Redescribing Democracy: Pierre Rosanvallon’s alternative to the diagnosis of post-democracy

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Abstract:

The field of contemporary democratic theory is divided in two camps. On one side are pessimistic accounts which observe a decline of the quality as well as the quantity of democratic government in western societies. Colin Crouch's (2004) book on “post-democracy” most prominently stands for this gloomy judgment about the current state and the future of democracy. On the other hand there are accounts which indeed share the diagnosis of a decline of traditional forms of democratic participation (most notably the decrease of voting turnouts and the decline of party politics). However, they do not equalize these developments with a loss of democratic quality. They rather notice a change of the forms of democratic legitimacy. In such a way Pierre Rosanvallon (2008, 2011) argues that in recent years new forms of negative, deliberative and reflexive forms of popular control have arisen and that a critical civil society is still and even more alive. In my paper I will scrutinize these more optimistic accounts. My main argument is that the discovery of new forms of democratic legitimacy goes hand in hand with a redesription of the concept of democracy. Though, this new understanding of democracy has only little in common with the idea of political equality.

Introduction

In the sixth book of his Politics, Aristotle makes a distinction between various types of democracy: one rather extreme form, which he identifies with the existing political regime in Athens, and a best form of democracy, which had existed before the reforms of Cleisthenes. Aristotle also mentions some moderate forms of democracy which lie on the continuum between these poles of a worst and a best kind of democracy. This distinction between various forms of democracy is only rarely a topic in the literature on Aristotle. However, it constitutes a crucial element of his political thought. With this distinction he namely acts as “innovating ideologist” as Quentin Skinner has called the political thinkers which create a new political
Aristotle is an innovating ideologist insofar as he identifies a political system as the best form of democracy which in the eyes of his contemporaries has nothing to do with democracy at all: he characterizes this best democracy in the following way: ‘Indeed it is for this reason that it is advantageous for the form of democracy spoken of before, and is a customary institution in it, for all the citizens to elect the magistrates and call them to account, and to try law-suits, but for the holders of the greatest magistracies to be elected and to have property-qualifications, the higher offices being elected from the higher property-grades, or else for no office to be elected on a property-qualification, but for officials to be chosen on the ground of capacity’ (1318b).

According to Aristotle the best democracy is a regime in which not the demos as a whole but only elected elites rule. It is a system in which the ecclesia is no longer the center of the political system, and the lower classes only have the right to elect the political leaders which should emanate from the aristocracy. Thus, it is more of a mixed than a democratic regime. The best democracy ‘as described in the Politics would not […] be recognized as democracy by many of Aristotle’s contemporaries who lived under a regime that they themselves called a *demokratia*’ (Ober 1998, p. 337). Describing this mixed regime as democratic Aristotle tries to change the political vocabulary of his contemporaries.

However, the innovating ideologist is not only a figure of bygone times. Even today we can observe political theorists who try to change our political vocabulary. In my paper, I will focus one of the most interesting examples of this type in contemporary political theory, namely the recent work of Pierre Rosanvallon. Rosanvallon is a professor of modern and contemporary political history at the College de France. He has published on the history of elections in France, as well as on the concept of representation and is one of the leading scholars in the history of political thought. In two recent books, namely “Counter Democracy” (2008) and “Democratic Legitimacy” (2011) as well as in some recent articles, he develops an innovative theory of democracy. My thesis is that Rosanvallons conceptualization of democracy offers an alternative to Colin Crouch’s theory of post-democracy. However, Rosanvallons understanding of democracy is, to put it bluntly, not very democratic. I develop this thesis in three steps. Firstly, I briefly sketch out two antithetic diagnoses of contemporary political culture in western societies. That is: the already mentioned diagnosis of post-democracy on the one side and on the other side, the diagnosis that nowadays we are not

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1 “[T]he task of the innovating ideologist is a hard but an obvious one. His concern, by definition, is to legitimate a new range of social actions which, in terms of existing ways of applying the moral vocabulary prevailing in his society, are currently regarded as in some way untoward or illegitimate” (Skinner 1974, p. 112).
witnessing a decline but rather a transformation of democracy. In a second step, I reconstruct the main points of Rosanvallon’s new conceptualization of democracy. I conclude with some comments on the rather elitist character of Rosanvallon’s understanding of democratic legitimacy.

1. Post-Democracy or new forms of democratic involvement?

Choosing the proper designation for a political system has always been a political move. Robert Dahl (1956) already pleaded for a terminological shift in the 1950s when he suggested the term “polyarchy” as being more appropriate for modern political systems in the West. Although a handful of political scientists followed Dahl’s suggestion, he in his later work (1989, 1998) returned to the term democracy because the new term did not resonate beyond this small group. Thus, one way to deal with the discomfort about modern democracies is to refuse the label “democracy” and to look for a negatively connoted concept from the classic vocabulary of constitutional theory. This semantic strategy builds upon the tradition of the “Italian realism” of Vilfredo Pareto, Roberto Michels and Gentano Mosca up until Danilo Zolo. If we follow Zolo’s (1992) line of argument, today’s democracy theory is not “realistic” enough, because it calls western societies as “democratic” solely on the basis of their character as constitutional states. According to Zolo’s systems-theoretical description of the political process in modern democracies, political participation has been replaced by a manipulated public discourse. He suggests that it would be more appropriate to accept this and to call these political systems “liberal oligarchies”. Michael Lind (1996) applied the same designation to the United States of America in the 1990s.

The intuition that modern democracies have undergone a tremendous change over the last two decades has brought suggestions to rename these political systems. Normally, these suggestions follow a stage-model, starting with early versions of democracy at the end of the 19th century through full-fledged democracy in the last third of the 20th century to new challenges and institutional responses. In this context, different terms have been invented in order to draw a line between the “good old” and the “bad present”. One candidate in this recent semantic competition is “virtual democracy”, which puts the emphasis on strategies of depoliticization in modern democratic systems (Blühdorn 2007).

An analogous way to capture a changing democratic reality with a new term can be found with Sheldon Wolin (2001) and Jacques Rancière (2005), who call western political systems “post-democracies”. Among the authors of this group, which inherits the traditional critique
of merely “formal democracy”, Colin Crouch (2004) has presented the most systematic ac-
count. He points to a fundamental ambivalence of western societies. According to Crouch, in
post-democracies all traditional democratic institutions like parliament, regular elections and
party competition as well as the rule of law continue to exist. These political systems thus
differ significantly from autocratic political orders or repressive dictatorships. But these
institutions are substantively undermined by processes of globalization and the state’s
declining capacity to regulate the economy: ‘My central contentions are that, while the forms
of democracy remain fully in place – and today in some respects are actually strengthened –
politics and government are increasingly slipping back into the control of privileged elites in
the manner characteristic of predemocratic times; and that one major consequence of this
process is the growing impotence of egalitarian causes’ (2004, p. 6). It is important to note,
that according to Crouch, without the competence to produce more egalitarian policies,
democracy becomes a hollow shell.

Crouch’s diagnosis has some empirical facts on its side. The outsourcing of democratic
decision-making from national parliaments to supranational agencies or even private
organizations is a topic of many studies about the change from government to governance.
The decline of support for elected politicians as well as the decline of the voter turnout seems
to be not only a transitional phase but a structural component of most western democracies. In
addition, the omnipresent personalization of politics and the trend toward poli-tainment,
supports Crouch’s claim that democratic politics have increasingly become a ‘tightly
controlled spectacle’ (Crouch 2004, p. 4). Last but not least, there are strong empirical
findings which supports Crouch’s thesis about the increase of social inequalities
(Hacker/Person 2010).

However, on the other side, there is a growing literature that focuses not so much on these
symptoms of a supposed decline of democratic culture but rather stresses the emergence of
new and even more democratic forms of citizens’ participation. According to authors like
Ronald Inglehart and Christian Welzel (2005) or John Keane (2009), the past three decades
have witnessed people in modern democracies changing from being rather passive consumers
of elite decision making to being engaged citizens. A citizenry has emerged which
participates in democratic politics in many ways; examples of this would be new social
movements protesting against the government, participation in local citizen groups or as
members of national or even transnational NGOs like Amnesty International or Greenpeace.

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2 For a critical overview on the post-democracy debate see Buchstein/Nullmeier 2006.
For these authors, the emergence of new deliberative arenas like citizen panels and consensus conferences is another sign of the liability of democracy. Democratic participation in our times therefore has many channels and should not been reduced to voting and political parties.

According to Keane we are still witnessing the birth of a new kind of democracy, which he calls monitory democracy: ‘Monitory democracy is a new historical form of democracy, a variety of ‘post-parliamentary’ politics defined by a rapid growth of many different kinds of extra-parliamentary, power-scrutinising mechanisms. These monitory bodies take root within the ‘domestic’ fields of government and civil society, as well as in ‘cross-border’ settings once controlled by empires, states and business organizations’ (2009, pp. 688-689).

In the next section I argue, that Rosanvallon’s new theory of democracy fits like a glove to these diagnoses of a new and better democracy. But it is not only that he justifies the unconventional forms of participation, but in his effort to transform the very meaning of democracy he even goes one step further.

2. From electoral democracy to the people as watchdogs and veto-players

The starting point of Rosanvallons new conceptualization of democracy is the diagnosis of a radical change of modern societies. In “Democratic Legitimacy”, he refers to two big transformations: Firstly, the loss of the revolutionary hope and a growing fear about the future instead of democratic hope. And secondly, the transformation from a fordistic to a postfordistic type of society, that is, a growing individualization and pluralization. Together these two developments are constitutive for a new era of particularity: ‘What we are witnessing, to put it in a nutshell, is the dawn of a “new age of particularity”, of which the various changes enumerated above are merely manifestations’ (2011, p. 60).

For Rosanvallon, the principle of particularity is the dominant feature of contemporary western societies; it is a totally new world which stands against the older order of democratic unanimity and generality. These changes are crucial insofar as that they have undermined the very foundations of electoral democracy, that is the assumption of a more or less homogenous demos on the one side and the assumption of a government and administration which is able to execute the democratic will on the other side. Thus, according to Rosanvallon ‘the function of elections has been whittled down: elections are simply the process by which we designate those who govern. They no longer provide a priori legitimization for policies to be enacted
later’ (2011, p. 4). Well, this reminds us of the well-known definition of democracy as a method, given by Joseph Schumpeter.

However, Rosanvallon does not aim towards some kind of democratic realism or minimalism. On the contrary, he is eager to demonstrate that the new postmodern form of democracy even leads towards a ‘more exigent democratic ideal’ (2011, p. 8). Therefore, his thesis is that in our postmodern times the very idea of democracy has reached a higher institutional as well as cultural fulfillment. Rosanvallon analyzes two main trends of this democratic innovation: a new role of the people and the development of new democratic institutions.

The former one is the topic of his book about “Counter-democracy” (2008). Here he describes and justifies the emergence of new forms of citizens involvement. The starting point is the already described participatory revolution, which means the political engagement of the people through other channels than elections or the membership in political parties. For Rosanvallon, these new channels are mostly negative insofar as it is easier to organize veto coalitions against governmental policies than to organize positive majorities. Due to the plurality and particularity of postmodern societies it is no longer possible to create a democratic will or generality. Therefore, the role of citizen involvement has changed from the implementation of a democratic will through elections to a democracy of rejection of governmental actions. ‘The power of the people is a veto power. Democratic government is no longer defined solely as a procedure of authorization and legitimation. Its structure is essentially defined by permanent confrontations of various types of veto from different social groups and economic and political forces’ (2008, pp. 15-16).

Rosanvallon differentiates between three forms of such a negative or counter-democracy: the people as watchdogs, the people as veto-players and the people as judges. As watchdogs, the people act in two ways. The first way is that they denounce governmental or business actions, for example through demonstrations against nuclear power or large infrastructure projects like the new main station of Stuttgart. The second way is that the people create and publish counter-expertise, engaging in a battle of the right evaluations with governmental agencies. As veto-players, the citizens can simply refuse to co-operate, and withdraw their support for governmental actions. ‘While political majorities produce overall legitimacy and exist over a legal timeframe, social majorities play the role of making specific actions possible’ (2008, p. 243). Rosanvallon gives the example of social security reform, which needs the support of at least the most powerful social groups. Another example of the people as veto-player is the recent failure to introduce green fuel in Germany. But most of it is the moral power of the
people or the public which Rosanvallon has in mind. A recent example of this moral power is the resignation of the former German minister of defense, Karl Theodor von Guttenberg. However, the case Guttenberg also shows that the negative power of the people is not always the power of the majority. I will get back to this point in my concluding remarks.

The role of the people as judges is an extension of the role of the people as watchdogs. The difference is that – in the words of Rosanvallon – ‘it raises suspicion to the next level by insisting on a definitive conclusion’ (2008, p. 191). One way is through participating as jurors in courts, but that’s not the only way. Another way is the engagement of the people in citizen panels or mediation processes. Rosanvallon especially highlights that judges act in a more neutral or rational way than as voters: ‘Although they may not say so, many people also feel that judges and juries are better informed than most voters and can therefore approach their task in a more rational way. A court decision thus reconciles the egalitarian demands of democracy with a certain notion of expertise, offering a “third way” between number and reason’ (2008, p. 232).

In his book about counter-democracy, Rosanvallon is eager to demonstrate that all three forms of negative power have increased in the last two decades. Therefore, the thesis of a decline of citizenship has to be rejected. Instead there is a change of democracy. However, he doesn’t stop with this somewhat conventional re-description of democracy, which shares a lot with the so called deliberative turn of democratic theory. In his recent book about “Democratic Legitimacy” Rosanvallon goes one step further in order to adapt the concept of democracy to the post-democratic reality of our times.

Besides the thesis about the transformation from modern to postmodern society, that is, from generality to particularity, the starting point of his book is the already mentioned critique of elections as the central institution of democracy. According to Rosanvallon, it has always been problematic to identify the results of elections with the will of the people. He especially mentions a fundamental contradiction in democratic elections between the principle of justification and a method of decision-making. This is a contradiction, which according to Rosanvallon has already lessened in the last two decades, insofar as the function of the elections has lost his sacral meaning. However, this theoretical weakening of the relevance of elections is only the preparatory move for a radical change of the very meaning of democracy. Against the supposed old fashioned and highly problematic use of elections as a means for creating the democratic will Rosanvallon brings three new and rising forms of democratic legitimacy into play: impartiality, reflexivity and proximity.
Regarding impartiality, Rosanvallon refers to independent regulatory agencies, which act without governmental control. He mentions examples from the past like the American Interstate Commerce Commission as well as more recent examples like the European Central Bank. For him, nonpartisan experts in such agencies guarantee the accuracy and rationality of decisions. They generate some kind of output legitimacy which is supported by public opinion. It is supported because of the demand of the people for politics without partisanship. ‘Forms of the regulatory state have thus been erected to counteract a political sphere believed to be too influenced by interest groups’ (2006, p. 241).

Rosanvallon mentions a change in the concept of sovereignty which supports the emergence of this new form of legitimacy. It is change from the old form of the rule of the many to a new more abstract understanding of sovereignty, that is the idea of impartiality: ‘In our time we have thus witnessed the culmination of a lengthy process of disincorporation of the notion of public good and the general will. This in turn has increased the salience of the category of impartiality as the expression of a negative generality, and with it the importance of judicial powers and powers of arbitration’ (2011, p. 90). The necessary conclusion of this new understanding of democratic sovereignty is that the decisions of nonpartisan experts are more legitimate than that of elected representatives. However, with this apology of assumed neutral agencies Rosanvallon presupposes a field of apolitical decisions. I do not believe that those exist; especially not in the field of monetary policies. I will come back to this in my concluding remarks.

Regarding the supposed legitimacy of reflexivity, Rosanvallon updates the old liberal fear of tyranny of the majority. The institutionalization of reflexivity is a means that prevents this assumed tyranny as well as a means for increasing the social control of representatives. It prevents both evils insofar as that for him, reflexivity means some kind of checking of the electoral democracy which in principal runs the risk of making unjust or even unconstitutional decisions. Therefore, the crucial institutions of a more reflexive democracy are constitutional courts. Rosanvallon rightfully stresses the growing importance of constitutional courts in the last two decades. In contrast to most of the academic discussion about the trends towards a juridification of politics he regards this as a move in the right direction. For him, constitutional courts are the representatives of ‘the people as principle’ in contrast to ‘the electoral people’. Insofar as according to Rosanvallon the old cleavages (like capital – labor) fade away in most western societies, no longer partisanship and majority rule should be the central features of a democratic order but the protection of difference: ‘Alongside the “expressive general will” of universal suffrage, understood as a result, we have the
“integrative general will” that comes of society’s effort to eliminate its own internal distinctions and barriers. Its horizon is not unanimity but the eradication of discrimination, the constitution of a truly common world’ (2011, p. 131). The crucial task of constitutional courts is to protect and fosters this ‘truly common world’.

Rosanvallon is also an advocator of the greatest possible independence of the constitutional courts from party politics and explicitly warns about the urge to elect the judges by parliaments. But we should not forget, for Rosanvallon the gain in power of constitutional courts is a crucial part of a new and better democratic order. This is remarkable in the view of the fact that in the tradition of liberal thought independent constitutional courts are conceptualized as a counter power to democracy. Before I get to a critique of this conceptual move in my concluding remarks I will briefly sketch the third element of a new democratic legitimacy: the legitimacy of proximity.

Unlike the other two forms of legitimacy Rosanvallon’s remarks about proximity are a little bit diffuse. ‘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’ (2011a, p. 120). What he has in mind is something like the proximity of politicians to ordinary people on the one hand and respecting each other’s differences on the other hand. Thus, proximity means a special relationship between the state and the society in the sense of paying attention, appreciation and compassion. It is a top down relationship which shows the citizen that they are respected regardless of their ethnicity or social status. Rosanvallon gives the example of politicians visiting the people after catastrophes. The shaking of hands generates in this way a new form of representation. Thus, the politics of proximity are like an art, a certain kind of public relations. Well, this diagnosis is not so far away from the one of Crouch, besides the fact, that the latter is not speaking about the art of government but about politics as a „tightly controlled spectacle“.

3. Democracy against the demos

Clearly, modern democracy has little more in common with its ancient predecessors than its name. Democracy in Athens was characterized by the sovereignty of the citizenry in the agora. “Direct democracy” was practiced, in which the citizenry didn’t just deliberate together, but all substantial decisions were taken directly by the assembled citizenry. The public meeting was the highest committee, not limited by any other political institution.
Democratic politics also expressed itself by the drawing of lots and the rotational principle for the allocation of political posts. Political systems which today bear the name “democracy” are characterized on the contrary by representative institutions, the election of personnel, a separation of powers and constitutional limits on political action. In comparison to classical Athenian democracy, modern democracy is less and more at the same time. It offers less opportunity for political participation, but it offers more with respect to the quality of political decision-making, based on the ideals of constitutional freedom and the welfare state. So, why not simply go along with Rosanvallon, take another step and change the concept of democracy again in order to adapt it to our postmodern and postnational world?

Well, this is a difficult question. Democracy is an essentially contested concept. And due to a changing world this contestability seems to be rather high in our days. One can get an impression of this if one compares the work of Crouch and Rosanvallon. The same observation, namely the personalization of politics, is for Crouch on the one side a sign of a decline of democracy in the sense of politainment; for Rosanvallon on the other side it is an evidence for a new proximity of the politicians to the people. It is easy to argue, that Crouch’s concept of democracy is somewhat old-fashioned, glorifying a bygone golden era of democracy. Therefore, it seems to be a better option, to follow Rosanvallon and others in there innovating conceptualization of democracy. However, I have serious doubts that this would be a convincing strategy.

First of all the replacement of positive democracy, that is elections, with the concept of counter or negative democracy, that is people as watchdogs or judges leads to an elitist and unpolitical understanding of democracy. It is elitist because the institutions of counter-democracy are dominated by highly engaged citizens, and usually these are academically trained people with their very special interests and values (Steffek 2008). It is unpolitical as it supposes that political conflicts could be solved in a rational and neutral way. And unpolitical democracy is, as Nadia Urbinati demonstrates, no democracy at all: ‘Unpolitical democracy entails relocating public action outside the places in which political decisions are to be made according to democratic procedures. It prefigures a transformation of the meaning of politics according to goals and criteria that recall the nineteenth-century utopia of the rational power of the experts. It suggests that politics is a cognitive practice for reaching true outcomes, solving problems, and moreover eradicating “politically-relevant reasonable disagreement’ (Urbinati 2010, p. 74).

As I have shown, Rosanvallon not only mentions new negative forms of citizen engagement
as a crucial aspect of democracy in the 21th century. He also describes as democratic institutions like the European Central Bank or constitutional courts which should rather be considered non-democratic. I don’t want to say that these institutions cannot be an essential part of a liberal-democratic order, but they are so only in interaction with traditional democratic institutions. These are those that give the people an equal opportunity to participate in the decision-making processes, at least the equal right to elect the politicians. But Rosanvallon is eager to discredit elections as well as other institutions which have fostered democratic equality in the past. And without these democratic checks, the strengthening of assumingly independent agencies is only threatening to support a highly undemocratic order.

Rosanvallons critique of electoral politics on the one side and his effort to replace the political dimension of democracy that is partisanship and emotion, with the idea of neutral and rational politics on the other side, is distinctive for the tradition of antidemocratic thought (Femina 2001; Jörke 2011). However, what makes it indeed difficult to recover this antidemocratic core in Rosanvallons writings is his redescription or even semantic revolution of the concept of democracy itself. This brings me back to Aristotle. As argued in the beginning, he acts as an innovating ideologist insofar as he has described a political regime as democratic, which in the eyes of his contemporaries would be highly oligarchic. His aim was to obscure his antidemocratic agenda through a renaming of the concept of democracy. Much the same can be said with regard to the recent work of Rosanvallon. It is a historical and a political question, whether this semantic strategy will work.

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