Alessandro Ferrara

The Democratic Horizon

Hyperpluralism and the Renewal of Political Liberalism

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ALESSANDRO FERRARA
University of Rome, "Tor Vergata"

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Hyperpluralism and the Renewal of Political Liberalism

Alessandro Ferrara explains what he terms "the democratic horizon" – the idea that democracy faces unprecedented challenges worldwide, some of which ironically stem from its own success in establishing itself as a horizon, as the only one fully legitimate form of government. Professor Ferrara investigates the contribution toward meeting those challenges that can be drawn from the framework developed by Rawls in *Political Liberalism*, once its full potential is released in the triple direction of rethinking and pluralizing the democratic ethos, handling the hyperpluralism that pervades our political spaces, and finding the proper ways, through conjectural arguments, for political justification to reach and include the partially reasonable. In the course of the argument, aesthetic sources of normativity that have formed the object of Ferrara's investigation in the past – exemplarity, judgment, the imagination – will often be called on to supplement the conceptual resources of a revisited political liberalism. Through its own openness to the fact of pluralism, to the burdens of judgment, and to nonliberal decent polities, and through the still underexplored moment of judgment and exemplarity inherent in public reason, political liberalism is the general philosophical framework most capable of addressing the complex interplay of democracy and the normativity of identity.

Alessandro Ferrara is Professor of Political Philosophy in the Department of History, Culture and Society at the University of Rome, "Tor Vergata". He is the author of four books, including *The Force of the Example: Explorations in the Paradigm of Judgment* (2008).

Preface and Acknowledgments

This book grew out of a concern for democracy, the heritage of "political liberalism", and the aesthetic sources of normativity. Democracy faces unprecedented challenges worldwide, some of which ironically stem from its own success in establishing itself as a horizon – as the only one fully legitimate form of government. In the book, I investigate the contribution toward meeting those challenges that can be drawn from the normative framework developed by Rawls in *Political Liberalism*, once its full potential is released in the triple direction of rethinking and pluralizing the democratic ethos, handling the hyperpluralism that pervades our political spaces, and finding the proper ways, through conjectural arguments, for political justification to reach and include the partially reasonable. In the course of the argument, aesthetic sources of normativity that have formed the object of my investigation in the past – exemplarity, judgment, the imagination – will often be called on to supplement the conceptual resources of a revisited political liberalism. In fact, through its own openness to the fact of pluralism, to the burdens of judgment, and to nonliberal decent polities, and through the still underexplored moment of judgment and exemplarity inherent in public reason and in the standard constituted by "the most reasonable for us", political liberalism is, among the general philosophical frameworks available today, the one most capable of addressing and making sense of the complex interplay of democracy and what I call the normativity of identity.

The chapters of this book are based on materials that have been presented at various conferences, workshops, and seminars and that have been revised and expanded on the basis of valuable feedback received on those occasions. The section of the Introduction where an assessment is presented of the "inhospitable conditions" for democracy in present-day complex societies has been discussed at a workshop promoted by the Centro Estudios Democraticos and the Istituto Italiano di Cultura, Lisbon, in January 2012 and at the International Summer

School "ASSET 2012" on "Political Representation in a Plural Society" organized by the Fondazione Marcianum Venezia, in September 2012. On both occasions I received valuable feedback from many colleagues, especially from Giuseppe Ballacci, Massimo Luciani, Mihaela Mihai, Serdar Tekin, and Mathias Thaler.

Chapter 1 – "Reasons That Move the Imagination: Democratic Politics at Its Best" – is based on a paper given at the conference "Che cos'è la politica? Paradigmi del pensiero politico contemporaneo a confronto" at the University of Venice, March 24–25, 2007, later delivered as a lecture titled "Una reflexión sobre la politica" at the Fundación Juan March in Madrid in November 2007, and in a revised form presented at the conference "Philosophy and Social Science" in Prague in 2008. It has also been further discussed under the title "La politica en su forma mejor: razones que mueven la imaginaciòn" at the conference "Crear cultura, imaxinar país", Consello de Cultura Gallega, Santiago de Compostela, 2008, and as "Politics and the Imagination" at University College London in January 2009. For the many suggestions received on these occasions I wish to thank Amy Allen, Richard Bellamy, Fina Birulés, Chiara Bottici, Marina Calloni, Dario Castiglione, Leonardo Ceppa, Maeve Cooke, Claudio Corradetti, Lucio Cortella, Paolo Costa, Mariano Croce, Manuel Cruz, Dimitri D'Andrea, Pieter Duvenage, Javier Gomá, María Pía Lara, Ramon Maiz, Virginio Marzocchi, Stefano Petrucciani, Walter Privitera, Elena Pulcini, Carlos Thiebaut, and Fernando Vallespín. A version of this chapter was published in Chiara Bottici and Benoît Challand (eds.), *The Politics of Imagination* (Abingdon: Birkbeck Law Press, 2011), 38–54, and I am grateful to the editors and the publisher.

Chapter 2 – "Democracy and Openness" – was developed out of a paper given at the conference "Affect, Imagination and Democratic Values" at the University of Virginia, Charlottesville, April 2–3, 2010, and later discussed at the doctoral program in Philosophy and Social Sciences of the University of Rome "Tor Vergata" at the Fondazione Basso and at the Istituto Sturzo in Rome, as well as at the Centro Estudios Democraticos, University of Coimbra, Portugal, in 2012. I am grateful to David Alvarez, William Connolly, Gianni Dessì, Bryan Garsten, Tonino Griffero, Giacomo Marramao, Massimo Rosati, and Stephen K. White, and again to Giuseppe Ballacci, Mihaela Mihai, Serdar Tekin, and Mathias Thaler for their comments and encouragement.

Chapter 3 – "Reflexive Pluralism and the Conjectural Turn" – grew out of my involvement with the Istanbul Seminars organized by ResetDoc/Dialogues on Civilizations and was presented and debated in Istanbul in 2008 and first published in *Philosophy and Social Criticism*, 2010, 36, 3–4, 353–64. Thanks are due to Seyla Benhabib, Giancarlo Bosetti, Jean Cohen, Maeve Cooke, Drucilla Cornell, Abdou Filali-Ansary, Nina zu Fürstenberg, Nilufer Göle, Jürgen Habermas, Ramin Jahanbegloo, and David Rasmussen for their comments.

Chapter 4 – "Hyperpluralism and the Multivariate Democratic Polity" – initially was presented as a brief roundtable intervention at the conference

"Rawls and Religion" organized by Luiss Guido Carli University in Rome, later developed as a paper presented at the Istanbul Seminars 2011, and was also discussed at the Prague conference "Philosophy and Social Science" in 2012. It was first published (without the sections on the agonistic interpretations of hyperpluralism and on the alternative strategies for dealing with hyperpluralism) in *Philosophy and Social Criticism*, 2012, 38, 4–5, 435–44. On these occasions, I received important suggestions and objections about the ideas presented in this chapter from Abdullahi An-Na'im, Tom Bailey, Dario Castiglione, Valentina Gentile, Sebastiano Maffettone, Andrew March, and Mark Rosen.

Chapter 5 – "*Cuius Religio, Eius Res Publica*: On Multiple Democracies" – was presented at the workshop "Multiple Modernities and Global Postsecular Society" organized by the Center for Religions and Political Institutions in Post-Secular Society, May 2011, Rome, and at the Fifth International Critical Theory Conference organized at the John Felice Rome Center of Loyola University Chicago, May 2012, and at the roundtable "Overcoming Postcolonialism: From the Civilizational Dispute to the Renewal of Dialogue" within the framework of the ResetDoc Istanbul Seminars 2012. A version of the chapter was published as "From Multiple Modernities to Multiple Democracies" in Massimo Rosati and Kristina Stoeckl (eds.), *Multiple Modernities and Postsecular Societies* (Farnham: Ashgate, 2012), 17–40. I am indebted to Alexander Agadjanian, Giuliano Amato, Matteo Bortolini, Stefano Giacchetti, Enzo Pace, Massimo Rosati, Kristina Stoeckl, Roberto Toscano, and Peter Wagner for pressing on me many interesting and challenging questions.

Chapter 6 – "Multiculturalism: Negation or Completion of Liberalism?" – was discussed at the Summer School on "Human Rights, Minorities and Diversity Management" organized by the European Academy, Bozen, July 2012, and benefited from remarks and suggestions by Claudio Corradetti, Joseph Marko, and other participants.

Chapter 7 – "Beyond the Nation: Governance and Deliberative Democracy" – originated as a paper for the Conference on "Governare il lavoro e il Welfare attraverso la democrazia deliberative", CNEL, Rome, October 2006, and was revised after discussions held on several subsequent occasions, including the conference "La liberal-democrazia tra globalizzazione e governance" at the University of Palermo in 2007 and a workshop on "Justice and Governance in the International Community" at the 24th IVR World Congress, Beijing, 2009. I wish to thank here Marzia Barbera, Luigi Ferrajoli, Nino Palumbo, Stefano Petrucciani, Jacob Dahl Rendtorff, Francesco Riccobono, Asger Sørensen, and Salvo Vaccaro.

Chapter 8 – "Truth, Justification and Political Liberalism" – was presented at the conference "Filosofia e politica" at the Università Statale, Milan, 2009, and at a roundtable on "Verità e democrazia" organized by the Biennale della Democrazia, Turin, in 2009. Later it was discussed at the Prague conference "Philosophy and Social Science" in May 2010, at the conference "Verità in una

società plurale" at the Università Ca' Foscari, Venezia in September 2011, and as a lecture at the Faculty of Philosophy of the Università Vita–Salute San Raffaele in Milan in 2011. The text has undergone several revisions, prompted among other things by the suggestions offered by Ken Baynes, Antonella Besussi, Matteo Bianchin, Maeve Cooke, Lucio Cortella, Roberta de Monticelli, Nancy Fraser, Elisabetta Galeotti, Diego Marconi, Giacomo Marramao, Mario Ruggenini, Roberta Sala, and Marco Santambrogio.

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Rome, April 2013

Contents

Introduction

> Democracy is a *personal* way of individual life ... it signifies the possession and continual use of certain attitudes, forming personal character and determining desire and purpose in all the relations of life. Instead of thinking of our own dispositions and habits as accommodated to certain institutions we have to learn to think of the latter as expressions, projections and extensions of habitually dominant personal attitudes.
>
> John Dewey, "Creative Democracy – The Task before Us"

> The democratic ideal in politics straightforwardly calls for government by the governed. "Democracy" in our time certainly signifies something beyond the rule of the many or the crowd as opposed to the few, the best, or "the one". It means that a country's political practice is not right – the practice is not as it ought to be – unless, in the last analysis, it leaves the country's people under their own rule.
>
> Frank Michelman, "How Can the People Ever Make the Laws?"

Inherent in democracy is a propensity for innovation, not for preserving tradition: in this lies democracy's affinity with *openness*. It goes without saying that democracy also has a tradition of its own – a canon, a constellation of forms, rituals – and a special *ethos* of its own. Its distinctive characteristic, however, is the capacity to undergo transformation, to open itself up to the new. Born in Athens, where a few tens of thousands of citizens would give themselves the laws that they would obey, it has become the form of government of modernized societies that count tens and hundreds of millions of citizens and has turned into *representative* democracy in order to remedy the obvious impossibility of physically convening the *demos* in one single public square.

Since a few decades ago, practically since yesterday given its bimillenary history, democracy has become a regime without antagonists, an unquestioned *horizon* shared by all the advanced societies of the Western world.[1]

[1] On the idea of a "non-negotiability" of democracy in today's world see Ian Shapiro, *The State of Democratic Theory* (Princeton: Princeton University Press, 2003), 1. On the transformation of all

Paradoxically, as we shall see, this transformation comes at a time when the social, historical, cultural conditions under which long-established democratic polities are functioning become more and more "inhospitable" and at a time when, for many peoples around the world, democracy has turned into an aspiration that cannot be renounced. Indeed, democracy might well follow the same trajectory as the nation-state: born in Europe with the rise of the absolute monarchies from the feudal fragmentation of the former Roman empire, exported through colonialism and superimposed onto local varieties of political association, after four centuries this political form has become the aspiration of every movement of anti- or postcolonial liberation from autocratic or oligarchic regimes. The last of these nation-states, now on its way to political life, is South Sudan. Democracy might well be the next political form to share this destiny. If this will be the case, democracy – even if stripped down to the minimal idea that voting is better than shooting and ballots preferable to bullets – will certainly undergo transformations along lines other than those that we are familiar with.

The historical process to which we bear witness can be interpreted in several ways. Some have equated it with the "end of history",[2] others with democracy turning into an "emblem" or an "empty signifier" and being enervated from a symbol of emancipation to an instrument of power.[3] To be sure, the moment when democracy becomes a "horizon" also marks a moment when neo-oligarchic tendencies rear their head in societies that already are democratic and when populist antipolitical attitudes gain center stage.[4] However, the extent to which it makes sense to characterize the state of democracy exclusively on the basis of these challenges will be left open in this book. Underlying this book is, rather, the intent to analyze the internal resources at democracy's disposal for resisting these inegalitarian and oligarchic pressures and to reflect on how, in the future, democracy will be able to remain faithful to its core principle of

nondemocratic regimes into residual and eccentric forms, see Robert Dahl, *On Democracy* (New Haven: Yale University Press, 1998), 3 and Chapter 12.

[2] Francis Fukuyama, *The End of History and the Last Man* (New York: Avon, 1992). For an acute critique of the crypto-theological underpinnings of Fukuyama's narrative, see Jacques Derrida, *Specters of Marx: The State of the Debt, the Work of Mourning, and the New International*, trans. P. Kamuf, with an introduction by B. Magnus and S. Cullenberg (London: Routledge, 1994), 56–62.

[3] Alain Badiou, for example, suggests to "dislodge the emblem", to "dispel the aura of the word *democracy* and assume the burden of not being a democrat and so being heartily disapproved by 'everyone'"; see his "The Democratic Emblem", in Giorgio Agamben et al. (eds.), *Democracy in What State?*, trans. William McCuaig (New York: Columbia University Press), 7. Wendy Brown argues that democracy has "never been more conceptually footloose or substantially hollow", it has indeed become an "empty signifier" and a "gloss of legitimacy for its inversion"; see "We Are All Democrats Now ...", in ibid., 44. On the same wavelength, Jean-Luc Nancy characterizes democracy as "an exemplary case of the loss of the power to signify", a term that "means everything and nothing", in "Finite and Infinite Democracy", in ibid., 58.

[4] See Colin Crouch, *Post-Democracy* (Cambridge: Polity Press, 2004); Ernesto Laclau, *On Populist Reason* (London: Verso, 2005), 175–99; Michael Kazin, *The Populist Persuasion: An American History* (Ithaca: Cornell University Press, 1995), 250.

self-government while loosening more and more that anchoring to the nation that so much has contributed to its success in the modern age, and while facing the challenge of sinking roots in cultural contexts where the value of individual autonomy is not paramount. Democracy has a chance of becoming a truly universal political form only if democratization will not forever remain synonymous – as it has been for a long time – of Westernization and will truly open up to diversity, rather than consisting in the exportation of Western institutions and traditional forms.

From this general diagnosis – somewhat different from the often proclaimed "crisis of democracy" – a twofold task follows. On the one hand, the new challenges must be identified with which twenty-first-century democracy will be confronted in those countries where it was born and more precociously developed, and the ways must be explored in which such challenges can be met. On the other hand, it is necessary to understand the directions along which democracy can undergo transformation and yet remain faithful to itself in the *new* areas of its expansion.

Democracy is coeval with the philosophical conversation about politics initiated by Plato in *The Republic*. Its history is peculiar. For 24 and a half of the 25 centuries during which it has developed, and notably until 1945, democracy had remained little more than *one* among various kinds of legitimate rule: the rule of the many, as opposed to the rule of the few or the one. Instead, since World War II – the last of the great wars in which Western powers have fought against one another, and precisely across a divide that demarcated democracy versus dictatorship – the democratic form has never been thrown into question again in the West (with the exception of the prolongation of authoritarian regimes in Spain and Portugal until the 1970s and of the military junta in Greece between 1967 and 1974), in India and in Japan. Starting from the 1990s, then, three large waves of democratization have swept geographical areas where previously democracy never had had any strong foothold: Central and Eastern Europe, Latin America, Southeast Asia, South Africa, and, recently, in the course of a still open-ended process, North Africa and the Middle East.[5] Now also in these parts

[5] This impressive affirmation of democracy during the last decades is well documented by the UN Human Development Report 2010, *The Real Wealth of Nations: Pathways to Human Development*. Written before the Arab Spring, the report describes the advances of democracy in Europe and Central Asia, followed by Latin America and the Caribbean: "Among developing countries in Europe and Central Asia the only democratic country in 1988 was Turkey. Over the following three years 11 of the 23 countries in the region became democracies, with 2 more turning democratic since 1991. In Latin America and the Caribbean most countries were not democratic in 1971, and several democracies reverted to authoritarianism during the 1970s. Following a subsequent wave of political change, almost 80 percent of the countries were democratic by 1990. By 2008, with regime changes in Ecuador and Peru, the share reached 87 percent. East Asia and the Pacific and Sub-Saharan Africa also reflect reforms – just 6 percent of governments in both regions were democratic in 1970; by 2008 the share had risen to 44 percent in East Asia and the Pacific and 38 percent in Sub-Saharan Africa" (UN Human Development Report, 68–69). The years 2011–12

of the world democracy has become no longer just *one*, but *the* quintessentially legitimate form of government.

Democracy's becoming an "emblem", lamented by the theorists of democracy's crisis, its turning into insignia used by the powers that be in order to self-legitimize, is among other things also a symptom of this extraordinary historical success and of the intrinsic and almost irresistible appeal of the idea of self-government – an idea that can mobilize men and women at all latitudes, though certainly this almost universal appeal inevitably brings a plurality of not always consistent meanings to be attached to the far from empty signifier "democracy". Contested does not mean "empty", but the opposite, an excess of signification in need of being sorted out.

For a political philosopher living in a global world where obvious advantages exist for any polity that looks like a democratic regime – easier access to international credit, staying out of the blacklists compiled by nongovernmental organizations (NGOs) fighting for human rights, more intense incoming touristic fluxes, greater attractiveness for foreign investment capital – a fundamental task is to define what it means for a political regime to count as a real democracy.

Some opt for a procedural strategy. Aware of the almost unlimited plasticity of cultural frames that are anchored to the great world religions and underlie the local political process, these theorists constantly refine their conceptual tools: they look at such criteria as party pluralism, the confidentiality of ballots and electoral equity, the regular frequency of elections, the formation of majorities, of coalitions, and their effectiveness on the executive terrain.[6] Others instead, among whom I place myself, consider procedural criteria always vulnerable to the risk of a "trivializing emulation": no parameter is immune from being formally satisfied yet substantively deprived of all meaning.

In fact, even the crucial nexus of elections and democracy has come under close and critical scrutiny. On the one hand, the possibility of elections without democracy has been investigated with reference to the situation that has led to the Arab Spring.[7] On the other hand, in the "prosperous and secure democracies" a reflection has been under way for more than a decade on the changing significance of electoral representation, taken as the crucial juncture of democratic life, in the light of the presence of elective oligarchies, of the decisiveness of

show evidence of an incipient extension of this process to several countries of the Middle East and North Africa.

[6] Over and beyond the classical reflections by Hans Kelsen, "On the Essence and Value of Democracy", in Arthur J. Jacobson and Bernhard Schlink (eds.), *Weimar: A Jurisprudence of Crisis* (Berkeley: University of California, 2000), 84–109, and Joseph Schumpeter, *Capitalism, Socialism and Democracy* (1942), with a new introduction by Tom Bottomore (New York: Harper & Row, 1975), some have recently developed the same intuition along very interesting comparative lines: see Alfred C. Stepan, Juan J. Linz and Yogendra Yadav, *Crafting State-Nations: India and Other Multinational Democracies* (Baltimore: Johns Hopkins University Press, 2011).

[7] See Larry Diamond, "Elections without Democracy: Thinking about Hybrid Regimes", *Journal of Democracy*, 2002, 13, 2, 21–35, and Larbi Sadiki, *Rethinking Arab Democratization: Elections without Democracy* (Oxford: Oxford University Press, 2009).

campaign funding and the favor of the media, and of the declining accountability of the representatives.[8] In a positive vein, an exploration of "nonelectoral" forms of representation has directed our attention to the democratic potential of forms of "discursive representation" and even of "informal representation", the latter being based on criteria, among others, of authenticity or "untaintedness" of the representatives.[9] More generally, the perceived need for a thorough rethinking of representation comes from the realization that in today's global world it makes less and less sense to assume that political representation is only real if it is democratic, that it is only democratic if it is electoral, and that it could only be electoral within the nation-state.[10]

Thus an alternative strategy is followed in this book: namely, to make the definition of democracy hinge on the idea of a *democratic ethos* that underlies and enlivens the procedural aspects of democracy and that at the same time, being a historical product connected with singular developmental contingencies, proves difficult to reproduce at will and to be "trivially imitated".

Democracy is then an ethos on whose basis certain procedures are adopted and followed, not simply the format of these procedures. Dewey's fragment, quoted as exergue next to Frank Michelman's characterization of democracy, forcefully and concisely expresses this idea. At the center of this book is the attempt, among other things, to identify the contours of this democratic ethos and to highlight one aspect of it, which thus far has remained out of the limelight: democracy's intrinsic relation to openness as a public value. More on this point will be added later, in Chapter 2, but before addressing the normative questions

[8] This debate has been opened by Jane Mansbridge's seminal article "Rethinking Representation", *American Political Science Review*, 2003, 97, 4, 515–28, where classical "promissory representation" is distinguished by the often interfering "anticipatory representation" and the more generalized "surrogate representation". Philip Green and Drucilla Cornell have summed up their view of American democracy in a way which applies to many other Western democracies: in the alleged "rule of the many", "elections in which the many participate do intervene between the agenda-setting (and candidate selection) of the few and the installation of a government. However, except on certain (mostly symbolic) issues, the government, though elected, governs at the approval of the few: this is representative oligarchy"; "Rethinking Democratic Theory: The American Case" (2007), in IED, http://www.iefd.org/articles/rethinking_democratic_theory.php. See also Dario Castiglione and Mark Warren, "Rethinking Democratic Representation: Eight Theoretical Issues", Working Paper, Centre for the Study of Democratic Institutions, University of British Columbia, 2006.

[9] See Michael Saward, "Authorisation and Authenticity: Representation and the Unelected", *Journal of Political Philosophy*, 2009, 17, 1, 1–22. Whereas Saward's contribution focuses primarily on representation in the public sphere, John S. Dryzek and Simon Niemeyer suggest forms of issue-geared representation for the institutional core of a democratic polity: see their "Discursive Representation", *American Political Science Review*, 2008, 102, 4, 481–93. See also John S. Dryzek, *Deliberative Democracy and Beyond: Liberals, Critics, Contestations* (Oxford: Oxford University Press, 2000).

[10] See Saward's "Claims and Constructions", in Andrew Schaap, Simon Thompson, Lisa Disch, Dario Castiglione and Micahel Saward, "Critical Exchange on Michael Saward's *The Representative Claim*", *Contemporary Political Theory*, 2012, 11, 1, 109–27.

raised by the rethinking of democracy after it has become a horizon, we need to look at some of the trends often captured by the phrase "crisis of democracy" and certainly defining the context of that renewal.

Democracy, as a political regime, is inserted in the larger context of society. Montesquieu well understood this point, when in *The Spirit of the Laws* he suggested that the stability of democracy – in his framework just one of the versions of the "republic" – is connected with the diffusion of what he called *vertu* and could be understood as a culture of giving priority to the common good over particular goods. In the same vein, Machiavelli forcefully made the case that no "republic" can flourish and attain stabilization in a context where citizens are not used to what he called *"vivere civile"*. These reflections point to the misleading connotation conveyed by the genitive "of" in the expression "crisis of democracy". Using a botanical metaphor, one could say that democracy *qua* political regime is like a plant that, its genetic endowment remaining the same, can flourish and grow in a fertile soil and is doomed to wither and fade in an arid soil. Our attention needs to be directed more to the qualities of the soil than to an intrinsic genetic weakness of the democratic plant.

Today, we have reasons to believe that the soil – the larger societal, historical, cultural and economic context where twenty-first-century democracies must function – has become more *inhospitable*.

We do not start from scratch in this analysis. A copious literature exists, which cannot be surveyed here, except for recalling the most concise account of the contemporary conditions inhospitable for democracy, with reference to the last third of the twentieth century, offered by Frank Michelman.[11] He mentions:

a) The immense extension of the electorate, reaching tens and sometimes hundreds of millions of voters, which instills or enhances a perception of irrelevance associated with one's participation in elections – a perception hardly thrown into question by the "electoral ties" that have punctuated the first decade of the century (Bush vs. Gore in the United States, Berlusconi vs. Prodi in Italy and Calderon vs. Obrador in Mexico) – and puts an incentive on "rational ignorance" on the part of the ordinary citizen;[12]
b) The institutional complexity of contemporary societies – where the diverse layers of representation, from local to national, make it difficult to grasp the relation between one's vote and its real political

[11] Frank Michelman, "How Can the People Ever Make the Laws? A Critique of Deliberative Democracy", in James Bohman and William Rehg (eds.), *Deliberative Democracy* (Cambridge, MA: MIT Press, 1997), 154.

[12] "Rational ignorance" is the response of the citizen who finds futile to invest time in acquiring all the knowledge necessary for an autonomous and considered judgment on highly complex issues, given the neglectable influence of a single ballot in an election where tens or hundreds of millions vote. See James Fishkin, *The Voice of the People: Public Opinion and Democracy* (New Haven: Yale University Press, 1995).

consequences – as well as the technical complexity of the political issues, which again discourage active participation on the part of lay persons and interfere with the accountability of elected officials;[13]

c) The increased cultural pluralism of constituencies, typical of societies where migratory fluxes combine with a public culture receptive to openness and the value of diversity, which renders consensus on political values and *constitutional essentials* more unstable and difficult to reach relative to societies that are either more impermeable to immigration or more inclined to accept the public hegemony of the culture of the majority – a condition of *hyperpluralism* with which a renewed version of political liberalism will have to come to terms in ways explored in Chapter 4;

d) The anonymous quality of the processes of political will-formation, i.e., the emerging of a political orientation and opinion less and less out of direct interaction among citizens assembled in public places and now almost exclusively via simultaneous, yet isolated, exposure to a variety of media outputs or at best through exposure to such messages within small like-minded groups.[14]

Some of these conditions have generated important responses and countertendencies, the most important of which is the rise of a "dualist conception of democratic constitutionalism". According to this dualistic model, formulated in the volume *Foundations* (1991) of Bruce Ackerman's multivolume work *We the People*, in the inhospitable context of today's society it makes sense to apply the classical standard of the "consent of the governed", in order to assess the legitimacy of a political order, only to the "higher" level of law and the institutional framework – that is, to the level that coincides with the *constitutional essentials*. Instead, the political justification of all the legislative, administrative and judicial acts of "ordinary" or "subconstitutional" level is best conceived of as resting simply on their consistency with the constitutional framework (needless to add, when mechanisms of *judicial review* are in place).[15]

[13] See Mark Bovens, *The Quest for Responsibility: Accountability and Citizenship in Complex Organisations* (Cambridge: Cambridge University Press, 1997).

[14] See the now classical study by Jürgen Habermas, *Structural Transformation of the Public Sphere* (1962), trans. Thomas Burger with the assistance of Frederick Lawrence (Cambridge, MA: MIT Press, 1991).

[15] See Bruce Ackerman, *Foundations*, vol. 1 of *We the People* (Cambridge, MA: Harvard University Press, 1991), 6–7. Ackerman's dualistic approach, adopted by Frank Michelman in his reflections on democratic constitutionalism, has then been subsequently integrated into Rawls's *Political Liberalism*, as attested by Rawls's definition of the "principle of liberal legitimacy" in the following terms: "our exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principle and ideals acceptable to their common human reason"; *Political Liberalism* (1993) (New York: Columbia University Press, 2005), 137.

To these four conditions mentioned by Michelman a fifth one is worth adding, which is also rooted in the historical context of the last third of the twentieth century, namely, the same migratory fluxes that have accrued societal pluralism also have contributed to make citizenship less inclusive and more selective. Contemporary democracies are further and further removed from the canonical image of a political community of free and equals encompassing all the human beings who live within the same political space. Instead, they resemble more and more the ancient democracies, inhabited by citizens who would decide the fate of denizens of various kinds and of slaves. Within the number of all those who live within the borders of a contemporary democratic nation-state are now included many who are not citizens at all: resident aliens, immigrants awaiting legal residency, illegal aliens who have no chance of becoming residents, refugees, people enslaved by human-trafficking rackets.

This is history now. New conditions, perhaps even more inhospitable, have emerged. The list needs some updating, and this exercise helps us highlight the element of truth in the misleading thesis of the "crisis of democracy".

Among the *new* inhospitable conditions, which favor a de-democratization of democratic societies, we can certainly include the prevailing of finance within the capitalist economy (a factor that further increases the difficulty, on the part of government, to steer the economic cycle), the generalized acceleration of societal time, the globalization-induced tendency toward supranational integration, the transformation of the public sphere caused by the economic difficulties of traditional media and the rise of the new social media, the wide-scale and generalized use of opinion polls and their influence on the perceived legitimacy of executive action.

Democracy has always had an ambivalent relation with the capitalist economy, but it is an undeniable fact that modern representative democracy could stabilize and flourish only in combination with a capitalist economy. During the last three decades, however, capitalism has undergone a momentous transformation that has revived traits of brutality typical of earlier stages of capitalism at the onset of the Industrial Revolution. The value of labor has constantly been diminishing in the West over the last few decades, and this process, linked in turn both with technical rationalization and with the geopolitical availability of a global labor market, exerts a social impact that goes well beyond industrial relations or even the whole of the economic sphere.[16] We are probably witnessing the terminal decline of employed labor *qua* generator of wealth and social prestige also in the tertiary sector, among white collars. It is not just that the great

[16] An indicator of this general trend is the systematic decline of the labor share in favor of capital share over the last few decades in all economies, a decline that reaches beyond 10% in Finland, Austria, Germany, Sweden and New Zealand and has a peak of 15% in Ireland, as attested by the International Labor Office, *Global Wage Report* (Geneva, 2010), 27. For a similar analysis, see also International Monetary Fund, *World Economic Outlook: Spillovers and Cycles in the Global Economy* (Washington, DC, 2007), 174.