

## Transformations of the Struggle for Social and Political Rights: Democratic Politics of Contestation in a Post-Republican Era

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### 1 Introduction

Since the rise of the modern notion of a democratic self-government, the struggle for social and political rights has been inspired by a universalist understanding of equality. Whereas bourgeois movements of the eighteenth and nineteenth century focused on the political dimensions of equality, social movements of the nineteenth and twentieth century added the perspective of social rights. Yet, the movements of both epochs were inspired by a strict universalist concept of a homogenous collective that can be understood as a republican community of equals (cf. Rosanvallon 2013). In light of the radical pluralization of social and political movements denouncing universalism as oppressive, we have witnessed from the 1970s onwards a far-reaching transformation of emancipatory politics (cf. Laclau/Mouffe 2001). To be sure, a strong pluralism of singularities supporting claims to a right to be different must be taken into account (cf. Flügel-Martinsen/Martinsen 2014). However, while the concept of equality does not simply disappear, its contours must be reworked: today, we are in need of a new understanding of equality as an equal right to call a given social order and its modes of legitimization into question by those who have no part in it or who are forced to assimilate.

In this article I ask how political theory must be reworked in order to provide a critical account of a democratic politics of contestation that is able to deal with these challenges. I will proceed in three steps. First (1.), I will sketch out why we are moving towards a democratic society of singularities and what that means for a critical understanding of political theory that takes the demands of differences and/or singularities seriously. Second (2.), I will provide a brief discussion of some important considerations on the theory of justice implied by these changes. Here, I will argue that the concept of justice is characterized by an often overlooked tension between universalism and particularism; this is of the utmost importance in developing a proper understanding of the current political struggles for social justice because the standard concept of universalism, normally implied by mainstream political theory, is unable to provide any solution. I argue that there is no such thing as a 'solution' to that tension; rather, doing justice depends on the extent to which we are able to recognize the permanence of the tension between universalism and particularism without allowing one or the other to become hegemonic. Finally (3.), the article will close with some thoughts on how to move from a republican democratic ideal to a radical democratic practice of critique.

### 2 Towards a Democratic Society of Singularities?

In many conceptual debates in modern political theory, the diagnosis of a constitutive tension between universalism and particularism in pluralistic societies plays a crucial role. Of course, the observation of this tension has become more pertinent in recent decades in efforts to conceptualize a political theory for multicultural societies (cf. Tully 1995, Young 1990,

Kymlicka 1996). Nevertheless, it would be a misunderstanding to think that such observations constitute a phenomenon that only occurred in the context of the late twentieth century. On the contrary, critiques of universalism have a much longer history. Many of the points under consideration today were already evident in the (proto-)Romantic critique of the Enlightenment ideal of universalism. As early as the late eighteenth century, the German philosopher Johann Gottfried Herder raised the objection that the ideal of universalism tends to suppress, even destroy differences, which from his point of view were very important to cultural identity (cf. Flügel-Martinsen/Martinsen 2014, p. 27-41). As the history of the nineteenth and twentieth centuries has cruelly shown, and as we are unfortunately witnessing again today, Herder's argument is dangerously vulnerable to misuse by nationalists and chauvinists seeking to promote misguided notions of a national community they feel irrationally obliged to defend against being influenced or transformed by so-called "foreign" cultures.

But one can also view Herder's argument from the opposite perspective and use it to argue against the practice of global Western imperialism — a perspective Herder himself already had in mind when he criticized the colonialism of his time (cf. Herder 1963, p. 345). It can thus be mobilized as a postcolonial argument against the hegemony of a Western culture that asserts itself as universal and derives from that assertion a right to suppress and/or transform other cultures. We are constrained from delving deeper into these debates here, but it might be important, especially today, to keep in mind that it is a very small step from an argument in favor of cultural self-determination (being very important for the political and social struggles of, for example, indigenous peoples) to a nationalist or even chauvinist argument leading into the abyss of nationalist conflicts and xenophobic politics we have experienced deeply, painfully, and all too frequently over the past few centuries — and that we are again confronted with today.

This tendency of suppressing difference is not only a crucial point for a critique of universalism from the perspective of a political theory sensitive to the cultural as well as other differences. It is also part of a liberal precaution against the republican ideal of collective self-government. In his famous essay *On Liberty* (Mill 1998), the English liberal philosopher John Stuart Mill highlights how the notion of republican self-government tends to place individuals in a marginalized, heteronomous position. For Mill, individual self-determination is not implicit in the collective practice of self-government; on the contrary, the latter might rather lead to suppression of the individual by the will of the majority:

“The ‘people’ who exercise the power are not always the same people with those over whom it is exercised; and the ‘self-government’ spoken of is not the self-government of each by himself, but of each by all the rest,” (Mill 1998, p. 8).

But even if there seems to be a parallel between Mill's liberal position and the critique of universalism introduced at the beginning of this article, it is important to note that liberalism is unable to provide an answer to the tension between particularism and universalism for at least two reasons. First, one cannot confuse the liberal concept of individualism with the normative claims of singularities since the liberal individual is, in the end, conceptualized as a universal category — thus, entailing all the difficulties and injustices universal concepts bring with them for the claims of singularities. To illustrate this point briefly: it is not by chance that Mill is not only fighting for the individual right to self-determination, but also denying exactly this right to the peoples of colonized countries because he views them as occupying the same position as children (cf. Mill 1998, p. 14/15). This Eurocentric position can be seen

clearly in his so-called universalist conception of the individual and its rights because it leads him to devalue all other cultures that, in his eyes, do not meet the standards of a culture of western individualism. Perhaps most interestingly here, Mill criticizes the imperialist colonial practices of his time, but his criticism remains deeply implicated in the oppressive character of Eurocentric accounts of universalism. The second reason can be traced back to a neo-republican critique of liberal approaches developed by, among others, Quentin Skinner (cf. Skinner 2008). As Skinner points out, the liberal critique of the republican ideal of self-government refers to a negative conception of liberty — identifying liberty with ‘rights against’ fellow citizens, the state, institutions, and so on — and by doing so, it completely obscures the positive, participatory dimensions of liberty which are necessary for a sound understanding of the conceptual interaction between political and individual self-determination. For Skinner, the positive and negative dimensions cannot, as the liberal notion of negative liberty tends to do, be separated from one another. From his point of view, negative liberty resembles the ‘liberty’ of a slave with a good master which, of course, in the end, turns out to be an illusion. The slave has no liberty at all so long as he depends on someone else’s will:

“So you may in practice continue to enjoy the full range of your civil rights. The very fact, however, that your rulers possess such arbitrary powers means that the continued enjoyment of your civil liberty remains at all time dependent on their good will.” (Skinner 2008, p. 70).

What Skinner instead seems to have in mind could perhaps be best characterized as a republicanism of difference; that is to say, a republicanism that allows room for conflicts and differences rather than avoiding or suppressing them, as is the case in the classical accounts of republicanism provided, for example, by Jean-Jacques Rousseau who views differences as a threat to the unity of the republican articulation of the general will (cf. Rousseau 2001, p. 69). A strong attempt to develop such a notion of a republicanism of difference can be found in the writings of Hannah Arendt which reveal her support for a republican understanding of political liberty that emphasizes, rather than neglects, the importance of differences (cf. Arendt 1958). For her, political liberty consists precisely in the cooperative action of different people whose differences are not a problem to be overcome but a necessary precondition of political action; politics is something that happens between people and is thus strictly dependent on the existence of differences. From Arendt’s perspective, a world without differences would be a world without politics.

In the end Arendt’s republicanism of difference comes at a high price because she seems to be convinced that the differences between political actors will lead to political cooperation instead of violent conflict, provided the social question is kept out of the public realm of politics. This, she argues, is why the French Revolution resulted in terror while the American Revolution did not (cf. Arendt 1963). Of course, this strategy of disregarding the question of social justice is deeply unsatisfying. In looking at Arendt’s historical comparison of these two important revolutions, it is troubling how little attention she pays to the fact that in one of these cases — the American Revolution — she is dealing with a political order in which slavery was institutionalized. The absence of the social question is a significant shortcoming in Arendt’s political thought. One lesson we can draw from this brief discussion is that a political theory of differences has to take the theory of justice into account which leads us to our next step.

### 3 Reworking the Theory of Justice

Of course, it is not possible to deliver a comprehensive discussion of the tensions and challenges within the theory of justice here. Instead, I will focus on two important contributions that take the demands of singularities and differences seriously. I will start with Jacques Derrida's reflections on the aporia of the concept of justice and then turn to Iris Marion Young's attempt to combine perspectives in her aptly titled book, *Justice and the Politics of Difference* (Young 1990).

Derrida's discussion of justice (cf. Derrida 1994) directly addresses the tension between two conflicting and inevitable normative demands: the demand for universalism and equality on the one hand, and the demand for particularism and difference on the other. Both demands are inevitable because they are implied in the concept of justice itself. Doing justice requires both demands to be met, and yet, meeting them simultaneously is strictly impossible. On the one hand, justice must take the form of a general rule which is why justice is conceptually linked to the rule of law. In the absence of general rules we would be confronted with arbitrariness, and this arbitrariness could easily take the form of despotism because there would be no mechanism to either defend a claim as just or criticize a decision as unjust. At the same time, doing justice to someone means to suspend a general rule in order to consider the particularities of a person's situation. Of course, court procedures in contemporary democratic and constitutional states try to deal with this tension by taking both the particular situation and the background or context of an accusation or complaint into account — but there is no real solution at hand. Being a deconstructive philosopher, Derrida, therefore, concludes that "*La déconstruction est la justice*" (Derrida 1994, p. 35) — deconstruction is justice — because the only solution to this aporia lies within an ongoing deconstructive process between universal and particular claims to justice, being part of the notion of justice itself. Derrida's contribution is, therefore, not the demand for deconstruction from an external perspective, but rather, the observation of deconstruction as an intrinsic feature of justice. Justice must be considered as an auto-deconstructive concept: its normativity—its justice—lies precisely in its auto-deconstruction, that is to say, in its conceptual unattainability. The very same aporia that renders justice impossible opens up the possibility of justice: there can/cannot be justice because a just decision or rule in a universal sense is strictly impossible. Justice is not a thing to be grasped, but can become real only as an ongoing process, aware of its own tensions and its constitutive incompleteness.

Seen from this perspective, justice entails something like a whole politics of deconstruction. Derrida proposes the notion of a *démocratie à venir*, a democracy to come, to describe this politics of deconstruction that is always open to the demands of unexpected singularities (cf. Derrida 2000). To be clear, this notion of a democracy to come is precisely the opposite of a never-ending postponement or deferral of democratic practice. Without a doubt, it means democracy in the here and now, but emphasizes that democracy cannot be understood as something we can have like a fixed set of institutions (cf. also Lefort 1986). Rather, democracy must be understood as an ongoing debate on how we decide (cf. Tully 2008) and who the democratic people are (cf. Butler 2015). In this sense, it must be conceptualized as a democracy to come — as a practice forever open to change in light of new demands that may never have been considered before.

We must now turn to Iris Marion Young's theory of justice which mainly exists within a critique of injustice where her reflections allow us to explore the relationship between social and political struggles for emancipation and the question of justice more closely. Young develops a very important critique of the standard liberal theory of justice. We can get an

overview of her theory of justice by sketching out the main lines of her critique of it. Her starting point is a fundamental critique of the liberal presupposition of the (autonomous) subject which she considers to be highly problematic, and the liberal notion of formal equality. On the one hand, it is simply inconsistent to think of the subject as a pre-socially or pre-politically given category. Whereas the dominant liberal strand within political theory neglects or at least underestimates the importance of social groups and processes, a proper understanding of the subject has to conceptualize its relationship to the social processes precisely in the opposite direction to that assumed by the liberal position: “the self is the product of social processes, not their origin,” (Young 1990, p. 45). Just as liberal, political, and social ontology completely misapprehend the relationship between subjects and social orders, the normative liberal notion of formal equality neglects the fact that the formation of subjects takes place within relations of power. It simply does not make any sense, therefore, to consider subjects as formally equal since any notion of formal equality is contradicted by the highly unequal positions occupied by members of different groups in societies characterized by hierarchical and oppressive structures.

The observation of oppression as a structural phenomenon leads Young to identify another important shortcoming in liberal theories of justice: while mostly focused on the distribution of (material) goods, they systematically underestimate, or probably more often, do not even recognize the importance of structures of oppression that might have implications for the distribution of those goods but cannot be eliminated by means of distributive justice. Phenomena like gender oppression or racism clearly have implications for income, but closing a gender pay gap or establishing an affirmative action program does little to combat domestic violence, arbitrary use of police power, a higher probability of being insulted or violated in public, and many other forms of discrimination and oppression. These kinds of structural injustices are systematically obscured by (liberal) theories of justice that focus on distributive justice while failing to consider these deeper dimensions of injustice. In addition, liberal theories of justice are systematically concentrated on the role of individuals and, therefore, tend to lose sight of injustice as a structural phenomenon. According to Young, a theory of justice must in the first place be a theory of structural injustice whose task is to criticize these injustices and deliver a proper description of conditions of pluralistic political struggles rather than focusing on the justification of normative principles. One final point, that we can only briefly mention here, is that such a theory of injustice has to widen its perspective from the nation-state — a misguided limitation — to the global level (cf. Young 2007).

To summarize, we can draw at least these conclusions from our discussion of Derrida and Young: justice must be understood as an auto-deconstructive concept whose critical power lies precisely within its ability to be reworked again and again in light of new injustices. It requires a radical theory of democracy, since the task of reworking our understanding of justice and injustice is a political task and will therefore, necessarily, entail conflicts that need to be treated politically. Finally, such a radical democratic theory of justice must be understood as a critical interrogation of unjust and oppressive, social and political structures on different levels within and beyond nation-states. We will now turn to explore this notion of a radical democratic interrogation in the third and final section of this article.

#### **4 From a Republican Democratic Ideal to a Radical Democratic Practice of Critique**

In numerous approaches to radical democratic theory, the distinction between politics (*la politique*) and the political (*le politique*) is of utmost importance. According to Claude Lefort, who was one among those that established this distinction (cf. Lefort 1986), it is fruitful to distinguish politics and the political in order to gain a better understanding of the structure

and meaning of democracy and democratic conflicts. For Lefort, “politics” refers to political institutions and administrative bodies through which political “business-as-usual” takes place. By contrast, “the political” refers to the formation of the social and political order of society. With the aid of this distinction, we can begin to see how political activities do not take place exclusively within institutions, but can, under certain circumstances, also constitute and/or subvert institutions. This becomes most visible by way of historical events like revolutions, but we can also think of institutional changes through political action on a smaller scale.

What Lefort seeks to highlight is the fact that we must look beyond a professionalized scientific view of the political sphere as an object of social research (cf. Lefort 1986, p. 19). Instead, we must recognize that political activities can change society fundamentally and, by doing so, they can also change our understanding of who we are and of the world we are living in. The modern scientific perspective on society and politics suggests that we are able, not only to identify objects, but that we have epistemic means to analyze these objects scientifically. According to authors like Lefort and Jacques Rancière — to whom we will come to shortly — this scientific perspective is misguided because it tends to overlook the fact that we do not and cannot have a secure knowledge of the (political and social) world we live in; furthermore, because our world is, in this sense, contingent, we have the possibility to change our ways of perceiving it and, by doing so, of changing it. Rancière’s distinction between the police (in crude terms, his terminological equivalent for Lefort’s ‘politics’) and politics (confusingly, his terminological equivalent for Lefort’s ‘the political’) allows us to see this world-changing potential in sharp relief (cf. Rancière 1995, p. 41-67). According to Rancière, it is necessary for us to understand a given political order (that is, the order of the police) as a distribution of the sensible (*partage du sensible*). An order of the police thus determines how we perceive the world we live in, and, perhaps most importantly here, who is allowed to speak, who will be heard, and whose words are considered mere noise. The history of oppression and exclusion tells a very long story about these distributions of the sensible and their effects. Rancière’s diagnostic point here is that these orders produce excluded groups (like slaves, proletarians, women, and migrants in various manifestations throughout history and in the present). These groups are radically excluded because they are perceived as being entitled to nothing, least of all, having a say in political decisions.

On the other side, Rancière understands politics as the articulation of dissensus. If this articulation is successful, it will lead to the subversion and re-organization of an existing distribution of the sensible. For that to take place, two things are necessary: a given order must be called into question, but this is impossible without the prior constitution of a political subject. Rancière calls this constitution of a political group — and here we can again refer to historical examples, such as the labor movement or the feminist movement — a political subjectivization (cf. Rancière 2017: 92/93). This is a crucial point because without such a political subjectivization the articulation of dissensus cannot take place, nor can there be any change to an order of the police. However, political subjectivization is far from easy. It can fail, or take a very long time to happen. We have already mentioned examples that, to some extent at least, were successful, yet if we consider the exclusion of migrants in many countries today, we must admit that there are still huge obstacles for political subjectivization. This is particularly so given that an ever-increasing number of them are being forced into illegal situations which renders political activities more difficult.

Even if neither Lefort nor Rancière provide us with a blueprint for the future of emancipatory political and social struggles, we can learn some important lessons: democratic politics can take place, and can radically change the world because social and political orders are

contingent, as every successful subversion of a given order emphatically proves. In order to allow radical democratic politics to take place, we must abandon the notion of a unitary demos, as it is implicitly defined by some republican ideals. The recognition that there is no such thing as a unitary demos is actually the precondition of democracy; for democracy “entails that there is never merely *one* subject, since political subjects exist in the interval *between* different identities,” (Rancière 2015: 64). The articulation of a dissensus in the name of those who are excluded is the core principle of democracy. They can refer to a non-substantial notion of equality simply because no existing exclusion has any kind of foundation in anything that might equate to a higher order. Equality is thus neither given nor a *telos*, rather, it is implied by the contingency of social and political orders: *n’importe qui* — anyone — can call a given order into question.

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