THE CONSTITUENT STRUGGLES OF SELF-AUTHORISED REPRESENTATIVES

ABSTRACT

In this article I argue that the people can constitute itself democratically, if only partially, through the retrospective granting or denying of authority to claims to speak in its name. However, for this process to be democratic enhancing, it must occur under systemic conditions that empower the public to participate in claim-making and foster recognition of the partiality and incompleteness of any such claims to the people. To this purpose, I bring together two important streams within democratic theory: the discussion of the paradox of democratic self-constitution and the current literature on representation. Within the latter, I engage in particular with the figure of the self-authorised representative, i.e., the representative who makes claims of representation beyond the electoral framework, and with the constructivist turn in theories of representation, in the terms of which the people is best understood as construct or after-effect of claims to speak in its name. By self-constitution, I do not refer, however, to the "origins" of a people, but rather to an ongoing process of opening the people to question, of making it the object of contestation. With this move, I shift the terms of self-determination from self-constitution in the historical sense, as foundational, to re-constitution, or the people as iterative. I maintain that self-authorised representatives, speaking for parts of the people that are unaccounted for within formal representative institutions, and offering themselves as "passageways between themselves and something else to come," a people yet to be, are the chief, albeit by no means the only, political actors engaged in this re-constitution. I ground my argument in an analysis of Rousseau's legislator and the representative politics of Occupy Wall Street.

Democratic theory typically considers the people to be the source of political legitimacy. To speak in the name of the people is, therefore, to speak draped in the mantle of authority. There is widespread disagreement, however, about what kind of entity the people is. If this notion is to be taken as an empirical reality or an organised corporate body, one runs into a series of paradoxes, since it would seem that the people would both have to constitute itself, and to have been constituted, before it could act as the agent of its own constitution. The so-called "paradox of democratic self-constitution", whereby the democratic agent being posited is taken to be both the cause and effect of action, is the most fundamental of all democratic paradoxes and is thought to imply that the people itself cannot be democratically constituted.

In this article I argue that the people can constitute itself democratically, if only partially, through the retrospective granting or denying of authority to claims to speak in its name. However, for this process to be democratic enhancing, it must occur under systemic conditions that empower the public to participate in claim-making and foster recognition of the partiality and incompleteness of any such claims to the people. To this purpose, I bring together two important streams within democratic theory: the discussion of the paradox of democratic self-constitution and the current literature on representation. Within the latter, I engage in particular with the figure of the self-authorised representative,[1] i.e., the representative who makes claims of representation beyond the electoral framework, and with the constructivist turn in theories of representation, in the terms of which the people is best understood as construct or after-effect of claims to speak in its name.[2]

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are the chief, albeit by no means the only, political actors engaged in this re-constitution. This is

because in their push for inclusion and responsiveness,[4] or, more radically, in their questioning of the

a priori conditions that determine both, they often come to place the dispute over the people at a

constituent level: how to define the people in the first place.

Their constituent capacity cannot be separated from the order in which it occurs. Contemporary

democracies are framed by a contest of representative claims to the people based on a number of

different sources of legitimacy. Electorally authorised representatives (legislators, executives,

sometimes also judges) play a key role in re-constituting the people in their deliberations and rhetoric

in the parliament and media as well as in the vast array of decisions they take in the people's name.

Given their internal division, representative institutions may themselves encourage discussion about

what the people's will is, or, sometimes more fundamentally, about the constitution of the people

itself.[5] But, most commonly, they set forth and act upon positive representations of both the people

and its will premised on a given understanding of who the people are. These representations may,

however, leave many (and their interests) unaccounted for. This is what self-authorised representation

has to struggle against to refound (reform or revolutionise) democracy.

Democratic Foundings

Self-authorised representatives are often treated as a relatively new type of political actor arising in

response to the progressive de-territorialisation of politics at both national and global level.[6] However,

debates about who rightfully speaks for the people in the wake of the multiplication of unauthorized

claims to popular authority reach far back in history, notably in the history of democracies. This is because in democracies the "locus of power becomes *an empty place*"[7] open to contest. And as the people becomes its own authority, ultimate authority is vested in an entity that is both abstract and distant, which can never speak in its own name but only make itself known, if at all, through representatives. In this, popular sovereignty resembles divine-right monarchy, and lends itself to similar the dangers of usurpation.[8] Worries about usurpation are integral to the dilemmas of democratic foundings, which, whether in theory or practice, necessarily involve self-authorised representation validated by appeals to an external source of legitimacy: a prefigured people, a people yet to be. It is therefore no coincidence that the figure of the legislator shares close affinities with that of the self-authorised representative as we have come to conceive it.

There is not better place from which to explore these affinities than the classical locus of the paradox of democratic self-constitution, Rousseau's *Social Contract*. In that work, Rousseau maintains that to deem the blind multitude who authored its own enslavement capable of thinking and acting themselves into an autonomous, self-legislating people, by setting the principles of politics and institutions that unite them in generality, is to mistake the effect for the cause, and therefore to wrongly take the kind of man that only law and institutions can produce for their maker.[9] The legislator is Rousseau's way out of this conundrum. He characterises the legislator as an outsider, whose main task is to make a people out of the inchoate multitude. This, he admits, is a momentous task, which the legislator must carry out without holding any of the political authority that would normally enable him to perform it. As an extra-legal and extra-institutional figure, he has neither magistracy nor sovereignty, and therefore does not, and cannot, have any authority over the men on whom he bestows laws.

Rousseau is at pains to stress the oddity of the situation the legislator finds himself in: he is entrusted with "an undertaking beyond human force, and to execute it an authority that is nil."[10] This is a situation that is not reversed with the establishment of the basic law, since the legislator's function can have no set in it: he must remain an outsider to constitutional legitimacy. Hence, no laws can ever be

passed on the legislator's authority alone: only the people's consent can retroactively confer authority upon the system of laws he proposes to them qua multitude.[11]

The legislator acts therefore in the manner of a self-authorised representative, who takes the public stage without prior authorisation to exercise a doubly representative task: he represents the general will by standing in for it, and he represents a people-to-be to the multitude by devising a system of laws that forms a people out it. He acts as a passageway between the people as is and a normative people yet to be that enables the multitude to see into the future, and imagine themselves invested in the lives of one another, and in the enactment of a new political subject – a sovereign democratic community.

Given Rousseau's diatribes against representation, the characterisation of the legislator as a self-authorised representative may warrant further investigation.[12] The representatives Rousseau objects to are those whom the people "promises simply to obey:"[13] that is, representatives that, once authorised, turn into masters, ruling over the people and usurping the people's sovereignty in representing it. The legislator is unlike them in that he does not hold representative status as a matter of fact, nor does he have any of the forms of political authority that would give his proclamations automatic legal status.

While the multitude depends on the legislator to make them pliable into a people, the legislator depends on their favourable opinion to get his political project off the ground.[14] It is their acceptance that gives his laws an authoritative effect, and once this happens he will have no power, and eventually vanish. But not without the spectral remainder of his exemplary role and the laws that continue to both constrain and enable the people's autonomy. The multitude's ownership of the laws presupposes their transformation through the legislator's programme of political education, where exemplarity is key. This must change them so radically that it becomes possible for them to reclaim their democratic autonomy retroactively, by making theirs the words that Émile uttered at the end of his own private education: "I have decided to be what you have made of me."[15]

The legislator is retroactively authorized by the people, and this temporal dissonance signals that democratic self-constitution is an ongoing, iterative process. Unlike electoral authorisation, the authorisation of an order of established laws and institutions is not a once-and-for all event, inviting passive compliance. This is for two main reasons. First, the sovereign body cannot bind itself with the basic law, since it is of the very nature of the sovereign will that it cannot commit itself for the future. Will exists only in willing, and genuine law being but the declaration of the general will it cannot be simply established; it must be continuously constituted by individuals rediscovering and willing it together: "when the law speaks in the name of the people, it is the name of the people at present and not that of former times."[16] Second, just as the legislator will be recognised as such only after the fact of their authorisation, so will the question of whether his proposals suit a particular people, of whether he is a political genius or a charlatan, be possible to settle only after their enactment, which, if successful, will already be transforming that empirical people into the normative people envisaged by the system of laws.

But for this to happen, the people must first be persuaded to adopt the legislator's proclamations, which, despite not being laws as such, must appear in their eyes as they ought to be. The usual instruments of politics will not do. Neither coercion, nor argument, not even appeal to self-interest, are acceptable or effective in his quest for popular backing. The legislator must resort instead to "an authority of a different order, which might be able to rally without violence and to persuade without convincing."[17] Religion and charisma typify these other forms of authority that Rousseau believes to be necessary to compensate for the legislator's lack of legal, or indeed popular, authority. He must act by divine authority in order to have his laws granted popular authority. But this attempt to compensate for democracy's lack of natural foundations produces only partial closure: "it fixes the people's identity as sovereign but does not fix the content of that identity", which remains open to "questioning and transformation."[18] Perfect closure would render unnecessary the constant willing of the general will; it would lead to apathy and stagnation, to the people ceasing to be.

It is one thing to choose the right system of laws for a given people, it is quite another to persuade that people to recognize their own voice as that through which the laws speak. To invoke the reasoning of the science of legislation to this purpose, Rousseau argues, is self-defeating. It is incomprehensible to most people and lacks motivational force. Hence the appeal to the gods (and the menace they pose) must be complemented with symbolism and the melodic language of persuasive rhetoric, expressing feeling rather than thought, showing rather than arguing, to move the people into accepting its legal foundation. Music "paints everything, even those objects which are not visible… she seems to put the eye to the ear."[19] This power of depicting what is abstract and distant, what is not yet visible, is essential to the legislator's task, given that "the people" he represents to them through the system of laws does not precede the act of representation, but is rather prefigured by it. Rousseau's discussion of what is involved in the staging of unauthorized democratic claims making raises, therefore, two important points: first, the construction of democratic autonomy may be more or less, but never fully, autonomous, and, second, it may have to involve non-deliberative, non-discursive, even forceful means, whose legitimacy can be assessed retrospectively only.[20]

The analysis of Rousseau's legislator, an unauthorized representative staging an original claim to the people, brought out the fundamentals of a theory of democratic foundings – namely, the interplay, indeed, the constitutive interdependence, between autonomy and heteronomy, openness and closure, positive representation and ongoing dispute over the people – and the risks of usurpation such foundings inevitably contain. Rousseau's emphasis on participation in the continuous constitution of the general will, or the citizenry taking on themselves the role of the vanishing legislator, as the condition of their self-determination, the ultimate unrepresentability of the people is asserted: the people remains that about which we dispute, "a site of questioning and transformation."[21] The legitimacy of the people never being fully established, democracy remains "always embedded in the problem of origins and survival: how to (re)shape the multitude into a people, daily."[22] The problem is always there, but it has moments of especially acute articulation. It is to one such moment that I turn

next, by analysing the representative dynamics of a self-authorized political actor who took over the speaking and acting position of "the people" to provoke a democratic awakening: Occupy Wall Street.

The characterisation of Occupy as a self-authorised representative is far from controversial. Hence, I start by exploring the Rousseauean logic of Ocuppy's resistance to representation. This resistance is then pitted against the movement's ambition to speak for others, and the possible grounds for the legitimacy of that claim are examined. From this I move to a discussion of the particular nature of Occupy's politics of representation, paying especial attention to the challenges the movement faced in the unauthorized staging of its claim to the 99 per cent. I finish with an assessment of the success of the movement's attempt to empower people to exercise constituent power, and enact a new political subject.

Beyond Representation?

The rise of the informal politics of social movements is often taken as proof that politics is extending beyond the realm of representation.[23] On this account, representation is identified as the distinctive business of states, whose apparatuses are controlled by elites lifted to power by rival political parties competing amongst themselves in elections and mediating conflicts between recognized groups in society. This narrow understanding of representation also lay behind Occupy's self-depiction as a post-representational movement. For the movement, representation stood for "politics as usual," and, more generally, for the associated evils of hierarchy, distance, and domination. Hence the movement's rejection of representation at both the individual level and the movement level: neither could the movement represent its members nor could it allow for its own representation.

But if the failure of current elites to represent the people was the immediate catalyst of Occupy, their resistance to the principle of representation as such stemmed from a Rousseauean belief that the will

cannot be represented. Since a represented will is not the self-same will, Rousseau warned, representation harbours the danger of alienation of oneself to another, loss of freedom and enslavement. Taken at face value, the prohibition of having another willing for oneself might be taken in an unRousseauean direction, and assumed to undercut any obligation to obey the will of the majority if distinct from one's own, since that would be to let another will for oneself. This belief reflected itself in Occupy's favoured procedures, which were especially designed to prevent anyone from being spoken for. Its time-consuming consensus-based practices aimed at group decisions that could literally be said to be the decisions of each and every one of its members, just as the admission of a block, or last resort veto, meant to ensure that no one would find himself involved in a group decision he dissented from.

The egalitarian division of power in a democracy implies that no individual has the ability to determine the group's decision. For Occupiers, its primary meaning, however, was that no one should find himself represented against his will. Occupy would rather leave its members to decide on a case-by-case basis whether they wished to be represented by the group's collective decision. In cases of serious objection, or "hard block", the assumption was not so much that the individual could express disagreement by exiting the group, but that the group could not continue representing in the face of the robust objection of one or a minority of its members.

Democratic representation entails the capacity to object on the part of the represented. Occupy took this rule to an almost paradoxical effect: while the voice of each protester as ritualistically amplified through the "people's mic" acquired the aura of a collectively endorsed proposition, the majority could have its voice trumped by one or the few. This created an uneasy tension between, on the one hand, Occupy's self-depiction as a moral and affective self-governing community resisting the hegemonic pull of liberal individualism, and, on the other hand, the atomising effects of its understanding of group representation in terms of the representation of the individuals comprising it.

At the group level representation was also resisted. To permit the movement to be represented and attributed a will of its own, set on particular interests, demands, or concerns, was, in the understanding of most Occupiers, to allow leadership, hierarchy, and domination to enter through the back door. Whilst the movement represented itself publicly by establishing a name, "Occupy," around which it organised its collective power, and even though it crafted something of a personality by narrating a story about itself, Occupy resisted its binding to any well defined collective personality, since the very nature of its Rousseauean sovereignty was to be wholly free at every moment in time, just as it resisted representation by a figurehead leadership for the potential for usurpation that it always carries. This resulted in the movement acting less as a single issue social movement, representing its unity to itself and others, than as a blank screen upon which everyone could project his own grievances, and from which anyone could speak variously for the movement, in his or her own name.

Despite Occupy's unRousseauean rejection of a group will that was not the same time the will of all, there was an almost Rousseauean quality about its objection to the group's representation: the movement's will could not commit itself to the future, because a will that does so loses its freedom. Hence the movement's resistance to making demands was not only a refusal to recognise the system from which such demands would have to be made. It was also a refusal to have any potentially singular unity represented that might set a binding precedence in terms of the group's identity.

For many Occupiers, the movement gathered its strength precisely from remaining without content, and therefore available to new social demands. As one of the activists put it, just as the power of a work of art rests upon leaving its meaning undetermined, so Occupy's rise to prominence was dependant on its remaining determinedly unprogrammatic, resisting both resolution and state power.[24] Their continuous reassembling for purposes of consultation and deliberation spoke of the movement's uneasy relationship with power as a positive ground for action.[25] It also revealed its attraction to a system of self-rule avoiding the exercise of power by presenting itself as pure procedure, responding

at every instant to the current, and changing, state of its members' wills as checked through repeated non-binding straw polls or "temperature checks".

There was an obvious danger in this: that in refusing to coalesce in a lasting positive representation of itself Occupy would end up condemned to the shelf-life of the occupation. But this danger came with a possible added benefit: that by stopping at opening the crack through which it became possible to peer into a different future, Occupy kept the political realm it had just reopened safe from immediate recapture by its own present will as to what that future might be.

Occupy's refusal to offer a blueprint for the future cohabited, however, with its members conviction that they were already living it and presenting it for others to see. Opposition to representation was the flipside of the movement's endorsement of horizontalism or participatory forms of direct democracy. For Rousseau as for most Occupiers, representative democracies are systems of government, whose very structure determines that the vast majority of citizens are blocked from the activity of ruling, and consigned to play the role of spectators sitting at one remove from political life. By contrast, Occupiers aimed at a future democratic community prefigured in the lived experience of the occupation. This, they believed, anticipated an alternative form of being-together, eschewing all representational forms of power, eliminating all distance opened up by the indirectness of current politics. If they had a message, the occupation was it: it showed those who were now citizen-spectators ways of re-entering the circle of action, ways of reconfiguring the space of appearance so that they could reclaim the power to speak and act from which they had been cut off.

Representative Legitimacy

But it is one thing to affirm the post-representative nature of one's politics, what one's politics reveals is quite another, and Occupy's politics crossed over the facile opposition between representation and

participation on which it supposedly rested. It is not only that a rival claim to representation was implicit in the activists' understanding of their activity as a quest to challenge exclusion from the party system and the decision-making of governments they depicted as hostage to the interests of a plutocracy. If Occupiers were speaking solely on their own behalf, there would be no reason to expect their objections to hold for anyone other than themselves. But if non-members were to be in any way involved in their claims, then Occupiers' action must have remained inscribed in a representative paradigm.

This inescapability of representation should not surprise us. The opposition between representation and participation is a long-established credo of democratic theory, and an internalized belief of most of its practitioners. However, their relationship is far more complex: representation and participation are bound up with one another; they are indeed mutually constitutive. Representational relationships are the very condition of the democratic mobilisation and participation of what is a naturally inarticulate public, incapable of speaking and acting of their own accord: the democratic public. As Rousseau showed us, in the absence of a relationship with a representative, proposing a language for the expression of meaningful commonalities, the democratic public would remain forever silent.[26] And Occupy meant precisely to reclaim that voice to the public.

The movement's repudiation of representation sits therefore uncomfortably with this goal, as encapsulated in the slogan that came to stand for the movement, the reverberating "We Are the 99 Per Cent". Although the slogan is both polarizing and anti-representation in its discourse (raising the question of whether in Occupy we have an emancipatory agent or a populist impostor, or perhaps something of both), it seems beyond dispute that it is structured as a representative claim.[27] And if the slogan implies representation, we may wish to ask on what grounds Occupy made its claim to representative legitimacy.

At first glance, the slogan may suggest that we are before a claim to representation as identification. In other words, that Occupy claimed to represent the 99 per cent of Americans on account of a basic identity both groups shared – that is, of what they perceived themselves, or were perceived by others, to be. But if this were their claim, it would be far from self-evident.

An immediate difficulty is that though Occupy drew on a vast array of protestors, they were at best a tiny part of the 99 per cent in whose name they took to the streets. Furthermore, the protesters' primarily urban, young, and white demographics lent little plausibility to any claim to representing the general population descriptively. Occupy neither reflected the population's diversity of social characteristics nor its plurality of political views, despite the movement's own internal division between different political tendencies and different degrees of radicalism. Minority groups (Afro-Americans, Latinos, etc.), especially affected by the crisis and the wronged equality Occupy exposed, were only marginally involved. And the movement's core being anarchist, it could hardly be said to ideologically align with the rest of the population.

This points towards yet another divide that might undercut the movement's claim to representative legitimacy if taken as a claim to representation as identification. I refer to the divide between activists and non-activists, i.e., people with varying degrees of involvement in, and sympathy for, the Occupy movement, but whose concerns were far more passive. One might wish to argue that sympathizers and mere bystanders identified with the activists in the sense that, given the opportunity, they would have behaved similarly, and taken part in protest. But this would be stretching a point. Some people engage in direct forms of political expression regularly, while others do not, and never will. Activists' came from a far more radical ideological background than the ordinary citizen, who, albeit possibly sympathetic towards the movement's denunciation of growing inequality, could be easily put off by its direct action tactics and revolutionary goals. It is, therefore, safe to assume that both groups, – activists and sympathizers, – were far from alike or like-minded. Instead, they diverged considerably,

and this was not only in their self- and other perceptions, but also in their commitment to protest and in their expectations of what protest might achieve.

This is a gap that did not escape the movement's critics, who trusted it to limit the movement's broader appeal. It was also a gap that the experience of the occupation had the potential to widen. For many of the activists, the movement was chiefly about what was happening on the ground: the life stories that were being shared, the bonds that were being formed, the day-to-day life in the encampment, with its ongoing experiments in direct democracy. Theirs, they believed, was a community like no other, and one prefiguring a future, which, were the movement to be successful, would emerge by way of contagion. But however transformative this experience might have been, it could not be shared by sympathetic bystanders, who followed the movement at some remove, from the comfort of their homes. As time elapsed, these two groups' contrasting experiences of what the movement meant or was about were likely to drive them further apart, creating a growing divide between the occupation and any political claims transcending it, with those on the ground ever more militant and seeing the occupation as the focus of the movement, and those at home wanting no part in it, but happy for the movement to create pressure for policies that made the economy work better for everyone.[28]

But even if one acknowledges that the movement was a very partial sample of the wider public, this would say little about Occupy's source of legitimacy. For descriptive representation was arguably never the point. The movement's representative legitimacy might be seen as better described as a kind of "surrogacy of excluded interests,"[29] "based on the fact that an important perspective is not being heard or voiced, especially due to structural limitations arising from the institutional configuration of conventional representative government"[30] and the self-reinforcing patterns of income and wealth distribution within capitalism itself.[31]

In support of this view, it can plausibility be argued that the crash of 2008 increased the chances that between Occupiers and ordinary Americans there would be some grounds for identification after all. The recession transformed the experience of unemployment and private debt into an increasingly common denominator and a potential politically significant commonality. This experience pooled closer together the predicaments of groups that would otherwise have remained fundamentally unconnected, possibly even critically at odds – unemployed youth, the working middle class, laid-off factory workers, the public workers, and the working poor. They could now far more plausibly be given presence in the actions of one another. This was a presence not necessarily grounded on a shared experience of genuine deprivation, but rather on something thinner, but insinuating: the fear of it. Yet to assume unity in such a wide variety of people; to assume that a representation of the identity of their interests could ever be made politically credible; to suppose that the 99 per cent could have more in common than perhaps a sense of being disserviced by the system, and even that, to very different degrees, would be self-defeatingly naïf.

To its credit, Occupy avoided making such positive claims. Hence to characterise the movement as a surrogate of excluded interests might be somewhat misleading. It suggests that the movement staged a conflict of interests, and aimed primarily at interest representation, or the division of lots between recognized groups in society. Arguably, however, the movement wanted to stage a more fundamental disruption of the very frame within which we came to see our wronged equality as a given. Instead of putting the emphasis on interests, the stress should go to the expressive representation of exclusion itself. For the primary issue Occupy raised was the paradox between the immensity of the number (the figure of 99 per cent) and what it counted for in the terms of the constituted political order.

The Politics of Representation

But the pervasiveness of exclusion is one thing; to come to see it as shared and to question what it might mean is quite another. Occupy's representative claim sought to effect the transition from one to the other. It provided the incentive for different groups in society to think themselves into the 99 per cent of Americans whose common experience the movement depicted as that of being miscounted by the system. In so doing, the claim played with the double reference of the people as the plebs, or the class that the system excludes, and to the people as the constitutive political subject on which the legitimacy of the democratic system depends.[32] In standing in for the 99 per cent, Occupiers encouraged the multitude to consider themselves as plebs, while, at the same time, asserting the plebs as sovereign.

This was a fundamental constituent power, or capacity to found again, which the movement sought to effect by means of a slogan that was an instance of performative speech. This much is shown by the contrast between the 99 per cent as inert statistical data and the 99 per cent as an illocutionary act aiming to enact the collective power of the people.

Well before Occupy New York took hold of Zuccotti Park in 2011, a wealth of data, divulged through multiple media, from academic papers to blogs, showed that in recent years the income of the vast majority of American households had stagnated or fallen, while the income of those at the very top had grown exponentially.[33] In 2009, Nobel Prize winner, Joseph Stiglitz, sought to give political bite to these research findings in a magazine article suggestively entitled "Of the 1 per cent, by the 1 per cent, for the 1 per cent". As the title indicates, the article spoke of the seizure of the system by a self-serving elite few, to whom it gave a dire warning: America's wealth gap might soon be exceeding any reasonable levels of tolerability and end up bringing the wave of mass protest witnessed abroad closer to home. The prophecy proved self-fulfilling, but its publication in a lifestyle magazine, *Vanity Fair*, whose readership is the elite and those aspiring to it, amounted to a performative contradiction of sorts.[34]

It was left to Occupy to redirect the message from the 1-per cent to the 99-per cent. To that purpose, they selected a different medium, an occupation. It symbolically put the people in charge of the public space, and re-appropriated politics as belonging in the public sphere. This was not just any public space, however: it was Wall Street, and spatially embodied the contradiction of the existence of two worlds in single world – the world in which the 99 per cent were of some account, and the world in which they were not.[35] Occupy's rallying cry, "Were Are the 99 Per Cent", sought to make community by placing in common a wrong. It personalised structural injustice and interpreted the resulting relation of forces as a new instance of class struggle between the very richest and the rest. This was no longer an attempt to control the super-rich by appealing to their enlightened self-interest, as Stiglitz's had been. It was rather an attempted act of performative self-foundation, devolving the people its constituent capacity to refashion the world or the *a priori* conditions circumscribing the limits of political life. It sought to call Americans (and other 99 per centers watching them) into self-conscious collective agency. Their image as reflected back onto themselves was that of "a people" newly empowered to name and confront a wrong affecting virtually everyone.

To make sense of this "people" it may be helpful to draw on Jacques Rancière's conception of the people as a name for processes of subjectivisation by which the excluded stage a distinctively political dispute about the configuration of the social and political order that leaves them uncounted, that wrongs their equality. Politics, Rancière stresses, "is a matter of subjects or, rather, modes of subjectification."[36] By subjectification, he means the production of a capacity for enunciation not previously identifiable in a given field of experience, and whose identification requires the reconfiguration of that field. The name of the subject of enunciation is "the people", which is also the name for the part of the community that has no real part in it because it has been uncounted, and therefore "only exists in the very declaration in which they are counted as those of no account,"[37] Occupy's 99 per cent. Politics is the activity of the uncounted in denouncing and seeking to address

their wronged equality by reconfiguring a space of appearance that denied them either visibility or voice. It works by positing a subject in advance of political action, which is not given in advance of those actions, but rather results from the claims to community, the claims to speak for someone and to someone, in which those actions consist. In opening the people to dispute, politics is unusual: it happens sparsely, even though its staging can range from the grand (e.g., a demonstration or, *pace* Rancière, in a Supreme Court ruling) to the minute (e.g., a Black woman refusing to give up her seat in a segregated bus). But when it does happen, it is poetic: it has a constituent power, "a people" happens, even if nothing seems to change in its aftermath.

Performing the Representative Claim

Since however any such claim to community hinges on an improbable staging of disruptive equality, which has to break through the existing order of inequality, its performative dimension, its *dramatization*, is of paramount importance for its capacity to engage its audience and produce effect. As Rancière puts it, politics is a matter of "performing or playing, in the theatrical sense of the word, the gap between a place where the demos exists and a place where it does not."[38] Self-authorised representatives – that is, he/they who claim to represent others, to play the part of those who have been denied it, without having received authority from, or being formally accountable to them – are the main political actors of such "playing". But their impromptu improvisations of democratic voice, as pitted against representative institutions, have to contend with established forms of authority and authorisation. In a democratic context, electoral authorisation is the common means for exercising political authority.[39] It lies behind the constitution of subordinate political authorities acting in a representative capacity, which derive their right to act in ways that are binding for all from the prior authority of the democratic people, or of the democratic procedure. By contrast, self-authorised representative claims, which set themselves up to represent the people's voice, are made beyond the democratic electoral context and yearn for an authority they aspire to, and draw from in advance, but

do not yet possess. In other words, they have a fictional and staged quality in that they are acted *as if* they were in possession of democratic authority, but, in truth, their validation can only be gained retrospectively. This is because it is dependent on their ability to resonate with their audience and to be accepted, or at least not rejected, by the constituency in whose name they are made.

As is typical of self-authorised representation, Occupy's slogan appeared in an unauthorised context and drew on the authority of an agent who did not exist – a people yet to be, the very subject they were positing (and thereby constituting) in advance of political action. Occupiers performed their claim to the multitude from improvised stages, the street, the plaza or the park, not from any formal representative institution, so they spoke from *loci* that were not underwritten by authority, understood as a specific source of power, vested in persons by virtue of their offices. Instead, they sought to ground their speaking position by appealing to "external" sources of legitimacy, an excluded 99 per cent and a prefigured democratic future, whose images (e.g., their assemblies) they needed to create and disseminate.

We must pause to think about the meaning of externality or outsidedness in this context. For it is far from evident. Dissensus is the power exercised by those who have no qualification for exercising power. However, the members of Occupy were themselves largely American citizens who are sovereign – not in the Rousseauean sense, of sovereignty as law-making, but nevertheless as a quantitative multiplicity of individuals who qualify for exercising power through vote, and whose votes, if cast, will be counted. But this very quantitative multiplicity was the reason behind their externality to the political order: the 99 per cent are too numerous to be organised, too atomised and divided, to make a difference politically. Their power depends on an ability to act in concert, to persuade or even coerce others. And this ability depends on political forms of subjectification drawing on particular lines of fracture, which only representative claims making can produce.

These claim depend on apt staging. In formal representative institutions (such as a parliament or a senate), representatives enjoy a presumption of representative status independent of their performance; things work otherwise in the street. This much was demonstrated by the numerous times in which critics sought to de-authorise Occupy for its performative contradictions. Critics assumed a necessary link between who Occupiers were and the role they performed, and therefore continuously set the movement's claims against Occupiers' behaviour (e.g. their critique of capitalism and globalisation against their patterns of consumption or models of communication and organisation). Without a convincing performance of the *vox populi*, whereby the audience was persuaded that Occupiers looked the part, the movement could easily find itself de-authorised and descend into powerlessness.

Critical to the movement's success was its ability to speak to the public in ways that attracted their attention, and most importantly resonated with it. The beginnings of Occupy were nonetheless marked by the indifference of the media and the danger that its representative claim would not even get off the ground, because no one would hear it. It took some time before the media acknowledged Occupiers as legitimate political protesters and before becoming perhaps the chief disseminator of their claim.

Much of this resistance resulted from the movement's refusal to act by the system's rules of recognition of something as representation: What was their authority to speak? Who spoke for them? Did anyone have a duty to listen if Occupy, like Rousseau's legislator, eschewed most rules of discursive and deliberative engagement? The face Occupy turned to the public was that of a many-faced protesting crowd, whose primary concern was to shake the public out of its passivity by making a radical denunciation, not to cause a favourable impression. This made Occupy especially vulnerable to reputation attacks, and gradually shifted in the locus of the political contest from claim to claim-maker. In the last stages of the New York occupation especially, as the sanitary conditions of the encampment hit the headlines, Occupiers' struggled with their media depiction as a "bunch of dirty

hippies," who had nothing in common with ordinary hard-working Americans, nothing that could make a difference politically. In reaction to the shift of media attention from the movement's claim, with its normativity founded on justice, to the claim-makers, whose normativity as "respectable" citizens was being questioned, a group of activists mounted a counter-campaign. They urged Occupiers to dress up in suits, and make themselves look like people to listen to.[40] Occupiers, they claimed half-ironically, needed to look the part if they were to be taken seriously. The *a priori* laws of the distribution of the sensible, conditioning what it is possible to see and listen, to say and think, to show and make, were closing down on them.

The episode is no more than a metaphor for the struggles of the movement. In the absence of proper authority from the represented, Occupy sought to circumvent this original political incapacity by way of a temporary usurpation. They addressed the American public bearing their collective person, and borrowed from the principle of popular sovereignty to claim the right to be heard, and re-open to question what the people is. This was a daring move, fusing "theatrical pose and performative action," in the hope that they would not undermine but actually reinforce one another.[41] Too much theatricality, and their acting might be perceived as pure histrionics. Indeed, Occupy would often appear in the media described as "circus" and "street theatre," or, on account of its unchoreographed "free play," as inconsequential play-pretend protest made for the fun of it. If Occupiers wanted to offer themselves as a convincing embodiment of the 99 per cent, their performance of the claim could not lend itself to its characterisation as pure street performance, to be recognised solely for its entertainment value. This was the kind of theatricality the movement needed to battle against, if it were to produce a lasting effect. But too little reliance on the powers of theatre, and the movement – a minoritarian leftist movement without weight or influence across the country – would have lacked the resources to lay claim to the people, and to confer national visibility to its claim. Acting *as if* they were the sovereign 99 per cent required staging and dramatisation, but an inapt dramaturgy, where actor, act, and scene did not align, could alienate the audience, and jeopardise the movement's chances of energising and mobilising it.

Occupy's performativity was self-foundational. It amounted to stepping into the role of the sovereign and assuming the mantle of an authority to which the movement had no legitimate *a priori* claim, in the expectation of obtaining it after the fact. As its critics rightly pointed out, Occupy was not a movement of the 99 per cent of the American population, not even a movement which could realistically expect to be embraced by the 99 per cent: the 99 per cent was rather a projected image of unity which, given the diversity of interests comprised, would eventually break down and never actualize.

What the critics did not see, however, was that to say this is to fail to understand the nature and dynamics of democratic politics. This politics, as Linda Zerilli rightly puts it, consists exactly in making claims to community, "which, being claims, are always inevitably partial and exclusive."[42] Hence, to cite exclusion as the basis of one's critique without further specification, is to pose "the possibility that there could in fact be a claim that does not exclude,"[43] a dangerous fantasy that whenever posed as the principle of one's political action tends to end up generating the most extreme exclusion.

This points towards the importance of thinking of political representation not in a pointillistic manner, but as as a systemic property of our democracies, whose politics hinges on making, judging, accepting or contesting claims to community. Claims that anticipate an agreement, but remain essentially contestable. In this system, the people can only be enacted by the retrospective approval or disapproval of claims to representation. But this need not, indeed should not, take the plebiscitary character of a "yea" or "nay." If it is to be democratic enhancing, each claim to community is to work instead as an invitation to collective self-questioning, to the exercise of another's own power to make

his/her judgment about the limits of the claim, and to make alternative claims to community – i.e., to exercise his/her own power to act politically by associating with others. In other words, claim making beyond election is not democratic because it is made in the name of the people, but insofar as it exhibits a commitment to the principle of democratic equality, of shared rule between equals, none of which has the last word.[44] In a democracy no one can, therefore, speak for the people and expect not to be challenged, notably by those who are named and affected by his pronouncements and actions, which the claim maker must seek not only to include but also to empower by non-electoral means.[45] This was something that Occupy, arguably, sought to do (although its strongly moralising rhetoric, suggesting conspiracy and dupery, had strong exclusionary effects, not the least for the 99 per cent, whose reflection on the structural reasons behind the divide may thereby be halted).

That our freedom is premised on the fact that in a democracy every claim to representation is already a crisis of representation[46] is a fact that is often misunderstood and more rarely embraced. Also the particular nature of claims to representation goes many times unrecognized. Therefore, many were those who failed to recognize the nature of the 99 per cent to which Occupy appealed. This was not an existing socio-political empirical entity. It was rather a case of representation as prefiguration, or, to paraphrase Jacques Rancière, a form of political subjectification reaching out to a "people" yet to be, but already providing the means of normative critique.

For this critique to have a visible impact, however, Occupy needed to strike a chord with Americans. Evidence of the felicity of the movement's representative claim was required, if there was to be proof, albeit provisional, of its capacity to address the public. This could come in various forms, from the movement's capacity to attract a following to its capacity to gain public favour. On both counts, there were signs of the claim gaining traction.

Occupy did attract a following as testified by the progression from the original occupation of Wall Street with a couple of thousand activists to the nationwide movement spreading to more than 600 American cities. But although the number of ordinary Americans tuning in to the protests expanded significantly, in face of the expansive nature of the movement's claim to community, relatively few were actually present.

To get a sense of the movement's backing, one needs to turn away from the protesting crowd to surveys, but not without acknowledging how distorting this might be on account of surveys' attempt to treat the "public as social fact independent of any discursive address or circulation."[47] Several polls released in the autumn/winter of 2011 showed surprising levels of endorsement of the movement nationwide. Whilst most Americans seemed to take a neutral stance toward it – either for lack of information or due to the movement's resistance to state its goals – the majority of polls showed that the number of those supportive of Occupy's message outweighed that of its opponents. Even the worst polls were still positive, pointing toward an even split between supporters and opponents. These were all clear signs of acceptance, or at least non-objection, of the movement's representative claim by the relevant public, and they lent provisional democratic legitimacy to its ongoing action. As time went by, however, Occupy's favourable position began to fade.[48]

Is this to be taken as proof that Occupy's message failed to resonate with America? Speaking of Occupy's message might itself sound questionable given the movement's resistance to making itself legible by articulating a demand, or a set of demands, that people could get behind and support. But for all the lack of demands, Americans seem to have understood that, whatever else Occupy might have been about, it was definitely for the denunciation of wronged equality. Occupy pointed a finger at the uneven distribution of money and wealth in America and at the control the moneyed interests exercised over the political process. Polls showed that the population understood this message, and that, by and large, Americans did not object to the presence Occupy's representative claim afforded

them. Given the amplitude of the constituency Occupy targeted, any serious objection to the claim would have to have come in the form of a counter-representation, some individual or group giving Americans an alternative presence. But this never happened.

Why the decline in public support then? Did Americans cease to recognise inequality as an issue they should attend to? To answer this question one needs to separate the "what" from the "who" of representation. For what seems to have happened is that the ambivalence of the public regarding Occupy that many polls detected from the beginning became more acute over time. I refer to the mixed feelings of the public about Occupiers and the occupation, on the one hand, and on the other their endorsement of the movement's political message. This cognitive distinction between claim-makers and representative claim underpinning support for Occupy disappeared as a result of a series of events: growing tensions between the movement's anarchist base and its allies (e.g., unionists, liberals, some Democrats); the movement's withdrawal to its more radical base; and, finally, its re-centring in the occupation. To put it simply, as the movement became the occupation, and the occupation became wrapped in controversy, the public's wariness about the protesters grew to such a degree that it threatened to drown out the claim. Even in the eyes of many of those who had originally seen themselves as implicated in Occupy's representative claim, the movement had come to be more about Occupy than about the things they really cared about.

But to assess the success of Occupy simply by its capacity to attract a following, gain the favour of public opinion, reconfigure the political agenda, shape party electoral platforms and even electoral outcomes might be to force upon it the system of rules it rejected. Occupy did not seek state power or to change party programmes. It sought to empower the people non-electorally. It sought to make separate individuals think themselves into a people by recognizing a wrong that they were represented as having in common: i.e., their status as supernumerary and unaccounted for within the existing political order. If the people is best understood as such occasional mobilisations,[49] hinging on claims

to speak in its name, then there will have been a people, even if infelicitous;[50] it will not be realized, but it will not be nothing either. It may have some lingering effect in the way we see the world and go on living a life in our culture that can come to inform later forms of practice. Such can be the reverberating power of constituent moments, however conflicted.

Conclusion

Occupy's attempt at enacting the unity of people around a particular generality – the side of the inequality divide they find themselves in – is an instantiation of the paradox of democratic origins in its iteration through the ongoing attempts at re-foundation that, as Rousseau showed us, mark the lives of established democracies. Because they gesture towards an authority they do not legitimately possess but which they must assume to be able to take the speaking and acting position of "the people," self-authorised representatives need to face an ongoing process of legitimation and de-legitimation, which solicits our judgment, and takes time to settle. Only this judgement can ultimately determine whether the representative was a populist impostor, co-opting the people for its own sake, or whether its enactment of the people offered a real opportunity for reflexive emancipation. But this judgment need not be unguided. Although reality is often more promiscuous than this categories may suggest, a guiding criteria is the extent to which he contributed to the understanding of popular sovereignty as a dynamic and open-ended process of claims making rather than and fixed and unified will of the people as one.

Occupy anticipated and enacted the unity of Americans with a view to triggering revolutionary change. Their performative speech, as crystallized in the simplicity of the 99 per cent claim, represented an attempt to re-order the world rather than simply representing it as is. This re-ordering was to be made in the image of the occupation, itself conceived as a self-conscious revolutionary act,

which Occupiers hoped would ignite a much larger all-transforming revolution, at home and abroad, by way of a domino effect. Their hopes were doomed to disappointment, and the "revolution" that was left was too self-conscious to be real. The movement's success in catching the public eye and having its representative claim delivered to the targeted national and international audience through the media worked against any revolutionary appeal it might have had. A revolution that is constantly televised, and whose inconsistencies are dissected in real time and re-run to exhaustion, transforms itself into a derivative of reality television, which objectifies everyone in the movement rather than putting people "in the driver's seat."[51]

For all its all its flaws, for all its evanescence, for all its performative contradictions, Occupy's most lasting legacy might well be its shattering of the myth of America as an opportunity society and its broadening of the American language of politics: from the monopoly of the language of interests to a language of justice that does not speak from a neutral stance, but rather reinvents political antagonism. In so doing, it did not start a revolutionary change, but it did give politicians a clear message as to what issues they need to care about if they are to answer their reawakened constituencies. It is, therefore, no coincidence that in his Commemorative Martin Luther King Speech, President Obama, however strategically, recalled the promise made at the act of founding and deemed it undelivered in the rising levels of inequality. The "We, the People" that the constitution constructed, and that Luther King's civil rights movement reconstructed on behalf of African Americans, was again divided in itself. And it took yet another "informal and unauthorised claim" made in "the people's name" to transform this fact into an opportunity for democratic self-constitution.[52]

[1] Laura Montanaro, "The Democratic Legitimacy of Self-Appointed Representatives." *Journal of Politics* 74 (4), 1094-1107 (2012); Mark Warren and Nadia Urbinati, "The Concept of Representation in Contemporary Democratic Theory." Annual Review of Political Science 11: 387-412 (2008).
[2] Frank Ankersmit, *Aesthetic Politics: Political Philosophy Beyond Fact and Value* (Stanford: Stanford University Press, 1997); Nadia Urbinati, *Representative Democracy. Principles and Genealogy* (Chicago: Chicago University Press, 2006); Mónica Brito Vieira and David Runciman, *Representation* (Cambridge: Polity Press, 2008), Michael Saward, *The Representative Claim* (Oxford: Oxford University Press, 2010); Lisa Disch,

"Toward a Mobilization Conception of Democratic Representation." *American Political Science Review* 105 (1), 100-114 (2011); Bryan Garsten, "Representative Government and Popular Sovereignty." In I. Shapiro, S. Strokes, S. Wood, E. J. Kirschner (eds.), *Political Representation* (New York: Cambridge University Press, 2009).

[3] Benjamin Arditi, "Insurgencies don't have a plan —they are the plan. Political performatives and vanishing mediators in 2011." *Journalism, Media and Cultural Studies*, 1: 1-17 (2012).

[4] Montanaro, "Democratic Legitimacy."

[5] Garsten, "Representative Government."

[6] Montanaro, "Democratic Legitimacy;" Warren and Urbinati, "The Concept of Representation."

[7] Claude Lefort, *Democracy and Political Theory* (Cambridge: Polity Press, 1988), 17.

[8] Bryan Garsten, "Being Represented." Unpublished Manuscript (2012), 12.

[9] Jean-Jacques Rousseau, *The Social Contract and other later political writings*, ed. Victor Gourevitch. Cambridge: Cambridge University Press, 1997), 71.

[10] Ibid, 70.

[11] Ibid, 70.

[12] Kevin Inston, "Representing the unrepresentable: Rousseau's legislator and the impossible object of the people." *Contemporary Political Theory* 9: 393-413 (2010).

[13] Rousseau, *The Social Contract*, 57.

[14] Bonnie Honig, *Emergency Politics. Paradox, Law, Democracy* (Princeton, NJ: Princeton University Press, 2009), 6; Inston, "Representing the unrepresentable," 402.

[15] Jean-Jacques Rousseau, *Émile*, trans. Barbara Foxley (London: Dent, 1910), 435.

[16] Jean-Jacques Rousseau, *Geneva Manuscript*, II, ii, 10.

[17] Rousseau, *The Social Contract*, 71.

[18] Inston, "Representing the unrepresentable," 405-6.

[19] Jean-Jacques Rousseau, *Dictionnaire de Musique*, s.v. "Imitation." In *Oeuvres Completes*. Paris: Gallimard, V, 1964), 860-61.

[20] Alan Keenan, *Democracy in Question: Democratic Openness in a Time of Political Closure* (California: Stanford University Press, 2003), 12-14.

[21] Inston, "Representing the unrepresentable," 406.

[22] Honig, *Emergency Politics*, xvii.

[23] Michael Feher, *Nongovernmental Politics* (New York: Zone Books, 2007), 26.

[24] Daniel Graeber, *The Democracy Project* (London: Allen Lane, 2013), 21-22.

[25] For a discussion of the troubled relationship between anarchism, the ideology endorsed by core occupiers, and power see, amongst others, Todd May, *The Political Philosophy of Poststructuralist Anarchism* (University Park, PA: Pennsylvania State University Press, 1994).

[26] Ernesto Laclau, "Deconstruction, pragmatism, hegemony." In Chantal Mouffe (ed.) *Deconstruction and Pragmatism* (London: Verso, 1997), 49.

[27] Graeber renders explicit the slogan's representational dimension: "So if both parties represent the 1%, we represent the 99% whose lives are essentially left out of the equation" (Graeber, *The Democracy Project*, 40). In defending that Occupy is acting within a representational framework, I take issue with readings like the one offered in Simon Tormey, "Occupy Wall Street: From Representation to Post-Representation," *Journal of Critical Globalisation Studies*, 5: 132-137 (2012). On Occupy's populism and its limits, see Nadia Urbinati, *Democracy Disfigured* (Cambridge, MA: Harvard University Press, 2014).

[28] This much is clear, for instance, from the contrast between Daniel Graeber's, academic and activist, and Emmanuel Saez's, sympathetic academic, revolutionary and reformist expectations about the movement, respectively. See Graeber (*The Democracy Project*, xxi) and Saez's interview at: http://newscenter.berkeley.edu/2011/10/07/wall-street-protests-echo-researchers-findings-on-growing-income-gap/.

[29] Daniel Bray, *Pragmatic Cosmopolitanism: Representation and Leadership in Transnational Democracy* (Basingstoke: Palgrave Macmillan, 2011), 136.

[30] Saward, *The Representative Claim*, 12.

[31] Thomas Piketty, *Capital in the Twenty-First Century* (Cambridge, MA: Harvard University Press, 2014).

[32] See Giorgio Agamben, "What Is a People?" In *Means without End: Notes on Politics* (Minneapolis: University of Minnesota Press, 2000), 29-35.

[33] For instance, in 2008 academic research conducted by French economists Emmanuel Saez and the now famous Thomas Piketty revealed how from 2002 to 2007 the top 1 per cent of American households accounted for about two-thirds of all income gains, with the disparity between the two groups reaching levels not seen since the Great Depression (Emmanuel Saez, "Striking it Richer: The Evolution of Top Incomes in the United States," *Pathways Magazine*, Stanford Center for the Study of Poverty and Inequality, 2008).

[34] Joseph Stiglitz, "Of the 1 per cent, by the 1 per cent, for the 1 per cent," *Vanity Fair*, May 2011.

[35] Jacques Rancière, *Dissensus: On Politics and Aesthetics*. (London: Bloomsbury, 2010), 37.

[36] Jacques Rancière, *Disagreement: Philosophy and Politics*, trans. Julie Rose. Minneapolis: University of Minnesota Press, 1998, 35.

[37] Ibid, 38.

[38] Ibid, 88; and Peter Hallward, "Staging Equality. On Rancière's Theatocracy," *New Left Review*, 37: 109-129 (2006), for how Rancière's conception of disruptive equality relates to the theatre, both literally and metaphorically.

[39] For a critical reading of the role of the concept of authorisation in legitimizing democratic decision-making, see Andrew Volmert, "The Puzzle of Democratic Authorisation," *Political Studies* 60(2): 1-19 (2011).

[40] The group was "Suits for Wall Street": http://www.indiegogo.com/projects/suits-for-wall-street.

[41] Martin Puchner, *Poetry of the Revolution: Marx, Manifestos and the Avant-Garde* (Princeton: Princeton University Press, 2006), 219. My analysis of the dilemmas of authorisation faced by Occupy is much indebted to Puchner's analytical frame.

[42] Linda Zerilli, "Doing Without Knowing. Feminism's Politics of the Ordinary", *Political Theory*, 26: 454 (1998).

[43] Ibid, 455.

[44] Sofia Nässtrom, "Democratic Representation beyond Election" (forthcoming in *Constellations*).

[45] Montanaro, "Democratic Legitimacy."

[46] Jason Frank, *Constituent Moments. Enacting the People in Post-Revolutionary America* (London: Duke University Press, 2010).

[47] Michael Warner, "Publics and Counterpublics". *Public Culture* 14 (1), 49-90 (2002).

[48] This decline in support was registered by the NBC/Wall Street Journal Poll: in April 2012 only 16% of Americans said they were supporters against the 29% who had said so in early November 2011.

[49] Margaret Canovan, *The People* (Cambridge: Polity Press, 2005), 356-57.

[50] Benjamin Arditi, "The people as representation and event." In Carlos de la Torre (ed.), *The Promise and Perils of Populism. Global Perspectives* (Lexington, KY: University of Kentucky Press, 2014), 12-13.

[51] The quote is from Gil Scott-Heron's song, "The revolution will not be televised".

[52] Madison, Federalist No 40.