



NATIONAL UNIVERSITY OF PUBLIC
ADMINISTRATION

THOMAS MOLNAR INSTITUTE FOR
ADVANCED STUDIES

Working Papers No 4.

Szilvia Horváth

**Free speech and the construction of political
sphere**

The Working Papers focus on interdisciplinary scholarship in all subject areas from members of the THOMAS MOLNAR INSTITUTE FOR ADVANCED STUDIES, doctoral students and visiting scholars. The papers are published electronically and are available online.

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I. Introduction: Free Speech and Politics¹

In a famous passage in Plato's *Gorgias* Socrates mentions Athens as the place "which allows freedom of speech above all other cities in Greece."² This account of free and brave speech envisages the high esteem that public speech — or even speech — enjoyed in classical Athens, which may resemble the role free speech plays in contemporary thought on democracy. Although this resemblance can be proved historically and may thus offer thoughts for theorizing classical democracy for modern purposes, free or frank speech was not only a right preserved for individuals; that is, it was not only a human right which secured human freedom against the forceful interventions of the state. Free speech, as Arlene W. Saxonhouse clarifies it, played more relevant role and were more fundamental; it was that eventually constituted the sphere of politics.³ Free speech did not only appear in political institutions; discussion, debate, argumentation, or practicing *logos*, was rather the primer mode for acting politically. Having been the most easily accessible way of influencing politics, free speech was democratic in the simplest sense of the word: equality took form primarily in having the equal chance to address people publicly. And the condition that it was at hand for almost everyone seems to be reflected in the idea of the relationship between logos and humankind: logos, the capacity for thinking and formulating ideas, or language in the broad sense, was the general property of mankind; however, single individuals may have different capacities. The double obsession of the philosophers at the peak of Athenian democracy with 'the human' — the world as human creation, and human world as shared and common — and with the logos, leads us to politics as practiced in the time; and, as a consequence, a way of

¹ The work was created in commission of the National University of Public Service under the priority project KÖFOP-2.1.2-VEKOP-15-2016-00001 titled „Public Service Development Establishing Good Governance” in the *István Egyed Postdoctoral Program*. – I am grateful to Milán Pap for his comments and his extremely useful advice concerning the structure of this paper.

² Plato, *Gorgias* 461e.

³ Saxonhouse 2006.



conceiving politics: politics as rhetoric, and politics as a way of life.

The paper is divided into two main sections; the first part concerns with the Athenian idea on the relation of free public speech and constituting politics. Although my concern here is to envisage an *idea* of Athenian democracy, the way the historical actors understood their political regime and themselves in this order, contemporary interpretations of this vision of democratic politics are equally relevant. Methodologically, the deliberate intent to theorize politics in a participative manner leads to a line of argument which first tries to reveal the historical ideas and also contemporary interpretations; and second, to merge them into a coherent, although yet not fully-fledged theory on democratic politics.

In the second part of the argument I turn to modern politics, and refer to an interpretation of the American constitution, which states that First Amendment jurisprudence entails elements of free speech as action, although not a way of life in ancient Athenian terms. Then I try to offer a critique against a common contemporary practice, which constructs the demos as unanimous via the equation between leaders and demos, rulers and ruled. Since the empirical demos is always pluralistic, and, if one accepts Aristotle's views on community, then a unitary vision of politics may distort politics itself. A possible meaning of free speech as creation of politics – or political realm – lies in the inclusivist moment, which realizes the true meaning of the word and practice of 'demokratia', that is, that citizens are power-holders via speech as action.

II. Free Speech and Democracy in Classical Political Thought

II.1. Participatory democracy and 'associating in decision'

It is well attested that public speech played crucial role in classical Athenian life



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and politics; the relevance of oral capacities is reflected in the common reference to the politicians in the phrases of “rhetores” or, “rhetores and generals”;⁴ that is, politically active and widely known citizens were first and foremost public speakers. Although this was not the only trait of politicians, since concepts expressing activism were also connected to them, rhetorical capacity was the key characteristic linked with those who actively engaged in politics. Josiah Ober adds that we can detect difference between classical and modern leadership in this respect, since modern leaders do not need such public speaking abilities which their ancient counterparts had to bear, and politics mostly occur behind the scenes.⁵ Although not in terms of eloquence but rhetoric in the broad sense, public politics is still vivid today. By rhetoric, I refer to the practice of expressing opinions, taking part in debates and addressing fellow citizens, not only in public — although that is also a part of it — but primarily in arranged, institutionalized spaces of power; places created for decision making. Rhetoric is thus the practice of making and taking part in politics, or the primary form of acting politically, which, at least in Athens, made citizens equal, or distributed power among them equally. Similar to Athens, in contemporary democracies people enjoy — or should enjoy — liberty to speak and express their opinion freely. Not only leaders but common people have the right to speak. But in Athens free speech was a primary form of political equality, freedom and action. Nonetheless, a restricted meaning of free speech also plays foundational role in modern democracies, and in the decades when Ober’s outstanding book was written, democracies turned to be more publicity-oriented, and I suppose, similar to ancient democracy in this respect. With the advent of the internet, a plethora of public fora appeared beside traditional media, and politicians still need to communicate to their electors; catching their wills, desires and emotions, expressing and forming their identities; politics still needs rhetoric, although not necessarily eloquence. The relation

⁴ Ober 1989: 105., 119. ff., Hansen 1999: 345.

⁵ Ober 1989: 107.



between politics and public debates, or rhetoric understood in the broad sense and applied to our contemporary world, seems to be even more relevant in new and young democracies.

Contemporary democracies are the distant inheritors of ancient Greek democracy, and, at least in the American form, democracy and free speech seem to be intertwined not only in a "negative" form of individual rights, but in a politically constitutive way of participation. One may suggest that almost all the basic values of Greek democracy recur in its modern counterpart, especially equality and right to vote, that is, basic political rights for everyone. However, the theoretical pattern of classical democratic thought reveals relevant differences. We often use the concept "participation" for a set of political actions: protesting on the streets, signing petitions, even writing comments. These are political actions, although less severe in direct effect than voting on an election. In a classical democracy, participation is extended to the realms of power, or, "politics", in a somehow reduced meaning of the word, while embraces the other non-formal ways of actions as well. "Participation" means (almost) universal direct access to the realm of politics, to the institutions of direct democracy, including administrative offices. "Equality" means equal access to politics for those bearing citizenship in the polis. As for the modern times, in the course of the 19th and 20th century, more and more people were enfranchised, which explicates another difference between the two historical regimes, and seemingly let Athens on the dark side. But as a universal frame, this social extension of political rights hides the extensiveness of political rights in Athens, and thus the true meaning of "equality" (*isonomia*) in the polis: that citizens all have access to powerful institutions, embodying the idea of "having power in hands" as a collective forum. The often complicated system in Athens translates this into political practice, while other traits show the institutional signs of historical changes and conflicts between groups. However, the main arena of politics, which could give name to the whole political citizenry, the *ecclesia* was open for everyone who wanted to be



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there and to address fellow citizens. What makes Athens distinctively unique is that the primary form for "making politics" was free public speech in front of fellows in the *ecclesia*; speech was not a residual and inferior human activity, but the primary form of political action. Politics is a house built of bricks of speeches; political participation via speech made Athenian democracy possible, and it was also free and equal right for speech, *iségoria*, that could keep individuals' excessive power under control.

Nonetheless, contemporary ideas may serve to preserve democracy, and one may say communities can do it without the help of ancient ideas. The freedom of speech, as expressed in the American and the European tradition, or the historical idea of balanced powers in institutional form, hand in hand with other individual rights against the powerful intervention of the state, may in itself well protect democracy and its citizens. But the empirical cases show something different. Institutions are good things, but individual agents or groups with common interests may change their main character, curving or even disrupting them. Powerful agents can diminish the borders between the powers, even in a legitimate way, if we suppose legitimacy is just a universal acceptance of the actions of the powerful by the people, in the form of non-revolution. One may say this leads to an ethically problematic vision of politics, and reduces the future prospects of a given democratic community. However, this seems to be the vision on politics of those realist politicians, who do all the things what electors let them to do; the realist politicians' actions are only delimited by the direct revolt of the citizenry. This may distort institutions, and their protection does not stem from themselves or from those who may distort them, but in citizens' common beliefs and in their democratic identities.

This is a well-known problem of democratic attitudes and institutions. A reference to the relation appears already in classical political thought, for instance in Pericles' Funeral Speech, wherein he notes that the Athenian regime is not only a



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constitutional order but a distinct way of life.⁶ This idea reappears in contemporary scholarship as well, let me mention Mogens Herman Hansen and Josiah Ober.⁷ When Hansen interprets Aristotle's famous statement on the political character of human beings, he understands human beings, their psychological nature intertwined with democratic institutions. On an Aristotelian ground not only Hansen, but Ober also gives some hint on the nature of human beings and their political character, suggesting that only democratic *participation* and only democracy that offers *participative experiences* could make fulfilled the nature and telos of human beings.⁸

As Hansen notes, "[f]or Aristotle, man was a 'political animal' - that is, the very stuff of human life at its most basic was involvement in social and political organization. It seems that the Athenians derived *actual enjoyment* from the formal play with complicated procedures like sortition, voting and debates in political assemblies."⁹ Putting it differently, democracy is not just an operation of institutions - although very complex institutions -, but, from Ober's perspective, offers a chance for fulfilling human nature by "association by decision"¹⁰. While Ober interprets Aristotle and "democracy as a good in itself" in terms of individual needs, freedom and desires, for Hansen, besides its extensively institutionalized nature, the peculiarity of ancient democracy lays in its human-oriented character. This seems to stand closer to the Periclean suggestion of democracy as a way of life. Although the two contemporary historians' background ideas on politics may differ - Ober mentions he interprets Aristotle in

⁶ Cf. Hornblower 1991: 298. Pericles' words in Thucydides: "I should like to describe the principles underlying our actions in our rise to power, and the institutions and way of life through which our empire became great." Thuc. 2. 36. 4.

⁷ Cf. Hansen 2008 as an example.

⁸ Cf. Ober 2007.

⁹ Hansen 2008: 41. Emphasis added, SH. It is worth noting that some of the deliberative democratic critics against active political participation are based on the idea that citizens do not wish to take part in politics (cf. Hauptman's summary, 2001: 401.).

¹⁰ Ober 2007: 66.



a "liberal-leaning inclusivist" way;¹¹ however, Hansen does not explore his political affiliation directly - their description of democracy and especially Ober's politically more explored concepts may be useful in theorizing ancient democracy from a contemporary perspective, focusing on direct democracy's capacity to actually create political sphere by — public and free — speech.

Ober translates the famous Aristotelean idea that a human being is a political animal, *zōon politikon* into "association in decision as a human capacity". *Associating in decision* is a natural capacity of human beings, who exercise it "especially through speech". Its most proper constitutional form is participatory democracy.¹² There are several types of "rights" for practicing politics, although not all belong to the "most robust form of association in decision". Ober mentions five types, from the less severe to the more radical and all-embracing. Despite he does not mention directly, these can be paired with three types of political regimes: although (1) rights to petition (2) and public criticism appear in democracies, but in one-man-rules as well, where these rights may be preserved for privileged groups as in the case of the Prince and his Advisers.¹³ (3) Right to vote for representatives (4) and to serve in an elected office can be paired with representative democracy, but may also be true for its participative counterpart; while representative democracy embraces (1) and (2) at the same time. The 5th type of action is participation in self-government, which, of course, is peculiar to participative democracy, or in the words of Ober, to *association in government* in the deepest form.

Although all these can be seen as political conditions of democracy, they are not equal in giving people the opportunity to constitute politics, and only one, participatory democracy encompasses all the five types of practicing politics. And we may add, being content with only one of these, especially with ones from the

¹¹ Ober 2007: 61.

¹² Ober 2007: 66.

¹³ Ober refers here to "a body of persons" enjoying these rights, Ober 2007: 67.



less active types, is misleading concerning democracy, and putting only a single right in the centre of practical political thought may imperil democracy itself.

But what is the primary form for associating in government? According to Pericles (and Hansen), it encompasses a wide range of actions in the decision-making process: making initiatives, taking part in debates, making decisions and then acting collectively. Speech as the primary form embraces activities from association — coming together in the *ecclesia* — to expressing discontent or enthusiasm not only in rational, but in emotional ways: discontent can be the "noise of streets". Rhetoric is always rational, but only partially; not only Aristotle, who lived before the age of liberalism but in the age of "deliberation" (more exactly: in the age of rhetoric and public discussion), but even a classical 19th century liberal, J. S. Mill knew well that politics needs people who believe in their own opinions; in other words, emotions are necessary parts of every politics. From the classical perspective, that noise of the streets, those disturbing shouts and ad hominem arguments on the comment sections, all belong to the normal life of democratic politics. But as any type of human activity in a social context, these can be delimited by the actors involved. Delimitations towards the transgressions are human constructions; these are the part of the game called politics.

Rhetorical practice is one among the elements which makes politics accessible for citizens, at least in terms of understanding problems. That is, rhetoric makes politics *democratic*, since it enables citizens to take part in politics intellectually. They can be *spectators* (as sitting in the semi-circle of the theatre) and *actors*, *passive* listeners of debates and *active* proponents of actions. Rhetorical situation is therefore similar — or even identical in this sense — to the democratic ideal expressed by Aristotle. A citizen can be a governor and the governed; the positions of the rhetor — as of those who (temporarily) govern — are *empty* in the sense that these are not anchored positions. These are roles waiting for fulfilled by citizens, who govern in turn; or in Gregory Vlastos' expression in relation to the



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general idea of *isonomia* in Greek natural philosophy, this is that *successive supremacy* which secures *equality* among composing elements of any types of order, natural or human-created.¹⁴

II.2. Public speech as equal access to politics

Equality, that is, *isonomia*, was the leading political principle which made political sphere accessible for everyone; not only for elected representatives, a special form of elites, and not only occasionally. *Isonomia* may have been detected behind some political — or one may say, constitutional — practices, as being a principle protecting the political community against individual hybris. However, one can be found a split between theoretical and practical equality. In order to envisage the isonomous position citizens enjoyed in Athens, it is worth turning to the historical analyses of the political practices. First and foremost, we should emphasize one characteristic of political thought and practice of the time: the legally non-restricted freedom of public speech in assemblies.

In ancient Athens citizens had equal access to speak publicly; their right to speak was not restricted by formal legal prescriptions.¹⁵ Although this made citizens equal, since let them engage in politics via rhetoric and speech, it was in the first place the "right" best exploited by citizens who participated in politics regularly; in modern words, politicians.¹⁶

Ober here puts politicians in the middle of politics, thus seemingly changing their relevance in ancient Athenian imagination, and thus making ancient politics similar to contemporary democracies. But the difference still exists: in modern democracies citizens do not have equal access to the political institutions in which they could initiate actions and address fellow citizens. In Athens people engaged

¹⁴ Cf. Vlastos 1947.

¹⁵ Ober 1989: 108., 111.

¹⁶ Cf. Hansen 1999: 143—144.



in politics with different intensity, which can explicate the existence of the concept of “idiotés”, ordinary and idle citizens compared to those practicing politics regularly. However, laws and institutions secured their chance of commitment to politics, and equality in participating in politics was an idea on which democracy was based.

The right of practicing politics indifferently to social status appears in Pericles’ Funeral Oration as well, and may be read as an emphasis put on political equality under non-equal social conditions, that is, in a context where only a bunch of professional politicians — as rhetores — have capacity to initiate political decisions.

“[T]he claim of excellence is also recognized; and when a citizen is in any way distinguished, he wins promotion in the state, not in rotation, but as the reward of merit. Nor is poverty a bar, but a man may benefit his country despite his lack of authority.”¹⁷

These sentences talk about the wealthy and the poor respectively, while situate them in Athens’ constitutional order, maintaining that no one has disadvantage deriving its birth, class and social status. However, one can discern an aristocratic tone in the first part of the text,¹⁸ or even the whole one can be interpreted as Pericles builds up the argument from an aristocratic angle, not because he wishes to praise aristocracy but because the aristocratic — or upper class — composition of his audience.¹⁹ It is more plausible that the Funeral Oration merges different point of views, that of the average citizens and the wealthy upper class. As a result, Pericles (or Thucydides) first answers to the question posed from the upper class point of view when emphasizes the importance of personal excellence in attaining state offices. Lot is an egalitarian way of selection, which renders

¹⁷ Thucydides, II.37.1. Translation from Hornblower 1991: 298.

¹⁸ For the authors who interpret the passage in this way see Harris 1992, 158.

¹⁹ For the audience cf. Hardwick 1993: 151—152.



personal merit irrelevant, and thus grounds the aristocratic critique of democracy, not only in that critics can point out to the fact that political equality and distinction can be at odd, but in the nature of excellence: since it can be understood stemming from either personal political capacities or birth. But Pericles may answer to the problem accepting the democratic point of view — thus, he changes the angle used — when he acknowledges the right and capacity of ordinary, even poor and uneducated citizens to take part in the life of the polis as relevant actors. As a result, excellence and participation in politics are not based on birth, but it is the right of the whole in the city.

This egalitarian prescription seems to be the key trait of classical democracy from contemporary assessments as well. As Ober notes, “The absence of property qualifications for the exercise of citizenship rights was a basic principle of the Athenian political order.”²⁰ Contrary to the practices which anchored status and to institutions giving actors different types of power, only individual citizens could bear rights, thus they became equal in the power shared.²¹

However, a critique may point out that the main reason why Pericles praises directly the constitution and the way of life in Athens may stand in that he tries to avoid drawing direct parallels with the events of victorious past after a lost battle, and wants to connect personal sacrifice with the community: “The message is that the polis through its political structure and material wealth gives its citizens, rich and poor, unique opportunities for self-fulfilment and it deserves the passionate devotion of each individual, a passion which makes death in military service almost a desirable contribution to the collective.”²² But the historical context does not eliminate the political philosophy embedded into Pericles’ speech; even the author of the former text needs to repeat the condensed theory of Athenian democracy: “Rich and poor alike can participate, since men of distinction can be

²⁰ Ober 1989: 193.

²¹ For the former type cf. McCormick 2003, and the latter Urbinati 2012.

²² Bosworth 2000: 6.



recognized by election to the *strategia* and other high office, and nobody is prevented by poverty from involvement in public life. Sortition and payment for office, so we are led to believe, make public service accessible to every citizen with political aspirations.”²³

Similar to Ober, in the first part of Pericles’ speech on merit he also detects a component based on non-equality, which connects elections to leadership of excellence, as in the case of generals occurred.

Historically, there was a persisting tendency towards the prevalence of the idea of personal merit. At first generals were elected from each district (tribe) separately securing equal representation in the generals’ body. Later their roles differentiated, and they started to control diverse martial areas,²⁴ but never the whole country. Contrary to the time when Pericles lived, the roles of rhetores and that of generals became separated.²⁵ In Pericles’ own time they still stayed interconnected, and what is more important, generals — and some other officials — were accountable in a legally bounded process.²⁶ The reference to the generalship in the idea of politician may refer to accountability and excellence presumably embodied in the non-egalitarian (non-isonomous) process of elections. These traits seem to be standing closer to contemporary ideas of representative democracy, but elections was only moderately democratic from the Greek point of view since its reliance on a non-isonomous principle. Positions which needed expertise were fulfilled by elections, but other types by lot or by direct participation — if we can call citizenship a political position. Although the assessment of election seems to be similar to some of our contemporary ideas (consider the liberal presumption that election may moderate political emotions and retain political upheavals), because of the relatively widespread practice of

²³ Bosworth 2000: 9.

²⁴ Develin 1989: 3—4.

²⁵ Hansen 1999: 269.

²⁶ Cf. Landauer 2014.



accountability, election was not the key idea around which common life revolved. That is, not elitist elections but processes which secured equal access to the political were the paradigm for organizing political life. And the way the Athenians executed this, connects the idea and practice of rhetoric to civic life in the polis; that is, to politics *per se*.

II.3. Constituting the sphere of politics via public speech

The primary form of politics in a direct — or participative — democracy is *action*, although "action" may take shape in different forms. The historical case of the Athenian democracy shows that its primary form is public speech itself. Not only the somewhat special and — for many citizens — extraordinary situation for speaking publicly; there are at least two extensions for the meaning of "action". First, any kinds of occasions belong to the pool of political actions when one talks about politics with other fellows (or even with those who does not bear political rights). Second, not only public speeches, table and street talks can be political, but less active types of participation as well; listening to orators and making decisions over issues under public discussions can also be the part of the citizens' activity-repertoire.

Besides this, speech as action can play another role in the political process: Athenian democracy can be understood as an "epistemic democracy", because of the demotic and isonomous sources of not only power, but knowledge. The relationship among public speech, political knowledge, and the realm of politics can be envisaged through the interpretation of Aristotle's idea on the demos' general capacity to understand and deal with political issues. Aristotle explored the idea in the III. Book of *Politics*:

"For the many (...) nevertheless can, when they have come together, be better than the few best people, not individually but collectively, just as feasts to which



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many contribute are better than feasts provided at one person's expense. For being many, each of them can have some part of virtue and practical wisdom, and when they come together, the multitude is just like a single human being, with many feet, hands, and senses, and so too for their character traits and wisdom. That is why the many are better judges of works of music and of the poets. For one of them judges one part, another another, and all of them the whole thing."²⁷

Although the passage may be interpreted in different ways, according to the most widespread interpretation, Aristotle depicts here the demos as a wise collective body; that is, the emphasis is on the collective capacity of people gathering together.²⁸ The demos is wise; contrary to what the famous quote attributed to Churchill suggests, ordinary people, the people of democracy are not stupid: they may be idiotés, however, but only when they do not gather together to take part in politics, and stay singular individuals in the polis. Ordinary people were thought to be clever if they came together to discuss common issues, and, as Aristotle writes, art as well. People were *spectators* and *actors*, *passive* and *active* citizens; and, as Mogens Herman Hansen argues, there was a widespread belief that "ordinary citizens are *intelligent* people who are capable of making sound decisions about themselves and their fellow citizens... the Athenians did believe in the intelligence and sound judgement of the ordinary citizen."²⁹

Jeremy Waldron reinvigorates this idea under the title of "doctrine of the wisdom of the multitude",³⁰ and also emphasizes the role of language and speech in this process. The peculiarity of human beings is that they use language, as Aristotle thought, along with many others in that time. Waldron criticizes the "aggregation" theory of Aristotle, refusing utilitarian interpretations: vote is not an individual possession, and individuals' wills are not simply aggregated. Deliberation, through

²⁷ *Politics* 1281a—b.

²⁸ Cammack tries to reveal another interpretation, a characteristically different attitude to the mass as such, 2013.

²⁹ Hansen 2008: 38, 39.

³⁰ Waldron 1995.



which "the wisdom of the multitude" is expressed, changes preferences and opinions; that is, politics in a direct democracy is not simply the aggregation of the wills of individuals.³¹ This is a correct depiction of ancient democracy: Athens was definitely not based on modern liberal individualism; one may say it was a sort of communitarianism: it accepted individual desires towards good life (as a consequence, it was fundamentally pluralist), but related individuals to the political community.

Waldron emphasizes plurality of opinions, and writes the following in relation to speech: "Speech is the mark of man's political nature because speech is the medium in which politics takes place. And since politics takes place in the medium of speech, it necessarily takes place in a medium of plurality; a context in which there are many speakers, each contributing to a collective decision... Speech, for Aristotle, is not just the unanimous chanting of accepted truth about justice: this is a matter of conversation, debate in the *ecclesia*."³² Then he quotes Aquinas envisaging the Aristotelian thesis of plurality of conflicting views on good life and political issues in general, suggesting a further inspiring interpretation of Aristotle's non-unitary polis thesis (contra Plato): that individuals need the company of fellow citizens, because they are only capable to solve problems and see things only from one singular angle; an argument which reappears in Hannah Arendt's ideas on politics.

However, one thing should be emphasized here: as Waldron notes, politics is a distinct place for Aristotle, and we may add, is not reduced to anything other; politics is a singular free space to speak and act. And speech is not the *expression* of thought anchored and not only a space open for conflicting views to collide. Politics *as* speech, and the sphere of rhetoric as the general expression of human (co-)existence, is first and foremost a *free* space. Thus, politics is *formed* by

³¹ Cf. Waldron 1995: 564—65.

³² Waldron 1995: 576-577.



speech, not only *expressed* in speech; politics is a contingent reality, which characterizes rhetoric in its entirety. Those who speak do not only express but construct themselves, their collective identity, when try to open up new directions for the future of the political community. Politics is in itself a space for 'coming together', an *agora*, a meeting point, in which opinions, decisions, visions and discourses collide but also form. According to Aristotle and the "wisdom of the multitude" thesis, who can make sound decision in politics is not the individual with extraordinary capacities: a tyrant or a monarch, or a singular leader; but also not a distinct body of people: for example elected — and empowered — people; but the multitude, the *demos*.³³

This definitely democratic understanding of politics appears even earlier than Aristotle's time in Protagoras, perhaps around 450—440 B.C., and in Pericles, in 431 B.C. Let's recall the famous section on democracy in Thucydides:

"Our constitution is called a democracy because we govern in the interests of the majority, not just the few... We are all involved in either the proper formulation or at least the proper review of policy, thinking that what cripples action is not talk, but rather the failure to talk through the policy before proceeding to the required action. This is another difference between us and others, which gives us our exceptional combination of daring and deliberation about the objective"³⁴

Pericles/Thucydides lists here the possible repertoire of political activity in a democracy; formulation of policy, reviewing and discussing directions of action; while deliberation/discussion/debate has to be free and unrestrained by some types of inner limitations, that is, debate and free speech, *iségoria* is not enough for exploring "policies" (directions of actions), since democratic debate needs *parrhésia* — dare and brave speech. Who are those who have to discuss common issues? Pericles refers to the "we" who constitutes democracy; this "we" is, in fact,

³³ Cf. Waldron 1995: 564—565.

³⁴ Thucydides 2. 37., 40.



not *majority* but the *whole demos*. Anyone can take part in discussing common issues, and who let these things to others, who give up its share of power, its political freedom, that is, its equal standing in the polis, is a fool, and *idiotés*. Contrary to the long-lasting common view that democratic practice of speech blocks action, discussion is the precondition for action; speech and deed do not fight with each other, but are the parts of a sequenced order. Democracy is not weak because of speech, but stronger than those regimes in which public speech has no space. Public and free political speech explores plurality; while speech is only practiced by only one person, the one who "votes alone" in one-man-rules.³⁵ Contrary to free speech stands command, and to plurality in ordered form stands one unitary opinion. Democracy never can be based on unanimity; it is the institutionalized form of true *political* pluralism, especially in the form of agonistic pluralism.³⁶ Theoretically, only the moment of decision can be interpreted as unity, since decision creates order among diverging possibilities: decision tells what is applicable, which idea has future and which one has not.

It is not surprising that the leader of classical democracy praises the order that made him the leader of the polis, although his fellow, the most famous sophist of the time — and probably his friend — also expressed this inclusivist and deliberative idea of democracy. Protagoras, in Plato's dialogue, says the following:

"when there is speech about virtue in the art of building or any other art, Athenians as well as others think they should consult only a few, and if someone besides those few offers advice, they do not allow it, as you say-reasonably, as I claim. But when they come to consult about political virtue, which must all come through justice and temperance, they quite reasonably accept advice from all men,

³⁵ For this expression in Aeschylus, cf. Ehrenberg 1950.

³⁶ Although this conceptualization of democracy is disputable, I accept Chantal Mouffe's theory of agonistic pluralism as the condition of democracy — contra bureaucratization of politics and ideas of deliberation as depoliticization. For Mouffe cf. 1993, 2000 and 2005.



because all must have a share of this virtue lest there be no city."³⁷

He differentiates between two types of knowledge: technical and political; leaving the first to professionals, but rendering the second to every citizen. Technical knowledge does not need moral decisions. This seems to be the criterion for difference: a problem loses its technical character when disputes arise over it; and a political problem never can be transformed into a technical problem without losing its political character.

From Protagoras' angle, politics belongs to common people. Politics is the realm of the demos, who reveals — or refuses — the political in every issue autonomously; the demos has sovereign power to transform the boundaries of the political. And, as a consequence of this participative argument, all who are capable to constitute the common political realm are enabled and free to discuss the issues which concern the political community as such. Protagoras, as Aristotle, believes in the wisdom of the multitude. The primer form of practice to constitute the political sphere is free speech which makes citizens equal.

In sum, speech relates to political sphere in the form of construction. Free public speech gains its power from the idea that citizens not only have equal political standing but a certain form of political wisdom, and from the fact that speech is the primer type of political action.

III. Free Speech in Democracies, Ancient and Modern

³⁷ Plato, Protagoras 322e-223a.



III.1. The idea of participative politics in modern democracies: An interpretation of the American constitution

Free speech is still a core value not only in classical but in modern democracies. We may suppose that they have different meaning; contemporary constitutions protect free speech as a right, thus free speech plays different role in the two cultures. However, the American Constitution, namely the First Amendment seems to be preserved the seed of the classical idea. This suggests that it may have future even under modern circumstances. A contemporary interpretation, which seeks Athenian aspects in First Amendment jurisprudence, reveals the connection, but we can detect the limits of this idea as well.

The American case is exemplary, not only because the United States has the longest continuous democratic history in modern times, but because the American Constitution enforces free speech more than any other contemporary democracy, and defends speakers' rights almost without restraint.³⁸ In this section I will follow Keith Werhan's interpretation almost exclusively, except the conclusion concerning the extension of the participative role free speech can play in a modern context.

Werhan finds connection between the two orders and attempts to reveal the Athenian principles of free speech (*iségoria* and *parrhésia*) among the core values of the American Constitution, saying that the American and the Athenian democracy are two types of democratic enterprises which are seeking good order through self-government by free people.³⁹ They differ substantially, but equally emphasize the role free speech plays in politics. Free speech is in this respect not only a right, which must be protected against state censorship, but it has a positive, active and participative tone. While self-government meant in Athens that people governed themselves directly, freedom of speech may play a similar

³⁸ Werhan 2008: 296.

³⁹ Werhan 2008: 295—296., 305.



role in the American form of democracy; or, played some part in the formation of 20th century Supreme Court jurisprudence and correlating legal theory.

Following Werhan’s argumentation, the extension of constitutional protection of free speech from the Founding Fathers’ original intention to protect free press only to every citizen stems from the latent idea of self-governance, that is, from the idea that a democratic community always has the right to define the course of its actions and to shape its own future.⁴⁰ To put it negatively, restricting the right of free speech means that a community – and its citizens – cannot bear the political right of self-determination, or, in reference to classical politics, in this case a political community (polis) would not be democratic anymore, because the demos lost its general power and freedom as a collective body.

The early political generations in the new United States preferred freedom of press because of the role they thought free press would play in the forming representative democracy. They believed free press would inform the citizens about the elected politicians’ conduct or misbehavior, that is, free press played crucial role in holding politicians accountable,⁴¹ although not legally in itself, but only politically. Thus, free press can check the political power of elected officials thanks to the fact that they report on government’s acts. Werhan states that classical Athenian “positive” freedom of speech — the participative one — and the American “negative” freedom of speech — a protected but governmentally not facilitated one — are common in that freedom of speech in America is similarly strong and extended as the Greek *iségoria*, the participative practice of taking part in politically relevant debates, which usually ends in decisions. Although in the American political thought free speech was traditionally protected on the “libertarian” and Lockean ground of seeing the state — in the words of Saxonhouse — as an Ogre waiting to jump out and capture citizens’ freedom,

⁴⁰ Werhan 2008: 298.

⁴¹ Cf. Werhan 2008: 298—300.



classical *iségoria* embraced much more than a simple protection of individual rights, as Saxonhouse convincingly states.⁴² The modern idea of freedom of speech reveals a trench between individual citizens and the state. However, in classical thought on speech it would be pointless since what *iségoria* actually secures is being the part of the state. That is, it secures equality for the individual and (political) freedom for the community.

In the United States the First Amendment of the Constitution protects the rights of citizens concerning free expression, which in earlier times was justified on the ground that “the people, by definition, must remain free to speak out on the performance of government officials, as well as on other matters of public concern.”⁴³ However, First Amendment jurisprudence seems to have taken a “positive” turn in terms of justifying freedom of speech as similar to the Athenian participative “right”: “[t]he Supreme Court has long recognized that a central purpose of the First Amendment’s protection of freedom of speech is to facilitate self-government. For that reason, the Justices have placed political speech at the core of First Amendment protection, reviewing with the highest skepticism government efforts to control the content of such speech.”⁴⁴ The American Constitution secures the rights of citizens against government protecting them from the intervention of the state. If we compare the extensiveness of free speech as a value to other democracies, it will suggest an anchored position among the ideas on which American jurisprudence is based. The doctrinal primacy of “content distinction” secures this right strongly, “obligat[ing] courts to review carefully and skeptically government restrictions imposed on speakers or speech because officials disapprove, or fear the consequences of, the content of the restricted speech.”⁴⁵ This prohibition of “viewpoint discrimination” includes different forms of “provocative expression”, which can be expressed freely, and

⁴² Saxonhouse 2006: 21—22.

⁴³ Werhan 2008: 306.

⁴⁴ Ibidem.

⁴⁵ Werhan 2008: 314.



the speaker can be held legally responsible only when the speech seems to be lead to direct violence.⁴⁶

It is interesting, or, I may say, amazing that some of the most influential judges and legal theoreticians who had crucial impact on 20th century legal theory and First Amendment jurisprudence were educated on classical Greek grounds and were influenced by Athenian democratic thought and practice, especially that of Pericles. From a classical historian's perspective it seems to be evident to highlight the relation, but from a contemporary point of view it is less clear or necessary that the relation has even existed.⁴⁷ What is more important, the modern archeology of the idea of Athenian *iségoria* suggests that classical education, and not only Roman law or republicanism, but the whole terrain of Greek democratic political thought may play crucial role in understanding, enforcing, even renewing contemporary democracy with the advantageous help of widening the horizon of contemporary thought.

This is the case in relation to Justice Brandeis, whose opinion on free speech seems to owe much to the Athenian political thought than to the American counterpart. As Werhan notes, Brandeis neglects the Madisonian idea of representative democracy, which secures only restricted access to politics directly. When the idea of free speech comes to the fore, he treats it as stemming from the Athenian experience having been embedded into a participatory direct democracy: "In his portrayal, the purpose of the 'public discussion' fostered by the First Amendment was not what Madison had described as appropriate for a representative democracy, that is, to inform the people about governmental officials and their policies, or even to inform the government of popular will. Rather, it was to enable the citizen body, as the sovereign 'ruling class,' to deliberate toward the 'political truth' that would define themselves as a people

⁴⁶ Werhan 2008: 329.

⁴⁷ Cf. Saxonhouse's account on the modern history of free speech, including some authors from legal theory, 2006.



and would chart their collective course as a community.”⁴⁸

Besides Brandeis, who seems to have been influenced by Pericles’ Funeral Oration directly, the legal theorist Alexander Meiklejohn also treated Athens as a paragon type in relation to speech and politics. He based his ideas on the American tradition of town hall meeting, and reinterpreted the United States’ political system in a form of “assembly democracy” in relation to free speech.⁴⁹ He belonged to the tradition which favored rational discussion, although not the indirect type; his formulation of free speech was based on direct participation. *Iségoria* was the part of self-government, or, in Saxonhouse’s words, “free speech and democracy were to be understood as mutually constitutive.”⁵⁰

These suggest that the idea of free speech was extended to the realm of action and was treated as constitutive to the political. However, the scope of extension is limited. Contemporary analysts are probably right in saying the American idea of free speech has some relevant similarities to the ancient *iségoria*, although not in terms of participation, and, as a direct consequence, not in constitution of the political. Werhan’s analysis is suggestive, but he explores this tendency only in relation to Supreme Court jurisprudence and its correlating legal theory, not to the whole constitutional order. Supreme Court jurisprudence may be based on the extended idea of free speech explored by judges through the last century, but it could not change the character of representative democracy. I do not want to underestimate the extension of free speech understood in a participative way. What I wish here to underline is that free speech or *iségoria* was not just an inner element of a larger order of thought but one of the constituting ideas of democracy; of which counterpart was equality: *isonomia*.

All these theorists mentioned earlier – Werhan, Urbinati and the classical authors

⁴⁸ Werhan 2008: 309.

⁴⁹ Werhan 2008: 311.

⁵⁰ Saxonhouse 2006: 26.



– suggest that the two forms of democracy, ancient Greek and its modern counterpart, are not radically different and separated. They accept that the two constitutional orders can be related and compared, and the relation is theoretically and practically fruitful. Although one may emphasize the direct/representative difference, it is not necessarily constitutive from the contemporary democratic angle. The difference between ancient and modern does not lay in the difference between *direct* and *representative*, at least in the sense that these would be orders *ab initio* excluding each other. As a consequence, classical democracy can serve ideas to strengthen contemporary democratic values. Nonetheless, in the following section I try to explore some of the differences which also may be fruitful in emphasizing the “deep meaning” of rhetoric, free speech and, actually, politics constituted by citizens.

III.2. Contemporary constructions of the demos: A limit to participative theory and its critique

Contemporary democracy needs the demos, although this ‘demos’ is not directly given; the demos simply does not exist without construction. Perhaps this was also true for ancient democracy, but the ‘demos’ could exist without mediation in the form of an idea (‘demos’ as the totality of sovereign citizen body, that is, the city) and its permanently existing embodiment (the ‘demos’ who acts). ‘Representation’ is a constant situation in modern politics – not only the demos, but politics must be represented in some way. However, the situation that modern democracy needs its name-giving *demos*, but it is not constantly and directly accessible, leads to the necessity to construct the demos as the actor of politics. And politics sometimes fails to represent it properly, at least in the eye of the represented. Nonetheless, as Laclau / Torfing note, perfect representation simply does not exist, and the identity of the represented is always remains split (there is



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two separate realm to be merged for the represented in order to come to exist).⁵¹ As a consequence, there is no chance to construct an absolute identity and execute perfect representation.

The problem of constructing the demos remains, and it seems that there is a tendency in contemporary democracy to construct the demos in an exclusivist way. The main challenger of our time to the classical idea is a type of populism, or a tendency in populism.⁵² As one follows political discourse, perhaps may observe this sort of practice without the analytical frame of populism research. However, it is ‘populism’ which nowadays offers the best theoretical frame for this.

Contemporary populism is not entirely new phenomenon and not a bad one either. It goes back to 19th century American politics, and was a type of counter-movement (against the current elites) which enabled formerly unheard voices to enter politics. It is also widely accepted that in contemporary political environment, new democracies are endangered if populists come to power.⁵³

Contemporary populism has at least three main characteristic:⁵⁴ anti-elitism; the construction of the people; and an idea of general will. Anti-elitism is a very spectacular trait, but less relevant here. The second and third deserves more attention. Populist discourse centers on the concept of “the people”. Populism can be understood as a politics based on the construction of a vague concept of the people, which enables actors to connect their different goals and demands, and make themselves capable to act politically. In some sense, populism is the core

⁵¹ Cf. Torfing 1999.

⁵² Populism can be found in the form of movements (e.g. the anti-communist movement in the U.S. in the early years of cold war, and later onwards in different forms) and incumbent parties and leaders (e.g. in Latin America: Hugo Chávez, Evo Morales etc.). Examples to populist parties in Europe: National Front (France), Forza Italia (Italy), UKIP (United Kingdom), Law and Justice (Poland), Syriza (Greece), Podemos (Spain). Mudde—Kaltwasser 2017: 21—37.

⁵³ Urbinati (1998) is among the first authors who makes this difference clear, but we can find it in a recent work of Mudde—Kaltwasser 2017: 18—19., 72—92.

⁵⁴ I will follow here Mudde—Kaltwasser’s „ideational theory” on 20th and 21th century populism (2017).



function of the political, the way modern politics must be practiced.⁵⁵ The practice reveals the urging and constant need of any democracy, namely, democracy's dependence on the idea of the sovereign demos.⁵⁶ Although it is just only component which is connected to the idea of the demos, it forms the most important layer of it.

This suggests an exclusively positive picture about populist politics; it seems that any type of the construction is equally valid. However, contemporary literature challenges this view, and similar argument can be drawn from classical ideas. The analysis of the third element may offer an answer to why. It is denoted by Mudde and Kaltwasser as the notion of general will which have clear connection to the idea of the people. The idea of general will refers to the politically powerful demos and self-government, although there is added one spectacular aspect to this concept. The formation of the common will is based on construction of identities (a strong actor). In this process common enemies are also formed, which helps to challenge the status quo. But, as Mudde—Kaltwasser note, the dark side of populism may arise from these types of constructions, because of populism's tendencies to detect homogenous people behind the general will. In their words, “the general will is based on the unity of the people and on a clear demarcation of those who do not belong to the demos and, consequently, are not treated as equals. In short, because populism implies that the general will is not only transparent but also absolute, it can legitimize authoritarianism and illiberal attacks on anyone who (allegedly) threatens the homogeneity of the people.”⁵⁷

This feature challenges contemporary democratic thought and its advocates. Populist politics sometimes offers a unitary vision of the demos, and as a consequence, opinions as well. This is a discursive practice of which main specificity is creating frontiers, and thus, cutting off the outsiders from the

⁵⁵ Cf. for Laclau's work on populism, 2007.

⁵⁶ Cf. Mudde—Kaltwasser 2017: 9—10.

⁵⁷ Mudde—Kaltwasser 2017: 18.



constructed demos.⁵⁸ The unity of the public good, the demos, the (general) will etc. is constructed via the identification of the ‘true voice’ of the leader (or a party/a movement) with that of the demos. One may presume that it was the case in ancient Athens as well; we may answer that, at least in Aristotle, the community is in fact a plural ‘unity’ for acting politically.⁵⁹

The unitary thesis appears in some cases in the form of ‘accountability discourse’. That means that leaders (elected politicians) refute the validity of organizations because no one elected them.⁶⁰ A variation of this argument and practice is when elected politicians deploy it against citizens, or rather, groups of citizens. This practice has serious consequences to the traditional idea of democracy, since it does not leave open space for dissent voices.

These populist politicians believe in the unitary vision of politics and their exclusive right to express it. Sometimes they transform this into that only representatives have mandate to speak and act. This is the right which political actors possess exclusively, who are, in fact, identical with elected representatives, politicians related to the governing parties. However, this suggests they do restrict politics to representatives, or, more accurately, to those persons who supposedly may have mandate to express (or even implement) the nation's imaginary will; but the actors do not mention, not in the least emphasize citizens' politically active, dissent practices in this structure. A part of the argument was the lack of citizens' procedural legitimacy, a critique sounding very odd from a participative perspective.

The unity-thesis is not just a challenge but a facilitator of thinking about politics in a new way. Drawing a frontier may be sometimes a perilous practice, but, as Laclau shows it, a very general practice at the same time.⁶¹ A frontier can be

⁵⁸ For this argument, cf. Laclau's works in general.

⁵⁹ Cf. Trott 2014.

⁶⁰ Cf. Mudde—Kaltwasser 2017: 81—82.

⁶¹ Laclau 2007.



drawn with different harshness, or, less metaphorically speaking, with different intensity. Many theorists who concern with political frontiers (and thus, with enemy constructions) lead up to thinking about the difference between legitimate and non-legitimate practices.⁶²

One can refute the unity-thesis and the corollary deterioration of citizens in two ways based on Greek democratic theory. The first one is based on a modern interpretation of Greece, and related to the extended idea of free speech as right, as it was seen in Keith Werhan's former theoretical analysis, which I will call here as 'free speech thesis'. The second is based on the reinterpretation of Athenian democracy and extended participation contrary to restricted versions. This is Nadia Urbinati's comparative analysis based on the Athenian political experience.

The idea that leaders can express the will of the people and are entitled to neglect thoughts incompatible with the will may be supported by some early ideas on representative government. Going back to Werhan's interpretation, Madisonian democracy was based on a need that public opinion should be filtered, since these were just "rough" unmoderated opinions deriving directly from the demos which may cause troubles in free and meaningful deliberation. The assemblies of representatives played this filtering role.⁶³ Nonetheless, as these authors convincingly states, Madison believed in free speech, but not just in this sole right. Based on these interpretations which are so sensitive to the role free speech plays in democracy, we may say that the crucial difference between contemporary "radical" populists and 18—19. century American thought is that those who promotes restrictions against citizens whose purposes, emotions, demands differ from what leaders sign as the will of the people, do not believe in freedom of speech and free association, even not in their interrelated character.

The content of Greek political theory of *isonomia*, which was absorbed by

⁶² Cf. Mouffe 2000, 2005.

⁶³ Fishkin 2009.



American legal and political thought, can envisage this relation, in the more specified version of the relation between *iségoria* and politics; citizens' freedom to address all possible political issues on the assembly taking the direction of their fate into their own hand (and becoming autonomous) without any claim of rulers for restricting these right. Populist discourses show instead that the rulers seek restriction in order to strengthen their power to act, and in so doing, they manage to exclude other competitors. At the same time they seem to believe that they can "mirror" correctly the will of the demos. Practically it is not a true mirroring in the arena of thoughts, but a mandate to act the way they thought they represent the demos' will whose opinion they want to influence and transform. However, "mirroring" and "mandate" all involves a relevant restriction: the demos' will must be reflected or expressed in some way in the government's acts, but the demos is treated as a passive agent. This is more obvious from the comparison based on later evolving ideas of free speech, or in the light of Athenian political thought. Town hall democracy and Periclean active citizenship in connection to free speech — since free speech is constitutive to anything which can be named in a community as political — presuppose active citizens, and implements the demos' self-governance into the realities of democracy.

This means true *active citizenship*, or "authorship" regarding laws, and can be envisaged through the historically valid case of Athens. This can serve as another argument against exclusive populism, and gives another example for the reinterpretation of classical politics under contemporary circumstances. Although in a different context concerning ideas on liberties, Nadia Urbinati emphasizes Athenian liberty's isonomous and active character. In her words, Athenian liberty requires *authorship* in relation to laws, not only certain forms of control.⁶⁴ Urbinati's words are instructive, since she does not want to cut classical democracy off from contemporary representative democracy; she preserves

⁶⁴ Urbinati 2012: 607, 610.



Athenian democratic thought as a possible core idea for its modern counterpart.

She separates two types of citizenship according to the classical roots of modern democracy, Roman republicanism and Athenian democracy. Two types of citizenship can be distinguished, which I recall primarily based on Urbinati's article, although with some additions and different emphasis. In the Greek case, citizens have the right to initiate policies and address fellow citizens in the political center regularly, that is, they bear active citizenship which embraces the whole spectrum of political action (related to power) in any feasible moment of common life. To the Roman-like type belong those who have only right to say *yes* or *no* to an initiative, but are kept from expressing their opinion freely or take part in political discussions, and they also do not have the right to make political initiations which may have real impact on the common life of the state.

It is worth emphasizing the difference: the first type is purely democratic, the second is not; the first one forms a paradigm ('democracy' as a regime), the second may be only a moment in a larger set of rules ('democratic idea' or 'democratic moment'). In Athens citizens did not need to have mandate to act, since they have this right *ab initio* as citizens. This seems to be true in any type of democracy, as Nadia Urbinati suggests. These regimes are founded on the politically recognized *demos* which is composed of not different groups with different anchored political positions, but of individuals constituting the whole.⁶⁵ This has relevant consequences concerning non-elected citizens and dissent voices outside of the borders of 'the people's' will. As in modern democracies, in Athens citizens were equal; each individual citizen had the same political right as the result of being the part of *the demos*. The *demos* possessed absolute power and acted autonomously, and was unaccountable as a whole. Similarly, most ordinary citizens were unaccountable, except those who had extraordinary power compared

⁶⁵ Urbinati 2012: 616.



to their fellow citizens, or became common citizens who initiated laws.⁶⁶ Those who had the practical capacity to “do harm to the polis”⁶⁷ had to undergo accountability processes. Although common and powerful citizens were asymmetrical in numbers, they had equal right to act, and common people could judge their powerful fellows. Although only a bunch of actors were accountable in comparison with the whole demos, the regime was still democratic. In sum, non-elected representatives, who are sometimes ordinary citizens, can be accountable based on classical ideas, but only if they possess true and visibly enormous power. Only having an opinion and expressing it before a wider audience, can never offer a ground for accountability process, and can never validate an argument which is based on that elections means legitimacy and non-elected representatives are non-democratic. In a modern democracy, every single ordinary citizen is a non-elected representative in some sense.

IV. Conclusion

Politics created via speech means equal access to politics, or isonomous arrangement of the relation between the demos and the rulers. Politics is not reserved for politicians only; "participation" is extended to the whole demos. Common people have legitimate access to the realm of politics. Putting the demos — and, as a consequence — citizens in the centre of politics, means a different point of view; the demos is not only the source of power, but the power-holder itself.

⁶⁶ However, the readers of ancient politics usually emphasize the extensiveness of accountability, cf. Sinclair 1988. I do not want to deny this, just add a different point of view, partially based on Landauer 2014, saying that common citizens rarely had to undergo accountability processes. This means that the costs of free speech, and thus, political action were relatively low for common people.

⁶⁷ Hypereides (In Defense of Euxenippos), cf. Landauer 2014: 148.



As a consequence, classical democratic political sphere enables the permanent manifestation of the power of the people. Although this seems to be obvious, this manifestation is crucial in relation to some types of ruling populist elites, since they claim that they mirror perfectly the unitary will of the people, that is, they are identical to the demos. At the same time they do not treat the demos in its empirical plurality when they create ‘the demos’ according to this unitary vision. As a consequence, this created and represented demos loses its reality, and, because disrupts the unitary vision of populist politics, loses its valid rhetorical position to speak and act otherwise than its political manifestation (the constructed demos).

However, balancing or even counteracting against these elites is only possible via taking part in politics — not in the way acting against politics or being a genuine idiotés: not acting at all. A theory based on classical politics does not support such an idea. Against those politicians who distort institutions stands the demos; in other words, people must take back politics in order to preserve democratic politics. Nonetheless, the classical demos does not give up the rights for creating politics, and for them it is not necessary to take back politics; politics is in their hand already. This is what isonomous equality means: common people have equal standing on the highest level of politics; they are equal in relation to power. This is what is at stake in the contemporary restrictive construction of the demos, since a political frontier always involves a restriction. In the case of the unity-thesis, many citizens are cutting off from the constructed demos. In some radical forms, this practice deteriorates of its “other”. We may argue, however, that the other is the part of the political community, and the demos refers to the *whole* political community, the complete citizenry, as in ancient times. In other words, the true reference to ancient democracy means not only ‘the power of the people’, but the ‘power of the whole demos’. Although there is always the question “what is the demos”, according to the Periclean ideal, democracy is *per definitionem* the political order of equal access of politics; being equal in the power as citizens.



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This is what is represented in rhetorical practice and practiced via *iségoria*. Rhetoric, language and publicly free speech in general, make possible to express differences and construct the political sphere. Language designates human sociability since Aristotle, and politics, of which main characteristics reappears in rhetoric, is the realm of different colliding opinions. These differences are the formative power for politics, and are fundamentally ineliminable from politics. Without colliding opinions there would not be politics at all, and the unitary vision of the demos, in fact, is a tendency against politics.

However, we need politics. The classical view of democracy is oriented toward the political level and thinks about politics as characteristically rhetorical. That is, classical democracy is not afraid of power and does not want to hide it, since the manifestations of the power of the demos can check the excessive *hybris* of leaders. And rhetoric is also not marginal in politics, not only in terms of their analogously contingent character, but because rhetoric apparently stands against coercion. As Thucydides' paragraphs on the silenced ecclesia in the 411 B.C. coup suggest, a political order can be considered as free and democratic if citizens are oriented towards rhetorical persuasibility. Against rhetoric stands silence and oppression, against plurality stands unitary will. And people must be conditioned to be open to other views, even to those ones they want to and will refuse.

Free public speech based on rhetoric and human conditionality towards persuasion (even without being persuaded in the end) is the way a democratic community can construct the political. And the power of the people presupposes not only occasional decisions over given issues, but the capacity to initiate politics in the public realm. However, forming these issues belongs to the demos and occurs in the realm of politics via free speech. Classical democratic politics teaches us that it is impossible to think about democracy without thinking about the true power of the demos, and, as a contemporary consequence, the nature of politics.



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