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Democratic Representation Beyond Election[1]

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Introduction

What, if anything, makes representation democratic? For a long time, the answer to this question was taken to be self-evident. Representation is democratic if it makes political decisions responsive to the will of the people, and responsiveness is accomplished by the simple yet powerful rule of "one person, one vote."[2] In the last decades, however, the growing mismatch between the formal rule of political equality and its actual achievement has created a loss of confidence in election as the embodiment of popular will. It is argued that while election is an important element of democracy, the reduction of representation to electoral competition can in fact work to restrict the range of voices, issues and interests able to be heard.[3]

In the wake of this critique, recent years have witnessed a constructivist turn in the debate on representation.[4] Many theorists stress that in order to open up a new chapter in the history of democracy one must distinguish representation from election, and acknowledge that numerical representation rests on a more general and performative role of representation. The central thrust of the argument is that representation is constitutive of popular power, rather than the other way around. When representatives speak in the name of the people they are not merely responding to the will of a pre-existent people, but they are in fact rendering present the people they claim to represent. They make what Michael Saward calls a "representative claim."[5] Still, while the constructivist approach has the merit of calling attention to the role of representation as a creative force in the enactment of popular power, it also gives rise to a critical question. For without recourse to election as a source of legitimacy, how do we know that such representation is democratic?

Today this question has moved into the center of political theoretical concerns. Both domestic and global politics harbor a number of non-governmental organizations, popular movements, advocacy groups and celebrities professing to act on behalf of the people. At the same time, these actors are not elected by the people they claim to represent, nor are they equal in resource, status and power. Taken together, this state of affairs raises doubts about their democratic legitimacy. The worry is that while the decoupling of representation from election has the merit of bringing new and marginalized voices to the attention of the public, it may also pave the way for a scheme of representation in which representatives "act not as agents of the people but simply instead of them."[6] The challenge for the constructivist view is therefore to say what is democratic about representation, once it is decoupled from election. Otherwise it runs the risk of being co-opted by forces using the constructivist turn as a way of displacing, rather than enacting, the power of the people.

The purpose of this article is to assume this challenge, and work out a framework for thinking about democratic representation beyond election. This framework will be developed in two steps. The first point I will make is that in order to say what is democratic about representation beyond election it is necessary to revitalize the classical question about forms of governments, and ask what is *unique* about the modern form of democracy.[7] This argument will be developed through an engagement with Claude Lefort, whose work is central to this debate.[8] Inviting us to return to the democratic revolution, Lefort famously argues that when the people take the place of the king the locus of power becomes an "empty place." If the body of the king served as the natural anchor of the monarchical regime, the people are bodiless. To Lefort, this lack of a clear definition of the people is ultimately what guarantees the continuity of the democratic struggle. It signals that in a democracy no one (not God, the nation, the party, the leader) can put an end to the conflict on who has the right to instantiate the power of the people. Popular power belongs, literally, to nobody. It follows that to act on behalf of the people without electoral backup — as many organizations, movements, groups and actors do today — is not foreign to modern democracy, but integral to its very operation.[9]

At the same time, not all claims to act on behalf of the people are necessarily democratic. They may work to subdue the democratic struggle, or in other ways foster allegiance to more authoritarian forms of government. In order to tell what is democratic about representation beyond election it is therefore necessary to *qualify* what it means to act in the name of the people. In this second step of the argument I will confront Lefort's account of democracy with Montesquieu's study of the spirit of laws. Montesquieu is perhaps best known for his theory of the separation of powers. However, in *The Spirit of Laws* he argues that there are three forms of governments, and that each form of government has its own nature and principle. The "nature" of a government refers to its constitutional makeup: the king in a

monarchy, the people in a republic, and the despot in a despotic government. The "principle" refers to the public commitment needed to sustain the government in question: honor in a monarchy, virtue in a republic and fear in a despotic government.[10]

Drawing on this basic insight, I will argue that while Lefort has successfully demonstrated that modern democracy is a *sui generis* form of government characterized by the absence of a concrete power-holder, his account remains within the purview of what Montesquieu calls the nature of government. It does not specify the public commitment or principle needed for setting it in motion. The result is that it becomes difficult to judge "which group, which assembly, which meeting, which consensus is the trustee of the people's word."[11] By re-examining the shift from the king to the people, I will demonstrate that democracy harbors its own immanent principle for making such judgments. What happens in the democratic revolution is that human beings can no longer appeal to a natural or divine authority in solving political disagreement. They become their own source of authority in political affairs. This removal of an external limitation on political affairs creates a sense of absolute freedom, but also a sense of absolute responsibility. It is only by sharing this burden that human beings can take it on, and this is precisely what the modern form of democracy does. It limits the burden by dividing it equally. Accordingly, to act in the name of the people does not in itself qualify as a democratic form of representation. What is required is that the act is committed to the principle of equality: it unburdens human beings from the excess of responsibility that comes with the removal of an external authority in political affairs by sharing and dividing it equally.

The article falls into four parts. I begin by examining the merits of Lefort's account of modern democracy as a unique form of government built on representative claims. To come to terms with its limits, I next recapitulate Montesquieu's distinction between the nature and principle of governments, only then to retrieve the principle of equality behind Lefort's account. I conclude by exploring the significance of this framework for the crisis of electoral democracy. I do so by contrasting it with Pierre Rosanvallon's interpretation of the crisis, an interpretation which, I argue, corrupts the principle of equality and therefore ought to be regarded as a non-democratic form of representation.

The Nature of Modern Democracy

Modern democracy is often described as a government in which the people rule indirectly by the election of representatives. Still, what this description leaves out is that modern democracy is characterized by a unique dynamic of change. As John Dunn points out, the word democracy was in Athens a noun designating a system of rule. It is only in the late eighteenth century that democracy turns into a noun of agency (a *democrat*), an adjective (*democratic*) and a verb (to *democratize*). Ever since, human beings have associated democracy with the activity of democratizing the societies in which they live.[12] This association of democracy with activity, mobilization, and change seems closely related to the fact that modern democracy is a representative form of government. In the words of Dunn, it apparently "shifted it from one of history's hopeless losers to one of its more insistent winners."[13] Why is that?

One common answer to this question asserts that what makes modern democracy into a winner is that it strikes a historical compromise between the common people and the elite. Unlike in a direct democracy, people do not rule themselves in modern democracies. They choose representatives to do it for them. What is specific for modern democracy is therefore that it combines the power of the ruling classes with that of the common people. By making popular rule indirect rather than direct it becomes less threatening to those in power, and at the same time acceptable to those without power. It becomes a compromise both groups are willing to accept. For, although election gives the people a right to have a say in political affairs it also, by the same token, prevents them from actually intervening in the rule of society.[14]

However compelling, there is something limited about this description. To argue that modern democracy is a compromise between the people and the elite does not capture its propensity for change. From the time of its birth in the American and the French revolutions, modern democracy has been able to constantly revitalize itself in response to new political crises. It has activated demands to include historically marginalized groups into politics, such as workers, women, and immigrants, and it has developed new rights, from civil to political, and social rights. This development suggests that modern democracy is something more than a mere compromise between the people and the elite. It is a form of government able to *compromise with itself*. An alternative interpretation to the longevity of modern democracy takes this latter aspect into account. It holds that the winning side of modern democracy must be traced back to its lack of a natural power holder, and the process of contestation it opens up in society about who has the right to rule.

This view is most thoroughly defended by Lefort. As he argues, it is from within the matrix of the political-theological logic of monarchical rule that one must begin if one wants to understand the singularity of modern democracy. The democratic revolution did not only overthrow the power of the monarchy. Taking over

its power, it also took over and remoulded some of its defining characteristics, of which the most important is the notion of power incarnated in a body. In the monarchy, the place of power was occupied by the king, and the king in fact had two bodies that together sustained his exercise of power.[15] On the one hand, he had a natural body that secured distinction and rank in society by means of heritage and birth. On the other, he had an immortal body that incorporated the entirety of the body politic. In this way, the body of the king assigned everyone to their proper place in the natural order, and at the same time kept society together in a single polity under the auspices that the distinction between orders and ranks incarnated the mystical authority of God on earth.[16]

If the king's body occupied the place of power, and thereby gave society a form in which everyone knew their place in the natural and divine order of things, Lefort shows that the democratic revolution signals a mutation of this symbolic order. What happens when the people take the place of the king, is that the reference to a natural body disappears. For unlike the king, the people have no material body. It cannot be seen or touched. Moreover, if the king had a mystical body that pointed towards an unconditional pole, the people have no such authority attached to them. When the people take the place of the king they become their own authority in political affairs. To Lefort, the fact that the revolution deprives society of both a natural and a mystical body reveals the unprecedented nature of modern democracy. What is born in the democratic revolution is a form of government "instituted and sustained by the *dissolution of the markers of certainty*."[17] The locus of power becomes linked to an empty place, by which is meant that who it is that has power, and therefore counts as the appropriate incarnation of the people, now turns into the very *question* of democracy.[18]

According to Lefort, this association of modern democracy with an empty place of power is an important factor behind its historical success. It means that it "combines two contradictory principles: on the one hand, power emanates from the people; on the other, it is the power of nobody," and instead of creating a political stalemate, "democracy thrives on this contradiction."[19] The reason is that with this form of popular power no individual or group in society can claim to instantiate its authority, or possess the prerogative to establish its boundaries. Since who "we, the people" are is the very question of democracy anyone may act and speak in its name.[20] Modern democracy is "born from the collectively shared discovery that power does not belong to anyone, that those who exercise it do not incarnate it, that they are only the temporary trustees of public authority, that the law of God or nature is not vested in them, that they do not hold the final knowledge of the world and social orders, and that they are not capable of deciding what everyone has the right to do, think, say and understand."[21]

But, granted that modern democracy lacks a concrete foundation, and as such cannot be confiscated by any particular individual or group, how does it exercise its power? How does "nobody" rule? According to Lefort, the fact that popular power cannot be naturalized means that it requires an institutional mechanism that allows for continual contestation on who "we, the people" are. Since the American and French revolutions, this mechanism has been manifested in the institutional pillars of universal suffrage and human rights, and together they have served to mobilize the power of the people:

First, since no one can be consubstantial with the people, democracy makes the exercise of power "subject to procedures of periodical redistributions."[22] Through the institutional apparatus of universal suffrage it structures society around a conflict as to who should have the power to speak in the name of the people, and in this way it prevents specific individuals or groups from monopolizing power or wielding it to further their own ends.[23] Second, in this conflict no one can be the supreme judge. Since the identity of the people is open to question the moment of judgment dissolves into the public itself. Through human rights to freedom of speech, opinion, assembly and demonstration it is now "founded upon the legitimacy of a *debate* as to what is legitimate and what is illegitimate — a debate which is necessarily without any guarantor and without any end."[24]

At the same time, modern democracy is not progressive by nature. On the contrary, it is a form of government characterized by "institutionalized uncertainty," and this uncertainty has two sides.[25] On the one hand, the difficulty of locating the authority of the people in society can be destructive of democracy. If the empty place of power has the potential to mobilize human beings to democratize the societies in which they live, it also harbors a risk of degenerating into less attractive forms of rule. The most extreme example is totalitarianism, which is what originally brought Lefort to formulate his theory of the empty place of power. In times of crisis, the discovery that power belongs to no one may be disconcerting. It may prompt a desire to "banish the indetermination that haunts the democratic experience," and restore the certainty associated with monarchical rule.[26] The result is not increased certainty, however, but a new form of despotism in the image of the people-as-one.

On the other hand, the fact that the authority of the people is difficult to locate in society also means that it harbors a potential for change. Not being tied to a specific group of people, it may adapt and remold to fit new political realities. When Olympe de Gouges during the French revolution contests the exclusion of women

from political life she is drawing on an authority which, in Lefort's terminology, "eludes all power which could claim to take hold of it — whether religious or mythical, monarchical or popular."[27] With this in mind, the contemporary disillusionment about election as the embodiment of popular will, and the widespread preoccupation in both domestic and global politics with questions of inclusion and exclusion, are not necessarily bad news. Rather than being a signal of democratic decline, they may indicate that the contemporary conflict on who "we, the people" are has outgrown its current institutional form. The power of the people can no longer be expressed through a scheme of national electoral competition. It has become a democratic straightjacket. What is called for is a new institutional outlet in which human beings may debate and decide who has the right to instantiate the power of the people.

This uncertainty about the direction of modern democracy, whether it leads to the destructive image of the people-as-one or to a new mobilization of popular power raises an intriguing question.[28] For, granted that there is nothing deterministic about the progress of democracy — and this is a central assumption from a constructivist point of view — what does it take for this form of government to channel the experience of uncertainty in an emancipatory direction? This is the point where one reaches the limits of Lefort's interpretation. The problem is that while Lefort elucidates the *sui generis* nature of modern democracy as a government built on an empty place of power, he does not tell us how this form of government emanates in an institution that gives everyone equal power of decision and judgment. To borrow Hans Lindahl's term, the *positive* meaning of democracy's logic of negation — the absence of a natural power-holder — is not elaborated on.[29] What makes the fact that nobody rules into a form of government characterized by equal rule?

The question is motivated. The most conspicuous example of how the absence of a natural power-holder may contribute to a non-democratic form of government is presented by Hobbes. What he shares with Lefort is precisely the idea that there can be no people prior to the act of representation. As he famously points out, the people only exist as an entity through the act of a representative, which is why one needs Leviathan to act in its place: "For it is the unity of the Representer, not the Unity of the Represented, that maketh the Person One."[30] If one wants to take representation beyond election, and do so in a way that fosters a *democratic* form of government it is therefore not enough to emphasize the lack of a natural power-holder in politics, or to point to the role of representation as a constitutive force in the construction of popular power. One has to show that such representation entails a commitment to equality, or else there is no way to tell the difference between the kind of representation that displaces democracy and the one that enacts it.

At this point, it might be objected that such commitment forecloses the radical openness of democracy. The negativity of the empty place of power is all that is needed to guarantee the continuity of the democratic struggle, and this operation of negativity is precisely what distinguishes Lefort from Hobbes. For while Hobbes fills the empty place of power with the mortal god of Leviathan, Lefort leaves it open. But this objection is deceiving. For how can one be so sure that claims to represent the people do not obliterate the radical openness of democracy? Arguably, the only reason as to why someone would leave this question hanging is because one is already committed to a much *stronger* thesis than the one advanced in this article, namely that there is some kind of progressive logic involved in the empty place of power. From a constructivist point of view, however, history is not a history foretold. It is relational and contingent, which means that popular power does not have an existence independent of the actions of human beings. It must be continually enacted and performed if it is to sustain over time.[31]

In the rest of the article, I will take issue with this limitation of Lefort's interpretation of modern democracy by confronting it with Montesquieu's insight about the principles of government. What Montesquieu allows us to see is that different forms of government are enacted by different kinds of public commitments. The intention of the following discussion is thus to retrieve the commitment needed for the empty place of power to remain in force, and then ask what bearing it has on the present crisis of electoral democracy. Let us begin, however, by looking more generally into the role of the principle in the enactment of government.

The Principle as a Source of Action and Judgment

In *The Spirit of Laws*, Montesquieu argues that there are three forms of governments; republics, monarchies and despotic ones, and that each form of government has its own nature and principle. By the nature of government, Montesquieu means its constitutional make up, or "that by which it is constituted."[32] Accordingly, the nature of a republic is one in which "the body of the people" governs.[33] The people so conceived have the final authority to govern everything within their reach, and in case there are questions that exceed their ability they choose ministers who conduct the tasks for them. By contrast, the nature of a monarchy consists of the fact that one person alone governs. What is characteristic of a monarchy is that the person who governs does so by means of fixed and established laws, and with the

intermediate power of the nobility. The nature of a despotic government, finally, is one in which a single person governs without laws, rules or intermediaries. This person directs everything by their own will and caprice, and does so by nominating a vizier to execute their will and desire at any particular point in time.[34]

However, government is not merely a constitutional form. These governments would not exist without someone giving life to them by adhering to and enacting their respective power. According to Montesquieu, this means that there has to be a specific commitment in society for these kinds of government to persist, and it is this commitment he calls the principle. It is "that by which it is made to act."[35] The commitment that sets a republic in motion is virtue, or "love of the laws and the country."[36] The republic requires a disposition of the people to sacrifice their own private will to the common good. Only in this way can the republic be sustained as a form of government. In a monarchy, it is the principle of honor that gives life to the government. Accordingly, if a republican government requires that "we should love our country, not so much on our own account, as out of regard to the community," a monarchical government is sustained by a commitment to distinction, to the idea of each having to differentiate themselves from the rest and promoting their own interests without regard to the community as a whole.[37] Finally, it is the principle of fear that keeps a despotic government alive, for by fearing the despot the subjects do not rise up against the despot's whims and impulses. On the contrary, they are themselves slaves to the same passions as the despot in the form of instinct, compliance, and punishment.[38]

As Louis Althusser points out, Montesquieu's distinction between the nature and principle of government in this way responds to two different questions. The nature of a government provides an answer to the question, "Who holds power, and how does the holder of power exercise that power?" The principle answers a different question, namely. "On what condition can there be a government which gives power to a people, a monarch or a despot, and make it exercise that power?" By introducing this distinction Montesquieu shows that government is not merely a legal order, but a political form "engaged in its own life, in its own conditions of existence and survival." To understand how a government works as it does it is therefore not enough to focus on its formal rules. One has to be attentive to its condition of possibility. The point is that different governments are guided by different principles, and that one cannot have one without the other. Just as some motors will only go on petrol, different governments have different drives that set them in motion.[39]

What, then, is the role of the principle in this schema? As a public commitment, the principle has a dual role to play. It is at once a principle of action and a principle of judgment.[40] First of all, it is important to distinguish Montesquieu's account of the principle from human motivation in general. As human beings we act out of a number of sensations in the form of love, fear, compassion, and anger. What makes Montesquieu's account unique is that, while he works with common sensations such as fear, virtue and honor, he does not take them to be equally important for all societies. On the contrary, each principle dominates a certain form of government, and as such allows us to say that the government in question is "republican," "despotic," or "monarchical." This is not to say that there is no fear in republics, or no virtue in monarchies. The point made by Montesquieu is that while governments are sustained by a mixture of principles, each form of government is guided by a principle that spurs the others in a direction favorable to the nature of that government:

> In a word, honor is found in a republic, though its spring be political virtue; and political virtue is found in a monarchical government, though it be actuated by honor.[41]

Montesquieu's principles are in this respect not individual human motivations. They are relational. Bound up with particular forms of governments, they refer to the public commitment that makes each of them tick.[42]

Principles are enacted by human beings, but they are also fostered by laws and governmental policies, and it is by turning to society itself — in its historical variety — that Montesquieu develops his hypothesis about the difference between forms of governments. Investigating the role of education, the constitution, sumptuary laws, civil and criminal law, as well as practices of luxury and the question of women, he identifies the principles that guide monarchies, republics and despotic governments. Education is of particular importance. A monarchy exists only on the condition that the commitment to honor and distinction permeates the educational system, just as a republic exists only as long as it keeps nurturing a sense of public virtue among its subjects. The moment the commitment to distinction fades, or people cease to care for their common political life, the monarchy and the republic are deprived of their enabling conditions. The point is that a monarchy and a republic "ought to be directed by these principles, otherwise the government is imperfect," that is, otherwise it will cease to exist as a particular form of government.[43]

The principles of virtue, honor and fear are not merely what set a certain form of government in motion. They also guide our judgment insofar as we evaluate the government in question from their perspective. They provide what Hannah Arendt calls "standards of right and wrong."[44] In a republic, for example, political action is evaluated on the basis of how well it protects public virtue against private corruption, and in a monarchy it is evaluated on the basis of how

well it guards honor against baseness and disgrace. In democratic theory, one usually thinks of evaluation as a matter of what ought to be, as opposed to what is. What Montesquieu discovers, however, is a principle of judgment immanent to a certain form of government. The point of introducing the principle is not to say that we ought to embrace virtue, honor or fear. The argument is that these principles constitute the condition of possibility for a certain form of government. Standing at the intersection between the institutional and the societal level, they provide an immanent basis from which to judge political action.[45]

The legacy of Montesquieu is controversial, and scholars debate whether his thinking offers a defence of liberal, republican or monarchical government, as well as how these forms of government come together in contemporary political life.[46] However one characterizes his legacy, it is clear that Montesquieu is a child of his time. Although his thinking has served as an important source of inspiration in the birth of modern democracy, he did not himself live to see the radical overturning of society that took place in the American and the French revolutions. When he refers to the republic as a democratic form of government he has the popular rule of Athens and Rome in mind, and when he refers to the mixed government it is the English Constitution that stands as a model. Modern democracy, which Lefort describes as a form of government based on an empty place of power, is not part of his investigation. It is to this form of government that we shall now turn. What kind of public commitment is needed for this particularly modern form of democracy to be sustained over time?

The Principle of Equality

In the scheme offered by Montesquieu, the nature of a government refers to the one who holds power, and how this power is exercised. In this respect, Lefort reveals the uniqueness of modern democracy. He demonstrates that, unlike other forms of government based in the king, the people or the despot, modern democracy is based on the *absence* of a power-holder. Instead of making reference to a natural authority, it refers to a government "in which the people will be said to be sovereign, of course, but whose identity will constantly be open to question."[47] Moreover, he shows that the implication of this view for the exercise of popular power is a continual process of conflict and critique about who has the right to rule; a process which, since the late eighteenth century, is materialized in the institution of universal suffrage and human rights. Still, if the democratic revolution engenders a shift in the nature of government, it also carries with it a *revolution in principle*. This side of the democratic revolution has not been examined by Lefort. In what follows, I will therefore seek to complement his account of modern democracy by retrieving its principle.[48]

As Lefort points out, revolutions are to a great extent shaped by the kind of governments that they seek to overthrow. By replacing the order that comes before them, they have to fill up the gap opened up by the revolutionary act.[49] In this respect, the democratic revolution harbors both change and continuity. For, although it replaces the power of the king with that of the people, the terms of power as incarnated in a body — however emptied out of its content — still remain. The same logic of the revolution as at once giving rise to something entirely new and taking over the characteristics of what preceded it can be applied to the accompanying shift from divine right to popular right, and it is here that the principle of equality comes into view.[50]

To rule by divine right means that the king rules with an omnipotent and infallible authority behind his back. This authority gives him a considerable amount of power insofar as he now manifests on earth, in his own person, a higher and more perfect order. However, it also limits his power. It signals that although the king stands above positive law he has to adhere to a higher law that is not of his own making. As Edmund Morgan points out, divinity may be an omnipotent and infallible authority, but when assumed by humans it becomes most constrictive. It raises the king to a height "where he could scarcely move without fracturing his divinity."[51] This divine limitation on monarchical rule is well-known, and Lefort calls attention to it. The fact that power was embodied in the person of the king "does not mean that he held unlimited power."[52] On the contrary, the king "was supposed to obey a superior power."[53] However, what is not mentioned is that this limitation on monarchical rule is not merely a limitation in the sense of being an obstacle the king would strive to overcome. It is also a relief. It stands to reason that without the notion of divine right the king would be as absolute as God himself. He would be an unlimited power, absolutely free but therefore also absolutely responsible. Nothing would stand between him and his will. He would be powerful, but alone.

Taking this into consideration, divine right is not merely an impediment to the pursuit of power. It is also a kind of freedom. It releases the king from what is perceived as an absolute and therefore also inhuman form of power. On the one hand, it unburdens him from a responsibility suited to God rather than humans, and as such impossible to carry for a single person. On the other, it frees him from the charge of blasphemy since his taking the place of God would be intolerable in the eyes of his subjects. Politically speaking, divine right is therefore not so much an obstacle as a blessing to the king. It means that the power of the king "pointed

towards an unconditional, other-worldly pole, while at the same time he was, in his own person, the guarantor and representative of the unity of the kingdom."[54] The result is that whatever the king decides, he can always hold the divine authority equally responsible for it. He is not alone on the throne.

When divine right is replaced by popular right, this notion of a divine limitation on political power disappears. The democratic revolution consists precisely in the dismissal of any such external constraint. Popular sovereignty means that "people must perform operations which allow them to be their own midwives," or in more classical terms, that they must be at once authors and addressees of law.[55] Nevertheless, if the democratic revolution nullifies the divine limitation on political power it does not remain unaffected by its removal. Revolting against the divine right of the king means that people have to fill up the gap opened up in its wake. Unlike the king, in other words, they must take the place of God. In the conflict on who should have the right to govern — and this conflict is the paramount theme of the revolution — they cannot appeal to a higher law. Gone is the external limitation on power, and the relief that goes with it. What is left is the place once occupied by God, and seizing it exposes human beings to a difficult task. The task is to assume this position without either being overburdened by a power too heavy for humans to shoulder, or being accused of blasphemy.

It is against this background that one ought to understand the principle of equality. The democratic revolution is at once liberating and demanding. It is liberating since people are unchained from the order of divine and natural right associated with monarchical rule, and its division of society into orders and ranks. It is demanding since they now have to assume the task that comes with its overthrow; that of being the ultimate guarantor of right. This position has hitherto been reserved for an omnipotent and infallible authority, and occupying its place means that human beings become absolutely free, but also absolutely responsible. From now on nothing happens, be it right or wrong, that falls outside the realm of their power. However, if omnipotence and infallibility without much effort can be projected onto God, it becomes most burdensome when put on the shoulders of humans, and the attempt to respond to this absolute sense of responsibility — or this summoning of humanity unto itself — is the momentum of modern democracy. The problem is that, since finding relief by appealing to an external authority is no longer a valid option in the adjudication of political conflict, the only way to limit the responsibility that arises in the shift from divine to popular right is to share and divide it between equals.

According to this interpretation, modern democracy is a form of government set in motion by a principle of equality. The principle of equality makes it possible for human beings to replace God as the final guarantor in politics, and to do so without either being overburdened by an inhuman form of power or being accused of blasphemy. The reason is that, by setting in motion a process of equalization in society, no one has the last word. What is born in the democratic revolution is a divided form of power characterized by human fallibility. Everyone has an equal say in political affairs, yet no one has the final say. But why divide the power of decision and judgment equally? What is most puzzling about the democratic revolution is not the fact that it gives rise to a system of popular control over government, for this idea had a long republican prehistory. The puzzle is rather how revolutionaries come to the conclusion that the exercise of public control should be divided equally. At the time of the revolution, human beings are perceived to be highly unequal in terms of status, wealth, power, and skills. It would therefore seem more natural to reject the idea of equality in favor of a division of power based on status and rank.

To understand how the principle of equality is able to take hold of the public imagination it is important to recall that revolutions harbor both change and continuity. Taking over the power that comes before them, they have to fill the gap opened up by the revolutionary act. This logic of the revolution puts a constraint on the formation of popular power. It means that the sharing of power cannot be carried out in just any way. Since God is one, and everyone is perceived to be equal under the one, the former division of society into order and ranks no longer counts as a valid marker for the distribution of power. God, as we know, "did not have much to say about the rights of gentlemen."[56] In this way, and no matter what the intentions of the revolutionaries are, the reoccupation of divine right compels them to speak in universals. The sharing of power must be conducted on terms that do not favor some human beings at the expense of others. This is precisely what the modern form of democracy does. Through the institution of universal suffrage and human rights it makes everyone equally responsible for deciding and judging what is right and wrong, and thereby it also makes everyone equally free: no one has more say than anyone else in authorizing the direction and content of political affairs.

In Montesquieu's scheme, the principle does not only set a certain form of government in motion. It also serves as an immanent standpoint from which to judge it. A republic, for example, is both enacted by the principle of virtue and evaluated on its terms. It follows that in this form of government, the protection of private interest over public virtue will be judged as harmful. By not committing itself to country and law, it fails to uphold the public sentiment needed for the

republic to be sustained as a form of government.[57] In a similar vein, it should be acknowledged that modern democracy is both enacted by the principle of equality and evaluated on its terms. In this form of government, as Lefort writes, "power does not belong to anybody in particular." The result is that any attempt to shove the power of judgment and decision onto particular individuals will be detrimental to democracy. Instead of securing equality in society, it bestows these individuals with a burden of responsibility that, if not publicly shared and divided between equals, soon turns into a liability they are inclined to project onto external forces, be it God, nature or the inevitable forces of history.

The upshot is that while Lefort offers a convincing account of the unprecedented nature of modern democracy vis-à-vis the republican, monarchical and despotic forms of government described by Montesquieu, he gives us only half the story. The democratic revolution contains not one, but two symbolic moments that together make up the distinct form of modern democracy. It engenders a shift in both the nature and the principle of government. Just as the revolution against the king means that the people takes over his characteristic of power as incarnated in a body, yet empties it of content, the overthrow of divine right harbors both change and continuity. The people take over the unlimited authority of God, yet limit the burden it generates by dividing it equally. The principle of equality can in this way be interpreted as the positive meaning of democracy's logic of negation. It is what conditions its power or, in Montesquieu's terms, "that by which it is made to act."[58]

Reinterpreting the Crisis of Electoral Democracy

Today it is generally acknowledged that electoral democracy suffers from crisis. Coming back to the topic of representation forty years after the publication of her seminal work on the issue, Hanna Pitkin expresses deep concerns about the representative system. As she argues, "the arrangements we call 'representative democracy' have become a substitute for popular self-government, not its enactment."[59] In a similar vein, Sheldon Wolin warns against a managed form of democracy in which governments "are legitimated by elections which they have learned to control," and Colin Crouch argues that contemporary democratic societies are moving towards a condition of "post-democracy."[60]

It is not evident what to make of these judgments. On the one hand, the realistic tone of these authors is justified. For while the demand for inclusion and extension of rights has marked the development of modern democracy, many politicians are today preoccupied with justifying exclusion rather than inclusion, and instead of a steady progression of rights we witness their rolling back in many developed democracies. Any naive belief in the progress of democracy is therefore misplaced. On the other hand, to think that democracy will stop short before this political reality seems unrealistic as well. Today we see protests and movements calling for a reclaiming of democracy, and the birth of new international organizations and agencies that speak in its name. Considering this, the suggestion that democracy is on the decline looks more doubtful. Are we to believe that the political struggles that took off during the revolutions in the late eighteenth century, and that have led to an ever-renewed demand for democratization, have now come to an end?

One influential attempt to answer this question is offered by Pierre Rosanvallon. According to Rosanvallon, the crisis of electoral democracy is at bottom a crisis of understanding. By identifying representation with election one fails to acknowledge that election is but "an empirical convention" in the history of democracy.[61] Rosanvallon's interpretation of the crisis differs from the one advanced in this article, and I will therefore conclude by briefly contrasting the two. The aim is to show that if one wants to take representation beyond election, and do so in a way that fosters a democratic form of government one must enact the principle of equality in two ways: both as a source of judgment in the analysis of wherein the crisis consists, and as a source of action for redirecting society in a democratic direction. Rosanvallon does neither. Accordingly, while his account of representation may be expedient and legitimate, it is not democratic on the interpretation offered in this article.

When Rosanvallon argues that election must be understood as an empirical convention in the history of democracy he draws on work undertaken over many years on the historicity of democracy. The central point he makes is that the crisis we experience in the form of widespread distrust in electoral politics is not exceptional. It is a constitutive feature of democracy. Civic distrust is "an original political form," yet one that tends to be overlooked due to an overly institutional and electoral emphasis in democratic theory.[62] By widening the horizon from the political institutions of the state to those of civil society he wants to show that disbelief in electoral politics is not *all* that has happened in the last decades. This distrust has gone hand in hand with an increased civic activity, and it is by turning to these civic activities of distrust that Rosanvallon finds a new form of democratic representation. As he argues, these activities "reflect a range of procedures and institutions that preceded the advent of universal suffrage" such as regulatory instances and constitutional courts, and together they offer a new way of making political leaders accountable to those over whom they wield power.[63]

The last decades have indeed witnessed an explosion of civil society activity, both domestically and internationally. This activity is often prompted by the conviction that while electoral politics limits the range of voices, issues and interests able to be heard, civil society actors have the capacity to step in and do what elected representatives no longer are prepared or able to do; namely, to "make present" the people they claim to represent. However, to understand wherein the crisis of electoral democracy lies one cannot be too quick in moving from the institutional to the societal level. The problem is that since the principle of equality is what animates the institution of election, the relationship between representation and election is more complex than Rosanvallon's analysis suggests. Election is not merely an empirical convention in the history of democracy. It has harbored a sense that goes beyond numerical equality: the public unburdening of responsibility. The result is that when democracies fail to live up to the task of guaranteeing political equality through electoral competition, it does not only create distrust. It also creates a sense of burden.

What is striking in this context is that the crisis of electoral democracy is accompanied by intensified "responsibility talk." This responsibility talk now dominates the entire spectrum of representative politics. Not only should already elected politicians "take responsibility" for their decisions, and be subject to naming and shaming if they do not; civil society actors such as non-governmental organizations, private companies and celebrities should too. Rather than being perceived as interest groups or public opinion makers, they are asked to be accountable to the people they speak up for. "Who Elected Oxfam?" is asked in an article in *The Economist*, and under the name of "corporate social responsibility" companies are expected to behave in a responsible manner vis-à-vis their shareholders and stakeholders.[64] In addition, celebrities who speak in favor of a certain issue, group or action — like Al Gore for the environment, Bono for people in Africa and Russell Brand for the revolution — are required to act in a responsible manner in relation to those affected by their claims. Most important of all, citizens are expected to be responsible; they should hold political leaders, companies and non-governmental organizations to account for their actions and decisions in everyday life, be it as choice-makers, consumers or contributors. Citizenship is itself associated with an increased individualization of responsibility, and this individualization of responsibility goes hand in hand with a sense of burden that in recent years has even mobilized a new social class: "the precariat."[65]

The central point of this article is that a democratic form of representation is committed to the principle of equality. This principle is engendered by an unlimited form of responsibility that overtaxes the capacity of human beings, and which for this reason must be levelled out and shared between equals. This interpretation suggests that the increased talk of responsibility is not merely the manifestation of a new form of distrust against "the politics of politicians," or a signal that political leaders should be more accountable to those over whom they wield power.[66] It should rather be understood in a symptomatic way; it resurfaces when political institutions fail to uphold equality in society. The fact that the crisis of electoral democracy is associated with a call for increased responsibility on the side of citizens and their representatives testifies to a problem of *rising inequality* in society. It indicates that the public unburdening of responsibility accomplished by the institution of election gradually has been corrupted. In short, the more talk of responsibility in the debate on representation, the less democratic it is.[67]

This is not to say that electoral reform is the only or most appropriate answer to the crisis. Rosanvallon is right in that one has to distinguish democracy from its institutional incarnation in the form of election. The reason is that while election is an integral part of modern democracy it is not itself the source of its legitimacy. As we have seen in this article, the order is in fact reversed. What distinguishes modern democracy from other forms of governments is that it is structured around the absence of a concrete power holder, and it is precisely this absence that calls for a periodic redistribution of power. It requires an ongoing competition on who ought to instantiate the power of the people. The worry among democratic theorists should therefore not merely be with election *per se*, but with how to uphold the principle of equality once the institution of election is no longer able to fulfill the task. Here the emphasis on forms of governments becomes important. It draws attention to the fact that there are other institutions in society besides election with a great impact on the action-orientations of human beings, such as laws and policies related to education, work, ownership, rights, gender and citizenship. In times of electoral crisis, one would do well to ask what principles animate *these* institutions, and how they may foster or hinder confidence in democracy.[68]

This leads up to the second point, which is how to find a remedy to the crisis of electoral democracy. In *Democratic Legitimacy*, Rosanvallon argues that in order to foster commitment to democracy one should not cling to the institution of election. Instead one must build on the new sources of legitimacy that emerge in domestic and global civil society. What they offer is a new democratic ideal, what he calls "democracy of appropriation." This ideal includes three central aspects, and together they serve to correct the weaknesses associated with electoral democracy. First, it involves counter-democratic practices of civic distrust

in the form of oversight, impeachment and judgment. Second, it involves agencies of indirect democracy such as regulatory agencies and constitutional courts. Third, and consequently, it involves "an insistence that leaders conduct themselves democratically."[69]

Seen as a strategy by which to combat the abuse of popular power, or as a form of rule by which to hold powerful leaders to account, the democracy of appropriation offers an important contribution to democratic theory. Seen as an ideal of democracy, however, it suffers from a major problem. A democratic form of representation does not merely require popular control of government. It requires that such activity of popular control is conducted on equal terms.[70] This element of equality is lacking in the democracy of appropriation. The trouble is that, by bestowing citizens and their representatives with a responsibility that is expected to be shared and divided between equals, this ideal runs the risk of playing into the hands of forces that seek to redirect the confidence invested in democracy in the direction of more authoritarian forms of rule. The reason is that, without guaranteeing equality in the enactment of popular control, it renders democracy into a realm of burden rather than a realm of freedom. The responsibility talk in society tells us that democracy needs the very opposite of what Rosanvallon suggests: a new institutionalization of the principle of equality in the form of public unburdening of responsibility.

Conclusion

In this article I have proposed a framework for thinking about democratic representation beyond election. At a time of widespread disillusionment about electoral competition as the embodiment of popular will, this framework has both a critical and constructive purpose.

First, it means that one can tell what is democratic about representation once it is decoupled from election. This is essential to assess the democratic legitimacy of non-electoral claims to represent the people, and thereby to be clear what can and cannot be claimed in its name. The relevant question to ask is whether the claim is committed to the principle of equality: does it foster a scheme of representation that unburdens human beings from the excess of responsibility that comes with the removal of an external authority in political affairs by sharing and dividing it equally?[71] Second, and more constructively, it means that one has an immanent democratic basis for discussing and proposing institutional reforms. By distinguishing between the principle and nature of a democratic form of government, it becomes possible to take a step back and ask whether existing institutions of democracy encourage commitment in its support. In addition, one can experiment with new representative arrangements within, across and beyond existing constituencies, and at the same time ensure that whatever constitutional make up such a scheme of representation may take it will be a compromise that enacts rather than displaces the power of the people.

NOTES

1. Previous versions of this article have been presented at various workshops and university seminars, and the author wishes to thank the participants for many helpful comments. Particular thanks to Hans Agné, Dario Castiglione, Lisa Disch, Raf Geenens, Magnus Hagevi, Hans Lindahl, Anthoula Malkopoulou, Kari Palonen, Johannes Pollak, Stefan Rummens, David Runciman, Michael Saward and Rainer Schmalz-Bruns.

2. Hanna Pitkin, *The Concept of Representation* (Berkeley: University of California Press, 1967), 140.

3. See, among others, Colin Crouch, *Post-Democracy* (Cambridge: Polity Press, 2004); Robert Dahl, *On Political Equality* (New Haven and London: Yale University Press, 2006): James Bohman, *Democracy Across Borders* (Cambridge, MIT Press, 2007); Sheldon Wolin, *Democracy Incorporated. Managed Democracy and the Specter of Inverted Totalitarianism* (Princeton: Princeton University Press, 2008); Nancy Fraser, *Scales of Justice* (New York: Columbia University Press 2009).

4. Lisa Disch, "Toward a Mobilization Conception of Democratic Representation," *American Political Science Review* 105 (2011): 100–14.

5. Michael Saward, *The Representative Claim* (Oxford: Oxford University Press, 2006). For different variants of the constructivist approach, see Frank Ankersmit, *Aesthetic Politics: Political Philosophy Beyond Fact and Value* (Stanford: Stanford University Press, 1997); Nadia Urbinati, *Representative Democracy. Principles and Genealogy* (Chicago and London: Chicago University Press 2006); Pierre Rosanvallon, *Democracy Past and Future*, ed. S. Moyn (New York: Columbia University Press, 2006); Pierre Rosanvallon, *Counter-Democracy. Politics in an Age of Distrust* (Cambridge: Cambridge University Press, 2008); Mónica Brito Vieira and David Runciman, *Representation* (London: Polity Press, 2008); Bryan Garsten, "Representative Government and Popular Sovereignty," in *Political Representation*, edited by I. Shaprio, S. Stokes, S. Wood, and E.J. Kirschner (New York: Cambridge University Press, 2009); Clarissa Hayward, "Making Interest: On Representation and Democratic Legitimacy," in *Political Representation* edited by Shapiro, Stokes, Wood, Kirschner; Miguel Abensour, "Savage Democracy and the Principle of Anarchy," in *Democracy Against the State* (Cambridge: Polity Press, 2011); Lisa Disch, "Democratic Representation and the Constituency Paradox," *Perspectives on Politics* 10, no. 3 (2012): 599–616.

6. Hanna Pitkin, "Representation and democracy: an uneasy alliance," *Scandinavian Political Studies* 27, no. 3 (2004): 335–42, at 339. See also Nadia Urbinati, "Unpolitical Democracy," *Political Theory* 38, no. 2 (2010): 65–92; Sofia Näsström, "Where is the Representative Turn Going?" *European Journal of Political Theory* 10, no. 4 (2011): 501–10.

7. This focus on forms of government must be distinguished from other recent attempts to develop criteria for democratic representation, such as those developed with regard to democratic systems, democratic procedures and acceptance by affected constituencies. See Jane Mansbridge and John Parkinson eds. *Deliberative Systems. Deliberative Democracy at the Large Scale* (Cambridge: Cambridge University Press,

2012); Nadia Urbinati and Maria Paula Saffon, "Procedural Democracy, the Bulwark of Equal Liberty," *Political Theory* 41 (2013): 441–81; Saward, *The Representative Claim*; Laura Montanaro, "The Democratic Legitimacy of Self-Appointed Representatives," *Journal of Politics* 74, no. 4 (2012): 1094–107.

8. Claude Lefort, *The Political Forms of Modern Society. Bureaucracy, Democracy, Totalitarianism*, ed. J.B. Thompson (Cambridge, Mass.: MIT Press, 1986); Claude Lefort, *Democracy and Political Theory*, trans. D. Macey (Cambridge: Polity Press, 1988); Claude Lefort, *Complications. Communism and the Dilemmas of Democracy*, trans. J. Bourg (New York: Columbia University Press, 1999).

9. For Lefort's view of representation, see among others Chantal Mouffe and Ernesto Laclau, *Hegemony and Socialist Strategy* (London, New York: Verso 1985); Hans Lindahl, "Democracy and the Symbolic Constitution of Society," *Ratio Juris* 11, no. 1 (1998): 12–37; Alan Keenan, *Democracy in Question. Democratic Openness in a Time of Political Closure* (Stanford: Stanford University Press, 2003); Wim Weymans, "Freedom through Political Representation," *European Journal of Political Theory* 4, no. 3 (2005): 263–82; Sofia Näsström, "Representative Democracy as Tautology," *European Journal of Political Theory* 5, no. 3 (2006): 321–42; special issue ed. Brian Singer on Claude Lefort in *Thesis Eleven* (2006), 97, 1; Raf Geenens, "Democracy, Human Rights and History: Reading Lefort," *European Journal of Political Theory* 7, no. 3 (2008): 269–86; Miguel Vatter, "The Quarrel between Populism and Republicanism: Machiavelli and the Antinomies of Plebeian Politics," *Contemporary Political Theory* 11, (2012): 242–63; Jeremy Valentine, "Lefort and the Fate of Radical Democracy," in M. Plot ed. *Claude Lefort* (London: Palgrave MacMillan, 2013); Benjamin Arditi, "The People as Representation and Event," in *The Promise and Perils of Populism. Global Perspectives*, edited by Carlos de la Torre (Lexington, KY: University of Kentucky Press, forthcoming).

10. Montesquieu, *The Spirit of Laws* [1748] (New York: Prometheus Books, 2002), 19.

11. Lefort here repeats Furet's question. See Lefort, *Democracy*, 107.

12. John Dunn, *Setting the People Free. The Story of Democracy* (London: Atlantic Books, 2005), 16.

13. Ibid., 20.

14. Representation here means that when we choose our "better selves," those we deem superior in character, wisdom and judgment. See Edmund Burke, "Speech at Mr. Burke's Arrival in Bristol," in *The Portable Edmund Burke* edited by I. Kramnick (London: Penguin, 1999); James Madison, "Federalist 10," in *The Federalist Papers*, A. Hamilton, J. Madison and J. Jay ed. C. Rossiter (New York: Penguin, 1961); Bernard Manin, *The Principles of Representative Government* (Cambridge: Cambridge University Press, 1997).

15. Ernst Kantorowicz, *The King's Two Bodies. A Study in Mediaeval Political Theology* (Princeton: Princeton University Press, 1997).

16. Lefort, *Democracy*, 17–20.

17. Ibid., 19.

18. How to read Lefort on this point, whether he means that modern democracy entails a radical break with the political-theological matrix of monarchy or whether there is a permanent dimension of transcendence in politics, is a question open to debate. See Lefort *Democracy*, chap. 11; Bernard Flynn, *The Philosophy of Claude Lefort. Interpreting the Political* (Evanston: Northwestern University Press, 2005), chap. 3–5. For the more general debate on modernity and secularization, see Karl Löwith, *Meaning in History* (Chicago and London: University of Chicago Press, 1949); Hans Blumenberg, *The Legitimacy of the Modern Age*, trans. R.M. Wallace (Cambridge: MIT, 1983); Carl Schmitt, *Political Theology*, tr. G. Schwab (Chicago and London: University of Chicago Press, 2005).

19. Lefort, *The Political Forms*, 279.

20. For "we, the people" as object rather than source of democracy, see Margaret Canovan, *The People* (Cambridge: Polity, 2005); Sofia Näsström, "The Legitimacy of the People," *Political Theory* 35, no. 5 (2007): 624–58; Andreas Kalyvas, *Democracy and the Politics of the Extraordinary. Max Weber, Carl Schmitt and Hannah Arendt* (Cambridge: Cambridge University Press 2008; Bonnie Honig, *Emergency Politics: Paradox, Law, Democracy* (Princeton: Princeton University Press, 2009); Jason Frank, *Constituent Moments. Enacting the People in Postrevolutionary America* (Durham and London: Duke University Press, 2010); Paulina Ochoa Espejo, *The Time of Popular Sovereignty* (Pennsylvania: Pennsylvania State University Press, 2011): Hans Lindahl, *Fault Lines of Globalization. Legal Order and the Politics of A-Legality* (Oxford: Oxford University Press, 2013).

21. Lefort, *Complications*, 114.

22. Lefort, *Democracy*, 17.

23. On this point, see also Urbinati, *Representative Democracy*; Pierre Rosanvallon, *Democratic Legitimacy. Impartiality, Reflexivity, Proximity*. (Princeton and Oxford: Princeton University Press, 2011).

24. Lefort, *Democracy*, 39. See also Samuel Moyn, "The Politics of Individual Rights: Marcel Gauchet and Claude Lefort," in *French Liberalism from Montesquieu to the Present Day*, edited by R. Geenens and H. Rosenblatt (Cambridge: Cambridge University Press, 2012), 291–310.

25. Jan Werner Müller, *Contesting Democracy* (New Haven, London: Yale University Press), 242.

26. Lefort, *The Political Forms*, 305.

27. Lefort, *The Political Forms*, 258.

28. On the relationship between populism and modern democracy, see Ernesto Laclau, *On Populist Reason* (London, New York: Verso, 2005); Benjamin Arditi, "Populism as a Spectre of Democracy: Response to Canovan," *Political Studies* 52 (2004): 135–43; Koen Abts and Stefan Rummens, "Populism versus Democracy," *Political Studies* 55, no. 2 (2007): 405–24; Cristobal Rovira Kaltwasser, "The Responses of Populism to Dahl's Democratic Dilemmas," *Political Studies* 62 (2013): 470–87; Andrew Arato, "Political Theology and Populism," *Social Research* 80, no. 1 (2013): 143–72.

29. Lindahl, *Democracy*, 23–26. For the problem of commitment in Lefort, see Raf Geenens, "When I was Young and Politically Engaged . . .: Lefort on the Problem of Political Commitment," *Thesis Eleven* 87, no. 1 (2006): 19–32.

30. Thomas Hobbes, *Leviathan* [1651] ed. R. Tuck. (Cambridge: Cambridge University Press, 2005), 114.

31. For the argument that the historical success of democracy may lead to a "confidence trap," see David Runciman, *The Confidence Trap. A History of Democracy in Crisis from World War I to the Present* (Princeton: Princeton University Press, 2013).

32. Montesquieu, *The Spirit*, 19.

33. Ibid., 8.

34. Ibid., 8–18.

35. Ibid., 19.

36. Ibid., 34.

37. Ibid., 6.

38. Ibid, 26–28.

39. Louis Althusser, *Politics and History. Montesquieu, Rousseau, Marx*, trans. B. Brewster (London, New York: Verso, 2007), 45–60.

40. Hannah Arendt, *Essays in Understanding 1930–1954*, ed. J. Kohn (New York: Schocken Books, 1994), 328–38.

41. Montesquieu, *The Spirit*, xv.

42. Hannah Arendt, *Between Past and Future* (New York: Penguin, 1993), 152ff.

43. Montesquieu, *The Spirit*, 28.

44. Arendt, *Essays*, 335.

45. Arendt, *Essays*, 331–2; Althusser, *Politics and History*, 46–50.

46. See, among others, Thomas Pangle, *Montesquieu's Philosophy of Liberalism* (Chicago and London: University of Chicago Press, 1979), Sharon Krause, *Liberalism with Honor* (Harvard: Harvard University Press, 2002); Michael Sonenscher, *Before the Deluge: Public Debt, Inequality and the Intellectual Origins of the French Revolution* (Princeton: Princeton University Press, 2007); Paul Rahe, *Soft Despotism, Democracy's Drift. Montesquieu, Rousseau, Tocqueville, and the Modern Prospect* (New Haven and London: Yale University Press, 2009); Annelien de Dijn, "On Political Liberty: Montesquieu's Missing Manuscript," *Political Theory* 39, no. 2 (2011): 181–204; Celine Spector, "Was Montesquieu Liberal?" in *French Liberalism from Montesquieu to the Present Day*, edited by Greenens and Rosenblatt (Cambridge: Cambridge University Press, 2012), 57–72; Marco Goldoni, "Montesquieu and the French Model of Separation of Powers," *Jurisprudence* 4, no. 1 (2013): 20–47.

47. Lefort, *The Political Forms*, 303–4.

48. Although there is a clear sociological and historical dimension to this question, the interpretation offered in this article is of a more philosophical kind. Extrapolating from the revolutionary shift, it seeks to retrieve the public commitment needed for a specific *form* of government to sustain. At issue is therefore not the history of modern democracy, or its sociological preconditions, but its principle. In the spirit of Montesquieu, yet also unlike him insofar as the principle is derived through philosophical interpretation rather than historical investigation, the attempt is "to go back from appearances to principles, from the diversity of empirical shapes to the forming forces." Ernst Cassirer, *The Philosophy of Enlightenment*. Trans. F. C. A. Koelln and J. P. Pettegrove (Princeton and Oxford: Princeton University Press, 2009), 210.

49. For a similar point about revolutions being "channeled into concepts which had just been vacated" and the turn to modernity as "the reoccupation of answer positions that had become vacant," see Arendt, *On Revolution* (New York: Penguin, 1963), 155 and Blumenberg, *The Legitimacy*, 65.

50. The political-theological aspects of this mutation, such as how it changes the relationship between immanence and transcendence, as well as the role of religion in the enactment of the principle of equality are both important questions in this context. However, they will not be addressed in this article.

51. Edmund S. Morgan, *Inventing the People: The Rise of Popular Sovereignty in England and America* (New York, London: W.W. Norton & Company, 1988), 21.

52. Lefort, *Democracy*, 17.

53. Lefort, *The Political Forms*, 306.

54. Lefort, *Democracy*, 17.

55. Lefort, *Democracy*, 107. Jürgen Habermas, *Between Facts and Norms* trans. W. Rehg (Cambridge: Polity Press, 1996), 33. See also Stefan Rummens, "Deliberation Interrupted: Confronting Jürgen Habermas with Claude Lefort," *Philosophy and Social Criticism* (2008) 34, 2: 383–408.2008.

56. Morgan, *Inventing the People*, 24.

57. Montesquieu, *The Spirit*, 21, 20, 109.

58. On the face of it, the principle of equality may seem close to the republican principle of virtue. Both make equality into an essential aspect of society, something that must be sustained by public action and nurtured by laws and institutions. However, the principles are radically different in orientation, and it is therefore important to set them apart. The central difference is that in a democratic form of government, the principle of equality trumps commitment to country and law. Unlike the republican principle of virtue, the democratic principle of equality does not require that we love our fellow citizens, or that we endorse the laws under which we live. What it requires is that when resolving conflicts *about* country and law — such as who has the right to instantiate the power of the people in times of crisis — we do not support institutions that grant some human beings more responsibility than others in deciding and judging what is right and wrong. It is this commitment that renders modern democracy into a form of government able to constantly revitalize itself in response to new political demands, even when they, as they often do, go against what country and law require of us. Or as Furet puts it, in a quote by Lefort: "The French revolution is not only the Republic. It is also an unlimited promise of equality, and a special form of change." Lefort, *Democracy*, 94.

59. Pitkin, "Representation and Democracy," 340.

60. Sheldon Wolin, *Democracy Incorporated*, 47; Colin Crouch, *Post-Democracy*.

61. Pierre Rosanvallon, "The Metamorphoses of Democratic Legitimacy: Impartiality, Reflexivity, Proximity," *Constellations* 18, no. 2 (2011): 114–23, at 122.

62. Rosanvallon, *Democracy Past and Future*, 243.

63. Rosanvallon, *Democratic Legitimacy*, 224.

64. Jennifer Rubenstein, "The Misuse of Power, not Bad Representation: Why it is beside the point that no one elected Oxfam," *The Journal of Political Philosophy* 22, no. 2 (2014): 204–30; Magdalena Bexell, *Exploring Responsibility: Public and Private in Human Rights Protection* (Lund: Department of Political Science, 2005).

65. Guy Standing, *The Precariat. A New Dangerous Class.* (London, New York: Bloomsbury, 2011). See also Ulrich Beck and Elisabeth Beck-Gernsheim, *Individualization* (London: Sage, 2002).

66. Rosanvallon, *Democratic Legitimacy*, 222–24.

67. For the argument that we today witness the rise of "monitory democracy," which includes a number of new mechanisms by which to render political actors responsible and on their toes, see John Keane, "Monitory Democracy?" in S. Alonso, J. Keane and W. Merkel, *The Future of Representative Democracy* (Cambridge: Cambridge University Press, 2011), 212–36.

68. For such an undertaking, see Sofia Näsström and Sara Kalm "A Democratic Critique of Precarity", manuscript.

69. Rosanvallon, *Democratic Legitimacy*, 220–21.

70. Urbinati, "Unpolitical Democracy."

71. To assess whether a particular claim to speak in the name of the people lives up to the principle of equality one needs to operationalize the principle. Although an important step in bringing the framework developed in this article closer to political practice, this is not something that I have done here.

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