

Electronic Democracy: a Concept Under Construction

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Representative democracy remains essentially a representative government that was created precisely to avoid all the citizens to participate directly in political decision-making. Implementation of direct participation's instruments in the form of e-democracy creates a conflict within this government, a conflict that can be solved only by a renewal of representative democracy concept, even its substitution by another idea committed to reconciling representation and participation. This paper aims a reflection on a legal concept of government capable of integrating e-democracy. Such integration highlights the interdependent character of the link between democracy and human rights that are exposed to very new threats in the digital era. The possibility to introduce e-democracy is conditional upon the reinforced protection of such digital rights and freedoms as well as recognition of new rights based on personal self-determination.

KEY WORDS: e-democracy, digital democracy, representative democracy, liquid democracy, representative mandate, imperative mandate, human rights in the digital environment, digital rights, self-determination, majority principle, consensus

Introduction

“Democracy is always in a situation of lack, if not in crisis, within the representative government” (Rousseau, 1992). Lack of democracy is incorporated in its very concept, designed as an alternative to democracy and not as its variety. Since the 1970s, this lack has been accumulated with the crisis of representation: in many countries, the Parliament, central institution of representative democracy, no longer seems to be the centre of political debates, while political parties have difficulties in gathering voters and channelling the political expression. Generally, the political class does not inspire people's trust, which puts into question the very existence of the “qualitative relationship between representatives and represented” (Manin, 1997). While the mainstream debate prefers the term of the crisis of representative democracy, such denomination might not be sufficiently precise (see, e.g., Ward&Gibson, 2010; van der Meer, 2017). Representative democracy constitutes a paradoxical and contradictory mixture of representation and democracy, and its representative component is in crisis while democratic one lacks. One of the possible solutions to overcome this crisis would then be to strengthen the democratic component that is failing, to restore the fragile balance between the two.

Such an approach is not easy to implement. For a long time, direct democracy, the direction to take to democratise representative government, has been considered utopian and dangerous. This idea seems to be questioned today with the advent of electronic democracy (e-democracy), in the form of new digital means of popular participation. Yet e-democracy provokes an applied rather

than a theoretical reflection. Legal studies in this area are often limited to organisational difficulties of particular consultations, participation rates, their results and implications on the work of public authorities. However, there is a lack of a more global reflection, offering an overview of the compatibility of these tools with representative democracy which, despite introducing universal suffrage and sometimes referendum or initiative (so-called semi-direct democracy), remains the essentially representative government. The latter was designed precisely to avoid all the citizens to participate directly in political decision-making. As one of the main political theorists of the French Revolution Abbé Sieyès wrote:

Citizens who name representatives for themselves renounce and must renounce [the right] to make the law in an unmediated fashion themselves: therefore, they have no particular will to impose. [...] If they were to dictate wills, it would no longer be a representative state; it would be a democratic state (cited by Friedland, 2002).

From a constitutional law standpoint, implementation of direct participation instruments in the form of e-democracy creates a conflict within this government, a conflict that can be solved by a renewal of representative democracy concept, even its substitution by another idea committed to reconciling representation and participation. This paper aims a theoretical reflection on a concept of government capable of integrating e-democracy and, more generally, able to accommodate effectively popular participation. Thus, it intends to contribute to the debate on models of democracy in the digital age.

This paper derives from my Ph.D. thesis in public law “Electronic Democracy: a Concept Under Construction” that was defended in December 2017 at the University of Bordeaux, France. To present its findings, I will structure my reflection as follows. Section 1 discusses general approaches: to specify the terms “democracy” and “representative democracy”, the basis of e-democracy, for the purposes of this study (1.1.) and to place the research question in a broader historical and sociological context (1.2.). Section 2 explains the method elaborated to conduct a theoretical, forward-looking study and approaches to data collection. Section 3 describes the findings: a concept of e-democracy as a mixture of representative and direct democracy, with a reinforced democratic component (3.1.) and the interdependency between e-democracy and human rights (3.2.). Section 4 draws conclusions and provides some indications for future research.

1. General approaches

1.1. Democracy and representative democracy

A legal study of democracy is complicated by the polysemy of the term “democracy” that may be used to denominate progress, justice, and universal good in any domain, not necessarily political. It seems then relevant to return to the original meaning of the term. By democracy, the ancient Athenians, who had created this form of government, meant people power. From a constitutional law standpoint, it means the exercise of sovereignty by the people. In other words, “the identity of the subject and the object of political power, of the rulers and the ruled” (Kelsen, 2004). Taken in this very specific sense, democracy exists only if all members of the community have equal access to political power and can directly exercise sovereignty. Furthermore, Aristotle distinguished another feature of a democratic government: a right, given by liberty, “to live as every one likes” (1912), what we can today call the principle of self-determination. Hans Kelsen gives a definition summarising both requirements: the identity of rulers and ruled and the self-determination. He points out that a democratic government must establish a legal regime of autonomy where “norms are produced by those who are subject to them” (Hamon&Troper, 2016), as opposed to heteronomy where others produce them.

The difficulty to implement such a government had been highlighted by numerous authors in the second half of the 18th century when the question of a new government to replace the monarchical rule had been raised. They reject democracy in favour of a republic, “a government in which the scheme of representation takes place” (Madison, 1787). But not only representation makes the difference between republic and democracy. A representative government can theoretically implement popular sovereignty if representatives are bound by the instructions of the represented (so-called imperative mandate). However, commonly accepted representative systems prohibit imperative mandate (see, e.g., Venice Commission, 2014), allowing representatives to be independent of their electorate. Furthermore, they represent the whole political community, and not only their voters. Finally, their mandate is relatively long, and representatives cannot either be recalled, nor held responsible for their actions, with some exceptions. Nicolas de Condorcet, a deputy of the Legislative Assembly, summed up the question well: “Mandatory of the people, I will do what I believe most agrees with their interests. They sent me to expose my ideas, not theirs; the absolute independence of my opinions is the first of my duties towards them.”

This constitutional construct, combined with universal suffrage, aimed to establish a mixed form of government. Indeed, representative democracy would not constitute a purely democratic

government. In 1801 Pierre-Louis Roederer writes, “Elective aristocracy, of which Rousseau spoke fifty years ago, is what we call today representative democracy” (cited by Rosanvallon, 2003). Yet, it changed significantly since then. Bernard Manin (1997) distinguishes three periods in its history, from the angle of the kind of representation: parliamentarianism (rule of notables), party democracy (rule of the activists/party bureaucrats), and audience democracy (rule of the media experts). He also highlights its paradox: “without having in any obvious way evolved, the relationship between representatives and those they represent is today perceived as democratic, whereas it was originally seen as undemocratic” (Manin, 1997). Francis Hamon and Michel Troper (2016) describe representative democracy as an intermediate form between democracy and autocracy (see also Gicquel&Gicquel, 2016; Rouvillois, 2017).

In light of the above, to embrace direct participation (be it online or offline), representative democracy should be reconsidered by bringing it closer to direct democracy. However, the proposed e-democracy model does not aim to establish a direct democracy type of rule, in other words, a permanent exercise of sovereignty by the people. The idea is to allow monitoring and control of public authorities while popular intervention would only be necessary when it comes to correct or counteract their decisions. Considering that legal framework of representation does not allow such actions, the very nature of the relationship between representatives and represented should be therefore rethought. From a constitutional law standpoint, legally binding popular control of public authorities can only be established by abandoning representative mandate (free and therefore uncontrollable). According to Dominique Rousseau (1992), this mandate is today at the heart of the crisis of representative democracy. Without however questioning its existence, the author advances a concept of continuous democracy (*démocratie continue*), in which the independence of representatives would be limited by public opinion. The latter will act as a counter-power in the form of demonstrations, opinion polls, through media, going as far as the only legally binding form of control: through the constitutional judge, custodian of fundamental rights (on the role of counter-powers in the readjustment of the political system see also Hourquebie, 2004). In a similar vein, Stephen Coleman and Jay G. Blumler (2009) suggest a conception of direct representation that “entails an ongoing rather than episodic political conversation”, through online civic commons and a government-funded agency charged with organising public deliberation. Pierre Rosanvallon (2008) proposes a model of counter-democracy designed to allow the popular control of political power, using oversight, prevention, and judgment. According to the author, it is necessary to “positively establish the mistrust,” which harmful effects on the functioning of representative democracy are widely deplored nowadays. Ernst Wolfgang Böckenförde (2014) pleads for the preservation of representation, which must, however, be subject to democratic legitimation, accountability, and control. Such a control should be implemented in particular by a

possibility to correct the representatives, through recall or direct popular decision-making. While sharing the idea of the rulers' control by the people, this research considers appropriate to institutionalize it further and proposes a new type of political mandate, to replace representative one. This also involves a transformation of such well-established concepts as sovereignty, people, majority principle, etc.

The need in another concept of government to accommodate e-democracy becomes visible when analysing the actual context (on the importance of the context see Mélin-Soucramanien&Pactet, 2017), in light of the wave theory.

1.2. The context

Since the 1970s, many scientists observe unprecedented social transformations. They denote in particular the decline of the State and the triumph of individualism, accompanied by technological revolution and globalisation (see, e.g., Touraine, 1969; Burdeau, 1974; Castells, 1998; Chevallier, 2008; Turpin&Tomkins, 2012; Conseil d'Etat, 2014). The wave theory proposed by Alvin Toffler (1980) represents a comprehensive overview of these transformations, put into a wider context of the history of humankind. To explain it briefly, history can be presented as a succession of waves of change. Before the First Wave, hunter-gatherer societies prevailed. This wave brought the Agrarian Revolution and the central place of the earth in social relations, economy, family, and politics. Political power was conceived following the example of the household head: absolute power and lifetime tenure. The Second Wave of change, bringing Industrial Revolution, began eroding agrarian lifestyle starting in the late 17th century. The Second Wave civilisation was based on mass production, mass distribution, mass consumption, mass education, mass media, etc. It created a representative government and bureaucratic organisation, imitating a production line. The Third Wave of change describes post-industrial civilisation emerged in the late 1950s. It has been bringing a new economy, new life and family styles, and more importantly, a new consciousness. Seen from this perspective, a new way to envision democracy would be inevitable. Alvin Toffler calls for minorities' political emancipation and a simultaneous decline of majority rule as well as for semi-direct democracy establishing popular initiative and referendum, guiding the vote in the legislative body. According to Toffler, constantly increasing burden of decision borne by public authorities causes a need in broader political participation. Fundamental transformations brought by the Third Wave - diversification, even atomisation of the society, accompanied by its digitisation, reduction of the workload of the

individuals, replaced by robots, accumulated with the increase of their education level, as well as decentralisation and the decisional implosion - should be reflected on the political level.

Viewed through the lens of the wave theory, the actual crisis of representation would be a part of the general transformation process shaking Second Wave institutions. Representative democracy would therefore have to transform following the civilisation changes. The new reality has to be conceptualised, as Pierre Rosanvallon (2014) stated:

The sense of helplessness that many men and women feel tragically today is not just the result of a politics' lazy resignation. It is also born from the resistance of reality to the old concepts with which it is perceived. Words do not say things anymore and are therefore incapable of modelling them. For this reason, the gap between lived reality and thought reality is now a major obstacle to the transformation of society as much as to the reconquest of individuals' dignity.

Similar difficulties arose during this research with respect to its method.

2. Research methods and data

To describe a concept of e-democracy as a form of government, from a theoretic, conceptual point of view, represents a double difficulty when it comes to the choice of the methods. First, to propose a concept means to theorise a very complex reality of a democratic government that legal science can embrace only partly. Secondly, this reality does not exist yet. That is why it was necessary to adopt a forward-looking focus by building a model of democracy based on e-participation. In this respect, the wave theory served as a starting point, to support the need for new models of democracy capable of addressing civilisation changes.

From this forward-looking point of view, systems and interdisciplinary approaches seemed appropriate. The systems approach allows considering the research object as a coherent whole: a system of bodies and rules interacting with its actors, evolving in an environment of norms, general principles, and fundamental national and international values. The interdisciplinary approach seems particularly useful when it comes to such a diversified object as a democracy. In fact, some disciplines have been studying democracy and, in particular, e-democracy. Just as legal science,

they face unprecedented civilisational transformations. It seemed thus pertinent to use some of their results, to understand the research object better. These approaches determined the choice of data. The systems approach demanded analysing existing norms and legal doctrines and considering actors that varied from public administrations experimenting in the field of e-democracy to the IT industry leaders whose fundamental choices implemented in the code may influence the exercise of fundamental rights of their users, and in turn, the functioning of e-democracy based on digital tools. The interdisciplinary approach called upon resorts to research results obtained by computer science, political science, history, economy, geography, and sociology.

Since this research considers a theoretical perspective, it is not based on any particular national law, although examples from French law and institutional practice are naturally more frequent. At the same time, it is rooted in the European tradition of conceiving constitutional law; it thus expresses an essentially European vision of a possible model of e-democracy and its functioning. Such a model does not oppose other models of democracy. On the contrary, the idea is to borrow their elements to complete it.

Prior to the collection of data, two key areas of research were identified: the theory of democracy and the practical implementation of e-democracy in the form of its numerous instruments. The research in the first area consisted of a systematic review of literature in the field, including other disciplines. The research in the second area concerned international soft law and studies, while Internet search allowed targeting states where e-democracy instruments have been used. Language barriers made it conditional upon availability of sources in English, French, or Russian. E-voting practices were analysed through interdisciplinary collaborations and were compared with the paper vote; to do so, election observation in Russia and in the USA was conducted to gather material for the latter. Where possible, relevant national norms and studies were considered, and personal interviews with organisers and participants carried out. This research made clear that the use of e-democracy tools does not induce the emergence of e-democracy (in the sense of this research), since almost any government, not necessarily democratic one, can implement some of them. Furthermore, in many cases, e-democracy initiatives, especially related to popular decision-making, enter into competition or even conflict with existing institutions of representative democracy, which sometimes causes them to fail (see, e.g., Conseil d'Etat, 2011; Bergsson&Blokker, 2013, Dias, 2014). Empirical research confirmed thus the need for a new concept of government, capable of reconciling representation and participation (Türk, 2018).

Subsequently, Mr. Edward Snowden's revelations highlighted another important research focus, human rights in the digital age and their interdependence with e-democracy. The research in this area included a systematic analysis of the relevant case law of the European Court of Human

Rights and the Court of Justice of the European Union, as well as pertinent national jurisdictions' case law and legal doctrine. Lastly, the proposed concept of e-democracy was compared with alternative concepts, confronted with a deviation from the concept, and some of its possible implications were studied. Literature review, personal interviews, and Internet search provided necessary data for this purpose.

3. Findings

3.1. Concept of e-democracy

Considering that representative democracy would have to transform, the question is to what extent it is supposed to change. It does not seem appropriate to expect the coming of direct democracy in the near future (see e.g. Coleman&Blumler, 2009). Following the Third Wave's dynamics, bringing synthesis, digitisation, demassification and "tailor-made" products, it is perhaps more relevant to think of synthesis of representative and direct democracy: a semi-direct democracy pushed further towards direct democracy, a more participative government, based on popular initiative, that nevertheless retains representation. Potentially open to popular participation, it does not require it every day. Everyone could find his or her own level of involvement in public affairs. Certainly, the new civilisation democracy will use digital means as its central medium. Digitisation of democracy seems therefore inevitable.

It appears that the proposed e-democracy model would be pertinent in the transitional period between the existing political model, representative democracy, and a future one, more adapted to the new civilisation. The latter is not yet established so that it is difficult to outline its main features. "The dream of direct democracy is perhaps no longer unreachable" (Oberdorff, 2009). Meanwhile, the idea is not to dismantle political institutions of representative democracy but to establish effective popular control over their activity. From constitutional law point, it means that people shall exercise sovereignty through their representatives and directly, on their initiative and by digital means. In this sense, the proposed model differs from the one of the Council of Europe (2009; see also CAHDE, 2009) (a set of e-participation instruments for use in the framework of representative democracy without its reconsideration) and liquid democracy (Dodgson, 1884; Behrens, Kistner, Nitsche&Swierczek, 2014) (a permanent e-referendum with the possibility to delegate one's vote).

More specifically, the people, all residents enjoying political rights, form a free association of individuals united by the goals they attribute to this political association. Their sovereignty, conceived as their power of decision, is exercised either by people themselves or by the administrators, under an administrative mandate granted by the people. The members of the people become the “owners” and “investors” of their association “State.” Thus, they obtain the decision-making power concerning their association’s objectives definition, choice of administrators, control of their performance, and their dismissal. At the same time, administrators will remain free to choose the means to achieve the objectives defined by the people.

Since such a political association would necessarily be a very diverse society consisting of minorities, a minimum social agreement could be built through consensus about fundamental values. In large communities, the detection of such consensual values could only be done through digital means. In the wake of Jean-Jacques Rousseau (2004), the general will, thus defined, can “alone direct the forces of the State”, since “the common element in [particular] interests is what forms the social tie; and, were there no point of agreement between them all, no society could exist. It is solely on the basis of this common interest that every society should be governed”. However, in the case of values, neither majority decision-making method advocated by Rousseau, nor the compromise could not apply, for they would not allow all interests to be taken into account. Consensus decision-making suggests itself. However, the consensus that this research intends to speak about is not a direct synthesis of particular values, but the search for values that enjoy consensus support. In this respect, a Taiwanese experience of a participative e-law making could serve as a starting point for further research (Megill, 2016; Simonite, 2017; see also Philonenko, 1986; Dobrescu, 2009).

Administrators would assume the “State’s” everyday management in its new meaning. Popular control over their actions would be made possible through a new type of political mandate: administrative mandate. It would combine certain features of representative mandate (necessary freedom in taking political decisions, nevertheless limited by objectives defined by the people) and of imperative mandate (control of the representatives and their dismissal, if needed). In this context, the term “representatives” has been understood in a broader sense: not only members of a legislative body but all the constitutional powers. According to Georges Vedel, each of them exercises sovereignty “in its own domain: the Parliament expresses the national sovereignty only in the legislative domain, the Government represents it only in the executive domain, and the judge speaks in the name of the nation only when carries out a judicial task” (cited by Renoux, 1984). Thus, all the three powers would be representatives and should be controlled. Besides, it seems necessary to rename representatives to administrators, to eliminate the reference to the only

legislative function, inherent to the term “representative.” Also, this research proposes to add a fourth power, that of control. Under this appellation, already existing bodies, controlling public authorities, would be gathered, to systematise and to generalise such a control while its constitutional status will make it more efficient.

The proposed model does not require permanent popular participation. The people can participate if they do not agree with the decisions taken by the public authorities. To intervene, a popular e-initiative would be essential: to organise a referendum, a recall or to launch a political control of an administrator. At the same time, financial control would be compulsory, regular and be carried out by digital means. Popular e-juries would be established to supervise its results. Nevertheless, the model remains open to permanent participation. For this purpose, the research proposes an e-democracy toolkit, taking its origins in the Council of Europe’s works in the field, but developed to include new e-democracy instruments, not considered by the Council. Indeed, after the adoption of the 2009 Recommendation, many new e-democracy instruments appeared. Furthermore, they represent not only a quantitative change but also a qualitative one, for they exceed the limits of representative democracy model. Considering this, it seemed appropriate to endeavour a comprehensive analysis and a classification of existing e-democracy instruments. At the same time, it is important to be aware of a necessarily incomplete character of such an analysis: new e-democracy tools may already be experimented as well as may appear in future, with the progress of technologies and democratic skills of the population.

3.2. Human rights in the digital environment: reinforced and developed, to support e-democracy

The possibility to introduce the proposed e-democracy model is conditional upon the reinforced protection of human rights and freedoms in the digital environment, as well as recognition of new rights based on personal self-determination. Digital technology, the bedrock of the model, exposed the exercise of human rights online to totally new threats, to the extent that the implementation of the model would be called into question. The right to respect for private and family life, facing widespread state surveillance and private Internet operators’ data collection, seems the most vulnerable (see, e.g., Chadwick, 2006; *Digital Rights Ireland*, 2014; UN, 2014; *Schrems*, 2015; UN, 2015; *Tele2*, 2016). The right to freedom of expression has also been frequently violated by website blocking, private censorship, and unprecedented threats to freedom of opinion. Indeed, the absolute nature of this freedom seems to be wiped out in the digital age,

when “the mechanics of holding opinions have evolved [...] and exposed individuals to significant vulnerabilities” (UN, 2015). In the recent Facebook-Cambridge Analytica affair these threats became visible, as well as the importance of privacy protection to ensure freedom of opinion and expression (in this vein, see also *Segerstedt-Wiberg*, 2006; Gauthier, Platon&Szymczak, 2017). These rights are fundamental not only for human beings but also for the functioning of e-democracy. At the same time, e-democracy needs new rights or a new interpretation of existing rights and freedoms. Otherwise, it would not be operational. They influence the very possibility of e-democracy, and conversely, the latter can become a means of ensuring their protection. Indeed, if the Internet has been used to exercise sovereignty, it must be protected from information distortion, surveillance, and widespread intrusion into the privacy of individuals. E-democracy can become not only a tool for exercising popular sovereignty but also a means of protecting human rights online. Thus, interdependency between e-democracy and human rights protection in the digital environment would be established: human rights would frame and support the functioning of e-democracy while the latter would ensure their reinforced protection as its basis.

The flexibility and openness of the proposed e-democracy model have become possible thanks to the full application of the principle of personal self-determination, which is today limited to certain corporal, identity, and professional choices. Self-determination - a legal principle under which an individual is free to choose his identity traits, his lifestyle and his relationships with others and the outside world - is the basis of all fundamental freedoms and, more generally, of freedom itself. As Jean Rivero (2003) pointed out, “civil liberties are self-determination powers recognized by positive law.” In this sense, human rights law would reflect the progress of the idea of personal freedom in a given community. Democracy is thus the incarnation of the idea of freedom on the political level, whereas the principle of personal self-determination embodies it on the level of fundamental rights. In this sense, this principle is at the foundation of the regime establishing an effective democracy (see, e.g., Dworkin, 1999; Vedel, 2002).

In the framework of the model, self-determination would become a general principle of interpretation of human rights. Firstly, the right to informational self-determination has been developed, to enable individuals’ self-protection against intrusion in their private life online. More fundamentally, the principle of self-determination would serve as the foundation of the right to political participation, the legal recognition of which seems necessary to support the exercise of popular sovereignty (see e.g. Hennette-Vauchez&Roman, 2016). In fact, it is possible to raise the question if exercise of sovereignty may be considered a fundamental right. Analysing the French Constitution, Michel Troper (2008) observe that the French people are sovereign only under the Constitution, while the Declaration of the Rights of Man and of the Citizen of 1789 places

sovereignty in the hands of the Nation, an abstract being: the people “are therefore not sovereign by nature, but only as a consequence of the constitutional authorisation”. They can only exercise sovereignty when the Constitution gives them an explicit competence and by the established procedures, while in all the other cases representatives exercise it. In other words, the French sovereign people, formal author of the Constitution, voluntarily limited themselves in this way. When analysing this elegant legal argument, it is possible to raise a question: if sovereignty belonged to the French people under the Declaration of 1789, would it be possible to claim a fundamental right to exercise sovereignty? The issue received a further development with the adoption of the Charter for the Environment of 2004, mentioned in the Article 1 of the Constitution together with the Declaration of 1789. Article 7 of the Charter provides for a right “to participate in the public decision-making process likely to affect the environment”. However, Bertrand Mathieu (2004) points out that this means to participate in the elaboration of decisions but not necessarily in the decision itself. Thus, the very principle of representative democracy is not called into question. A similar situation exists also in American constitutional law, where “the grand jury is mentioned in the Bill of Rights, but not in the body of the Constitution. It has not been textually assigned, therefore, to any of the branches described in the first three Articles. It ‘is a constitutional fixture in its own right.’” (*United States v Williams*, 1992), a buffer between the people and the US government. The question of sovereignty does not arise, perhaps because of the “hatred for this monarchical concept” (Zoller, 2013) in the United States. However, in Europe the term has survived, with the need for its adaptation to civilisational changes. In the framework of the proposed model, a fundamental right to political participation would be necessary. Thus, individual self-determination would be combined with collective self-determination, to serve as a foundation of popular sovereignty, people’s power of decision.

The e-democracy concept includes other important fundamental rights such as the right to education, freedom of expression, and right to Internet access (Shulga-Morskaya, 2017). It seems pertinent to mention the freedom of expression, in particular, its component: the right to access to information, now under construction by the European Court of Human Rights. In the context of e-democracy, this right should become a right-claim, to reinvigorate the concept of transparency, which is today conditional upon the state decision when opening up information.

4. Conclusions and future research

The proposed concept of e-democracy allows facing unprecedented challenges brought about by the civilisation change: the society of minorities, human capital liberated by robots, as well as the increasing decision burden borne by public authorities. Since minorities are circumstantial and changing, it seems appropriate to apprehend them in terms of people at the conceptual level. Their natural involvement in the competitive elaboration of the general will use the released human capital. In this way, the decision burden that continues to grow, in particular because of the emergence of digital technology, would be shared with individuals. Indeed, this would be beneficial not only for public authorities that sometimes cannot manage all the problems of public life but also for individuals, who will be directly involved in the exercise of political power and will be more autonomous and better protected in the exercise of their fundamental rights.

To ensure proper functioning of the model, a constitutional framework for the Internet would be necessary. It could not be effective without the recognition of its unique status at the international level (Türk, 2013) and, consequently, by the limitation of state and private activities that may violate its neutrality and freedom, as well as other fundamental principles. This ambitious task could be interesting for future research.

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