REVIEW

Pierre Rosanvallon. 2008. *La légitimité démocratique: Impartialité, reflexivité, proximité.* Paris: Éditions du Seuil, 367 pp.
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This book makes the provocative claim that we are living in an era of democratic transformation, one characterized by a "decentering" of democracy that renders it nonsensical to sustain the pretence that electoral contests afford anything like popular sovereignty (8). Rosanvallon is certainly not the first to remark upon the growing gap between electoral politics and democratic principles. But he may well be the first to welcome it as giving rise to a "new sphere of democratic life" in which the very idea of political representation is being renovated in ways that have unleashed greatly enriched democratic practices (326). Representation is happening in the everyday life of democracy. No longer something that elected officials exclusively do, its legitimacy can no longer be premised on electoral mechanisms.

Whereas some have taken this to be a crisis for representative democracy, Rosanvallon maintains that it is a good thing. For electoral legitimacy rested on a "dual foundational fiction," a precarious premise that was never "fully reflected on": the idea that once universal (white male) suffrage had been secured, majority rule could stand in for the general will; and the notion that the punctual expression of majority preference at election time could extend a mandate over the entire inter-election period of governing (11, 53). This proved to be a perverse fiction because it rested on a premise that proved self-defeating to democratic politics as it has taken shape in practice. That

premise, that "the people," its "will," or its "interest" is self-evident and "may be adequately and positively incarnated," is at odds with federalism, interest-group pluralism and partisan competition, institutional forms that manifest both the process character of democratic decision-making and the diffuse character of democratic sovereignty (16). As Robert Dahl famously put it in his *Preface to Democratic Theory*, not "majority rule" but "minorities rule" has been the principle of successful Western democracies. Echoing that classic formulation, Rosanvallon affirms that "our contemporary societies increasingly understand themselves from the point of view of the minority" so that It is no longer possible to conceive of the social totality as "mathematic aggregation (with the implicit ideal of unanimity) [or] monist (with reference to a social interest conceived as a stable property of the collective body or structure)" (14). Instead, "the 'people' has become the plural form of the 'minority'" (14).

A central premise of this book is that the concept of democratic legitimacy has never been adequate to democracy's practice. This is precisely what plagues those who view this "decentering" as a crisis: they are stuck inside an 18th century paradigm that identifies democracy with the "idea of mandate or delegation," and idealizes immediacy and spontaneity as the privileged mode of expression of the general will (236). This paradigm makes democratic political representation principally a problem of epistemology—knowing what constituents want for themselves as a whole (general will) or knowing what is best for them (general interest) and exercising political power with reference to these substantive generalities (327). Rosanvallon proposes a three-fold model that no longer defines legitimacy in static and positive terms, as reaching an adequation between a subject and object but, rather, as having three modalities: "negative, reflexive, and immersed" (348). To borrow a way of thinking that political theorist Annemarie Mol has introduced in a very different context, he effects a shift from "knowledge" to "enactment" (*The Body Multiple: Ontology in Medical Practice*, Durham: Duke University Press, 2002, vii). The idea is that the "social generality" is not consolidated in the people, its general will, or its general interest but, rather, diffused across and enacted in differing and possibly conflicting ways at multiple sites—independent commissions, constitutional courts, social movements, as well as in the interactions between representatives and their constituencies (16).

While redefining legitimacy, the shift to enactment reframes the question of democratic representation as well. It no longer aims to mimic direct democracy by enabling the "transmission of a mandate" (350). Nor does it have a place for the classic notion of the representative substituting for or "acting in the place of another" (337). To begin with, representation occurs beyond the confines of the bilateral relationship between representative and constituency. More provocatively, Rosanvallon asserts that "there is no longer a demos or general will, considered as constituted" prior to its representation (338). He understands representation to "participate in the political production of society by structuring a process of permanent exchanges, as much between power and society as at the heart of society itself" (337).

Democratic Legitimacy is a follow-up and, in some respects, a mirror image to *Counter-Democracy: Politics in an Age of Distrust* (NY: Cambridge, 2008; Paris: Seuil, 2006). In that book Rosanvallon focused on the pathologies of electorally-based representative democracy, specifically detailing the depoliticizing effects of such democratic activities as surveillance, resistance, and judgment. By contrast, this book spells out the terms in which interactive democracy carries us beyond the stalemates of electoral politics. Its work is abstract and speculative. Rosanvallon aims to provide a conceptual vocabulary for the forms of democratic legitimacy that are emerging, to distinguish this new legitimacy precisely from what came before, and to identify the institutional sites at which it is in play. Explicitly countering the project of Jürgen Habermas's discourse ethics, Rosanvallon insists that it is not enough to relocate democratic legitimacy from a substantive foundation to an abstract procedure. Legitimacy must be redefined so as to be adequate to the "multiple ways of acting or speaking 'on behalf of society' and of being representative" that have emerged with the "deconstruction and redistribution of the social generality" (21).

The book is organized as an investigation of three new figures of legitimacy: 1) the "legitimacy of impartiality"; 2) the "legitimacy of reflexivity"; 3) the "legitimacy of proximity." The first two of these are "associated with the development of new democratic institutions," such as commissions, independent authorities, and constitutional courts in their increasingly representative role (267). The third concerns itself with the "comportment" of government, expecting power "to manifest a capacity for sharing, to give proof of paying attention, to show its sensitivity for lived ordeals" (295). Rosanvallon comments

that this effectively inverts the imperative of electoral representation insofar as "the fact of [officials] being present has replaced the project of *making* [the constituency] present" (295, emphasis original). I will discuss each of these briefly in turn.

The *legitimacy of impartiality*, as embodied in commissions and independent authorities, is an "active impartiality" that Rosanvallon elucidates by drawing from Hannah Arendt's appropriation of Kant's discussion of taste in the Third Critique (168). He characterizes it as an "enlarged thinking" that achieves impartiality not by detachment from but by a "reflective immersion in the world" (142). I have termed this "situated impartiality" in *Hannah Arendt and the Limits of Philosophy* (Ithaca, NY: Cornell, 1994). Rosanvallon argues that this situated, active impartiality can be democratically legitimate so long as it is representative. And he claims that it reveals itself to be so in two distinct ways, provided we can see beyond our accustomed electorally based models of representation. First, it is representative in Arendt's sense of "representative thinking," a kind of "vigilance" that makes society present to itself from a multiplicity of perspectives in order to "represent society as a whole, without being captured by the dominant voices or the most manifest expressions of interest" (142). In actively seeking out minority perspectives this impartiality is explicitly pitted against one of the "foundational fictions" of electoral representation: that the rule of the majority stands for the will of the whole.

Second, these commissions and independent authorities are "representative-organs," authoritative bodies that give "sense and form to the expression of a social totality that cannot exist and express itself by itself (142). This is an elite concept of representation that goes back to French Revolutionaries such as Sieyès, for whom election was "a mode of designation, a procedure for conferring confidence and not a form of transmitting to the elected a preexisting social will" (143). Because such a will "did not exist except insofar as it was constructed and organized," the function of the National Assembly was to "*will for the nation*" as the nation's "author" and "*organ*" (144). As today's parliamentary and legislative bodies are explicitly bound to their constituencies and (perhaps more so) to their contributors, only the various contemporary non-elected independent authorities are now in a position to be representative in this "pure" and ancient sense of "acting and willing *for* the nation" (144).

The *legitimacy of reflexivity* is, to some degree, a counterpoint to that of impartiality insofar as it takes its bearings from Condorcet, a French Revolutionary who proposed a rival conception of representation to that of Sieyès. Specifically, Condorcet set himself in opposition against the notion of "immediate democracy" the pernicious ideal that, far more powerfully than direct democracy, "constituted the implicit reference point" for popular government during the French Revolution (196). The idealization of direct democracy creates a suspicion of substitution that the Revolutionaries themselves had to get beyond, and did get beyond, in creating such representative political organs as the municipal councils and the National Assembly. To immediacy, however, they remained captive, as evidenced by their attitude toward "parties and mediating bodies" which they stigmatized in the belief that the general will should and would form spontaneously (196). To this predilection for spontaneity, they added a glorification of "constituting power"—that "radically creative…originary… absolutist and unconditioned" will—as the "most faithful expression of the democratic ideal" (197). This is Sieyès representative-organ taken to an extreme, and it becomes self-defeating when it is taken as a defining principle of democracy for the simple fact that it perpetually decomposes itself. This was illustrated to the point of caricature during the French Revolution when the deputies to the National Assembly proceeded to suspend the Constitution that they "had just worked out and ratified" so as to allow constituent power to reign unhindered (199, 198). Whereas the French Revolution takes immediacy to an extreme, Rosanvallon contends that remnants of immediacy persist in the "hyper-electoralism" that keeps today's constitutional regimes focused on the ballot box as the privileged source of democratic legitimacy, and perpetuates unquestioned the fiction that the majority speaks for the whole (195).

For Condorcet, by contrast, the general will could neither be spontaneously nor punctually expressed, but had to be constructed over time by a "continuous process of interaction between the people and the representatives" (204). This process of interaction is reflexivity. It both multiplies and brings together diverse temporalities of democratic politics: "the short term of referendum or censure; the institutional rhythm of elections; and the long term of the constitution" (204). Building on Condorcet, Rosanvallon proposes an ontological pluralisation that breaks with the monism of the modern democratic

tradition to re-conceive of "the people" as multiple—as taking multiple forms and as occurring in multiple temporalities. As for the forms, there is the "people-voter," which "episodically forms a majority," the "social people," an "uninterrupted succession of minorities" that calls attention to unfulfilled democratic promises, and the "people-principle" which, unlike the previous two, is not manifest as a social force but exists abstractly, as an enduring commitment to composing society consistent with the principle of equality (206-07). Although he emphasizes that none among these "can claim to adequately incarnate the democratic subject on its own," when it comes to specifying the institutions of reflexivity, Rosanvallon's focus is surprisingly narrow (209). He does concede that both social movements and social science have an important role to play in multiplying the bodies and temporalities of the people, emphasizing that "reflexivity cannot be limited to a expert intervention" (237). Yet he directs his attention to the constitutional court, an avowedly elite body, and to judicial review as the preeminent sites of its practice.

The *legitimacy of proximity* captures the concern of citizens with how governments conduct themselves. Rosanvallon breaks this term (which is widely used but not rigorously theorized) into three parts: 1) position—the "presence, attention, empathy, compassion" of power in the face of society; 2) interaction—accessibility, receptivity, listening and reacting "explaining itself without taking shelter behind the letter of institutional function; 3) intervention—taking action while "taking into account the diversity of contexts, preferring informal arrangements to the mechanical application of rules" (269). He provocatively contends that proximity ushers in a new form of the "politics of presence," one in which the "notion of mandate no longer has any place" because the "goal is no longer to create ties of obligation between the governed and the governing" but to "show that the latter understand what the former experience" (312).

The legitimacy of proximity has its authoritarian populist elements, inherited from the voyages of Napoleon Bonaparte, which were an early form of circumventing liberal limits to power by direct appeal to a people (304). That people, in coming out to greet its leader, manifests itself not just as in support of the regime, but as unanimous and internally undifferentiated (306). Such populist tactics can be evidenced in the administrations of US President George W. Bush and French President Nicholas Sarkhozy, which are distinct for the kinds

of visitors they officially received—more individuals who could exemplify their symbolic commitments than heads of state—and by the destinations of their official visits—disaster sites (310-312).

There is another, more promising, side to this new politics of presence, which Rosanvallon calls "interactive democracy" (319). Here the relationship between representatives and their constituents extends well beyond the ballot box, consisting in a "permanent process of expression and reaction" that is judged as much or more for its qualities than for its results (328). There are two political functions at work in interactive democracy, "justification" and the "exchange of information" (329-30).

The first of these pertains not to the arguments that citizens make to one another as in Habermasian models of deliberation but, rather, to the "exchange of arguments between the governed and their governors" whereby the former call the latter to account (329). Whereas justificatory exchanges are formalized in Parliament, in the discourse between the majority and the opposition, Rosanvallon does not limit them to this ritualized context (329). He emphasizes that they must be diffused throughout society in confrontational practices that extend legitimacy to non-governmental actors. Political theorist Rom Coles offers an excellent example of this in his *Beyond Gated Politics* (University of Minnesota Press, 2005) where he describes public accountability meetings convened by community organizers to bring elected officials to church basements and other neighborhood sites where they control neither the turf nor the agenda, where they will be confronted with challenging questions, and where attempts to hide behind "official pronouncements" will be met with noise from "cicada-sounding instruments" (233). The point is that the practice of justification puts power in play between governed and governor. So, too, does the exchange of information, "serving as an instrument of government" for officials, and "as a form of recognition" for citizens (330).

Taken together, these three modes of legitimacy move democracy onto what Rosanvallon calls "a new continent" (24). It is a terrain where unelected independent authorities, commissions and constitutional courts provide an "indirect democracy" to "compensate for the deficiencies" of electoral legitimacy, and where the politics of presence gives rise to the "formation of democratic arts of government" (*un art démocratique de gouvernement*) (25). Rosanvallon establishes very persuasively that something new and potentially democratic is

underway. He also succeeds in demonstrating that the decision-making and communicative practices of contemporary Western democracies have outstripped the epistemological framework to which theories of democratic legitimacy and democratic political representation remain captive. Given the originality and boldness of this theoretical intervention, I was disappointed by his discussions of the major institutions where this transformation is occurring, as well as those that might be created to foster its democratic potentials.

As for existing institutions, I have noted the elitism of his focus on commissions, independent authorities, and constitutional courts. He defends this focus on the grounds that these institutions have been neglected by democratic theory. First proposed by the American and French Revolutionaries, their "conceptualization…has remained surprisingly stable for two centuries," even as they are becoming increasingly prominent in democratic practice, and are being transformed by that practice (22). Without denying the importance of paying attention to these long-overlooked forms, for constitutional courts to stand as the only example of Condorcet's reflexivity seemed to hijack Condorcet's own concern for the pluralization of spaces of popular action toward elite institutions that inevitably privilege expertise.

I was also hoping for a more extensive discussion of how to exploit the democratic potentials of "interactive democracy," which I found to be one of the most exciting sections of the book. Rosanvallon makes just two suggestions, calling for greater use of "what might be called a public commission," and for a return to the style of journalism pioneered by Upton Sinclair, Ida Tarbell, Lincoln Steffens and other heroes of Progressive Era America (320). Next to the vibrancy and precision of his conceptual account, these institutional suggestions struck me as both tepid and vague. Public Commission is a broad term that might refer to institutions with quite different purposes. For today's global citizen, South Africa's Truth and Reconciliation Commission comes to mind. For the US activist of the 1960s, the term might recall the Kerner Commission convened in the wake of the Detroit race riots to quell urban unrest. That commission worked directly contrary to Rosanvallon's "social people," treating unrest not as a legitimate democratic protest but as a security threat. Rosanvallon envisions something whose role would be to "canvass needs and demands, to clarify analyses, to spark debate, and to craft the terms of choice" (340). Whereas he clearly intends the public commission to "spark"

public discourse rather than smother it, he offers no specification of the crucial details that could make it so. How would it be convened? Of whom would it be composed? Nor does he offer any insight into the difficulty that plagues any commission, social movement, or similar public forum that is meant as a counterweight to elite expertise: how to ensure that public discussion and public engagement has an effect on authoritative public decision making?

As for the democratic potentials of a return to Progressive Era style journalism, this tradition arguably has been resurrected in the United States. There is the work of Alex Kotlowitz on children in poverty, Barbara Ehrenreich on the working poor, or Eric Schlosser's *Fast Food Nation* that did for contemporary food production what Upton Sinclair did for the stockyards, illustrating that the deregulation of the Reagan Era has set meatpacking almost all the way back to Theodore Roosevelt's time. Or there is the weekly National Public Radio program "This American Life," whose investigative reporting on Hurricane Katrina, voting machines, and the recent financial meltdown (to name just a few) have been informative, impassioned, and accessible—the trademark qualities of Progressive Era journalism. The trouble is that such work typically does not spark dialogue across differences of ideology and partisanship. Media consumers, particularly in the US, increasingly seek out news and opinion sources that affirm their partisan biases. The rise to popularity under the Bush Administration of FoxNews, which is renowned for its aggressive conservatism and disregard for facticity, is just one example. The radio and public opinion empire of Rush Limbaugh is another.

In sum, Rosanvallon makes a powerful case not for the simple breakdown of democracy-as-mandate but for its intrinsic instability and implausibility. This theoretical intervention forges a powerful tool for those who want to break out of the stalemates that occur when local, face-to-face, "immediate" forms of politics are presented as ways to put the democracy back into political representation. Active, situated impartiality paired with reflexivity and interaction offers a promising way to move forward. Rosanvallon has opened the door; it will be up to others to explore the practical, institutional forms.