DECENTRING DEMOCRACIES[*]

Pierre Rosanvallon

The principal characteristic of our democratic regimes has been the popular sanction of government. The idea that the people are the sole legitimate source of power is neither be contested nor called into question. "Sovereignty cannot be shared," summarized a towering republican voice of the nineteenth century. "One must choose between the principle of heredity and the principle of election. Authority must gain legitimacy either from the free expression of the will of the people or by the supposed will of God. The people or the pope! You choose!."[1] Any response to such a question denied the very possibility of debate. And yet such a claim hides an implicit approximation: it equates the general will to the will of the majority. This warrant has not been adequately scrutinized. The fact that a majority vote establishes legitimate power has indeed been universally adopted as the democratic procedure *par excellence*. This form of legitimacy marked a break with an old world where the minority made law. In the wake of the particular wills which determined the fate of despotic or aristocratic regimes, evoking the "great" or "overwhelming" majority was sufficient to guarantee the rights of the many. The dominant concern was with redefining the roots of power and what that power was to accomplish. The principle of the majority was then recognized in its

more narrow procedural dimension. The classical position could thus be stated in the following terms: "The law of the majority is one of those simple ideas which is accepted at once. It bears the fundamental quality that it favors no one and puts all voters on an equal plane."[2]

Foundational Fictions

The People or the Nation (always in the singular) and the rule of the majority are located on such different levels that the transition between them merits investigation. On the one hand, there is the general, or even philosophical, affirmation of a political subject while, on the other hand, there is the adoption of a practical procedure for making a choice. The democratic election thus blends *a principle of justification* with *a technique of decision*. While these two elements are of a very different nature, their common union has hidden the tacit contradiction between them. In procedural terms, the idea of the majority may be easily granted, but from a sociological perspective it is more problematic. In the latter case it acquires necessarily a mathematical dimension—it designates a fraction, albeit a dominant fraction, of the people. And yet, the justification of power through the vote has always implicitly been founded on the idea of the general will and thus of the people as an incarnation of society as a whole. This sociological perspective has been consistently reinforced by the moral demands for equality and the juridical imperative of a respect for rights that calls upon a concern for each individual's value in the collectivity. Such is the horizon of unanimity that has sustained the democratic ideal since its origins. That which expresses the social generality is democratic in the largest sense of the term. We have proceeded *as if* the greatest number were the totality—when the *as if*, in this case, was in fact an acceptable means of reconciling a much higher imperative. This first slight of hand was doubled by a second, that of identifying the nature of a regime with the conditions that established it. The part stood for the whole just as the moment of the election stood for the entirety of the mandate. Such were the two presuppositions that framed the legitimacy of the democratic regime.

The problem is that this dual foundational fiction has been increasingly perceived as the expression of an unbearable falsehood. As early as the end of the nineteenth century, the spread of universal

(manhood) suffrage across Europe provoked disenchantment from all sides. The specter of the tyrannic masses, originally feared by the liberals, soon gave way to claims that democratic regimes were stuck in their own petty preoccupations. The terms people and nation that had hitherto nourished the expectations and imaginations of all found themselves drowned in the meanderings of partisanship and powerful lobbies. The party system, that none of the original democratic theorists had either imagined or theorized, had asserted itself as the effective heart of political life, bringing personal and group rivalries to the fore. The parliaments that had hitherto been the well-spring of the representative regime, lost their centrality as its function shifted. The original ideal of a realm of public reason in which the general interest could be debated was thought to have deteriorated into a system of exchange serving particular interests. Thus while the electoral moment continued to mobilize energies and respond to important issues, it no longer provided the warm celebration of citizenship it had offered during the first horizon of universal suffrage. From the 1890s to the 1920s, on the backdrop of what many called the "crisis in democracy", the idea that a functioning majority-based electoral system could lead to the expression of the social interest lost all credibility. The parliamentary-electoral system slowly appeared to be governed by a logic of particularities rather than the exigencies of the generality. In the end, while the electoral principle remained an insurmountable procedural horizon, its virtues were no longer perceived as given.

A Dual Legitimacy: The Formation and Decline of a System

The profoundly unsettling years, which framed World War I, from 1890 to 1920 offered a vast reconsideration of the democratic ideal and how it might reconnect with its original substantive dimension. The darkest extremes at once earned credibility as the totalitarian project gained a foothold in incarnating what might be perceived as the public good. But out of the heart of these changes emerged a new dimension that would transform democratic regimes: the construction of a true administrative power. This period witnessed the emergence of a stronger and more organized state; but most importantly, the state's development was inseparable from a project of reestablishing its basic principles. It was argued that the "bureaucratic machine" might con-

stitute, in itself, a force for realizing the general interest. The models of public service in France and rational administration in the United States thus offered the two great examples of this objective. On the one side, was the vision of a universal corporatism, calling structurally upon civil servants to completely identify with their mission and take on "the interests of the disinterested." On the other, was a search for access to generality through the virtues of scientific management. These projects renewed and reinserted the ancient ideals of rational government and positive politics into the democratic universe, a project which, from the Enlightenment to Auguste Comte, sought the accomplishment of the common good outside partisan interests.

The goal was to respond to the problem of a unified expression of wills through a more realistic and more objective form of the social generality. The project began to take form, or at least partially. And thus without ever being clearly formulated or conceptualized, democratic regimes slowly moved forward marching on the two legs of universal suffrage and public administration. The latter ceased to be a simple voice of political power as it gained a new autonomy with the notion of competence. As a result, equal access to expression in the form of the vote corresponded to the principle of equal access to admittance in public service. Election or the Civil Service exam became two parallel modes of designating representatives or interpreters of the social generality. The election was the subjective choice, guided by a system of interests and opinions, while the exam became an "objective" selection of the most competent. In the French case, the holy alliance of universal suffrage and public service explicitly imposed their respective values upon republican ideology. The administration's "Jacobins of excellence" were as central to the republic as the public servants elected by the people. Thus, a second vision of democratic legitimacy emerged, which played a decisive role in compensating for the increasing weakness of electoral legitimacy, *identification with the social generality*. The two dominant ways of conceptualizing legitimacy were intimately tied: a legitimacy derived from power's recognition of its social base and a legitimacy which identified with accepted norms or values. These two forms of legitimacy, procedural and substantial, were intertwined and became the foundation of democratic regimes at the turn of the twentieth century.[**]

[**] Pierre Rosanvallon, *La contre-démocratie. La politique à l´âge de la défiance.* Paris: Seuil 2006.

This page in the history of democracy began to turn in the 1980s. First, electoral legitimacy declined due to a relativism and desacralization of the vote. During the "classical" age of the representative system, elections offered an indisputable mandate granting free reign to those who governed. Disciplined organizations, clearly defined programs, and strong partisanship generated a predictable universe that inscribed future political decision in a well-organized electoral process. This is no longer the case. Elections now have a more restricted function: they validate a mode of designation. They no longer establish *a priori* the legitimacy of policies that will be carried out in the future. The idea of the majority has also changed. While it remains clearly defined in juridical, political and parliamentary terms, it is less clear in sociological terms. The interest of the greatest number cannot be mapped automatically onto the majority. The "people" are no longer understood as a homogeneous mass but rather as a series of unique histories or a sum of specific situations. Thus our contemporary societies increasingly understand themselves from the point of view of the minority. The minority is no longer "the few" (who must accept the will of "the many"). Rather the minority has become one of the multiple and fragmented expressions of the social totality. Society now manifests itself under the auspices of a vast series of minority conditions. The "people" have become the plural form of the "minority."

The legitimacy of administrative power has suffered as well. Neoliberal rhetoric has weakened the respectability of the state and cast the market as guarantor of the collective good. In more concrete terms, New Public Management has introduced methods which have devalued the classic figure of the civil servant acting in the name of the general interest. High civil servants have found themselves affected by this evolution as they no longer incarnate a force for managing the future in a less predictable world (they have also been hurt by the elite's massive desertion of administration due to growing disparities in remuneration with the private sector). Likewise, the notion of a rational and disinterested technocracy has been discredited in a more lucid and well-educated society. The old patronizing style of an omniscient public service overseeing a society of minors has become as economically unrealistic as it has sociologically unacceptable. The moral and professional foundations that allowed the administrative power to assert itself have since been wrested from it. The administra-

tion's legitimacy has thus been eroded alongside that of the electoral-representative sphere.

The New Age of Legitimacy

The slowly sinking system of double legitimacy and the changes that provoked and accompanied it since the 1980s did not simply leave a void. Amidst the sense of loss or even disintegration, a new, silent reconstruction has taken place. First, citizens have developed new expectations. The desire to establish a regime in the service of the general interest is expressed in unprecedented terms. References to values such as impartiality, pluralism, compassion and proximity have been noticeably reinforced. These references have been cast as backdrops for legitimacy and correspond to a new understanding of the democratic generality. At the same time, institutions like independent authorities and constitutional courts have increased in number and influence. A new way of governing has been outlined with the growing place of image and communication. Such changes outline a radically different landscape whose character and future have not been charted and therefore must be described and deciphered. In response, we must draw out the concepts that structure this new world and, perhaps more importantly, determine the new democratic forms towards which they may positively evolve. While we will analyze discourses and experiences, keeping an eye towards their limits, uncertainty and even dangers, we shall also detail the ideal-types that could provide a mastery of this new world. The full impact of this revolution remains undecided in a world where new possibilities are accompanied by as many potential dangers.

The essential change in the 1980s was a reformulation of the basic imperative that democracy expresses the social generality. The full scope of this shift may be appreciated by measuring its distance from previously dominant visions of the generality. Universal suffrage is based on an aggregate definition of the generality. The mass of citizen-voters sketch the figure of the general will. Public service, on the other hand, signifies an objective generality. Here, public reason or the general interest is captured by the very structures of the republican state. In each case, it is assumed that generality may be adequately and positively incarnated. Amidst the disappearance of

these two conceptions are three new, more indirect, ways of constituting the power of a social generality:

● Realizing generality through abstraction (or detachment) from particularities. This implies a rational and organized distance from the different aspects of a question. It defines power as a void. In this case, an institution's quality of generality is determined by the fact that it cannot be appropriated. It is a *negative generality* that implies two variables: the structural variable which supports it (the fact that it is independent) and a behavioral variable (maintaining a certain distance or equilibrium). It is this form that defines the position of institutions like authorities of surveillance or regulation and above all marks their point of departure from an elected power.

● Realizing generality by multiplying the expressions of social sovereignty. Here the aim is to make the subjects and forms of democracy more complex in order to realize their objectives. It is most notably an attempt to correct the shortcomings of a system which assumes the electoral majority to be the will of the whole social body. This is a *generality of multiplication*. A constitutional court participates in such an enterprise when it determines the constitutionality of decisions made by the majority party by expressing what we might call the "people principle."

● Realizing generality through a consideration of the multiplicity of situations and a recognition of all social singularities. It advances through a radical immersion into the world of particularities and a concern for concrete individuals. This type of generality is associated with behavioral qualities emerging out of a power that forgets no one and attends to everyone's problems. Its roots may be found in an art of government that is antithetical to nomocracy. As opposed to the creation of the social through the juridical principle of equality which distances itself from all particularities, this form of generality is defined by a consideration of the totality of existing situations and the scope of one's field of attention. One might therefore speak of a "descent in generality".[3] It is a *generality of attention to particularity*.

All of these conceptions of the generality have in common that they rely on an approach to the social totality which is neither mathematical agregation (with the implicit ideal of unanimity) nor monist (with reference to a social interest conceived as a stable property of the collective body or structure). They valorize a more "dynamic" vision of *processes of generalization*. More broadly, they correspond to three potential strategies in exploring a universe in its totality: from a distance through a telescope, multiplication through microscopic visions, and exploration through multiple paths. In this case, generality constitutes a regulatory horizon. It is no longer of a substantive nature as it was under the notions of general will and general interest.

Three new figures of legitimacy have thus emerged and each implements a form of the social generality just described: *a legitimacy of impartiality* (tied to a negative generality); *a legitimacy of reflexivity* (associated with *a generality of multiplication*); and *a legitimacy of proximity* (following *a generality of attention to particularity*). This revolution in legitimacy has been an active agent in the global shift of decentring democracy. It continues along the path already charted by the deemphasis of elections in citizen activity. In *Counter Democracy*, I described how new forms of political investment have emerged in the figures of the people of surveillance, the people of the veto and the people of judgment. I revealed the vibrancy of these forms as a counterpoint to the people as voter which has taken a decidedly more morose turn. Democratic life has therefore spread far beyond the electoral representative sphere. There are now many other ways, which are both in competition with, and complementary to, the vote but bear their own democratic legitimacy.

Contrary to the legitimacies of establishment (the vote) and identification (public administration) which were seen as inseparable from the properties intrinsic to their powers (election or the civil service exam gave status to those who had been successful in their respective competition), the new forms are determined by their *qualities*. In this case, legitimacy cannot be acquired. It is forever precarious, continuously under question, and dependent on social perceptions of the actions and behavior of institutions. This is an essential point for it suggests that these new figures have stepped outside the standard typological frame based on a distinction between legitimacy as a product of social recognition and legitimacy through identification with norms. The legitimacies of impartiality, reflexivity, and prox-

imity have a hybrid nature spreading across these two dimensions. They are derived from the characteristics of these institutions and their capacity to incarnate values and principles, but they also remain dependent on the fact that they must be socially recognized as such. We may therefore imagine that their deployment opens toward a new democratic age. The new regime of legitimacy pushes beyond the traditional opposition between the guardians of "a republican generality," focused on substance, and the champions of a strong democracy, concerned with social mobilization.

They expand the classical typologies based on an opposition between input legitimacy and output legitimacy.[4] This distinction is no doubt very useful in that it reminds us that an appreciation of government action is taken into consideration in citizen's judgment (it also suggests that the non-elected bodies may be recognized as legitimate if they contribute to the production of what is considered socially useful).[5] But our discussion is broader in that it considers the legitimacy of the institutions themselves. This also means that a proceduralist perspective, along the lines of Jürgen Habermas, is also not entirely satisfying. He too has tried to move beyond substantialist approaches to democracy by inviting us to understand the general will in terms of a discursive dissemination.[6] Nonetheless, he has maintained a monistic vision of popular sovereignty. He merely transfers the site of this sovereignty from an intrinsically coherent social body to a diffused communicative sphere. It is however legitimacy itself which must be redefined because the deconstruction and redistribution of the social generality has led to a radical pluralization of its forms. There are therefore multiple ways of acting or speaking "on behalf of society" and of being representative. The three new forms of legitimacy thus form a system and complement each other, defining a more demanding democratic ideal.

This transformation is all the more decisive in that the question of legitimacy has taken on new importance in the contemporary world. As the ideologies and utopias that gave "external" form to the political order have lost their pertinence, the political order has been left to find, in itself, the sources of its justification. Like the confidence between individuals, legitimacy is "an invisible institution." It places the relationship between the governed and those who govern on solid ground. If legitimacy can be understood in the broadest sense as an economizer of coercion, the role of its democratic variant is to bring

power and society together constructively. It helps give form to the very essence of democracy — the social appropriation of power. Democratic legitimacy generates a wave of dedication among citizens that is inseparable from the process of their own valorization. It conditions the effectiveness of public action and, at the same time, determines how citizens understand the democratic qualities of their country. It is an "invisible institution" and a "responsive indicator" of society's political expectations and the responses to them. Therefore, a broader and more exacting definition of legitimacy participates in the structural development of democracy.

An Undecided Revolution

Up to present, the figures of legitimacy described above have formed a system out of two types of institutions: independent authorities of surveillance and regulation on the one hand, and constitutional courts on the other. The first benefit from a legitimacy of impartiality because of their mode of designation and their composition. They are either created by a legislative power concerned with limiting and controlling an executive judged too partisan, or solicited by the executive power itself, ready to delegate a certain number of responsibilities for which it considers itself incompetent. Constitutional courts check legislative work by submitting it to new constraints of generality insufficiently ensured by the majority. Their legitimacy is tied to the reflexive nature of their intervention. The rise of these two institutional categories has had considerable impact on the production of norms and the exercise of executive power and dramatically altered the conception offered by the great figures of the American and French revolutions. Independent authorities and constitutional courts have everywhere increased in power and in so doing have begun to revolutionize the classical approach to democracy. This displacement cannot be overstated. Nonetheless, they have only been marginally discussed by classical democratic theory. It is, indeed, striking that the conceptualization of democratic institutions has remained remarkably stable over the last two centuries.[7]

From the end of the eighteenth century to the 1980s, explorations and controversies took place in a conceptual field that was relatively constant. Such an assessment may be confirmed by any historian of

the great modern revolutions. The questions surrounding representative government, direct democracy, the guarantee of the rights of man were posed throughout this period in relatively unchanging terms. There was also little evolution in political vocabulary. The term "self-management" ("*autogestion*") which was forged in the 1960s was one of the rare neologisms of true importance. And even here, the term's quick disappearance suggested that it was a victim of the very sea-change it connoted. The new syntax of democratic institutions within which independent councils and constitutional courts have been developed marks a break with an old world. But the fact that it has not yet been systematically studied (we remain bereft of a Sieyès or a Madison in this new era), means that the extent of this sea-change has not yet been fully appreciated. The change has been born of circumstances that respond to citizens' expectations and the growing demands in public management.

These institutions have not yet found their full place in the democratic order because they have not been perceived as original political forms. Moreover, their development has not followed any comprehensive conceptual frame. They may expand our democracies in unprecedented ways just as they may simply reinforce timid liberalisms. One may be tempted, for example, to understand constitutional courts from the traditional perspective of checking popular sovereignty by strengthening legal checks. But the implicit opposition between government by will and government by constitution does little more than reproduce an old liberal topos.[8] Correcting the shortcomings of the majority in this way carries on the old cries against the "tyranny of the majority" so common among those who feared universal suffrage in the nineteenth century. But the development of these courts might also be seen as an instrument for reducing governments' room to maneuver and consequently increasing the social control of representatives. A prominent nineteenth-century theorist explained the constitution in these terms: "the people's guarantee that those who manage their affairs will not abuse the mandate that they have been given."[9] The independent authorities of surveillance and regulation may also be understood from these two opposing perspectives.

The reigning instability makes a clear assessment of the current condition even more important. The democratic potential of these institutions has not yet been exploited and it may be shaped to strengthen the demands of generality in public life. It will produce, indirectly,

the effects which were ordinarily associated with direct democracy. Exploration of the unknown world of *indirect democracy* will help correct and complement the deficiencies of electoral-representative democracy.

The third figure evoked above, the legitimacy of proximity, is not wedded to a particular institution. Rather it refers to social expectations on the behavior of those who govern. From this emerges a second unprecedented dimension in the democratic universe, the creation of *a democratic art of government*. Historically, reflections on democracy have been limited to a definition of rules and the constitutive institutions of a regime of popular sovereignty (separation of powers, modes of representation, forms of citizen intervention, etc.). As a result, the political sphere was conceptualized through the two categories of regime and decision (on the level of policy). However, social expectations and demands have led to an expanded understanding of the art of government. Studies have highlighted the fact that citizens are as sensitive, if not more sensitive, to the behavior of governing officials than the actual decisions made.[10] The use of an entirely new vocabulary in describing the ideal connections between power structures and society evidence this evolution. Terms such as being attentive, compassionate, equitable, respectful, present or recognizing and listening have been added to the classical notions of representation. The words "participation" and "proximity" have been used more spontaneously and entered common usage because they resonate with the traditional political vocabulary. But here as well there has been a certain degree of ambiguity. While these words reveal new citizen demands, which offer unprecedented opportunities for the democratic ideal, they are also subject to rhetorical acrobatics and sophisticated manipulations.

Drawing a conceptual framework for the still embryonic democratic potential of these institutions and practices requires building the ideal types which correspond to the new figures of generality and legitimacy. Through such a work, our democracies may be reinforced while the perverse manipulations become more obvious.

The New Democratic Dualism

Tocqueville described the democracy of his time in the following terms: "The notion of government has been simplified: numbers es-

tablish the law and right. Politics are reduced to a question of arithmetic."[11] Today, to the contrary, we are faced with an increasingly complex democracy marked by a double dualism: on the one hand, between electoral-representative institutions and those of indirect democracy (a dualism underlying democracy as regime); and, on the other, between the universe of procedures or behaviors and those of decisions (a dualism underlying democracy as government). These two pairs are superimposed on the tension between electoral democracy and the counter-democracy which organizes citizen activity. Together they form the new order of contemporary democracy.

First of all, the institutions of electoral-representative democracy form a system with those of indirect democracy. Their articulation allows for a reconciliation between the majority and the ideal of unanimity through a tension which respects their respective demands. This fundamental tension joins two subordinate contradictory demands:

● *The contradiction between recognizing the legitimacy of conflict and the desire for consensus.* Democracy is a pluralist regime grounded in the diversity of interests and opinions and it organizes electoral competition on that basis. It therefore institutionalizes conflict and its resolution. Democracy cannot exist without clear-cut decisions for resolving differences. To participate in democratic politics necessitates taking sides or choosing one's party. This is essential in societies marked by social divisions and uncertainty. At the same time, democracy depends on the ability to build a common ground, the recognition of shared values that allow conflicts to stop short of civil war.[12] Thus the necessity of respecting each of these dimensions and distinguishing the institutions of conflict and those of consensus. On the one hand, there is the subjective world of partisanship that makes up the electoral-representative sphere. On the other hand, there is the objective world of indirect democratic institutions. Recognizing the specificity of each makes possible a full appreciation of the two poles of the democratic tension. It simultaneously leads to overcoming what has historically been a permanent desire both to ignore the legitimacy of conflict and fetichize the notion of unanimity (temptations which have incessantly fueled the illusions and perversions at work in undermining democratic regimes).

● *The contradiction between a realistic foundation for decision-making (the majority) and a necessarily more demanding form of justification (unanimity).* Democracy is impossible without decision, quick action, and processes for negotiating and making choices. But democracy comes to a halt without institutions that call upon the general interest and at least partially contribute to its autonomous realization. Democratic life relies on the ability to separate and organize the tension between institutions of majority decision-making and institutions founded on justification through unanimity.

Organizing this duality means fully recognizing that democracy rests on a fiction which is experienced as a necessity—assimilating the majority to unanimity. But it makes this fiction explicit and organizes the coexistence of these two constituant elements. The problem is that this fiction has never been recognized as such. This is not generally the case for legal fictions whose nature or usage fool no one. The juridical techniques based on "as if" are not designed to hide anything. They simply allow us to have a better mastery of things by reducing complexity and contradictions to make them more manageable. It has been accurately observed that fictions, thus lead to "a power to master the real by ostensibly breaking away from it."[13] They are purely functional and do not have any claim on changing the real nature of things. The fundamental fiction of democracy has not been understood in these terms or even been made explicit. It has been dissimulated without being recognized. Hiding this fiction has been essential in developing a substantialist horizon of the democratic ideal—that is, intellectually and politically assimilating the majority to an order of unanimity outside of which we could no longer think. Recognizing this dualism, however, provides a way out of this impasse. It brings forward a tangible separation between the two poles of the democratic ideal and, at the same time, provides a permanent invitation to uncover the assumptions that might undermine its meaning or warp its organization. Government by the majority must therefore be understood simply as an empirical convention whose character remains subject to constraints that are, in fact, superior justifications. It rests on what we might call an imperfect legitimacy that requires complementary forms of democratic legitimation.

The dualism that structures democracy as government has developed alongside this institutional dualism. The executive power in gov-

ernment has long remained a marginal object of political theory. This form of government was understood as lacking coherence; it practically disappeared behind the exercise of its own power. The centrality given to the legislative power in democracy was one of the justifications of this neglect. This was the case during the revolutionary period in France when the legitimate power of generality, associated with the law, was opposed to the management of particularities at the heart of the executive power. Awareness of the relative autonomy of governmental action came slowly amidst the intellectual obstacles that prevented its recognition.[14] But the executive power was understood solely from the perspective of its actions and decisions. The vast literature on public policy in political science bears witness to this approach. Today a new dimension of executive power has emerged—the conduct of those who govern. And while it has found a dominant place among citizens, it has not yet been theorized as such. As a result, a tension has grown between *a democracy of decisions* (captured by the political dynamic of universal suffrage) and *a democracy of conduct* (referring to the imperative of taking all citizens into consideration).

These two emerging continents in the democratic universe are also part of a broader system. Each, in its own way, may be expected to contribute to the production of a more democratic society and give form to a democratic project that generates a society of equals while establishing a regime of collective sovereignty. They therefore correspond to today's double demand for increased individualism (with an increased concern for the particularity of individuals) and the development of the general interest (by reducing the weight of particular interests in institutions).

NOTES

1. Louis Blanc, "La Réforme électorale", *Revue du Progrès*, t. 2, October 15, 1839, p. 308.

2. Adhémar Esmein, *Eléments de droit constitutionnel français et comparé* (8th ed., Paris: 1927), t. 1, p. 330.

3. This would be in opposition to the sociological and philosophical notion of a "rise in generality", which signifies an increased distance from particular cases in order to develop a more global concept.

4. Fritz Scharpf was the first to apply this distinction to the question of legitimacy [see *Governing in Europe: Effective and Democratic?* (Oxford University Press, 1999)]. The opposition between output and input democracy was formulated by Robert E. Goodin, *Reflective Democracy* (Oxford University Press, 2003).

5. It is worth noting that this distinction was formulated in an effort to respond to the "democratic deficit" of European institutions.

6. Jürgen Habermas, "La souveraineté populaire comme procédure. Un concept normatif d'espace public", *Lignes*, no 7, September 1989. One could make a similar argument against Bernard Manin's proposition for redefining democratic legitimacy by substituting an imperative of involvement in the deliberation process for the impossible requisite of electoral unanimity (see his path-breaking article, "Volonté générale ou deliberation ? Esquisse d'une théorie de la délibération politique", *Le Débat*, no 33, January 1985). By shifting the site of the constraint of unanimity he offers a more realist formulation, but he remains grounded in a traditional perspective of the legitimacy of establishment. (In the end, the ideal of a "free and equal deliberation for all" is materially speaking very difficult to attain. It can only be approximated such that one must act "as if" everyone had deliberated.)

7. With the notable exception of the discussions on political parties and their relationship to democratic life that produced heated debates and proposals for reform at the turn of the twentieth century (see for example, the question of primaries in the United States). We will discuss these precursors to the present transformations which were shaped by their national contexts.

8. This distinction may have been formulated for the first time by Bolingbroke in his *Dissertation upon Parties* (1733), in Bolingbroke, *Political Writings,* edited by David Armitage (Cambridge University Press, 1997), p. 90.

9. Edouard Laboulaye, *Questions Constitutionelles* (Paris, 1872), p. 373.

10. The data of these studies will be presented in the following chapters.

11. *Considérations sur la Révolution* (matériaux pour *L'Ancien régime et la Révolution*) in Tocqueville, Œuvres (Paris, Bibliothèque de la Pléiade, 2004), t. 3, p. 492.

12. Nicole Loraux has explained the complexity of the word *kratos* in Athens. It connoted "having the upper hand", the notion of a victory of one group

over another. The democratic art of majority-decision making was therefore originally associated with the image of a conflict resolved through a test of strength. This, in turn, is the origin of a compensatory celebration of the demos united and a call for a gathering together of the people following the election (see N. Loraux, *La Citée divisée* (Paris: Payot, 1997) and "La Majorité, le tout et la moitié. Sur l'arithmétique athénienne du vote", *Le Genre Humain*, no 22, 1990). The failure of Greek democracy may be understood as the result of an inability to articulate and find a balance between these two dimensions.

13. Yan Thomas, "Fictio legis. L'empire de la fiction romaine et ses limites médiévales", *Droits*, no 21, 1995, p. 20. Fiction he suggests, "appears to be a decision designed to counter reality" (ibid., p. 22).

14. See Joseph Barthélemy, *Le Rôle du pouvoir exécutif dans les républiques modernes* (Paris, 1907) and Michel Verpeaux, *La Naissance du pouvoir réglementaire*, 1789-1799 (Paris: PUF, 1991).