

## **RHETORIC AND REPRESENTATION: THE POLITICS OF ADVOCACY**

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Direct democracy has generally been seen as paradigmatic in democratic theory because it entails a full and direct participation of all of the citizens in the process of decision-making (1). The modern "discovery" of representation has left this paradigm unchallenged. Too often, representation has received a merely instrumental justification, and has been seen as an expedient necessary to cope with large territorial states. Not even warm supporters of representative government, like James Madison and John Stuart Mill, could avoid thinking of representation as good because unavoidable. Particularly since the debacle of the French Revolution, democracy has become, like Athens, the name of a state of perfection that the moderns could admire and long for all the while knowing it was unattainable. "Today, in politics, democracy is the name of what we cannot have —yet cannot cease to want" (Dunn 1993, 28).

Nostalgia may foster resignation, but it may also encourage a realistic disenchantment toward what is actual. This was the accomplishment of Hegel's task of ideological normalization: he situated the ancient republics at the height of an uncontaminated perfection to make them innocuous and their ideals powerless. Not very different was Constant's strategy, with the variant that his militant anti-Jacobean passion brought him to declare ancient democracy undesirable more than simply unattainable, old more than simply ideally eternal.

Whereas for Restoration thinkers like Hegel and Constant democracy was the name of something the moderns could no longer have, for radical democrats, "classical" democracy has become the name of a good society we can still have, provided we

interpret it as a ceaseless process of political education in citizenship. Whereas the moderns have lost the possibility of running the state directly, nonetheless they can attempt to extend democratic control beyond the sphere of government so as to include in the democratic project civil society itself. This was the dream of the seventies, when radical democrats thought it possible to reconcile capitalist ownership with the workers' government of the factory, and applied to the sphere of economics the logic running the political sphere, in which all are entitled to a vote no matter their social status and property holding. Along this line of thought, the value of democracy has been deemed coincident with the educative function of participation, and the significance of politics with its mobilizing power more than its decision-making ability (Pateman [1970] 1997). Within this perspective, representation held little appeal, first because it justified a vertical relation among the citizens and the state, and second because it promoted citizens' passivity.

When not criticized in the name of direct democracy, representation has been ignored by the theorists of participatory democracy (2). Attempts to make it more consistent with the democratic principle of equality has been seen as not only useless, but moreover hypocritically despicable: useless, because in any case representation could not eliminate the gap between standing and acting citizenship; hypocritically despicable, because representation could actually turn out to be "a way of justifying government of the many by the few," of using minorities' representation as a means for legitimizing the majority's decisions (Pitkin 1967, 84). Proportional accuracy in representation, Hannah Pitkin has argued in a book that has stated the tone of the last thirty years' debate on representation, takes away with its left hand what it gives us with its right hand: it meticulously reflects the social topography but, at the same time, renders the assembly into a simply "talking rather than acting, deliberating rather than governing" institution. Representation —this was Pitkin's message — cannot substitute for direct democracy. When it seems it can, like in the case of proportionality, it de facto prostrates participation even more ruinously than its first-past-the-post counterpart, which, at least, is able to guarantee stability and allow for effective decisions. In sum, there is no way of making representation be what it cannot, that is a valid substitute for direct democracy.

This scenario seems on the point of changing, and representation seems primed to acquire a more benign reputation. While until recently the defense of representative democracy has generally been endorsed by the neo-Schumpeterian theorists of electoral democracy in opposition to the proponents of a "participatory democracy," now the identification of "true" democracy with direct democracy is facing a broader range of dissatisfaction (3). For instance, George Kateb writes that the institution of representation is the source of the "moral distinctiveness" of modern democracy, and the sign of its superiority to direct democracy (Kateb 1992, 36–56). Even more explicitly, David Plotke states that in a representative democracy "the opposite of representation is not participation" but exclusion, while Iris Marion Young argues that "the elevation of direct democracy to the apex, as the only "real" democracy, "is mistaken;" in fact "political representation is both necessary and desirable" (Plotke 1997, 18; Young 1997, 352).

I find the 'rediscovery' of representation both interesting and compelling. When not interpreted as simply a technical device for regulating the electoral process and arriving at political decisions, representation can be seen as an impulse to political

participation, and a means for extending the meaning of politics beyond state institutions and the decisional moment. As I will argue in the first part of the paper, it is precisely the quality of indirectness belonging to representation that makes room for deliberation, both inside and outside the assembly. This implies that, contrary to Pitkin's message, the distinction between "deliberating" and "governing" —"talking" and "acting"— is crucial and much needed, while her elevation of governing over deliberating is misguided.

The renaissance of deliberative democracy makes such a re-evaluation not only reasonable, but moreover praiseworthy. As I shall claim in the first and second parts of the paper, a deliberative conception of democratic politics presumes both representation and the notion of the assembly as an agora. Given these premises, proportional representation comes to be seen as desirable, because it is more consistent with a notion of democracy that does not reduce the "right of representation" to the "right of decision" (Sterne, 1871, 50). Whereas the majority retains the latter, the whole population should not be deprived of the former. Proportional representation, one of its contemporary critics acknowledge, would better fit the deliberative character of democracy, in so far as it "would enforce a broad scope for public debate and would encourage the development of judgmental competence among the electorate" (Beitz 1989, 137). Along this line of thought, in the second part of the paper I will also maintain that proportional representation fulfills the democratic principles of political equality and popular control better than a majoritarian system can do. However, proportionality needs to be referred to political ideas and claims, not to the description of social segmentations. On the other end, it needs to be disassociated from a rationalist interpretation of democratic deliberation. As I will argue in the last part of the paper, for the assembly to perform as an agora, proportionality can be conceived neither as a descriptive "mirror" nor as a supplement of information for achieving an impartial truth. Proportionality may only serve the cause of democratic deliberation if it is acknowledged that the discursive dimension of politics entails a notion of representation as advocacy, where partisan standing and deliberative projection meet. To develop these three arguments I will refer to John Stuart Mill and his attempt to define a direct link between representative democracy, the agonistic character of the assembly and proportional representation. Mill's ideas are remarkably similar to those which constitute the contemporary theory of deliberative democracy while anticipating several of the theoretical arguments that contemporary theorists employ to defend the plea of proportional representation.

## **1. Direct and Indirect Democracy**

Since democracy has acquired its value from, and generally goes along with, direct participation, we need first of all to understand how "directness" is to be interpreted, and what citizens need to perform directly in order to enjoy democratic status. To answer these questions I need briefly to refer to the ancient republics and the way the moderns have judged them, because only in the ancient polis was political autonomy fulfilled through a direct and physical presence of the citizens in the places where

public decisions were to be made: the ekklesia and the dikasteries.

Following Robert Dahl, Iris Young has maintained that even "in assemblies of a few hundred people, most people will be passive participants who listen to a few people to speak for a few positions, then think and vote" (Young 1997, 352–53) (4). Indeed, the "direct" political presence of the citizens did not impede the Athenian ekklesia from being an assembly in which the large majority remained silent, while very few spoke. Post–Periclean reforms were intended to stimulate a physical presence, not an active presence. Thus, Athenian adult male citizens were paid for attending, not for speaking in, the assembly. It is true that the basic principle of Athenian democracy was isegoria, the individual right to speak in the assembly. Nonetheless, the Prytanies instituted the pay to discourage absence, not silence. "There was no law requiring anybody to appear in the role of ho boulomenos [any one who wanted to speak], and the orators found no fault with the fact that many Athenians never addressed their fellow citizens" (Hansen 1993, 267, 150; Aristotle, 1986, 41.3).

Attendance and speech are the structural forms of democratic participation. They are prior to, and the precondition for, any democratic decision. They entail both passivity and activity, while denoting the plastic dimension of dialogue which actually presumes both speaking and listening, outward expressiveness and inward reflection, words and the solitude of the mind. I would not hesitate to view these as the universal forms of human communication, peculiar to our relations to others as well as to ourselves. Socratic dialogues and Petrarca's lyrics are among the most exquisite examples of this phenomenology of the discursive life as an act of reciprocation, of giving and taking words. Speech intercourse among citizens follows the same path. Like that belonging to the dimension of intimacy and friendship, it too shares the unique characteristic of keeping individuals in contact without depriving them of their judgmental solitude. If ever, speech makes them aware of the remarkable difference between isolation and solitude, both in private and political life. This clarification shall disclose its full relevance once I explain the way Rousseau interpreted directness in political action, and the reason why he thought that a good republic must avoid public deliberation (5).

In any event, directness does not mean that all speak. A "direct" presence does not entail a vociferous presence. This was even more so in Sparta (which until the end of the eighteenth century was taken as the model of direct government), where the physical presence of the citizens in the assembly meant essentially a passive standing and listening, and a final resolving without any direct articulation of either consent or dissent. Contemporary historians believe that the rule that "anyone who wished" could address the ekklesia remained only an ideal in Athens too: "a minority came to dominate the field of politics and the majority of citizens never trod the speakers' platform" (Hansen 1993, 267).

Concerning Athenian democracy, Mogen H. Hansen has listed three kinds of citizens: "the passive ones" who did not go to the assembly; the "standing participants" who limited themselves to listening and voting but "did not raise their voice in discussion;" and finally the "wholly active citizens," a "small group of initiative-takers, who spoke and proposed motions" (Hansen 1993, 268 italics added). Now, if we compare Pericles' Athens with contemporary democracy, we may say that our right to vote corresponds to the ancient standing participation, while

representation corresponds to a wholly active citizenship. The former involves all, the latter involves only some. This was actually the comparison that Mill had in mind when he claimed that the vote is a duty, not a right to be performed at pleasure, and when he advanced proposals to make the ballot uncostly and easy to be performed by all (Mill [1861] 1991, chapter 10). As Pericles paid day-salaries to Athenians in order to discourage passivity, Mill wanted to lift all the burdens from the act of voting. The former tried to make standing participation convenient, while the latter wanted to make it not inconvenient.

However, the most interesting aspect to be considered in order to grasp what democratic directness meant in Athens is that pertaining to the role played by the wholly active citizens. Did the absence of representation make Athenian citizens speak their mind directly? There are two models of directness that ancient history has bequeathed us: that of Sparta and that of Athens. Rousseau, who praised autonomous-isolated reasoning and silent voting, regarded the former, not the latter, as the best republic. On the contrary, Mill, who praised public discussion and deliberative trials, judged Athens superior. Rousseau thought that in a well-ordered republic each citizen should make up his mind literally by himself, without entering into a dialogue with his fellow citizens. He interpreted solitude as isolation and, more or less like Plato, saw Reason (the general will) as a force able to speak equally to all provided it did not suffer interference from passions and opinions. Rousseau had so little confidence in individual disinterestedness that he was unwilling to leave the individual citizen at the mercy of either his own impulses or those of others. His admiration for the virtues of the ancients was as deep as his awareness of the weakness of the moderns. But instead of choosing the constitutional stratagem of a mechanical balance of opposite forces, he adopted a obstructive strategy: he disassociated the citizens from one another in order both to keep them safe from the risk of partiality and to avoid imposing the general will upon them by coercion. Hence, he rejected delegation because it entailed citizens' deriving their opinions from external sources and relaying upon others' judgment and misjudgment (6).

In sum, for Rousseau directness referred to reasoning and the will. He interpreted reasoning as an isolated act because he thought that the individual mind needed to divorce itself from the mind of others in order to be able to follow Reason's traces without fault. Because reasoning had to avoid collective deliberation, direct political action to Rousseau meant properly and only voting, not debating. What is truly striking in his Social Contract is that he stresses the communal moment of participation without allowing public speech. In fact, according to Rousseau, the deadly risk to political autonomy came from citizens' interaction with one another more than it did from their passivity: thus, in his republic, while all were standing participants, none was a wholly active participant. It should come as no surprise, then, that he dismissed both Athenian democracy and representative democracy. In his mind, the most negative element of representation rested on the fact that in making public deliberation necessary it violated the basic principle of judgmental individual autonomy. Athens suffered from the same vice in his eyes. Indeed, even if its citizens did not delegate their sovereign power, they nonetheless practiced some form of mediated participation in so far as the assembly was actually run by the orators.

Rousseau's perception was far from inaccurate. In the Athenian ekklesia the speakers

did not speak on behalf, or for or in the place of someone who was not physically present, and in this sense they were neither trustees nor delegates. However, one should not be too quick to conclude that the orators absolutely did not represent anybody or anything. In spite of the contemporary myth of the polis as the place of a disinterested and dialogic exercise of public reason, private and class interests did not in fact remain outside the ekklesia. Moses I. Finley has deemed a "commonplace" the idea that "men who voted in elections or assemblies" divorced "personalities from issues," participation from interests. For the Athenians too "politics were instrumental" (Finley 1985, 97–8). Although they did not have "structured political parties," they had corporate and antagonistic interests (p. 75). Aristotle depicted Athenian political life as a theater of an endless struggle between the oligarchs (who never disappeared) and the demos.

Given these premises, it is not entirely correct to say that the orators spoke their own minds. They spoke their mind to promote some interests, and in this sense they spoke for someone and something, even if nobody gave them any mandate. Moreover, we know that the great orators used to deliver their speeches only on important or exceptional occasions. In ordinary times, and on questions pertaining to ordinary policy, they used "to speak" through "their identifiable expert–lieutenants," who 'represented' their opinions and interests and acted in their place (Finley 1985, 79). In Athens, direct democracy produced an élite in spite of the fact that it did not elect representatives. And even if in the ekklesia anyone who wished could "make a denunciation," a petition and a law proposal, nonetheless the political leaders —the orators— shaped citizens' opinion at their pleasure.

It is understandable then why Rousseau excluded both Athenian democracy and representative democracy from his model. In spite of their manifest differences, indirectness was common to both: public discussion was the kind of mediated politics that Rousseau attributed, correctly, to each of them and the reason for his rejecting both of them. He keenly perceived that the presence of deliberation in the assembly entails and promotes a dissension that goes well beyond opinions. Speech both evokes and promotes the fragmentation of the general will and, in this sense, makes it impossible for the citizens to escape the interference of passions and interests (Z). Eloquence and sectorial interests recall one another, while deliberation is synonymous with an indirect presence, whether by speech or representation, or both.

Rousseau's perception was correct. Indeed public deliberation, not simply voting, belongs to democracy, which in fact does not regard the sovereign body as a homogeneous and undivided collective unity, but acknowledges first, that the plurality of opinions makes speech the main instrument for reaching decisions, and second, that political decisions cannot entirely avoid partiality because it cannot avoid the majority/minority divide. If we take Rousseau seriously, we may say that representative democracy is a living confutation of a rationalist vision of politics. Its assembly, Mill understood, aims at a consensus which is always provisional. What makes modern democracy secure and lasting is the sense of endlessness that the debating character of its consented politics transmits to citizens, the voters as well as the representatives. Disagreement (and thus the pluralism of political opinions) and free speech were the two elements that made Athens so different from Sparta, and that, in Rousseau's view, also characterize representative democracy. It is not by chance that in spite of the fact that Athens did not have representation, theorists of

representative democracy like Mill have elected it as their model. What makes the two forms of democracy similar is that both of them practice an indirect form of political action. This form is speech. Speech is a mediating means that belongs to all citizens, at once linking and separating them.

Hence it is not indirectness per se which distinguishes direct from representative democracy. Rather, what makes the latter truly different from the former is the character and broadness of its mediated politics. Representative democracy lacks simultaneity in the process of political deliberation and decision-making. To recall Hansen's abovementioned partition, one may say that the "standing participants" and the "wholly active citizens" do not share the same time and space dimensions. A simultaneity of standing, deliberating and deciding is attained only by the representatives, so that in a representative democracy, the assembly is actually the only place where the kind of political indirectness belonging to the ancient agora can be revived. But contrary to direct democracy, in a representative democracy the attendance of the "standing participant" citizens is wholly mediated, because the mediating factor is not simply and only speech, but also time and space. The peculiarity of modern democracy rests in the lack of coextensiveness and in the elapsing of the time between the speaking/hearing moment and the rectifying/voting moment.

Thus, quite appropriately, representative democracy has been described as a deferred democracy (Young 1997, 355–57). Here, petitions and legislative proposals are not to be discussed and rectified one by one by the standing citizens in the actual moment they are brought to their attention. The vote of standing citizens is now split into two moments, one of which is future-oriented (the package of promises and proposals made by the candidates), while the other is retrospective (the actual outcome achieved by the representatives) (8). Like in Athens, in modern democracy the "standing participants" limit themselves to listening and voting. But unlike in Athens, now the moment of judgment and the moment of resolution belong to two separate temporal perspectives.

Thus, the difference between direct and indirect democracy does not lie in the fact that the former presumes a wholly active participation on the part of all citizens, but, more importantly, it lies in the way the "standing" form of participation —which is common to both— is performed. Only in a representative democracy does popular voting have the character of a credit. Only here is politics projected into a future dimension and, for this reason, is a relevant role assigned to trust. Trust, control and accountability are more or less effective and meaningful in proportion as the citizens retain the chance to be like the "standing participants" in the Athenian agora (9).

I would say then that the difference between direct and representative democracy pertains to the form indirectness is attained: synchronism in the one case and dyachronism in the other. This difference is evident once we consider the way citizens perform as "standing participants." Indeed, whereas in Athens the citizens' visibility was immediate and did not require any particular effort on their part, save that of going to the assembly, in a representative democracy the standing itself is symbolic and needs to be constructed and artificially nurtured. Hence, speech acquires a more pregnant and broad significance in so far as it is a kind of medium that in order to do its work of mediating has to give a body and a configuration to the

"standing participants." In a representative democracy, words literally give life, because citizens (with their variety of claims and opinions) need to make themselves heard if they want to communicate with the wholly active citizens sitting in the assembly.

Thus, more than speech in itself, it is speech occurring within a deferring dimension that makes necessary, and actually stimulates the development of, an articulated public sphere capable of creating a symbolic or artificial simultaneity, to make the citizens feel as if they were simultaneously in the agora. Accordingly, Mill maintained that freedom of speech is a not only a negative right of the individual, but the very precondition for representative government to perform legitimately (Mill [1861] 1991, 241–42, 247–48). "Popular sovereignty is meaningless without rules organizing and protecting public debate" (Holmes 1988, 233) (10). In Mill's mind, what is truly peculiar to modern democracy is the intermediary network of communication that can fill the gap between the speaking/hearing moment and the rectifying/voting moment (11). In this way the actual agora (parliament) and the symbolic agora (voters) can be reunited, and representative democracy can enjoy what made for the peculiarity of Athenian democracy, that is the simultaneity of "standing" and "acting" (12).

The above conceptualization is extremely important, because it allows us to attempt a reading of representation as a mechanism that is not simply instrumental. Now, one of most frequent criticisms of ancient philosophers and historians has been that in Athens citizens attending to the assembly were at the mercy of the orators. The destiny of the city was literally in the hands of skillful rhetoricians, the impact of whose character was even more important than the decision-making power of the people. As Thucydides wrote of Pericles' Athens, "The democracy existed in the name, but in fact the first citizen ruled" (Thucydides 1972, 2.65.11–13). Public discourse, it has recently been observed, easily turned the orator into a demagogue, while the people had practically no chance to shield themselves from the power of speech (Yunis 1996, 43–46).

Representation allows citizens to shield themselves from speech. It gives them the chance to reflect by themselves, to step back from factual immediacy and putting a healthy distance between being (as both facts and words) and their judgment. Representation creates a distance between the moment of speech and that of decision, and in this sense it enables a critical scrutiny while shielding the citizens from the harassment of words and passions. This is what gives to representation a "moral distinctiveness" of its own, what makes it not simply prudentially necessary but also valuable in itself (Kateb 1992, 36–56) (13). The absence of an actual simultaneity is not only that which distinguishes representative from direct democracy; it is also that which makes it superior.

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## **RHETORIC AND REPRESENTATION: THE POLITICS OF ADVOCACY (II)**

### **2. Representation and the Agora Model**

The acknowledgment of a link between representation and deliberation was the premise that brought Mill to maintain that in a "good" democracy the assembly needs to be like an agora in which citizens' "voices" are represented proportionally.

Mill assigned to the assembly two powers, that of control, and that of discussion. Concerning the former, the assembly had to check the executive, to "throw the light of publicity" on its acts, compel their "full exposition and justification," and finally to censure and dismiss politicians from office. The power of control aimed at securing "the liberty of the nation" (Mill [1861] 1991, 282). Mill cautioned that this power would decrease in proportion as the assembly would identify itself with the majority leading the executive. Thus, in order to preserve its checking power, the assembly needed to function as the public forum of the whole country, in which "not only the general opinion of the nation," but "every interest and shade of interest" had its say and cause "passionately pleaded" so as to compel others to listen to and produce justifications. The agora had to "indicate wants" and be "an organ of popular demands," a place in which "adverse discussion" on questions pertaining to "public matters" could "produce itself in full light." The logic leading Mill to proportional representation was the anti-monopoly proviso *divide et impera*. Through proportional representation, he translated the democratic principle of equality into an argument for political liberty, and achieved a notion of democracy that was quite new in his time, when democracy meant mainly a regime dominated by the blind "passion of equality," as according to Tocqueville.

The anti-tyrannical argument of liberty as "security for good government" —an expression that aims to underline the idea that political liberty entails self-government— was the weapon Mill used against a majoritarian interpretation of democracy, in the form of both a "pure" or direct democracy (Rousseau's model) and of a representative democracy "by a mere majority of the people" (James Mill's model) (Mill [1861] 1991, 302) (14). The core of Mill's theoretical qualification of representative democracy lies in his objections to these two models.

His first and more radical criticism pertained to the deductivist structure of Rousseau and his father's system, a Cartesian inference from the axiom which assumes political liberty as coincident with the identity of the body politic. While naturally in agreement with direct democracy, that theorem would have devastating effects on James Mill's strategy, the goal of which was that of defending representative government.

James Mill's theorem claimed that the interest of a democratic government coincided necessarily with the general interest; that the general interest was identical with the interest of the majority, because the "laborious many" were more immune from a bad use of political power than were the few (at any event, their misgovernment would be

caused by ignorance and not by sinister interests); and, as a consequence, that each could represent the interests of others without neglecting or abusing and exploiting them (James Mill [1820] 1992, 7) (15). The theory of representation as a "mirror" —which Pitkin applied indifferently to majoritarians and proportionalists alike— fits James Mill's model perfectly well. In his vision, the parliament was a faithful reflection of a uniform compound that chose a "certain number of themselves to be the actors in their stead" (p. 8, italics added; Pitkin 1967, 60–91). The benefits of representation would vanish "in all cases in which the interests of the choosing body [were] not the same with those of the community" (James Mill [1820] 1992, 27). Representation did not have to represent claims or opinions, but rather what people held in common, that is their potential to pursue their well-being. Moreover, it worked as a simplifier of interests and an assimilator of subjects, because the more industrious were assumed to promote the interests of others by promoting their own. This Chinese box model worked particularly well with dependent people: women's interests were included within their husbands' and fathers' interests, and workers' interests within their employers'. De facto, voting was a means for protecting the security of the majority, not for promoting political emancipation of all citizens. Finally, nobody could act as an "advocate" or even a "mouthpiece" for anybody, because "the laborious people" could not allow any segmentation if "sinister interests" had to be avoided. In spite of his defense of representative government, James Mill ended up restating Rousseau's theory, with the crucial difference that, now, the sovereign people were the majority (16).

James Mill's model undermined representation, because it defined it by aggregate interests instead of individuals' ideas and claims, and linked it to objective truth instead of opinions. His assembly was not a dissenting body, but a place in which those standing in the place of the "laborious people" assessed an objective estimate of their interests. A difference of opinions entailed that the representatives either lacked knowledge or defended "sinister interests" (17). Properly speaking, in James Mill's assembly disagreement, as well causes "passionately pleaded," were out of place. A defense of the assembly as an agora would need to restore that which majoritarianism dismissed, that is the idea that representation is personal and that the representative is an "advocate."

Concerning the first mistake, John Stuart Mill objected to it by maintaining an individualistic foundation of democracy, and arguing that democracy does not mean that people are involved en-mass, but that they are involved as individuals, that they have —as individual citizens— an equal political liberty. Hence, his conception of representative democracy could contemplate both the principle of equality and the principle of individual expressiveness or liberty. Mill revived Aristotle's idea that the principle of democracy "is that each citizen should be in a position of equality," which means that it is the "position" of each citizen that needs to be considered, not that of the masses (Aristotle 1995, VI:1317a49–50). This was also Mill's intuition, who claimed that the normative distinctiveness of democracy does not rest solely on the fact that the majority —"a flock of sheep innocently nibbling the grass side by side"— rules, but on the conscious share of each in the life of the country. Democracy is a regime in which the institutional power of control is vested in a collective body which (through its representatives) ought ideally to profit from the voice of "every citizen" (Mill [1861] 1991, 244).

The personal dimension of the vote makes the debating character of the assembly predictable, while advancing the belief that every voice should find a way to be heard. Indeed, whereas universal suffrage guarantees that all citizens are treated equally, proportional representation guarantees that the specific condition of the citizen is not ignored. The former needs to be blind, while the latter is conscious of differences. However, proportional representation is not a form of differential treatment, because it does not distribute political voice unequally to unequals, but it gives to each the same chance of choosing, to those who believe A as well as to those who believe B. Its regulative principles are thus equality and the intensity of individual preferences. Hence, proportional representation is able to favor minorities not because it enacts a policy of "favoring," but because it takes away any policy of favoring. It does not give to the minority more of their respective numerical due, but it gives them the same chance of choosing representatives as it gives the majority. Thus, it does not use a "compensatory" logic, because compensation presumes that the stronger is and will remain stronger, while treating the weaker with a benevolent charity (18). It is therefore a mistake to think that proportional representation follows the logic of "equitable treatment," or the Aristotelian principle of proportional justice (19). Proportional representation takes seriously the principle underlining universal suffrage: the individual right to an equal vote. Hence it assumes that citizens have different opinions, ideologies, ideas, claims, and that they ought to be counted. Proportional representation recognizes pluralism in its entirety, while majoritarianism is a device that first recognizes the majority, and then tries to solve the presence of pluralism through a "compensatory" treatment. Only the former reflects a philosophy that is radically inimical to privilege, and takes equality more seriously.

To John Stuart Mill, the legitimization to obey a majority decision rested on the stipulation that people should have the chance to express themselves in order to have the opportunity of both influencing and overturning legislation. By making themselves heard minorities would make the majority aware of the fact that it is a majority.

Thus, Mill's agora model implied proportional representation because it implied a vision of democracy as a system whose political process is to be judged from the point of view of "all," both those who happen to be in the majority and those who happen to be in the minority, and it presumes that the final decision is achieved through a deliberative trial whose actors ought to be the "whole" of "every opinion which exists in the constituencies" and "obtains its fair share of voices" (Mill [1861] 1991, 305 italics added). For this reason, in criticizing the majoritarian model of democracy, Mill spoke openly of the "slavery of the majority" and advanced a conclusion that effectively captured the link between representative democracy and proportional representation. De facto, he argued, a majoritarian democracy is a "government of privilege," and, as such, contradicts the democratic principle of equality (p. 303). In a government in which the majority "alone possess practically any voice in the State," the political counting of voices is deemed identical with the arithmetical counting of votes, which means that only the majority counts while "every single individual" in the minority does not count as much as "any other single individual" in the majority (p. 302, 304). An arithmetical democracy pays attention mainly to the formation of the majority, because it stresses only the moment of decision while neglecting the whole deliberative process. Mill did not contest that "the minority must yield to the majority, the smaller number to the greater" when

decisions are to be taken. What he forcefully opposed was the idea that counting should simply mean that the majority is counted. When the representative body votes, "the minority must of course be overruled" (p. 303). But a representative body does not limit itself to voting, while, on the other hand, debate cannot occur without a plurality of opinions.

The characterization of the assembly as not a silent body that only votes has been one of the main contributions that the eighteenth and the nineteenth century theory of representative government gave to the evolution of democratic theory (20). It is also one of the central themes of *Considerations on Representative Government*. Mill overturned a long and authoritative tradition that cut across ideological boundaries and enjoyed a solid reputation within modern political thought. Disdain for rhetoric and the admiration of the Spartan assembly went along with the decline of the humanist tradition. Speech and the art of disputation were esteemed in Machiavelli's times, not in Descartes' and Hobbes's. Sparta, and its silent assembly, was a model for James Harrington as well as for Rousseau, not for Machiavelli (21).

The dichotomy between a deliberative republicanism and a rationalist republicanism bore its fruits in the post-Revolution era, when the conceptualization of representative government was perfected. In Mill's time, the English conservatives who opposed a democratic transformation of the state referred explicitly to the rationalist tradition. In spite of his anti-republican stand, for instance, the "reactionary" William Mitford relied on Rousseau who, like Harrington and unlike Machiavelli linked a well-ordered republic to a silent assembly, to corroborate his anti-democratic ideas (22).

I would say that Mill was the thinker who contributed in reviving the deliberative tradition of early modern republicanism by stressing the role of a talking assembly in a representative democracy. Moreover, he understood that it was the institution of representation that made the agora necessary in so far as it would give the citizens the chance to participate somehow in the political debate, to identify with their representatives, and finally to judge their behavior. A symbolic presence would make up for physical attendance, while expanding political debate beyond the parliament (23).

Mill perceived that representative democracy was not to be defined as a system in which people govern indirectly, but as a regime in which political action has to pass public scrutiny and control. While it is the majority that makes the laws, it is debate and judgment that give those laws a moral legitimacy and make people feel protected from the tyranny of the majority. In the course of the debate, each representative can contribute to amending or changing a proposal; and even if the final vote will decree a majority/minority divide, nonetheless the dialectic process would make it possible for both the majority and the minority to take part in the legislation process. In this sense, it is debate, more than simply majority rule, that gives legitimacy to the democratic process of decision-making. As Bernard Manin has recently argued, for the theorists of representative government, discussion and disagreement were the consistent outcomes of an egalitarian premise, the belief that discord among opinions could not terminate "through the intervention of one will that is superior to the others" (Manin 1997, 188–90). Hence, it was thanks to deliberation that the common good could be seen as a construction of the community itself, and as the outcome of

ceaseless work of persuasion and compromise ending in a majority vote, not an absolute verdict.

In conclusion, Mill linked the claim for a talking assembly to the two main principles of democracy: control (and thus security) and equality. Control implies the anti-Platonic stand that no one holds the right solution in political decisions, and that human knowledge is fallible (24). Fallibility implies the recognition of both diversity of opinions and equality of consideration and opportunity. Hence, as Anne Phillips has recently argued, popular control is not simply grounded on prudence (self-protection from the monopoly of power) but it is also a value in itself, in so far as it is predicative of equality (Phillips 1995, 27–8).

Control and equality imply, Mill thought, that every voice should have the chance to be heard in the assembly, and moreover, that every citizen should have the chance to count upon "a point d'appui, for individual resistance to the tendencies of the ruling power; a protection, a rallying point, for opinions and interests which the ascendant public opinion views with disfavor" (Stuart Mill [1861] 1991, 316). In this sense, in representative democracy political exclusion would take the form of silence, of not being heard and considered. In the domain of representation, the principle of liberty (or "security for a good government") can be better attained by ideally giving to every one both a vote and an "advocate." This is what makes representation not simply instrumental: "Including those previously excluded matters even if it proves to have no discernible consequences for the policies that may be adopted" (Phillips 1995, 40) (25).

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## **RHETORIC AND REPRESENTATION: THE POLITICS OF ADVOCACY (III)**

### **3. Advocacy and Deliberation**

To have "a point d'appui" entails assigning to representation the character of "advocacy." Advocacy combines two elements: a "passionate" link of the representative with the electors' cause, and a certain autonomy of judgment on the part of the representative. On the one hand, it engenders a politics of conviction, and nurtures a spirit of controversy (Mill spoke of sympathy linking "friends" and "partisans" against their "opponents") (Mill [1861] 1991, 282). On the other hand, it pursues democratic deliberation, and thus respects consented procedures and favors outcomes that are congruent with the basic principle of political equality. The tension between commitment and autonomy that animates advocacy exemplifies the character of representative democracy, whose condition of existence and persistence rests on the acknowledgment that it cannot square the circle between the "general will" and the "will of all." This means not simply that dissent and conflict cannot be avoided, but moreover that any consent is permanently open to revision, and finally that a deliberative politics is also a politics of controversy.

The difference between direct democracy and representative democracy pertains mainly to the way of looking at consent. On the one side, Rousseau's model entails a progressive overcoming of sources of disagreement, because it is indicative of a pluralism of interests that obstructs the attainment of the general good. On the other, the representative model stresses the moment of discussion. In *On Liberty*, Mill went so far as to claim that the debating process is good in itself. He stylized the tension between the two models of democracy with the names of Plato and Descartes on the one side and Socrates and Bacon on the other (Mill [1866] 1978, 377–405). As we shall see in a while, he referred to the former as a mathematical and the latter as a rhetorical kind of reasoning. Finally, he thought that only within a searching perspective could political deliberation make sense.

Contemporary debate on the meaning and significance of deliberative democracy is once again dealing with more or less the same divide. On the one hand, some theorists propose a conception of deliberation that recalls a Platonic dialogue in which the interlocutors are allowed to hold wrong ideas but not passions, which in fact would hamper the rectification of the wrong (Thrasymachus had no alternative but leaving the stage). Here deliberation is seen from the point of view of the outcome, and is expected to reduce differences by amending "distorted" interpretations of the public good (26). I would call this a hegemonic model of deliberative democracy. On the other hand, other theorists propose a conception of deliberation that stresses the process of communication and debate, and are not troubled by the persistence of differences and disagreement, which they actually see as the very condition for deliberation to occur. Here the rationalist vice is circumvented through a rejection of the "dichotomy between reason and desire," while the emphasis is placed on the critical moment more than on a rational consensus over an impartial definition of general good (Young 1990, 102–11; Fraser

1997, 121–30). I would call this an agonistic model of deliberative democracy (Manin 1987, 338–68).

Mill's theory of representative democracy belongs to this model. Indeed, while he shared a sincere aspiration for the general good, he also interpreted it as a regulative principle. Against the two "bad" visions of democracy that I mentioned in the preceding chapter, Mill's presumption was not that there is a necessary "identification of interest between the rulers and the ruled;" but that such an identification does not exist. Were the identity real, not only representation and deliberation but, moreover, government would be useless. "Identification of interest between the rulers and the ruled, being, therefore, in a literal sense, impossible to be realized, must not be spoken of as a condition which a government must absolutely fulfill; but as an end to be incessantly aimed at, and approximated to as nearly as circumstances render possible, and as is compatible with the regard due to other ends" (Stuart Mill [1835] 1977, 22–3). Within this theoretical frame, the democratic process of deliberation becomes meaningful.

Now, the relevance of Mill's political thought in contemporary debate rests on the strategy he adopted to justify the agonistic model of deliberative democracy, that is the theory of representation as "advocacy." The seminal idea Mill's political writings convey on this matter is that it is a mistake to oppose advocacy to deliberation, as if the former meant simply disagreement, and the latter simply consent. Not more helpful would be to depict the political scenario as an arena in which there would be either a split between advocacy and deliberation, or a compromise between the two. The splitting scenario would be "a disaster" from whatever point of view one would look at it; the compromise scenario would be more reliable, but it would bear the inconveniences of a mediation among opposite things. What we learn from Mill is that these readings rely upon a wrong premise: the assumption that the advocate excludes the deliberator, and vice versa (27).

In defining the representative as an advocate, we ought to ascribe to him or her not only the character of the partisan, but also that of the deliberator. In Mill's description, the assembly worked like a court whose protagonists played both the role of advocacy (proposing, defending and opposing a law) and judgment (28). Even though they were not deliberating when acting as advocates, nonetheless their speech was consciously performed in view of a deliberation. The two functions should not be seen as opposite, because without both of them there would be no advocacy to begin with. Thus, it is not correct to say that the good representative should combine advocacy and deliberation, because this would imply that it is possible to have them separately, and, moreover, that they exclude each other. Quite the contrary, the figure of the advocate presupposes deliberation, indeed he or she is expected to be both a passionate defender and an intelligent defender as well. Advocacy is not blind partisanship. Rather, it is a partisanship that is structurally projected toward deliberation. Hence, to recast the point made by Anne Phillips, I would say that the problem is not that in our democracy we "need advocates as well as deliberators," but that we need advocates in the first place (Phillips 1995, 162). An advocate who is "exclusively" a partisan is not an advocate, even if he acts as an advocate. And a deliberator who is "exclusively" a Platonic rationalizer is not a deliberator, even if he produces rational justifications. To rephrase Mill's words, I would say that what a good representative democracy needs are neither fanatics nor bureaucrats of

representation, nor finally philosopher kings, but rather deliberators who judge causes "passionately" pleaded (and who plead causes in their turn). In fact, democratic deliberation comes to make sense only if representatives are like "advocates."

What is an advocate? In *On Liberty*, Mill advances a comparison between two kinds of "understanding," one which excludes objections, and another which develops out of objections. The "peculiarity" of the evidence of a mathematical truth, he claims, is that "all the argument is on one side. There are no objections, and no answer to objection" (Mill [1859] 1991, 41). By contrast, the kind of "understanding" belonging to moral and political decisions hardly allows for an answer with no objections. The peculiarity of this kind of judgment is that on "every subject" there are different opinions and no truth is "on one side." In such a case, the outcome rests on the ability to produce an argument that can convince the interlocutor. The argument will not make any claim to truth, for "the truth depends on a balance to be struck between two sets of conflicting reasons." The "balance" between two claims or visions is the only kind of impartiality a representative assembly can reach, while it is the deliberative outcome at which a good advocate should aim (29).

Now, a rationality that is not aimed at demonstration but rather at deliberation is not, properly speaking, a cognitive kind of reason, but a practical (or pragmatic) one (30). Practical reason does not discover truth but indicates how to justify or challenge a given assertion, a custom, and a law. "To reason is not merely to verify and demonstrate, but also to deliberate, to criticize, and to justify, to give reasons for and against—in a word, to argue" (Perelman 1980, 59). And practical reason is required when choices are to be made, and actions to be taken. To will to justify everything is senseless, wrote Aristotle. Justification—and the need for it—occurs when what we are claiming or seeking is open to interpretative disagreement; its function is to meet others' claims, and does not entail necessity but only probability (Aristotle 1994, I.ii 1358b).

Thus, an "advocate" is not asked to be impartial like a judge, nor to be a solitary reasoner like a philosopher. Unlike a judge, he has some ties with the contender; his job is not that of applying the rule to his case, but that of defining whether the facts fit or contradict the existing rule or whether the existing rule reflects principles that society shares or a "good" government should contemplate. His point of departure is not an impartial stand, but the specific condition of the person. An "advocate" is not a philosopher either. Indeed, unlike the philosopher, and like the politician, she has "to conform to the wishes of an electorate in order to win" her cause or a vote (Perelman 1980, 66). The philosopher does not owe any justification to anybody, but only to his principles, nor he is seeking external consensus. "A philosophical justification cannot refer to the interests and passions of a particular group;" it "must be rational, or at least reasonable" (p. 59). On the contrary, the relation of the candidate to his electors, like that of the lawyer to his client, does "not require the electors to consent to be represented by one who intends to govern them in opposition to their fundamental conviction" (Mill [1861] 1991, 382).

Mill alluded to these maxims of practical reasoning when he described the public arena as a place for "compromise between right and wrong." In politics, "principles themselves are neither true nor false, but half-and-half;" a kind of "juste-milieu



mosaic" not a "square of black and a square of white alternative." In an assembly, as in any meeting where persons discuss topics pertaining to their good, no opinion can claim a superior truth, no matter how just and reasonable the opinion may be. "But on every subject on which difference of opinion is possible, the truth depends on a balance to be struck between two sets of conflicting reasons" (Mill [1859] 1991, 41). In the agora, even the Newtonian system would probably find some opponents were its "advocates" unable to convince their audience of its truthfulness. "It is as if the Newtonian system had to be voted by show of hands; and the parties being unable to convince one another, agreed to a resolution that there was much truth in Newton's principles, but that Ptolomey also had a good deal to say" (Mill [1832] 1986, 424) (31).

This "balance" is the kind of outcome that deliberative reasoning can attain. Far from transcending the specific situation of the citizens, it rests on the premise that that specificity needs to be known and acknowledged. Hence, "understanding" and "seeing" are the faculties at work in forensic as well as deliberative speech (32). They express the complex nature of advocacy, which needs to adhere to its cause, but not to be driven by it. A good advocate has to believe in his cause, but also to understand the reasoning of others to the point of being able to reconstruct it in his mind. He has to "feel" its force to be able to envisage the right rhetorical strategy. This is the basic maxim that oratory has been teaching since Aristotle's and Cicero's times. Mill revived it thoroughly.

In *On Liberty*, Mill elaborates from the same passage of Cicero's "On the Character of the Orator" that had inspired Hobbes in his definition of the representative as a "persona" (33). Mill resorted to Cicero's precepts of good oratory to develop the concept of representation as advocacy.

Now, Cicero made two arguments: first, that an orator is good in proportion as he is able to traverse, as it were, identities and "minds;" and, second that the orator is able to traverse identities because (not in spite of) he believes in the cause he has accepted to carry on. One may say that the more he is in sympathy with his cause, the more he is able to transcend the limits of that sympathy and penetrate the reasoning of his adversary (34). Cicero then indicates the three steps an orator ought to follow to become a good orator.

First, the advocate has "always [to take] great pains to be instructed by [his] client himself in the nature of his cause" (Cicero 1808, vol. 1, 173–74). Thus, the client has to have "the greater freedom in speaking," and the chance to communicate directly with his advocate. Parallel to this is Mill's claim that freedom of speech is the main precondition of a representative government, and his view of the relation between good representation and citizen participation in electoral campaigns. He thinks that citizens and representatives should hold "free and public conferences." Interaction is needed because choice is what makes for representation. And, on both sides, the choice is always reversible: representation, Mill writes, describes a "course of action" not a "single act" (Mill [1861] 1991, 370) (35). Hence, like an advocate with his client, a representative should entertain a continuous and frank communication with his constituency. Language, Cicero wrote, "has no force when it is not supported by a proper solidity of sentiment" (Cicero 1908, vol. 2, 260). If a representative were to set the "aristocratic atmosphere" of the House, Mill cautioned, and "neglect those free

and public conferences with his constituents," he would be liable "to tone down any democratic feeling which he may have brought with him, and [this, in turn, would] make him forget the wishes and grow cool to the interests of those who chose him" (Mill [1861] 1991, 370). This aspect of advocacy runs counter to Pitkin's theory of representation as a "description," and of proportional representation as a more detailed and passive mirror-like reproduction of a given social being. According to her reading, the representational relationship lacks both authorization and accountability because the moment of choice is missing.

The second step the good orator should take pertains to the transition from partiality to 'impartiality' as one from partisanship to the reflection on the overall deliberative process which entails both the client's cause and that of the rival as well as the judge's point of view. This step occurs in the solitude of the orator's mind, and presupposes his autonomy of judgment and a certain liberty from his own cause. Cicero offers a true phenomenology of advocacy, which Mill faithfully adapts to representation and, more in general, to citizenship (as we have seen in the first chapter, the deliberative process entails both speech and silence, while excluding the interpretation of autonomy of judgment as predicated on isolation). "Then, after he [the client] is gone, with the utmost impartiality, I assume three characters, my own, that of my antagonist, and that of the judge" (Cicero 1808, vol. 1, 173–74). The orator tests the strength of his case against both that of his rival and the interpretation of the law from the point of view of an impartial judge. This is also, Mill thought, what the good representative does when he checks his cause against both that of his adversary and the opinion of the assembly. Like the advocate, the representative has to study the "adversary's case with a great, if not with still greater, intensity than even his own" (Mill [1859] 1991, 42). Reflection entails a stepping back from factuality and "passionate" partisanship, an effort to see beyond them, to look for connections and comparisons in order to envisage a possible compromise or solution. It requires the ability to transcend (not to relinquish) one's sympathy with one's cause and to enter into a sympathetic relation with the adversary's (36). This is in Mill's view the rationale of proportional representation, which indeed presumes the "advocate" of a minority cause able to transcend his or her allegiance to the minority cause and thereby to broaden support and win consideration. The main difference between group and proportional representation rests here (Phillips 1995, 27–56; Young 1997, 361–69) (37).

The third and final step pertains to the event of public performance, the conclusive check of the work of the advocate and the representative. In Mill's accurate perception, the task of the "advocate" is not simply that of imagining the greatest number of possible arguments against the adversary abstractly, not even that of simply managing logical tools skillfully. The advocate should also be able to experience and directly to "feel" the reasoning and logic of others, to face the partisanship of the adversary. His public performance shows that the elaboration of good reasons is far from enough. Like an advocate, the representative "must be able to hear them [reasons] from persons who actually believe them ... he must feel the whole force of the difficulty which the true view of the subject has to encounter and dispose of" (Mill [1859] 1991, 42–3).

Thus advocacy places high degree of importance to personal ability and character. As a consequence, while in theory and de jure every citizen can become a representative,

citizens nonetheless select those whom they judge to be better advocates. They do not choose at random nor do they feel it is enough that the candidate belongs to their "group" to elicit their consent (indeed they discriminate within their own very group). As Ronald Dworkin puts it, in the very moment we make a claim for an equal political say of all citizens, we are also forced to admit that people are different in their political performance, some having more ability or more passion than others and more chances to pursue their preferences than others (Dworkin 1988, 15). Advocacy, like representation, implies a selection, because we seek to get the best defendant, not a copy of ourselves (38). Hence, when Mill proposed proportionality (not only for the "higher class," but also for workers and women) he thought that representation should further people's claims —as second-rate citizens or non-equally treated citizens—, not reproduce their social groups. Minorities claimed an advocate not a post-mark, because their goal was political equality or equal consideration. Thus, proportional representation excludes an organic conception of representation, according to which representation would be the transcription of a pre- or non-political identity; it also excludes a vision of the society as a corporate federation of groups in relation to which proportionality would work as a preservation device (39).

It is within a rhetorical (that is agonistic) perspective that the role of the representative as an "advocate" acquires its full relevance, plainly contradicting both Pitkin's interpretation of proportional representation and its recent rationalist adaptation, according to which proportional representation becomes a supplement of information for the achievement of impartial or true outcomes.

Pitkin defines Mill's assembly as a passive congregation because her notion of activity, like Rousseau's, does not include speech, but only "doing" (40). When, like in a representative democracy, a direct "doing" can no longer be the source of political autonomy, then the only solution is to make the assembly a copy of the society. So, the descriptive accuracy of the "being" matters, not speech, and the representative assembly ends up being filled by mute doubles. Pitkin's reasoning rests on the assumption that I tried to criticize in the first part of the paper, that is that democracy, in its ideal model, excludes any form of indirectness —as for instance speech— and, as a consequence, that representative democracy ought to be judged by reason of its ability to mimic the social composition (41). On the one hand, representation is supposed to be an objective description of the traits belonging to each segment of society, while on the other, the representatives are supposed to transmit information with their very presence, to supplement the data the assembly needs to reach a non-sectarian deliberation. In this framework, representation appears to mean testimony.

This reading has recently been used to defend a rationalist justification of proportionality, according to which a plurality of opinions has an instrumental meaning; as a device which is functional to the achievement of the truth. The lack of "full representation," writes Roberto Gargarella, thwarts deliberation because it thwarts impartiality, which is the object of deliberation and the outcome of the use of cognitive reason. Restating somehow the James Mill model, this theory of deliberation as a gradual unveiling of rationality maintains that what produces unjust or "non-neutral" outcomes is simply a lack of knowledge, not opposite interests: "Non-neutral decisions may be reached not because of a misinterest or partiality of

the decision makers, but because of a misunderstanding of the way other people evaluate choices" (Gargarella 1998, 261). Whereas ignorance can sometime explain injustice, in a society shaped by a variety of means of information and communication, it seems hard to maintain that rulers bare no responsibility for injustice, except for a lack of knowledge. It would be difficult to prove that when in Mill's time the British parliament opposed female suffrage or workers' right to associate, it was actually acting out of mere ignorance and a lack of information about women and workers' living condition.

Proportional representation brings into politics a sense of partisanship that conflicts with a rationalist interpretation of deliberative democracy, and the disassociation of advocacy and deliberation, rhetoric and reason, on which this interpretation is grounded. Mill's writings offer an interesting reading because they acknowledge the role of practical reasoning in politics and speak to the complex nature of advocacy. "And certainly, all interests or classes of any importance ought to be represented, that is, ought to have spokesmen, or advocates, in Parliament." Nonetheless, the representative should also be able to judge the "'real' interest" of the whole country and "subordinate to reason, justice, and the good of the whole" the claims of his or her constituency (Mill [1861] 1991, 295, 300,323).

Mill's theory of representation as advocacy entails a notion of citizenship that is egalitarian in character, and that pertains to individuals' relations of power. Because its normative principle is reciprocity, its aim is not that of reproducing social identities, but that of giving voice to political relations of power that place individuals belonging to some groups in a position of subordination. Thus, the theory of advocacy rests on a conception of citizenship that unifies the two basic equalities that have belonged to democracy since the classical age: isopsephia, or equality of voting —which gave to all citizens the right to an equal participation—, and isegoria, or the equal possibility of speaking —which gave to all citizens the opportunity to express their opinions publicly and be heard (or represented) equally (42). While the former implies a simple conception of equality (one–citizen–one vote), the latter does not exclude the use of diversified devices. One might say that thanks to the latter, difference gives substance to equality. Proportional representation is a "special manner" by which citizens try to redress an unbalance of political power (a form of domination, no matter how large the dominant class is) (Mill [1861] 1991, 323). It is this democratic understanding that gives salience to Mill's recognition that deliberation is a form of advocacy.

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## NOTES – [REFERENCES](#)

- 1 : Aristotle defined democracy in contrast to oligarchy, and portrayed it as a system in which offices, deliberative or judiciary, were filled by lot, not election. Hence he could state that democracy means to rule and be ruled in turn. See Aristotle 1995, III: 1275b13–b21; VI: 1317a40–1318a10.
- 2 : "Representation is incompatible with freedom because it delegates and thus alienates political will at the cost of genuine self-government and autonomy" (Barber 1984, 145).
- 3 : For a lucid defense of the realist school, see Sartori [1962] 1987, 102–115.
- 4 : Young refers to Dahl 1989, 225–231.
- 5 : Distinguishing solitude from isolation, Hannah Arendt identified the former with the act of thinking itself, and saw it as a condition within which "I am a friend to myself," where "soundlessness" means intimacy, not however "speechlessness" (Arendt 1978, vol. 1, 184–85).
- 6 : Rousseau did not reject election; in fact, the magistrates of his ideal republic were elected. What he rejected was the delegation of the sovereign power. The rationale for that rested in his distinction between action and the will. The former amounted to an instrumental doing, and thus could be delegated, while the latter amounted to the intention leading and shaping the doing, and thus could not be delegated without undermining the intentional power over the action.
- 7 : "But long debates, dissension, and tumult betoken the ascendance of private interests and the decline of the state" (Rousseau [1762] 1987; book IV, ch. 2).
- 8 : On the relationship between future–present–past in elections see Manin 1997, 178–79.
- 9 : On The role of trust, control and accountability, see Holmes 1988, 195–240; Phillips 1995, 155–58; Manin 1997, 203–4.
- 10 : Thus Holmes correctly remarks that in Mill's representative government the institutional arrangements are not simply "depressants" but also "stimulants," because they guarantee the opposition's ability to express itself freely.
- 11 : "The newspapers and the railroads are solving the problem of bringing the democracy of England to vote, like that of Athens, simultaneously in one agora" (Stuart Mill [1840] 1977, 165).
- 12 : Finley noticed the 'absurdity' of this parallel, because the agora cannot be symbolic, and in fact was not symbolic in Athens. Thus he deemed "a false analogy" that put forward by Mill between the modern public sphere and the ancient ekklesia (Finley 1985, 36).
- 13 : Sartori adds an important corollary: through its intermediary role, he writes, representation "reduces power to less power" in so far as in a representative democracy "nobody is in a position to exercise an absolute (i.e., limitless) power" (Sartori [1962] 1987, 71).
- 14 : The concept of "security for good government" is developed by Mill in review of the first volume of Tocqueville's *Democracy in America* in 1835 (Mill [1835b] 1977, 71).
- 15 : See also Hamburger 1965, 45–63.
- 16 : "The People," he wrote in 1829, "that is, the Mass of the community, are sometimes called a class; but that is only to distinguish them, like the term Lower Order, from the aristocratic class. In the proper meaning of the term class See also Hamburger 1965, 45–63. "The People," he wrote in 1829, "that is, the Mass of the community, are sometimes called a class; but that is only to distinguish them, like the term Lower Order, from the aristocratic class. In the proper meaning of the term class, it is not applicable to the People. No interest is in common to them, which is not in common to the rest of the community" (James Mill 1878, vol. 2, 187).
- 17 : Carl Schmitt's observation that the theorists of "government by discussion" saw free

discussion as an expedient functional to the discovery of "the thruth" is pertinent in relation to James, not John Stuart, Mill (Schmitt [1932] 1994, 2–6).

- 18 : It is astonishing to see that contemporary majoritarians prefer plural voting (that Mill used to protect intellectual minorities) to "favor the members" of "minority" groups over proportionality (Beitz 1989, 157). In so doing they do not acknowledge that it is the "number" that needs to be considered equally, for the majority as well as the minority. "Double" or plural voting for the weak means to accept as a given an unjust electoral system, and then to invoke "fairness" and propose "compensation." Would not it be better to intervene over the cause of the electoral injustice instead of "compensating" its unjust outcome? In Mill's scheme, which is proudly egalitarian, minorities do not ask for "favored" treatments, but for equal treatment.
- 19 : Beitz writes that whereas "the aim of quantitative fairness is to give public recognition to the equal political status of democratic citizens, the aim of qualitative fairness is the promotion of equitable treatment of interests." Hence, he concludes, a system of plural voting is better than a proportional system (Beitz 1989, 156). The flow of Beitz's argument rests on the fact that he identifies proportional representation with the Aristotelian notion of proportional justice. But in spite of their similar name, their logic is different. As Mill well showed, the logic of proportional representation is that of taking seriously the "quantitative fairness" of the "equal political status of democratic citizens." If we do not give to the citizens the chance to chose between more than two choices, we cannot reasonably say that the winner represents the majority of opinions, because the citizens have been forced to adapt their opinions and converge them either on A or B. What we have here is the violation of the "quantitative fairness" principle, because we aggregate preferences that, within a proportional system of counting, would distribute themselves differently. Let us recall Mill's words: proportional representation "secures a representation, in proportion to number, of every division of the electoral body: not two great parties alone" (Mill [1861] 1991, 310).
- 20 : James Madison and Emmanuel–Joseph Siéyès played a crucial role in establishing modern political representation (Manin 1997).
- 21 : On Harrington's rationalist republicanism see Scott 1993, 148–60.
- 22 : When a new law is proposed, if it is a just law, there is no need for discussion, because it expresses what "every body has already felt; and there is no question of either intrigues or eloquence to secure the passage into law of what each has already resolved to do" (Rousseau [1762] 1987, book 4, chapter 2). See also Mitford 1784–1810, vol. 1, 272–75.
- 23 : The representative ought not to "neglect those free and public conferences with his constituents, which, whether he agrees or differs with them, are one of the benefits of representative government" (Mill [1861] 1991, 370).
- 24 : I would say that Mill's vision of the assembly as an agora is what connects Representative Government to On Liberty. Indeed it entails both the Socratic assumption that knowledge is a searching enterprise without an ultimate end and the conviction that consent gives legitimacy to obedience. "To refuse a hearing to an opinion, because they are sure that it is false, is to assume that their certainty is the same as absolute certainty. All silencing of discussion is an assumption of infallibility" (Mill [1859] 1991, 22).
- 25 : Phillips follows the argument developed by Guiner 1994, 30–7.
- 26 : "Not that the aim of such deliberation is to change citizen preferences by reducing their diversity: the aim is to make collective decisions. Still, one thought behind a deliberative conception is that public reasoning itself can help to reduce the diversity of politically relevant preferences because such preferences are shaped and even formed in the process of public reasoning itself. And if it does help to reduce that diversity, then it mitigates tendencies toward distortion even in strategic communication" (Cohen 1998, 199).
- 27 : I'm referring in particular to Anne Phillips who, in order to amend democratic

deliberation of its rationalist limits, proposes a compromise between advocacy and deliberation. However reasonable, this strategy is weak precisely because it upholds the same dichotomy that rationalist theorists make of deliberation and advocacy (Phillips 1995, 161–63).

- 28 : The comparison of the assembly and the court was made by Aristotle in his *Rhetoric* (a work Mill very much admired), in which one reads: "Now the listener must necessarily be either a mere spectator or a judge, and a judge either of things past or of things to come. For instance, a member of the general assembly is a judge of things to come; the dicast, of things past" (Aristotle 1994, I.iii). Mill's comparison, however, is not wholly correct, first of all because in the legal setting the jury does not share in the case under judgment while the assembly does, and finally because, as Aristotle notices, in the legal setting the judge judges of things past, while a deliberative assembly judges of things to come.
- 29 : However Mill acknowledges that with the improvement of free government, "the number of doctrines which are no longer disputed or doubted will be constantly on the increase: and the well-being of mankind may almost be measured by the number and gravity of the truths which have reached the point of being uncontested" (Mill [1859] 1991, 49).
- 30 : Mill theorized the distinction between cognitive reason and practical wisdom in 1837, when he used the latter to claim a relation between eloquence and poetry (and attempted a parallel between Cicero, Quintilian and Orace on the one side and Bacon, Pascal and Goethe), Mill [1837] 1981, 419–29.
- 31 : Mill was here reporting on the compromising resolutions adopted by the French Chamber of Deputies in 1832 concerning the new corn law proposed by the government. He ended his report with the Aristotelian maxim that politics denotes a condition of possibility, of permanent negotiation among different interpretations of the same fact, when there is never an absolute truth against an absolute wrong.
- 32 : The tripartite division of rhetoric into forensic (by lawyers in the court), deliberative (by orators in the assembly) and display (by orators before the people with no decision-making intention) is made by Aristotle 1994, I.iii. Mill acknowledged Aristotle's *Rhetoric*, Quintilian's *Institutio Oratoria*, and Cicero's *Orator* as among the most important texts of his intellectual formation (Mill [1873] 1981, 21–27).
- 33 : Pitkin (1967, 24–9) has given an excellent reconstruction of Hobbes' conceptual elaboration.
- 34 : It is interesting to notice that the Romantic notion of the "understanding" was early developed by Giambattista Vico out of the Ciceronian theory of "divination" as a preliminary to the art of eloquence. In his youth Mill was an enthusiastic reader of both Vico and Romantic literature, and also wrote on the relationship and difference between poetry and eloquence (Mill [1833; 1867] 1991, 341–65).
- 35 : This is also the point that has been recently made by Young 1997, 357–58.
- 36 : In a proportional system the representative has more autonomy than in a majoritarian one. Thus, radical democrats have looked at the former with suspicion, though they have revised their position in recent years. This is, for instance, the case of Anne Phillips, who in her 1990's book criticized Bobbio for rejecting the concept of the representative as a delegate, and now acknowledges that "more autonomy for the presentative" needs to be acknowledged in the radical tradition. For advocates to be deliberators, representatives "have to be freed from stricter forms of political accountability;" Phillips, 1995, 56, 156, and 1991, 68–70; Bobbio 1984, 43–62.
- 37 : Both Phillips and Young contribute, I believe, to amending Kymlicka's interpretation in which the difference between group and proportional representation does not emerge clearly (Kymlicka 1995, 133–38).
- 38 : The link between election and choice is effectively discussed by Manin 1997, 132–42.

- 39 : Hegel produced the most consistent theory of corporate versus individual voting (Hegel 1967, #305–311). Mill engaged in a restless polemic against the conservative idea that "not the people, but all the various classes or interests among the people" should be represented (Mill [1835] 1977, 43).
- 40 : Proportional representation, writes Pitkin, "has no room for any kind of representing as acting for; which means that in the political realm it has no room for the creative activities of a representative legislature, the forging of consensus, the formulating of policy, the activity we roughly designate by 'governing'" (Pitkin 1867, 90).
- 41 : If proportional representation is interpreted as a map-making, then the criticism of its being responsible of enacting a process of depersonalization of both the voters and the voted is justified. Indeed it would banish both authorization and accountability; see Kymlicka 1995, 134; and Young 1997, 358–61.
- 42 : As I clarified at the beginning, this does not imply that they should count equally in the moment of decision; the claim that all should have the chance to be heard makes sense if deliberation (discussion) is not identified with decision (voting); see Dunn 1993, 17–19.

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