a discrepancy between wishes and interests, the representative must be responsive to her constituents' wishes: the representative needs to reconsider, or be able to show that although she goes against the wishes of her constituents, her decision is still in her constituents' interests. In this way both elements of the models are combined in Pitkin's idea.

1.5 Applying Pitkin's Idea

In this section, I will apply Pitkin's idea of how to represent to the gun right/gun control debate and answer my research question.

As said in the introduction, gun violence is a big problem. A lot of people are harmed because of it. It has been proven that gun control laws are effective and a gun in the house does not make you safer, but nevertheless, half of the citizens in the US want to own a gun and do not want gun control laws. The question was: what should the politician advocate for? As I mentioned before, in the gun right/gun control debate there is a discrepancy between people's interests (being safe and unharmed), and wishes (being allowed to own a gun). People want to own a gun, but it does not make them safer. In this case the politician or representative thinks that owning a gun is not in the interests of the people, but the people's wishes are that they can own a gun. When there is a discrepancy, the representative should consider possible reasons why. I am not claiming that this is the right answer or the only answer, but an example of an answer could be the following:

US citizens do not know all the information the politician knows. US citizens want to own a gun, because they believe they are safer and can defend and protect themselves (Emba 2023). They are unaware that they are not safer (although it may feel this way), and that it is proven. There is almost 0.1% difference between harm rates with using a gun to defending oneself, versus not defending oneself in any way (Hemenway and Solnick 2014, 24). Moreover, guns are overall used in more harmful ways than to defend. In 2018, defensive gun use was seven times less frequent than gun crimes (Mascia 2022). Most of the defensive uses are harmful to society (Hall,

et al. 2024). Owning guns makes everyone in society less safe. In this way the politician can keep advocating for gun control, after she justifies her choice, giving reasons such as the ones I just mentioned.

This example shows how my research question can be answered: how should an elected politician represent their voters in an electoral democracy on issues where the opinions of politicians and their voters differ? The answer is that the politician always needs to advocate for what is good for the people. When the opinions of politicians and their voters differ, politicians should act as Pitkin described when there is a discrepancy. The politician needs to still advocate what is good for her constituents, but also be responsive. She needs to think of the reason why there is a discrepancy and reconsider her own view or justify why she does not change her views. In that way both the opinion of the politician and the voter are taken into account.

1.6 Conclusion

In conclusion, I have explained that the research question is an important one, because we are represented by an elected politician who has a huge impact on our lives. Then, I explained what the delegate and trustee models of representation are. The delegate is a politician who is essentially a mouth-piece for what her constituents want her to say. The trustee is a politician that uses her own judgement to make decisions. I explored two critiques of the delegate model. The first is that it is impossible to be a delegate, because the whole constituency cannot express its preferences in order for the politician to know their preferences. The second is that it is morally problematic to decide or advocate against the welfare or interests of the constituents. There was also critique on the trustee model, which is that the model is undemocratic because it allows the politician to deviate from the will of the people. From this I concluded that both models do not work on their own.

Pitkin concluded the same, but on different grounds. She adds that the trustee/delegate model is a false dilemma, because it makes us choose between two elements; constituents' wishes (delegate) and representative judgement (trustee), which are both a part of electoral representation. Consequently, Pitkin combines the two and adds the value of responsiveness and has her own idea of how a representative should represent. She argues that a representative must always act in the constituents' interests. Normally, this is the same as the constituents' interests and a representative can just argue for both. However, when this is not the case there is a conflict or discrepancy between the idea that the representative has of her constituents' interests and the wishes of the constituents. At that point the representative needs to think about what the reason is that there is a discrepancy and she either

needs to reconsider her own views or be able to justify why she does not change her views. When she does this, she is responsive to the wishes of the constituents.

Having explained Pitkin's theory, I applied it to the gun rights/gun control debate. The politician in the gun right/gun control debate should find the reason why there is a discrepancy between interests and wishes, and either change her views or explain why she will not change her views. A possible reason for there to be a discrepancy is that US citizens may not be as well-informed as their representative, which would justify the representative not changing their decision to advocate for gun control rather than ownership rights. Additionally, I also answered my research question with Pitkin's theory. My research question was: how should an elected politician represent their voters in an electoral democracy on issues where the opinions of politicians and their voters differ? I answered that a politician always needs to advocate for what is good for the people, but she needs to be responsive to their wishes. If their opinions differ, there is a discrepancy and the politician needs to think what the reason for that is. Once the reason for the discrepancy between constituents' interests and wishes is found, a politician needs to either reconsider her own views or justify why she does not change her views.

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SPLIJTSTOF

2. Exploring Ecological Representation through Indigenous Epistemologies

The Limits of Non-Human Personhood

Siiri Jansson

2.1 Introduction

In 2017, the Whanganui River in New Zealand became the first non-human entity to gain the status of a legal person after a decades-long settlement battle between the Māori tribes and the local government. The river, referred to by the specific name “Te Awa Tupua” (“River with ancestral power”), is now recognised as an indivisible, living whole comprising the mountains, multiple tributaries, and all their physical and metaphysical elements (Kramm 2020, 307). This example highlights the drastically different world-views of the Indigenous communities of New Zealand, who have coexisted with nature for hundreds of years, the land deeply intertwined with the identities and practices of the people. A traditional saying of the Whanganui Iwi tribe, ‘Ko au te awa ko te awa ko au’ translates to: ‘I am the river; the river is me’ (Macklin and Macklin 2021, 21), crystallising the profound interconnection with nature at the core of one’s identity.

This paper explores the possibilities of reconceptualising democratic representation through Indigenous knowledge practices, arguing that these practices provide a vital alternative viewpoint for addressing contemporary ecological crises. Specifically, through this research, I aim to answer the question of how Indigenous epistemologies can contribute to ecological democratic legitimacy. Additionally, at the centre of the investigation is the role of non-human political agency in establishing planetary boundaries within democratic governance. These questions are particularly pressing considering the limitations of existing liberal democratic frameworks to represent ecological interests and address the global ecological crisis adequately. I will illustrate the practical implications of ecological epistemology with the case study of the Whanganui River in New Zealand, critically examining nature’s limits and possibilities as a legal person.

Furthermore, multiple proponents of ecological democracy¹ have theorised about this essential step in ecological democracy as transferral away from an instrumentalisation of nature towards assigning nature

1 See “Representative Democracy on Trial: Philosophical Perspectives on Inclusion and Exclusion of Anti-Democratic Actors” on page 69 and “Electoral Representation:

intrinsic value outside its utility for humans (Asenbaum et al. 2023, 602; Drysek and Pickering 2019, 135; Eckersley 1992, 32). By grounding this analysis in Indigenous epistemologies and planetary boundaries, this paper advocates for a more inclusive and ecologically attuned model of democratic representation. Nevertheless, an important discussion aims to address the difficulties of incorporating an alternative, non-Western worldview into existing liberal systems.

2.2 How Does the Ecological Crisis Challenge Democratic Values and Dominant Paradigms?

The global ecological crisis poses a profound challenge to democratic values and dominant paradigms of governance. In stark contrast to the position of the Whanganui River within the Māori worldview, ecosystems around the world suffer extensive degradation without any formal recognition of their intrinsic value or agency. Recent philosophical developments identify anthropocentrism as a key driver of this crisis. Anthropocentrism, rooted in the belief in human superiority and dominance over the Earth, has led to the relentless exploitation of natural resources for material gains (Asenbaum 2023, 603; Pickering et al. 2020, 137). This worldview has shaped modern democratic theories, which often assume unlimited ecological freedom and fail to account for the Earth's ecological boundaries.

This liberal paradigm prioritises human-centric ideals of freedom and progress and has come under increasing scrutiny from environmental philosophers and political theorists. These scholars question the limited ecological responsibility embedded in Western democratic governance (Drysek and Pickering 2019, 135; Lysaker 2023, 20–23). A significant discrepancy exists between the Earth's ecological boundaries and the democratic legitimacy of political practices (Pickering et al. 2020, 6). Often, democratic ideals safeguarding procedural fairness conflict with the urgency of addressing environmental changes, which remain inadequately represented within liberal frameworks. The result is a governance system that perpetuates ecological degradation while failing to ensure long-term sustainability.

Consequently, in response to environmental challenges, multiple scholars—John Drysek, Jonathan Pickering and Robin Eckersley—have been working on the concept of ecological democracy. Ecological democracy, as an overarching theory, consists of numerous variations of a democratic model

Interests and Wishes” on page 13 for a focus on a different specific type or aspect of democracy. See the former for militant democracy and the latter for electoral democracy.

that all include nature and ecosystems as part of the decision-making process. Different scholars have written about varying approaches to participation and forms of electoral governance within ecological democracy; however, vital for this paper is the normative landscape that all eco-democratic theories share. Mainly, how common for all eco-democratic theories is the premise that a move away from anthropocentrism means the adaptation of an ecocentric value system, which does not prioritise human interest above planetary well-being. Thus, in the interest of this paper, ecological democracy is used as a reference point for the general idea of a political system in which nature is regarded as a political agent. This becomes relevant when exploring the legal and philosophical dimensions of non-human personhood.

Moreover, recent global events, such as the COVID-19 pandemic and escalating climate emergencies, have underscored the profound interdependence between human and non-human agents. Human societies are deeply reliant on environmental resources, and our actions have far-reaching consequences for the ecosystems we inhabit. This realisation has renewed interest in non-Western knowledge traditions, which often reject the dichotomy between human and non-human entities (Lysaker 2023, 23). Indigenous epistemologies, in particular, offer an essential contrast to Western traditions by emphasising the interconnectedness of all beings and recognising the agency of non-human actors (Whatmore 2013, 36–38). Accordingly, Indigenous epistemologies view humans as deeply interconnected to nature, where identities and knowledge are interwoven into the surrounding local environment (Royal 2007; Salmond 2014, 290–94). This opposes Western knowledge traditions that often divide between the inferior and superior, leading to a human-centric lens of political representation.

2.3 Non-Human Representation² in Ecological Democracy: Interconnectedness and Planetary Boundaries

To address the ecological crisis, I will approach ecological representation from two interconnected perspectives. The first focuses on Indigenous epistemologies, which illuminate the interdependence of human and non-human agents at the core of all knowledge and practices. The second examines planetary boundaries, which highlight the necessity of embedding

2 See “Contentious Activism and Democratic Progress” on page 117 for more information on non-human representation, specifically the Animal Liberation Movement which shows that contentious activism is necessary to be inclusive to marginalised groups.

ecological limits within democratic governance. Together, these perspectives challenge the current liberal view of democracy, which assumes a clear separation between humans and nature.

Indigenous epistemologies reveal the intricate relationships between humans and their environments, in which identities and knowledge are deeply embedded in local ecosystems. For example, in Māori cosmology, the Whanganui River is not perceived merely as a resource but as an ancestor and an integral part of the Whanganui Iwi tribes' community identity (Kramm 2020, 311). This relational understanding contrasts sharply with Western conceptions of nature as an external object to be managed or exploited. By recognising the agency of non-human entities, Indigenous epistemologies provide a compelling foundation for rethinking democratic representation in ecological terms.

At the same time, the concept of planetary boundaries underscores the material interdependence between humans and the Earth's ecosystems. These boundaries represent the limits within which humanity can safely operate without destabilising the planet's critical systems (Eckersley 1992, 33). The recognition of these boundaries necessitates a fundamental shift in democratic legitimacy, one that accounts for the representation of non-human agents and ecological realities. However, achieving this shift requires confronting the limitations of existing political systems, which remain deeply rooted in anthropocentric assumptions (Eckersley 1992, 33; Lysaker 2023, 23). Through these arguments, it becomes evident that a governance model that incorporates planetary boundaries must transcend traditional notions of sovereignty and representation, recognising the interconnectedness of ecological systems across national and cultural borders.

However, while advocating for ecological representation via non-human entities, it is crucial to evaluate the legal and contextual relations of new kinds of personhoods within the dominant political systems. While ecological democracy challenges the epistemic authority of traditional democratic institutions, which rely on assumptions about superior human agency, alternative models struggle to decentre human authority. For example, in the Whanganui River case, the River's voice relies on guardianship through human agents and depends on legal recognition as a subject (Kramm 2020, 310–11). This reflects the pervasiveness of anthropocentrism in the international legal and political systems. Meanwhile, the representation of nature aims to overcome anthropocentric assumptions about human superiority and leave space for truly ecological political practices. Moreover, despite the acknowledgement of nature's personhood, philosophers and legal scholars have critically questioned the true limits of such seemingly transformative

politics (Petersmann 2023, 1280; Asenbaum et al. 2023, 603). I will examine this scepticism in the later sections through the limits of the legal rights of non-human entities.

2.4 The Limits of Non-Human Representation

2.4.1 *The Challenge of Legal Rights*

The challenge of democracy is to encompass the plurality of voices and traditions in contemporary society within one model that combines respect for differences with a striving towards the ‘common good’ (Barn 1995, 3; Pickering et al. 2020, 8). As presented in previous sections, the crucial challenge for contemporary democratic systems is the plurality of beings, namely, how the institutions and practices could include non-human entities in the decision-making. For instance, in the case of the Whanganui River, the river’s voice is mediated through human guardianship and dependent on its recognition as a legal subject. This reflects the pervasive influence of anthropocentrism in international legal and political systems.

Alongside the new wave of ecological theories, philosophers and legal scholars have critically examined the limitations of representing nature through traditional rights frameworks. For example, Smith (2017) argues that the core problem lies in the lack of agency assigned to non-human entities, stating that ‘it is a human perception of nonhuman agency that must be approached, interrogated and ultimately built into the juridical and philosophical underpinnings of Western liberal democracy’ (99). Similarly, Petersmann (2023, 1281) contends that the recognition of the “rights of nature” remains constrained by subject-centred legal frameworks, reinforcing the distinction between humans and non-humans rather than dismantling it. This dynamic underscores a broader tension: while assigning rights to nature marks an important step forward, it often fails to overturn the anthropocentric foundations of political and legal systems.

While groundbreaking, the concept of non-human personhood does not wholly escape these limitations. By asserting the river’s rights, the Māori tribes disrupted the dominant Western legal paradigm, which traditionally excludes non-human entities from the category of legal subjects. However, the legal recognition of the river’s personhood still relies on human mediation and formalisation within the political system. This raises important questions about the extent to which such frameworks can genuinely reflect Indigenous epistemologies and ecocentric values. Furthermore, it highlights the risk of commodifying Indigenous knowledge within Western legal and political institutions, potentially erasing the relational and contextual principles situated at the unique core of these epistemologies.

2.4.2 Beyond the Rights Based Approach

It is hard to argue that systemic change is not needed in a situation where human-induced climate change is endangering the existence of many species and ecosystems on Earth. Assigning rights to nature seems to safeguard natural resources, and environmental lawyer David Boyd (2018) has gathered substantial evidence in favour of the concept of the “rights of nature”. These concepts consist of legal agreements of non-human entities’ rights to exist, right to a clean and non-polluted environment, and respect for all life forms to give examples of existing legal formulations. In recent years, besides the legal transformation in New Zealand, Ecuador, and Bolivia have granted legal rights to Mother Earth, the Philippines supreme court established the writ of “kalikasan” (nature) to protect nature’s intrinsic value, and other countries are following in the footsteps (Boyd 2018, 15–18). Nonetheless, these advances have not led to a widely accepted normative or political shift amongst concrete actions and attitudes towards nature’s intrinsic value.

While recognising that non-human rights could bring back some justice for Indigenous cosmologies that long rejected the division between human and non-human, the ownership of land is only one side of the story. On the other side, translating Indigenous worldviews into liberal human rights claims might risk dismissing Indigenous epistemology altogether. Liberal rights and rights of nature rely on universalist assumptions of laws that are applicable everywhere and at all times (Petersmann 2023, 1282). Hence, how Indigenous people become one with nature and community does not translate into the rights claims but forces these communities to accept a liberal model of a subject distinction. Perhaps we have to admit that legal rights and the Indigenous cosmology of the Māori tribes are incompatible if the aim is to abolish anthropocentrism.

Another concern regards the respect and appropriate representation of the non-human person in the system of laws and rights. The rights declaration of the Whanganui River was revolutionary in the sense that not only were the rights assigned to the river as a person, Te Awa Tupua, but the ownership was also reassigned (Boyd 2018, 16). Here, the river as a new legal person, got the ownership rights, with the caveat that the river in ownership still requires an appointed guardian to mediate the formal system (Boyd 2018, 16). Legal enforcement of rights is certainly a step in the right direction for systematic change. However, how rights can cater to the needs of non-human persons within a worldview that differs from the legal frameworks themselves so drastically remains to be challenged.

2.4.3 *The Problem with “Rights of Nature”*

Following the previous concerns about underlying philosophical and political assumptions in the constitution of a legal person, many philosophers have been critical of including nature and animals in democratic institutions merely by extending rights (Smith 2017; Petersmann 2023). Here, the example of the Whanganui River provides a critical lens to the limits of non-human representation through traditional forms of rights. Right extensions are inherently human-centric precisely because rights through guardianship agreements rely on the component of human agency and are, thus, still embedded in a subject-centric legal framework. According to this claim, the initial concern lies in the difficulty of formalising a subject with equal value to its human counterparts.

By asserting the river’s rights, the Māori tribes disrupted the dominant Western legal paradigm, which traditionally excludes non-human entities from the category of legal subjects. This act redefined the boundaries of what constitutes a ‘subject’ in legal and political terms, challenging anthropocentric conceptions of justice. Nevertheless, the concept of the subject remains a fundamental focal point to legal recognition, requiring problematic formalisation in the political system (Petersmann 2023, 1283; Cohen 2023, 62). In a subject-oriented political system, participation, political interest, and ontological make-up of a subject become hurdles to non-human entities (Cohen 2023, 61–63).

Additionally, Petersmann (2023, 1281) argues that enforcing the “rights of nature” depends on recognising the legal order and must be mediated by human subjects, reinforcing the distinction between humans and non-humans rather than dismantling it. Even if broadening the concept of a subject aligns with liberal critiques of human exceptionalism, particularly anthropocentrism, it is unable to escape subject-centred legal right frameworks (Petersmann 2023, 1280). Legal subjectivity allocates rights to humans and non-humans differently, precisely due to differing conceptions of agency.

Put another way, by allocating rights differently to human and non-human entities, legal subjectivity risks undermining the transformative potential of ecological representation. Moreover, recognising non-human rights can also conflict with the relational worldviews of Indigenous communities. Liberal legal frameworks, which rely on universalist assumptions, may distort Indigenous cosmologies by imposing a rigid distinction between subjects and objects. For example, Petersmann (2023) argues that translating Indigenous practices into the language of rights risks eroding their epistemic integrity. Instead of forcing Indigenous communities to conform

to liberal models, democratic systems could seek to integrate relational epistemologies that respect the interdependence of human and non-human agents.

2.5 Towards a Relational Understanding of Ecological Representation

To address these limitations, exploring the relational roots of Indigenous cosmologies becomes necessary for ecological representation that moves beyond the constraints of rights-based approaches. A relational worldview rooted in Indigenous epistemologies offers a promising avenue for rethinking the relationship between humans and non-human entities in political governance. Unlike liberal frameworks, which often rely on abstract principles and universal norms, relational foundations emphasise the interconnectedness of all beings and the contextual nature of knowledge.

For example, the Māori concept of “kaitiakitanga”, or guardianship, unravels a deep sense of responsibility for the environment’s well-being and understanding of one’s relationship with their environment (Royal 2007). This concept does not separate human agency from ecological systems. Instead, it underlines connections between all life forms, where humans are intrinsically connected to the land, water, and other non-human entities—not only as legal guardians but as deeply entrenched equals to their surrounding environment. The essence of “kaitiakitanga” might be challenging to conceptualise outside the understanding of legal responsibility. Still, it is necessary to note that responsibility in the Māori worldview has a profound significance beyond legal attachments as a guide to understanding oneself as a part of their living environment. Through an optimistic lens, by embedding relational principles into democratic governance, it could become possible to move towards more inclusive and ecocentric forms of representation.

A relational framework for ecological representation would also require rethinking the procedural dimensions of democratic governance. Current democratic institutions often prioritise individual autonomy and procedural fairness over collective well-being and ecological sustainability (Lidskog and Elander 2007, 86). By contrast, relational approaches emphasise the importance of collective decision-making processes that recognise the agency of non-human entities and the interdependence of all life forms (Tomateo and Zbigniew 2024, 3–5; Whatmore 2013, 37). Thus, these insights are left with the challenge of creating new institutional mechanisms for representing ecological interests that would better acknowledge the specific communities’ knowledge claims and embedded values.

Furthermore, a relational framework would need to account for ecological systems' dynamic and context-specific nature. Unlike static legal categories, relational approaches recognise that ecological relationships are constantly evolving and require ongoing negotiation and adaptation (Conty 2018, 76; Lysaker 2023, 21–23). Hence, a relational worldview would require a more flexible and iterative approach to governance instead of rigid procedural systems: a mode of governance capable of responding to the complex and interconnected challenges of the ecological crisis. As of now, these remain challenges that future research could address more extensively. Suppose the goal is a truly ecological democracy that has escaped the chains of anthropocentrism. In that case, legal personhood is insufficient in providing cultural and context-specific liberation from human-centric value systems and institutions.

2.6 Conclusion

Ultimately, addressing the ecological crisis requires a fundamental rethinking of the epistemological and procedural foundations of democratic governance. This involves not only recognising the intrinsic value of nature but also challenging the anthropocentric paradigms that underpin contemporary political systems. By drawing on the insights of Indigenous epistemologies and planetary boundaries, this paper has sought to contribute to the ongoing debate about how to create a more just and sustainable world. The ecological crisis demands nothing less than a transformative shift in how we conceptualise democratic legitimacy and representation, one that recognises the interconnectedness of all beings and the limits of human authority.

The Whanganui River exemplifies a plea for inclusive environmental democratic practices by offering a glimpse of a worldview where a human community and nature have coexisted for hundreds of years. With Indigenous knowledge, a space for ecocentric values grows where the separation between human and non-human is obsolete and instead posits interdependence as the prominent assumption. However, it is necessary to acknowledge the confines of legislation when such seemingly radical, transformative modes of existence are tied to liberal legal systems. Even in this case of non-human personhood, the laws and rights still exist within the dominant political model. Rights-based approaches, while necessary, are insufficient for fully incorporating the relational and contextual dimensions of Indigenous worldviews. The river's rights are mediated via guardianship agreements through persons within the liberal legal system. Thus, it seems easier to expand the boundaries of political actors rather than to start dismantling the procedural roots of dominant political power.

Nonetheless, the Whanganui River case carries a profound significance within its local context. The river is an inseparable part of the areal history, collective identity and worldview of the Indigenous Māori communities in New Zealand. Therefore, the decades-long battle between the government and the local tribes did not solely concern an aspect of individual law. On the contrary, the victory gave a voice to a community long silenced in the political sphere. The Whanganui River represents the Whanganui Iwi tribe's ancestors, traditions and community identity, where legal protections now safeguard the interdependent coexistence of the whole community.

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SPLIJTSTOF

3. The Political Representation of Refugees in Modern Democratic Nation-States (or Lack Thereof)

Jasper Klomp

3.1 Introduction

As of late, anti-migration sentiments have been on the rise in several Western countries. Debates about migration often take turns for the discriminatory or the undemocratic, and solutions are barely offered. A striking example of this is the current situation in the Netherlands. Multiple, successive governments have failed to provide adequate living standards for refugees, resulting in a historic low point in 2022, when Doctors Without Borders had to intervene for the first time in the country's history (Albers 2022). The debates, both in parliament and on social media, following this were filled with pointed fingers and accusations, but eventually not much has changed. All these debates had one thing in common however, namely that while there was a lot of talk about the refugees, there was barely any talk with the refugees. In parliament, nobody vouched for the refugees on their behalf; they were acting in the interests of their constituents. Basic human rights that refugees are supposed to have were infringed upon, or simply ignored, and things went on as usual, exposing the significant lack of political representation of refugees and the dire consequences this entails.

In this essay I want to explore this issue further by answering the following research question: How does the refugees' lack of political representation in modern democratic nation-states infringe on their human rights?

First, I want to give a working definition of what a 'refugee' is. Second, I will introduce Hannah Arendt's concept of the 'right to have rights' and compare this to the situation of refugees in democratic nation-states. Next, working with Hanna Pitkin's models for political representation, I will contrast her ideal for political representation with the current state of the refugees. In doing so, I hope to show how important it is to establish an accurate form of political representation for refugees, so that human rights and democracy remain intact.

3.2 What Is a Refugee?

A refugee is of course a broad term, so in this section I would like to introduce the concept of the refugee that I will be using for the remainder of this essay. Upon looking up the word in the Cambridge Dictionary, you will find the following definition of the refugee: "a person who has escaped from their

own country for political, religious, or economic reasons, or because of a war". The United Nations High Commissioner for Refugees (UNHCR), the UN organisation tasked with the legal protection of refugees, describes refugees as follows:

[P]eople who have fled their countries to escape conflict, violence, or persecution and have sought safety in another country. A refugee has a well-founded fear of persecution for reasons of race, religion, nationality, political opinion or membership in a particular social group. Most likely, they cannot return home or are afraid to do so. (UNHCR n.d.)

These definitions both highlight how little control refugees have over their situation, and how they differ from migrants for a myriad of reasons, the most important one being that refugees do not choose to flee, whereas migrants generally do.

It is important to distinguish refugees from migrants, as both often make their journeys under very different circumstances. Migrants travel with the desire to arrive in their new country, where they will settle and build a new life. This is in stark contrast with refugees, who do not have the privilege of making a choice whether to stay or not. They left their home country because it was no longer safe to stay and are unable to return because it is still unsafe. Whereas migrants have no desire to return, refugees often do and hope to go back as soon as the situation allows.

For the purposes of this essay, I will use the following description of a refugee: a person who was forced to flee their country, due to either fear of persecution on political or religious grounds or war/violent conflict, and is not able to be protected within their home country.

Important to note is that the person in question has an active desire to return home. There is no intention to integrate or stay. They have fled, and see this flight as something temporary. As soon as the situation allows it, they will return home.

3.3 Refugees and Their "Right to Have Rights".

Back in 1951, Hannah Arendt¹ published her now-seminal work *The Origins of Totalitarianism*, in which she analyses the rise of totalitarian regimes

1 See "Revolutionizing Protests: On the Relevance and Effects of Civil Disobedience" on page 109 for Arendt's definition of civil disobedience. Cited work for this essay is *Crises of the Republic; Lying in Politics; Civil Disobedience; On Violence; thought on Politics and Revolution* (1972).

in Europe, such as Nazism and Stalinism in the first half of the twentieth century. Chapter 9 of *The Origins of Totalitarianism* concerns itself with human rights, and more specifically how the Universal Declaration of Human Rights (UDHR), adopted in 1948 by the United Nations, contains a paradox which can only be solved by Arendt's concept of the "right to have rights". In this section I will first further explain the notion of this "right to have rights". Then, I will contrast this with Jacques Rancière's critique. Finally, I will explain how this concept can be applied to the situations of the refugees.

The "right to have rights" is a concept developed by Hannah Arendt after the adoption of the UDHR. In this declaration Arendt noticed a paradox, namely that the declaration requires from nation-states that they uphold and safeguard certain human rights that are deemed 'universal', and 'inalienable', and are therefore applicable to human beings. Nation-states, however, are founded on a basis of both national and territorial sovereignty, meaning that nation-states are ruled by the people within a certain territory. It is in the power that these people hold as a collective that they can guarantee individual sovereignty, from which they derive their human rights. This is in stark contrast with the universal and inalienable human rights that every human is supposed to have. In other words, one first needs to be part of a certain political community for their human rights to become legitimate (Arendt 1951, 269–72).

For the purposes of this essay, the political communities I am referring to are modern democratic nation-states. Moreover, there is no higher authority that transcends these nation-states in terms of power to guarantee and safeguard one's human rights, as only democratic nation-states have the ability to do so (Arendt 1951, 274).

Arendt proceeds to describe her conception of the "right to have rights". This right serves as a precondition from which all other human rights can originate. To put it simply: the right to have rights is the right of every individual to belong to a political community. This is done in order to preserve the human dignity that all humans innately possess. Every human being is entitled to this right, regardless of age, gender, race, religion, political affiliation, or economic position (Isaac 1996, 62).

If we apply this right to have rights to the situation of the refugee, to what extent does this notion impact the situation of the refugees and their appeal for political representation? Well, first, after fleeing their home country, refugees lose their political community—not necessarily in terms of location, for their home country still exists as a territory, but as a political community that is able to safeguard the human rights that they are entitled to as human beings. Having fled their home country, they find themselves in another

political community, be that a bordering nation or something farther away. It is then up to this new nation-state to make sure that the human rights of these people are protected. However, as we have seen in Arendt's analysis, because these states are ruled by the people within that territory and do not include the refugees that have fled to there, there is no guarantee for the safeguarding of their human rights. I will relate this insight to the political representation (or lack thereof) of refugees in the next section, but first, I will explore a critique of Arendt's notion of the right to have rights by French philosopher Jacques Rancière.

Jacques Rancière's main criticism of the concept of the "right to have rights" is that Arendt makes a clear distinction between a citizen and a human. This then leads to the depoliticization of human rights. Human rights become void and hold no meaning anymore. When there is a distinction between people that are part of a political community (citizens), and people that fall outside of this political community (humans), there must be one group for this "right to have rights" to belong to, if it were to hold any meaning. If this right belongs to the people outside the political community, then there is no foundation on which they can base their human rights again. If this right belongs to the people inside the political community, they already have their human rights recognised and protected as they are already part of the political community (Rancière 2006, 297–8).

For Arendt, the human being is a political animal that operates best in a political sphere. A political sphere that is distinctly human, because humans are the only beings capable of creating such a sphere. It is our potential for politics that make us humans; our ability to act politically (Arendt 1958, 25). Rancière views this differently: he believes that there is no such thing as a political sphere, but that politics are more of a process. The political is created by the process of political acting by human beings. If this is applied to the right to have rights, one can conclude that for Arendt, human beings have to act politically in order to regain their human rights in a new political community (Rancière 2006, 302).

In other words, Arendt finds that it is only through acting politically that human beings can have their innate human rights secured again. Acting politically, in this case, means having access to accurate political representation, so they can free themselves from their inferior position as opposed to citizens. Whereas for Rancière, it is in this political action that refugees undertake, by fleeing to a safer country and having their human rights remain safeguarded, that they equate themselves to the people in a new political community. They make themselves relevant by coming to a new country (Schaap 2011, 36).

If we further apply this notion to the situation that refugees find themselves in after having fled, it means that they are entitled to membership of a political community, and more specifically the right to have accurate political representation that protects them from infringement of their human rights. Again, this is not to be confused with citizenship, as refugees are not asking for citizenship and are planning to return after their home country is safe enough to return. What this political representation is exactly is a topic for further research, but in the next section I will use Hanna Pitkin's work on political representation as a starting point.

3.4 Refugees and Their Need for Political Representation

In 1967, *The Concept of Representation* by Hanna Pitkin was published.² This has been a hugely influential work on our thinking of political representation in democracies. In the book, Pitkin describes four different kinds of political representation, and what each kind of political representation entails. For Pitkin, knowing what kind of political representation one is talking about is integral to having a well-informed discussion about representation, and what to expect from elected officials, as well as from constituents. The book, as well as much of the discussion it generated, places much emphasis on the electoral process of many democracies, i.e., the process of holding elections, and how elected officials relate and respond to their voters to secure and remain in their position.

By this logic, it is the right to vote that makes one part of the political community. Accurate political representation consists of a healthy relationship between the voter and the elected official, of course depending on what type of representation one is talking about, described in *The Concept of Representation*. Once we apply the "right to have rights" to our understanding of political communities, and more specifically, modern democratic nation-states, we encounter a problem: democracy is not inclusive to all. It strictly delineates who gets to have to say, and where, when, and how. For example, if one is not of the right age to vote, or because they are currently imprisoned or, as is relevant for this essay, when one has fled their homeland and is currently seeking refuge in another country. The current democratic system presents itself as an egalitarian system, wherein each vote holds the same weight as the other. However, by excluding certain groups of people, for different reasons, from participating in the democratic process, the democratic system proves itself to be exclusive. In not having the right to vote, one does

2 See "Electoral Representation: Interests and Wishes" on page 13 for Pitkin's idea of how an elected representative should represent. Cited work for this essay is also *The Concept of Representation* (1967).

not find themselves with accurate political representation. One will not be able to have a healthy relationship with their elected official, owing to the fact that one cannot have an elected official.

This question of who gets the right to vote and who does not is as old as democracy itself. Some, like Benjamin Boudou (2023), argue that granting representation to non-citizens is a sensible way of including their interests in the deliberative democratic process. This follows the argument of David Goodin (2007), who states that the *demos* should be expanded to those who might possibly be affected by a certain decision. This approach, however, does lead to further questions on the values of borders, and more importantly, citizenship: who determines who gets to be a non-citizen; how can you decide whether someone's interests are important and relevant to the topic of discussion, and so on.

Other authors, like Sarah Song (2009), argue that having clear delineations of who holds voting rights is conducive to a healthy and stable democratic nation state. Furthermore, it creates a transparent relationship between voter and elected official, and a shared sense of solidarity between citizens. The right to vote is, then, inherently connected to holding citizenship, therefore excluding non-citizens such as expats or refugees. However, the right to vote is not automatically granted to all citizens, such as underage people, but they will hold this right to vote when they come of age.

This is not to say that the citizen and the refugee are opposites of each other. Refugees, as previously explained, have no intention of staying, and are only seeking a safe place for the time being. The biggest difference between citizens, and non-citizens, in this case: refugees, is who holds the right to vote. Refugees certainly do not. Yet, as we have seen, it is the right to vote that makes one belong to a political community, therefore upholding the innate human "right to have rights". The situation of refugees shines a light on the debate on voting rights, and how to achieve a democratic system that is truly inclusive, if that is even possible.

3.5 Conclusion

Taking all this into account, by applying Hannah Arendt's concept of the "right to have rights" to the process of political representation, we can conclude that our current democratic system is not inclusive to all those under its rule. Refugees, like all other humans, have an innate "right to have rights", but this right is infringed upon, whenever they do not receive an accurate form of political representation that makes them belong to a political community. A political community they must belong to, for humans are political animals, and can only thrive in political communities, according to Arendt. To have an accurate form of political representation, to belong to a certain political

community, refugees should be able to have a say in debates regarding their situation. This means that refugees ought to have a representative but cannot have one as refugees do not hold the right to vote, and their representative cannot directly represent them. Having access to voting rights is integral to belonging to a certain political community. How this access can be granted in an inclusive way that upholds both the human rights of refugee and the value of citizenship and borders, is a topic for further research.

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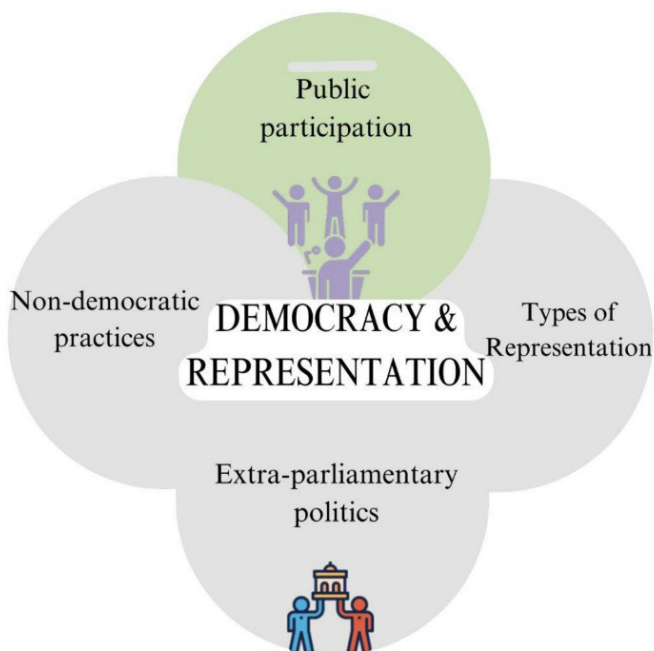
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4. The Evolution of the Sentiment towards the Demos

On Plato and Aristotle

Dani Goedman

4.1 Introduction

As Wendy Brown marvellously portrays in her essay “We are all democrats now...” (Agamben and McCuaig 2011, 44–46), our interpretation of the word 'democracy' has changed over the course of time. People in Western countries tend to think that democracy entails representation, participation, free markets, rights, equality or freedom, but this is not derivable from the original Greek term. Rather, these are all fancy and overly-complicated balances and principles people have added to the word 'democracy'. In fact, 'democracy' is originally a combination of two Greek words, '*demos*' and '*kratos*', simply meaning: 'power by the people' (45).

Just as our interpretation of the word 'democracy' has changed, so too has our understanding of the *demos* changed. This has not only occurred across the large timeframe of thousands of years—the stance towards the *demos* had already drastically changed in a mere few years: between Plato (428–348 BC) and Aristotle (384–322 BC).

Demos in Ancient Greece referred to either the political community or the general population in the Greek language. The political community consisted of rich, free, Greek men, while the latter referred to the non-aristocratic part of society (Evert van de Zwerde, pers. comm., 2023). Its interpretation has changed so drastically that a direct translation to English is not clear either. However, to keep the matter organised in this paper, '*demos*'¹ will be translated as 'the general population'. This research will concern itself with comparing the ancient view of Plato to the more nuanced view of Aristotle of the *demos* participating in a democracy. Has the sentiment shifted in favour or in disapproval of the participation of the population in government?

The two classics were already divided on the topic. In this essay, I will take a closer look at Plato's works on his political theories, mainly in *The Republic*. He is renowned for his idea of the philosopher-king, of which we will dive into further detail later. For Aristotle, I will analyse his work *Politics*, which is his most important work concerning his political philosophy. This

1 See “Reversing the Debate on Voting Age: Should There Be a Maximum Voting Age?” on page 51 for more information on the *demos*, specifically the question if age is a legitimate reason to not be included in the *demos*.

essay will be able to examine his stance on democracy therein, and thus also his stance on the general population inside the democracy. For both authors, first a general introduction of their political theory will be given. Then their view on the *demos* will be presented, besides what both exactly mean by *demos*. Thirdly, having viewed both sides, the two will then be compared. And lastly, the conclusion of the main research question: 'What stances have shifted between Plato and Aristotle concerning the political influence of the *demos*?' will be presented.

4.2 Plato

In his renowned book, *The Republic*, Plato describes his conception for a utopian state, where he shows his perfect idea of how a state should function. To get a better understanding of democracy from his viewpoint, this essay will first touch on some related political theory by Plato from his fourth book.

The utopia Plato mentions is one that incorporates into position his division of the soul. His division consists of three categories:

- appetitive (base desires and bodily needs)
- spiritual (emotional)
- rational (reasoning to truth and wisdom) (Plato 1901, 129–30)

This in turn translates into roles in the state respectively:

- labourers (for producing the basic needs for the state)
- helpers (for helping (courageously) the rulers)
- leaders/rulers (to guide) (Plato 1901, 132)

Despite talking about an ideal, it does reveal some thoughts Plato had about humans. For example, all humans are born into one of the three categories (Plato 1901, 132). This implies that the *demos* will be filled with people without reason (as much as the leaders), leading to unfit rulers. The division of labour is decided by a category one is born into. To have an ideal society, the specialised role someone is born into must be fulfilled by that person. The way Plato divides society into roles indicates from the start that Plato may have a strong bias against democracy, whereby the general population—meaning people who were probably not meant for that role—will be able to rule. Nevertheless, Plato reaffirms this is the way the perfect state should operate, and by reflection man: "Such is the good and true City or State, and the good and true man is of the same pattern" (137).

However, in the same work, Plato appears to be contradicting himself. In Plato's allegory of the cave, he portrays humans as being bound by chains onto a wall, unable to see anything. They are only able to see the shadows on the walls of passersby. One is freed and eventually wanders out of the cave, seeing the objects as they truly are and observing the true light: the sun (Plato 1901, 210–12). Plato refers to this as the perfect Realm of Forms. Humans are bound, but by good training and exercise one may be able to observe the truth, synonymous with the sun in the allegory of the cave. Plato calls this the "virtue of wisdom" (213–14). Training and exercise are things all people are able to do, so why cannot everyone attain this level of wisdom? Plato answers it shortly thereafter: approaching the *good* should only be taught to the ones born with the talent.

Then, I said, the business of us who are the founders of the State will be to compel the best minds to attain that knowledge which we have already shown to be the greatest of all—they must continue to ascend until they arrive at the good. (Plato 1901, 214)

Plato starts his eighth book with the five 'stages' of states. He notes that even though the people may try to maintain their current stage, the state will eventually and naturally worsen through human factors. For Plato, the aristocracy ruled by (king-)philosophers is the utopia he described in his fourth book, and all other stages are deviations from that (Plato 1901, 241).

The leaders in the aristocracy are rational above all, seeking truth and wisdom. However, this virtuous role can be blurred by honour and war and turn into a timocracy, where the leaders are honourable and glorious men. Moreover, timocracy will dissolve into oligarchy due to the avaricious nature of men. Being no longer ruled by competent men, the general population calls for their input to be heard, as a reaction to troubles. They long for the freedom to steer themselves, instead of being told what to do by others. This throws overboard the hoarding of money as a source of power and gives way to the (less fortunate) majority, which would make it a democracy (Plato 1901, 245–49). Lastly, as mob rule reigns with a growing poor class due to fear of oligarchy, a demagogue could use this to ensure a tyranny (263–64).

4.2.1 *Plato's demos*

Now that the necessary political theories are clear, the question remains of what Plato thinks of the *demos*, the general population in the democracy. Coming from the preceding text, it is clear that Plato considers democracy to be a very low-level form of government, being formed from the ashes of oligarchy and degenerated a long way since aristocracy.

The parable of the ship, also found in his work *The Republic*, shows what he thinks of the general population. The steering of the ship is a symbol for the government of a state, and in the democratic scenario, "The sailors are quarrelling with one another about the steering—everyone is of opinion that he has a right to steer, though he has never learned the art of navigation" (Plato 1901, 181). And freedom, as in the degeneration of the states, has an important place. The sailors keep on insisting "if at any time they do not prevail, but others are preferred to them, they kill the others or throw them overboard" (181). The 'others' refer to leaders; people not of the general population or sailors. Plato later calls the sailors, who demand charge of the steering wheel without being skilled in any way, possibly leading to the demise of the ship, "arrant rogues" and states that "the best are useless" (182). In other words, the mob demanding leadership in a democracy are unfit for the role.

Also in *Gorgias*, Plato is opposed to the use of rhetoric to subvert or conceal the truth, which should be obtained by reason. He calls it a feeling and an experience, to be persuaded by sophistry (Plato 1999, 70–89). This implies that it is not rational. Therefore, it doesn't impact philosophers as much as the 'less rational' people. The demagogue in the degeneration of the state could be one that persuades and rolls out tyranny.

Now, of whom does this *demos* consist? We have to logically analyse the texts to obtain the answer, as Plato doesn't mention it directly himself. It can be concluded that the *demos* in a democracy are primarily the poor people, since according to Plato (1901, 245–49) democracy is a movement opposing oligarchic rule, the preceding stage of democracy.

4.3 Aristotle

According to Aristotle, government is comparable to a science. There is one way that is the best, which should be taught and executed, even though a citizen or leader might not prefer the 'best' method. However, he keeps in mind that even though there is a perfect solution, different circumstances can require different practical approaches to achieve the best result. This should be the primary task of the ruler(s): striving towards a common good (Aristotle 1908, 145–46). Aristotle considers three types of governments in his third book. In later books, Aristotle changes this many times, so this essay will only focus on this well-known part from the third book for clarity purposes.

In this third book, Aristotle proposes what he considers to be the three distinct types of government. He identifies three types based on the number of rulers and adds two modes to each: a correct mode and a deviant one. This variance is based primarily on the main goal of the ruler, which can be

the common good (correct) or self-interest (deviant) (Aristotle 1908, 115). He reiterates the main goal of a state, which he calls the common good, is "for the sake of a perfect and self-sufficient life" (119).

Table 1: Aristotle's classification of the forms of government

	Correct	Deviant
One Ruler	Kingship	Tyranny
Few Rulers	Aristocracy	Oligarchy
Many Rulers	Polity	Democracy

Source: Table reproduced from Miller (2022).

Aristotle differentiates democracy from oligarchy by qualifying that the former is made up of the poor part of the population, instead of the rich, regardless of whether that is the absolute minority or majority (Aristotle 1908, 156). He is still referring to a somewhat limited group consisting of free Greek adult men (Miller 2022), so his definition differs from our modern, more inclusive concept of democracy. To be precise, Aristotle excludes women, foreigners and slaves. Nevertheless, letting a group of poor people make decisions was something revolutionary in comparison to the original standpoint of Plato.

4.3.1 Aristotle's *demos*

Now the foundations of Aristotle's conceptions of democracy and his overarching political theory are clear, the *demos* can be discussed. The multitude-type emerges when the general population rules. And he does not consider it horrendous from the start. "For the many, of whom each individual is but an ordinary person, when they meet together may very likely be better than the few good, if regarded not individually but collectively" (Aristotle 1908, 121). This shows that Aristotle is able to give way to the *demos* in governing, in contrast with Plato.

Though, Aristotle does see a lurking danger, as he added a 'deviant'-mode to his scheme. He mentions this danger in his fourth book.

The demagogues make the decrees of the people override the laws, and refer all things to the popular assembly. And therefore, they grow

great, because the people have all things in their hands, and they hold in their hands the votes of the people, who are too ready to listen to them. (Aristotle 1908, 157)

This is the possibility of an extreme democracy, as Aristotle calls it; one that pleases the people's needs and therefore becomes selfish. Keep in mind that Aristotle also referred to democracy as being led by the poor, meaning the needy (Aristotle 1908, 115). This quality of being in need can also result in selfishness, which can in turn destroy the demos-rule by means of turning away from the common good. The main *problem* and danger are therefore the danger to indulge in self-interest over the common interest.

Instead, Aristotle finds the best of the rule of a multitude in polity, a combination of oligarchy and democracy. Not a rule of the greedy wealthy, nor one of the needy poor, but contrarily, one by the middle class (Aristotle 1908, 169). A central theme in Aristotle's works is the centre, the balance. Take for example Aristotle's ethics. The virtue in a character is the golden mean between an excess and deficiency (Kraut 2022). So even in his *Politics*, the middle road is the best way. The middle class is not, at least according to Aristotle, extreme in one way or the other and therefore will be able to lead the state to the common interest (Aristotle 1908, 169–70).

As is clear from Aristotle's definition of democracy, oligarchy and polity, he does differ slightly with his collection of people in the *demos*. In democracy, Aristotle refers to the general population being able to exercise their vote as being the poor. In an oligarchy—which Aristotle does view as a type of multitude-rule, if there are many rich people—this group consists of rich people (Aristotle 1908, 116). And in Aristotle's ideal form of government, the polity, the general population consists of the middle class, as mentioned above.

4.4 Summary

To compare the two, we must first take into account what both authors meant by the *demos*. For Plato, the *demos* in a democracy is free Greek adult men, which was standard for political participation at the time (Miller 2022). However, Plato conceptualised democracy as a rule of the poor people. Aristotle, although he changes his definition of *demos* according to the type of government, had poor free Greek adult men also as the group in a democracy.

That being said, Plato's ideal version of a state is one where the philosopher-king (may it be one or multiple), with innate skills and proper training in wisdom and reasoning, rules and the people born and educated for other roles follow their lead. Aristotle's ideal state is the golden mean. A polity, the

balance between an oligarchy, where the rich decide (and may favour their greed above the common good), and democracy, where the poor decide (and may favour their need above the common good).

Plato also had a very hierarchical division for virtues, placing reasoning at the top, while diminishing the other characters. Aristotle took a more nuanced stance and stated that virtues are found in the middle, not in excess and not in deficiency.

'Democracy' does not mean the same as it does today. We might refer to democracy whenever there is an election or popular vote. However, the ancient Greek philosophers only used 'democracy' in specific instances. Plato referred to democracy only when the state was being ruled by an unfit, unwise, poor group. Aristotle mentions democracy only when the poor *demos* had no interest in the common good anymore. Before stating the conclusion, it must be made known that an election does not necessarily mean something democratic for Plato nor Aristotle. Elections might as well have taken place in an oligarchy or even aristocracy with multiple rulers.

4.5 Conclusion

Concluding and answering the main research question, 'What stances have shifted between Plato and Aristotle concerning the political influence of the *demos*?', the answer after the short summary in the preceding section can be made very short and clear. The *demos* for Plato was a part of the population that did not meet the requirements for ruling. They did not have the talent nor the training to be in charge of anything and should be made labourers. Political influence in any way for the general population was not part of Plato's ideal world, which reflected his stance on the *demos* very clearly. Letting the *demos* into the political sphere *will not* steer it towards success.

For Aristotle, the *demos* was a balancing factor. The need of the poor alone was not a good political influence, nor was the greed of the oligarchical class suitable. Instead, by balancing out the two excesses and inviting the large middle class into political affairs, the best way of living for the common good can be attained. The large group will be able to achieve more through their collective knowledge and will, according to Aristotle, choose for the golden mean in their lives and thus in their political action. Letting the *demos* into the political sphere *can* steer it towards success.

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5. Reversing the Debate on Voting Age

Should There Be a Maximum Voting Age?

Bente

5.1 Introduction

In 2016, 61% of 65+-year-olds voted in favour of Brexit, while 75% of voters between the age of 18–24 voted against (Nelkin 2020, 2). This real-life example illustrates the significant impact of voting age in politics: had more young people been allowed to vote, the UK might still be part of the EU.

Accordingly, the outcome of this referendum highlights the relevance of the notion of “gerontocracy”, as introduced by Karl Hinrichs (2002): if the voting power of the elderly dominates, this might give them disproportionate influence over political decisions (39). With European populations steadily aging, the likelihood is high that gerontocracy—and the intergenerational injustice it entails—will emerge more often. Consequently, the idea of lowering the minimum voting age has become relevant, as this proposal may balance the voting weight between generations.

Whereas the idea of lowering or abandoning the minimum voting age is widely debated, discussions about the inverse boundary—a maximum voting age—remain scarce. Given that a maximum voting age can also balance the voting weight between generations, this boundary is worth examining. Building on arguments from the debate on the minimum voting age, I aim to answer the question to what extent philosophical arguments in the debate on minimum voting age can be used to justify a maximum voting age. In particular, I focus on principles of inclusion and the notion of political maturity, which reappear in debates surrounding the minimum voting age.

To accomplish this, I begin by outlining the theoretical terrain, addressing the problem of inclusion, the boundary problem, and principles of inclusion. Subsequently, I explain two principles of inclusion in the context of minimum voting age: the all-affected interests principle and the all-subjected principle. Thereafter, I discuss the notion of political maturity. Finally, I examine whether arguments in the debate on lowering the minimum voting age can also support a maximum voting age, while critically assessing the legitimacy of these arguments. I conclude that an “elder seat” could be introduced, thereby meeting the intuition that retirees are less affected by a state’s governance than younger people.

5.2 Theoretical context: age as a boundary

Age is a boundary that excludes younger people from the right to vote. This question of who is permitted to vote relates to the problem of inclusion, the

boundary problem, and principles of inclusion. In this section, theoretical context is provided by explaining these notions briefly.

In *Democracy and its Critics*, Robert Dahl (1989)¹ introduces “the problem of inclusion” (119). Specifically, he formulates the problem in the following question: “What persons have a rightful claim to be included in the demos?” (Dahl 1989, 119).² According to Dahl, the term “demos” refers to the group of *adult* members who is “a better judge of his or her interests than others would be” (108). However, the term is often simply used to refer to the group of people permitted to govern themselves. Whereas Dahl’s usage implicitly addresses a criterion for who should constitute the demos, the latter usage is more neutral: it does not implicitly provide adulthood as a criterion, rather it refers to a normative question.

In this context, the question of who should constitute the demos is called “the boundary problem”, as articulated by Frederick Whelan (1983, 13). Whelan argued that the boundary problem is logically prior to any democratic theory, because in a democracy “a particular group or people [...] is set apart [...] for the purpose of self-government from other people or peoples, who are correspondingly excluded” (Whelan 1983, 13–15). Thus, any democratic theory faces the question of which boundaries are legitimate to constitute the demos.

Consequently, the problem of inclusion has resulted in principles of inclusion which provide an answer to the boundary problem. To clarify, principles of inclusion address both the problem of inclusion and the boundary problem, as a rightful claim for including certain individuals inherently establishes a boundary that excludes others. In other words, principles of inclusion offer rationale for legitimising certain boundaries, explaining why boundaries are considered justifiable.

In summary, the problem of inclusion questions why a group of people has a rightful claim to inclusion, and the boundary problem questions which boundaries are justified to set a group apart by excluding other people. Principles of inclusion provide criteria to answer these questions.

1 See “Representative Democracy on Trial: Philosophical Perspectives on Inclusion and Exclusion of Anti-Democratic Actors” on page 69 for Dahl’s theory of polyarchy. Cited work for this paper is *Polyarchy: Participation and Opposition* (1971).

2 See “The Evolution of the Sentiment towards the Demos” on page 43 for more information on the demos, specifically Plato and Aristotle’s conception of the demos, the comparison of the two and how the sentiment towards the demos has developed.

5.3 Principles of inclusion

In 2007, Austria became the first major Western democracy to lower its minimum voting age from 18 to 16 (Beckman 2009, 90). The European Commission phrased the arguments considered as follows:

At the age of 16, young people have already reached the age of criminal responsibility and extended legal capacity. They are dealing with their life planning, have to decide on their educational path and their professional future, and some of them are already in professional life. (European Commission 2023)

This is a concrete example of how the all-affected interests principle and the all-subjected principle, which results from it, are addressed in political discussions on minimum voting age. In this paragraph, these principles of inclusion are discussed.

The “all-affected interests principle”³ (Song 2012, 50) postulates that “anyone whose interests are affected by a decision should have a voice in the making of that decision” (Song 2012, 50). However, it remains rather vague what “affected” means: to what extent must a person be affected in order to warrant their inclusion in the demos? For example, who is affected by Dutch policy on taxes? Because affectedness is transnational, Robert Goodin (2007) argues, “we should give virtually everyone a vote on virtually everything virtually everywhere in the world” (64) as everyone might possibly be affected by the policies of any state. The boundary problem is not solved, instead, it is shifted to the question of what criterion should define the boundary of the AAIP.

For this reason, Nancy Fraser (2008) substitutes the AAIP with the “all-subjected principle”⁴ (65) which states that “all those who are subject to a given governance structure have moral standing as subjects of justice in relation to it” (Fraser 2008, 65). An earlier formulation is provided by Dahl (1989), although he did not refer to it as the ASP: “System Y is democratic in relation to everyone subject to its rules” (122). Notably, while the AAIP is interpreted transnational, the ASP is more limited in scope: people from Italy are not subject to German governance and should therefore be denied the right to vote.

In this respect, the AAIP and the ASP both apply to children. For instance, compulsory education affects children, as they are coerced to attend school, which is specified in the law. Not only attendance, but also the content of

³ I abbreviate this principle to ‘AAIP’.

⁴ I abbreviate this principle to ‘ASP’.

education is often specified by rules, for example, whether religious education is permitted or not. Furthermore, children are prohibited from driving, drinking, working, traveling alone on a plane, and so on. To clarify, these examples might seem peripheral, however, my point is not to criticise these regulations, but rather to point out that children are significantly affected by them, at least in the legal sense of the term.

Furthermore, substantial examples that strongly evoke ethical intuitions do exist. A notable ethical issue is the impact of child protection measures on children. In 2013, nine Dutch youth care institutions reported that children aged 12 and older were placed in solitary confinement 1,409 times. The duration of confinement ranges from several hours to a maximum of 7 days and it is defended with reasons such as protecting the child from committing suicide or safeguarding their surroundings from arson and aggression (Dahl 2017, 10, 14). Accordingly, the impact of youth care on children, in relation to the AAIP and the ASP, serves as real-life example to pledge for lowering or abandoning the minimum voting age; to give children (at least) a say on the rights that apply to them.

In summary, children are affected by and subjected to a state's policy. According to interpretations of the AAIP and the ASP, this provides a legitimate reason to either lower or abandon the minimum voting age. After all, obligations, prohibitions, and consequences of violating laws infringe upon a child's autonomy, and thus a child should have the right to vote, as this provides democratic justification for infringement upon one's autonomy.

5.4 Political maturity

Despite being affected and subjected, one might argue that children lack the capacity to reason about their rights and duties. Less developed cognitive abilities are a reason for not assigning (full) criminal responsibility to children by law. If this reduced cognitive development is recognised by law, why should it not apply to the right to vote? After all, children might lack the cognitive abilities to make an informed decision about political policy. This narrative relates to the notion of "political maturity" (Chan and Clayton 2006, 539), which is examined in this paragraph.

According to Tak Wing Chan and Matthew Clayton (2006), political maturity consists of two characteristics: "willingness" and "ability" (542). "Willingness" refers to "the level of interest in politics" (542) and "ability" encompasses knowledge of the significance of the political system and the system itself, along with possessing consistent and coherent political convictions that are rational and not whimsical (542). They underline the importance of political proficiency, because the votes of the incompetent "might impact negatively, not merely on themselves, but also on the legal rights and

duties that apply to others” (539). Supported by empirical data, Chan and Clayton conclude that people under the age of 18 are not politically mature (555).

In contrast, Philip Cook (2013) criticises the concept of political maturity they employed, arguing that “political maturity” is a vague notion by applying the sorites paradox:

Sorites paradox

100,000,000 grain of wheat is a heap.

100,000,000 minus one grain of wheat is a heap.

Repeat this extraction.

Eventually, only one grain of wheat remains,
which would no longer be considered a heap. (444)

The paradox illustrates that the predicate “is a heap” is vague, as the boundaries of the concept are not well-defined. Similarly, Cook argues that political maturity is a vague concept: what level of interest and knowledge demarcates “political maturity” (Cook 2013, 444)?

Furthermore, authors question whether age as a proxy for political maturity is justified: if the justification for political maturity consists of willingness and ability—not age—these characteristics should serve as the criteria for the right to vote. Chan and Clayton call this the “anti-ageist principle” (Chan and Clayton 2006, 539). Proponents of the anti-ageist principle often argue in favour of a test that individuals should take. Minimum voting age, in that case, would be replaced by a test.

However, I will not discuss the content of, or the reasons in favour or against such tests. Instead, I will argue that the notion of political maturity should not be understood as descriptive but normative. Discussing (philosophical) arguments in favour or against a test would therefore be beside the point, as the very concept of a test assumes that political maturity is a descriptive notion that people either meet or fail. Thus, why should we consider minimum voting age a normative notion?

Firstly, I contend that “maturity” is (at least) characterised by the act of taking responsibility. We call behaviour “mature” when it involves an act of taking responsibility. For example, if a child breaks a door, we do not expect them to repair it; if an adult breaks a door, we do expect them to take responsibility for the consequences of their actions, either by repairing the door themselves or by ensuring that the door is repaired. Similarly, in relational contexts, if a child in an argument only points to the other person as being at fault, we may correct them, but we will not call them “childish”; if an adult

does the same, we will call them childish, as they fail to be reflective enough to recognise their own responsibility. Thus, the act of taking responsibility is closely related to maturity.

Consequently, the term “political maturity” must encompass acting responsibly in political contexts. For example, if a politician makes a serious mistake, we expect them to resign and, by doing so, take responsibility. In the case of voting, political maturity could mean investigating the positions of different parties before voting—taking responsibility by making a well-considered decision. It could also include practical matters, such as ensuring that one brings their ballot and ID to the polling station on election day.

Secondly, being able to take responsibility implies that a person possesses other abilities. As the political and non-political examples above illustrate, taking responsibility often goes hand in hand with having an overview of situations, setting aside personal feelings, taking initiative, and so on. While children may be capable of these matters, we generally do not expect them to act in this way. We try to teach them these qualities, but we do not expect them to display maturity. If we call a child mature, it is a compliment, precisely because we do not expect them to be mature. If an adult acts childishly, this is meant negatively, as we do expect them to act maturely.

Accordingly, these two reasons constitute the gist of my argument: we do not expect children to take political responsibility, nor do we expect them to understand the political system or to have knowledge of the current political situation. In short, we do not expect children to be politically mature. Whether these expectations are grounded in biological reasons (e.g. children’s brains are not fully developed), practical reasons (e.g. children are not yet educated about the political system or their shorter lifespan limits their knowledge about politics) or ethical reasons (e.g. we believe children should be free from thinking about complex matters and should live a carefree life), we generally do not expect children to exhibit political maturity.

An ethical perspective on these expectations is particularly intriguing. We feel pity for children who have to take care of their younger siblings because we believe such tasks do not “belong” to childhood. A child should be free from such responsibilities. This creates an intriguing paradox. On the one hand, denying children the right to vote is often seen as limiting their freedom: the freedom to vote. On the other hand, by denying children the right to vote, we protect their freedom by not imposing expectations on them. Therefore, an important question in debates about the minimum voting age is: which freedom is more important to protect and until what age?

In conclusion, authors have argued that the notion of political maturity is vague or that (some) young people are politically mature and thus should

have the right to vote. Others claim that age, in general, is an insufficient proxy for political maturity and propose introducing a test for everyone. I have opposed these arguments by asserting that political maturity, in relation to age, is a normative requirement rather than a descriptive one; we do not expect children to be politically mature.

5.5 Reversing the debate

In this section, I revisit the AAIP, the ASP, and the notion of political maturity. To meet the graduality of the AAIP, I introduce the idea of a youth seat and an elder seat.

It is evident that elderly people are subject to a given governance structure. Therefore, the ASP does not imply that a maximum voting age should be introduced. However, the AAIP presents a problem: as mentioned earlier, the AAIP shifts the boundary problem to the question of what degree of affectedness justifies the right to vote. Since this degree can be interpreted in various ways, the AAIP could be interpreted as justifying a maximum voting age.

For instance, long-term decisions affect younger people more than older people. Consider climate change policies and environmental conservation measures or decisions on where to allow construction as buildings have long-term impacts. A striking example is Brexit: younger people, who predominantly voted against the decision, live longer with its consequences than older people. In short, if we conceive the AAIP as a principle requiring us to calculate the degree to which individuals are affected, we could argue that longevity should be a factor.

However, creating such a calculator does not directly establish a threshold indicating what degree of affectedness is sufficient for voting rights; affectedness is a gradual, not an absolute quality. Furthermore, even if a legitimate threshold were established, the AAIP would still present practical challenges. How do we gather data on the degree to which someone is affected? This is particularly difficult for people from other countries, as their level of affectedness is hard to determine. For this reason, I reject the AAIP as a general principle for determining voting eligibility.

Nevertheless, in the case of age, there is a plausible argument that, beyond a certain point, the effects of decisions are less significant. Elderly people are more likely to pass away sooner, they no longer need to build businesses or plan for the future. In an ageing population, it seems odd for elderly individuals to have disproportionate influence over policies that they may not experience the long-term effects of. How can this intuition be addressed?

To account for the graduality of affectedness concerning age, I propose that elderly people starting from the pension age should no longer participate in general elections. Instead, a parliamentary seat could be reserved for the votes of elderly individuals. In other words, the votes of elderly people would be tallied, and the party with the majority of these votes would receive the “elder seat”. The pension age is used as a threshold because, after this point, people are generally no longer active in the workforce, meaning that much policy no longer affects them directly.

Regarding political maturity, one could argue that beyond a certain age, it is no longer expected of elderly individuals to engage with current developments, such as new regulations on technology. Additionally, norms and values that evolve with the zeitgeist may feel too distant for elderly people to understand or adapt their opinions to. An elder seat could be seen as a reflection of a “negative” norm, meaning that society no longer expects the elderly to engage with contemporary issues. This norm is “negative” because it represents what is no longer expected, rather than what is.

Interestingly, a youth seat could be introduced in a similar manner. A youth seat would allow children starting from the age at which they are permitted to work to express their votes. The youth seat could be aligned with the age at which pupils are educated about politics. At this age, they are not yet expected to be fully politically mature, but they are encouraged to learn about politics. This aligns with the practical utility of the youth seat, as it could allow young people to practice participating in the political system. In any case, both the elder seat and the youth seat merit thorough consideration and should be the subject of a dedicated paper.

In summary, arguments in the debate on the minimum voting age cannot be directly applied to justify the introduction of a maximum voting age. Nevertheless, the introduction of an elder seat could address the intuition that retirees are less affected by policy outcomes. Furthermore, an elder seat could reflect the negative norm that elderly individuals are no longer expected to engage with contemporary issues.

5.6 Conclusion

In this paper, I have examined arguments used in debates on minimum voting age to determine whether they also justify the introduction of a maximum voting age. I focused on the AAIP and the ASP, emphasizing that the AAIP shifts the boundary problem to the question of what degree of affectedness can serve as a threshold for granting voting rights. Furthermore, I argued that the notion of political maturity in relation to voting age should not be seen as a descriptive notion but rather as a normative one, expressing that we do not expect children to be politically mature. Finally, I applied the

AAIP, the ASP, and the normative notion of political maturity to the situation of older people. I argued that while the AAIP is too problematic to determine whether retirees are *sufficiently* affected, it nevertheless highlights the intuition that they are *less* affected by political policies than younger people. To address this graduality within the AAIP, I proposed the introduction of an elder seat. This seat also aligns with the negative norm that we no longer expect older people to engage with contemporary political issues or matters shaped by the new zeitgeist. Above all, the elder seat could help prevent a gerontocracy, a notion introduced by Hinrichs.

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6. Electoral Abstentionism in Western Democracies

Andrea Memmo

6.1 Introduction

In the 2022 Italian elections, the data regarding the voter turnout were dreadful: the percentage of the electorate which abstained or left the ballot blank was almost 40% (36.21% abstained; 1.07% left the ballot blank). Something similar happened in Spain in 2016, where only 51.2% of the electorate went to the polls. In France in 2022, 26.2% of the population made the same choice. Moreover, even where political interest is very high, like in the Netherlands, the phenomenon of abstentionism keeps taking hold in recent years. This can be seen in a comparison between the 2017 and the 2023 Dutch elections, where the voter turnout of 83.24% (2017) decreased to 77.74% (2023).

Abstentionism is a phenomenon in which part of the electorate chooses to not participate in the election, giving up their right to vote. This phenomenon is threatening Western democracies, showing a considerable loss of interest in part of the population in the politics they are voting for. Obviously, by Western democracies, I mean the form of political organisation most present in Europe and in the U.S.: representative democracy.

Representative democracy is a government system in which people elect representatives to make decisions on their behalf. This is possible by means of a system of parties and coalitions formed by politicians and aimed at representing people's different political ideas. However, the intense political engagement that characterised the second half of last century has weakened, so much so that today the phenomenon of abstentionism is gaining ground. This is why this paper will focus on what causes underlie abstentionism, how modern representative democracy influences it, and what we should do in order to counteract this problem. First, I will introduce the topic of abstentionism, analysing its characteristics and its different forms. Second, I will present the political causes of abstentionism, namely the crisis of political parties. In order to do this, I will use the works of Mauro Calise, Giovanni Barbieri, and James L. Newell. Then, I will examine the social factors behind abstentionism through the work of Chiesa et al. Finally, I will offer political theories aimed at finding possible solutions to abstentionism through the tools of direct democracy. I will use the theories of Carole Pateman, one of the most important political scientists to have tackled abstentionism and political engagement.

6.2 Abstentionism: A Brief Description

Abstentionism regards the absence of exercising the right to vote; therefore, it comprehends every case in which the citizen does not vote. There are generally three types of abstentionism. The first type is unintentional abstentionism, which regards the impossibility of going to the polls due to empirical problems. This form of abstentionism often regards elderly people, people with disabilities, and people who cannot vote because of work obligations or physical problems in going to the polls, such as distance. The second type is protest abstentionism, namely when people choose not to vote as a form of protest against the political system or because they do not feel represented by parties. Then there is apathic abstentionism, where voters do not participate due to disinterest in politics, seeing it as something far from their lives and not changeable with their vote (Bassanini et al. 2022, 43). This research will be focused on protest and apathic abstentionism. The problem of abstentionism, in general, can be attributed to many different and accidental reasons; however, its internationality and its punctuality—the fact that it is presenting itself in several Western countries (internationality) and almost at the same time (punctuality)—confer upon this phenomenon a value that we should not underestimate. A genealogical approach to the problem of abstentionism permits us to analyse it not as the problem, but rather as a symptom, the effect of a problem existing in Western politics. Protest and apathic abstentionism are two different reactions to the same situation, with the difference that the former is an active reaction, while the latter is a passive one. My research enabled me to investigate this problem, to which I will refer, for the sake of the inquiry, as the crisis of political parties. In the next section I will present the theory of Calise, who studied the evolution of political parties throughout their history, identifying the reasons behind this crisis and thus the reasons behind abstentionism. Then, I will expand his ideas through the work of Barbieri and Newell, who addressed the same topic.

6.3 The Crisis of Political Parties: The Problem

In *Il Partito Personale: I Due Corpi Del Leader* (The Personal Party: The Leader's Two Bodies), published in 2010, Calise shows how Western democracies changed and evolved over time. He believes that one of the main reasons why people choose not to vote is that they do not feel represented by any political party. This is because, when, two centuries ago, parties were born, our society was completely and rigidly fractured into 4 sectors: church-state, centre-suburb, city-countryside, and obviously working-class-capitalists. (Calise 2010, 21). These sectors were precisely embodied in politics by parties, which were solid and reciprocally opposed entities in which everyone

had the chance to feel represented. This is why the author refers to them as “dinosaurs” (21). However, the interaction of opposing political parties in parliamentary activities mitigated and reconstructed these fractures, so that today these fractures are not rigid or even present anymore; yet, despite this, parties still try to represent them, and this incompatibility led to citizen’s present lack of identification with parties. We can say, thus, that “political parties can today be considered as victims of their own success” (22). Moreover, in “Abstentionism, Populism, and the Crisis of Democracy”, Barbieri and Newell (2023) offer an analysis of Peter Mair’s *Ruling the Void: The Hollowing of Western Democracy*, which explains that the crisis of political parties does not pertain only to civil society but also to the political class itself. The lack of interest in politics leads to a mutual distancing between people and the political class. On the one hand, non-political entities such as NIMBY or LGBTQ+ started to represent the interests of people who do not seek representation in politics anymore. On the other hand, political parties are withdrawing into themselves within governmental institutions. This means that they “orient themselves to their involvement in the parliamentary process and, above all, to the occupation of public office” (Barbieri and Newell 2023, 18), instead of focusing on people’s needs. In light of all this, it is possible to understand why, in recent years, Europe has faced issues such as abstentionism and populism, which, according to Barbieri and Newell, stem from the detachment between the population and the political class (26). Abstentionism, as previously mentioned, is not the problem itself, but is caused by the problem that threatens Western democracies, namely the crisis of political parties. Furthermore, in addition to this crisis, several social factors can be identified that increase abstentionism and widen the gap between the people and the political class. The next section will address this topic, analysing the non-political elements determining abstentionism and explaining how these factors influence it.

6.4 Social Factors of Abstentionism

The work of Chiesa et al. in “L’Astensionismo Elettorale e Le Sue Determinanti” (Electoral Abstentionism and Its Determinants), published in 2024, offers a thorough analysis of abstentionism from a social point of view, identifying five main factors. These are level of education, civic participation, socioeconomic factors, age and generation, and social and family context (Chiesa et al. 2024). They start from the level of education, considered one of the most important factors as far as electoral participation is concerned. Education gives people the possibility to comprehend complex political topics, it gives the ability to critically analyse ideas and political candidates, and often educational institutes “promote democratic values

and the concept of civic participation as a moral responsibility” (Chiesa et al. 2024). Moreover, as Lahtinen (2017, cited in Chiesa et al.) explains, more educated individuals tend to consider themselves politically effective, thus believing that their vote can make a difference. At the same time, low levels of education often correlate to poor political participation, due to a lack of intellectual resources and interest. Secondly, civic participation enables people to live everyday life as a reality close to politics. Civic activities and organisations strengthen the sense of belonging and responsibility towards one’s community and create social connections that can encourage political interest and electoral participation (Chiesa et al. 2024). An increase in these activities would reduce the gap between citizens and the political class and stimulate political interest. This is possible due to Putnam’s theory of social capital (2009, cited in Chiesa et al.), which emphasises the importance of social connections in fostering cooperation and collective action within a community. Another important aspect for the sake of the inquiry is the socioeconomic status of an individual. Economic wealth and political participation are related under many points of view, just as poverty and political disengagement are. As Lijphart (1997, cited in Chiesa et al.) explains, “people with higher incomes tend to have more resources (time, money, information) to participate in elections. They are less likely to face practical barriers, such as transportation difficulties or the need to work during voting hours.” Moreover, people with economic problems may feel abandoned or not represented by their political class, believing that they do not have reasons to vote. Furthermore, it is a well-known and concerning fact that young people tend to vote less than older individuals. At first, this happens because young people usually lead more dynamic lives, travelling due to study or work obligations. However, young people have less interest in politics compared to older individuals. According to Fisher (2009, cited in Chiesa et al.), the new generation’s passive attitude towards politics originates from “the awareness among young people regarding their actual inability to bring about change, in light of climate change and, more importantly, in light of the inequalities perpetuated by the capitalist system, which presents itself as the only viable model in the context of contemporary development.” The fifth social factor that has considerable influence on abstentionism is social and familial context. The possibility of talking about politics at home or with friends drastically increases political engagement. Moreover, if a community has high levels of electoral participation, it is likely that people will vote due to social pressure (Plutzer 2002, cited in Chiesa et al.). All these factors can affect voter turnout, both positively and negatively. It is very important to not underestimate this situation, if we are to counteract the problem. However, how can we do it? The next section will present the theory of Carole

Pateman, who developed a theory about participatory democracy in order to reduce the distance, created by the crisis of political parties, between the population and the political class. Her theory is focused on the valorisation of the aforementioned social factors, aimed at an ideological reconciliation between people and politics.

6.5 Political Solution

In her work *Participation and Democratic Theory* (1970), Carole Pateman, one of the most influential contemporary political scientists, raises a critique against representative democracy, highlighting its limits and how it impacts political participation. She explains that modern liberal democracies are more focused on representative electoral mechanisms rather than political participation, reducing the role of the citizen, who should be an active participant in politics, to a mere elector. That is why she believes that political participation should mean not only the act of voting, but an inclusive process at the centre of which there is the citizen. She thus proposes participative democracy, a theory according to which citizens can be closer to the decision-making process and feel both active and represented. “The theory of participatory democracy is built round the central assertion that individuals and their institutions cannot be considered in isolation from one another” (42). This form of democracy differs from direct democracy because it does not abolish representatives, but it reduces their decisional power in order to leave sovereignty to the people. In accordance with this theory, power should be decentralised and fragmented into smaller entities in order to give people the opportunity to actively participate and be more aware of their political context and their role in it. This decentralisation comprehends deliberative spaces, popular assemblies, and referenda, in which people will be actively involved. In accordance with Putnam’s theory of social capital (2009, cited in Chiesa et al.), this would improve political awareness among people who would face such topics daily. First, she deems fundamental a change in civic education. It should not be focused only on general notions about democracy, but should foster practical competences, such as debating. In addition, participation itself would create a virtuous circle in getting people used to politics in their everyday life. Then, she insists on the removal of socioeconomical barriers. She explains that, if access to political participation is available to everyone without differences, historically marginalised groups that have been excluded or felt excluded would now be more motivated in engaging in politics. Moreover, she believes that we also need a cultural change in how we look at politics; especially, we should stop seeing politics as something in the hands of an elite but rather as a collective activity. In conclusion, participatory democracy permits

citizens to individually and directly participate in political decisions. She emphasises that this change in democracy can improve the quality of the decisions taken, decrease abstentionism, and legitimise our democracy.

6.6 Conclusion

In conclusion, abstentionism is the product of a problem present in our politics. The theories of Calise, Barbieri, and Newell shed light on the underlying characteristics and causes of the problem, particularly highlighting the crisis of political parties. The weakening of political parties, which once served as bridges between citizens and the state, has created a growing distance between the electorate and political institutions. In addition, it has been shown by Chiesa et al. how abstentionism can stem from social situations. However, those same situations can become an opportunity to strengthen political interest in people, and Carole Pateman's theory of participatory democracy provides a hopeful example of how this can be realised. She argues that this crisis can be solved by shifting from a purely representative model to one that emphasises citizens' active and direct participation in the decision-making process. Pateman's model aims at limiting representatives' power in order to give citizens more control over politics. The rise in abstentions is a reflection of the failure of the political system to address the needs and interests of people. Defeating abstentionism requires more than just encouraging people to vote. It needs a fundamental change in how politics is structured and how citizens engage with the political process. While Carole Pateman's theory offers a potential solution, the key is acknowledging that politics regards everyone, and that everyone is responsible for it.

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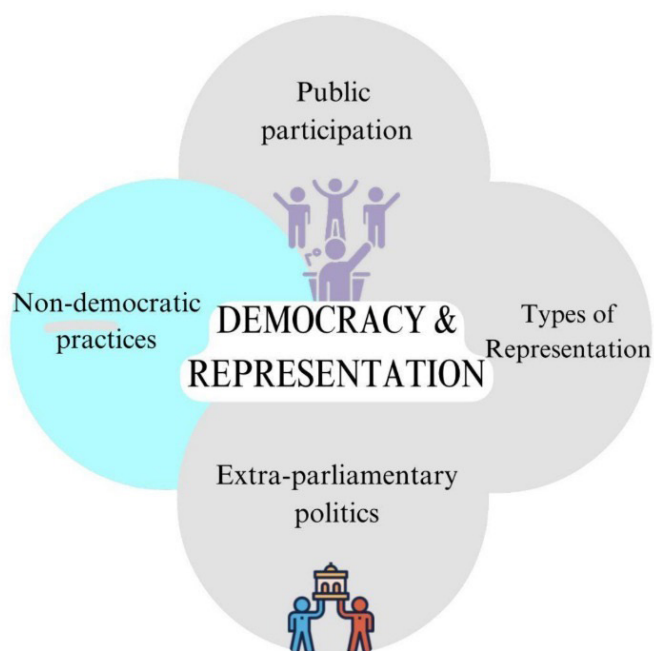
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7. Representative Democracy on Trial

Philosophical Perspectives on Inclusion
and Exclusion of Anti-Democratic Actors

Frederique Bots

7.1 Introduction

The term “a threat to democracy” has been widely popularised, particularly during the Democratic Party's campaign against President-elect Donald Trump (Rissman 2025). Trump has repeatedly pledged to incarcerate political opponents, threatened media outlets he deemed “unfriendly”, and suggested he might not accept election results if he lost (Kalb 2018). Furthermore, he has consistently attacked the integrity of the American voting process, calling it “unfair” (Kamarck 2021). These actions and statements challenge the foundational principles of democratic governance and provoke significant philosophical and theoretical questions about the boundaries of democracy.

Given the controversial nature of the individuals and phenomena discussed in this paper, it is essential to clarify its academic approach. This paper aims to remain rooted in established academic theories of democratic theory, avoiding subjective interpretations as much as possible. By doing so, it seeks to present an objective analysis of the philosophical dilemma at play.

The paper will begin by sketching the broader dilemma that is present in many Western democracies. It then examines two key theories pertinent to this issue: Robert Dahl's theory of Polyarchy (Dahl 1971) and Jan-Werner Müller's concept of Militant Democracy (Müller 2016). These theories serve to define the boundaries of representative democracy and demonstrate the potential consequences of including actors like Trump within its framework. To fully elucidate the dilemma, the article will also explore Chantal Mouffe's perspectives in *On the Political*, which underscores the risks and implications of excluding individuals or groups from democratic processes (Mouffe 2005).

Ultimately, the paper concludes by highlighting the tensions between inclusion and exclusion, underscoring a fundamental dilemma within representative democracy: Is it undemocratic to exclude Donald Trump, given his challenges to democratic norms, or is it more undemocratic to allow him to potentially undermine the core values of a representative democracy?

7.2 The Larger Dilemma

At the heart of this discussion lies a critical paradox many Western democracies face: What should be done about anti-democratic actors in representa-

tive democracies? A representative democracy is a system where citizens or political actors elect representatives to make decisions on their behalf. This is the definition that this paper refers to when stating the term “democracy”. Furthermore, a critical component of this system is the concept of representation, which ensures that diverse groups within society feel adequately and fairly represented. This process depends heavily on public trust in key institutions, including electoral bodies, the judiciary, and the media. The rise of populism has emphasised the dilemma of which position anti-democratic actors should get in a representative democracy. Figures like France's Marine Le Pen, Hungary's Viktor Orbán, and the Netherlands' Geert Wilders are examples of this (Silver 2022). These leaders are democratically elected and participate within the framework of representative democracy, yet their political aspirations often align with anti-democratic ideologies, promoting exclusionary policies and societal polarisation (Becker 2020, 110). A good example of this is the overwhelming support for anti-migrant parties such as the *Alternative für Deutschland* (AfD) in Germany (Flynn 2023). Such parties have gained significant support from large majorities which is, therefore, fair democratic participation in a representative democracy. The argument they make is, however, promoting the exclusion of minorities and promoting polarisation. The main source of populist rhetoric centres on the premise that the people feel disempowered by their governments and institutions (Mounk 2018; Trump 2016).

“*I AM YOUR VOICE*” (Trump 2016). These were Trump’s words during the Republican National Convention in 2016. This perfectly encapsulates the essence of populist rhetoric. With this quote, Trump aims to be seen as a mere voice for the people, which often appeals to disempowered groups. Populist rhetoric, while appealing to certain groups, can undermine the very institutions essential to a functioning representative democracy. Populist rhetoric can be deemed undemocratic because it often sows distrust in institutions, such as media, political institutions, or the voting process (Mounk 2018, 99) These are all vital instruments in a working representative democracy, something which will be elaborated on further in this paper.

Populism thrives on eroding trust in institutions and governance. By sowing distrust in these institutions, populist movements attack the foundation of representative democracy, creating a paradox: while they operate within democratic systems, their rhetoric and actions often undermine the principles necessary for these systems to thrive (Kleinfeld 2023, 6). This tension is central to the philosophical dilemma examined in this paper.

7.3 Inclusion

7.3.1 Robert Dahl's Polyarchy

This section will highlight Trump's hostility towards political opposition, a behavior that clashes with Dahl's emphasis on tolerance for opposition as vital to a functioning representative democracy. Examples include his calls for the imprisonment of political rivals, such as Hillary Clinton and Joe Biden, as well as his public attacks on members of his own party who opposed his actions (Lerer and Gold 2024). By positioning opposition not as a legitimate counterbalance but as a threat, Trump disregarded a key democratic principle.

Robert Dahl¹ introduced the concept of "polyarchy" to define and analyse the practical workings of modern representative democracies. In his work *Polyarchy: Participation and Opposition*, Dahl distinguishes an ideal democracy, which is rooted in normative principles, and the real-world systems, which are a rough version of it. He argues that "polyarchy" represents a political system characterised by inclusive participation and competitive opposition. It establishes the practical boundaries within which democratic governance can function. In essence, Dahl's (1971) theory provides a framework for understanding the mechanisms that can sustain or put pressure on a representative democracy, thereby providing the necessary borders for the dilemma tackled in this paper (2-8).

Dahl identified several key institutional features of polyarchy that enable representative democracy. These include: free and fair elections, freedom of expression, the right to run for office, alternative sources of information, and elected officials wielding effective control over government decisions. Together, these elements create an environment in which citizens can express their preferences and hold leaders accountable (Dahl 1971, 3-4).

Importantly, Dahl's polyarchy is not synonymous with democracy in its idealized form. Instead, it reflects the reality of governance in societies where competing interests must be managed through different neutral institutions. Polyarchy sets the boundaries for democracy by emphasising the cooperation between inclusiveness (who gets to participate) and opposition (the degree of competition among political actors). A system lacking either would not qualify as a polyarchy and would, therefore, fall short of the standards of a representative democracy (Dahl 1971, 7-9).

1 See "Reversing the Debate on Voting Age: Should There Be a Maximum Voting Age?" on page 51 for Dahl's conception of the problem of inclusion. Cited work for this essay is *Democracy and its Critics* (1989).

Dahl's work implicitly highlights the tension between democracy's ideals and its outcomes. In a certain sense, polyarchy offers a procedural checklist, but the quality of democracy depends on the balance of power, norms, and shared values among its actors (12). For example, when participation becomes less inclusive, or the opposition devolves into authoritarianism or populism, the borders of a representative democracy are tested.

The rise of Donald Trump in U.S. politics poses a significant challenge to Dahl's conception of polyarchy. Trump's political rhetoric and actions have repeatedly put pressure on the procedural and normative foundations of representative democracy. His repeated attacks on the legitimacy of elections, the judiciary, and the free press undermine the pillars of opposition and accountability. Including figures like Trump within a polyarchal system is a test of its resilience. On the one hand, the principles of inclusiveness demand that all voices, no matter how controversial, should be allowed to participate. On the other hand, Trump's disregard for democratic norms raises questions about the limits of tolerating anti-democratic behavior within a democratic framework (Dahl 1971, 14–16).

“CROOKED HILARY” was a campaign slogan coined by Trump during his presidential campaign in 2016 (Jamieson 2016). Slogans like this threaten the inherent value of opposition within a democratic system. Undermining these foundations of a representative democracy, as Dahl (1971) explains, puts pressure on the stability of the system. By spreading this type of deep-seeded hate into an already polarised country, it only causes further polarisation and distrust (19–21).

Robert Dahl's concept of polyarchy provides a deeper understanding of the fragility of representative democracies. By emphasizing the balance of participation and opposition, Dahl underscores the foundations that define democracy's borders. The inclusion of a figure like Donald Trump in such a system illustrates both the strengths and vulnerabilities of polyarchy. While a robust democracy must accommodate diverse perspectives, anti-democratic tendencies from within can strain its institutions and norms. Ultimately, Dahl's framework underscores that democracy is not self-sustaining; it requires vigilance, trust, and adherence to the fundamental principles that make it possible (Dahl 1971, 25).

7.3.2 Jan-Werner Müllers *Militant Democracy Theory*

Another theory which makes a case against Trump's inclusion is that of Jan-Werner Müller. Jan-Werner Müller's theory of “Militant democracy”² is

2 See "Exploring Ecological Representation through Indigenous Epistemologies: The Limits of Non-Human Personhood" on page 23 and "Electoral Representation: Interests

rooted in the idea that democratic systems must sometimes take proactive measures to safeguard their fundamental principles and institutions against actors seeking to undermine or dismantle them. The concept of a Militant Democracy, originally coined by Karl Loewenstein (1937) in the aftermath of the rise of totalitarian regimes in the 20th century, has been expanded and refined by Müller (2016a). He emphasises the need for democracies to strike a delicate balance between upholding liberal values, such as freedom of expression and association. Furthermore, and importantly, democracies should be taking decisive action against threats posed by anti-democratic actors (7).

Müller's theory argues that democracies cannot afford to be entirely neutral toward those who aim to destroy them from within. He states that such neutrality allows authoritarian movements to exploit democratic freedoms for anti-democratic purposes, as seen historically with the rise of fascist and communist regimes in Europe. In his book, *What Is Populism?*, and other writings, Müller critiques populist leaders who claim to represent "the real people" while undermining democratic norms. He argues that this erosion of democracy justifies the exclusion of actors who weaponise democratic processes for authoritarian ends (Müller 2016b, 12-24).

A Militant Democracy, according to Müller, requires many safeguards which should be based in different institutions. These safeguards include: banning extremist political parties, regulating hate speech, and even disqualifying individuals who demonstrate a clear intent of disregard for democratic structures (Müller 2016a, 18). The justification for these measures is that democracy is not merely about majority rule, it is about protecting the conditions that make free and fair participation possible (Müller 2016b, 32).

When applying Müller's Militant Democracy theory to Donald Trump, it becomes evident why his exclusion from democratic processes could be justified. Trump's presidential and post-presidential actions have repeatedly undermined the democratic principles of the United States. His refusal to accept the results of the 2020 election, coupled with his baseless claims of voter fraud, represented a direct attack on the integrity of electoral processes (Müller 2016b, 40). By promoting the "Big Lie" and encouraging efforts to overturn legitimate election results, Trump demonstrated a willingness to erode the foundational principle of peaceful transitions of power (Crowley 2020).

The January 6th Capitol insurrection further underscores Trump's anti-democratic tendencies. His rhetoric incited violence and attempted to disrupt

and Wishes" on page 13 for a focus on a different specific type or aspect of democracy. See the former for ecological democracy the latter for electoral democracy.

the certification of a democratic election, a cornerstone of the constitutional order (Müller 2016a, 27). Such actions align with Müller's criteria for identifying actors who pose existential threats to democracy. Trump's behaviour exemplifies how a leader can exploit democratic freedoms to destabilise institutions and sow distrust among citizens (Müller 2016b, 48).

Müller's theory supports the notion that allowing Trump to continue participating in democratic processes poses significant risks. By framing himself as the sole legitimate representative of "the people", Trump has a populist, anti-pluralist narrative that delegitimizes opposition voices and institutions, including the judiciary and media (Müller 2016b, 53). His exclusion from democratic participation would act as a preventive measure, ensuring that representative democracy remains resilient against actors who exploit it for personal or authoritarian gain (Müller 2016a, 30).

In conclusion, Jan-Werner Müller's militant democracy theory provides a framework for understanding why democracies must sometimes take decisive action against internal threats. Trump's persistent attacks on democratic norms and institutions, as well as his divisive and anti-pluralist rhetoric, justify his exclusion under the principles of militant democracy. Far from being anti-democratic, such measures aim to protect the very essence of democracy for future generations (Müller 2016b, 65).

7.4 Exclusion

Chantal Mouffe's theory in *On the Political* offers a critical perspective on the exclusion of controversial figures like Donald Trump from a democracy. Mouffe argues that a representative democracy thrives on the dynamic tension between opposing viewpoints, which she conceptualises as "agonistic pluralism". Mouffe emphasises the necessity of conflict in a democracy. Excluding Trump from democratic processes, she would contend, risks undermining the pluralism and opposition essential to a representative democracy's vitality (Mouffe 2005, 20–21).

Mouffe distinguishes between "antagonism" and "agonism," two forms of conflict. Antagonism represents a destructive us-versus-them dynamic that denies the legitimacy of opposing views. Agonism, on the other hand, channels conflict into constructive political engagement, recognizing the legitimacy of oppositions, even during profound disagreement. For Mouffe, the strength of a democratic system lies in its ability to transform antagonistic conflicts into agonistic ones. This transformation requires open and inclusive spaces where different perspectives can be debated (Mouffe 2005, 30–36).

The exclusion of Trump, particularly on grounds of his anti-democratic rhetoric and actions, poses a dilemma within Mouffe's framework. While his rhetoric often promotes antagonism, framing opponents as enemies to be

defeated rather than to be debated, Mouffe would likely advise against responding to this antagonism with exclusion. Such an approach, she argues, risks reinforcing the perception of an illegitimate political system that silences opposing voices. In doing so, exclusion fuels the populist narrative of disempowerment that leaders like Trump aim to exploit (Mouffe 2005, 32–40).

Mouffe's critique of liberal democracy centers on its tendency to depoliticise conflict, by privileging consensus over opposition. This depoliticisation, she states, marginalises legitimate grievances and encourages a sense of alienation among those who feel unrepresented within the existing political framework. Trump's rise to power, Mouffe might argue, reflects the failure of liberal democratic institutions to engage with the legitimate concerns of its supporters. Excluding him from democratic processes would worsen this failure, further distancing his base and deepening societal divisions (Mouffe 2005, 45).

From Mouffe's perspective, the solution to Trump's anti-democratic tendencies lies not in exclusion, but in engaging with his ideas and challenging his rhetoric within the democratic arena. Agonistic pluralism demands that even controversial figures be allowed to participate, as their exclusion undermines the core democratic ideal of inclusivity. By marginalising Trump, democratic institutions risk closing off avenues for conflict to be expressed constructively, pushing these tensions into more dangerous forms (Mouffe 2005, 45–50).

Moreover, Mouffe would likely advise against identifying populism as an inherent threat to democracy. While she acknowledges the dangers of populist movements, she also argues that they can serve as a corrective to the faults within liberal democracies. Populism, in her view, highlights the failures of existing political institutions to address the needs and concerns of marginalised groups. Instead of excluding populist leaders like Trump, democratic systems should focus on addressing the underlying grievances that give rise to their appeal (Mouffe 2005, 53–60).

Chantal Mouffe's theory of agonistic pluralism challenges the notion that excluding Donald Trump from representative democracy is the solution to his anti-democratic behaviour. While his rhetoric and actions may threaten democratic norms, Mouffe would argue that the health of democracy depends on its ability to accommodate and engage with diverging voices. Exclusion, in her view, risks entrenching antagonistic divisions and undermining the pluralistic foundation of democracy itself.

7.5 Philosophical Dilemma

All theories explored in this paper emphasise inclusivity as the foundation of democracy, ensuring representation for all voices and perspectives. However, this raises a paradox within a representative democracy: if

democracy demands inclusivity, should it tolerate actors who undermine inclusivity itself? Anti-democratic actors who promote exclusionary policies, attack institutional integrity, or delegitimize minority voices challenge the very principles of a democratic system. This dilemma questions whether their participation should be permitted or whether they should be excluded.

Robert Dahl's polyarchy theory defines democracy by essential conditions, such as inclusive participation, open opposition, and institutional safeguards, such as free elections. These mechanisms ensure the stability of representative democracy. However, when actors reject these principles, by undermining elections or attacking institutional legitimacy, they destabilise the system. From Dahl's perspective, excluding such actors might be necessary to preserve the democracies foundational principles.

Jan-Werner Müller builds on this idea with the theory of Militant Democracy, which explicitly argues for democracies to defend themselves against internal threats. Müller states that democracies must be willing to exclude those who seek to exploit democratic freedoms. Institutions play a critical role in enforcing these boundaries. Müller's argument suggests that tolerance has limits: democracies cannot remain passive when faced with actors who aim to dismantle them from within.

In contrast, Chantal Mouffe's theory of representative democracy and agonistic pluralism advocates for inclusivity, even of antagonistic voices. Mouffe argues that excluding anti-democratic actors' risks deepening polarisation, potentially driving such movements to grow outside institutional frameworks. By engaging with these voices within a democratic system, conflict can be channelled productively, encouraging dialogue. Mouffe warns that efforts to exclude often reinforce feelings of disempowerment, which fuel populist rhetoric.

This creates a central tension in representative democracy: the balance between protecting democratic ideals and embracing pluralism. On the one hand, democratic institutions are designed to offer checks and balances, preventing any single actor or ideology from overwhelming the system. On the other hand, populist rhetoric presents a unique threat by eroding trust in these very institutions. Once public faith in systems such as the judiciary, media, and electoral processes is undermined, their capacity to maintain democratic integrity diminishes.

This is the danger inherent in populist rhetoric, which thrives on sowing distrust. It questions the legitimacy of democratic institutions while exploiting their freedoms to amplify its own influence. Dahl and Müller argue for limiting such threats by excluding anti-democratic actors, while Mouffe contends that engaging them strengthens democratic resilience.

By examining these perspectives, this paper highlighted a fundamental dilemma: how can democracies remain inclusive without compromising their core principles? The resolution of this tension will shape the future of representative democracy in an era of rising populism and polarisation.

7.6 Conclusion

In conclusion, this paradox makes clear that a representative democracy is a system with flaws. This dilemma is at the core of the values cherished by the system. To solve this, the system itself must make a decision which will set a precedent for every democracy in the future. Either accept anti-democratic actors, even if they undermine the core of the representative democracy, or deny them the right to participate, undermining the core value of free and fair participation within a democracy.

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8. The Re-Separation of Powers

The Issue with U.S. Supreme Court's Justices
Political Ideologies in Election Law Cases

Indy Ouwerling

8.1 Introduction

In a democratic society, the impartiality of its highest court is crucial to upholding fairness and equality. Yet, when the justices of the United States Supreme Court—the ultimate arbiters of legal disputes—are perceived to favour their own political ideologies, the integrity of their rulings is called into question. This issue becomes particularly pressing in cases that impact the core of democracy, such as electoral law. This paper explores the question whether the Court should adopt a politically balanced composition among its justices in electoral law cases to ensure judicial neutrality and safeguard democracy.

The argument presented here asserts that a neutral and balanced judiciary is a necessity for maintaining a healthy democratic system. The discussion begins by examining the importance of equality in a democracy. Then it will discuss the role of the Supreme Court in shaping electoral law and how judicial decisions can be influenced by personal beliefs and biases. These concerns are then explored through a case study of *Bush v. Gore*, a landmark decision where political ideology and judicial neutrality were brought to light.

To further support the argument, the analysis draws on John Rawls' philosophical theory of "Justice as fairness" and Montesquieu's principle of the Separation of Powers, demonstrating how these frameworks underscore the need for a balanced Supreme Court. Ultimately, this paper contends that without such balance, democracy cannot function as intended, and public trust in the judiciary risks being permanently damaged.

8.2 The Importance of Impartiality and Equality in Democracy

8.2.1 *Democracy as a System of Equality*

In traditional societies, human life was shaped by inequality, as people sought to justify their superiority over others through perceived natural differences. This tendency to place oneself above others is deeply rooted in human nature (Montesquieu 1777). However, over time, we have begun to see the world differently. We now understand that while we may differ in race, religion, and background, these differences do not make one person superior to another, they simply make us diverse. This shift in perspective has also brought about significant changes in politics.

Today, we live in an era of democracy that reflects our nature as social beings. As humans, we have an inherent need to work together, express our

views, and feel heard (Smith 2024). Democracy fulfills this need by giving everyone an equal voice, ensuring that no person is valued more than another. When each person's voice carries the same weight, dissatisfaction is minimized, and a sense of fairness emerges. This equality fosters a more peaceful coexistence, as it is harder to feel ignored or overlooked. In this way, democracy allows our collective needs to be represented, creating a society built on mutual respect and shared values.

8.2.2 Electoral Law as the Base of Democracy

In most Western democracies, we use a system of representation because it's nearly impossible for everyone to vote on every issue. Instead, we choose representatives to speak and make decisions on our behalf. Picking these representatives is crucial, as these representatives are responsible for voicing our needs and interests in politics (Makarenko 2015, 130). That's why election laws are so important. Election laws carry high stakes because we all have to obey these rules in the electoral process. Any bias in how they are applied can undermine the fairness of elections and the trust people have in the government. When the rules of democracy seem unfair, it damages public confidence in both the elections and those who are elected. Impartial election laws are essential to protect democracy, making sure that voters, candidates, and parties are all treated equally.

8.3 The Role of the U.S. Supreme Court in Electoral Law

8.3.1 The Supreme Court's Judicial Function

The U.S. Supreme Court plays a vital role in ensuring equal justice for all Americans while guarding and interpreting the Constitution. Unlike elected officials, Supreme Court justices are nominated by the President and confirmed by the Senate (The White House 2022). As the highest court in the country, it consists of one Chief Justice and eight Associate Justices, who decide cases by majority rule. However, the Court focuses only on the most significant cases, leaving the majority to federal courts.

The Supreme Court's duty is to interpret existing laws and determine how they should be applied. Federal courts petition The Supreme Court for nationally significant unresolved cases (The White House 2022). Ultimately, the Supreme Court ensures the protection and consistent interpretation of the law, holding the final say in legal matters.

8.3.2 The Unique Importance of Electoral Law Cases

Impartiality is essential for judges when it comes to electoral law, as elections are the cornerstone of our democracy. If the rules governing this vital process

are applied incorrectly or with bias, it can jeopardize the legitimacy of electing our representatives, making the entire democratic system unfair and unjust. Public trust plays a crucial role in electoral law and the position judges hold in upholding it. As citizens of a democracy, we entrust judges with the responsibility to safeguard our rights and ensure fairness in the process. If judges act out of self-interest rather than impartially, this trust can erode, leading to the potential collapse of democratic society.

It is critical that the U.S. Supreme Court remains free from political influence, as its integrity depends on impartiality. Judges must act without bias to protect electoral law and, in doing so, safeguard the foundation of democracy itself. By maintaining a clear separation from politics, the Supreme Court ensures it cannot be used for political agendas and that its decisions are made solely in the interest of the people it serves.

8.4 The Influence of Personal Beliefs on Judicial Decision-Making

8.4.1 Empirical Evidence of Judicial Bias

A study examined 15 categories of cases across major fields of law, assigning each judge a decision score based on how often their rulings aligned with their political party. Overall, the findings revealed that judges were more likely to make decisions consistent with their party affiliation than to rule against it. While this tendency varied depending on the type of case, the results suggest that judges often take their personal beliefs into account when making decisions (Nagel 1961).

This can be partly attributed to unconscious biases, unintentional assumptions or judgments that occur without awareness. Even when we strive to remain objective, unconscious biases operate beneath the surface, making them difficult to control (Anete 2023). These biases affect all humans, including judges, whose values and unconscious intentions may not always align with their intended actions or decisions. This highlights the challenge of ensuring impartiality in judicial decision-making.

8.4.2 Judicial Neutrality as an Ideal

Achieving true impartiality is a complex and difficult task, even with the best intentions. While perfect neutrality may be unattainable, it can be approached through institutional structures that incorporate diverse perspectives. By fostering pluralism, institutions can create a framework for decision-making rooted in fairness and balance, rather than individual biases. This challenge is particularly critical in areas like electoral law, where even the perception of bias can have far-reaching consequences.

Adding onto this, if judges become tied to political agendas, the courts lose their independence. This weakens not only the justice system but also the core principles of fairness and democracy (Smith et al. 2023).

8.5 Case Study: Bush v. Gore

8.5.1 Background of the Case

In 2000, the U.S. faced one of its closest and most controversial presidential elections between Democrat Al Gore and Republican George W. Bush. Initially, Bush was declared the winner, but the margin was so narrow that the results were questioned, especially in Florida—a crucial swing state. Florida’s 25 electoral votes were enough to decide the election, making the state the focus of intense scrutiny (Kang and Shepherd 2016, 1413).

Gore requested recounts in several areas, and Florida agreed due to the razor-thin margin. As the manual recount began, Bush’s lead shrank but remained. Gore then pushed for 19,235 undervotes (Kang and Shepherd 2016, 1419), ballots where machines couldn’t detect a clear vote, to be reviewed. Given that Bush’s lead in Florida was just 537 votes, these undervotes could have changed the result.

The Florida Supreme Court allowed the recount to continue, but The U.S. Supreme Court intervened, halting it. The Court cited the Equal Protection Clause of the 14th Amendment (Webster 2024), arguing that recounting votes in Florida alone was unfair because other states weren’t conducting similar recounts. A nationwide recount, which would have been more equitable, was deemed impossible. With the recount stopped, Bush retained Florida’s 25 electoral votes, giving him the presidency with the minimum 270 electoral votes needed. If Gore had secured just 538 additional votes in Florida, he would have won the state and the presidency instead (Kang and Shepherd 2016).

8.5.2 Analysis of the Decision

The U.S. Supreme Court always rules by majority vote, meaning the decision supported by the majority becomes final. In the case of *Bush v. Gore*, the court’s ruling was split 5–4. The five justices who determined that the recount in Florida violated the Equal Protection Clause were registered Republicans, while the four dissenting justices, who argued it did not, were registered Democrats (Abramowics and Maxwell 2001). This decision was critical as it directly influenced whether the next president would be a Republican or a Democrat.

Although it cannot be definitively proven that the justices based their rulings on political preferences, the public expressed anger, pointing out the clear correlation between the justices’ decisions and their political affili-

ations (Abramowics and Maxwell 2001). The alignment of the justices' votes with their party registration raised significant concerns, as such partisanship is strictly prohibited.

Adding to the controversy was the fact that all seven justices of the Florida Supreme Court had unanimously ruled that the recount did not violate the Equal Protection Clause, allowing it to proceed. This inconsistency raised questions about whether the Florida justices, along with the four dissenting U.S. Supreme Court justices, had all misinterpreted the law. Alternatively, it raised suspicions about whether the majority ruling by the five U.S. Supreme Court justices were influenced by their political leanings (Kang and Shepherd 2016).

8.5.3 *Judicial Bias*

The alignment of the justices' decisions with their respective political affiliations undermines the perception of fairness and impartiality in the judiciary (Smith et al. 2023). Justices are meant to serve as neutral and just guardians of our rights, ensuring that the law is applied without prejudice. When their rulings appear to favor their own political or personal interests, it shakes the foundation of trust upon which our democracy is built. If justices cannot set aside their biases, it raises serious concerns about the integrity of the judicial system, especially in cases where their decisions could effectively determine the next president. Such power, if influenced by partisanship, poses a significant threat to the democratic process.

This concern was shared by the public, whose trust in the Supreme Court sharply declined after this case (Nicholson and Howard 2003). The perception of bias not only tarnished the Court's reputation but also cast doubt on the fairness of the very system that underpins democracy. Without public confidence in the neutrality of judicial decisions, the legitimacy of democratic institutions risks being severely compromised.

8.6 Philosophical Foundations: Impartiality, Equality, Democracy and the Judiciary

8.6.1 *John Rawls: Justice as Fairness*

In John Rawls's¹ *Justice as Fairness* he views justice as the cornerstone of a fair society, defined by two key principles (Rawls 1958, 3). The first principle asserts that everyone is entitled to the same basic liberties, while the second

1 See "Revolutionizing Protests: On the Relevance and Effects of Civil Disobedience" on page 109 for Rawls' definition of civil disobedience. Cited work for this essay is *A Theory of Justice* (1999).

states that any social or economic inequalities must benefit the least advantaged. For Rawls, these principles are essential for constructing a just and equitable society, where no one's interests are prioritized over others. He envisions a society in which fairness and equality are central, ensuring that decisions are made impartially and benefit all members. However, the challenge lies in ensuring that those tasked with implementing these principles act without bias or self-interest.

To address this, Rawls proposed the “veil of ignorance”, a hypothetical thought experiment. The veil of ignorance separates individuals from their personal positions, backgrounds, and preferences, forcing them to make decisions based solely on logic and reason. This impartial perspective, free from personal bias, serves as a foundational approach to fair decision-making (Rawls 1958).

8.6.2 Rawls's theory in practice

The concept has significantly influenced judicial decision-making, where impartiality and neutrality are crucial. By setting aside their own beliefs and biases, justices can focus on upholding the principles of equality and fairness, which are critical for maintaining a democratic society.

Rawls's ideas are particularly relevant to the judiciary, including the U.S. Supreme Court. For democracy to function, impartiality and equality must guide judicial rulings.

The metaphorical “veil of ignorance” represents the ideal behaviour expected from justices, who must interpret and safeguard laws without allowing political affiliations to influence their decisions. While human biases are inevitable, awareness of these biases and striving to overcome them is vital, especially in critical areas like electoral law.

In electoral law cases, such as *Bush v. Gore*, the absence of Rawlsian impartiality highlights the dangers of justices acting on personal or political interests. Decisions in such cases have profound consequences for democracy, making it essential for justices to adhere to the principles of fairness and equality. By doing so, they help create a just society where laws are applied impartially, and the needs of all citizens are safeguarded. Rawls's vision of justice as fairness offers a pathway to a more equitable and thriving democratic society, grounded in neutrality and responsibility.

8.6.3 Montesquieu: Separation of Powers

Montesquieu believed that human nature is inherently selfish, with individuals driven by a desire for power and prone to abusing it, and wrote about this theory and the separation of powers in *The Spirit of Laws* (Montesquieu 1777, 68). He famously stated, “Constant experience shows us that every man

invested with power is apt to abuse it, and to carry his authority as far as it will go” (214). Recognizing this tendency, Montesquieu designed a governance model that divides power among three branches: legislative, executive, and judicial, to prevent any one branch from dominating and to safeguard against tyranny. The legislative branch, represented by Congress, creates and amends laws. The executive branch, led by the president, enforces those laws (The White House 2022). Lastly, and most crucial to Montesquieu’s vision, is the judicial branch, which interprets laws and ensures they are applied fairly. For Montesquieu, the judiciary had to remain independent from the other two branches to prevent power imbalances and ensure laws protected citizens rather than serving those in power (Montesquieu 1777).

8.6.4 *The Judicial Branch*

The judicial branch, particularly the U.S. Supreme Court, plays a vital role in maintaining democracy, especially in cases involving electoral law. Electoral laws form the foundation of the democratic process, determining how power is distributed and ensuring fair participation. If the judiciary becomes partisan, using political affiliations to guide decisions, the separation of powers is compromised, creating space for tyranny. Montesquieu emphasized that the judiciary must remain neutral, as its primary purpose is to safeguard the law and defend citizens from potential abuses by the executive and legislative branches.

8.6.5 *Montesquieu in Practice*

The dangers Montesquieu warned about become clear when examining cases like the 2000 U.S. presidential election. In that instance, the judicial branch’s decisions had profound political implications, leading to concerns that the court had overstepped its impartial role. Such moments blur the separation of powers and show how a politicized judiciary can disrupt the balance Montesquieu sought to maintain. When judges use their authority to pursue political goals, they undermine the principles of justice and democracy that the judiciary is meant to uphold.

Montesquieu’s theory remains relevant today, highlighting the importance of ensuring that the judicial branch acts independently and neutrally. A balanced and impartial court prevents the concentration of power within a single branch or ideology and protects against the judiciary becoming a partisan tool. For electoral law cases, this independence is particularly critical, as it directly impacts the democratic process. By adhering to Montesquieu’s principles, the judiciary can fulfil its role as a guardian of democracy and a check on the potential overreach of other branches, ensuring the stability and fairness of the system (Montesquieu 1777).

8.7 The Argument for a Balanced Supreme Court

8.7.1 *Why Balance is Necessary*

A balanced Court ensures that no single political ideology dominates its decision-making process. By creating a system where political party affiliations are evenly distributed, neither Republicans nor Democrats can rule in their own favour. If justices align their rulings with their party preferences, the result will always be a draw, preventing one side from gaining undue influence. Given the presence of unconscious bias, an inherent tendency that individuals may not even be aware of, a balanced Court acts as a safeguard. It ensures that even if biases influence decisions, they cannot alter the final outcome. This structure prevents any single ideology from overpowering others and creates a justice system that is more representative of the society it serves.

8.7.2 *Ensuring Representation*

“When Court decisions reflect the philosophical leanings of the Justices, and decisions can be determined by one side of the political spectrum, our system denies genuine representation for the other side of the political spectrum. And that is fundamentally unfair in a constitutional system based on the principle of representation for all” (Orentlicher 2018, 413). This quote underscores the flaw when the judiciary reflects one political ideology over another, compromising its ability to represent the full range of society’s perspectives.

In a democracy, political views already dominate Congress and the White House, and they should not influence the judicial branch. The public generally understands that majority decisions mean some lose while others win (Orentlicher 2018). However, when one side is consistently in the majority, it undermines fairness and the core principle of representation. This lack of balance erodes the credibility of the judiciary.

This issue is particularly critical in areas like electoral law, where public trust is essential. A balanced Court, however, ensures that all sides are represented, fostering fairness. When people see that their voices are heard, they are more likely to accept decisions, even if they disagree.

It also encourages compromise. Each side brings different perspectives that can correct each other’s blind spots, leading to stronger, more comprehensive decisions (Orentlicher 2018). Congress has the power to determine the number of justices on the Court, and this flexibility allows for adjustments to ensure true representation for all sides.

An evenly split Court would also encourage compromise and more collaboration. Justices, who might otherwise be stuck in deadlock, would have more incentive to work together. During the period after Justice Scalia’s

death, when the Court temporarily had an even number of justices, the justices appeared more willing to compromise. A permanent balanced Court would amplify this trend, compelling justices to find common ground and work together faster. And it is easy to do so, because the congress has the power to change the number of justices in the court.

A lot of people fear the potential for deadlocks in an even court, but studies show that deadlock does not have to be a problem. From 1946 to 2003, deadlocks occurred in fewer than 6% of cases when courts operated with even numbers (Orentlicher 2018). Similarly, criminal juries, which must reach unanimous verdicts, show that people with differing views can still collaborate. A balanced Court promotes fairness, collaboration, and strengthens the judiciary's role in upholding democracy.

8.8 Conclusion

In conclusion, the impartiality of the U.S. Supreme Court is a cornerstone of a thriving democracy, particularly in cases of electoral law that directly shape the democratic process. This paper has demonstrated that the perception of political bias within the Court undermines public trust and threatens the integrity of judicial decisions. Drawing on John Rawls' philosophy of Justice as Fairness and Montesquieu's principle of the separation of powers, the need for a politically balanced Supreme Court becomes evident. These frameworks underscore that impartiality and equality must guide judicial decision-making to ensure a just and equitable society.

The case study of *Bush v. Gore* illustrates how partisan alignment in judicial decisions can erode public confidence and disrupt the democratic process. A balanced Court, with equal representation of political ideologies, would serve as a safeguard against the undue influence of personal beliefs and unconscious biases. Such a structure would encourage compromise, foster collaboration, and enhance the legitimacy of judicial rulings, even in contentious cases.

Ultimately, a balanced Supreme Court strengthens the role it has as a neutral arbiter, protects the foundation of democracy, and ensures that the principles of fairness and equality remain at the heart of the judicial process.

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9. Rethinking Democracy

Bruno Latour's Approach to Inclusion and Representation of Marginalised Opinions

Marinke Ridderhof

9.1 Introduction

Everybody has their own opinion and view about life. People may agree or disagree with your thoughts or statements, yet the question of 'who is right' arises. A beautiful characteristic about democracy is that we all have the right to our own opinion. However, there is a field of tension when it comes to freedom of speech. Where is the boundary between nonsense and different opinions? What do we allow in our democracy?

In our society, people often struggle with those who think differently from themselves. Others expect their opinion to be accepted but struggle to do the same in return (Hart et al 2009, 582–3). This is something you see for example in the 'cancel culture': if you do not fit in a certain image, you are cancelled. To give an example, look at the gender discussion: claiming that you only believe in two genders is seen as not acceptable. There is a certain social dogma in which marginalised opinions¹ are unwelcome, even when they are well-supported, which can lead to those people feeling unheard and disconnected from society (Rummens 2011, 14). With marginalised opinions I mean viewpoints that are excluded or devalued within the dominant social framework. This is a complicated matter since we also do not want 'alternative facts'.

Even if there is room for marginalised opinions, what would that do with the representation of it? A democracy is about the voice of the majority of people but if you are a marginalised group then you are probably not represented.

Bruno Latour provides an insightful perspective on this issue with his constructivist theory. In this theory there is room for multiple opinions but only based on reliable facts. According to this theory, there is no reality independent from human interaction but it is constructed through our actions. Reality really exists but it depends on our interactions with other things. Through this theory, marginalised opinions are given a voice in democracy and are represented.

Therefore my research question will be: How does Bruno Latour's constructivist theory challenge the social dogma in Western democracies regarding the inclusion and representation of marginalised opinions?

1 See "Contentious Activism and Democratic Progress" on page 117 for more information on marginalised opinions, specifically marginalised opinions that become more accepted because of liberation movements.

Firstly, I will give an introduction to Latour's constructivism. Second, I will explain collective decision-making according to Latour, after which I will compare this with our current democracy and what this means for representation, specifically for marginalised opinions.

9.2 Introduction Bruno Latour

Before diving into this question, I will elaborate on the constructivist theory of Latour. In this short essay I can only do injustice to the great thinker and his theory but I will explain this as clearly as possible.

Latour's theory about constructivism² is not the same thing as social constructivism, he even distances himself from that. Social constructivism views reality as being constructed through interactions with others, as socially situated. Whereas Latour's meaning of constructivism is that reality is dependent on human interaction (Kleinherenbrink 2022, 22–23). Objects, things that exist in themselves, or entities as Latour calls them, really exist. Yet, their existence depends on their interaction with other entities. Therefore, everything is formed by relationships with other entities. Reality is made out of relationships between entities. Latour calls entities actors as well. The world is made up of networks of relationships between actors, these actors can be anything: people, institutions, objects, or even ideas (53–58). Out of this follows the Actor-Network Theory (ANT), which is a framework that challenges ideas about society, technology, and science. ANT argues that non-human entities are actors that influence and shape networks just as much as humans do. An actor has influence within the network they are in. The more relationships an actor has, the more significant their influence becomes. No actor has inherent power as the power comes from the relationships and interactions in networks. It resembles a black box, which in this theory is something that is taken for granted as stable or self-evident. Yet in reality, it has been constructed through complex networks (73–84).

To give an example, let us have a look at climate change. The 'truth' of climate change is a black box that was built through decades of scientific research, measurements, and political agreements. In the debate about climate change, a lot of actors play a role: scientists, media, but also

2 Note that the definition of constructivism used here is a different one from "An Ongoing Journey Towards Representation: Political Identity Formation of the LGBTQ+ Community During the AIDS Crisis" on page 127. In this paper Latour's definition of constructivism is used and it means that reality really exists, but it is dependent on human interaction. In "An Ongoing Journey Towards Representation: Political Identity Formation of the LGBTQ+ Community During the AIDS Crisis" social constructivism means that reality is constructed through interactions with others.

the car industry, polar bears, and retreating glaciers. Who gets it right? The alarmists or the sceptics? That depends on who manages to surround themselves with the right actors in a network.

9.3 Collective Decision-Making

In this section, we will dive deeper into how Latour sees politics and how collective decision-making is done.

Latour argues that modernity never existed. Modernity claims that ‘Nature’ and ‘Society’ are two separate things in which ‘Nature’ is seen as objective, universal, and scientific. Moreover, it excludes human or societal values from deliberation and operates as an authoritarian domain where only scientists and experts determine ‘truth’ about the natural world. ‘Society’ is seen as subjective, political, and shaped by human values. Furthermore, it ignores the role of nonhuman entities and decisions that are made based on subjective preferences without engaging with the factual realities of nature. This separation is, according to Latour, not possible since everything is a mixture of different kinds of entities. Science is never value-free as decisions about what to study, how to study it, and how to apply findings are all influenced by societal, ethical, and political values (Latour 1993, 10–12; Whiteside 2012, 3).

Latour does not deny the existence or stability of facts, but he emphasises that they are constructed within networks of actors. Facts are not isolated entities but are stabilised through networks of relationships. He argues that truth is as tangible and stable as a table you can knock on. Facts become solid and reliable because they are supported by networks of actors—just as a table’s stability relies on its legs and structure. This means that facts inform values, and values shape the interpretation and use of facts (Latour 2004, 95–97). They are co-produced, called ‘hybrids’ (Latour 1993, 2–4). Facts and values collaborate to guide collective decisions that reflect both the realities of the world and the needs of society. Latour’s emphasis on the interplay between facts and values challenges the separation of Nature and Society. By framing facts as stable yet constructed through networks, he shows how values shape the interpretation and use of facts. It not only acknowledges the hybridity of facts and values but also strives to integrate diverse voices into democratic dialogue. This leads us to Latour’s model of collective decision-making.

The collective decision-making in democracy according to Latour is something that includes both human and non-human entities. This framework rejects the traditional divide between facts (Nature) and values (Society),

instead it integrates them in an unified process. In this integrated process are four requirements, which are: Perplexity, Consultation, Hierarchy, and Institution. I will address all four steps (Latour 2004, 110–1).

First, ‘Perplexity’: this requirement ensures that everyone has a voice. All perspectives must be included in the discussion. The goal is to embrace the complexity and uncertainty that new entities bring, rather than rushing to conclusions or decisions. In this step there is room for every opinion to be heard (Latour 2004, 111).

Next, there is ‘Consultation’. It is not enough to acknowledge the existence of various entities since there must be an active effort to engage with all relevant parties to gather their insights and opinions. This highlights the necessity of consulting with each other. By fostering a dialogue and collaboration, this requirement aims to validate the importance and qualifications of the new entities being considered. This ensures that the decision-making is an inclusive and democratic process (Latour 2004, 112).

‘Hierarchization’ is the third requirement. This involves discussing the new propositions with those that are already established in the common world. There is an examination in which will be looked at if the new entities can coexist with the existing ones. If necessary, a hierarchy will be determined in this step. In that case, the importance of each proposition can be stated and the new idea does not disrupt the already existing order in a way the common world becomes chaotic. Here, it is about making compromises and determining what is most important to maintain the harmony (Latour 2004, 113).

Lastly, there is ‘Institution,’ the final requirement. After a hierarchy has been established and decisions have been made, a collective agreement or institution is made. This prevents an arbitrary reopening, endless debates, and uncertainties. Now, the collective can move forward with a clear understanding of the established order (Latour 2004, 113–14).

To be more clear, I will give an example. Let us have a look at inclusion of transgender athletes in sports. In the first step, ‘Perplexity’, stakeholders recognise the complexity surrounding the issue. Questions arise whether allowing transgender women to compete in women’s sports is fair to cisgender women, and whether current scientific understanding adequately addresses these concerns. Secondly, there is ‘Consultation’. Discussions take place to understand the perspectives involved, such as the importance of being able to compete in a way that aligns with your gender and expressions about concerns of competitive fairness. This process highlights the values of empathy, respect, and inclusivity. Out of this follows ‘Hierarchization’. In this stage, stakeholders must establish a hierarchy of priorities based on the collected data and values expressed during the consultation. Outcomes can

be varied, but all perspectives will be taken into account. It will reflect a balance between sports organisations and governing bodies. Finally, there is 'Institutions'. Once the hierarchy is established, organisations will institutionalise the decision by formalising the policies regarding transgender athlete participation.

9.4 Democracy and Representation

Arising from this, what will this framework mean for our Western democracies? This all may sound similar to what we encounter in our current democracies. The biggest differences lie in the first requirement of 'Perplexity'. Because of the intertwined relation between facts and values, there will be different discussions than we have now. The strong separation in current democracies can lead to polarised debates where facts are used to support pre-existing values, rather than fostering a dialogue that recognises their interdependence. Traditional democracies often rely on majority rule and formal voting processes, which can lead to divisive outcomes. In contrast, Latour's model promotes collaborative decision-making. Latour also prioritises the inclusion of diverse voices and perspectives, whereas traditional democracy may overlook these voices. Another difference is that Latour's approach recognises the complexity and integral relation between facts and values (Fossen 2019, 6). This encourages participants to engage with the nuances of the issue rather than reducing it to binary debate.

Let us specifically zoom into what this means for the inclusion of marginalised opinions. As mentioned earlier, their voices are better heard in the model of Latour. There is more room for complexity and different perspectives. Yet, what is the range of this space? Facts are constructed within a network, thus, the more relations an actor has, the more reliable it becomes. If a marginalised actor can build a strong network of relations, it becomes a reliable opinion. Some actors with marginalised opinions struggle to form good networks and thus remain excluded from political decision-making. This means that something as 'alternative facts' does not belong in the framework of Latour. These actors cannot build a strong network, therefore, they would not persist, meaning that there is only room for marginalised opinions, not for misinformation. To come back to the example in the introduction about the gender discussion, if someone who believes in only two genders, can build a strong network of relationships supporting this perspective then their opinion gains reliability. At the same time, another person holding a different perspective can also construct a network of relationships around that belief, making it reliable as well. Here, we see a perfect example that values and facts are intertwined.

To compare with the current traditional democracy highlights a key difference: in current systems, people often treat an opinion as static, an unquestionable truth, like a 'black box' (Latour 2004, 186–88). These 'black boxes' cause marginalised opinions to be dismissed or overlooked; there is little room for alternative perspectives. While in Latour's framework, neither opinion is fixed: both are dynamic and shaped by their networks.

Building further on Latour's collective decision-making, how would the representation look like of groups with marginalised opinions? Democracy would look different than the traditional system we are now familiar with. An important aspect is that Latour advocates for the inclusion of nonhuman actors as well, since they also play a part in networks. For now, I will leave that aside and focus on the representation of marginalised groups, but it is important to highlight that every actor influences politics (Kleinherenbrink 2022, 179). Since Latour rejects the traditional separation of nature and society, every actor is as important in the process of collective decision-making (Rummens 2011, 2–3). This means that marginalised opinions matter as much as mainstream ones.

Representation is, according to Latour, not a static act of speaking 'for' others but a dynamic and ongoing process involving translation, mediation, and negotiation (Whiteside 2012, 6, 13). Politics is not a small group of experts with specific knowledge. It is a mode of existence that is about designing and maintaining cohesion of the collective good. This collective good consists of a dynamic collection of actor-networks (Kleinherenbrink 2022, 178). That is why Latour never calls it 'Politics of Truth': in Politics of Truth there are fixed principles that are regardless of the situation, a guideline in political decision-making. These kinds of politicians claim to know the causation and solution of problems they barely understand, which applies to socialists, liberals, and conservatives. Thus, Latour contends that democracy is not a static being but a dynamic, ongoing process, that constantly evolves and is deeply connected to the world's complexities. From this starting point, there are multiple perspectives and narratives possible, yet it is still a collective and deliberative process. Every kind of entity can be represented in this collective decision-making. Democracy would no longer be limited to frameworks such as socialism, conservatism, and liberalism.

Latour proposes a new bicameralism, which is a new version of the traditional separation of nature and society. This system is based on 'collective decision-making'. The four steps can be grouped into two main powers: the first two steps together are seen as the 'Power to Take into Account', meaning all the perspectives and opinions we have to consider. The last two steps together are 'The Power to Arrange in Rank Order', which is about how we organise, prioritise, and integrate these perspectives into a coherent struc-

ture. In the old bicameralism there is a ‘House of Nature’, which is concerned with facts, objectivity, and universal truths. To compare this to terms Latour uses, it can be associated with ‘Perplexity’ and ‘Institution’ since this side focuses on empirical realities. Additionally, there is also a ‘House of Society’, this is where human values, morality, and social concerns are debated. This corresponds, in Latour’s terms, with ‘Consultation’ and ‘Hierarchy’, which is more focused on decisions about what is desirable or just. To be clear, the terms of collective decision-making do not fit perfectly into the old bicameralism since Latour does not believe in the distinction of facts and values, but in this way Latour makes the differences clear in the new bicameralism. In this new bicameralism there is the ‘First House’, also called the ‘Upper House’, and the ‘Second House’, which can be called ‘Lower House’ as well. The first house is the group ‘Power to Take into Account’ and the second house is ‘Power to Arrange in Rank Order’. The First House involves ‘Perplexity’ and ‘Consultation’ and the Second House ‘Hierarchy’ and ‘Institution’ (Latour 2004, 115–16).

		OLD BICAMERALISM	
		House of nature <i>Facts</i>	House of society <i>Values</i>
NEW BICAMERALISM	First house: taking into account	Perplexity 1	Consultation 2
	Second house: arranging in rank order	Institution 4	Hierarchy 3

Figure 3.1 (Latour 2004, 115). After a ninety-degree shift, the fact-value distinction disappears.

In Figure 3.1 you can see the old and new bicameralism. There are still two houses but there is a ninety-degree shift in the traditional view of division of fact from value. This shows in a practical way the intertwined relationship of facts and values.

Practically, what does this mean for representation in general and specifically for representation of marginalised groups? The Upper House is

responsible for recognising the actors and outlining the totality of the situation, while the Lower House is tasked with making practical decisions that reflect the complexities of the interconnected world. For every task there is skill needed, which refers to practical and specialised knowledge about the topic. In the Upper House, there are skills needed to identify and represent the interests of diverse perspectives. For example, in the case of climate change, we need human and nonhuman actors who are involved and have knowledge, such as environmental scientists, sceptics, indigenous leaders, labour workers in industries who contribute to pollution, ecosystems, and plant life. They are skilled at identifying the stakes involved, whether those are scientific, cultural, social, or ecological. The skill in the Lower House becomes more about deliberating on these diverse interests and creating policies that reflect the needs of the collective. Thus skill negotiation, policy-making, and problem-solving, balancing practical decisions are necessary. These are different kinds of experts, such as urban planners, renewable energy leaders, and government officials. They create policies that address these challenges. This framework implies that the included entities in these Houses are constantly adapting. The dynamic nature of the process suggests that actors need to vary based on the propositions being considered, which is the case for the Upper House and the Lower House. The policies that are created by the Lower House are called the 'State of Law,' that are based on the concerns passed down from the Upper House (Latour 2004, 166–80).

What this means for the representation of marginalised opinions is that they are actively included in Latour's model. In the Upper House, these opinions are brought forward and considered. All relevant entities involved in the specific issue have a voice. The Lower House takes these inputs into account. Latour's model ensures room for diverse perspectives if the actor has a strong network of relationships. It actively works to include and amplify marginalised opinions, ensuring that they are not overlooked in the decision-making process.

9.5 Conclusion

In this essay, we took a look at traditional democracy through the lens of Bruno Latour's constructivist theory. Particularly, we were interested in what this means for the inclusion and representation of marginalised opinions. By rejecting the separation of facts and values, Latour shifts the system and introduces a model of collective decision-making. His bicameral system which focuses on integrating diverse actors, both human and non-human, ensures more inclusivity and embraces complexity. This framework welcomes alternative perspectives, instead of dismissing them which can happen easily in the current Western democracies. To emphasise,

welcoming marginalised opinions does not equate accepting misinformation. This approach not only strengthens the voice of marginalised groups but also enhances the democratic process by fostering collaboration and mutual understanding.

While Latour's model provides a compelling alternative to the traditional democracy we know, its practical implementation remains a challenge since it requires a cultural shift towards valuing complexity over simplicity and dialogue over polarisation. Nevertheless, the potential for a more dynamic and inclusive democracy makes this a valuable model for a society in which we genuinely respect and represent the opinions of all its members.

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SPLIJTSTOF

10. Algorithms, AI and Turmoil

The Chaos of Post-Truth in Modern
Democracies

Roos Becker

10.1 Democracy, Truth, and the Challenge of the Digital Age

Democracy, derived from the Greek words *demos* (the people) and *kratos* (rule), represents a system where power ultimately lies with the people. At its very core, democracy depends on an informed electorate—citizens capable of engaging in rational, evidence-based discourse to make decisions that reflect the collective good. Some have argued that this ideal is rooted in specific theories of democracy that emphasize the importance of an informed citizenry, like author Sophia Rosenfeld argued in her 2019 work: *Democracy and Truth: A Short History*.

However, the digital age seems to have somewhat disrupted these ideals. In an overwhelming and increasingly polarized information landscape, the concept of truth has become negotiable, particularly in the realm of “factual truths” related to issues such as climate change, public health, and election integrity. For example, in recent years, debates over the reality of climate change and the safety of vaccines have seen widespread misinformation and denial, despite overwhelming scientific consensus. This erosion of factual truths—where even well-established facts are disputed or distorted—has eroded the foundations of informed decision-making and collective reasoning. The unnerving result that proceeds to follow is that citizens find it increasingly more difficult to reach common ground on crucial issues, which undermines the democratic process by hindering reasoned deliberation and consensus-building. The challenge for democracy is not merely the existence of fragmentation or ideological diversity, but the extent to which foundational truths have become subject to manipulation and debate, further deepening political polarization and undermining the possibility of constructive discourse.

The post-truth era challenges the essence of democracy by fragmenting public opinion and fostering distrust in institutions. As misinformation spreads faster than facts and artificial intelligence (AI) facilitates the creation of falsehoods, societies face the paradox of promoting free expression while combatting harmful disinformation. This essay argues that the post-truth phenomenon poses an existential threat to democracy by eroding citizens’ capacity for critical thinking and rational discourse. It contends that systemic reforms in media practices, technology regulation, education, and policy are essential to restore truth as a cornerstone of democratic societies. In my essay, I will aim to answer my research question: How can

democratic societies preserve truth and foster informed public discourse in an era where misinformation and polarized narratives increasingly shape political realities?

10.2 The Foundations of Democracy and the Role of Truth

For democracy to function effectively, citizens must engage in informed debate based on a shared understanding of factual information. For the sake of this essay, I will only be discussing human animals as the target audience. This is because humans have the capacity to vote and think critically, whereas non-human animals, despite their overall relevance in society today, do not. The ancient Greeks introduced democracy, a system shaped by public opinion and deliberation, recognizing the importance of knowledge and reason. In modern democracies, these ideals remain crucial. As Rosenfeld (2019, 24) argues, truth has historically served as a stabilizing force, providing citizens with a foundation for collective decision-making and accountability. She contends that in democratic systems, truth is not just a philosophical concept that we all happen to agree on, but instead that it is a practical necessity that enables citizens to make informed decisions that affect the public good. Without truth and transparency, the legitimacy of democratic processes becomes tenuous, as misinformation disrupts citizens' ability to make reasoned choices, leading to the erosion of trust and accountability (39).

The importance of truth is particularly evident in the dissemination of information. Citizens rely on media, political institutions, and educational systems to navigate complex information landscapes. Reliable information enables voters to assess policies, hold leaders accountable, and engage in meaningful debate. However, when truth becomes subjective and facts are malleable, the public sphere deteriorates into polarized echo chambers. These trends weaken democracy, which will in turn foster hostility and distrust whilst also severely undermining these institutions that were designed to promote the common good.

10.3 The Post-Truth Era: Misinformation and the Digital Age

The term "post-truth" describes a significant cultural shift where objective facts are overshadowed by emotional appeals and personal beliefs. Democracy, as a system dependent on informed citizens making rational decisions, has always had a precarious relationship with objective facts. Truth serves as the foundation for collective reasoning and consensus-building, but it has often been challenged by political rhetoric, ideological bias, and the subjective

nature of individual experiences. This inherent tension between democracy and truth predates the digital age, as the democratic process has long been susceptible to the manipulation and misrepresentation of facts.

However, the advent of the digital age has magnified this strain significantly. Social media algorithms prioritize engagement over accuracy, which in turn creates echo chambers where misinformation thrives. Fake news and AI-generated content further blur the line between reality and fiction, eroding the electorate's ability to distinguish credible sources from fabricated ones. For instance, Allcott and Gentzkow (2017, 212) found that during the 2016 U.S. presidential election, social media platforms facilitated the widespread dissemination of fake news, with such stories often reaching larger audiences than those of verified information. This absurd yet rapid spread of misinformation not only misled voters but also undermined their ability to critically evaluate candidates and policies, which then resulted in significant consequences for the democratic process.

The consequences of misinformation extend beyond individual elections. The Brexit referendum in the United Kingdom provides another interesting case study. Prominent campaigns relied on misleading claims, such as the assertion that leaving the European Union would free up billions of pounds for the National Health Service (NHS). Subsequent fact-checking revealed the falsity of these claims, but the damage had already been done by then. Voters were now influenced by emotional messaging rather than evidence-based arguments, showcasing how misinformation can distort public opinion and lead to significant political outcomes.

Social media platforms amplify polarized narratives through algorithms designed to maximize user attention. It is a simple concept really: if you click a link or press a button, you are likely to be fed similar content. By promoting sensationalized content that aligns more with personal biases, these platforms create echo chambers where individuals are exposed only to information that reinforces their existing beliefs (Rossini et al. 2021, 677). This phenomenon fosters confirmation bias, reducing citizens' willingness to engage with opposing viewpoints or critically evaluate information.

AI technologies further complicate the post-truth environment. AI-generated content, including deepfakes and fabricated news stories, blurs the line between reality and fiction. Deepfake videos, which use AI to create realistic but fake representations of individuals, have been used to manipulate elections and smear public figures. For example, during the 2019 Indian general election, manipulated videos of political leaders spread widely on social media, misleading voters and fueling misinformation. Kumar et al. (2021) highlights how fake news influences consumer behavior, illustrating

its broader societal impact. In the political sphere, such content can, and is likely to, manipulate public opinion, undermine trust in established institutions, and distort electoral processes.

The consequences of this misinformation ecosystem are profound, and their effect will become more and more noticeable as time passes. Citizens increasingly distrust traditional media and government institutions, viewing them as biased or unreliable. Rosenthal (2023, 42) argues that visibility of government actions often breeds political distrust, particularly when misinformation magnifies perceived failures. This distrust weakens democratic systems, as citizens disengage from public discourse and lose confidence in the institutions designed to serve them.

10.4 Polarization and the Fragmentation of Public Discourse

The post-truth era has deepened societal polarization, strongly exacerbating divisions along ideological, cultural, and political lines. In a way, objective facts—and more broadly, the ‘truth’—have always had a complicated relationship with democratic politics, where the negotiation of differing viewpoints often shapes public discourse. However, this relationship has been significantly exacerbated in recent times, as the digital age facilitates the spread of misinformation and the erosion of shared truths, further entrenching these divisions. As individuals gravitate toward narratives that align with their beliefs, they become less willing to engage with opposing perspectives. This is very dangerous rhetoric, because that which is not known or not familiar should not be vilified. It is easy to distrust ‘others,’ but far more rewarding to accept our differences and move forward.

Polarization fosters hostility and ‘othering’—labelling unfamiliar individuals or ideas as inherently wrong or threatening. This dynamic undermines the principles of reasoned debate and collective decision-making. Rather than engaging in open discourse, citizens retreat into echo chambers, where their views are reinforced again and again, without challenge. In order to grow as individual beings, it is of great importance that we all question our opinions and stances constantly; one should never become ‘stuck.’ The result that follows is a fragmented public sphere, where consensus becomes increasingly elusive.

Rossini et al. (2021, 678) argue that the media’s role as a gatekeeper has shifted in the digital age, with social media enabling political actors to bypass traditional channels and communicate directly with audiences. This is a rather new development and has humanized many public figures. They are ‘relatable’ and ‘only human.’ And while this shift has democratized access to information, it has also facilitated the spread of misinforma-

tion and polarized narratives. I have personally noted that many of these political actors exploit these divides in order to gain support because they benefit more from emotional appeals than from factual accuracy.

Polarization's effects are particularly evident in responses to crises, such as the COVID-19 pandemic. Misinformation about vaccines, treatments, and the virus itself proliferated online, with political divides shaping public attitudes toward health measures. I was personally fascinated by this divide. As a general remark, humans do not wish to see one another suffer. Yet in some cases, bodily autonomy is deemed a higher virtue than protecting yourself and potentially saving a life. Connectedly to this, a study done by Roozenbeek et al. (2020) found that exposure to misinformation significantly reduced people's willingness to follow public health guidelines, demonstrating the tangible consequences of fragmented information ecosystems.

10.5 The Role of Media, Technology, and Education in Addressing Post-Truth Challenges

Addressing the challenges posed by the post-truth era requires systemic adaptations across media, technology, and education. We can be more truth-centered as a society, and we must strive for it. Now, of course, we will never be able to agree on one single, pure truth. To be human is to be subjective. Even the finest journalists will have a hint of bias in their latest piece, and the same applies to everyone else. Your living conditions over the course of your life shape your personhood, and that is uniquely human. We cannot purify this, but we can start prioritizing a science-based notion of the truth. The conspiracies and half-truths we are seeing more and more today are ineffectual and only contribute to mistrust and polarization, as they are based on non-scientific methods and are often much too simple or overcomplicated.

Media organizations must prioritize accuracy and transparency to rebuild public trust. Fact-checking mechanisms, such as those implemented during the 2016 U.S. election, play a crucial role in countering misinformation (Allcott and Gentzkow 2017, 218). However, these efforts must be expanded and integrated into broader media practices.

Technology platforms also bear significant responsibility for mitigating the spread of misinformation. Social media companies must reform algorithms that prioritize sensationalized content over factual reporting. Policies promoting transparency, such as labeling misinformation and identifying AI-generated content, can help users navigate the information landscape more effectively (Conrad et al. 2023, 15).

AI tools themselves can even be repurposed to combat misinformation. For instance, machine learning algorithms can detect fake news and deepfake content, flagging it for users or removing it entirely. Governments

and technology companies must collaborate to develop AI solutions that balance efficiency with ethical considerations, ensuring that interventions do not inadvertently suppress legitimate discourse.

Education systems play a vital role in cultivating critical thinking skills necessary for navigating the complexities of the digital age. Media literacy programs, as discussed by Dyson (1998, 159-160), equip citizens with the tools to critically evaluate information, identify misinformation, and engage in reasoned debate. Horn and Veermans (2019, 24) emphasize the importance of critical thinking efficacy in defending against fake news, highlighting its role in fostering informed and resilient citizens.

Educational initiatives must begin as early as possible, integrating media literacy into school curricula and emphasizing the importance of evidence-based reasoning. By equipping citizens with the skills to navigate the digital information landscape, education systems can strengthen democratic resilience and promote informed public discourse. Additionally, lifelong learning initiatives can help adults adapt to evolving information challenges, ensuring that media literacy is not confined to younger generations.

10.6 Policy Responses: Balancing Free Speech and Regulation

At a policy level, governments and democratic institutions face the challenge of safeguarding free speech while addressing the spread of harmful misinformation. Free speech is a fundamental democratic principle, but its blatant misuse in the post-truth era necessitates targeted interventions to protect truth and public discourse.

Policymakers must explore methods to regulate misinformation without infringing on free expression. Transparency measures, such as requiring social media platforms to disclose algorithmic processes publicly, can help users understand how information is curated and presented. Additionally, fact-checking initiatives and independent oversight bodies can play a critical role in identifying and addressing misinformation (Tomšič 2023, 459). We should strive to have everything verified by an external source, if possible.

Governments must also invest in public awareness campaigns to educate citizens about the dangers of misinformation and the importance of critical thinking. By fostering a culture that values truth and evidence-based reasoning, policymakers can help rebuild public trust in democratic institutions. We are currently in an era where reading and critical thinking seem to be suffering greatly. There seems to be an inherent incuriosity lingering, a cynicism or an indifference. We must fight this if we wish to become a more uplifting collective, one that is less cynical towards our future.

International cooperation is essential in addressing the global nature of misinformation. Collaborative efforts to combat fake news, regulate AI-generated content, and promote media literacy can toughen democratic resilience on a broader scale. As Conrad et al. (2023, 17) argue, combating post-truth challenges requires a unified approach that balances regulation with the preservation of democratic values.

10.7 Pathways to Strengthening Democratic Resilience

To reestablish truth as a cornerstone of democracy, societies must engage in a deliberate and collective effort that involves fostering media literacy, promoting transparency in information dissemination, and strongly encouraging critical public discourse. This, of course, requires collaboration among governments, educational institutions, technology platforms, and, most importantly, it requires citizens to combat misinformation and rebuild trust in shared factual foundations. This essay identifies four key pathways to strengthening democratic resilience in the post-truth era, and summarizes the previous two sections here in a clear plan:

1. **Reforming Media Practices:** Media organizations must prioritize accuracy, transparency, and accountability. Fact-checking mechanisms and independent oversight bodies can help rebuild public trust and counter the spread of misinformation on social media and the internet.
2. **Regulating Technology Platforms:** Social media companies must reform algorithms that amplify sensationalized content that is designed to distract you and implement transparency measures to address misinformation. Policies promoting the identification of AI-generated content can help users navigate the digital information landscape. The latter would be particularly helpful for the elderly, as they have less experience being on the internet and they are more likely to lack an instinct for such content.
3. **Promoting Media Literacy Education:** Education systems must emphasize media literacy and critical thinking skills to equip citizens with the tools to evaluate information and engage in reasoned debate. Early interventions and school curricula can play a crucial role in fostering informed and creating resilient citizens. These citizens are taught skills that remain useful as they grow older.
4. **Implementing Policy Reforms:** Governments must balance free speech with targeted regulations to address misinformation. Transparency measures, public awareness campaigns, and international cooperation are essential in combating post-truth challenges while preserving democratic values.

By adopting these measures and taking them seriously, democratic societies can create a more informed, cohesive, and resilient public capable of engaging in meaningful discourse. Again, as Horn and Veermans (2019, 25) argue, critical thinking and media literacy are key factors in defending against fake news and promoting informed decision-making.

10.8 Conclusion

To conclude, the post-truth era poses an existential threat to democracy by eroding the foundation of informed public discourse. Misinformation, fueled by social media algorithms, fake news, and AI-generated content, has fragmented public opinion and undermined trust in democratic institutions. As emotional appeal and sensationalism overshadow factual accuracy, citizens face increasing polarization and disengagement from public discourse.

Addressing these challenges requires systemic adaptations across media, technology, education, and policymaking. By prioritizing transparency, promoting media literacy, and implementing targeted regulations, societies can strengthen democratic resilience and restore truth as a cornerstone of public life. Technology companies, governments, and educational institutions share a collective responsibility to combat misinformation while upholding democratic values. Through collaborative efforts, societies can rebuild trust, promote evidence-based reasoning, and ensure that democracy remains a system grounded in truth and informed decision-making.

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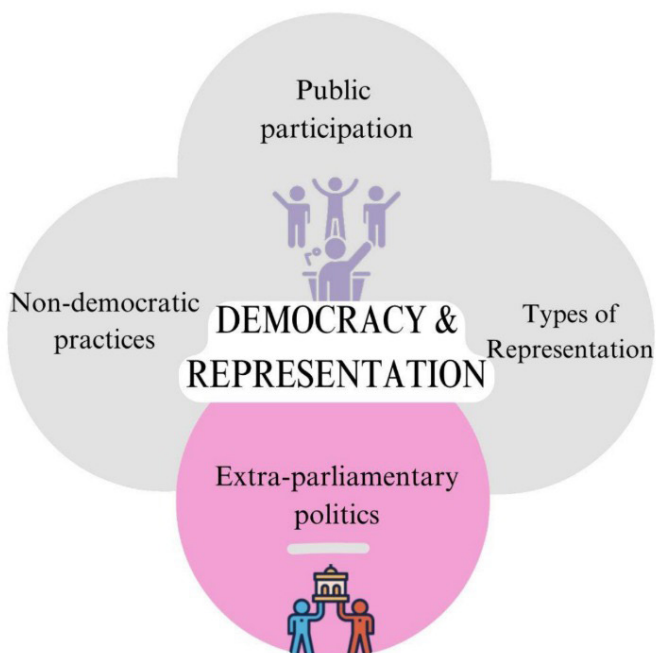
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11. Revolutionizing Protests

On the Relevance and Effects of Civil
Disobedience

Isa Habraken

11.1 Introduction

In contemporary democracies, something not-so-peculiar is the sight of people arguing, having a discussion or a small disagreement. Of course, this can be about conventional things, but another frequently discussed topic is political discourse. For the past year, the political scene in Europe has been nearly continuously tumultuous. In January 2024, for instance, two climate activists threw soup at the famous Mona Lisa painting in the Louvre (NOS 2024). Besides throwing soup at paintings, something within the climate movement¹ that has become somewhat of a trend is the so-called action of ‘climate-gluings.’ This is an action that has been performed individually as well as collectively, where people glue themselves to a certain object in order to make a statement about global warming.

An example of this is the group that calls itself ‘Letzte Generation’. The Letzte Generation is a group of climate activists formed in Berlin in 2021. They draw attention to themselves by gluing their hands to the streets, and thereby hindering traffic (Letzte Generation 2024). By doing this, they scream for awareness concerning global warming and human lives that suffer the negative consequences of such. This specific form of protest has been repeated many times, also by individuals. A controversial example is Jelle de Graaf, a Dutch climate activist who glued himself to a table in a Dutch talk show on October 25th, 2022. When carried away, he shouted, “I’m stuck here on a live program, and I’m going to talk about the climate and the ecological crisis. People are going to die” (Slevin 2022). The Letzte Generation, and also individual gluing activists, refer to their actions as civil resistance, or civil disobedience.

The term civil disobedience is one that has stirred recurrent discussions, not only in contemporary discourse but also in years past. Protesters often praise themselves for performing civil disobedience, but this term cannot be used arbitrarily. Actions must be carefully defined according to the criteria of civil disobedience, in order to prevent the term from losing its meaning and to help protesters actually act as desired. A prominent

1 See “An Ongoing Journey Towards Representation: Political Identity Formation of the LGBTQ+ Community During the AIDS Crisis” on page 127 for more information on social movements, specifically on social movements as informal representation. See “Contentious Activism and Democratic Progress” on page 117 for more information on liberation movements such as the Animal Liberation Movement (ALM).

definition in literature is one that John Rawls proposes in his famous work, *A Theory of Justice* (1999). Rawls' definition characterizes civil disobedience as "public, conscientious, nonviolent and contrary to the law" (Rawls 1999, 364). Why is this such a recurrent discussion, and why is it so important to know when something is civil disobedience?

In the case of climate-gluing it is relevant to question whether or not an action can be considered civil disobedience. Not only is the matter relevant on a personal and global level, but it can also be useful to know whether this way of protest is efficient. Civil disobedience is widely regarded as an efficient form of protest. Look, for instance, at the civil rights movement, a movement that is generally conceived as civil disobedience, and how much this movement achieved. When one is able to identify whether a certain action, as protest, is efficient or not, one can also decide whether to disregard the entire action or use its efficiency to one's advantage. For these reasons, the research question of this essay is the following: Can climate-gluing be considered a form of relevant and effective civil disobedience?

In this essay, I will first pose an analysis of Rawls' definition of civil disobedience, followed by a definition that complements it, narrated by Hannah Arendt. Then I will compare and contrast both with climate-gluing to see whether it can be considered a form of civil disobedience. Following this, I will move on to a discussion of civil disobedience as a democratic process. Then, I will discuss an example of historical civil disobedience in order to investigate whether it is an efficient democratic practice. To do this, I will look at an example of the civil rights movement. Ultimately, I will draw a conclusion that answers the research question.

11.2 Theoretical Conditions for Civil Disobedience

11.2.1 John Rawls on Civil Disobedience

I will start off by explaining Rawls' position on civil disobedience.³ In *A Theory of Justice* (1999), he makes a crystal-clear statement on the definition of civil disobedience: "I shall begin by defining civil disobedience as a public, nonviolent, conscientious yet political act contrary to the law or politics of

2 See "The Re-Separation of Powers: The Issue with U.S. Supreme Court's Justices Political Ideologies in Election Law Cases" on page 79 for Rawl's conception of justice. Cited work for this essay is Justice as Fairness (1958).

3 See "Contentious Activism and Democratic Progress" on page 117 for more information on civil disobedience, specifically how disruption challenges the ideals of deliberative democracy while also being a necessary tool for marginalised groups and the ethical implications of disruption.

the government” (Rawls 1999, 364). He then proceeds to dive further into this. Important points he addresses include the public aspect of civil disobedience as relating not only to performing a public act but also to the fact that the principles at stake must be of public relevance.

He also contends that this public action is one of the reasons that civil disobedience cannot be violent. Civil disobedience is not necessarily non-violent out of principle but rather because it is the final expression of one’s case (Rawls 1999, 366). This means that non-violence on its own does not derive from explicit moral principles. Rather, it stems from the idea that not using violence is strengthening one’s case, while it would contradict one’s plea for justice if one were to make use of violence. For Rawls, the aspect of non-violence is the most important in defining civil disobedience: it ensures that one is performing an act contrary to the law but is still devoted to it and being true to it in a way. This is possible according to Rawls because, in this case, one can accept the consequences of one’s conduct (366).

Furthermore, Rawls specifies that the law one is opposed to does not necessarily have to be the one that is broken in acts of civil disobedience. This entails that one can be protesting against Law A, and in the process of protesting, break Law B in order to illustrate the point of the protest. Another thing that is important to mention is the essential function of civil disobedience. According to Rawls, civil disobedience serves as an act to help maintain and strengthen just institutions. Civil disobedience is carried out to “inhabit departures from justice and correct them when they do occur” (Rawls 1999, 383).

11.2.2 Hannah Arendt on Civil Disobedience

Another scholar who wrote on civil disobedience is Hannah Arendt.⁴ Her theory is neither opposed nor similar to Rawls’, but rather complementary. I use the term complementary because Arendt does not contradict Rawls’ theory, nor does she argue against his propositions. However, she does nuance certain things, such as the difference between civil disobedience and a criminal act, alongside the difference between civil disobedience and conscientious objection. For this paper, the latter is the most significant. In her book *Crisis of the Republic*, Arendt adds to Rawls’ definition that “civil disobedience is done with the purpose of testing a law’s constitutionality”

4 See “The Political Representation of Refugees in Modern Democratic Nation-States (or lack thereof)” on page 35 for more information on Hannah Arendt, specifically Arendt’s conception of “the right to have rights” and the human as a political animal. Cited works for this essay are *The Human Condition* (1958) and *The Origins of Totalitarianism* (1951).

(Arendt 1972, 53). This means that that civil disobedience is performed in order to prove whether or not the law in question upholds the norms and values of a country and its constitution. The people who perform civil disobedience commonly agree that it does not, and that the law should therefore be changed.

Furthermore, Arendt specifies that it is an act done by an organized minority, meaning that not only should it be done publicly, but also in a group. If the act is executed individually, it is an act of conscientious objection rather than civil disobedience. It is also unlikely to have much effect since it would be more interesting to observe than to suppress such acts (Arendt 1972, 55). When an act opposed to the law is carried out by an organized minority, it signifies a common opinion (56) and will be more likely to be taken into consideration. This distinction between conscientious objection and civil disobedience is integral to defining civil disobedience. Another distinction that Arendt proposes is the nuance between criminal behavior and civil disobedience, which is important to provide as background information. Arendt argues that civil disobedience can be differentiated from criminal behavior because it is done in public, while criminal behavior is kept a secret and done in private.

11.2.3 Is Climate-Gluing Theoretically a Form of Civil Disobedience?

Now I want to bring this theory into perspective with respect to the action of climate-gluing. When taking a closer look at this, one will almost immediately notice that it is a public act and thus adheres to this aspect of Rawls' and Arendt's theories. Furthermore, it can be established that the act is conscientious, since gluing oneself onto something is not an act that can easily be performed accidentally. Then, there are two key features left in Rawls' theory, namely that the act should be contrary to the law and non-violent. As for the latter, it can be established that it is a non-violent act, it does not harm others.

However, as for the aspect that it should be contrary to the law, climate-gluing can be doubtful. It is not opposed to laws to glue yourself onto something, so on that note, one could argue that it falls outside of the spectrum surrounding civil disobedience. A refutation to this argument could be that even though the gluing itself is not contrary to the law, acts around it often are. An example of this is the blocking of a runway, done by activists that belong to the Letzte Generation on July 25th, 2024 (Jazeera 2024). Gluing themselves to the tarmac might not be illegal, but naturally, unauthorized airport access is. According to Rawls' definition of civil disobedience, both individual actions, such as an activist who tried to glue

his bald head to a Vermeer painting, and bigger acts, such as those of the Letzte Generation, can be marked as civil disobedience. Arendt, however, would distinguish between those two forms, and contend that the individual actions are conscientious objection. Whereas it is true that the actions are individual, it is also important to consider that in this case, the action does represent a common opinion and not merely a personal objection.

Case in point, I will argue that climate-gluing as a whole is too broad to label as civil disobedience. However, nuances can be made. Group actions such as blocking a runway by groups like the Letzte Generation can be considered civil disobedience because they adhere to Rawls' definition as well as to the complementary requirements that Arendt poses. Individual actions, on the other hand, like that of Jelle de Graaf, the man who glued himself to a table during a television show, do not adhere to these prerequisites. Namely, the prerequisite that it is not an illegal action but merely a disruptive one. Furthermore, the action is done individually. Even though it is still done in the name of the common opinion, it cannot be regarded as a form of civil disobedience anymore, because it is unlikely to have an effect. Therefore, it leans more towards conscientious objection. Whereas the latter is individual and not contrary to the law in every case, the group actions are collective and frequently accompanied by acts that are law-breaking, and thus there is a distinction between the two and how they qualify for the label civil disobedience.

11.3 Relevance of Civil Disobedience

11.3.1 *Is Civil Disobedience a Democratic Practice?*

Following this, I come to the second part of my essay, namely the part where I want to discuss the relevance of the abovementioned considerations. As mentioned in the introduction, it is important to find an answer to the question of whether climate-gluing is a form of civil disobedience, but now that I have proposed an answer to this, what does it tell us?

First of all, it is interesting to investigate what this entails for democratic practices. One could argue that civil disobedience, as a whole, violates principles of democracy. Rex Martin proposes several cases in which civil disobedience is permissible in his article "Civil Disobedience". He contends that under certain conditions, civil disobedience is justifiable in a democracy (Martin 1970, 131). He proposes six such conditions, of which I will now describe and elaborate on two. Firstly, "the citizen does not intend physical harm" (131). This condition, as Martin explains, derives from the democratic tradition of the state to protect life, liberty and property from violence. Furthermore, "The citizen should disobey the law publicly" (131).

This condition is supposedly derived from the idea that when disobeying the law happens privately, it is considered a crime, a distinction which Arendt also makes and thus contrary to democratic principles. Both of these conditions are prerequisites to labelling an act of civil disobedience. As for the criterion of civil disobedience being deliberate and in union, neither one of those conditions goes against any democratic principles (131). Following this, one can say that civil disobedience does not inherently contain any contradictions to democracy, and thus can be considered a democratic practice.

11.3.2 Has Civil Disobedience Been Effective in the Past?

This intermediate conclusion, however, does not entail that civil disobedience is also necessarily effective as a democratic practice. In order to investigate this matter, I briefly want to look at a past example of something that is widely regarded as civil disobedience. This example is the civil rights movement in the United States of America, during the 1950s and 60s. A prominent figure of the movement is Martin Luther King, who favored a non-violent form of protest. A specific example of this is the Birmingham campaign.

In April 1962, an action campaign was started in Birmingham to attack the city's system of segregation by putting pressure on its merchants. Initially, this was done by a series of mass meetings, sit-ins and a boycott of the downtown merchants. As a response, an anti-protest injunction was issued on April 10th. King decided to disobey this injunction and was arrested and sent to prison on April 12th. After writing his famous Letter from Birmingham Jail, King was released on April 20th. On May 3rd, Commissioner Connor ordered local police and fire departments to use force in order to stop the demonstrations. The consequent events led to national outrage. As a response to this, John F. Kennedy sent an associate to Birmingham to facilitate negotiations between black citizens and representatives of the city's business leadership. This led to an eventual agreement that included the release of all prisoners and a requirement that local businesses hire on a non-discriminatory basis on May 10th, 1963 (The Martin Luther King, Jr. Research And Education Institute n.d.).

In this campaign, all of the criteria for civil disobedience are being met. The protests held by King and his associates were completely non-violent, even when the response to it was not. Furthermore, they were deliberate, took place in public, and were executed by an organized minority. This instance of civil disobedience has proven to be successful, and was an important benchmark in the progression of the civil rights movement. In this case, civil disobedience was a useful democratic practice. Now, when linking this

back to the essential topic of this paper, namely climate-gluing as a form of civil disobedience, one can wonder whether it is relevant to continue the practice of climate-gluing.

11.3.3 Is it Relevant for Climate-Gluing to Strive Towards Civil Disobedience?

Based on the traditional example of the Birmingham protests as a form of civil disobedience, one can conclude that civil disobedience can be a very effective way of protest. This is also relevant in contemporary times, regarding climate-gluing. In an earlier section, I argued that civil disobedience is a democratic practice, and I have also argued that civil disobedience can be effective as a democratic practice. These conclusions can now be applied to the action of climate-gluing. It can be relevant to tailor the action of climate-gluing to civil disobedience a bit more. What was mainly lacking concerning this point was that climate-gluing sometimes misses the element of mass protest, and big numbers to support itself. In some cases, it also did not adhere to the aspect of needing to be contrary to the law. Criteria that climate-gluing does adhere to are those of non-violence and public execution. Based on this case study, I contend that once all aspects of civil disobedience have been fine-tuned within the action of climate-gluing, it can serve as a relevant and effective form of democratic protest.

11.4 Conclusion

To conclude this paper, I will briefly summarise the given considerations and arguments. In order to determine whether the action of climate-gluing can serve as a relevant act of civil disobedience, some theories of civil disobedience have to be considered. A very prominent theory of civil disobedience is provided by John Rawls, who states that civil disobedience is reliant upon four things: It has to be public, conscientious, contrary to the law, and non-violent. Additionally, Hannah Arendt contends that in order to distinguish civil disobedience from conscientious objection, the action has to be executed in a group. These requirements lead to the conclusion that climate-gluing, as a whole, cannot be considered civil disobedience. However, to add some nuance to this conclusion, I would like to add that when performed in big groups, such as actions done by the Letzte Generation, and when it is ensured that the actions taken are contrary to the law, it can be considered civil disobedience. Moving into the second part of the essay, I discussed whether civil disobedience can be considered a democratic practice and whether it was still effective as such a democratic practice. I concluded that this is indeed the case by drawing upon democratic principles that Rex Martin lays down, and by illustrating that civil disobedience has been

proven to be effective in the civil rights movement, during the Birmingham protests of 1963. This also proves that it is relevant to further explore how climate-gluing can fully become an act of civil disobedience. Once this is achieved, climate-gluing can be a very effective, relevant way of protesting to advocate for the climate.

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12. Contentious Activism and Democratic Progress

Fabian Fischer

12.1 Introduction

Throughout history, liberation movements have played a crucial role in shaping democratic societies and shifting their participants' opinions toward a more progressive way of thinking. Those movements¹ transformed their political demands—once seen as controversial and radical—into widely accepted political and social beliefs. Famous examples such as the Black Liberation Movement (BLM) or the Women's Rights Movement (WRM) are primary illustrations of how people conceived activism and fought for fair treatment of marginalised groups.² Those groups often made use of different contentious strategies including the disruption of public order, civil disobedience and the destruction of state property. Those tools played an important part in those movements' success, even though their use was highly criticised and even rejected by a big part of society. In the same direction, we would like to point out in this paper that the animal liberation movement (ALM) is one of the contemporary freedom movements that is very controversial, and I would like to address the question of what strategies it could borrow from previous liberation movements.

This usage of disruption raised questions about the legitimacy of disruptive strategies in democratic societies and whether those tactics weaken or strengthen the fundamental ideas of a democracy. Is there always a non-disruptive approach to accomplish structural change and, if not, at what point does violence become a legitimate way of fighting injustice? Or is breaking the boundaries of existing standards even necessary to bring awareness to a specific form of injustice? I would like to address such

1 See "Revolutionizing Protests: On the Relevance and Effects of Civil Disobedience" on page 109 for more information on social movements, specifically how the civil rights movement has successfully used civil disobedience in the past. See also "An Ongoing Journey Towards Representation: Political Identity Formation of the LGBTQ+ Community During the AIDS Crisis" on page 127 for more information on social movements, specifically on social movements as informal representation.

2 See "An Ongoing Journey Towards Representation: Political Identity Formation of the LGBTQ+ Community During the AIDS Crisis" on page 127 for more information on marginalised groups, specifically how the political identities of marginalised groups, particularly the LGBTQ+ community, are shaped through interactions with formal and informal representation.

questions in the present text. More precisely, I will point out existing strategies in order to both address the question of contentiousness and at the same time to present the specificity of animal liberation regarding the other ones. To shine a light on its position in society, the text will present and evaluate the tactics used by the BLM and the WRM and compare them to those of the ALM. In addition to that, the text focuses on the current public perception of the ALM.

How do disruptive strategies used by radical movements, such as the animal liberation movement, transform marginalised demands³ into accepted political beliefs, and what does this process reveal about the role of contentious activism within democratic societies? This will be the main question that I will try to answer through this text.

By analysing the disruptive and non-disruptive strategies of previous liberation movements, this text makes an inquiry into different stages of activism. Those guidelines include different tactics ranging from the most fundamental forms of institutional change by using legal democratic tools, to more radical forms of activism like civil disobedience.⁴ This text evaluates whether contemporary liberation movements should go through different stages of activism before using contentious strategies.

The goal of this paper is to focus on the animal liberation movement⁵ and its particularities. I would like to consider the strategies that could be legitimate for this movement to use. This paper questions the fairness of violent strategies in a democracy and explores whether such methods can ever be justified within the ideas of democratic principles.

This research also argues that the true strength of a democracy lies in its willingness or capacity to be challenged, disrupted and reshaped. A

3 See “Rethinking Democracy: Bruno Latour’s Approach to Inclusion and Representation of Marginalised Opinions” on page 89 for more information on marginalised opinions, specifically welcoming marginalised opinions while not accepting misinformation and marginalised opinions related to Bruno Latour’s theory.

4 See “Revolutionizing Protests: On the Relevance and Effects of Civil Disobedience” on page 109 for more information on civil disobedience: John Rawls’ definition, Hannah Arendt’s definition, how civil disobedience is related to democracy, the civil rights movement using civil disobedience and whether climate glueing can be considered civil disobedience.

5 See “Exploring Ecological Representation through Indigenous Epistemologies: The Limits of Non-Human Personhood” on page 23 for more information on non-human representation, specifically possibilities that non-human entities can be represented with the help of Indigenous knowledge practices. The Whanganui River is used as an example.

fair democracy, representing all individuals affected by its decisions, has to accept a certain degree of disturbance since this assures the possibility of shifting towards a more inclusive and equitable society.

12.2 History of Liberation Movements and Their Strategies

By observing different liberation movements such as Black liberation, women's rights, and animal liberation, one can see that they have employed various strategies to change societal norms and achieved legal and social recognition. The analysis of those tactics reveals parallels in their methods and the resistance they faced. We cannot ignore that some strategies are shared between all 3 movements despite their differences. Therefore, I would like to present those tactics by reassembling them depending on their contentiousness. In doing so, I would like to still be careful not to hide the specificity of each movement.

12.2.1 Peaceful Tactics

To begin with, let's start analysing what I will call peaceful tactics. This designates actions such as marches, freedom rides, public awareness campaigns, and public lectures, as well as using art (e.g. jazz, funk...), or forming new communities.

Though they are non-disruptive, these methods challenge societal norms and are effective in bringing awareness to injustices in society. For instance, the Civil Rights Movement's sit-ins and marches in the USA brought an immense visibility to the issues of racial injustice but also fostered public debate, mostly due to the fact that it was highly covered by the media.

One of the main strengths of peaceful tactics is their ability to present the movement as morally legitimate. It also tackles democratic ideals such as dialogue, collective decision-making and inclusivity. Since they refuse to use violence, these actions are more likely to arouse positive responses from both politicians and public opinion. In democracies, since public perception plays an important role in decision-making, non-violent strategies can foster goodwill and make movements appear more credible. An illustration of such strategies can be seen in the Salt March, led by Mahatma Gandhi during India's struggle for independence from British colonial rule in 1930. Gandhi and his followers walked 240 miles to the Arabian Sea to make their own salt, symbolically defying British laws. It has been a key movement for India's independence movement and has later influenced the civil rights movement in the United States. Due to the fact that they can be perceived as peaceful by both politicians and public opinion, they might be more likely to produce

positive feelings for those who see them. Indeed, when violence is excluded, public opinion is more likely to consider the movement as legitimate and to agree with the cause (Traboulay 2006, 211).

However, while peaceful tactics are effective in raising awareness, they also have limits that must be emphasised. The results of such methods are in a way less profound than those of more radical strategies, since they may struggle to convey the urgency of certain issues. Things do not immediately and materially change after a march, but through media, a change of mind can occur. Pacifist tactics therefore represent a first step, that of the possibility for the population to become aware of a problem, and to shape their opinion (whether they ultimately agree or not) regarding the claim of the protest. To continue with the example of the Civil Rights Movement in the USA, it succeeded in many ways, but also encountered failures. Its early attempts to desegregate public transportation through nonviolent resistance, and managed to desegregate buses with the Montgomery Bus Boycott in 1955-56, behaviours didn't change: hostility and violence were still present. Systemic racism was still present and broader change was difficult to achieve. Now that we have seen why peaceful tactics have their disadvantages, we understand why liberation movements may choose more contentious strategies.

12.2.2 Contentious Strategies

Liberation movements can also choose to be more radical and aim towards more than changing minds. They might aim to change behaviours to illustrate the urgency of the cause they're advocating for, something that contentious strategies can achieve rather quickly. For instance, Andreas Malm discusses the Suffragette movement in England in the early 20th century, which resorted to radical tactics such as breaking the law, setting fire to unoccupied buildings or sabotaging transport infrastructures (Malm 2021, 75). Such tactics are a strong and fast way to draw immediate attention to the demands by disturbing social order, while avoiding harming human lives.

However, public opinion thoughts on such strategies can be completely different than towards non-violent strategies. Indeed, since the use of violence is generally considered as morally wrong, people will have a tendency to condemn it, even though they might agree with the causes claimed by the movement. Malm, however, argues that these actions can be morally justified and even necessary, considering the urgency to act (102).

While contentious strategies are more likely to provoke strong and negative reactions, they are a powerful tool for liberation movements. They are the best way to expose systemic injustices. The changes in behaviour that they often initiate show that the current system is not able to address

such topics without pressure from the movement, forcing institutions to confront issues. Yet, movements employing such tactics must be careful and measure the risk of alienating potential allies against the benefits of heightened visibility for their cause. Therefore, contentious strategies can complement peaceful methods, creating a multifaceted approach to achieving social transformation.

12.2.3 *How Did These Movements Navigate Public Resistance?*

It is no secret that violent, disruptive and contentious tactics provoke more hatred than non-violent and peaceful ones. Leading figures may choose whether or not they ought to care about public opinion, but they nevertheless have to face its reception and elaborate a tactic upon it.

We learn in a VOX article that PETA (People for the Ethical Treatment of Animals, US) frequently encounters public resistance, particularly because of the radical nature of some of their campaigns. They face a lot of misunderstandings from people with respect to their goals. They are sometimes even considered to be terrorists due to the strength of their actions.

One tactic that has proven to be effective in appearing to be more convincing, improving public opinion, is called *frame bridging*. The term refers to a process by which social movements link their message to other beliefs, values, and concerns of individuals or groups that share compatible or complementary ideas. This term was coined by sociologists in a paper titled “Frame Alignment Processes, Micromobilization, and Movement Participation” (Snow et al. 1986, 470). Frame bridging is an effective way to build support and recruit participants for a movement, because the probability that a person agrees to two causes is higher if both share a framing idea. Therefore, it would be an effective strategy for the animal liberation movement, as a contemporary movement, to build bridges with other previous liberation movements such as the black liberation and women's rights movements. This is already being achieved by new ways of thinking like ecofeminism and intersectional activism, which makes the animal liberation movement's activism appear more legitimate by association. But while they may seem to be legitimate, is this really the case, and is this also coherent with democracy? Let us now focus on this question.

12.3 Democracy and Disruption

Democracy as a system of governance is considered to be inclusive, representative and open to different opinions. Based on these ideas, participants of democracies make use of collective decision-making, deliberation and mutual exchange of viewpoints. In spite of this, the practice of contentious activism, such as civil disobedience, strikes and other forms of protests,

is a common strategy in democratic societies. These strategies can create a tension in the democratic process. This tension raises the question of whether those disruptive strategies strengthen a democracy, or weaken the underlying principles of inclusivity, representation and openness toward different notions. Contentious activism is often seen as an essential tool to bring awareness to the needs of marginalised groups; either for those who lack representation because they are a minority, or because they are not able to raise or express their demands. Operators and supporters of this form of protest argue that when the current political system fails to recognise these voices and refuses to transform their demands into political reality, the use of disruption is not only legitimate but also necessary.

This section will explore how disruptive activism aligns with the principles of democracy and the role it plays in a democratic society. Furthermore, it examines how contentious tactics both challenge the ideals of deliberative democracy, like dialogue and inclusivity, while at the same time being a necessary tool used by marginalised groups and their allies to expose systemic injustices. In the end, this section explores the ethical implications of disruption and explains the central idea that a democracy's fairness can be measured by its ability and willingness to accept disruption, especially when it serves to address systemic injustice.

12.3.1 The Democratic Role of Disruption

The major principles of a democracy—as commonly perceived—are citizen participation, rule of law, accountability, and freedom of expression (Day 2022). In addition to that, disruptions play a crucial role in democratic societies as a mechanism to address systemic injustices. Representatives of marginalised groups are often confronted with the fact that they lack access to “formal and informal mechanisms of political power” (Humphrey and Stears 2006, 406), financial goods or public support to bring awareness to their demands. Therefore, they “must find ways of placing their issues on the political agenda; they must somehow find leverage out of their otherwise uninfluential political position” (406). These ways can include, for example: the disruption of certain routines of public processes, or institutions that force authorities to consider their demands. That means that tactics like boycotts and active protests can impose costs on institutions by disrupting their processes. Mathew Humphrey and Marc Stears call this tactic *cost-levying*, describing it as a strategy imposing economic, social, or logistical burdens.

Another important disruptive aspect of a democratic system can be *coercive disobedience*. This concept of protest highlights the notion that disruption can serve as a legitimate tool for exposing political dominance,

correcting inequalities in the democratic process and reshaping the influence of marginalised groups. Guy Aitchison argues that “[w]here domination is entrenched, there may be little prospect of achieving reform through ordinary political and constitutional measures or through reasoned efforts in the public sphere” (2018, 670). Therefore, coercive disobedience can be seen as a corrective mechanism which empowers excluded groups and as an action that is not merely promoting “deliberation or [getting] the government to listen to one’s demands, but to pressure them to yield” (677).

In a democracy, disruption is not contrary to deliberation, but instead an important mechanism for maintaining fairness and inclusivity. It ensures that the system stays adaptable and open to marginalised voices and therefore strengthens the democratic principles.

12.3.2 Contentious Tactics and Deliberative Democracy

The question of the legitimacy of disruptive activism in democratic societies shines a light on the tension between contentious tactics and deliberative democracy. Deliberative democracy is a “school of thought in political theory that claims political decisions should be the product of fair and reasonable discussion and debate among citizens” (Eagan 2016). While this form of government encourages political discourse, contentious tactics often adopt disruptive approaches to challenge systemic injustices. This section focuses on the interplay between these two concepts, exploring the limits of deliberative democracies and the potential of non-deliberative activism.

12.4.3 Ethical Implications of Disruption

Disruption as a political strategy for transformation can have ethical implications within a democratic society. Tools like protest, civil disobedience and coercion can address injustices, but at the same raise some ethical questions. This section will cover the justification of disruption, the ethical limits of disruption and activists’ responsibility to strengthen democracy.

The justification for disruption lies in the possibility of correcting power imbalances and enhancing inclusivity in policymaking. Aitchison sees coercive tactics like disruption and resistance as a tool to break down dominion in democracies and claims that it “can be justified as a surrogate tool of political action for those who lack effective participation rights” (2018, 666).

However, there is also a risk of using disruption, which has the potential to undermine a democracy. Disruptive movements have the risk of becoming a source of arbitrary power without any accountability. To ensure that their actions support and strengthen democratic principles, activists should model their movements according to the values of inclusivity, transparency

and respect for dissenting opinions. Therefore, “[m]ovements must model democratic practices and ideals to avoid becoming a source of arbitrary power” (Aitchison 2018, 666).

Disruption is also justified by deliberative democratic theory. D’Arcy (2007) argues that deliberative democracy in fact provides a “sophisticated justification” for direct action on behalf of marginalised groups, such as non-human animals. He claims: “The deliberative theory of democracy [...] does not imply anything which would discourage or prohibit direct action on behalf of animals, but on the contrary offers us a sophisticated justification for it” (D’Arcy 2007, 3). This perspective shows how direct action can address systemic exclusion. Furthermore, it can advance the interests of those whose voices are typically unheard, such as non-human animals in the context of the animal liberation movement.

12.4 Philosophical Analysis

To address the research question and evaluate the democratic importance of contentious activism, this section focuses on the philosophical perspective with the tactics of liberation movements.

Disruption plays a crucial role in democratic societies, since it serves as a measure of a society’s fairness and willingness to adapt. If a democracy accommodates disruption from marginalised groups whose voices are often unheard in the deliberative process, it strengthens the political system (Humphrey and Stears 2006). The role of disruption as a corrective mechanism can shine a light on the sometimes deeply rooted systemic injustices and help those overlooked by the system (Aitchison 2018). For example, the ALM forces democracies to confront the issue of speciesism, the practice of prioritising the moral importance of one species over others and believing this is justified (Duignan 2013), which is often left out of the political discourse. By addressing power imbalances with boycotting or civil disobedience, disruption becomes ethically justifiable (Hadley 2013). Nevertheless, activists should always deeply evaluate their actions to minimise harm and ensure the change towards a greater common good.

One consideration for future or contemporary liberation movements is the balancing of non-disruptive and disruptive forms of activism. On the one hand, they should focus on non-disruptive tactics like frame bridging. For the animal liberation movement, this would mean aligning their ethical concerns with other already-existing ones like environmental ethics, in order to increase public support. On the other hand, the use of civil disobedience can be an effective tool for highlighting the urgency of an issue, while still maintaining democratic legitimacy.

12.5 Conclusion

Liberation movements, such as the ALM, show how contentious activism is not just challenging the democratic system, but also necessary for a democratic system to be inclusive and fair for marginalised groups. By using a combination of non-disruptive and disruptive tactics, liberation movements push the boundaries of societal norms. Furthermore, they force democracies to evolve towards greater inclusivity and equity for all participants. The strength of a democracy is its capacity to accommodate different opinions and its openness to be reshaped through resistance. Therefore, disruption strengthens the democratic principles and helps address systemic inequalities.

The ALM should balance non-disruptive and disruptive strategies like frame bridging with more contentious tactics when they want to achieve systemic change and therefore strongly orient themselves through previous liberation movements. Movements like the ALM are still evolving and serve as important actors in the challenge of making democracies stronger in transforming their ideals.

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13. An Ongoing Journey Towards Representation

Political Identity Formation of the LGBTQ+ Community During the AIDS Crisis

Gioia Klein

13.1 Introduction

Political representation in democratic societies plays a crucial role in ensuring that the needs and interests of all citizens are addressed. However, formal institutions have historically fallen short in representing marginalised groups¹ – particularly the LGBTQ+ community – which has been a significant issue, especially during times of crisis. One of the most striking examples of this occurred during the AIDS crisis of the 1980s and 1990s.

While formal institutions such as governments and healthcare systems were slow to react to the epidemic, framing it as a moral issue rather than a public health crisis, grassroots movements like ACT UP emerged as powerful forces of advocacy and support for the LGBTQ+ community. The neglect by formal institutions, however, not only intensified stigma but also devalued LGBTQ+ lives, highlighting the deficiencies of democratic representation. The duality of exclusion by formal institutions and empowerment found in informal movements influences how marginalised groups construct their political identities.

This paper examines the interactions between formal and informal representation in shaping LGBTQ+ political identity, using constructivism as its theoretical framework. Drawing on concepts such as Lisa Disch's (2011) "representation as mobility," which sees representation as a fluid and ongoing process, and Judith Butler's (2015) theory of "performative assembly," which emphasises the political significance of collective action, this paper explores how identity is co-constructed through resistance and engagement with power structures. The analysis focuses on the AIDS crisis of the 1980s–'90s in the United States, which reveals the limitations of formal institutions and highlights the powerful impact of grassroots activism. The research question guiding this investigation is: how do marginalised groups, particularly the LGBTQ+ community, construct their political identities through interactions with formal and informal institutions? Answering this

1 See "Contentious Activism and Democratic Progress" on page 117 for more information on marginalised groups, specifically how they transform marginalised demands into accepted political beliefs by using disruptive strategies.

question is critical not only for understanding historical and contemporary LGBTQ+ struggles, but also for addressing broader issues of democratic inclusion and representation.

To address this question, the paper is organised into four main sections. The first examines the role of formal institutions in LGBTQ+ political representation, emphasising their shortcomings. The second section outlines the constructivist framework, providing a theory for understanding identity as fluid and evolving, and defines other main concepts. The third section highlights the significance of grassroots movements as informal forms for representation, focusing on the Stonewall riots and ACT UP activism during the AIDS crisis. The final section analyses the interplay between formal and informal representation, demonstrating how this dynamic process shapes a (collective) political identity.

By situating the LGBTQ+ community experiences within these frameworks, this paper aims to reveal the intricate relationship between exclusion, resistance, and identity formation. Thus, this paper creates a deeper understanding of the challenges and opportunities of representation in democratic societies.

13.2 Formal Institutions and Their Role in LGBTQ+ Political Representation

13.2.1 Structural Exclusion in Formal Institutions

Formal institutions, such as parliaments, political parties, and policy councils, are the primary mechanisms for political representation in democratic systems. These bodies are tasked with making laws, allocating resources, and ensuring equitable governance. However, for marginalised communities like the LGBTQ+ community, formal institutions often fall short. Structural biases, political inertia, and societal prejudice contribute to the exclusion of LGBTQ+ concerns from legislative priorities, creating different levels of representation (D'Emilio 1983).

One striking example is the prolonged legislative journey of the Equality Act in the United States. First introduced in 1974 and reintroduced in various forms over decades, the Act seeks to provide federal protection against discrimination based on sexual orientation and gender identity. Despite widespread public support, the Act has faced significant delays and opposition in Congress, reflecting a broader pattern of neglect for LGBTQ+ issues within formal institutions (Thompson 2014). This delay underscores the systemic barriers that marginalised groups face in achieving policy recognition. Globally, similar patterns emerge. In the United Kingdom, debates surrounding the Gender Recognition Act highlight how political institutions

often resist addressing LGBTQ+ concerns due to fears of political backlash or cultural conservatism. Scholars argue that such exclusion perpetuates societal biases, undermining the democratic promise of equal representation (Clixby 2020).

Lisa Disch's concept of "representation as mobility" is particularly relevant here. Disch argues that effective representation requires institutions to adapt to the evolving needs of diverse constituencies (Disch 2011, 103). However, formal institutions are often rigid, bound by ingrained hierarchies and procedural constraints. This rigidity prevents them from responding effectively to the dynamic and intersectional nature of LGBTQ+ issues.

13.2.2 The AIDS Crisis and Institutional Neglect

The AIDS crisis provides a historical example of the aforementioned shortcomings of formal institutions. As mentioned in the introduction, during the early years of the crisis, government institutions portrayed AIDS not primarily as a public health emergency, but rather as a consequence of immoral behaviour – often focusing on stigmatised activities, like same-sex relationships, drug use through needles, and non-monogamous sexual practices. Pathologised behaviours became associated with the affected communities, particularly gay men, sex workers, and drug users. This framing led to a lot of neglect, pushing already vulnerable groups further to the sidelines and slowing down important public health efforts. For instance, government agencies, who are supposed to safeguard public health, largely ignored the epidemic in its early years, with President Ronald Reagan only addressing it publicly after four years (Kohl 1990). The Reagan administration's slow response reflected broader societal attitudes that stigmatised homosexuality, often describing AIDS as a "gay plague." And White House Press Secretary Larry Speakes even treated the epidemic dismissively in a 1982 press briefing. This framing implied that those affected by the epidemic were somehow responsible for their suffering due to their lifestyle, which was stigmatised as deviant or immoral (Bennington-Castro 2023), therefore underscoring the institutional neglect faced by affected communities. This neglect not only made the situation worse but also signalled to LGBTQ+ individuals that their lives were deemed less valuable. The deficiencies of formal institutions during this period highlight the challenges that marginalised groups face in getting adequate political representation.

While formal institutions remain instrumental for achieving long-term policy changes, their limitations highlight the need for complementary forms of advocacy. Grassroots movements and informal networks often fill the gaps left by institutional failures, driving progress and amplifying

marginalised voices. This dynamic will be explored in more detail later. However, to understand how these movements influence political identities and mobilise change, it is important to first look at the constructivist framework, which highlights the fluid nature of identity in relation to power and social structures.

13.3 Constructivism as a Framework for Understanding Political Identity

13.3.1 Fluid Identities and Constructivism

Political identity is often assumed to be static, based on fixed characteristics such as gender, ethnicity, or social class. Constructivism² challenges this idea, arguing that identity is fluid and constructed through interactions with social institutions and power dynamics (Wendt 1992, 392). This framework is essential for understanding how marginalised groups, like the LGBTQ+ community, deal with exclusion and engage with organisations, such as public associations, grassroots movements, healthcare providers, and political institutions, to shape their collective identities. According to this theory, in politics, it is not just about reflecting what is already out there, it is about actively building and transforming society.

This new way of thinking about representation has significant effects on how political representation works. If representation means actively building political realities, then it is not enough for representatives to just echo what people want. They need to be involved in changing and rethinking the political scene, which means making room for voices that have been left out to help create new shared meanings and identities. For instance, political representation should go beyond just including people on the surface; it must tackle deep-rooted inequalities and make sure that marginalised groups have a real say in shaping the systems that are supposed to represent them.

Disch's concept of "representation as mobility" offers a valuable perspective on exploring this process. She critiques the traditional view of representation as unchanging, and a fixed link between the voters and

2 Note that the definition of constructivism used here is a different one from "Rethinking Democracy: Bruno Latour's Approach to Inclusion and Representation of Marginalised Opinions" on page 89. In this essay social constructivism means that reality is constructed through interactions with others. In "Rethinking Democracy: Bruno Latour's Approach to Inclusion and Representation of Marginalised Opinions" Latour's definition of constructivism is used and it means that reality really exists, but it is dependent on human interaction.

representatives, like a one-way mirror. Disch instead proposes that representation involves a dynamic process of identity co-construction between individuals, institutions, and movements (2011, 102–3). This perspective is particularly relevant for marginalised groups, whose political identities are often shaped by resistance to systemic exclusion (Moon 2023).

Before delving deeper, it is important to define some key terms. Political representation traditionally refers to the process by which elected officials act on behalf of constituents (Pitkin 1967). Disch's framework expands on this definition by emphasising representation as an evolving dialogue that actively shapes the identities of those being represented (Disch 2012, 599–600). This expanded framework stresses that representation is not a passive reflection of pre-existing identities but an ongoing process of construction and transformation.

Butler's concept of "performative assembly" complements this, arguing that public demonstrations do not merely reflect pre-existing identities. Rather, they are dynamic events that actively produce and assert political identities. For Butler, assemblies, such as protests or collective actions, become sites where marginalised groups, including LGBTQ+ individuals, perform their demands for visibility, equality, and rights. These public gatherings do not simply express identities shaped elsewhere; they are the very conditions that bring those identities into being through action, visibility, and collective resistance. As Butler writes,

when bodies assemble on the street, in the square, or in other forms of public space [...] they are exercising a plural and performative right to appear, one that asserts and instates the body in the midst of the political field, and which, in its expressive and signifying function, delivers a bodily demand for a more liveable set of economic, social, and political conditions no longer afflicted by induced forms of precarity. (Butler 2015, 11)

This highlights the idea that the physical and symbolic presence of bodies in public space is not merely a reaction to injustice but a performative act that creates new political realities and reshapes what is possible within the social order. The flooding of streets and other forms of protest are not just tactics; they are embodied actions that contest and redefine the spaces they inhabit. These actions bring the struggles and issues faced by marginalised groups to light, while also showcasing their united strength and their calls for acknowledgment and transformation. Public assembly thus becomes a

performative act that reshapes how individuals and groups are perceived within the broader political and social fabric, challenging existing structures of power and inclusion (1, 14–8).

Together, these theories highlight how identity formation is deeply intertwined with representation. Disch's focus on representation as mobility and Butler's emphasis on performativity and making political claims through the very act of coming together in public space reveal that representation is not static but an active and ongoing process shaped through engagement with power structures.

13.3.2 Constructivism's Contributions and Limitations

Constructivism underscores the dynamic interplay between formal institutions and 'informal' social movements, highlighting the importance of understanding how political identities are shaped through both participation and opposition. It presents a strong framework for examining how marginalised communities express their agency, especially in situations where official institutions do not meet their needs. By focusing on the dynamic and changing aspects of identity, constructivism reveals the significant impact of grassroots movements and collective efforts in confronting systemic exclusion and promoting social change.

However, despite its useful perspectives, constructivism also has its limitations. It relies on the idea that people have the freedom and ability to shape their own identities, which might not be true in all political situations, like authoritarian regimes where opposing views are often silenced. Moreover, its emphasis on change and adaptability can sometimes ignore the fixed obstacles that limit how identities can develop.

Nevertheless, by combining Disch's and Butler's insights, constructivism provides a framework for analysing how marginalised groups transform exclusion into agency. It reveals that political identity is not static but continually shaped by interactions with power structures, highlighting the importance of both formal and informal methods of representation. This perspective challenges traditional notions of representation, showing that it can be a dynamic force for change; one that empowers voices previously excluded from democratic processes. Ultimately, these theories invite us to rethink democracy as active and alive, not stuck in place.

13.4 Social Movements as Informal Arenas for Representation

13.4.1 The Role of Social Movements in LGBTQ+ Advocacy

When formal institutions fail to represent marginalised groups adequately, social movements³ emerge as important spaces for political expression and advocacy. They allow LGBTQ+ communities to assert their identities, call for recognition, and challenge systemic partiality. Social movements are not only platforms for activism but also sites where political identities are actively constructed and negotiated. For instance, during the AIDS crisis, grassroots organisations like ACT UP provided platforms for LGBTQ+ individuals to assert their political presence, using slogans such as “Silence = Death” to demand recognition and resources (Bennington-Castro 2023). These movements not only challenged institutional neglect but also fostered a sense of agency and community among participants. By claiming their political space, they significantly reshaped their collective identity.

13.4.2 Performative Assembly and Visibility

Circling back to Butler’s concept of performative assembly; the physical act of assembling in defiance of societal norms transforms marginalised individuals into visible political agents. For example, the chants, slogans, and defiance displayed during the AIDS crisis were not just protests but performances that declared the LGBTQ+ community’s right to exist and be heard. For marginalised groups, exclusion from institutional spaces often forces them to claim visibility through informal means, creating new forms of representation that emphasise agency and resistance. Social movements like ACT UP also serve as catalysts for broader political change. Over time, these movements have driven significant policy changes, including the decriminalisation of homosexuality, the passage of anti-discrimination laws, and the legalisation of same-sex marriage.

13.5 Interactions between Formal and Informal Representation in Identity Formation

13.5.1 The Dynamic Interplay between Formal and Informal Representation

The interplay between formal and informal representation shows how marginalised groups, like the LGBTQ+ community, navigate their political identity

3 See “Revolutionizing Protests: On the Relevance and Effects of Civil Disobedience” on page 109 for more information on social movements, specifically how the civil rights movement has successfully used civil disobedience in the past. See “Contentious Activism and Democratic Progress” on page 117 for more information on liberation movements such as the Animal Liberation Movement (ALM).

within existing structures of power. Formal institutions, as explained earlier, often uphold exclusion through their rigid structures and lack of attention, while informal movements offer more adaptable and responsive ways for advocacy and identity formation. This creates a back-and-forth dynamic where the shortcomings of formal institutions lead to the rise of informal spaces, and the achievements of these informal movements encourage formal institutions to gradually change. This interaction highlights how both types of representation are crucial in shaping political agency and visibility.

During the AIDS crisis, informal groups like ACT UP exemplified this relationship by taking direct action in response to institutional neglect. Their initiatives not only addressed immediate healthcare advocacy needs but also pressured governments to make policy changes and boost funding for AIDS research. For instance, ACT UP's 1988 "Storm the FDA" protest directly confronted bureaucratic delays, leading to faster drug approval (Epstein 1995, 410). These actions show that informal movements do more than just fill gaps left by formal institutions: they push these institutions to recognise and respond to marginalised voices. Such changes illustrate how informal advocacy can influence institutional priorities and reshape societal narratives about stigmatised groups.

13.5.2 Identity Formation Through Collective Resistance and Institutional Influence

The way marginalised groups shape their identities is based on the relationship between formal and informal representation. Butler's (2015, 18) idea of performative assembly shows that when people come together to take collective action, it acts as a political statement and a way to build identities together. Movements like ACT UP not only brought attention to LGBTQ+ issues but also created a sense of unity and strength, establishing a common political identity based on resistance and defiance. This aspect of coming together emphasises that political identities are not just there from the start, but are created and expressed through collective actions that push back against dominant power structures and seek acknowledgment. For example, during the AIDS crisis, LGBTQ+ individuals experienced societal neglect and hostility. In response, they redefined their identities not just as victims, but as activists and political agents, organising grassroots movements to demand recognition and resources. These actions illustrate how political identities are reshaped through resistance, rather than simply being reflected by existing systems of representation (Butler 2015, 33).

13.5.3 Challenges and Opportunities

Even though these interactions provide chances for representation and identity development, they also reveal ongoing challenges. Formal institutions often take a long time to make changes and can sometimes take over grassroots movements without really tackling the underlying inequalities. On the other hand, informal movements, while good at rallying people, can struggle with issues like fragmentation or burnout due to limited resources and internal disagreements. In order to advance, a more cooperative approach that connects formal and informal representation could improve democratic inclusion. For example, including community-led advisory councils in formal policymaking could help integrate grassroots perspectives while ensuring accountability. Additionally, boosting LGBTQ+ voices through media and education can help fight stigma and promote inclusivity, leading to broader cultural changes.

13.6 Conclusion

This paper has examined how the political identities of marginalised groups, particularly the LGBTQ+ community, are shaped through interactions with formal institutions and grassroots movements. Through the constructivist framework and concepts like Dish's "representation as mobility" and Butler's "performative assembly," it has demonstrated that political identity is not static but evolves through engagement with power structures and acts of resistance.

The AIDS crisis of the 1980s and 1990s highlighted the deficiencies of formal institutions, such as governments and healthcare systems, to provide adequate representation and resources. These institutional shortcomings forced the LGBTQ+ community to rely on grassroots movements, like ACT UP, to advocate for their survival and visibility. Through public acts of defiance, such as protests and the use of slogans like "Silence = Death," informal movements not only challenged institutional neglect but also redefined LGBTQ+ identities as active and politically empowered.

The interplay between formal and informal representation reveals the limitations and possibilities inherent in both systems. While formal institutions provide legitimacy and long-term policy outcomes, their rigidity often marginalises vulnerable groups. Informal movements, by contrast, create dynamic spaces for advocacy and identity formation, demonstrating the power of collective action, but struggle to keep their influence without institutional recognition. Together, these forces shape political identities in ways that neither could achieve alone – thus highlighting the importance of a strong relationship between formal and informal representation in building inclusive democracies. Institutions need to learn from the dynamism and insights from grassroots movements, making sure to genuinely incorporate

their perspectives and respond to their needs rather than just offering superficial solutions. This requires institutions to be more adaptable, engaging, and responsive to the changing identities and requirements of marginalised groups. While informal movements have been successful in addressing the shortcomings of institutions and changing policies, achieving lasting change will require better collaboration between both sides. Recognising this connection not only points out existing gaps but also creates new opportunities.

In the end, this essay emphasises that representation is not something that stays the same; it's a continuous process of negotiating power, identity, and inclusion. By connecting formal and informal representation, democratic societies can get closer to achieving true inclusion and realising the democratic ideal of fair and equal representation for all. This essay encourages us to view representation as an evolving journey rather than a final destination, one that actively works to reshape the political environment to include those who have often been overlooked.

13.7 Bibliography

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