

REASON AND DEMOCRACY: THE POTENTIAL RENEWAL OF THE IDEA OF ARISTOCRACY

**RAZÓN Y DEMOCRACIA: LA POTENCIAL RENOVACIÓN DEL CONCEPTO DE
ARISTOCRACIA**

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Resumen: Existe una relación entre diferentes clases de discusión y los roles que ésta juega en las instituciones del gobierno representativo. Es posible distinguir tres tipos de discusión, que caen en una escala decreciente según su afinidad con estándares racionales de toma de decisiones. El argumento es que mientras más se ajuste una discusión a estándares racionales, menos democrática será. Esta tensión entre democracia y discusión racional es en realidad la tensión entre democracia y aristocracia, y sugiere un camino para reintroducir la aristocracia como concepto significativo hoy. Sólo admitiendo la naturaleza aristocrática de la discusión racional es posible preservar el carácter democrático de una institución.

Palabras clave: Democracia, representación, discusión, razón, aristocracia

Abstract: There is a relationship between different kinds of discussion and the roles they play in the institutions of representative democracy. Three kinds of discussion are distinguished, which fall on a scale of decreasing attunement to rational standards of decision-making. It is argued that the more discussions are attuned to rational standards, the less democratic they become. This tension between rational discussion

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and democracy is in fact the tension between aristocracy and democracy, and suggests a way in which aristocracy may be reintroduced as a meaningful concept today. Acknowledging the aristocratic quality in rational discussion preserves an institution's democratic character.

Key words: *Democracy, representation, discussion, reason, aristocracy*

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I. INTRODUCTION

Most modern conceptions of democratic political systems are linked with the idea of representative government, such that what is said to characterize a *democratic* regime is that it contains in its center an organ of power composed of a group of people who have been elected by the populace at large to be their voice and to exercise their will for them in the business of government. In this picture there are two key elements that I want to stress: first, that representative democracy implies the existence of an assembly, a *group* of representatives, in which the main political powers are vested; and second, that representation is ascertained through an electoral process, whereby the people select from among themselves those who, in representing them, will exercise their lawmaking powers. A representative assembly appointed through popular election, therefore, is at the center of our modern conception of democracy. The assembly acts as the link between the *demos* and the exercise of political power.

As both Sieyès and Madison pointed out¹, the main characteristic of these assemblies is that they are arenas where differing views, interests, or opinions may be expressed, contrasted, filtered, and finally crystallized in the form of political decisions. Indeed, it seems difficult to understand why there would have to be more than one individual representative, that is, why there would have to be a representative *assembly*, if it was not for this purpose. Thus, some form of discussion of the issues seems to be an essential aspect of what representative assemblies are there to do. As Bernard Manin has put it, “[r]epresentative government is not a system in which everything must originate in debate, but in which everything has to be justified in debate” (1997, pag. 191). Representative democracy can therefore be understood as a system of government in which political decisions are made by means of a process that includes, at some key point, discussion, debate, or deliberation².

¹ “Sans doute, l’intérêt général n’est rien, s’il n’est par l’intérêt de quelqu’un; il est celui des intérêts particuliers qui se trouve commun au plus grand nombre des votants. De-là, la nécessité du concours des opinions” (Sieyès, 1789, pag. 93); “[The effect of representation is] to refine and enlarge the public views, by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations. Under such a regulation, it may well happen that the public voice, pronounced by the representatives of the people, will be more consonant to the public good than if pronounced by the people themselves, convened for the purpose” (Madison, 2003, pag. 44).

² I am not here adhering to the critical understanding of parliamentary or representative systems as “government by discussion” put forth by Carl Schmitt and many others in his wake, who considered this relationship between decision-making and deliberation in representative systems to be a kind of rationalist conception of politics that does away with the fundamentally political nature of the exercise of power (cfr. 1988, pages. 3-8). Indeed, I am making no normative or critical appraisal of this reality, but merely stating it:

Discussion³, however, can take many forms and have many objectives. I will point out three such forms, each with its particular objective. First, there is the classical Platonic view of discussion, which sees it as dialectic (“Platonic dialectic”), or the back-and-forth of reasoned debate that refines ideas through argumentation and counter-argumentation in an effort to find truth. This view states that discussion is oriented toward the finding of truth and thus has as its objective the enlightenment of those involved, which would finally come to agree on a final idea thanks to the purely intellectually compelling force of the truth that it contained⁴. The point of Platonic dialectic is that the sole criterion of validity of any statement made is its rationality, excluding, as Socrates says, any “emotional speeches” or appeals to other authorities besides that of reason aspiring to truth. The usefulness of this view of discussion for politics is made somewhat fragile by Aristotle’s distinction between theoretical and practical reasoning, for Platonic dialectic can indeed be extremely useful in ascertaining or better understanding the contours and content of issues, but not really so when it comes to making judgments about what is to be done about them.

For this reason I turn now to the second view, Aristotle’s notion of deliberation (“deliberation”). In the wake of his clearer distinction between the theoretical and the practical intellectual capacities of the soul, he formulated his notion of *phronesis* (φρόνησις) or “prudence”, as the intellectual virtue that allows

some form of discussion at the representative assembly is an essential element of how representative governments get things done.

³ Until I can further precise the terms, I will use the word “discussion” to signify any kind of back-and-forth verbal exchange between two or more people on any given subject.

⁴ *Vid.*, e.g., Plato, *Gorgias*, 449B: “*Socrates*: Would you be willing then, *Gorgias*, to continue the discussion as we are now doing, by way of question and answer, and to put off to another occasion the (emotional) speeches [Rhetoric] that [the Sophist] *Polus* began?”

man to judge well concerning moral action⁵. His account of this virtue is that it is dialectical in structure, so that the final decision concerning a virtuous action occurs when several distinct considerations come to the mind, slowly refining its understanding of the practical exigencies at hand as the arguments come to it and dispute each other, perfecting the final view. Aristotle saw his notion of moral deliberation as a model to understand political decision-making (cfr. *Nicomachean Ethics*, VI, 8), where the discussion is also dialectical in nature and also has a final reason-based objective. However, this objective, whether for the individual or for the political decision-making body, is not identified with a universal truth as in Platonic dialectic, rather, it is in the form of a *judgment* regarding the best course of action in the view of existing practical exigencies. That is, the judgment is supported by reasons, but it is not universally “true” in the same way a theoretical proposition can be. This marks the key difference with the previous view. In Platonic dialectic, the finding of truth ends the discussion; truth forces assent, as it were, by the sheer force of its rational solidity. In practical deliberation, on the other hand, the final product is not irrefutable, and the discussion of reasons for and against its appropriateness could conceivably carry on forever⁶. Thus, the final product of practical deliberation can only come about by an act of the will:

⁵ Aristotle’s discussion of *prhonesis* is found in Book VI of the *Nicomachean Ethics* and Book V of the *Eudemian Ethics* (which are identical).

⁶ This does not mean that one view of the situation cannot be substantially more persuasive than another and thus in a way also “force” assent. What it means is that because practical reason, by its very nature, does not deal with universals, it cannot bring about understanding of the sort which is not affected by differing circumstances and changing contingencies. Practical reason concerns itself precisely with those circumstances and contingencies, and so the force of its deliberative conclusions can only be persuasive (even highly persuasive), never definitive. Cfr. Aristotle, *Nicomachean Ethics*, VI, 7; St. Thomas Aquinas, *Summa Theologiae*, IIa-IIæ, q. 47, arts. 2, 3. It is for this epistemological reason that an element of will is necessary to deliberation.

deliberation has to stop sometime, either by a conscious choice to act (in the case of an individual) or by the decision of a majority (in the case of an assembly).

Finally, there is the third view of discussion, which is substantially different from the previous two, where conclusions were reached based exclusively or primarily on their rational merits. This third kind of discussion (“democratic debate”) consists in the pure mutual expression of wants, interests, opinions, and desires regarding some issue. The objective here is not necessarily to arrive at a conclusion based on rational argumentation or rational merit, but one where (ideally) all, or at least a majority of the main interests, wants, opinions, and desires are in agreement or are satisfied. This does not mean that these conclusions are irrational or are reached in a manner that eschews reason-giving, rather, it means that the final objective of discussions of this third kind is a conclusion that, though not necessarily irrefutable or the most persuasive, manages to accommodate as many of the interests, wants, opinions, and desires of those involved in the discussion⁷. So, the criterion that democratic debate demands is what we could call a standard of political acceptability, where, even though the final decision could still be improved through deliberation or illuminated through Platonic dialectic, it is judged to be the most acceptable because it manages to satisfy or respond to the greatest amount of political

⁷ It goes without saying that a completely irrational or absurd decision would not satisfy the exigencies of democratic debate. A decision’s capacity to accommodate differing views and interests has an intrinsic element of reasonableness in two ways: first, it is a compromise, and so involves some degree of practical reasoning or *prhonesis*, and second, responding to a compromise or majority set of interests or opinions makes a decision appear reasonable in the eyes of society vis-à-vis those interests or opinions that it more or less adequately satisfies. This element of reasonableness, however, is not an element of the *structure* of this kind of discussion, which is directly oriented toward the accommodation of interests and views. Reasonableness is, as it were, a by-product (albeit a necessary one) of its conclusions.

exigencies, expressed by the wants, interests, opinions, and desires of those involved in the debate. In the sense that it responds to these exigencies adequately and is formed by them in a meaningful way, the decision can indeed be viewed as a *considered decision*, though perhaps still not being the most persuasive or theoretically sound decision.

The three forms of discussion can be seen as forming part of a spectrum of reason-based decision-making, with Platonic dialectic occupying the highest grade and democratic debate located at the bottom.

My point in this paper is to argue that this third form of discussion, and not Platonic dialectic or Aristotelian deliberation, is the most accessible and the most adequate for representative assemblies as they fulfill their role in the structure of modern government, a point which I believe can be made with the aid of one of the most brilliant and persuasive defenders of representative government, John Stuart Mill. Finally, I will argue that this brings new light on the relationship between democracy and representative government, suggesting that it establishes the basis for an argument in favor of aristocracy within that government.

II. DISCUSSION IN REPRESENTATIVE ASSEMBLIES

What kind of discussion are representative assemblies best suited to host? This is, in effect, the key question of the argument this paper presents. It has two parts. First, is it *possible* for representative assemblies to attain rationally higher levels of discussion like Platonic dialectic or Aristotelian deliberation? Second, is it *desirable* that representative assemblies attempt to discuss at these higher levels?

The first question is of course mostly empirical. As Ferejohn has pointed out, the closer a political body is to the people (that is, the higher its “democratic pedigree”), the less it is expected to

provide reasons for its actions. This can be expanded to imply that institutions with higher democratic pedigrees are therefore also not expected to *make* those decisions based on reason-giving processes (Ferejohn, 2006, pag. 206)⁸. The point here is that if a representative assembly wishes to retain its link to the people (its democratic pedigree), it must adopt its decisions in a way that most closely resembles the way in which the people as a body adopt decisions. It has been argued, at least since Plato, that the *demos* is not capable of engaging in full-blown and truly meaningful reason-giving deliberative processes (much less in any form of Platonic dialectic). The reasons for this are varied, but they all seem to come down to two considerations: first, the people do not have the capacity to quietly and closely ponder reasons, and second, even if many of them do have this capacity, the people as a whole are much more easily moved by non-rational factors such as group preferences, emotional attachments, cultural prejudices, sectional interests, or political demagoguery⁹. As John Stuart Mill put it: “The deficiencies of a democratic assembly, which represents the general public, are the deficiencies of the public itself: want of special training and knowledge” (2010, pag. 104).

Ferejohn’s account of the Citizens’ Assembly in British Columbia could be used to disprove this account of the capacities of democratic deliberation. However, the specific *functions* that were attributed to that Assembly (making a proposal to reform the

⁸ The inference that reduced expectations for reason-giving in *decisions made* implies reduced expectations for reason-giving in *decision-making processes* seems to be made by Ferejohn: “Perhaps, as public opinion research suggests, it is unrealistic to think that the public is at all capable of directly evaluating a technical recommendation” (Ferejohn, 2006, pag. 202).

⁹ This argument has been put forth by a host of political thinkers throughout the ages, to the point that it can be considered a leitmotiv of Western political philosophy. Some notable examples are Plato, Aristotle, Cicero, Augustine, Aquinas, Machiavelli, Thomas More, Harrington, Hobbes, Sidney, Madison, John Adams, Rousseau, and J.S. Mill.

province's electoral legislation) suggest that it was not really a body designed to represent the people directly and express their interests, desires, or opinions on the subject, but a fully investigative committee designed to research and propose a technically sophisticated measure. In other words, the task the Assembly had was to make a decision based on criteria that do not necessarily respond to the flow of popular political passions and interests, but on requirements of rationality that have no necessary link to those passions and interests. The Assembly enshrined a model that separates "proposal power, which is the focus of deliberation, from decision-making power, where popular assent is given or refused" (Ferejohn, 2006, pag. 196). What this means is that the Assembly in the end did not represent the democratic element in the decision-making process—that element was found in the people themselves and the role that they had to play in the overall scheme. Indeed, Ferejohn identifies the Assembly as an elite, and the entire model as a system that "offered ordinary voters a choice they do not often get: to choose between the positions of competing elites" (Ferejohn, 2006, pag. 203)¹⁰.

If it can be argued that the people cannot be expected to truly deliberate in a full sense, then we come to the second question: *should* a representative assembly attempt to deliberate? The answer is suggested by what has been said above. If it wants to retain a democratic pedigree, and thus be a *representative* body in a meaningful way, then a representative assembly must eschew deliberation for another form of discussion. The best and most appropriate alternative is what I have called democratic debate, the kind of discussion in which the diverging interests, desires, wants, and opinions of the populace are made manifest, confront each other, and are finally compromised to reach a decision whose criterion of acceptability is not primarily a measure of reasonableness, but the capacity to accommodate as many of these

¹⁰ The two competing elites in this case were the ordinary legislature and the Assembly.

political exigencies as is possible in the given circumstances. Intense deliberation, as Ferejohn and Mill argue, increase the distance between a political institution engaging in it and the people. However, if the function of an institution such as a representative assembly is precisely to be, within the political process, the “voice of the people” as it really is, then deliberation must be brought to a minimum, and replaced with democratic debate¹¹. I do not think that this means that the assembly’s dignity or importance are reduced. On the contrary, it makes the participation of truly democratic institutions in the decision-making process actual and effective, without transforming those institutions into undemocratic elites where the discussions cease to be accessible to the people as a whole and cease to function as their direct voice. John Stuart Mill’s account of the role of a representative assembly follows this line, and deserves to be quoted at length:

Parliament has an office (...) to be at once *the nation's Committee of Grievances and its Congress of Opinions*; an arena in which not only the general opinion of the nation, but that of every section of it, and, as far as possible, of every eminent individual whom it contains, can produce itself in full light and challenge discussion; *where every person in the country may count upon finding somebody who speaks his mind* as well or better than he could speak it himself—not to friends and partisans exclusively, but in the face of opponents, to be tested by adverse controversy; where those whose opinion is overruled, feel satisfied that it is heard, and set aside not by a mere act of will, but

¹¹ Again, I am not saying that adopting democratic debate as the norm means that reason-giving will be completely eliminated from the representative assembly’s decision-making process. What I am saying is that practical reasonableness will no longer be the only or primary criterion of acceptability of any given political choice. Apart from that, it is very possible, and potentially very likely, that democratically acceptable choices will also end up being reasonable. The issue here is not what kinds of discussion are excluded from the decision-making process, but what is the end to which that process tends: practical reasonableness (deliberation) or democratic political acceptability (democratic debate).

for what are thought superior reasons, and commend themselves as such to the representatives of the majority of the nation; where every party or opinion in the country can muster its strength, and be cured of any illusion concerning the number or power of its adherents; *where the opinion which prevails in the nation makes itself manifest as prevailing*, and marshals its hosts in the presence of the government, which is thus enabled and compelled to give way to it on the mere manifestation, without the actual employment of its strength; *where statesmen can assure themselves, far more certainly than by any other signs, what elements of opinion and power are growing and what declining*, and are enabled to shape their measures with some regard not solely to present exigencies, but to tendencies in progress. (...) *A place where every interest and shade of opinion in the country can have its cause even passionately pleaded*, in the face of the government and of all other interests and opinions, can compel them to listen, and either comply, or state clearly why they do not (Mill, 2010, pag. 47; emphasis added).

This description speaks of how Parliament must be the place where “where every person in the country may count upon finding somebody who speaks his mind”. Mill does say that decisions should be based on the weight of “superior reasons”, but he is nonetheless clear that the opinions and views that are expressed in the assembly must directly reflect those of the nation and “of every section of it” so that politicians may know “what elements of opinion and power are growing and what declining” in society. The only way in which decisions can be said to be supported by superior reasons in an assembly whose purpose is to continuously represent the direct voice, interests, and opinions of the people is that those reasons not be entirely deliberative, but also based on the democratic acceptability of political compromises between diverging views. If it was pure deliberation, the representatives would be increasingly disconnected from the direct views of the people as they became convinced and made decisions based not on the interests and opinions they represent, but exclusively on pure practical reasoning, to which the populace has no access. The representative would eventually become a member of an elite, a situation defended by Burke in his *Letter to the Electors at*

Bristol. Again, I am not saying that for this reason, decision-making at the assembly should be bereft of any element of deliberation. Rather, I am saying that in order for the link between the representatives and the popular interests and views they must voice to be maintained, it is necessary that deliberative reasons not be the exclusive or the primary criterion of decision-making, yielding when necessary to the exigencies of compromise between those popular voices and interests. The instant a representative decides based on deliberative reasons that supplant or contradict the direct interests or views he is said to represent, his link to those interests and views is weakened, and he increasingly becomes a member of an elite.

In the next section, I will attempt to explain what the role of a representative assembly where this kind of democratic debate takes place is in the overall scheme of government. Before that, however, I must address one important caveat to what has been said.

This view of the kind of discussion that ought to take place in representative assemblies in order to preserve their democratic pedigree is based on the assumption that the community will have a certain degree of homogeneity of interests, aspirations, desires, wants, and opinions. If the degree of pluralism in the community is so profound as to cause constant, continuous and radical divergence in interests and opinions regarding a majority of issues or regarding fundamental questions (both situations will usually exist together and feed off each other, it seems), then this view of the kind of discussion that representative assemblies should be hosts to seems to fall apart. In effect, if democratic debate seeks to make explicit the interests, wants, and opinions of the community on any given issue in order to reach a decision that accommodates as many as these as possible, a situation of deep pluralism in which these interests and opinions are radically divergent could make difficult (or even impossible) the attainment of such compromises. I fully appreciate the import of this objection.

However, I think it loses some strength once we divest ourselves of an uncalled-for assumption that the national representative assembly is or should be the only or the principal center of political decision-making in the community. The principle of subsidiarity is a powerful tool against the chronic fragmentation or stagnation of debate that could occur as a result of deep and constant pluralism¹². This argument exceeds the bounds of this paper, so I will only briefly note here that the devolving of

¹² Subsidiarity is a central principle of the Social Doctrine of the Catholic Church. At its barest, it states that “a community of a higher order should not interfere in the internal life of a community of a lower order, depriving the latter of its functions, but rather should support it in case of need and help to co-ordinate its activity with the activities of the rest of society, always with a view to the common good” (John Paul II, Encyclical Letter *Centessimus Annus*, 1991, § 48). Therefore, “[o]n the basis of this principle, all societies of a superior order must adopt attitudes of help (“subsidium”)—therefore of support, promotion, development—with respect to lower-order societies. In this way, intermediate social entities can properly perform the functions that fall to them without being required to hand them over unjustly to other social entities of a higher level, by which they would end up being absorbed and substituted, in the end seeing themselves denied their dignity and essential place. Subsidiarity, understood *in the positive sense* as economic, institutional or juridical assistance offered to lesser social entities, entails a corresponding series of *negative* implications that require the State to refrain from anything that would de facto restrict the existential space of the smaller essential cells of society. Their initiative, freedom and responsibility must not be supplanted.” *Compendium of the Social Doctrine of the Church*, § 186 (emphasis in original). Cfr. *Compendium of the Social Doctrine of the Church*, §§ 185-88; *Catechism of the Catholic Church*, § 1883; Pius XI, Encyclical Letter *Quadragesimo Anno* (1931), § 23; Leo XIII, Encyclical Letter *Rerum Novarum* (1892), § 11. Thomas Jefferson proposed a notion similar to this in his “ward” regime, in which local assemblies decide local issues completely independently of the national government, a kind of *respublica respublicanorum* or “republic of republics”.

functions and of the real power (*i.e.*, legislative or rule-making power) to fulfill them to political bodies at the lowest possible level at which those functions can be effectively performed helps ensure that many political decisions will be made not only in a manner that foments local participation, but also in the framework of more homogeneous social contexts. It is to be expected that lower-level bodies will be able to entertain higher levels of homogeneity because of the citizens' closer contact with the issues and among themselves, thus making political decision-making easier on the democratic debate model I have sketched above. This ensures that measures are taken effectively and also, if they are adopted through representative or direct assemblies, that as many views and wants as is possible are addressed. Of course, subsidiarity alone cannot solve the problem that deep and radical pluralism presents to modern politics, but it can help to prevent many issues from being stuck in political gridlock at high-level bodies if they can be effectively managed below. Indeed, it could be argued that a strict application of the principle of subsidiarity would better address political tensions caused by pluralism by permitting those radical divergences and disagreements to be transferred to lower-level bodies where the closer contact with the issues and among the citizens would foster more effective decision-making, allowing for many different (plural) solutions to similar problems to coexist within the same nation¹³.

¹³ I readily admit there are several important caveats to this argument. One is the possible empirical fact that some local communities might not enjoy the requisite homogeneity. There is also the more relevant objection that local decision-making can engender tyranny at the hands of unchecked local factions, majorities, or minorities because of a lack of publicity of political action that is not found at higher levels. Finally, there is the question of the effects on third parties that local decisions might have. I do not have the space to address these objections, but I think they can all be adequately responded to. Regarding these problems of local government (cfr. Ferejohn, 2000, pag. 80).

III. THE SPECIFIC ROLE OF REPRESENTATIVE ASSEMBLIES IN THE ARCHITECTURE OF MODERN GOVERNMENT

As I have already suggested, the specific role of representative assemblies that wish to retain a high democratic pedigree is to make manifest the wants, interests, opinions, and desires of the people in the elaboration of laws. They reach decisions regarding political issues based on the balance of real and actual interests and opinions that obtains at any given moment. They cannot, therefore, be expected to deliberate in a cold rational atmosphere on the issues. This more deliberative role, as many thinkers have advanced, must be given to another body, whose character is decidedly not democratic. In the case of Rome, it was the assemblies of magistrates that proposed new laws to the *comitia*. James Harrington described this other institution as a “senate”, whose function is to “divide”, while the democratic institution’s role is to “choose” (Harrington, 1980, pgs. 47-49). Ferejohn speaks of how the Athenian *Boule* performed this role as it presented proposals to the *Ekklesia*, and commends the Citizens’ Assembly model for following this scheme (2006, pgs. 195-96). John Adams viewed the Senate of Massachusetts (and indeed all upper legislative chambers) in this way (cfr. Adams, 1850-1856, pgs. 444-445, 468). Most notably, John Stuart Mill envisioned this in his discussion of the role of Parliament. While a special organ designed to craft legislation (and therefore, to truly deliberate) would formulate the proposals, the representative assembly, because it is uniquely suited to express the public’s views and interests regarding any proposal, would have the role of either rejecting or accepting each proposal, but not of formulating it:

(...) the Commission would only embody the element of intelligence in [the laws’] construction; Parliament would represent that

of will. No measure would become a law until expressly sanctioned by Parliament; and Parliament, or either house, would have the power not only of rejecting but of sending back a bill to the commission for reconsideration or improvement. (...) Once framed, however, Parliament should have no power to alter the measure, but solely to pass or reject it; or, if partially disapproved of, remit it to the commission for reconsideration (Mill, 2010, pag. 45).

This is exactly the model that existed in the Roman Republic, where the people (in their role as the democratic element of government) were only expected to grant their *iussum*, their assent, to proposals in the formulation of which they had no participation¹⁴.

Restricting the role of a representative assembly to the exercise of the *iussum* preserves its democratic character. The other, deliberative organ (Mill's Commission, the assembly of Roman magistrates, Harrington's and Adams's senate, Ferejohn's Citizens' Assembly) would be placed in a position separate from the direct expression of the people's desires and interests, and thus would be capable of actually and truly deliberating. This gives it a decidedly undemocratic character, regardless of the manner of its composition¹⁵. The people's function, either directly or through representatives, would be to express their assent or rejection to the measure proposed, for, as Adams wrote: "no unpopular measure in a free government (...) ought ever to pas" (in Taylor, 2006, v. II, pag. 269). It is the role of the people or their representatives to

¹⁴ On the Roman concept of *iussum Populi* as a constitutional requirement of the promulgation of *leges*, *vid* the excellent discussion in Álvaro d'Ors (2004, §§ 33, 40, 229).

¹⁵ Indeed, it is perfectly possible that this organ be chosen by random lot, as in the Athenian *Boule* and Ferejohn's Assembly, or elected, as in Adams's senate (though this last case makes its requisite independence less realistic). What most determines its democratic or undemocratic character is the nature of its decision-making process and whether or not it is similar to the way the people act.

protect that freedom by retaining themselves the prerogative of final assent or rejection.

IV. DEMOCRACY AND ARISTOCRACY IN REPRESENTATIVE GOVERNMENT

As can doubtless be inferred from what has been said until now, the view of democratic debate and of the role of the people or of their representatives in the architecture of government points clearly to the existence of another political element, distinct from the people, which carries out a function that the people cannot realistically or effectively perform. As John Stuart Mill wrote,

a numerous assembly is as little fitted for the direct business of legislation as for that of administration. There is hardly any kind of intellectual work which so much needs to be done not only by experienced and exercised minds, but by minds trained to the task through long and laborious study, as the business of making laws. This is a sufficient reason, were there no other, why they can never be well made but by a committee of very few persons (...) in legislation as well as administration, the only task to which a representative assembly can possibly be competent is not that of doing the work, but of causing it to be done; of determining to whom or to what sort of people it shall be confided, and giving or withholding the national sanction to it when performed (Mill, 2010, pags. 44-45).

Mill points out that the reason a representative assembly is unfit for the work of drafting legislation is the unwieldy character it acquires because of its size. He goes on to describe, however, how the particular interests and opinions of the representatives would ruin any attempt to have a coherent system of legislation, introducing *ad hoc* amendments and modifications here and there to suit sectional views (cfr. Mill, 2010, pags. 44-45). This problem cannot be said to come only from the number of representatives in the assembly, but from the fact that they are linked to the particular interests they represent, and from the fact that they are

not “experienced and exercised minds, (...) trained to the task through long and laborious study,” so as to be competent to undertake “the business of making laws.” Again, this comes from the particular character of democratic debate, which by its nature makes difficult the possibility of sustained and pondered deliberation.

The political organ that is said to be up to the task of formulating legislative proposals is, on the other hand, composed of people who *do* have those intellectual and moral capacities. It is for this reason that I cannot help but identify it as an aristocratic institution, which according to minds as diverse as Aristotle, Cicero, Harrington, Rousseau, and Mill, is a necessary element not only of a sound government, but of what we today prize as modern representative democracy. This legislative committee is composed of people who are tasked with considering the issues under a standard different from that of public and sectional interests or opinions: the standard of deliberative practical reason or *prhonesis*. It is therefore required that they be shielded from those interests and opinions as much as possible, not necessarily in the sense that they are hidden from them, but that they are permitted to operate freely and safely on standards that may not always satisfy public opinion. Their determinations upon questions of public interest are to be based on a level of reasoning and argument that is commensurate with the technical, political, and moral complexity of the issue and with the overall axiological commitments of the community—a level of discussion (deliberation) that cannot and should not be expected from the people or their representatives.

All these characteristics point to the fact that these institutions are decidedly of an aristocratic character—indeed, they are aristocratic in the best and truest sense: they are composed of the true *aristoi*, those who are best positioned to render deliberative and sensible judgment based on superior considerations. How the members of this organ should be

appointed is a question of institutional design that exceeds the bounds of this paper, but what is important is that it should have a sufficient degree of independence from the ordinary flow of political passions and interests to allow it to safely and effectively function based on considerations that transcend, or might even contradict, those passions and those interests. Of course, a perfect degree of independence is impossible, but much of the same thing can be said of any institution attempting to embody any particular value.

The term “aristocracy” and the notion that it signifies fell out of the vocabulary and the mindset of political thought after the eighteenth century, when what were seen as regimes based on unjust and unsound oligarchic privilege were replaced with political systems founded on the radical equality of all in the eyes of the law and in the eyes of each other. As a result, the idea of aristocracy was extricated completely from the modern conception of politics, instead being replaced with a view of representative government based on radical equality, election, temporary office-holding, etc. After the Revolutions, the notion of aristocracy was linked with reactionary political philosophies like those of Joseph de Masitre or Louis de Bonald, despite the fact that many thinkers with solid revolutionary credentials, like John Adams or Noah Webster in the United States, Simón Bolívar in Venezuela, Colombia and Ecuador, and Juan Egaña in Chile, elaborated mature conceptions of the role of aristocratic elements in modern government. The fact remains that it has never recovered from this blow. Indeed, it is likely that any mention of aristocracy as a serious subject of study in today’s systems of government would be viewed as a deeply conservative, even reactionary aspiration.

However, as I have attempted to show, the desire to make government, and particularly representative government, *deliberative* necessarily creates a tension with democratic ideals and institutions. The strange hesitancy to call this tension that which exists between aristocracy and democracy is pervasive in

political theory, but it was well known to most political philosophers before Rousseau¹⁶. The real need for the existence of some form of aristocratic organs in government, recognized so clearly by John Stuart Mill, derives from the rational element that political action contains. For the reasons I pointed out above, the people cannot make decisions in a way that respects the integrity of reason in political decision-making, and if they designate someone to do so, that person or group of people must necessarily begin to act in a way that is less and less in real sync with the appetites and views of the people as they actually exist in reality. Insofar as those who perform this reason-laden task must begin to think, decide, and act according to higher standards of rationality, they must ensure somehow that they preserve the independence from the people that will allow them to disregard popular interests and views safely and effectively. What this produces is, in effect, a class of people that think and act (at least when it comes to their political roles) in terms and categories that are foreign to those of the people as it actually exists, thinks, and acts in reality. That class constitutes nothing other than an aristocratic institution.

The significance of understanding this is that it helps preserve the integrity of the *democratic* elements of representative

¹⁶ The most notable early modern exception to this is Thomas Hobbes. His political conception, based on a revamped understanding of natural right, posited radical political equality in a way that was, as far as I know, unheard of before. Hobbes theorized that the natural equality found in human nature (a notion that Western philosophy certainly accepted at least since the coming of Christ) can and must be seamlessly mapped onto the architecture of politics, such that it is not possible to say that inequality exists between people in politics without simultaneously affirming that they are unequal in nature—an unacceptable view. The theory of the state of nature is, therefore, Hobbes's attempt to link natural equality with political equality by means of the most basic possible source of political obligation: self-preservation. Linking natural and political equality in such an absolute manner allowed him to formulate his theory of the representative sovereign, and it also sketched the anthropological model that would be used by later (arguably more benign) natural right theorists like Locke and Madison.

government. As we have seen, deliberation and true democracy are in tension one with the other. Therefore, preserving the real and effective existence and role of a democratic institution in government requires that such an institution not engage fully in deliberation. On the contrary, it must engage in democratic debate if it wishes to truly retain its democratic credentials. It is only by preserving in the representative assembly a mode of discussion that is in synch with the people's way of discussing issues and with the actual interests and opinions that they hold at any given time on any given issue that the assembly can truly be said to speak for the people in government affairs. This specifically democratic form of debate allows the discussions in the representative assembly to be truly and meaningfully accessible to the people, something which did not happen in the Citizens' Assembly analyzed by Ferejohn or, for that matter, in the Athenian *Boule*, the assemblies of the Roman magistrates, Harrington's and Adams's (and Madison's) senate, or Mill's legislative commission.

Preserving the integrity of the democratic voice in representative government is only achieved in this way. But it is also the integrity of the deliberative process, of the aristocratic element, that is protected by separating the two, as the Athenians and Romans saw, and as Cicero, Machiavelli, Harrington, Adams, Mill and others explained. Confusing the two functions only ensures that decisions will be muddled and clumsy (thus not preserving the benefits of true deliberation), and at the same time distant from the people (also losing the advantages of democratic debate).

V. CONCLUSION

James Madison argued that representative government is characterized by “the delegation of the government (...) to a small number of citizens elected by the rest”, such that what truly

distinguished the American government was “the total exclusion of the people, in their collective capacity, from any share in” political action and decision-making (2003, No. 63). This has been one of the canonical definitions of representative government, at least in the United States. But, as John Stuart Mill wrote, “let a person have nothing to do for his country, and he will not care for it” (2010, pag. 18). The fact of the matter is that most people form part of that “collective body” Madison wished to exclude from government, and the act of election is, as many have noted and as experience shows, scarcely an act of true political participation in Mill’s sense of something that people “do for their country”¹⁷. Even if this is not true, however, there is still a point to be made in favor of the direct participation of the people, “in their collective capacity”, *as they truly are*, in the political process. That point is a very ancient one, revived, among others, by Mill’s argument in favor of representative government: that politics is a school of character—indeed, *the* school of character—through which men “give largesse to their conceptions and their sentiments” and acquire a higher moral view of themselves and of their relations with others (Mill, 2010, III, pag. 31). Unless the political institution is prepared to accept the voice of the people as it really is, with the concerns and interests it really has, it is not possible for the people to have access to that school. It is for that reason that Mill defended representative government, and I believe that this is the same reason why democracy must be defended in its own terms as a key element of political architecture, without confusing it with aristocratic values and modes of operation. After all, “[o]ne of the benefits of freedom is that under it the ruler can not pass by the people’s minds, and amend their affairs for them without amending them”¹⁸.

¹⁷ On the scarce influence of election on policy-making, *vid* Manin (1997, pags. 175-183).

¹⁸ *Id.*, III, p. 24.

The fact is that democracy is a crude thing, in constant tension with aristocratic values like reasonable deliberation and cold judgment. If it is truly to be the face of the *demos*, democracy and the institutions that embody it must be understood as systems in which contingent interests, factional views, local prejudices, political passions, and parochial desires are the daily order of business. Now, it is possible that these interests, views, prejudices, passions, and desires be more or less prudent and enlightened (it is difficult to deny that the views of the Roman people were probably more sensible and elevated than those of, *e.g.*, the cannibal tribes of Papua New Guinea), but they are still what they are—popular—and they still function in political things as they do. The people *qua* people do not deliberate, or at least that is not how they primarily make decisions. If we want to have a democratic element in our government, we must accept this and forge an institution that mirrors it. That is why the functions of this institution should also be prudently limited to the *iussum*, as happened at Rome and in Mill's conception.

But, it might be asked (perhaps with indignation), *why* cannot it be expected that the people act deliberatively? Are we to suppose that they are irrevocably stupid? Perhaps our rationalist sensibilities would lead us to this conclusion—if the people cannot be expected to debate at the highest level, then it must be because they are somehow intellectually limited, or it must be that those who say that they cannot are such irretrievable elitists that they cannot help but hopelessly look down at the people. This line of thought misses the point.

Deliberation as an ideal of political decision-making is a very sensible and praiseworthy goal, but it cannot be the *summum bonum*. If there is something that the great political philosophers keep reminding us, it is that if we are to understand the political phenomenon correctly we must constantly turn to people *as they are*, because it is those people, and in those conditions, that politics govern. Until the eighteenth century, classical political

thought warned about the woes of democracy, about the rule of the mob, of the *plebs*. Suddenly, these warnings no longer impress us. We have become fully invested in the enterprise of the Enlightenment and its ideal of the universal perfectibility of man. We are truly the children of Rousseau, that great prophet of the enlightenment and education of mankind.

I am not saying that education, the elevation of people's views, and the intellectual advancement of society are chimerical ideals. I am saying, rather, that we should not take them for reality. If politics is truly to be responsive to the what human life is actually like, it must be sensitive to the various existential dimensions that are present in society. The existential dimension of "the people, in their collective capacity" is one of those, and not an unimportant one. The system of politics that corresponds with it is called democracy, and if we wish to design a regime that respects its existential integrity and allows it to have a voice and a hand in the making of political decisions, then we must make that regime respect the contours of popular, democratic decision-making. It is only by accepting the standards of democratic debate, while enshrining the values of deliberation elsewhere, that we can possibly design a system that can meaningfully claim to be democratic.

The alternative is to accept before the tribunal of history, as Madison did, that we do not wish the people to have a voice. But it is at that level that justification must come. And as far as I can see, the justification for a regime that includes a democratic voice is still the stronger one.

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