“Contingent authorization”: a conceptual evaluation of political representation in councils in Brazil/ in Brazilian councils

Debora Cristina Rezende de Almeida
Federal University of Minas Gerais - Brazil

Abstract:

The emergence of channels of mediation between civil society and the state is a growing phenomenon in Latin America. In Brazil, the decentralization promoted after the return to democracy in the 1980s was responsible for several initiatives that included citizen participation in the co-production of public policies. Among them, it is possible to name the municipal councils – deliberative spaces in several areas of public policy made up of governmental and nongovernmental representatives. Although, much of literature has worked with participatory framework, recent trends have pointed out the blurring of lines between state and civil society, and the possibility that societal actors have performed a representative role. These findings undermine the traditional evaluation of political representation, which is associated with the notions of authorization and delegation. Based on this discussion, the paper addresses the question of how the pluralization of political representation responds to the challenges of democratic legitimacy, since civil society representation do not exhibit criteria such as electoral accountability and responsiveness. Furthermore, based on empirical research on Municipal Councils in Brazil, the article argues that in these spaces there is a “contingent authorization”, in view of their characteristics of a power derived and dependent on the government. These aspects seem to show a greater complexity involved in making absence present.

Introduction

The idea of political representation that emerged with the development of the modern State to a certain extent can be associated with the ancient ideal of creating a unified and calm society. Hobbes inaugurated this tradition in modernity by defining the representative as the one capable of unifying the diverse and contradictory people (SKINNER, 2005; HOLLANDA, 2009; TORRES, 1989). In this sense, the primacy of the sovereign in regulating the lives of the individuals is gradually associated to the concept of political representation, leaving aside aspects such as the overlap of sovereignties, the fragmentation of power and fluid criteria of legitimacy, which are all characteristic of medieval times. The manner in which unanimity maintained itself as the regulator of communities, however, underwent reformulation. Unanimity is no longer expressed as a social quality, but according to an arithmetic meaning: the notion of majority. Through this technical and aggregative solution, it was possible to keep the desire of expressing unanimity and social generality.
within the democratic regime, at the same time that it allowed for a technical decision, where the greater amount is worth the totality (ROSANVALLON, 2009).

Throughout time, pluralist and institutionalist perspectives reduced the theoretical role of representation, treating it either as a problem of organization or as a juridical fiction anchored upon the idea of contract. Given these circumstances, the issue was reduced to the debate on the function of elections, subtracting the problem of sovereignty from the conceptual field of representation (ARAÚJO, 2009, p. 52). The controversies surrounding the Hobbesian concept of representation, with respect to the conception of sovereignty and State, were not adequately treated by the literature. Therefore, the arguments in the direction of the inevitability of representation for the security and proper functioning of politics gained strength. With the importance of social unity and the creative capacity of the representative maintained, as Hollanda aptly puts, the theory begins to concern itself with issues related to the operation of the political system and the type of government which would best respond to such principles.

During the last few years, among the manifestations of the crisis of the representative system and the mistrust of democratic institutions, different theoretical strands of thought began to contest the procedural focus of representative democracy and the singularity of sovereignty and State unity. Participatory approaches, deliberative theorists and/or agonistic pluralists are examples of analyses that have attempted to rethink the relationship between State and society, in a manner which brings light to the various experiences that connect participation and representation. Nevertheless, the majority of these studies continued to suggest that such spaces of State/society interaction are based on self-presentation and direct participation of those affected by politics, placing little attention on the dynamics of representation created by this participation. This is precisely what places new challenges for political theory. Recent trends have pointed to the blurring of lines between state and civil society, and the possibility that societal actors have performed a representative role. These findings undermine the traditional evaluation of political representation, which is associated with the notions of authorization and delegation (CASTIGLIONE e WARREN, 2006; AVRITZER, 2007).

Different from traditional representative democracy, where elected representatives are the ones expected to make decisions on behalf of the people, who in turn hold them accountable at times of elections, in more participatory approaches, both the elected and the bureaucratic forms of representation and legitimacy are challenged, as communities and their leaders are invited into (or demand) more direct forms of engagement. As Gaventa (2004, p. 11) notes “conflicts emerge over who speaks for whom, with what authority, and about the appropriate relationship between the ‘governors’ and the ‘governed’.

The experiences are diverse including both national and international actors, specialized organizations/bodies and experts, groups struggling for recognition, organized civil society and citizens in a general sense (HELD, 1995; CASTIGLIONE e WARREN, 2006; YOUNG, 2006; DRYZEK, 2006; AVRITZER, 2007; ABERS e KECK, 2007; KECK, 2003). Despite the limitations in terms of the absence of electoral legitimacy, democracy theorists have been presenting the potentials for new types of representation with regard to its contributions in forming public opinion and directly influencing the processes of public policy formulation, which was before under the control of state actors. The central argument of these thoughts focuses on the democratizing possibilities of these new spaces, given the diagnosis of the democratic deficit in traditional representation. In more general terms, what they seek to do is unravel these representative relationships, offering analytic models to think about democratic representation which contemplate non-electoral political representation (SAWARD, 2008). Hence, the emphasis is no longer on participation as the democratic aspect of political representation, but on a change in representation
itself, which starts to be seen in a wider and more plural manner, without the restrictions of electoral mechanism.

In the following subsections, I will examine some of the analytic proposals for thinking about the democratic legitimacy of these experiences, highlighting their justifications, risks and potentials. In order to do so, it is necessary to establish a certain distance with the traditional theoretical framework on representation, keeping in mind how it has been unable to respond to the crises generated by the very representative system. In this perspective, it is important to deconstruct certain premises that are considered solved in political theory, illustrating how the alternatives presented by the theorists respond to the challenges of improving democracy. It is also worth showing how they create new tensions and problems that need innovative solutions in order to renovate politics in the present. In order to defend plural ways of acting and speaking “on behalf of society and as a representative”, it is essential to rethink the basis of democratic legitimacy in these experiences, given the absence of central components for representative democracy such as mathematical equality, territoriality, authorization and electoral accountability. Secondly, the paper presents a redefinition of the concept of political representation, which avoids the simplified notion of the electoral model, and seeks to rethink the concept according to a complex sovereignty that is still in construction. Thirdly, the paper shows how political councils in Brazil, considered as hybrid institutions entrenched in the process of formulating and regulating public policies, find themselves in this plural perspective of political representation. Lastly, having taken this path, I arrive at a concept of political representation that values a plural, permanent and contingent aspect.

The limits of territoriality and of mathematical equality for the inclusion of social diversity

According to Rosanvallon (2009), the majority principle is a practical and procedural necessity for dealing with the struggle for unanimity in political societies. Through elections and the aggregation of votes, men find a way of expressing social totality. In addition, it is worth considering that the egalitarian ideal, one man, one vote, imposes an arithmetic concept of democracy. This breaks away from various perspective of society where unanimity reflects a social quality. This is an equality marked by determined frontiers, especially territorial ones, which do not seem to satisfactorily respond to the multiple manifestations of popular sovereignty and the relationship between State and society during the process of political representation.

Presently, some analytic proposals which benefit from deliberative democracy’s wider legitimacy criterion have been highlighting the need for widening the political inclusion of individuals, not only from the perspective of rethinking the aggregative model of expressing social will, but also of delimiting frontiers of inclusion. These authors emphasize the following principles: 1) the equal moral worth of individuals, and since each individual is an end to oneself, collective decisions should equally recognize, respect and benefit individual interests and values whenever possible; 2) inclusion set by some frontiers, whether is it territorial or according to characteristics such as race, sex and ethnicity, since all individuals who can be potentially affected by a collective decision should have the equal opportunity of influencing a decision in proportion to his/her participation in the result (WARREN, 2008; HABERMAS, 2003; HELD, 2006; YOUNG, 2000).

Beginning with the second principle considered to be the demarcation of frontiers for political inclusion, criticism has been directed at the exclusiveness of the territorial aspect as capable of defining political representation. According to Rehfeld (2005), the justification that territorial circumstances can potentially capture a good part of the heterogeneity among constituents needs to be revised. First, because the territorial aspect introduces a combination of incentives which,
undoubtedly, distorts the process of legislative decision making from the public good by creating incentives that favor local interests. Second, because it makes it difficult for other interests, which are not local, to be successful in the decision making process. Authors who have investigated the innovations in the field of civil society reinforce the criticism related to the exclusiveness of territorial representation and its inability to incorporate diversity. For Rosanvallon (2006), the dimension of territoriality is not capable of dealing with the plurality of levels of sovereignty, increasing in the contemporary world. Given that when we are dealing with people we are always dealing with a complex, incomplete and new matter, political representation needs to be expanded and deflected, and therefore, always partial. Since civil society became on the possible faces of political society, no longer simply the locus of private life and particularity, it is worth reconsidering that representatives are no longer elected individuals, but those who speak, act and judge in the place of the people (Rosanvallon, 2006, p. 201).

Avritzer (2007a) also argues that in the present, civil society’s mechanisms of representation are making binding decisions in relation to the same theme, in the same territory and therefore challenging notions of sovereignty that are linked to the territoriality of the nation-state. Representation in these circumstances is pluralist and resembles more the medieval structures of the simultaneous overlap of diverse types of representations than the monopolistic structure that is characteristic of modernity. Furthermore, it is important to reinforce that the borders of the nation-state are also being challenged, given the presence of transnational and supranational networks, such as the case of the European Union (HELD, 1995). Hence, the interaction between the nation-State and the different transnational advocacy networks is transforming the borders of what constitutes as a legitimate interest and is challenging the notions of sovereignty linked to the territoriality of the nation-State (KECK and SIKKINK, 1998).²

It is important to emphasize that territoriality continues to be one of the elements that marks the borders of political representation. However, in the present context of the pluralization of the forms of political representation, the notion of territoriality needs to be rethought. This means that it can not only define the electoral constituencies of political representation, but needs to be considered during the representative process in a manner in which it incorporates the participation of different localities in the definitions of public policies and in the control of the State. Participatory budgets and political councils in Brazil are examples of experiences that place elected representatives and citizens from different neighborhoods and districts, side by side, in order to deliberate together on the problems affecting the city as a whole and/or impact specific locations and publics. While territoriality is an essential border for political representation, the wide deliberative criterion of democratic legitimacy requires other ways of political inclusion that are directly intertwined with the first principle cited above, or in other words, the equal moral worth of individuals. This principle requires a reformulation of two perspectives. The first deals with the fact it is worth recognizing some frontiers such as sex, race, ethnicity and income, which have historically served to exclude individuals from political representation, as well as legitimize the differentiated inclusion of others. The second refers to the critique of the principle of mathematic equality made favorable by the vote, which as for Rosanvallon (2009) guarantees representation’s status of legitimacy, but not the quality of this process of political inclusion.

² There are various problems stemming from the interaction between domestic and international borders. Some of these involve tensions, ambiguities and the difficulty of collective action for such organizations given the influence of the political agenda and local context. These dynamics have been analyzed by globalization studies and particularly those studies that focus on transnational networks which involve civil society organizations. For a more detailed discussion of this theme see Margaret Keck and Kathryn Sikkink (1998) and Marisa Von Bülow. “Building Transnational Networks: Civil Society and the Politics of Trade in the Americas”, 2010.
With regard to the consideration of other borders for political representation, theorists who study group representation emphasize the proposition of alternatives. According to Fraser (2007), political representation needs to be included as one of the dimensions of justice, defending the presence of a non-geographical component in representation, which is often absent from the discussion focused on electoral equality. In this strand of thought, it is possible to find various voices who advocate for the legitimatacy of representation of groups in the political arena and of descriptive representation (YOUNG, 2006; WILLIAMS, 1998; PHILLIPS, 1995), claiming that democratic regime needs to go beyond the traditional influential and pressure groups such as interest groups, lobbies and political parties (DAHL, 2005). What is important here is thinking about levels of representation of groups excluded from the political system, such as women and blacks, so that their perspectives can be widely incorporated in the political agenda. In Anne Phillips’ (1995) words, this means changing the entrenched perception that the key to good representation is in the program and in the shared ideas between representatives and the represented, without any reference to the identity of the representatives. Against this notion, we are increasingly seeing the need for the physical presence of excluded groups in decision-making spheres.

Different proposals for the inclusion of groups can be found in the literature. Some of these proposals include the politics of recognition (FRASER, 1997), politics of difference (YOUNG, 1997), politics of presence (PHILLIPS, 1995), which agree on the need for rethinking the terms of political inclusion in contemporary society, but disagree as to the impact of economic and cultural dimensions, as Phillips’ (2009, p. 229) observes; the justification for the presence of groups (MIGUEL, 2010) and the determination of which social cleavages need to be taken into account (WILLIAMS, 1998). A more detailed account of the internal disputes in the literature on descriptive representation is unnecessary at the moment. It is only worth highlighting the importance of thinking about alternative frontiers for the construction of political representation. In addition to this, a pertinent critique of this literature is that it does not break from the model of electoral representation. There is generalized recognition, among those who defend the introduction of descriptive mechanisms, that authorization and accountability are crucial instruments of legitimacy and the maintenance of a link between governors and the governed (MIGUEL, 2003, p. 131). By defending the representation of groups of people who share the same interests/experiences/perspectives, the proposals frequently translate into the adoption of electoral quotas. Alternatives that also take into account the descriptive dimension of representation have been tested outside of elite politics and the electoral circle, such as the experience of citizen juries.

---

3 In addition to the dimensions of recognition (cultural) and redistribution (economic), Fraser (2007 p. 313) recently included representation as the third and political dimension of her theory of justice. According to the author, representation is responsible for informing us of who is included or excluded from having the right to fair distribution and reciprocal recognition.


6 Phillips (2009, p. 229) affirms that while Young emphasizes the continuity and mutual entwinement of what can be called the cultural and economic, Fraser argues for a more rigid dichotomy between these two spheres.

7 Miguel (2010) criticizes Young for prioritizing the ability of social perspectives to widen the perspectives of reality, instead of establishing it as an imperative of justice capable of avoiding the concentration of political power in the hands of a few. The author reinforces the centrality of conflict and interests in politics, which are left aside in Young’s formulations. Miguel believes that the justification for the inclusion of groups in politics should not come from a notion of perspectives, but from a defense of justice, where presence can give rise to access to economic, cultural and political capital that are necessary for exercising power.

8 Melissa Williams (1998) highlights that the difficulty of delimiting which groups need to be included can be solved through the historical analysis of perspectives which not only have been traditionally excluded from the political sphere but also bring differences with regard to their understanding of public policies.
consensus conferences and deliberative polls, which can serve as a complement to territorial representation (SINTOMER, 2010; FISHKIN, 2009). The notion of Athenian legitimacy is recovered in these spaces, as it seeks to create a representative body that “mirrors” the population as a whole.

Political inclusion also claims a change in the conception of equality, as an “equal right to consent to power” (MANIN, 1997, p. 92). Political equality made possible through the vote is problematic from the point of view of both electoral representation and the inclusion of plurality. Rehfeld (2005, p. 192) argues that the presupposition “one man, one vote”, where each individual is given the power to influence the result of an election is a trivial and weak aim given that no vote, considered in isolation, is possible of influencing the result of an election. With this criticism, though, Rehfeld has no intention of proposing a new version of the “plural vote”, in Stuart Mill’s style. He is simply showing that the idea behind “making votes count” should be based only on the well-observed disparate aggregative effects on election results rather than upon an appeal to equal voting power. Depending on the electoral system and the definition of constituents, groups and political parties can count for much more.

In addition to the internal problems found in the logic of electoral representation, the fiction of an election as the moment which joins the will of all has been put to test in recent manifestations on both the crisis of democratic legitimacy and the insatisfaction of citizens with political results. In this sense, the demands for widening the frontiers of political inclusion reinforce the fragility of electoral equality in order to deal with the wider concept of democratic legitimacy that conceded equal moral worth to individuals. According to Rosanvallon (2009), the dissonance between the electoral moment and the will of the electorate is the result of an inability of old systems of democratic legitimacy – the authorized representative and the civil servant – to express the social generality and guarantee impartial policies. For the author, democracy involves a principle of justification and a principle of legitimacy, and currently the separation between these poles is quite visible and sensitive to the citizens. This entails thinking about democracy not as a method of eliminating conflicts, as the American Founding Fathers had assumed, but as a way of including diversity, which does not translate into the majority principle.

The author distinguishes between legitimacy of status and legitimacy of quality. While elections guarantee the legitimate status of representation, the same does not occur for the quality of the representative process. Given this circumstance, the inclusion of different groups and people in the political process contributes to thinking about the quality of representation regarding to the widening of moments of justification and to the improvement of interaction between the representatives and the people.

Dislocating the Focus on Authorization and Electoral Accountability

Political theory seems to deal more easily with the need for both reconsidering the equality aspect of representation and incorporating new frontiers for the inclusion of citizens in the political process. However, given the affirmation that institutional participation prioritizes deliberation over participation (HENDRIKS, 2006; SINTOMER, 2010) and creates dynamics of representation that

---

9 This is an explicit theme in the literature on the electoral system where the discussion centers on the possibility of avoiding “wasted votes” (votes that do not contribute to the success of a candidate). These votes are considered bad for representative democracy.

10 These ideas, in general, can be found in Rosanvallon’s work which were presented by the author in the 34th Annual Brazilian Social Science Association Meeting (ANPOCS) in Caxambú on October 26th, 2010.
do not have the procedural legitimacy of elections, it is essential to reflect on the legitimacy of the representation of civil society and what the role of these actors is in this new context. In the absence of the consent of all citizens, considered the foundation of the State’s claims for representing the people in all its diversity and unity, what are the possibilities for democratic improvement in the representation of civil society? This is a discussion which distances itself from the participatory idealism of the first generation, in order to reach a more nuanced analysis of the political process that considers the limits and potentials of political inclusion according to a group of different elements. Furthermore, this discussion benefits from the present debates in political theory, which relatively agree on the fact that the foundational moment of political representation is insufficient for thinking about the connection between State and society and for the insertion of human plurality. Hence, it is important to avoid the naturalization of concepts and accept that the understanding of political representation is shaped by the way in which the people are currently being represented (PLOTKE, 1997). As Saward (2008) observes, representation is always a process where the who and what that is being represented is constantly under construction.

With regard to the centrality of electoral authorization as the guarantee for responsiveness and the accountability of representatives, various analyses have tried to show the weakness of this belief. Manin, Prezeworski and Stokes (1999) first point out that there is a single chance for the electorate to punish or reward representatives according to government decisions. Secondly, given the decentralizing nature of the vote, there are problems for coordinating such an act, making it impossible to know if a vote was guided by a prospective or retrospective outlook. Thirdly, there are profound informational asymmetries that prevent an adequate evaluation of the government’s performance for the majority of the citizens. Nevertheless, the authors continue to bet on institutional reforms and an adequate system of checks and balances as a way of forcing a representative to act in name of the public interest. While this is not the moment for providing a detailed account of these different approaches on the relationship between representatives and citizens, it is worth mentioning that the relationship between the vote and the decision-making process is very tenuous and therefore, representation needs to constantly re-establish the ties that unite rulers and ruled according to other mechanisms (MANSBRIDGE, 2003). When we look at the transformation in domestic and international politics, where international, transnational and non-governmental actors are speaking for, acting for and defending positions in the name of individuals within the nation-state, concentrating the concept of representation on questions such as authorization and accountability become even more unsatisfactory (URBINATI, 2006, apud AVRITZER, 2007, p. 452). Hence, it is urgent to review the concept of political representation, not only from the perspective of how electoral authorization is indispensable, but also from the perspective on the consequent accountability that elections supposedly guarantee.

With regard to the absence of an authorizing process of all citizens, there are, at least, two important implications for the representation of the social sphere. First, it is worth considering the problem of representativity, given that not all groups and issues can be adequately represented in these deliberative spaces. As Barnes, Newman and Sullivan (2007, p. 196) observe, according to the analysis of different cases of public participation in two British cities, both input and output legitimacy depend on the evaluation of the representativity in forums. This is evaluated according to the presence of particular individuals and/or the members as a whole. The authors sustain the idea of representation as claims making, which is also defended by Saward (2008), for the the construction of the legitimacy of civil society representatives. Citizens can express different claims to

---

11 Vieira and Runciman (2008) present, in a detailed manner, different models of group and individual representation run by the State. They rely on contrasting models that define representation as: a relation between principal-agent, a relation between trust-mandate and as identification, presenting limits and potential in re-connecting the State and society.
representation in various spaces and through distinct mechanisms of expression or their demands can live together in the same space, without necessarily having to be in conflict. In some instances, such claims can be reconciled through deliberation. According to these authors, representation proved to be a contested and constructed concept, as well as one that easily interacts with concepts of social difference and diversity (BARNES; NEWMAN, SULLIVAN, 2007, p. 198). Second, representativity leads to the question of how “publics” are constituted. In this case, “who establishes” and “who participates in deliberation” are two pragmatic questions that define the nature and substance of public exchange which will occur in deliberative encounters (BUTTON e RYFE, 2005; CORNWALL e COELHO, 2006; ALMEIDA e CUNHA, 2009). Therefore, advancing the characterization of the different encounters can help understand its consequences for the effectiveness of deliberation and for its capacity to include the diversity and the plurality of discourses and issues which demand representation.

When considering the constitution of these publics, different criteria of legitimacy are currently gaining relevance. In relation to the proposals that emphasize some type of selection, it is possible to find arguments in favor of random selection, in a way that the representatives can mirror the characteristics of the population (FISHKIN, 2009; BROWN, 2006)\(^\text{12}\). One can also find ideas on appropriate representation, which proposes that representatives be selected in a proportional manner according to the size of the group and the intensity of their interests in the political result (SAMUELSON, et al, 2005). In spaces such as political councils and Participatory Budget Councils in Brazil, studies show the relevance of adopting transparent forms of choosing representatives, such as elections, which involve a great number of the population and includes a diversity of perspectives and associations directly related to the theme or to public policies ALMEIDA, 2010; LÜCHMANN, 2008).

Concerning the analyses that focus on the legitimacy of these actors, independent of a specific process of selection, it is worth highlighting several proposals. Avritzer (2007) focuses on how legitimacy is generated with the role of the affinity and relation with the theme\(^\text{13}\). Lavalle, et al, (2006a,b) discusses the virtual aspect of the representation of civil society\(^\text{14}\). Urbinati and Warren (2008) deal with the character of self-authorized representatives. Castiglione and Warren (2006) emphasize that authorization can emerge from the ability of groups to attract members, petitions, etc., from the convergence of proposals among groups and their constituents and from descriptive characteristics such as gender and race and from experiences or public visibility\(^\text{15}\). In all of these cases, legitimacy derives from knowledge, experience or the abilities of particular members to identify the priorities and necessities of a given locality or theme and/or from the capacity to mobilize social capital for support of certain demands and/or individual leadership qualities (GAVENTA, 2004). However, as Gaventa reminds us, it is also worth pointing out that the selection

---

\(^\text{12}\) Brown (2006, p. 209) argues that a random selection offers an impersonal, mechanic and quasi-scientific manner of selecting representatives. Given that scientific authority is universally regarded as valid and therefore considered a type of public authority, the selection by lottery offers a symbolic form of public authorization.

\(^\text{13}\) According to Avritzer (2007, p. 446), in Cicero the idea of representation involved two elements: that of identification and authorization. The statesman was the one who identified with condition of the represented before representing him/her and this is what generated a relation of affinity. Despite this, in Hobbes, only the element of authorization gains relevance. The author defends that in spaces of formulating public policies, such as in deliberative councils, the legitimacy of representation is given through the affinity and relation to the theme in questions, which the actors acquire throughout their history of participating and becoming involved with politics.

\(^\text{14}\) The authors claim that the representation of civil society presents the components of Burke’s theory, in which the representatives, while not being elected, maintain a commitment or presumption of representing someone.

\(^\text{15}\) According to the authors, where there are no elections, accountability can perhaps reflexively and retrospectively provide authorization. In this sense, accountability would depend on the type of representative and relationship in question.
of these groups can obey a logic of co-option of the elected representatives in relation to civil society representatives, where the former select leaders which they feel more comfortable working with.

For Miguel (2010), proposals such as those from Avritzer (2007) and Lavalle, Houtzager and Castello (2006) fail in that they claim these experiences are democratic. According to Miguel, the absence of authorization and of institutional accountability provided by elections, raises a number of questions about the legitimacy of the civil society’s representation. The author points out that these analyses have not been concerned with the problems associated with the lack of autonomy of the represented and the manner in which political preferences are established. While the criticism has its merits for introducing the importance of control mechanisms, it does not solve the issue at hand, since it recovers the circular argument of the need for electoral authorization, without perceiving other possibilities for accountability and the exercise of responsiveness. In addition, the representation of civil society does not intend to be monopolistic since the field of demands and the formation of preferences is open to the competition of different voices, therefore, allowing for the continued manifestation of preferences autonomously formed in the process of political participation.

The problems with these analyses seem to be of another nature. First, the proposal of associating the representation of civil society with a Burkan notion of virtual representation, given that it is not measured by authorization but the presence of a content or a substantive sense of the activity of representing, is no longer adequate. For Burke, electoral authorization is not dispensable, only its statistical dimension. As Pitkin (1967) and some texts of the author show, such as his discourse on Parliamentary reform in 178216, the legitimacy of representation via authorization are maintained through the consent of main political cleavages, which guarantee that the interests of all are considered in political deliberation. Hence, there is no way of dispensing the authorization argument, only a descriptive vision of this argument17, which is in consonance with his perception on how interest is objectively identified. Second, legitimacy derived from an affinity to and relation with a theme, as defended by Avritzer (2007), captures the foundational moment of representation, or as Rosanvallon (2009) describes, the status of legitimacy, without having to saying much about legitimacy that is based on the political process and refers to the quality of interaction between State and society. In this sense, one can agree with Miguel (2010) about the importance of democratic control, since it is possible to imagine cases where civil society acts in a non-responsive manner. The same can occur with the opinion that emerges from a deliberative process of a citizen jury, who are randomly selected, but it may not reflect the opinion of the non-informed public. This case illustrates the importance for the public justification of actions. However, the article disagrees with the circular argument of the author, since the connection between representatives and the represented is not only given through means of obligation of responses and sanctions that are legally instituted.

This point leads us to a second aspect of the reformulation in the theory on democratic representation, which would be the presence of accountability and responsiveness in relation to the interests of the represented. As Pitkin (1967, p. 57) claims, the purpose of guaranteeing that representatives be accountable rests less on sanctioning them for what they have done, and more on creating incentives for acting in conformity to the interests of their constituents. It is important to

---


17 The descriptive vision of the authorization argument, in Burke’s sense, defends the presence of some groups as agents of consent that would reflect the main cleavages in society.
reinforce that the idea representatives should act in the interest of the represented is marked by ambiguities and imprecisions. This article does not intend to begin an exhaustive discussion on interests, rather it seeks to point out its complex dimension and the theoretical uncertainties related to the way they are formed and recognized, which is why in many cases it is more preferable to speak in terms of preferences or choices (MIGUEL, 2010; SCHMITTER, 2006). As Schmitter (2006) claims, interests intend on establishing an omnipresent explanation for political action, without being able to explain anything. Starting from the premise of the difficulty of dealing with the category of interests previously determined and consciously recognized, as Schmitter (2006) highlights, the constitutive aspect of representation should be taken into account, particularly with regard to the possibility of the representative creating or presenting the interest of the represented. Seeking to guarantee diversity and unity, the State also needs to act in the place of the represented and bring life to certain issues and policies not previously expressed. Representation is an activity that is linked to both the defense of a previously existing interest or preference and the establishment of this interest or reality. This aesthetic element of representation, largely discussed by Ankersmit (2002), is present in modernity since Hobbes and is encased by a democratic aspect as the “creation” of the representative is always subject to the judgment and control of the represented.

When we apply this thought to the representation of civil society, we notice that in cases where there is no explicit authorization and no commitment of acting in the interest of the represented, it is possible to also think about the creative activity of the representative. The fact that society does not arbitrate on the selection of the representative does not mean that it cannot judge the activities carried out by civil society in terms of its relation to the representation of its interests, values and perspectives, as well as in relation to its interpretation of the demands and needs of the represented. This ultimately reinforces the importance of the relationship between accountability in extra electoral representation (ISUNZA, 2007). Nevertheless, a central question which presents itself is “how would it be possible to maintain the ability of judgement, if these experiences lack the legal control of elections?”. According to Vieira and Runciman (2008, p. 152), even if there is no presence of a legal sanction or electoral judgement, civil society representatives can be held accountable in the sense that they can offer reasons to the public by justifying their choices and actions in a way that requires approval. Representation relies on the possibility of a deliberative relationship, which allows for the represented to object and constantly interact (URBINATI, 2006a, 2006b; MANSBRIDGE, 2003).

The importance of judgement for the democratic legitimacy of non-electoral representation is also one of the analytic keys for thinking about the possibility of interests being represented by individuals or groups that do not have the same demands or social identities as the represented. Rouseley Maia (2009) establishes a dialogue with the theory of recognition, which emphasizes the importance of subjective experience to a successful identification of violence, of the privation of rights, of exclusion, and even of degradation and offense, and shows that while a subjective experience is necessary, it cannot be a reliable source of justification in the public sphere. In this sense, interests can be represented or even defended by others. As various authors have shown, this is because democratic representation presupposes not only congruence and the answer to the desires of the represented, but also the construction of spaces and the maintenance of opportunities through an exchange of values, perspectives and interests (SAWARD, 2006; ABERS e KECK, 2008; MENDONÇA, 2008). The establishment of legitimate demands of representation depends on judgement.

In order to establish the representation of ideas or discourses in a legitimate manner, there needs to be feedback between the abstract discourses (necessary for “filtering” and “generalizing” subjective experiences) and subjective experiences (necessary for “testing” or “correcting” abstract
discourses). In a circular process, both the nature of subjective experiences, which can include forms of disrespect, marginalization and exploration, and abstract discourses of justification are always confronting each other and need to be mutually adjusted. In order to create legitimate representation, both internal and external to the group, dialogical cooperation, without the use of force, seems to be the best democratic means of searching for balance in terms of principles, values and goods that citizens share to some degree in a given political community (MAIA, 2009, p. 22).

Hence the presence of accountability and responsiveness continue to be basic criteria of democratic legitimacy, but without having to be limited to the existence of elections. Furthermore, it is worth considering that deliberative forums, whether they be randomly selected, established by self-indication, or elected by a specific group, produce decisions and debates differently in that the majority of individuals reach their specific political perspective, given the time granted for becoming informed, for debating and for changing preferences. In this sense, while these actors are not accountable to a specific constituent, they need to be accountable for their actions, by presenting reasons for the decisions they make. Other ways of maintaining accountability, featured by some authors, include the possibility that informal hierarchies and the relationship created by networks may be capable of enforcing accountable behaviors (SAWARD, 2005) and of presenting some type of control over the representative. This may occur as a result of the assumption of some substantive or symbolic coincidence (LAVALLE e CASTELLO, 2008) or through the maintenance of internal communication between representatives and who they claim to represent (MENDONÇA, 2008).

Finally, it is worth noting the role of the media in delivering news about the actions of civil society representatives (LAVALLE, et al, 2006; TATAGIBA, 2002).

All these alternatives show that it is possible to think about non-institutional means for creating accountability and maintaining the judgment of representatives, which does not mean they will necessarily occur. Based on different studies that focus on the representation of community leaders, John Gaventa (2004) discusses the difficulties of maintaining the relationship among such representatives and entities and the public in general, as they become more active and involved in certain partnerships. In Brazil, different case studies on councils and participatory budgeting have also shown the same mistrust with regard to informal representatives (TATAGIBA, 2002; LÜCHMANN, 2008; COELHO and NOBRE, 2004). The implications for different designs and representative actors need to be thought out in a particular manner. What is important here is showing the plurality of some elements considered essential for representative democracy.

Rethinking Political Representation

In order to advance the understanding of actors and plural spaces in contemporary societies, an important and central step needs to be taken and that includes the redefinition of political representation. This implies taking up a discussion that was abandoned in the origin of the concept, which deals with the association of representation and sovereignty. By defining representation with representative government, political theory left aside a series of relevant implications for democratic legitimacy and contributed to deepening the duality between State and society.

Nadia Urbinati and Pierre Rosanvallon present interesting formulations in this direction. To a certain extent, there perspectives are complementary or inspired by the same theoretical source, the Marquis de Condorcet. It is in the discussion on sovereignty that Condorcet brings a contribution to these two authors, when he proposes a plurality of models for exercising the sovereignty of the people. As Rosanvallon affirms (2009, p. 190), the author recommends increasing popular political intervention not with less representation, but with greater complexity and reflexivity. Hence, the
French Revolution theorist goes against the theories of his time, as well as those that followed, by not simplifying the concept of political representation and by suggesting the diversification and extension of temporalities and modes of expression in public life (ROSANVALLON, 2009; AVRITZER, 2007). “Complex sovereignty” is understood as a process of continuous interaction between the people and the representatives, expressed by the vote but by other diverse temporalities such as the referendum, censure and the establishment of the Constitution. In other words, sovereignty is a historic construction. Rosanvallon (2009, p. 191) highlights that when Condorcet disassociated the scrutiny of presentation and the definitive scrutiny in electoral operations, he overcame the opposition between Sieyès’ vision, for which the collective will could only exist through an organ that would give it life, and the Parisian revolutionaries who saw the people as only political militants in the streets. This is a counterpoint to many original theories affirming political representation as unity and creation (HOLLANDA, 2009). First, this is because it does not eliminate the aesthetic component of people’s creation and invention from the action of representing, but rather situates this activity in an interregnum that also accepts the “general will” as the fruit of a process of interaction between the people and representative. Second, this is because it allows for breaking with the dual thinking of modernity which separates the social from the political, claiming for the reconciliation of these two spheres. As Rosanvallon states (2009, p. 192), Condorcet presents “una nueva comprensión de la generalidad democrática, haciendo de la multiplicación de sus expresiones parciales la mejor condición para llegar a una aproximación de conjunto”.

The multiplication of temporalities, forms and subject of sovereignty inspires Urbinati (2006) to defend the notion that an election is only one among many dimensions of representation and the relationship between State and civil society. The author intends to recover the centrality of representation for democratic politics, showing that this is more than a system of the division of labor and a State institution. This implies a complex political process that activates the “sovereign people” beyond the formal act of electoral authorization (Ibid, p. 5). In order to do so, it directly dialogues with the theory of the alienation of sovereignty, as described by Rousseau in the Social Contract, which does not have public representation as its model but a contractual and private model of the alienation of rights. For Urbinati, Rousseau denies representation a political role by rigorously subordinating it to the private relation of delegation.

There are two important sources of inspiration in Urbinati’s theory of political representation: Kant and Condorcet. From the former, Urbinati takes the notion of judgment and dislocates the importance of will in the constitution of sovereignty. As Araujo (2009, p. 56) notes, it is not a matter of identifying representation with the sovereign: it means thinking about representation as a process of unification, whose horizon is sovereignty, not as a distinct person, individual or collective, but as, in the Anglican terms Urbinati uses, a Kantian as if, or a regulatory ideal. From the latter, Urbinati highlights the role of uninterrupted temporalities of politics and a permanent relation between participation and representation. The substitution of the will for judgement can be attributed to the aspect of the transcendental subject of Kantian philosophy, which contrasts with the Rousseanian notion of the substantial and reified collective subject. Araujo (2009, p. 57) shows that Urbinati uses this notion of the “transcendental” subject, which is only a possible condition and can only be thought of in a network of relations. This is so that it can be articulated with her vision of the political process as a constant space of deliberation.

Stemming from the notion of the individual as a source of judgement, ideas and opinions, the author gives life to a notion of representative politics that is not passive, like the one found in the theory on the authorization of electoral democracy. Rather, it claims that representative politics is formed by an active relationship between those who govern and those who are governed. “In a word, representation can encourage political participation insofar as its deliberative and judgemental
character expands politics beyond the narrow limits of decision and voting” (URBINATI, p. 16). It is the autonomy of judgement that makes its indirect nature legitimate, or the fact that the governor and the governed can make an “as if” type of judgment and imagine oneself in the place of the other (Ibid, p. 103). An election, in this case, is not an act of will and of transferring sovereignty, but an expression of a political judgment carried out in a specific moment. For Urbinati, the multiple sources of information, communication and influence, which citizens activate through the media, social movements and political parties are not accessories, but constitutive components of political representation. The dualism between State and society is overcome so long as the former is constantly recreated and dynamically linked to the society with the intention of passing laws. In this case, representation does not establish a fixed distinction between State and society, but transforms and expands politics as it allows for the social to be translated to the political, at the same time in which the development of political groups and identities is made easier (Ibid, p. 37, author’s emphasis).

Despite the great advance in terms of widening the concept of political representation, some authors emphasize that Nadia Urbinati’s circular claim of the representative process indicates that the present institutionality is capable of dealing with political processes (FARIA, 2009). In this perspective, Urbinati confers crucial weight to political parties, arguing that achieving the potential of representation can only be effective through party politics. The role of parties is that of integrating the masses, unifying the ideas and interests of the population and making the sovereign permanently present as an agent of influence and extra-state supervision (LOUREIRO, 2009, p. 86). The sovereign people keep a negative power that allows them to investigate, judge, influence and censor their legislators. According to Avritzer (2007), by confining negative power to society, Urbinati is not able to pluralize the sources that create political judgment and integrate new forms of participation to the concept she proposes. While it advances by conceiving participation as constitutive of representation, the form of making the social become political continues to be associated to the perspective of participation.

Rosanvallon attempts to make democratic representation something more diverse and complex, highlighting the need for pluralizing the sources of democratic legitimacy, given the difficulties of traditional representative politics of expressing social generality. The author advances in relation to Urbinati by betting on a constant evaluation and permeability of the institutionality of political representation. The result is a greater emphasis on the pluralization of forms and subjects of sovereignty, while Urbinati benefitted more from the multiplicity of temporalities expressed by Condorcet. Based on the affirmation that the two forms of expressing social generality at hand since the end of the XX century – elections and administrative power, have entered into a crisis since the 1980s, the French theorist proposes a reconsideration of democratic legitimacy, where values such as impartiality, plurality and proximity become sensitive to representative politics. Attempting to escape unanimity, in relation to representation as an expression of social totality, and a monist perspective, characteristic of the approaches that see social interest as a stable property of a collective body or structure, Rosanvallon recovers the ideal of a complex sovereignty and the idea of partialities of social life in order to advocate for what he calls “permanent representation”.

The author of a group of recent work which brings essential political theory themes to the discussion of democratic politics in contemporary society, Rosanvallon’s (2008, 2009, 2010) reading brings two central contributions for thinking about the legitimacy of political representation in the era of transformations. The first of these contributions is expressed in the affirmation of the ambiguity and paradoxical aspect of the representation of the State. The second contribution refers

---

18 The main reference of Rosanvallon’s thought can be found in his recent book on democratic legitimacy.
to the attempt of reconciling the social with the political, which directly touches upon the Marxist critique of the divorce operating in modernity between man and citizen. The search for overcoming this ambiguity occurs with a plural emphasis of facing social generality, which includes not only the State as a source of representation, but also a group of institutions and actors, each with their own characteristics and ways of embodying social generality.

Very briefly in his book “La legitimidad democrática”, Rosanvallon (2009) builds three ideal types of democratic legitimacy, which according to him, are not based on status, in the sense that it cannot be disassociated from properties considered inherently pertinent to certain powers, such as elections. The emerging legitimacy is built by qualities. The multiplication of focuses of legitimacy is essential for incorporating the plurality of ways of acting and speaking “on behalf of society and of being the representative”. The first legitimacy discussed by the author is impartiality. Institutions that have this type of action are centered on the general interest and for the search of impartiality which the author considers absent from traditional spaces of political representation. Impartiality creates a type of negative generality, in so far as institutions such as regulatory agencies and independent authorities should keep their distance from private interests because since is what guarantees a more adequate attainment of the general interest. It is considered a negative generality because nothing can be benefited with an advantage or a privilege (Ibid, p. 149).

The second emerging legitimacy is associated with the reflexive aspect of democracy. While negative generality deals with determining a new position so that the requirement of unanimity can be fulfilled, in reflexive legitimacy the method is based on an attempt at multiplying the partial focuses so as to arrive at a more complete understanding of things. A strategy for the pluralization, therefore, substitutes the previous option of establishing a certain distance. The generality of multiplication that occurs with reflexive legitimacy is inspired by Condorcet’s writings and his ideas on the crossed diversity of temporalities and modes of expression of public life. The Constitutional Courts are considered “ideal”examples of reflexive institutions given their ability to contribute to the development of a common will. They participate in a constructive dialectic with the representative system, requiring the majority to integrate both rational and other arguments. Simultaneously, it also deals with clashes with the minority and the discipline of constitutional justice. For the author, some civil society associations embody these essential dimensions when they expose the distance between the reality and the founding principles of democracy.

Finally, the author brings to light the legitimacy of proximity. While the demand for impartiality and reflexivity are based on the eradication of particularities, this new perspective leads to a very different path. The definition of generality here is understood as the immersion in the concrete world, as the desire to capture generality in all its absolute diversity and complexity. It is the search for a decision particularly adapted to each problem or situation in order to reach equality (Ibid, p.267). For the theorist, there are three figures of proximity. The first is the attention to particularity, a responsibility of the representative government. In this perspective, there is the imposition that newly established institutions become closer to the citizens. These institutions would be capable of enforcing a notion of care. This is decisive for thinking about types of social relationships that place value by identifying individuals in a manner that is worthy of attention. The second feature is the politics of presence, also found in the sphere of representative government. Rosanvallon does not believe in a politics of presence as a need for social resemblance, but as the recovery of a politics of identity that centers its strength on compassion and on the fact of making present that which is not. It is no longer the quality of resemblance, but a sincerity of compassion, or the expression of proximity which defines ‘good representation’ (Ibid, p. 273)\textsuperscript{19}. Finally the third

\textsuperscript{19} Recognizing the risk that skillful communicators can enact a “calculated proximity”, the author highlights that presence only produces a full democratic sense when it associates itself with a strategy of building a more Just society.
figure deals with what the author calls “interaction democracy”, where the different manifestations and institutions of civil society would be situated. These new features of political appropriation contribute to a change of proximity, which is no longer considered as a variable of position that can be adequately treated by a statute (of the elected), but as a quality of interaction. Citizens no longer conform to their vote and participate in a permanent process of expression and reaction, according to the counterdemocratic modality of control, of the veto and of judgment, which constitute in their own manner the modes of participation. The author recognizes two political functions of interaction democracy: the task of justification, considered a confrontation of explanations regarding society’s power for interventions, and the exchanging of information between the government and society (Ibid, p. 300-301).

The ideas defended by Rosanvallon are interesting for dealing with the problems of the constitutive tensions of democracy, particularly when one observes political representation beside the democratic ideals of participation and popular sovereignty. Nevertheless, two observations need to be made. The first refers to the role of interaction democracy and of movements and social organizations in representative democracy. Rosanvallon has emphasized, throughout his work, the role of people as surveillance, of people as veto and of people as judge as superimposing the role of people as elector (2008). Such patterns are useful for thinking about modes of the indirect exercise of sovereignty through non-organized formats in the constitutions. As Faria (2009, p. 49, our translation) notes, “understanding it as indirect means understanding it as a product of a group of effects, that do not necessarily produce formal authority nor expresses itself under the form of explicit decisions that could be qualified as political”. Contra-democracy would be seen as a way of making amends for the complex movement of the appropriation of power over the social. These would be inherent movements of political representation, understood according to a multifarious notion of democratic activity, which does not have the objective of representing the populations and of taking over power, but of contesting the powers and influencing them (FARIA, 2009. p. 50). An important objection that can be made in reference to Rosanvallon is that he does not recognize a wider repertoire of actions from movements and social organizations that go beyond influence and the role of improving public justification and the exchange of information. More than control, the veto and justification, society is called upon to share the power of decision-making. Furthermore, society is called upon to propose alternatives for public policies according to the experiences and knowledge acquired during its associative and democratic life, which can be evidenced in Brazilian deliberative councils. This is the relevance of paying attention to the problems related to representativity, as discussed in the previous section.

The second observation touches upon the operationalization of its ideal types and the division between impartiality, reflexivity and proximity. It is worth evaluating until what point these legitimacies overlap and how different institutions can operate according to distinct criteria of legitimacy, incorporating attention to these three dimensions. Rosanvallon (2009) does not deal with this interaction, but it is possible to think of cases where this separation is not very clear. An example of such could include the activities in the Legislative: framed as a generality of attention to particularity, the elected representatives may act in a way that privileges a determined segment with the intention of adapting a policy in favor of equality. At the same time, it is possible to think of cases where it is necessary to maintain a certain distance and focus on a policy with the intention of reaching a common good. In this sense, the legitimacies of impartiality, reflexivity and partiality are not prerogatives of institutions or actors, but can be manifested in distinct moments depending on the policy, theme or issue that is the focus of deliberation.

Some complementary analyses highlight the connection between the partial and the general through which the representation of civil society can operate. According to Mendonça (2008, p. 129,
italics of the original), “by enabling the vocalization of certain world views and by fomenting the exercise of reciprocal evaluations, representation may instigate a fruitful dynamic between partiality and generality: a representative speaks from a specific perspective, but s/he may do so in the name of the entire collectivity”. The author emphasizes the permanent movement between the general and the specific evoked by the plurality and the divergence of the field of political representation. Therefore, representation also depends “on the translation of specific points of view into a general language, a job with which some associations are daily engaged”. This movement of partiality and generality, central for representation, is facilitated by the opening of associations to a diverse group of deliberative arenas.

The idea of an “Integrated Deliberative System”, developed by Hendriks (2006), captures this dynamic by proposing a multitude of discursive spheres, some formal and others informal, where different forms of communication and actors are present. The author indicates three types of discursive spheres: macro, micro and mixed. These would integrate various actors and are somewhat porous to alternative or marginalized interests (See Figure 2. HENDRIKS, 2006, p. 500). In this sense it is possible to imagine that there is a flow of actors in different spaces, being that some individuals have a greater probability of participating in determined spheres. For example, activists and interest groups would probably engage more in informal discursive spheres (YOUNG, 2001), situated by Hendriks in macro discursive spheres. Other actors, such as experts and parliamentarians, would engage in formal deliberative spaces (micro discursive spheres), while individuals, interest groups, experts, government agents, activists and the media are all found in mixed discursive spheres. For Hendriks (2006, p. 497), public deliberation is not an activity restricted to micro or macro spaces, but something which takes place in all kinds of arenas, institutions and spaces of social life. The authors believes that her system advances in relation to Mansbridge’s20 (1999) proposal in two ways: it does not count on mutual support of reciprocal influence between the different parts of the deliberative system and does not accept that public deliberation occurs in discrete or disconnected places of formal and informal deliberation (HENDRIKS, 2006, p. 497-499). According to Hendriks, one of the greatest challenges of deliberative practices is that structured forums do not always interact well with a wide discursive context, being that there are tensions and antagonisms among these forums. In addition, it is worth considering the influence political actors have on micro spaces of deliberation, showing the connection between these spheres.

The understanding of representation not as a singular action of each individual or institution, but as a complex system, where various activities emerge and spheres of deliberation and distinct generalities are evoked by the same, opens the path for a more realistic concept of political representation. This, in fact, is perceived by both Hendriks and Rosanvallon. This, however, it not the minimalist realism offered by Schumpeter that imprisons politics to the the functioning of institutions. It is, rather, a realist-positivist theory of democracy, defined by Rosanvallon as “realist, since in its point of departure it takes into consideration the effective practices of the government and its distance from the governed. It is also positive since it leads to a path for an effective re-appropriation of the social over power” (our translation, 2009, p. 318). Hendriks’ contribution with her integrated deliberative systems precisely thinks, in a dynamic way, how the movement of actors and deliberative practices can have an impact on the way in which the different and social generalities considered by Rosanvallon can be put into action. This implies in understanding democratic representation as a continuous interaction between the decision-making process in the State and the various forms of public discourse, including both informal deliberation and the more

structured forms of deliberation that occur in civil society (BROWN, 2006, p. 206). In the case of hybrid institutions where the decision-making process is shared by the State and society, this dichotomy needs to be overcome and borders need to be made flexible (KECK, 2003; FOX, 2007), in a way that analyzes the porosity of these spheres to different actor and discourses, as well as the type of legitimacy they can evoke. This is a very relevant point for the discussion of political representation in political councils in Brazil, as will be seen in the following section.

**Political representation at the deliberative councils in Brazil**

The search for unity in political representation and the radical separation between the state and society have been a part of Brazil’s political history until recently. Different analysts have already underlined the primacy and chronological priority of the state in relation to society, as well as the top-down nature of the process of political inclusion. The difficulties in sharing power with society and the lack of recognition of the legitimacy of social participation started to be disputed three decades ago, when participation started to be associated with the possibility of democratic improvement. Brazil, however, was not alone in this scenario. Such changes in the conception of the relationship between state and society, although resulting from internal sociopolitical and economic crises, also reflected a transformation in the international democratic ideal vis-à-vis developing countries’ difficulties in combining stabilization and economic growth. Throughout the 1990s, the notion that the participation of civil society is vital for democratic governability consolidated itself. The 1988 Constitution represents an important institutional landmark in the process of decentralization and in the restitution of the bond between the state and popular sectors through the enlargement of social participation. Beyond voting rights, the Magna Carta establishes mechanisms of direct participation, such as plebiscites, referenda and popular initiatives, and the introduction of public control in the production of public policies.

Participation in the formulation and control of policies took place, to a great extent, through management councils at different levels – i.e., municipal, state, and national – of the Brazilian federation. Currently, there are policy councils focused on several themes – such as health, education, and social assistance –, and with different functions, compositions and representation dynamics. This happens because, notwithstanding the existence of national guidelines in some fields of public policy, councils are guided to a great extent by their own legislation, defined at the level of their activities. Disparities in the performance of such spheres are also evident when one compares different fields of public policy. Health, for instance, was the field in which the strategy of decentralization was undoubtedly more successful, not only with respect to the incorporation of society’s participation, which exceeds the number of government actors, but also with respect to the councils’ capacity to deliberate on projects and control the public budget. In spite of these differences, a common characteristic of the councils refers to their being hybrid spaces, formed by actors from government and civil society.

The relationship between the state and society in such councils was explored by the literature from several angles, among which one can mention studies on the risks of cooptation of civil society and on the difficulties of power sharing on the part of governmental actors. Only recently, however, the problems related to political representation became targets of investigation. This article suggests that councils are institutions which contribute to the trend of pluralization of representation, wherein legitimacy does not dwell on the authorization of all citizens, but, as Rosanvallon (2009) suggests, on the quality and experience of representation. Seeking to contribute to this permanent process of representation of complex sovereignties, policy councils need to be
thought of from such perspective, so that their potential to the improvement of democracy be spelled out. In regards to the type of democratic legitimacy, councils seem to embody the different dimensions exposed by Rosanvallon.

First, Rosanvallon’s concept of legitimacy of impartiality, which is associated with regulatory agencies or independent authorities, is helpful to the analysis of representation in the councils, notwithstanding the several aspects that distinguish these spaces from the examples offered by the author. The main similarity between councils and regulatory agencies refers to collegiate composition and the characteristics of a deliberative pluralist institution. The legitimacy of impartiality derives from decision-making procedures that guarantee a deliberative process wherein exchange of arguments and information and changes in viewpoint may occur (ROSANVALLON, 2009, p. 142-147). The composition of the councils was idealized taking as a major reference the participation of sectors of civil society – in general, service providers, workers and users of the policy. These actors were considered important to the design of public policies in each of these fields and crucial to the presentation of different perspectives and/or interests in the deliberation. In this sense, the legitimacy of the councilors is not based on their resemblance with population, but grounded in the value of citizens’ expertise and knowledge to the decision-making process. To that extent, the legitimacy of impartiality may emerge from such institutions when the result of deliberation is inclusive to the extent that it offers mutual respect and acknowledgment of diversity.\textsuperscript{21} In addition to their collegiate character, councils also need to subject themselves to proofs of validation – procedural, of efficacy and control. Thus they can be seen as institutions where legitimacy is evaluated in the exercise of representation. Secondly, the author himself recognizes that the demand for reflexivity in respect to the multiplication of viewpoints and the activation of what he calls “social people” and the “principle people”\textsuperscript{22} cannot be limited to the reflections of experts. Civil society, through different hybrid forums, such as councils, may help in the process of forcing political power to become more accountable and defend their position better (Ibid., p. 216-219). Finally, the legitimacy of proximity or interaction democracy, where Rosanvallon directly situates the expressions of society, would have the function to reduce the gap between representatives and their constituencies. Councils can fulfill this role when becoming spaces of deliberation between elected and community representatives. Interaction that occurs in Brazilian councils would have the role of enlarging public justification and the exchange of information, thus building a bridge between society’s daily experiences and the technical discourse of the government.

It is important to underline, however, that the democratic legitimacy of the councils belongs in the sphere of possibilities, and thus cannot be taken-for-granted. To that extent, in order for them to be considered democratic it is important to examine, first, if they have a representative character – in the plural, cognitive diverse and public sense underlined by Rosanvallon (2009, p. 143) – and whether they are subject to public control – in relation to their procedures, reasons offered and policies delivered. This implies looking at how the councils respond to the challenges of lack of authorization and accountability, as discussed in the first sections of this article. Second, one should not forget to situate the council within a complex system of representation and deliberation, which requires understanding it from the perspective of its relations with other discursive spheres.

\textsuperscript{21} There is an important debate between pluralist and agonistic pluralist scholars on the possible and desirable results of deliberation. This article does not enter this debate; instead, it follows Rosanvallon (2009), who argues that one should not opt between the models, but think of democracy as conflict and consensus – space of the majority and unanimity.

\textsuperscript{22} Rosanvallon defines the “pueblo social” as the one formed by the presence of uninterrupted, active or passive minorities. The “pueblo principio” is constituted by groups which are constantly responsible for activating the ideal of equality and the common.
Due to the constant changes in the form with which political parties, movements and social organizations “make politics” (SCHMITTER, 2006), it is essential to evaluate the lack of authorization and accountability so as to figure out the actual role of such encounters in reconnecting state and society.

Regarding representativeness, this work underlines as a first particularity of the councils their hybrid composition, by means of which society and the state – specially the Executive power – share decision-making prerogatives. This feature contributes to obfuscate the separation between state and society to the extent that social actors represent, together with government officials, society’s interests in relation to a given public policy, without, however, becoming the state itself, and vice-versa. Moreover, the indefiniteness of such boundaries is related to the fact that state actors and community leaders play a role in state institutions, as well as in civil society networks (KECK, 2003; WAMPLER, 2010). It is interesting to note that such social actors are “acknowledged” by governments as legitimate representatives of the interests of society. Although they have not been directly elected by the community which will be benefitted by the public policy, councilors are responsible for defining feedback standards, proposing changes in the formulation of the policy and supervising its implementation. The representativeness of the councils are not based on their virtual authority and/or obtained only as a result of the activities they develop, as suggests by the authors discussed above. There is a selection that occurs systematically, following a set of norms and methods. Differently from other mechanisms of democratic influence from civil society, in which there is no explicit demand of authorization, in the councils there are groups for the sake of whom representation is exercised and that select and authorize the council to act in the name of them. In some cases, it is possible to find individuals that are selected by the grassroots or the community. In the majority of councils, however, the choice is made through organizations and entities.

Another singularity with regards to the kind of representation exercised by councilors lies in the fact that it develops within the sphere of the state; more specifically, the Executive power. To that extent, although proximity with formal representation may grant access to structures and resources formerly reserved for state actors – something that may improve representation in terms of feedback to demands – such interaction risks “colonizing” civil society, undermining the independence of its actions and requests. The figure below is an attempt, still inchoate, to show this interaction. Using Hendriks’ (2006) idea of more or less porous discursive spheres, state institutions would be located in the formal spheres which are less porous, councils would be intermediate or mixed institutions, according to the author’s classification, which occur not only in society but also in the state, and society would represent the less formal spheres of deliberation.

---

23 Avritzer (2007, p. 455) underlines that civil society is not limited to the advocacy of ideas and discourse, as Urbinati and Dryzek argue. Instead, he argues that such actors have engaged in the representation of interests, values and specific proposals of public policies. Councils of policies are clear examples of this type of representation within civil society.
It is important to underline that there is a flow of actors in different deliberative spheres and that not only the actors’ representativeness, but also the possibility of the maintenance of political judgment will depend on the councilors’ capacity to establish this connection. Considering the dynamic and uncertain aspect of such interaction, this article suggests that the authorization received by the councilors may be named contingent authorization. Within the difficult art of making absence present and transforming the social into political thorough the multiplication of temporalities and the manifestations of civil society, democratic legitimacy is something that may or may not be constructed. Keeping in mind that the power of councils is derivative and transmitted by other constituted powers, civil society’s participation in them makes the capacity to “act on behalf” of the public that will be benefitted by the public policy, or to “speak for them”, depends not only from the judgment of the represented, but also from the legitimacy that is conferred by electoral representation.

The second element to be evaluated with regards to representativeness is procedural. The absence of legal and universally defined criteria, not only in relation to who may be authorized, but also regarding selection methods, makes the authorization received by the councilors more easily contested. Considering that the kind of representation exercised by the councils is collective, as it includes representatives of both civil society and the government, it is important to heed the form through which perspectives and knowledge are being included. Keeping in mind that the “term civil society shelters and homogenizes – in the same pole – a quite diverse set of organizations, entities and interests groups: NGOs, philanthropies, unions and entrepreneurial organizations, etc.” (LUCHMANN, 2008, p. 90), it is necessary to evaluate, first, the councils’ capacity to incorporate a diverse set of actors and perspectives directly related to the public policy at stake. This implies overcoming the boundaries between users, professionals, and service providers, adopted in the great majority of councils, and finding out who are the actors and which institutions form the groups represented in these spheres.

24 Because the fact that councils are created by municipal, state or federal laws and their organization and norms are internally defined and approved, in practice such criteria vary considerably, resulting in different institutional designs that impact the effective influence of councilors in formulating policies.
Secondly, it might be prudent to pay attention to the selection mechanisms used by councilors and organizations. Studies have shown that the means through which actors and organizations are selected is different and sometimes do not combine more inclusive and democratic methods (ALMEIDA, 2010). Legitimacy, in such cases, should be sought after in the processes of selection and inclusion, since not everyone has the right to participate. Finally, such spaces should be open to the renovation of groups, interests and perspectives. These are the aspects that may have an impact in the type of democratic legitimacy produced.

The discussion above on representation as a deliberative relationship which activates political judgment as a source of permanent legitimacy contributes to the debate on the presence of democratic controls over representatives. Taking into account the proposal to abandon the definition of legitimate representation as characteristic of the status or electoral procedure, it is important once again to underline the “legitimacy of quality”, which demands a continuous evaluation of such institutions. In deliberative councils, political judgment can be facilitated by the existence of an institutional mandate, which requires representatives to report to their “constituents”. Besides instituting a deliberative process of justification of their own actions, councilors need to maintain a stronger connection with their “constituents”, so as to share and disclose their actions and agenda, since the deliberated policies will be directed to a wider public. One cannot forget the fact that public justification must occur not only between councilors and organizations, but also between councilors and society at large, thus including the complex system of deliberation and representation. To that extent, councilors will more likely receive inputs from society or the groups they represent.

Closing remarks: plurality, permanence and contingency of political representation

The contemporary legitimacy crises of the political system demand creative solutions and a redefinition of the actors and spaces that exercise political representation. The plurality of representative politics, which is primarily visible in the empirical plan and now invades the conceptual dimension of representation, is an attempt to escape the unanimity and the monist perspective which have characterized political theory in the last three centuries. It is the acknowledgement that the complexity of sovereignty and partialities of social life cannot be expressed by a single representative venue. Plurality clearly brings with it great challenges to democratic politics, considering the difficulties inherent to the art of representing, which do not disappear with the appropriation of the social by the political. On the contrary, new dilemmas and difficulties emerge from the interaction between state and society. Therefore, together with plurality, it is important to embrace Rosanvallon’s idea of a “permanent representation”. Permanence is expressed by the incomplete characteristic of representation in the “figuration of the people”. In the vein of interaction democracy, the understanding of representation as acting on the place of another person no longer makes sense. Power is a kind of reflexive potency whose role is to continuously formulate projects and ideas against which different elements of society could be situated and reevaluated. Representation no longer has a procedural meaning, nor the purpose of identification, since it refers to the exercise of a permanent process. It is an unceasing work of inclusion, reaction, interpretation. There is no longer a demos or general will considered as already constituted, but the acknowledgement of the necessity of an uninterrupted work of generalization of the social (ROSANVALLON, 2009, p. 306-307).

A last remark, which is implicit in the arguments of the authors presented here, and which this work brought to the center of the debate, refers to the contingent aspect of political
representation. The concept of contingency derives from radical pluralists’ appropriation of the French philosopher Henri Bergson’s notion of creative evolution (SCHLOSBERG, 2008, p. 152). It was used in order to show that no result of an agonistic engagement is permanent. Policies are implemented but constantly revised due to inputs of feedback, additional knowledge and ongoing discourse. For pluralism, engagement, agonism, understanding and resolution are processes in the making. The process is a becoming, instead of an end. This aspect grants us a permanent and always contingent politics, which affirms the importance of continuous engagement.

In understanding this contingent aspect of the concept of representation, the idea of systems was important to conceive a circular process of representation, wherein associations or groups may acquire or lose legitimacy as representatives (MENDONÇA, 2008). “In this case legitimacy is never, thus, acquired” (ROSANVALLON, 2009, p. 29, our translation), but always precarious, permanently questioned, dependent on the social perception of action and on the behavior of institutions. In enlightening this contingent aspect of political representation, political theory may escape the key dualisms of modernity, such as man x citizen and state x society and try to understand which kinds of encounters are more likely to bring these spheres together and how they interact. These dimensions are pertinent to the evaluation of the political representation exercised in the deliberative councils in Brazil.

References


LOUREIRO, M. R. *Interpretações contemporâneas da representação.* In: *Revista*


REHFELD, A. The concept of constituency: political representation, democratic legitimacy, and institutional design. New York: Cambridge University, 2005.


______. Counter-democracy. New York: Cambridge University, 2008.


