

Rethinking the law of democracy in times of ecological crisis: the proposition of communalist direct democracy

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Introduction

1. Whether it is the Alter-Globalization movement, the Climate Justice Movement, the Yellow Vests movement, Fridays for Future, the Just Transition movement or Extinction Rebellion, social movements throughout the world have shown both an existing popular motivation to seriously address the ecological crisis, but also how necessary it is to include the people in doing so. This demand has found echoes in two kinds of innovations which have developed in the last years: social innovations through which individuals and communities collectively build new, and more sustainable, models of production, distribution and consumption¹, but also democratic innovations² allowing individuals to take part in the decision-making process on environmental issues, such as the Citizens' Convention on Climate in France³, setting up an assembly of citizens selected by lot to formulate propositions to the state to tackle the ecological crisis. These democratic innovations stem from the premise that, because of the ever-growing gap between the rulers and the ruled, of the primacy of economic and/or short-term interests over the general interest and of the lack of cognitive diversity among its midst⁴, representative government is incapable to solve the ecological crisis. So does this article. Indeed, in light of the successive failures of the various COPs for the last 27 years, it seems reasonable to question whether the system which has allowed industrialized countries to reach such levels of nature exploitation and degradation, and is now incapable of remedying its previous failures – that is, the combination of capitalism and representative liberal democracy in the context of the nation-state – is the most suited to tackle the ecological crisis. In the words of Cornelius Castoriadis: in face of contemporary stakes, are our existing economic and political systems “all that humanity has to offer”⁵?
2. However, while these experiments have shown how potent democratic innovations are when it comes to finding solutions to complex issues such as climate change⁶, representative government has in turn proved unwilling to accept the democratic solutions that would not match its interests, whether these are economic or electoral. Indeed, in the case of the French Citizens' Convention on Climate, President Macron,

¹ O. DE SCHUTTER and T. DEDEURWAERDERE (eds.), *Social Innovation in the Service of Social and Ecological Transformation. The Rise of the Enabling State*, London, Routledge, 2021.

² S. ELSTUB and O. ESCOBAR (eds.), *The Handbook of Democratic Innovation and Governance*, Cheltenham and Northampton, Edward Elgar, 2019.

³ See <https://www.conventioncitoyennepourleclimat.fr/> (last accessed 7.4.22).

⁴ H. LANDEMORE and J. ELSTER (eds.), *Collective Wisdom. Principles and Mechanisms*, Cambridge, CUP, 2012; P. MCCOLL, O. ESCOBAR and J. WEBB, “Participatory politics and the climate emergency”, The Royal Society of Edinburgh, 2021; .

⁵ C. CASTORIADIS, « Une leçon de démocratie », Interview by C. MARKER, 1989, available at [derives.tv/cornelius-castoriadis-une-lecon-de/](https://www.derives.tv/cornelius-castoriadis-une-lecon-de/) (last accessed 7.4.22).

⁶ H. LANDEMORE, *Open Democracy*, Princeton and Oxford, Princeton University Press, 2020; “A closer look at the French Citizens Convention on Climate”, Interview with H. LANDEMORE, 27 May 2020, <https://medium.com/participo/a-closer-look-at-the-french-citizens-convention-on-climate-cb21f485d808> (last accessed 7.4.22).

followed by his government, soon came back on his agreement to submit the Convention's propositions – especially the ones concerning taxes on companies' dividends⁷ – without filter to the Parliament or to a referendum, making the results of this democratic innovation an adjustable variable to its politics at best, or rendering the whole experiment an instrument to legitimize its politics in a move of “democracy-washing” at worst⁸. In the face of the potential instrumentalization of participatory processes by representative government⁹, it is necessary to find a system that would remedy what is I argue is an inability of representative democracy to *actually* defend the general interest¹⁰ which, in the face of the ecological crisis, is one of survival.

3. Indeed, while the responsibility of the economic system that is capitalism in the ecological crisis has been investigated and defended¹¹, that of our political system – representative government – deserves further attention. Whether it is the construction of pipelines in the United States, the deforestation in Brazil, or the nuclear trials in New Caledonia, examples of state decisions allowing the destruction of the environment for the profit of corporate interests alone, at the expense of ecosystems, workers, indigenous and local populations, are countless. To understand how such situations came to happen, it is important to return to the roots of representative democracy, which is supposed to hold its legitimacy as a political system because representatives are entrusted to defend the interests of the people they represent. However, since representative government has received the agency to define the interest of the people it supposedly represents, it has the possibility to defend that of others', namely corporate interests which have not proved compatible with a way out of the ecological crisis.
4. This article seeks to answer the following questions: Would another system than representative democracy offer us better chances to face the ecological crisis? And if so, what would it look like? This contribution develops the alternative political system called *communist direct democracy*, which would allow the people to directly and collectively deliberate and decide on public affairs, including ecological ones, rather than leaving this task to a class of representatives allowed to defend interests which could be opposed to those of their constituents. To develop this alternative, the paper proceeds in two times. The first part exposes how representative democracy has never aimed to allow the people to exercise power, but only to consent to its exercise by a subset of the population: representative government, sole deemed capable, and therefore

⁷ See https://www.francetvinfo.fr/monde/environnement/convention-citoyenne-sur-le-climat/referendum-limitation-a-110-km-h-ecocide-ce-qu-il-faut-retenir-du-discours-d-emmanuel-macron-devant-la-convention-citoyenne-pour-le-climat_4027415.html (last accessed 7.4.22).

⁸ See President Macron's speech during the Convention (https://www.youtube.com/watch?v=m0F-usIFshA_ (last accessed 7.4.22)), as well as this article stating the multiple propositions the government dropped or watered down: Shannon OSAKA, “Can ‘the people’ solve climate change? France decided to find out”, *Grist*, 15 November 2021, <https://grist.org/international/citizens-assembly-convention-climate-france-macron/> (last accessed 7.4.22).

⁹ See G. GOURGUES, S. RUI, S. TOPÇU, “Gouvernementalité et participation. Lectures critiques”, *Participations*, 2 (6), 2013, p. 8-32. However, on the political impact of democratic innovations, see among others: J. VRYDAGH and D. CALUWAERTS, “How do Mini-publics Affect Public Policy?”. *Representation*, p. 1-20.

¹⁰ See the work of Amel Ahmed who shows how the electoral system was progressively built to protect the interests of the pre-democratic elite against increasing working-class mobilization in a context of democratization (A. AHMED, *Democracy and the Politics of Electoral System Choice. Engineering Electoral Dominance*, Cambridge, CUP, 2013).

¹¹ See among others N. KLEIN, *This Changes Everything: Capitalism vs the Climate*, New York, Simon & Schuster, 2014; D. TANURO, *L'impossible capitalisme vert*, Paris, La Découverte, 2012; E.O. WRIGHT, *Utopies réelles*, Paris, La Découverte, 2020; J. B. FOSTER, *Marx's Ecology. Materialism and Nature*, New York, Monthly Review Press, 2000.

responsible, to define its constituents' interests. The second part develops the theory of democracy that is communalist direct democracy. By giving an institutional role to the assembled people and by allowing it to deliberate and decide itself on its interests, rather than leaving this task to representatives, this system offers better chances to solve the ecological crisis.

5. Two caveats are in order here. First, this article does not address the differentiated responsibilities in the ecological crisis, whether that is between the Global North – responsible of most of environmental degradation since the beginning of industrialization – and the Global South – who is deprived of its own resources since colonization –, or between the ruling class – who benefits from the profits of nature and people's exploitation – and the oppressed class – who is prevented from reaping the fruit of their own labor. Nor does it address the differing impacts the ecological crisis already has, and will continue to have, on population along geographical, class, race and gender lines¹². While the stake of environmental justice is paramount for any political system to tackle, even if it rests on direct democracy, this contribution limits itself to put into question the political system that presides over the existing crisis and to sketch an alternative for a way out.

Second, the scope of this contribution is to show how a system of direct democracy offers better chances to solve the ecological crisis than does the current one. As such, the article does not tackle all the objections that can, and should, be addressed to communalist direct democracy¹³, such as the objections of time, capacity, potential hierarchical policies, size, (effective) participation¹⁴, domination among communes and so on. Indeed, as for any political theory proposing a normative account of how society should be organized, whether it is the theory justifying the existing order of things or

¹² See among others the work of Dr. Robert Bullard; A. HORNBERG, J. R. MCNEILL and J. MARTINEZ-ALIER (eds), *Rethinking Environmental History. World-System History and Global Environmental Change*, Lanham, Rowman & Littlefield, 2007; H. ADAM et al. (eds), *Faces of Environmental Racism: Confronting Issues of Global Justice*, Lanham, Rowman & Littlefield, 2001; J. MARTINEZ-ALIER, *The Environmentalism of the Poor. A Study of Ecological Conflicts and Valuation*, Cheltenham, Edward Elgar, 2002.

¹³ I will also not address here the question of its feasibility, as I address it in S. VAN OUTRYVE D'YDEWALLE, "Becoming Mayor to Abolish the Position of Mayor? Thinking the Line Between Reform and Revolution in a Communalist Perspective", *Unbound: Harvard Journal of the Legal Left*, 12, 2019, p. 1-46.

¹⁴ The objection of participation is however too crucial here for not mentioning how communalism could overcome it. In order for politics to effectively be the everyday activity of all and not of a few, communalism needs to make sure that people can in fact participate in these assemblies. Indeed, as modern society is structured along relations of power that would not disappear with the legislation into existence of popular assemblies, communalism should ensure that everybody can participate (by lifting the material constraints that concretely prevent people from participating, such as work, childcare and other socially reproductive work, mobility, lack of information, etc.), but can also participate effectively and equally (by securing the equal right of everybody to speak in front of the assembly, by leveling the differences in education, ability to speak in public, access to and understanding of information and preventing visible or less visible forms of domination that can arise in assemblies on the basis of class, race, gender or culture). However, direct democracy opponents might object that taking these measures will not be sufficient to ensure participation, as some individuals would not be willing to engage into the public sphere, but rather remain satisfied within the boundaries of their private one. I will simply state here that it is because they take individuals' political passivity under the current system as a natural, almost necessary, aspect of human nature, and not as one cultivated by centuries of centralization of the exercise of public power in the hands of a handful political elite, and of reduction of their being to "rational" consumers and exploited workers under a capitalist economic system. Moreover, "people refuse to participate only where politics does not count – or counts less than rival forms of private activity" (B. BARBER, *Strong Democracy. Participatory Politics for a New Age*, Berkeley, University of California Press, 1984, p. 272).

the one aiming at changing it, this theory should be confronted to objections, especially those challenging its capacity to offer a model capable to address the ecological crisis¹⁵.

I. Criticizing representative democracy: what kind of general interest?

6. Whether it is the ever-growing gap between the rulers and the ruled, the decline of electoral participation, the rise of the far-right, the loss of confidence in democratic institutions, the drastic rise of inequalities or the worsening of the ecological crisis, signs of dysfunction of the political system proliferate across modern representative democracies. This phenomenon is coined as the “crisis of representative democracy”¹⁶. However, if representative democracy works “as planned” and is not “in crisis”, is it supposed to offer a mechanism that concretely allows to pursue the general interest of the people it represents? To answer this question, let us go back to the genesis of representative government.
7. At the end of the revolutions that marked the 18th and 19th centuries, the choice of the political system that is representative government has been conditioned by the dominant conception concerning the legitimacy of power. This conception, shared by Grotius, Hobbes, Pufendorf and Locke, consists in the belief that all authority must, in order to be legitimate, come from the consent of those over whom this authority is exercised, best translated by the mechanism of the election¹⁷. Importantly, not all those over whom this authority was exercised were concerned by this consent, as people without property, women, slaves and colonized people were excluded from the notion of citizen, demonstrating how representative government was, at its birth, only representative of a small fraction of the population. As such, the elections were chosen as the system that would allow individuals to *consent* to power, over other mechanisms that would allow them to *exercise* it. Indeed, representative government “has historically consisted in privileging the idea of people’s *consent* to power over that of people’s exercise of power”¹⁸.
8. As such, representative democracy does not aim at allowing the people to exercise power, but only to consent to its exercise by a subset of the population. Even if every citizen has now the right to vote since the conquest of universal suffrage by the workers’ movement, and its extension to women by the feminist movement – still leaving (un)documented migrants unaccounted for –, they will not be accurately represented in class, gender and race terms as there is unequal access to government¹⁹. Moreover, there is also unequal access to exert influence over government²⁰, because of “the disproportionate influence that business can wield over government through funding well-resourced interest groups, making regular donations to the major parties,

¹⁵ I have addressed in another article the objection of the tension between strict delegation and decision-making amongst assemblies concerning ecological policies that communalist direct democracy could face. See S. VAN OUTRYVE D’YDEWALLE, “Renouveler la démocratie. L’hypothèse de la démocratie directe communaliste comme forme d’autogouvernement pour la transition écologique”, in *L’État partenaire. Transition écologique et sociale et innovation citoyenne* (eds. O. DE SCHUTTER and T. DEDEURWAERDERE), Louvain-la-Neuve, Presses Universitaires de Louvain, 2022.

¹⁶ Y. PAPADOPOULOS, *Democracy in Crisis?: Politics, Governance, and Policy*, London, Palgrave Macmillan, 2013; A. PRZEWORSKI, *The Crises of Democracy*, Cambridge, CUP, 2019.

¹⁷ B. MANIN, *Principes du gouvernement représentatif*, Paris, Flammarion, 1996, p. 113-116.

¹⁸ H. LANDEMORE, *Open Democracy*, *op. cit.*, note 6, p. xiv.

¹⁹ B. ROPER, *The History of Democracy. A Marxist Interpretation*, London, Pluto Press, 2013, p. 236-239.

²⁰ E.O. WRIGHT, *Utopies réelles*, *op. cit.*, note 11, p. 125.

controlling all major non-state media, and ‘bending’ electoral constraints in a direction favourable to their interests”²¹. As such, representative government seems more responsive to economic influence than to that of its constituents²², leading to policy-making in favor of corporate interests²³ which are intrinsically not respectful of the natural world and the people living in it – since it requires the exploitation of both to make profit.

9. The possibility of representative government to defend other interests than those of the people it represents stems from its agency in defining what their interests are. This process is happening independently of citizens who have, as sole accountability mechanism, a reduced choice among people with the same socioeconomic background and thereby, the same susceptibility to respond favorably to economic influence, at the next elections²⁴. Such an agency in defining the population’s interest is made possible by the account of representation on which representative government has been built: an account of representatives as independent. Indeed, when looking at the concept of representation, one can find two different substantial accounts²⁵: specifically, the independence vs mandate controversy.
10. The different positions in the controversy on whether a representative should be independent or mandated consists in opposite answers to this question: “Should (must) a representative do what his constituents want, and be bound by mandates or instructions from them; or should (must) he be free to act as seems best to him in pursuit of their welfare?”²⁶. To the second part of this question, the champions of independence will answer positively. This vision of the representative as free to exercise her judgment during her action of representation has been articulated and defended by Edmund Burke. He conceives political representation as “the representation of interest”, where such an interest has an objective, impersonal, unattached reality”²⁷. Since the interest of the constituency is “rationally discoverable”, and cannot be found on the basis of the expression of its will, because it is dependent on opinions that are “often wrong”, “the representative may have to pursue the interest of his constituency even against their will”²⁸. Pitkin captures the core of the Burkean view of the task of the representative as follows: “For ‘the will of the many and their interest must very often differ’; and the representative owes the people ‘devotion to their interest’ rather than ‘submission to their will.’”²⁹. Viewing politics in terms of knowledge leads to leaving it in the hands of those who seem the more knowledgeable. Independence theorists often consider a representative as a trustee, to the extent that a trustee is more competent to act than the beneficiary and should therefore act on her behalf³⁰. As rightly pointed out by Jane

²¹ *Ibidem*, p. 237. See also Charles LINDBLOM, *Politics and Markets*, New York, Basic Books, 1977.

²² J. McCORMICK, *Machiavellian Democracy*, Cambridge, CUP, 2011, p. vii.

²³ B. ROPER, *The History of Democracy*, *op. cit.*, note 20, p. 239.

²⁴ *Ibidem*, p. 239.

²⁵ This article does not tackle the formalistic accounts of representation that are authorization vs accountability, see H. PITKIN, *The Concept of Representation*, Berkeley and Los Angeles, University of California Press, 1967, p. 38-59.

²⁶ *Ibidem*, p. 145.

²⁷ *Ibidem*, p. 168. See also p. 174.

²⁸ *Ibidem*, p. 176.

²⁹ *Ibidem*.

³⁰ *Ibidem*, p. 128.

Mansbridge, the Burkean trustee “implies a hierarchy in which the representative has more wisdom, intelligence, or prudence than the voter”³¹.

11. Independence theorists consider “political questions as difficult and complex, beyond the capacities of ordinary men”³². In his “pure theory of the aristocratic character of election”, Bernard Manin undertook to determine that the system of elections is intrinsically aristocratic and unequal, leading to the selection of a governing body that would inevitably be superior to its electors, or at least perceived as such³³. Indeed, during elections, individuals are elected for characteristics that *distinguish* them from other candidates. The essence of the process therefore determines the nature of its outcome, namely the election of individuals different from their electors and perceived as superior to them, placing those considered as the *aristoi*, “the best”, in charge of public affairs³⁴.
12. To solve the ecological crisis in a way that respects the interest of the majority of the population, that is, in an inclusive and egalitarian way, there is a need to elaborate a new law of democracy that rests on a different conception of representation than that allowing the representative to be independent, one that allows the people to deliberate its interest and form its own will, so that both are convergent, thereby precluding any possibility to define it in its stead. Such a conception consists in the exact opposite of the independence account of representation.
13. Indeed, at the other side of the spectrum of the independence-mandate controversy lies the mandated understanding of representation, usually understood as *delegation*. Pitkin traces back the etymology of “delegate” to the Latin word “*legare*”, meaning “to send with a commission”. Generically, delegation denotes “the notion of being sent from one place or another on orders, or in an official capacity, by a superior”³⁵. In the specific framework of political representation, this concept implies “that the representative is sent from his locality to the central government” “with explicit instructions, or to do a particular thing” in their name³⁶. Mandate theorists therefore consider that “true representation occurs only when the representative acts on explicit instructions from his constituents, that any exercise of discretion is a deviation from this ideal”³⁷. The representative is therefore seen “as a ‘mere’ agent, a servant, a delegate, a subordinate substitute for those who sent him”, entrusted by the constituents to respect their already formed will and to carry out a task that they are capable to do themselves³⁸. Far from the Burkean trustee, the delegate is only a “mechanical device through which his constituent acts – a mirror or megaphone”³⁹. In this sense, Rousseau sees representation as a “principal-agent delegation” in which the delegate does not have “any role in forming the political will of the people”⁴⁰. However, mandate theorists can differ as to

³¹ J. MANSBRIDGE, “Clarifying the Concept of Representation”, *The American Political Science Review*, 105 (3), August 2011, p. 621-630 (p. 623).

³² H. FORD, *Representative Government*, New York, 1924, p. 147-148.

³³ B. MANIN, *Principes du gouvernement représentatif*, *op. cit.*, note 18, p. 174.

³⁴ *Ibidem*, p. 174-191.

³⁵ H. PITKIN, *The Concept of Representation*, *op. cit.*, note 26, p. 134.

³⁶ *Ibidem*, p. 133-134.

³⁷ *Ibidem*, p. 146.

³⁸ *Ibidem*, p. 146.

³⁹ *Ibidem*, p. 147.

⁴⁰ N. URBINATI and M. WARREN, “The Concept of Representation in Contemporary Democratic Theory”, *Annu. Rev. Polit. Sci.*, 11, 2008, p. 387-412 (p. 391).

whether the will of the people can be represented. While Rousseau considers that “sovereignty cannot be represented for the same reason that it cannot be alienated. It consists essentially in the general will, and the will cannot be represented”⁴¹. It is the contention of this article that it is, in fact, possible to represent the will of the people, provided that there are radically different institutions than those of representative government to allow for the formation of this will. Such a task can only be made possible by the fact that, contrary to the premise of the independence camp according to which “a constituency is not a single unit with a ready-made will or opinion on every topic”⁴², these new institutions enable the people to assemble to form its will collectively. It is to this system that this article now turns.

II. Rethinking the law of democracy to face the ecological crisis: communalist direct democracy

14. This section develops what communalist direct democracy could look like by presenting a brief overview of this theory, offering a definition and introducing a paramount distinction, that between policy-making and administration (1). It then elaborates the two kinds of institutions required for communalist direct democracy: policy-making institutions allowing for the continuous assembly of the people to exercise public power (2), and administrative institutions that allow to *directly* represent the people when it can no longer be assembled, namely when decisions need to be taken across communes and therefore cannot allow for the physical assembly of the entirety of the concerned people (3).

1. What is communalist direct democracy?

15. The political philosophy of communalism as formulated by Murray Bookchin⁴³ asks anew two correlated questions: that of the main political unit for a people to govern itself, and that of how public power should be exercised. It answers by advocating for the commune to be the political unit to realize direct democracy, since it is the only place where the people can gather, deliberate and directly take decisions together on a face-to-face basis, rather than having recourse to representatives to exercise public power. The definition I propose of the democratic theory of communalist, that is, of *communalist direct democracy*, is *the direct exercise of every aspect of public power regarding the community as a whole by the continuously assembled people at the municipal level on a face-to-face basis and, when the people can no longer be physically assembled, the direct representation of the popular assembly's decision by delegates endowed with recallable and imperative mandates*.
16. Among other arguments advocating for the municipality as the main democratic unit (the first question), one can find 1) the size of the polity of the municipality, which, in contrast to the state, renders materially possible to gather the people in the same place for collective deliberation and decision-making; 2) the locus of participation in the political and social life of the community, as the municipality provides opportunities for

⁴¹ J.-J. ROUSSEAU, *The Social Contract* (1762) (transl. J. MASTERS and R. MASTERS), New York, St. Martins, 1978, p. 198.

⁴² H. FORD, *Representative Government*, *op. cit.*, note 33, p. 147-148.).

⁴³ M. BOOKCHIN, *The Next Revolution. Popular Assemblies and the Promise of Direct Democracy*, London and New York, Verso, 2015; M. BOOKCHIN, *From Urbanization to Cities: The Politics of Democratic Municipalism*, Chico, AK Press, 2021.

participation in political and social life that the state does not provide ; 3) the importance of local knowledge, resting on the capacity of individuals to experiment and find solutions to their own problems by mobilizing the local knowledge they have of their own environment.

17. When talking about the municipality as the main political unit, two points have to be tackled. The first is the delimitation of what constitutes a municipality. Communalism does not prescribe any type of indication in this regard, because the definition of what constitutes a municipality depends on historical, geographical, climatic, demographic, cultural, political, social, religious, and economic conditions, and must therefore be left to each municipality, in constant negotiation with the other municipalities within the same confederation. It can follow the pre-existing statist administrative division, size of the area, geographical/natural delimitation, or any other criteria that be relevant to ensure the good functioning of the assembly. In any case, in order to extend to the next level, it will follow the principle of confederalism that I will expose at the next section. The second and correlated point concerns the ideal size of the basic unit for practicing direct democracy face-to-face in a popular assembly. Historically, the Athenian ecclesia, one of the only models of an assembled people's institution, could gather up to 6,000 people⁴⁴. Benjamin Barber suggests in his system of "strong democracy" that neighborhood assemblies should be composed of 1,000 to 5,000 people⁴⁵. As such, it would not be unreasonable to think of 1,000 to 1,500 people (or, to imagine, a maximum of twice the size of the European Parliament) as a good maximum number for collective speech, deliberation, and decision-making. It is important to consider that the discussions could not always be in plenary, with one person speaking in front of everyone, but could also take place in small groups where speech could flow more freely.
18. This section will focus on developing the institutions that could allow a people to *directly* exercise public power (the second question). Indeed, since "the modern municipality is infused with many statist features", communalist direct democracy refuses "the municipality as it is today" and aims at transforming its institutions⁴⁶. In order to map what these institutions could look like, it is first necessary to explain the distinction supposed by communalism between the different activities that would be performed by the various institutions constituting its polity, that is, between policy-making and administration. In his theory, Bookchin establishes a distinction between *policy-making* – the political decisions regarding the course of action a municipality should follow – formulated by the popular assembly gathering the residents of the municipality (1), and *administration* of these decisions – the coordination and execution of these decisions (both at the municipal and the confederal level) – carried out by delegates with recallable and imperative mandates, under close supervision of the popular assembly (2)⁴⁷. Distinguishing between policy-making and administration is a condition *sine qua non* for communalist direct democracy, as securing to popular assemblies the power to decide on policy issues, and leave to delegates the task of administer them on the basis of an imperative and recallable mandate, is what could

⁴⁴ For a description of the Athenian democratic system, see H. LANDEMORE, *Open Democracy*, *op. cit.*, note 6, p. 66-74.

⁴⁵ B. BARBER, *Strong Democracy*, *op. cit.*, note 14.

⁴⁶ M. BOOKCHIN, *The Next Revolution*, *op. cit.*, note 44, p. 17.

⁴⁷ *Ibidem*, p. 75-77, 88-89.

prevent the formation of a class of professional politicians, that is of a ruling political elite who would decide the course of action of the commune.

2. Policy-making institutions: the people continuously assembled

A. Why continuously assemble the people?

19. When accounting for the principles of representative government, Manin starts by stating that “representative government does not grant any institutional role to the assembled people”⁴⁸. What contrasts communalist direct democracy from representative democracy is precisely that the former gives an institutional role to the assembled people⁴⁹. The idea of institutionalizing public spaces to allow everybody to participate and make decisions regarding public affairs – to exercise public freedom – can be found in other political thoughts. In *On Revolution*, Hannah Arendt explains how most modern revolutionary movements seeking to bring freedom to the people failed to achieve *constitutio libertatis*, that is to develop sustainable institutions that would both embody the revolutionary spirit and allow for the popular exercise of the newly-gained freedom. Contrary to the freshly enshrined constitutional principle according to which all power belongs to the people, revolutionaries ended up creating a space to exercise this new freedom that was reserved for the peoples’ representatives, to the exclusion of the people themselves⁵⁰. The distinction between ruler and ruled, supposedly abolished by the revolution, was in fact constitutionalized, thereby making the task of government “the privilege of the few”. This prevented citizens from exercising public freedom as “the citizen’s right of access to the public realm, in his share in public power – to be ‘a participator in the government of affairs’”⁵¹. Because they have been conceived as a mass unable to think, the people would not have access to this public freedom, left only with the opportunity to vote for representatives capable of defending their interests or their welfare, but not their opinions and their actions⁵². Arendt’s conclusion then is therefore still valid in our contemporary representative democracies: “the relationship between a ruling elite and the people, between the few, who among themselves constitute a public space, and the many, who spend their lives outside it and in the obscurity, has remained unchanged”⁵³.
20. However, according to Arendt, this centralization and indivisibility of power in the hands of the governing bodies could have been avoided by incorporating in the Constitution spaces for the deployment of public freedom and direct participation of citizens in public affairs, as was the case during the various modern revolutions. At the origin of the revolutionary activity, such spaces spontaneously appeared in the first days of modern revolutions, whether in the form of town hall meetings during the American Revolution, the neighborhood sections⁵⁴ and the “*sociétés populaires*” during the French Revolution, the Paris Commune of 1871, the *soviets* during the Russian Revolution of 1905 and 1917, the *Räterepublik* in Berlin and Munich after Germany’s defeat of the World War I, or the workers’ councils during the Hungarian Revolution of

⁴⁸ B. MANIN, *Principes du gouvernement représentatif*, op. cit., note 18, p. 19 (my own translation).

⁴⁹ Traditional instances of direct democracy like referenda do not give an institutionalized role to the *assembled* people. Rather, it gives a decision-making power to individuals isolated in the voting booth.

⁵⁰ H. ARENDT, *On Revolution*, London, Penguin Books, 1963, p. 235.

⁵¹ *Ibidem*, p. 127.

⁵² *Ibidem*, p. 227 and 268-270.

⁵³ *Ibidem*, p. 277.

⁵⁴ A. SOBOUL, *Les sans-culottes parisiens en l’an II*, Paris, Seuil, 1968.

1956⁵⁵. However, the revolutionaries failed to see how the council system presented an “entirely new form of government, with a new public space for freedom which was constituted and organized during the course of the revolution itself” and which could have allowed for the direct participation of citizens in power⁵⁶. Arendt deplored “the current ‘realism’, despair of the people’s political capacities (...) based solidly upon the conscious or unconscious determination to ignore the reality of the councils and to take for granted that there is not, and never has been, any alternative to the present system”⁵⁷. The disaster of these revolutions was to bury this “hope for a transformation of the state, for a new form of government that would permit every member of the modern egalitarian society to become a ‘participator’ in public affairs”⁵⁸, making these forms of self-government the “lost treasure of revolution”⁵⁹.

21. By considering municipal popular assemblies as the main democratic body of the public sphere in which the assembled people would deliberate and make decisions regarding policy on a face-to-face basis, communalism precisely aims at embodying the revolutionary hope to transform the form of government that would allow everybody to be a “participator in the government of affairs” on an equal footing through the institutionalization of the continuous assembly of the people in the public sphere – the project of *constitutio libertatis*. In times of ecological crisis, this project is paramount in order to allow the people to collectively decide on environmental matters, without allowing other interests but its own deliberated ones to influence policy-making.

B. How to continuously assemble the people?

22. As communalism does not give a blueprint theory that should be applied as such in all times and places, the purpose of this section is therefore not to present the entire set of institutions that would be the only one valid to have a communalist society. However, in order to give the reader an idea of how the people could be continuously assembled, this section will briefly sketch what the institutions of a communalist society could look like and the main principles to be adapted to each context.
23. Since communalism considers the main political unit as the municipality, the continuous assembly of the people could be realized by institutionalizing *popular assemblies* at the neighborhood level, open to all the residents of that neighborhood. These assemblies would be “large general meetings in which all the citizens of a given area meet, deliberate, and make decisions on matters of common concern”⁶⁰. To these three functions of popular assemblies – meeting, deliberating, deciding –, should be added a fourth one: checking delegates. While these four functions are all essential to the definition of communalist direct democracy, the design of the rules that will allow them to be carried out by popular assemblies should be left to the assemblies themselves⁶¹.

⁵⁵ H. ARENDT, *On Revolution*, *op. cit.*, note 53, p. 232-281.

⁵⁶ *Ibidem*, p. 249.

⁵⁷ *Ibidem*, p. 270-271.

⁵⁸ *Ibidem*, p. 264-265.

⁵⁹ *Ibidem*, p. 215.

⁶⁰ J. BIEHL, *The Politics of Social Ecology. Libertarian Municipalism* (with M. BOOKCHIN), Montréal, New York and London, Black Rose Books, 1998, p. 57.

⁶¹ It is important to note that communalist direct democracy requires the agenda-setting to also be under the control of the popular assembly in order to avoid the emergence of informal political elite. This could be done by drafting the agenda at the end of each meeting, circulating it a few days in advance of the next and add whatever “items and issues that citizens ask the assembly to consider” (J. BIEHL, *The Politics of Social Ecology*, *op. cit.*, note 63,

24. *Meeting* in a public space that can gather all residents, be it city hall or a community center, an auditorium, a park, a square, a theater, a courtyard, an auditorium, a church⁶², allows for people to see their neighbors, discuss with them about the life of the community and share their needs and desires for them and the community. These regular interactions between residents of the same geographical space would create a sense of shared fate that would not be based on the abstract belonging to a nation, but on the concrete necessity to manage their communal affairs together.

Deliberating will allow individuals to form their opinions on the course of action the community should follow by exchanging arguments with their neighbors through face-to-face interactions. The communalist understanding of democratic legitimacy follows the one of the theory of deliberative democracy, that is “a theory of political legitimacy according to which laws and policies are legitimate only to the extent that they are the result of a deliberation among free and equals”⁶³. However, while theories of deliberative democracy have traditionally been developed within the paradigm of representative democracy, it need not be the case⁶⁴. Provided that deliberations include all individuals, which was “widely assumed to be impossible on the scale of the modern nation-state”, but is now rendered possible by the political unit of communalist direct democracy that is the municipality, there is no reason why the ideal of deliberative democracy would not be realized at this scale⁶⁵.

25. *Deciding* is the core aspect of communalist direct democracy, which is that public power is collectively exercised by the assembly having the final say on the course of action the commune should follow⁶⁶. This is what differentiates communalist direct democracy from other sorts of mechanisms of participatory democracy that generally do not grant the power to decide on all aspects of public affairs to these participatory organs, among the rare cases when they have substantial decision-making power. Indeed, whether it is participatory budgeting granting to the residents of a given area the decision-making power on a specific matter and/or with limited money, randomly selected mini-publics that usually do not have decision-making power but only deliberative ones, neighborhood councils that have only a consultative power or a decision-making one on very limited issues, these participatory mechanisms are exceptions to the general principles that public power is exercised by the representative government.

26. *Checking delegates* consists in ensuring that the decisions collectively made will be effectively carried out by the people designated by the assembly. It will also ensure that it is the decision of the assembly that is administered, and not that of the delegate who could end up defending other interests than the assembly's if left unchecked, as is the

p. 58). Setting the agenda is therefore a crucial component of the decision-making power of the assembly. As Landemore writes, democracy does not consist only in having “the final say on some specific issues”, but also “the first say”⁶¹ (H. LANDEMORE, *Open Democracy*, op. cit., note 6, p. 14).

⁶² J. BIEHL, *The Politics of Social Ecology*, op. cit., note 63, p. 57.

⁶³ H. LANDEMORE, *Open Democracy*, op. cit., note 6, p. 6.

⁶⁴ *Ibidem*.

⁶⁵ *Ibidem*.

⁶⁶ The question concerning quorums, thresholds and votes should be left to the assembly itself. Importantly, considering that conflict is an irreducible and necessary element of the public sphere, communalism defends majority-voting. Not only is it an effective way to make decisions, but it is also what drives a community to evolve, by securing minorities a visible space to defend their positions.

case for decisions concerning the environment in representative government. This last point will be further developed in the next section.

C. Administrative institutions: the people *directly* represented

27. As such communalism defends the idea that the people can, and should be continuously assembled to exercise public power, provided that this assembly happens at the neighborhood level. However, at odds with other political propositions of localism, communalism defends the idea that “the commune is not intended to remain localized on a restricted territory”⁶⁷. Indeed, since many elements of economic, social and political life, including the environment, go beyond the scope of the municipality, it is necessary to allow the coordination of policies among assemblies when decisions need to be taken on these elements. This coordination could be done through the form of a confederation, defined as the association of municipalities through confederal councils composed of delegates endowed with imperative and recallable mandates from their own assemblies⁶⁸. Since the coordination of several assemblies at the confederal level requires to give specific roles to some people of the assembly – that of being its delegate – it is necessary to analyze how to avoid that people occupying these roles become a class of professional politicians. Communalism answers this problem by the concept of delegation, to differentiate from that of representation on which representative democracy rests.
28. The concept of representation covers many different theories and realities, some of which are radically opposed to the core principles of communalism – the attribution of policy-making activity to the assembled people, the abolition of a class of professional politicians and the understanding of politics as the everyday activity of all. If one defines representation generically with Hannah Pitkin, namely as “the making present in some sense of something which is nevertheless not present”⁶⁹, the delegation entailed by communalism is not to be opposed to the definition of representation. Indeed, insofar as delegates from the popular assemblies will make present that which is absent – namely, the will of the assembly – at the confederal level, their role *a priori* could qualify as one of representation.
29. As stated above, the conception of representative as independent or mandated determines the agency the representative will have in determining the will of the assembly. While the independence side of the controversy considers the representative as free to exercise her judgment and to act as she sees best to ensure the interest of the represented, the mandated understanding of representation only considers the representative as bound to the will of its represented. In this debate, the communalist understanding of representation undoubtedly sides with the mandate camp. Communalist direct democracy relies on a conception of representation as delegation, or *direct representation*, where the delegate is being specifically instructed by the popular assembly to carry out, when it is absent, the already made will of the assembly at the confederal level. As such, this conception leaves all agency for policy-making on the side of the constituency, none on the one of the representative, who cannot act differently than if the assembly could have been physically present. In order to ensure

⁶⁷ J. DURAND FOLCO, *A nous la ville ! Traité de municipalisme*, Québec, Ecosociété, 2017, p. 109.

⁶⁸ M. BOOKCHIN, *The Next Revolution*, *op. cit.*, note 44, p. 77.

⁶⁹ H. PITKIN, *The Concept of Representation*, *op. cit.*, note 26, p. 8-9.

that delegates precisely defend the position of their assembly, communalist direct democracy have recourse to mechanisms of *imperative mandate*, *recall* and *rotation*.

30. The device of imperative mandate can be understood as a mechanism in which “the delegate operates under a fiduciary contract that allows the principal (the citizens) to temporarily grant an agent their power to take specified actions but does not delegate the will to make decisions, which is retained by the principal”⁷⁰. An imperative mandate would be produced by the popular assembly *before* the direct representation takes place at the confederal council, and typically consist in written instructions on the exact position that the delegate will take on a given issue that is on the agenda of the confederal council. The principle of imperative mandate supposes that its author – the popular assembly – will, after it has been carried out, check that the terms of the mandate have been respected. The cases in which it was not supposed to have recourse to another device, the one of recall.
31. Recall is a mechanism allowing to hold delegates accountable, which would generally happen after the direct representation took place. The right of the assembly to recall delegates can be defined as “the right to deprive them of their office and choose replacements for them”⁷¹. It rests on the principle that a delegate within the assembly entrusted with a certain function can be removed at any time from that office by the body that put her there if she no longer fulfills the function for which she has been first chosen. This requires a constant attention and presence of the assembly.
32. The principle of rotation is a mechanism that “ensures that power be made to circulate and not stay with any subset of the polity for longer than strictly necessary” and, as such, can prevent “the creation of a separate class of rulers”⁷² and avoid the capture of institutions to serve specific interests different than that of the constituency. Since a person will not benefit for long from the power granted by her position⁷³, she will not be able to consolidate the potential influence that she could have on the assembly thanks to this function. The rotation of power guarantees that people do not exercise power as individuals but as part of the collective, even though they have occasionally the specific task of directly representing the will of the assembly. Moreover, rotation has also educative virtues, as it allows everybody to be the spokesperson of the will of the assembly, and learn the difficulties attached to the coordination of this will with the one of others.

Conclusion

33. The ecological crisis requires us to rethink the economic, political, social and cultural models we have been living in thus far, and which led to this dire situation. In the political realm, the model of representative democracy within the framework of nation-state seems ill-suited to tackle the ecological crisis, insofar as it allows representatives to defend interests that are not those of the people whom they represent. To allow the

⁷⁰ N. URBINATI and M. WARREN, “The Concept of Representation in Contemporary Democratic Theory”, *op. cit.*, note 41, p. 391.

⁷¹ J. BIEHL, *The Politics of Social Ecology*, *op. cit.*, note 63, p. 58.

⁷² H. LANDEMORE, “Deliberative Democracy as Open, Not (Just) Representative Democracy”, *Daedalus, the Journal of the American Academy of Arts and Sciences*, 3, Summer 2017, p. 51-63, p. 59.

⁷³ Even though such power is limited in the framework of communalist direct democracy, occupying some positions can lead to access to knowledge, information, people, authority attached to the fact of acting for the assembly, and so on.

people to deliberate and decide on its interests, and enact policies that would respect it, this article proposes to turn to the model of communalist direct democracy. This system offers an institutional role to the assembled people, a role that it has been denied since the birth of representative government, and enables it to directly and collectively decide on public affairs, including environmental ones.

34. While a system that allows the people to deliberate and decide would not automatically lead to decisions that would solve the ecological crisis, the absence of short-term interest for re-elections coupled with the absence of channels for economic interests to influence policy-making could ensure that the decisions taken are guided by the sole compass of general interest, which is incompatible with ecological destruction and people's exploitation. The fact that ordinary individuals should find themselves entrusted with the task to decide on such crucial matters will force them to compose with the material constraints of an already-present ecological crisis. But most of all, this democratic proposition allows people to be the authors of the law, rather than its subjects. Ruling by authorship rather than by obedience strengthens the political legitimacy people give to the rules governing them, a legitimacy that is necessary given the challenges to come.

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