Democracy can’t Handle the Truth: Truth and Democracy between Laclau, Mouffe, Kelsen and Arendt

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Image credit: Algerians fighting French *gendarmerie* – *The Battle of Algiers* (1966), Directed by Gillo Pontecorvo

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List of abbreviations:

Hegemony and Socialist Strategy: *Hegemony*
Return of the Political: *Return*
New Reflections on the Revolution of our Times: *New Reflections*

"*We choose unity over division. We choose science over fiction. We choose* truth *over* facts." – Joe Biden: Iowa State Fair, 8th of September 2019

"*Auctorictas, non veritas, facit legem*." - Thomas Hobbes: Leviathan, 1651

"The *Old is dying and the new cannot be born; in this interregnum a great variety of morbid symptoms appear."* – Antonio Gramsci: Prison Notebooks, 1947

General Introduction

Truth and politics. Two closely linked yet potentially conflicting concepts. In contemporary political life, '*truth'* has particularly strong rhetorical value. Consider the first quote. Speaking in 2019 at an early democratic primary campaign stop, Joe Biden – the eventual victor- makes the interesting claim that 'we choose truth over facts'. The decidedly vague character of this claim nevertheless attracts cheers from his supporters. The potential tenson between 'truth', 'facts', and (democratic) politics is something that has attracted much philosophical attention.

Though those only familiar with its more 'popular' formulations might not expect it, Ernesto Laclau and Chantal Mouffe's *radical democracy* and *agonistic pluralism* is built on exactly such epistemic foundations.

Starting in their early foundational work 'Hegemony and Socialist Strategy' Laclau and Mouffe construct a radical ontology and epistemology. Arguing that all human understanding and concepts are purely indeterminate and contingent, all experience subject to a *primacy of the political*. This politicized ontology is, in turn, used to inform a particular kind of political strategy, where subjects are able to construct their own identity in opposition to a hegemonic status-quo. As theory and (political) practice are closely linked, they are also equally complex. Laclau and Mouffe's claims are *radical*.

Having committed themselves to an ontology and epistemology founded on radical indeterminacy and contingency, their move towards a more *determined* politics in works like *Return of the Political* might be a problematic one. But, Laclau and Mouffe's conception of the political might well be a source of useful critique, and the egalitarian project they champion could be useful in our embattled liberal democracies, the existence of such fundamental flaws. this would be a shame.

In this thesis, I will offer an *alternative*. Drawing on the epistemic and political work of Hans Kelsen and Hannah Arendt I will highlight surprising similarities and potential avenues for synthetizing such diverse dissimilar authors.

I begin in Chapter I by Introducing Kelsen. Though perhaps most well-known as a *legal philosopher* in more political works like *Essence and Value of Democracy*[1] Kelsen develops an interesting and unique conception of (parliamentary) democracy. Decades before Claude Lefort, he considers the epistemic and ontologial implications of the *democratic revolution*. Identifying democracy as fundamentally relativistic, he argues for a conception of the political where no truth ought to be considered *coercive*. Instead, the autonomy and equality at the heart of the democratic project have 'liberated' democratic citizens from such rational coercion.

After introducing Kelsen, I move on to Arendt. Though she shares Kelsen's distrust of *truth* in the political – she considers the political to be the domain of *opinion*, a concept immediately hostile to all rational truth -she nevertheless accepts a certain bedrock. Identifying *factual truth* as a necessary condition for a meaningful political life, Arendt argues for a minimal place for truth in the political. Faced with potential downsides of democracy and the risk of unlimited popular sovereignty harming the interests of a minority, certain epistemic and procedural limitations to the democratic process might well be desired. While Kelsen serves to highlight the importance of relativism and procedural safeguards in democracy, Arendt will illustrate the necessity of an epistemic bedrock for democracy.

Having set the scene with two more *palatable* theories, I move on to Laclau and Mouffe. In Chapter II, I exhaustively reconstruct Laclau and Mouffe's ontology, epistemology and political project. I will discuss its many theoretical influences, its strengths and its weaknesses. Desirable and useful as their political project is, as I have mentioned before, its theoretical underpinnings might leave it vulnerable to potential performative contradictions. Though I will occasionally refer to some of their later writing, my analysis of Laclau and Mouffe is specifically focussed on their relatively *early* work. Though their later work is not without its relevance, they

[1] Kelsen, *The Essence and Value of Democracy*.

produce most theoretical insights between 1985 and 2005 – between *Hegemony* and *On Populist Logic*.

In Chapter III, I bring these two threads together. Having identified the weaknesses inherent in Laclau and Mouffe's ontology, I suggest a synthesis of sorts with Kelsen. Though Laclau and Mouffe, on occasion, discuss Kelsen and consider him as a helpful source of inspiration, I argue that their interpretation of him is fundamentally flawed. Indeed, unbeknownst to them, Kelsen could be interpreted in such a way to reach very similar conclusions. I will expand on the relevance of Kelsen for Laclau and Mouffe's political and epistemic project and will suggest how a synthesis might be possible. In doing so, I introduce what I call *agonistic parliamentarism*, combining the strengths of Laclau, Mouffe, Kelsen, and Arendt while hopefully resolving certain fundamental flaws.

Democracy is fascinating and meaningful, and if we have to take anything from any f the authors I discuss in this thesis, it is that democracy and its subject are uniquely promising. If we wish to realise the promise of democracy, we might have good reason to distrust the rationally coercive truth claims that are so in contemporary society. Laclau and Kelsen's response to such phenomena might be too radical for their own good, but with some help from my friends, a more useable alternative might be possible.

Chapter I
Knowledge and Truth in Democracy: Kelsen and Arendt

Introduction

Truth. Such a simple seeming word, with such complex meaning. The concept of truth has fascinated philosophers since the early days of philosophy, but we might not be any closer to any one clear and fully convincing explanation. Truth plays an important role in our 'simple' day-to-day life, and in discussions with friends and acquaintances we will often refer to the truthfulness of a particular judgement in order to convince our interlocuter. Similar assertions play an important role in political life, where politicians, journalists and other public figures will defend their position by asserting that positions *truthfulness* or criticise an opponent over the untruthful nature of their claims. Whatever its true *philosophical* character, intuitively many expect the truth to have be convincing in a particularly demanding way. Yet, it is precisely this *demand* emanating from the truth that some have argued stands in tension to such fundamental principles as equality and autonomy.

In this chapter, I will discuss two authors who argued this exact position. Though similar in biography and experience each author uses interesting, relevant and surprisingly different approaches.

Kelsen's democratic relativism

An Austrian of Jewish ancestry, Kelsen's rise to prominence as a leading European legal theorist started when he was asked to write the first Austrian constitution in 1920. After completing this monumental work, which, to a large extent, still stands today, he began work on a wholly autopoietic conception of Law[2] originating from a transcendental Basic Norm (*Grundnorm*).

[2] *Recht*, not *Gesetz*

Kelsen's Pure Theory

Essential in this Pure Theory of Law[3] (*Reine Rechtslehre*) is a distinction between *Law* and *Politics*, ideology, natural law, and other metaphysical concepts. Following a broadly Neo-Kantian method, Kelsen defends a legal positivism where the questions and applications of Law always have a fundamentally normative character but can only be appropriately understood *sui generis*.

Though the specific character of this *Pure Theory* and the *basic norm* it resolves around, is still somewhat controversial, and it has attracted criticism for reducing the (normative) validity of any particular constitutional order to a simple matter of fact, there is something to be said for the elegance of Kelsen's transcendental argumentation. Though his thinking is to some degree, still visible in the attitudes and beliefs of legal theoreticians, legal professionals and law students alike, Kelsen understood that the Law, even in his pure theory, would always stand in some relation to the political and to the domains of fact and value.[4]

Absolutism and relativism in epistemology and politics

Accordingly, Kelsen developed his own thought on the relation between the realms of objective scientific knowledge and subjective value judgements. Though less well-known than his legal work, his essays on science, morality, justice, and politics are no less compelling.[5] Running the gamut from discussions of the biblical and Aristotelian conceptions of justice and their relation to the truth to an investigation into the core of (representative) democracy, Kelsen proceeds in a highly systemic and holistic fashion.

In this context, and with his generally holistic method, Kelsen develops his original and compelling theory of democracy. A democratic liberal to his core, the pure theory of law and transcendental nature of his Basic Norm prevent Kelsen from conceiving of democracy as a necessary condition for law. Instead, the Value of Democracy must be found in other domains than the law.

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[3] Kelsen, *Pure Theory of Law*.

[4] I will return to Kelsen's relation between *law* and the political, and a potential hidden decisionism, in Chapter III.

[5] Kelsen, *What Is Justice?*; Kelsen, *The Essence and Value of Democracy*.

Echoing the Neo-Kantianism underlying his legal theory, in "*The Essence and Value of Democracy*" and the *"General Theory of Law and State*", Kelsen discovers the value of democracy in its fundamentally autonomous character. Though his analysis has a solid normative, critical core, it is based on the actual organisation of the early 20th-century liberal democracy in Continental Europe Contrasting democracy with autocracy, Kelsen finds that (representative) democracy offers the best means of collecting the diffuse interests of a vast number of subjects.[6] Parrying the Marxist critique that 'bourgeois democracy' is only democratic in name, Kelsen agrees that democracy cannot simply refer to a formal constitutional structure but must always have a substantive, material core.[7] The question of the content of any democratic state – how that particular social order is organised – is a simple matter of fact, and any answer to it cannot follow from the decision-making form of that state. In Kelsen's words:

"Even radical democrats could not in good faith claim that resolving the question regarding the state's form also resolves the issue over […] its correct and best content. Such an assertion could only be made by those holding the view that […] only the People are in possession of the truth and have insight into what is good. Such a view can hardly have its origin in anything other than a religious-metaphysical hypothesis, which asserts that […] only the People attains its wisdom in some supernatural way. This would amount to a belief in the divine right of the People—an idea as ridiculous and impossible as a belief in the divine right of kings."[8]

Much like metaphysics cannot play any role in the domain of the Law (metaphysical) claims to absolute truth directly infringes on the core of what makes democracy a democracy. The possibility of absolute truth, linked by Kelsen with absolute value-judgements and monotheistic religion, brings with it a particular kind of epistemic duress that denies the epistemic equality of the subject: only those subjects that accept that specific absolute truth can be said to be rational, knowing subjects.[9] This inequality is not restricted to the metaphysical and epistemic domains; in Kelsen's view, any absolute epistemology has political implications. Autocracy can only exist when an epistemic absolutism is presupposed: one can only

[6] Kelsen, *The Essence and Value of Democracy*, 47–60.
[7] ibid. 60–61,
[8] ibid. 101–2.
[9] Kelsen, 'Absolutism and Relativism in Philosophy and Politics', 198–200.

(forcefully) subsume an individual into a collective and coerce her obedience if some sovereign, or People, believes he speaks for the absolute truth.

Democratic (non)-truth

Democracy, in contrast, coerces no obedience and conceives of each subject as possessing equal value and an equal claim to the truth.[10] Whereas autocratic regimes rely on absolutist conceptions of truth and value, democracy has a fundamentally relativistic character. Kelsen heavily relies on such characterisations of *relativism and absolutism* in his political work, but his use and his conclusions might not be apparent. Contemporary readers, faced with problematic phenomena like disinformation, *fake news* and political propagandising, might naturally assume that truth claims and value-judgements in political life refer to external truth-making criteria: they (intuitively) accept a *political cognitivism*. Kelsen might not deny the possibility of truth-apt judgments and claims in the political, but would never consider *truthfulness* as carrying assertive implications.Though Kelsen does not deny the possibility of objective knowledge and truth claims in such domains as science or the law,[11] the fundamentally autonomous and equal character of the democratic subject entails that democratic politics is fundamentally *relative*: in democratic life, all claims, whether epistemic, political or ethical, are formulated by a subject and deserve equal standing. To underpin this claim, Kelsen argues that the subject must also be *epistemically* autonomous. Thus, Kelsen links freedom, autonomy, and democracy to a Kantian idealism: to be a democratic subject, the world cannot be an absolute object that demands assertion through *heteronomous, immanent laws*. Instead, it must be *constructed* and *understood* through autonomous laws of cognition originating from the human mind.[12]

The fact that all rational subjects share these laws of cognition allows for the possibility of objective knowledge/truth in science, but, crucially, *not in politics.*[13] In democratic politics, each subject is equal in standing and respect to all others; all judgments, opinions and claims are not subjective, emotional attitudes and therefore

[10] ibid. 904, 910–11; Kelsen, *The Essence and Value of Democracy*, 101–5.
[11] Kelsen, 'Absolutism and Relativism', 203–4; Kelsen, 'Science and Politics'.
[12] Kelsen, 'Absolutism and Relativism', 200.
[13] Kelsen, 'Science and Politics'.

only *relatively valid*. In Kelsen's view, this results in a strict delineation between the political, as a domain purely concerned with subjective value-judgement, and sciences with its objective, external source of validity. When a democratic majority agrees on a conception of the good, the desirability of some policy or even some truth claim, this agreement must have a temporary and relative character: the majority opinion can always be replaced by another.

Thus, Kelsen constructs a conception of democracy and the democratic subject that is fundamentally *relativist* and *subjective*. When involved in democratic politics, a subject's claims are purely informed by subjective, contingent attitudes; the mechanism through which another subject endorses any claim she prefers is similarly purely arbitrary.[14] The interaction of citizens *outside* the political is notably absent from Kelsen's work and would suggest that he has no way of responding to contemporary problems like misinformation. To summarise, the question of whether in politics, one must first know *what is* before suggesting *what ought to be* is a moot one. All political claims are equally relative and subjective and deserve equal standing *even when clearly in violation of reality*. Truth and falsehood are entirely foreign concepts in democratic politics. Of course, false or absurd claims would likely attract much attention or would simply be discarded out of hand, but them being *clearly* false or irrational would not in itself disqualify that judgement for discussion in the political sphere.

The relativist core of the democratic project is not only a fundamental conceptual framework; it also prescribes a particularly democratic attitude. As value judgements and truth claims are never absolutely convincing, truth *as such* is not a relevant factor for political life. A politician claiming they represent an absolutely proper position (as an orthodox Christian or Marxist might do) is equally mistaken as the politician presenting their policy as the only possible solution to some societal problem.[15] Such claims, Kelsen argues, not only weaken democratic relativism and equality, they have an implicit authoritative and coercive quality: the obligations of democratic are autonomously formulated through the democratic process and

[14] ibid. 354–55. Kelsen, 'Absolutism and Relativism', 206–8.
[15] Kelsen, *The Essence and Value of Democracy*, 101–5.

always have a relative, contingent character; the authority of (a supposed) absolutely true policy is not produced through the democratic process but is already present in its formulation.

Kelsen denies the compatibility of democracy with such absolute collectives. Democracy requires a radically equal subject whose individual judgements and truth claims cannot be considered more convincing than any others. Kelsen's claim that all total truth claims and judgements ought to be disregarded in democratic politics and that liberal conviviality can be considered relatively radical and at odds with contemporary democratic practice and pre-theoretical intuitions. Nevertheless, echoes of Kelsen's position might still be uncovered in modern democratic theory. Even self-confessed Schmittians, who might otherwise be expected to be fundamentally opposed to Kelsen, might implicitly accept a Kelsenian democratic relativism, and Kelsen himself might reach shocking Schmittian conclusions.

Arendt's Philosophical and Political Truths

Though the philosophical projects of Kelsen and Arendt could hardly be more different, their lives were characterised by the same struggles and oppressions. As German-speaking intellectuals of Jewish ancestry, both fled their homes after the Hitlerite *Machtergreifung.* Both attempted to formulate new theories to protect the free, autonomous subject from the totalitarian wave that had overwhelmed Europe. But whereas Kelsen stayed close to contemporary legal and political life and relied heavily on Kant and other, relatively contemporary thought, Arendt's thinking is much more eclectic. Characterised early on by the heavy influence of the phenomenological existentialism of Karl Jaspers and erstwhile lover Martin Heidegger, Arendt synthesised these influences with classical philosophy, the critical theory of Luxemburg and Benjamin and Kant's idealism into something wholly unique. Nevertheless, both Arendt and Kelsen ground their thinking on the fundamental connection between philosophical thought and political practice and deep faith in the *sui generis* promise of democracy.

The private, the public and the social

The defining characteristic of Arendt's thinking on the role of *truth* in politics is the fundamental tension between *truth* and *opinion*. Arendt's more idealised

political domain follows similar fundamental assumptions and priorities as Kelsen's but has a wholly different character. In works like *The Origins of Totalitarianism*, *The Human Condition,* and other philosophical essays*,* Arendt takes a critical position on modernity. Influenced by the phenomenological existentialism of Jaspers and Heidegger, Benjamin's critical theory, and the classical thinking of Aristotle, Arendt sees modern life as fundamentally *impoverished*.

Two strictly delineated domains characterised pre-modern existence: the *private* domain of family life and economic/productive activity – the domain of man as *homo faber;* and the *political* domain of communal life and the formation of political and ethical belief through deliberation – man as *dzoion politikon*. Only through collective and individual activity in *both* domains could the lives of particular subjects produce and receive meaning. Modern societies, in contrast, knew no such separation. Here the political and private domains have been replaced by the pseudo-individualism of the *social* domain. The *dzoion politikon* and *homo faber* could attain meaning through individual creative *action* in the private domain and collective discursive action in the political domain. Modernity had grown to dominate individual humans and left them nothing but unthinking, uncreative and unmeaningful life as a purely *economic* being: the *animal laborans*. [16]

While the modern democracies had become dominated by this prioritisation of individual economic and purely productive action, totalitarian states have the exact opposite character. In a totalitarian society, all individuality is subsumed under the reigning party. The parties' reign through terror and violence denies all possibility of individual action or thought, and nothing remains of the spontaneity and creativity that characterises human life.[17]

Though Arendt argues that life under a totalitarian regime is *much* more impoverished than life in a liberal bureaucracy, both regimes signify a fundamental break with the essence and history of humanity. The disappearance of those elements and communal interaction that make human existence meaningful in modern life, combined with the almost inconceivable horrors begotten by

[16] Arendt, 'The Public and Private Realm', 182–90.
[17] Arendt, 'Total Domination'.

totalitarianism, lead Arendt to look to the past for the possibility of meaning. Thus, Arendt seeks to reconcile the *factum* of contemporary human existence in the present with the meaningful practices of the future. This attempt to reconcile past and present, to better understand the present and formulate new, potentially significant methods that lie at the core of Arendt's philosophical project and fundamentally shape conceptions of democracy, politics, and truth.

Here we immediately find some tension between Arendt and Kelsen. In Arendt's view, the passive, formal and mediated qualities of representative democracy deny the possibility of collective and formative action in the political domain. Representative democracy, where party politicians manipulate a passive electorate for personal gain, can only exist when the line between political and private is blurred. In Arendt's terminology, representative democracy belongs to and is a consequence of the domination of the *social domain*. This social domain, which grew out of the 18th-century market economies, mediates both the public and private domains and has replaced meaningful life with impersonal administration, accumulation of wealth and production.

Arendt's critique of the lack of meaning and the poverty of modern life is aimed squarely (if not entirely) at the formal and unconstructive character of a political way of life that does not extend beyond periodic elections.

Problematising the lack of meaning and the *social* character of this almost a-political representative democracy, Arendt looks to classical Antiquity to formulate a new, meaningful kind of democratic politics and do justice to man as a *political animal* able to consummate her *vita activa*.[18]

The political as the vita activa

To realise the promise of this communal, political life, Arendt accepts a similar conception of the subject as Kelsen: each political judgement and truth-claim by a political citizen is equally as valuable as any other. Much like Kelsen, Arendt problematises a conception of the political that consists of absolutely, rationally convincing claims coercing subjects into submission/accession. Nevertheless,

[18] Arendt, 'What Is Authority?'; Arendt, 'Tradition and the Modern Age'.

whereas Kelsen believes a pluriform model of judgements and truth claims is innately compatible with representative democracy, Arendt envisions a much more comprehensive, participatory kind of (democratic) politics.

To 'rescue' modern man from the individualistic character of representative democracy and reclaim meaningful communal life, Arendt returns to the Greek *polis* as a model of the political.[19] Life in the *polis* was delineated between a personal domain of family life, economic activity and survival, and a communal space open to all political citizens. Each domain satisfied different aspects of human existence and could produce various kinds of meaning. To describe this domain's central characteristic, Arendt often returned to a particular metaphor: the political space as a "space of *appearance* rather than a legislative locale where laws get passed."[20] Through active participation and the exchange of beliefs and judgements, we *appear* to other fundamentally equal yet distinct citizens, much as they appear to us. We are comparable, yet always also slightly different. There is, as such, a *plurality* to human existence. We understand they have the same interests, desires, and fundamental human needs through political interaction and will resultingly recognise their existence as a fundamentally equal human. In turn, we will be recognised as such.[21]

As I have already suggested, action in this political space involves more than the periodic elections of representative democracy and is not (directly) subjected to truth claims. Instead, what characterises our encounters and activity in political spaces, according to Arendt, is *judgement*. Political judgement involves several *roles* and can take several forms. In *Understanding and Politics*, Arendt discusses individual judgment as a virtue. When an individual is faced with communal, total injustice, *political life* is dominated by totalitarian oppression, and blending into the mass might lead us to commit unthinkable actions; we must recover our autonomy and faculty of thought and judgement as an actor. Linked by Arendt to the *unthinking* participation of Eichmann and others in totalitarian atrocities, judgement is of crucial importance, but only in those moments of oppression and inauthenticity.[22]

[19] Arendt, 'Tradition and the Modern Age', 28–31.
[20] Arendt, *The Human Condition*, 197.
[21] ibid. 198–200.
[22] Arendt, 'Understanding and Politics', 379–83. Taylor, 'Hannah Arendt on Judgement'.

Of much more universal importance is our role as *spectators.* As spectators, we try to make sense of the present and past to *understand* our world. Arendt links this to Kant's *Critique of Judgement,* a work she interprets as having a much more *political* core than was generally accepted.[23] Looking to the past or present, we might discover moments of good *validity*, examples that reveal the *universal in particular*.[24] This discovery of this *universal* is the goal of the spectator, whom Arendt identifies with (but does not reduce to!) the historian. Crucial for this kind of judgement, and what raises these judgements from the level of pure individuality to the communal, is its reliance on *common sense* and *taste*. To appeal to common sense, the historian must place her judgement within the shared conceptual framework. The judgement of the reclusive contrarian individual can never convince or do justice to the shared space. Furthermore, taste, the conceptual aesthetic faculty applied in such judgements, is never simply an individual set of beliefs. One's preferences are formed and embodied in shared experience and dedication.[25]

Consequently, in presenting these judgments to the community, the spectator must do so in a particularly *disinterested* and impartial manner. The moments of universal validity she discovered, and the nuggets of meaning she presents, are not universally compelling truths. They might suggest a particular way forward and reveal a vision of a future that could be, but sense and judgement alone do not convince.

Though this Kantian judgement plays a vital role in political life – each political community and citizen embodied and historicised, all *oughts* implicitly refer to everything that has come before – it alone cannot suffice. The historian or the spectator can only *suggest*, not *construct,* a new future or convince other citizens. Thus, political life requires a last kind of judgment: *phronesis*. Applying judgement as *phronesis*, a citizen makes concrete judgements in concrete cases: seeking a new communal way forward, prioritising specific objectives, desires, or interests over others etc. Though this judgement appears to have a fundamentally *individual* character (any judgement is, after all, the judgement of a particular political actor),

[23] d'Entreves, 'Hannah Arendt'.
[24] Arendt, 'The Crisis in Culture', 219–20.
[25] Arendt, *Between Past and Future*, 221–22.

the communal quality of political life and its production of recognition through the encounter commands the political actor to consider the perspective of all other citizens. Those political judgements that do *not* (sufficiently) consider these different perspectives and lack the *representative* character Arendt considers *crucial* for any political judgement lack any validity. Returning to the central importance of *action* and *participation* for Arendt, this validity cannot be attained by simple individual contemplation but requires active communication and interaction in a political space. Phronetic judgements not only achieve their validity through such communication, but this is also its vector of realisation. Through *Peithein*[26] the act of formulating and realising phronetic judgements, valid political decisions can be made, and the meaning of political life can be restored.[27]

Thus, Arendt proposes a return to a comprehensive, participatory (democratic) conception of the political as a solution to formal, meaningless social existence. So far, I have only implicitly referenced and discussed the nature of *truth* in Arendt's conception of the political, but what characterises a judgement – and such political activity in general -is that they never surpass the level of opinion. To formulate *valid*, convincing judgements, the political actor or spectator must surpass her individuality to consider the communal (by appealing to the *sensus communis* in the *Kantian* judgement) by opening oneself up to other perspectives in the *phronetic* judgement), but that judgement remains an individual one. Truth, in Arendt's conception and similar to Kelsen's, has a *coercive character*. Truth demands assertion and pre-empts debate. [28] Thus, truth and truth-claims appear irreconcilable with the *opinion-based* nature of politics. Political life appears fundamentally incommensurable with truth in any of its forms.

The reintroduction of factual truth

Yet, Arendt does not go so far as to deny that truth and politics are *entirely* compatible. Though the judgement of political activity revolves around constantly taking the form of *opinions* with a solid discursive, plural character, these opinions are not wholly disconnected from truth. Rational truths coerce subjects into acting

[26] Greek for *persuasion* or *convincing speech*
[27] Arendt, 'Truth and Politics', 2006, 242.
[28] ibid., 236.

and thinking in specific ways that have no place in politics: they deny political action's agonistic, discursive character. But, although political judgements always have a forward-looking, normative character, they nevertheless relate to the past and present. Political spaces are not part of a perfect, unchanging realm of ideas but refer to a defined and mediated *human* community. To reconcile the political future with the past and present (and defend political life from the absolute unthinkingness brought by totalitarianism), Arendt argues that all valid political judgements – all *opinions* – depend on *factual truth*.[29]

Factual truth is not quite like other kinds of truth. It is not self-evident – like rational, philosophical, or mathematical truth – nor can it be produced by a single actor. Instead, factual truth is *intersubjective* and discursive, produced by testimony and sources, produced and asserted by a community.[30] More than any other kind of truth, factual truth already *belongs* to the political domain. Factual truth produces the framework within which the political community becomes *possible*: it is a necessary [31] condition for all meaningful political life. Factual truth involves immediately clear, uncontroversial social-economical/historical statements. Elementary statements that affect the past but are not, like the political judgements of the historian, mediated through interpretation and opinion.[32] Only when political judgements refer to this communally produced and accepted basic framework of elementary facts can they have any validity. Factual truths might have a similar coercive core as other truths.[33] Still, they do not coerce action or judgement: they simply serve to embed opinion within the community and its history.

Thus, Arendt has found a way to reconcile political citizenship as equal, autonomous, uncoercive and collaborative with truth's coercive and anti-autonomous nature. Only those elementary facts that *inform* and not *shape* political actions have any power in the political domain. At face value, Arendt and Kelsen

[29] ibid. 238
[30] ibid. 234
[31] But not sufficient. Proper political life requires factual truth, but also the proper space, the proper citizen, and the proper action.
[32] ibid. 234-35
[33] As an example, Arendt expects that no rational subject could deny that Germany invaded on August 4, 1914

come to the same conclusion. Both authors find an (apparent) incompatibility between the autonomy and equality of the political subject and political life and the coercive nature of truth. Yet, where Kelsen finds no place for truth in politics, Arendt argues that politics without *some* truth is meaningless. This discrepancy arises from the subject's entirely different assumptions and conceptions that inform each position.

Conclusion

In this chapter, I have introduced two though-provikng conceptions of democracy, politics, and truth. For Kelsen, autonomy and representative party democracies are innately compatible. More than any other kind of political organisation, representative electoral democracy can do justice to the pluriform character of truth and judgement in democracy. Democracy has made each universally equal subject of all democratic citizens, and no claims of anyone can be said to be more important than anyone else's. Arendt holds a broadly similar kind of pluriformism in equal regard but grounds this entirely differently. Arguing that representative democracy fails to reflect the *communal*, *participatory* nature of political life/democratic citizenship, she instead argues for a more classical, *republican* democracy. Political life still relies on the division between citizens and politicians but involves much more active participation of individual citizens.

Then, we see a relatively clear picture of two different conceptions of democratic politics and the importance of truth: Kelsen views representative democracy as innately opposed to any absolute, subject-independent truth claim. Arendt broadly agreed but found it necessary to accept some *minimal* level of truth as a foundation for effective political participation.

Though Kelsen and Arendt's conceptions are *fundamentally* different, both in intention, intellectual influences and method, they share a similar fear of coercive truth in democracy and the political. Though they may disagree about what kind of politics might be desirable and meaningful, their warnings about the problematic nature of truth should be taken seriously. Indeed, though the depolitization of the West might have reached a turning point, faced with problems like disinformation

and polarisation, it appears that the use of coercive truth claims in political rhetoric is only growing.

The problematic nature of these phenomena has not gone unnoticed, and there is a long tradition of radical critique problematising these aspects. In recent times, Laclau and Mouffe have offered some of the most interesting criticisms and potential solutions to these problems. Having introduced Kelsen and Arendt's political epistemologies and conceptions of the political and democracy, I will move on to these fascinating authors. Interesting as they are, their broadly post-structuralist epistemology might be more trouble than it is worth.

Chapter II

Radical uncertainty, radical democracy: praxis, ontology and epistemology in Laclau and Mouffe

Introduction

Ernesto Laclau and Chantal Mouffe. Famous for their concept of *agonostic democracy* this theory derives from a complex post-structuralist epistemology that has attracted decidedly less attention. . In this chapter, my goal is to contribute, even slightly, to this understanding. This might well be related to both style and content. Laclau and Mouffe's writing and argumentation in these foundational works are complex, bordering on the obscure. Especially in their more theoretical work, they use aspects of post-structuralist, psychoanalytical, Schmittian, Lefordian and Gramscian thought to develop a wholly unique conception of politics, democracy, and the democratic subject. To do so, they question the appeal and value of 'absolute Enlightenment epistemologies' and ground their quest for 'radical democracy' in a post-structuralist, relativist epistemology dependent on an ontology of *contingency*.

But what characterizes this contingency, for Laclau and Mouffe, is its fundamental *political* character. The central claim they first formulated in *Hegemony* and defended throughout their oeuvre, is that our ontology is not simply *contingent*, it is also subject to an *ontological* primacy of the political.[34]

In this chapter, I will reconstruct this *ontology* and its closely related epistemology. What will become obvious throughout this reconstruction is the immediate connection between this *theoretical* background and their eventual political project.

I start by summarising the ontology developed by Laclau and Mouffe in their early, theoretical work, in particular *Hegemony and New Reflections*. Though the specific arguments are too complex and diffuse to reconstruct in full, I hope to at least provide a sufficient working description. Having reconstructed this ontology, paying particular attention to the concepts of, *articulation*, *antagonism,* and *dislocation*, I will then introduce its more practical *formulatuion* : Laclau and Mouffe's *radical or antagonistic democracy.* Though they had already started formulating a political project in *Hegemony*, this project is most clearly articulated in Mouffe's *Return of the Political.* I will reconstruct the content and purpose of this project, focussing on a potential conflict with its underlying ontology.

[34] For a general overview – and critique – of this primacy, see: Hansen, 'A Critique of the Ontological Primacy of the Political'.

Underpinning this comparison between ontology and practical political project, is the question to what degree Laclau and Mouffe can realise the *potential* of this project. Though they argue that all meaning is fundamentally discursively and politically constructed – and therefore contingent -their conception of democracy occasionally appears grounded on certain necessary elements. Are Laclau and Mouffe able to 'stick the landing', or do they fall prey to performative contradiction? And if that is the case, could Kelsen offer a potential solution?

Discursivity, contingency, and the primacy of the political

For those interested in contemporary, left-radical political theory, Laclau and Mouffe might be the natural heirs to radical 'saints' like György Lukács and Antonio Gramsci. Even those critical of Laclau and Mouffe's overall project, like Boucher, describe *Hegemony and Socialist Strategy* as a contemporary *History and Class Consciousness*: a very technical but practically functional synthesis of classical socialist thinking with both new practical findings and relevant thinking *outside* of the socialist project.[35] In 1985, Laclau and Mouffe, facing new political and theoretical paradigms – a slowly collapsing Eastern Bloc rife with totalitarian oppression, the realisation of a new liberal consensus in the West, personalised in Thatcher and Reagan, with profoundly anti-democratic implications, the popularisation of post-structuralist ontologies and epistemologies – begin their decades-long project to formulate a new left-egalitarian project informed by a novel conception of the political. While the goal of realising an emancipatory egalitarian society is roughly the same as the one envisioned by (Euro-)Marxist project, Laclau and Mouffe differ on some fundamental points.

Like other post-Marxists,[36] Laclau and Mouffe characterise the Marxist reduction of society, history, and politics to class conflict as unacceptably *essentialist*:[37] an ontological error that also leads to a complete lack of political imagination.[38] Against the Marxist description of liberal democracy as 'bourgeois

[35] Boucher, *The Charmed Circle of Ideology*, 77.
[36] A phrase initially coined by Laclau and Mouffe in Hegemony
[37] Hegemony, 75
[38] ibid. 152

formal democracy', Laclau and Mouffe instead place their emancipatory project wholly *within* the liberal democratic structure. Against the Marxist reduction of the subject to her class and the reductive interpretation of history and ontology as defined entirely by *economic* interests informed by the historical dialectic method, Laclau and Mouffe deny the possibility of any rational and intelligible structure in history and politics. Against Hegel and Marx, Laclau finds that *necessity* has no place in society, politics, and history.[39]

This, however, should not be interpreted as a complete *denial* of Marxism on behalf of Laclau and Mouffe. On the contrary, post-Marxism has not broken with Marxism, "[it's] Marxism that's broken up [...]".[40] Marxism has proven unable to come to terms with unexpected and unexplainable developments,[41] and must forcibly be brought to a reckoning with this change in material and social conditions. A fundamental part of Laclau and Mouffe's project is the desire to extract the most useful, promising elements from the Marxist project while jettisoning those aspects clearly unfit for purpose. Thus, Mouffe and Laclau's project could be described as a *deconstruction* of Marxism, a characterisation they explicitly acknowledge in *Hegemony.*[42] The principal targets in this deconstruction are elements I have already discussed: Marxism's economic essentialism and class reductionism, the rationalised necessity it places at the core of its theory of history and its rejection of the possibility of socialism within a liberal democratic paradigm. Laclau and Mouffe argue that these problematic elements are similarly present within those theories *opposed* to Marxism. Though liberal and conservative theories completely reject the economic essentialism central to historical materialism, they nevertheless also operate from within a similar *Enlightenment* epistemology.

Against Enlightenment, for modernity?

The attentive reader would have noticed multiple references to Laclau and Mouffe's repudiation of the Enlightenment, but despite this theoretical move having an obviously radical character, its specific meaning and implications might still be

[39] ibid. 75. Laclau, 'New Reflections on the Revolution of our Time', 6 and further.
[40] ibid. 201
[41] At least, developments unexplainable and unpredictable according to traditional Marxist theory.
[42] Hegemony, preface to the 2nd edition: ix-x and throughout.

unclear. What does it when a theory or political ideology relies on an *Enlightenment epistemology,* and why is the Enlightenment so closely linked to *modernity*?

In making this claim, Laclau and Mouffe closely follow similar arguments by Jean-François Lyotard. In Lyotard's interpretation, the phrase 'modernity' carries theoretical and political implications. Modernity is the time of the French, American, Russian, and Chinese revolutions, of the promise of liberal democracy. Modernity allowed for many emancipatory developments but simultaneously provided the conditions for totalitarian horrors like the GULAG and the Gas Chamber. It holds great promise but also great danger. Modernity itself is not inherently dangerous but influenced by theories and attitudes characterised by universality and teleology, and these dangers are easily realised. These teleological and necessary analyses, described as *master narratives* by its postmodern opponents, are central characteristics of the Enlightenment. Enlightenment thought locates all history, politics, subjects, knowledge and understanding within a single, rationally defined discourse. Whether arguing for a liberal, conservative, communist or fascist *utopia,* the great Modern thinkers like Hegel, Marx, Lenin, Mill and Gentile conceive of a single, universal subject subsumed within a rational, necessary *teleological* conception of history.[43] Though these philosophical-political projects present themselves as a means of realising an *emancipated* subject, in actual practice, these master narratives were used to justify totalitarian oppression. By denying the possibility of any *universality* – qua subject, rationality, emancipation, or history – modernity is cleansed of its problematic Enlightenment elements and, in its guise as *postmodernity,* true emancipation becomes possible.[44]

Laclau and Mouffe's project, including its underlying ontology and epistemology, is informed by more than just this 'end of Enlightenment'. Besides this philosophical deprecation of existing ontologies, metaphysics and epistemologies grounded on necessary foundations, the need for a *radically democratic theory* also has social, political, and historical causes. Socially, the advent of the welfare state

[43] Laclau, 'Politics and the Limits of Modernity'; Mouffe, 'Radical Democracy: Modern or Postmodern?'
[44] Boucher, *The Charmed Circle of Ideology*, 26, 27; Torfing, *New Theories of Discourse*. New Reflections: 4, 74-75, 215, 225

combined with gradual deindustrialisation and the shift to a tertiary/service economy entailed a rise in the complexity of (Western) society. As a result, the descriptor 'class' had lost all its explanatory power, and an alternative had to be found.[45] Politically, this rising complexity resulted in a much more *contingent* conception of identity: democratic subjects could no longer be reduced to/described as their class identity.[46] Historically, the decline and totalitarian oppression of the Eastern Bloc heralded the imminent inadequacy of socialism and Eurocommunism as practical political movements. Another project, not against but *within* liberal democracy, could realise the emancipatory aim of the Marxist project without being constrained by any essentialist master narrative.[47]

Articulative and discursive practices

As I already mentioned, this proposed project's theoretical foundations and its practical/political realisation are very closely linked. Politically, Laclau and Mouffe envision their radically democratic political strategy as a practical application of the democratic revolution first conceptualised by Claude Lefort, something I will further clarify later. In terms of theory, Laclau and Mouffe make use of a novel discursive ontology and epistemology that combines both Gramscian materialist analysis with post-structuralist deconstruction.

Against the Enlightenment essentialism, Laclau and Mouffe contend that politics, society, experience and meaning could never be understood within a single, complete totality. All concepts of understanding and meaning, including the 'exclusive' object/subject and thought/reality distinctions so strongly present in Enlightenment thought, lack any total and necessary character.[48] Though they may present themselves as a-historic, necessarily true and rationally demanding, each of these concepts only derives this meaning due to them being *articulated* within a *discourse*.[49] This process of articulation is a fundamentally *relational* practice, but the presupposed relations have an equally contingent character as its eventual

[45] New Reflections: 58-59
[46] Laclau, 'New Social Movements and the Plurality of the Social'; Laclau, 'Constructing Universality'.
[47] Constructing Universality: 91
[48] Hegemony 109-110, 114-122.
[49] ibid. 105-110

conceptual end product.[50] What links these articulative practices to political reality and what realises Laclau and Mouffe's ontological *primacy of the political,* lies in its *constitutive* role. Articulative practices not only construct the (contingent, historicised, politicised) meanings of concepts, but also serve as the space where the identities and relations of subjects are constituted. Articulative practices modify and constitute identities and relations and, in doing so, construct a (contingent) totality that Laclau and Mouffe described as *discourse*.[51]

In *Hegemony*, Laclau and Mouffe find support for these claims in German idealist metaphysics. In Hölderlin, Laclau and Mouffe identify the imposition of (contingent) *organisations of nature*. Human thought collects fragmented elements of understanding and meaning and organises them into a unitary structure. In doing so, this "*organisation is contingent and, therefore, external to the fragments themselves; or else, both the fragments and the organisation are necessary moments of a totality which transcends them*."[52]

These organisations must be (purely) contingent or mediative. Laclau and Mouffe find further confirmation for this *contingent* character of meaning in Hegel. Though, perhaps more than any other enlightenment thinker, Hegel's thinking contributed to the imposition of teleology and rational necessity on 'progressive history', Laclau and Mouffe find a hidden possibility within Hegel's thought, informed by Hegel's own notion of contradiction:

"[T]his synthesis [of the totality of the universe of differences and the rational and intelligible structure of history and society] contains all the seeds of its dissolution: The rationality of history can be affirmed only at the price of introducing contradiction into the field of reason. […] It is precisely here that Hegel's modernity lies: for him, identity is never positive and closed in itself, but is constituted as transition, relation, difference. If, however, Hegel's logical relations become contingent transitions, the connections between them cannot be fixed as moments of an underlying or sutured totality. This means that they are articulations."[53]

[50] ibid. 93
[51] ibid. 105
[52] ibid. 94
[53] ibid. 95

Besides a reference to Trendelenburg, this interpretation of Hegel lacks any textual foundations. But, if it is indeed as successful as Laclau and Mouffe believe, the contingent nature of meaning and structures of intelligibility has found some powerful support. If even the great Enlightenment Hegelian project of rationality and necessity[54] has a contingent and incomplete core, this must be the case elsewhere. And that is indeed the case, Laclau and Mouffe argue that *all* practices – all embodied communication and understanding – are fundamentally discursive practices:

"Our analysis rejects the distinction between discursive and non-discursive practices. It affirms: that every object is constituted as an object of discourse, insofar as no object is given outside every discursive condition of emergence."[55]

Laclau and Mouffe repeat the post-structuralist critique of De Saussure[56] and emphasise the fundamentally arbitrary relation between sign and signifier and the *contingent* character of linguistic meaning. Language mediates human experience and intersubjective communications (it is therefore, *contingency*).[57] Combining this critique with Wittgensteinian *Language Games,* Laclau and Mouffe hold that there is no difference between *practical* and *theoretical* practices or discourses. All theoretical practices are constituted in a domain of human coexistence where thought (as *language*) is necessarily connected to action. Theory and practice are innately connected and could never be dissociated. All theoretical concepts have a materialist character.[58] Nevertheless there is an important difference between a discursive practice involving a 'simple' object/subject relation and those involving a more extensive collection of subjects.

The impossibility of society and striving towards the social

In much western philosophical thought, not least Hegelian idealism and (western) Marxism, the concept of society has an important role. Both Hegel and Marx conceive of *society* as a universal and defined totality, determined by

[54] *What is Rational is Real…*
[55] ibid. 107
[56] See, for example, Hegemony 113
[57] ibid. 105-106
[58] ibid. 109

underlying and rationally intelligible elements: *Geist* and the *an und für-sich seinde self-conscious* in Hegel; *class and economy* in Marx. Marx's essentialistic reduction would eventually encounter sharp criticism from Althusser, making use of the linguistic and psychoanalytical concept of *overdetermination* to argue that the subject and the social and symbolic orders in which she resides determine and constitute themselves without referring to an external *essence* (like the economy/material conditions). Though Laclau and Mouffe argue that Althusser's critique points in the right direction, they find that he eventually collapses into self-contradiction as he does conclude that the *economy* is the original, essential constitutive force.[59] Having already found that the possibility of such an essential, self-constituting element *outside* of discourse is impossible, they argue that:

"'Society' is not a valid object of discourse. There is no single underlying principle fixing - and hence constituting - the whole field of differences. The irresoluble interiority/exteriority tension is the condition of any social practice: necessity only exists as a partial limitation of the field of contingency."[60]

But what, then, are 'society' and the social? All discourses involve us, as self-consciousness, taking positions, constituting ourselves and other elements as subject and object (both other self-consciousnesses and inanimate *beings*), and fixing our identity(/ies) and structures of meaning. There is, and cannot be, an ultimate, fixed identity or meaning, as everything is constituted as *relations* within a particular discourse. As discourses fundamentally serve to constitute relations between those elements it professes mastery over, it does so by classifying elements as equivalent or different from other elements. All identity, meaning, subject-object relations and concepts of understanding, all *elements* we endow with an *objective, essential totality*, are contingently articulate relations formed within a chain of differences.[61] In Laclau and Mouffe's formulation, society is the possibility of an objective totality outside of a (contingent) chain of meaning. All discourses endeavour to fix meaning and construct a centre, to become that impossible object 'society', but doing so is a Sisyphean task. As all discourses attempt to *fix meaning,*

[59] ibid. 97-101
[60] ibid. 111
[61] ibid. 109-112

become an objective totality, and constitute an essential human identity, it entails that all discourses have a *social character:*

"The social only exists, however, as an effort to construct that impossible object. Any discourse is constituted as an attempt to dominate the field of discursivity, to arrest the flow of differences, to construct a centre."[62]

Thus, it follows from their concept of articulation and the impossibility of an essential, total, fixed, arelational, fixed system of meaning that all human thought and action is constituted within the contingent social.

Antagonism and dislocation – limits to discursivity

As relations produced between elements within a discursive practice do not refer to an external, total essence, there can be no limit to the possibility of any discourse. There is no *transcendental signifier* that limits the created meanings and identities and no *objectivity* that cannot be constituted without a discourse. Nevertheless, Laclau and Mouffe hold that there is a limit to this objectivity, a limit to the possibility with a very discursive presence.

The *social* is not beholden to a particular discourse, and within the social many discourses coexist. As such, they can conflict when one discourse constitutes a relation between elements diametrically opposed by another: within a Marxist discourse, a subject might constitute herself as a primarily *economic-productive subject* defined by her relation to the means of production; in contrast, a conservative discourse might produce a subject defined by her connection to her nation and cultural/social group.

Floating and empty signifiers, a short digression

Laclau and Mouffe introduce a distinction between contested and sedimented discourses to further show that discursive practices involve more than the contingent constitution of the meaning and relationships of elements. First describing these sedimented discourses as "those which conceal the acts of their original institution",[63] this distinction is further informed by the introduction of *floating signifiers* and *empty signifiers* as a particular kind of discursive product with

[62] ibid. 112
[63] ibid. viii

far-reaching social and political influences. The phrase itself is borrowed from Levi-Strauss, who first used the term to refer to a particular kind of signifier whose signified has a vague and undetermined character, allowing for individual subjects to imbue it with *any* kind of meaning.[64] Understanding this concept without a clear example might be difficult and if we wish to resolve this confusion, Levi-Strauss use of the floating signifier to explain *mystical* concepts might well produce *more* confusion. Instead of referring to Levi-Strauss, if we wish to understand Laclau and Mouffe, Žižek's 'more *politicised*' use of the floating signifier is much more useful. Indeed, though Žižek was not yet popularised in the West when Laclau and Mouffe were working on *Hegemony*,[65] Žižek's Lacanian development of the *floating* and *empty signifiers* would be eagerly adopted by Laclau in his later theoretical work.[66]

In *On Populist Reason* Laclau discusses Žižek and one particularly interesting and relevant empty signifier. For Laclau, as for Žižek, empty signifiers are clear examples of a contingent structure of relations (between signifiers and signifieds) whose meaning is entirely arbitrary, but considered to be *necessary* and *meaningful* by society at large through their position an *hegemonic* discourse. Žižek discusses the American identity as a clear example of this. In American (subconscious) culture the *American* is immediately enforced as *rugged*, *hardworking, masculine* etc. However, this identity is not simply constituted, but constituted *culturally* through advertisements by Marlboro and Coca-Cola. Žižek's is that this not simply a case of Marlboro and Coca-Cola *expressing* American values, but of them *constituting* an empty, contingent identity. *Americanism* is fully empty, but *Coca-Cola* and *Marlboro* are pure and full signifiers, and as such can imbue this empty signifier with some (derived) *fullness*. Americanism as a signifier is still empty, as its underlying relations between signifier and signifieds is still completely arbitrary, but an extra-significatory constitutive element allows 'the buck to stop there'.[67]

Floating signifiers are comparable, yet not the same. The floating signifier allows for a similar constitution of identity through a similar articulation of an empty

[64] Lévi-Strauss, *Introduction to the Work of Marcel Mauss*, 63.
[65] He had not yet written *The Sublime Object of Ontology*
[66] Laclau, 'Why Do Empty Signifiers Matter in Politics?'; Laclau, *On Populist Reason*, 69–76, 101–10, 123–31 and more throughout.
[67] Laclau, *On Populist Reason*, 102–4.

and arbitrary relation between signifier and signified, but where the static character of *empty signifier* envisions a stable *frontier* (a stable view of 'society' and the political) the floating signifier, well, *floats*. The floating signifier is not limited to one core identity, one particular kind of struggle, and is not fixed by any particular (equally arbitrary, contingent) articulation of its hegemonic or anti-hegemonic character. In that sense, Laclau and Mouffe endorse the *floating signifier* as a useful political instrument for the anti-hegemonic, contingent political struggle they champion.[68]

As might already be apparent in this explanation, for Laclau and Mouffe the floating and empty signifiers are closely related to one of the most fundamental acts of discursive participation: the formation of identity and subjectivity.

Returning to subjectivity

As all identities are formed within a particular discourse and therefore have no fixed, extra-discursive meaning, each individual subject can imbue their own identity and subjectivity with their specific meaning while the relation to a *floating signifier* relates their subjectivity to a broader social group. Thus, by participating in a particular discourse, subjects enter into a chain of meaning with other subjects, which allows for the possibility of social grouping. The dominant political logic within such a discourse is one of *equivalence:* by referring to the same floating signifier, I constitute my identity and subjectivity equivalently to others constituting themselves within the same discourse. At the same time, constituting my identity and subject position in this sense also involves a logic of *difference*. I constitute myself identically to others but must also be *different* to others. Thus, from the simple fact that *I* constitute *my own* identity, I also enter antagonistic relations with those *opposed* to or outside of this particular discursive identity. Antagonism, social discursive identity, and the self-constitution of identity are therefore closely interlinked.[69]

Especially in *Hegemony*, Laclau and Mouffe argue that the internal frontiers created by social antagonisms are the key to any socialist strategy: antagonistically

[68] ibid. 131-133 and further. Hegemony: 113-114; 134 and further.
[69] Hegemony, 134-136, 141, 170-171

putting the vested social order under pressure would allow for a repolitization of even those discourses considered sedimented, taken for granted as part of a *natural order*.[70] Those discourses constituted as *hegemonic* would suddenly become subject to doubt and restructuring and would allow for a radical re-evaluation.

However, this *centring* of antagonism would be reconsidered after the publication of Hegemony. Though Laclau and Mouffe still affirm the underlying ontological and epistemological primacy of the *political* and pursue the same political goal – which I will soon discuss and criticise in more detail - they move away from affirming the power of *social antagonism* and discursive identity formation in later work.

Antagonism, as the opposition towards other discourses still holds as a fundamental part of any discursive logic. When Laclau and Mouffe describe as *"[the] witness of the impossibility of a final suture, is the 'experience' of the limit of the social. […] Far from being an objective relation, [it] is a relation wherein the limits of every objectivity are shown"*,[71] introducing dislocation as an even more fundamental ontological *possibility* does not deny the importance of antagonism within competing discourses. But antagonism alone cannot escape the limits of contingent discursivity. Antagonism constitutes these limits but must remain bound by the limit it sets itself. Thus, antagonism has great theoretical use, but a sufficient radical reorientation of the subject must occur outside this defined domain. Besides these more theoretical concerns, the central theoretical and practical implications of antagonism resulted in Laclau and Mouffe reaching somewhat absurd conclusions in Hegemony. Laclau and Mouffe argue that all social conflicts and crises are the result of antagonistic identities and relations created through empty signifiers.

In effect, by positing that all conflict depends on social relations and identities are pure contingent, discursive articulations, they endorse an anti-Marxist political essentialism where even material, economic crises and conflict can only exist through the formulation of new antagonistic articulations. Much like Marx did they

[70] Hegemony, viii
[71] Hegemony 125

to Hegel, it appears they have 'turned Marx on his head' – an essentialist conclusion at odds with their own discursive materialism.[72]

Acknowledging the absurd character of this social essentialism, Laclau suggests a new ontological-political bedrock in *New Reflections*: the *dislocation*. This *'more primary experience than antagonism'* [73] involves more than the assumption of an antagonistic disregard of a given hegemonic system. It involves subjects realising that the process of signification is fundamentally contingent, arbitrary, and discursively determined. Understanding that the limits presupposed by the hegemonic and sedimentary discourses in one's social are not neutral, *true*, objective, or external but simply the limits imposed by a hegemonic hermeneutic horizon.[74] Antagonism remains *within* discourse, while *dislocation* attempts to move *beyond*.

Where antagonism is a feature produced within a discursive system – and is therefore dependent on the existence and participation of subjects within such a discourse -dislocation has almost a *metaphysical* character. In *New Reflections,* Laclau calls dislocation "the very form' of *temporality*, *possibility,* and *freedom*."[75] Given the necessarily *social* character of human coexistence, human theory and action is always mediated through the interjection of discursive structures: in that sense, human existence is permanently *closed* off from the possibility of an external, necessary fixture. However, when a discursive structure, especially one imbued with a hegemonic, sedimented character, reaches its limits (through temporal, historical, subjective, or objective development), the possibility of a new discourse might emerge. Its spatially defined, closed character and its claim as a societal totality are slowly opened, and a new radical (*antagonistic*) alternative might become possible. Thus, antagonism is subsumed under an almost metaphysical, dialectical process where any given 'totality' will, through internal or external pressure, relinquish its claim as the constitutor of 'society', thought and or action. Thus, an emergence of an

[72] Boucher, *The Charmed Circle of Ideology*, 99. Hegemony, 136
[73] Laclau, 'Politics, Polemics and Academics', 98.
[74] Laclau, 'Why Do Empty Signifiers Matter in Politics?', 405.
[75] New Reflections: 41-43

extra-social crisis becomes possible, and Laclau and Mouffe introduce an important nuance the political essentialism implicit in *Hegemony*.

Such an extra-social crisis should not be considered radically different from any general understanding of the crisis. It mostly serves as an important distinction given the fairly absurd claim in *Hegemony* that even crises with apparent origins *outside* of the social (consider, for example the Weimar economic crisis in the 1920's) at their core could be reduced to the emergence of new political agents.[76] Dislocations, by contrast, have origin in the social, they simply exempfily some fundamental change in the apparent structure of the world. This crisis might be economic, biological, geological, or ecological in nature, but the sudden appearance of such an *extra-social* crisis could allow for a fundamental ontological and epistemic reorientation. The fixed appearance of a given (hegemonic) discourse might suddenly become *unfixed*, giving new and unexpected (social) alternatives new breathing room.

For the subject envisioned by Laclau and Mouffe, all is contingent, and all is relative. Nothing besides the discursively articulated exists. In every moment and every action, we as human beings and our understanding, are mediated by unseen and unconscious discourses. Some of these discourses are fundamental and taken for granted (language, object-subject relations), some are malleable and intentionally entered into (social identities, political groups), and some that appear sedimented might well be torn apart in a moment of dislocation. But in the end, there is nothing besides the political.

Realising the promise of democracy

Though the practical implications of Laclau and Mouffe's ontological *primacy of the political* are straightforward in *Hegemony* and most of Laclau's theoretical work, they appear much less present in Mouffe's '*popular*' work. Those familiar with her theory of *Agonistic Democracy*[77] or her defence of left-populism[78] could read these works yet remain ignorant of the post-structralist ontologies they presuppose .

[76] Hegemony.136
[77] For example, as expressed in *The Return of the Political*.
[78] Mouffe, *For a Left Populism*.

In that sense, it is hardly surprising that Mouffe has attracted much more popular attention than Laclau: the theoreticians always give centre stage to the popularisers.

But what is Mouffe's project, and how does it follow from this radical ontology? Though positioned well to the left of the political spectru, and not afraid to don the mantle of *socialist* and *post-Marxist*, Laclau and Mouffe are hardly socialist revolutionaries. Indeed, their project intends to dispose of the *'Jacobin imaginary*' that has served as a justification for so much harm.[79] Instead of simply echoing the essentialist description of liberal democracy as 'bourgeois formality', or essentialising liberal democracy as the realisation of all that is good and holy, Laclau and Mouffe prefer to describe democracy as *limitless possibility*. Following Claude Lefort, Mouffe and Laclau argue that the revolutionary constitution of democracy during and after the Enlightenment also entailed a fundamental revolution in the *social*.

Pre-democratic societies – especially the oligarchical republics and absolute theocratic monarchies of early modernity – were ruled by a 'theological-political logic in which the social order had its foundation in divine will.'[80] There existed no possibility of emancipation or equality in those societies as all (oppressive, antagonistic) social relations appeared fixed. When these societies, through internal or external pressure, underwent a democratic revolution these fixed hierarchical structures became contested and malleable. Liberty and equality, democratic principles that beforehand had little to no power, were suddenly considered inalienable rights. Oppressive social relations and discourses became susceptible to pressure from other discourses, and democratic subjects began to relate to each other in different and promising ways.[81]

One kind of democratic subject-grouping is particularly promising in this regard. Laclau and Mouffe describe the so-called *New Social Movements* – a diverse group of non-class-reductionist anti-oppression movements- as the contemporary standard-bearers for this democratic revolution.[82] These groups, which pursue be

[79] Hegemony, xvi, 2, 152
[80] ibid. 155
[81] ibid. 158
[82] ibid. 159, 42

feminist, anti-racist, queer, urban, rural, ecological, or any other new anti-oppressive goals, represent the political promise of many diverse antagonistic identities made possible by the Left's repudiation of class essentialism. NSM's underlying political logic and anti-essentialism best resemble Laclau and Mouffe's radical ontology. They are also best suited to realise the ontological promise of democracy. The *revolution* is not a millenarian break with everything, meant to realise a utopia; it is something that has already *happened*. The advent of democracy represents a foundational break and the possibility of radical openness, that can be properly realised within anti-essentialist, antagonistic discourses:

"The task of the Left […] cannot be to renounce liberal democratic ideology, but on the contrary, to deepen and expand it in the direction of a radical and plural democracy."[83]

The *Socialist Strategy* proclaimed in the title is, then, not '*your grandfather's socialism'*. It is not primarily concerned with economic oppression and economic emancipation is not its ultimate end. All oppressions and emancipatory projects are equally valuable and viable, as long as they are interested in realising the liberty and equality promised by democracy. The ultimate goal is not in articulating political ideology in a representative institution but the extension of *democratic* discourse to all facets of society.[84] *That* is radical democracy, the end-project articulated in *Hegemony and Socialist Strategy*.

However, that does not mean representative democracy is *secondary* to this *radical democratic project*. In articles like *'Deliberative Democracy or Agonistic Pluralism*' and works like *Return of the Political*,[85] Mouffe develops her idea of *Agonistic Democracy* as another formulation of radical democracy. Most clearly characterised as a retort to the deliberative democracy vision of politics as an individual and procedural negotiation intent on a rational consensus, Mouffe argues that this would "obliterate the whole dimension of power and antagonism—what I call 'the political'—and thereby completely miss its nature."[86] Instead, democratic politics is more appropriately understood as an existential competition, a domain of

[83] ibid. 176
[84] ibid.
[85] *Return,* throughout
[86] Mouffe, *The Return of the Political*, 140.

agon. Democratic citizens, constantly constituting their identities within (antagonistic) discourses, find themselves opposed by many other citizens with competing identities and conceptions of the good. As the pluriform nature of the contemporary democratic society is a necessary factum,[87] and the fundamental incommensurability between these conceptions and identities cannot be reconciled in a rational procedure, social interaction between these subject groups would result in a political *struggle*.

Throughout The Return of the Political, Carl Schmitt serves as a warning and guide. Mouffe stresses his fundamental phenomenological and ontological function of the *friend-enemy distinction*[88] and agrees, in broad strokes, with his argument that the primacy of technorational liberalism over the political would result in a fundamental *depolitization*.[89] Accordingly, to properly realise a liberal, pluriform democracy, the political must reaffirm its primacy over society and the economy and allow for the fundamental ideological struggle between competing subject groups. Mouffe follows Schmitt, but only *so* far. Schmitt's views the political and its underlying friend-enemy distinction as a violent, existential battle. Political subjects have no choice under which distinction they ought to be subsumed and a democratic society would be formed as a homogenous, anti-individualistic mass. Schmitt's *demos* would only consist of those belonging to the internal *friend-group* while all subjects outside of that group would be considered existential *enemies,* differentiated from and views as opposed to the interests of the *demos*.[90]

The possibility of this kind of homogenised society, whose interests and values Schmitt equivocates with the absolute truth,[91] would be wholly opposed to the agonistic pluralism Mouffe intends to defend. Mouffe shares Schmitt's criticism of liberalism and its reliance on purely procedural legitimation and rationally binding consensus, but only in so far as this threatens the possibility of *radical democracy*. Mouffe and Laclau wholeheartedly affirm liberal democratic pluralism and the impossibility of imposing a shared conception of the good, yet they do so in a way

[87] Mouffe wholeheartedly accepts Rawls' 'Fact of Pluralism'
[88] ibid. 49-50, 68, 113, 123
[89] ibid. 105-112, 122-124
[90] See, for example ibid. 123, Schmitt, *The Concept of the Political*, 27.
[91] Schmitt, *The Crisis of Parliamentary Democracy*, 35; Mouffe, *The Return of the Political*, 121.

that retains the vitalism of the *political.* Schmitt's mistaken interpretation of democracy – one that ignores its constitutive values of liberty and equality – results in him endorsing an *antagonistic* conception of political, where the foe is considered an illegitimate, existential threat outside of the demos.[92] Schmitt makes valuable arguments by positing a primacy of the political and by criticising political liberalism, and by combining these arguments with the democratic revolution identified by Lefort and constitutive and democratic citizenship, Mouffe introduces her conception of *agonistic pluralism*. A radically democratic society where democratic citizens are free to constitute their own identities and enter into subject-groups with other citizens, and engage in a political struggle with opposing groups. What makes this society *agonistic* and not simply *antagonistic* is a proposed limit on the competency of political debate and state authority:

"What I am proposing is that adherence to the political principles of the liberal democratic regime should be considered as the basis of homogeneity required for democratic equality. The principles in question are those of liberty and equality, and it is clear that they can give rise to multiple interpretations and that no-one can pretend to possess the 'correct' interpretation. It is, therefore, essential to establish a certain number of mechanism and procedures for arriving at decisions and for the determining the will of the state within a framework of on the interpretation of these principles."[93]

This, then, is the core of Mouffe agonistic pluralism. A reaffirmation of political struggle over liberal consensus politics while finding a necessary limit to the breadth of political discussion in certain fundamentally accepted democratic principles. Combined with the *New Democratic Movements* championed in Hegemony, this would entail a democratisation of society, where each democratic citizen can constitute their social identity in every facet of society. A lofty goal and one could certainly argue that contemporary civil society already *resembles* this picture. The rise of social media and the internet has allowed all citizens to constantly relate to other citizens and constitute their identity according to new technological and social developments.

[92] ibid. 122
[93] ibid. 130

Ontology in practice: what's left (of contingency)?

When we compare these aspects of Mouffe's political project with her underlying ontology and epistemology, a critical reader might be surprised. How could Mouffe defend the fundamental contingency and discursive relativism of values and principles while simultaneously arguing that a vital liberal democracy requires a consensus about fundamental guiding principles? Indeed, in *Return of the Political*, Mouffe describes these principles as the *essence* of modern democracy,[94] a potentially problematic claim given earlier arguments in *Hegemony*.

This apparent contradiction alone might pose some problems for Mouffe and Laclau. The socialist strategy outlined in *Hegemony* relies, in no small part, on subjects understanding that a naturalised, apparently *necessary* and *rational* hegemony is, in fact, just another discursive and contingent articulation. Understanding this contingency would give radical democratic social movements the realisation that their socio-political struggle is similarly antagonistic as others'. This would, in turn, allow for the constitution of a chain of equivalence between any individual subject-grouping and others committed to a similar but distinct, antagonistic identity.[95]

Laclau and Mouffe expect the expansion of the radical struggle to result from more than simple, practical expedience. As all subject groupings are equally contingent, there is no necessary extra-discursive connection between their individual struggles.[96] The development of a shared, egalitarian project towards a shared follows from individual struggles being *democratic* struggles. In Hegemony, Laclau and Mouffe argue that, as each group must be committed to *liberty* and *equality*, and such groups could only have come about *after* the democratic revolution, subjects in these groups would recognise this shared origin shared goals.[97] This underlying democratic logic necessitates the creation of a new common sense, where individual subjects and subject-groupings realise the fundamental similarity between each struggle for freedom and equality and therefore accept the

[94] ibid. 132
[95] Hegemony. 177 and further
[96] ibid. 178
[97] ibid. 183-184

emancipation of any *one* group could only be realised if *each* oppressed group were to be emancipated.[98]

The practical feasibility of this new, radically democratic *citizenship* has attracted much criticism. Though Laclau and Mouffe stress the fundamentally *communal* and *social* character of these struggles and affirm that *radical* democracy must always be constituted *super*-individually, it is not entirely clear how convincing these arguments would be. Described by Mouffe as a new 'common-sense',[99] this new, shared democratic citizenship seems to have a different character than all other subjectivities and citizenships: its necessity and attractiveness could only be explained with a universal, *non-contingent* core.

Laclau and Mouffe claim that enforcing or realising common-sense citizenship is a rational articulation of an already existing social logic, imposing itself on both oppressed groups fighting for emancipation *and*, particularly tendentious, on the democratic citizen *in general*. The consequences of this democratic revolution and the resulting opening of the social into an *empty place of power* demands this of all citizens, and the boundary between subordinated and superordinated subjects would, thus, disappear.[100] In a later paper, Mouffe expresses the assumption underlying this claim: the liberal democratic subject ought to, *and already has,* internalised this revolution and has dedicated herself to the assertion of liberty and equality for all.[101]

For their political project, fulfilling this radically democratic subjectivity as a new democratic citizenship would reconcile the egalitarian promise of NSM with a democratic revolution positing the equality of all subjects. However, while this position might be desirable to those struggling for emancipation, it is difficult to see how this could be expanded to *include oppressors*. This universal citizenship differs from other claims to universality as it lacks a claim to any metaphysical foundation,[102] but that still leaves the problem of universalising such citizenship

[98] ibid. 183
[99] Return. 19
[100] Hegemony 186-187
[101] Mouffe, 'Citizenship and Political Identity', 30.
[102] Return. 152

within Laclau and Mouffe's ontology. When the social is considered a pluriform struggle between competing discourses of identity and meaning, each similarly contingent, and the choice for a discourse is functionally arbitrary, Laclau and Mouffe *ought to hold* that this citizenship is equally contingent as any other.

Reconciling Marxism with pluriform liberal democracy 9s no easy task. The theoretical and practical necessity of such a strategy was evident to all, but the most committed Marxists and Mouffe and Laclau clearly understood this. Even so, faced with a (proto-)neoliberal status-quo presenting itself as rational and necessary, they could not simply accept this appearance. The conclusion of an eclectic ontology and epistemology, combining everything from post-structuralism to Wittgenstein to psychoanalysis. All appeals to rationality and necessity fail, as all the fundaments of human experience are, in actual fact, pure discursive articulations. All objects, concepts of thought, and subjectivity and identity are politically determined and purely contingent.

Limits to contingency?

Nevertheless, in the process of articulating a positive political strategy, elements of democracy and democratic citizenship are presented as *necessary*. This apparent inconsistency had not gone unnoticed by Laclau and Mouffe, but their proposed counterarguments are surprisingly weak: the describe this necessity as 'apparent' or purely prudential.[103] However, even when we accept this *weak* necessity, we are confronted with an immediate issue.

One of the strengths of Laclau and Mouffe's project, and one they themselves repeatedly affirm, lies in its denial of crass essentialism.[104] Laclau and Mouffe's socialist strategy is fundamentally *pluralistic*, unlike that of the essentialist Marxist or the self-deluding neoliberals. By denying the rationality and necessity of any particular discourse over any other, Laclau and Mouffe avoid the temptation of simply describing their political opponents as *misguided*, *irrational*, or even *immoral*. No external criterion can exist to judge any discourse as better than any other. The effects of these might -and ought- to be criticised, and Laclau and Mouffe thus affirm

[103] ibid.71-72
[104] Return: 7, 97; Hegemony: 76, 104.

the *materialist* core of their project, but on a purely theoretical level, all discourses *must* be equal.

By positing an essential, extra-discursive foundation to (radical), democratic citizenship moralism starts looming in the distance. The choice for any discourse is contingent and – functionally – arbitrary. The emancipatory power of oppressed subjects affirming their identities in an NSM has a wholly material and contingent character: nowhere in *Hegemony, Return*, *New Reflections* or anywhere else is this emancipatory struggle described *as essentially privileged*. Yet, in formulating a new conception of *society,* and a new kind of democratic politics, the radical indeterminancy heralded by Laclau and Mouffe appears problematic. If all human existence is discursively mediated, this same privilege is reintroduced by eventually grounding radical democracy in an essentialised conception of citizenship. In doing so, Laclau and Mouffe wipe away the strength of their reconstructed ontology and argue for a metaphysical essentialism they have wholly disavowed. The struggle for emancipation through a complex structure of identarian social struggles might become another essentialised (Socialist) struggle.

This summation of Laclau and Mouffe's position certainly appears a bit *uncharitable*. Indeed, both in Hegemony and in Return, Laclau and Mouffe stress that those elements that appear to have a fixed character – *democracy* and its procedural, common-sense democratic citizenship – might appear fixed but are actually just as contingent and malleable as all other discursively articulated elements.[105] The possibility of a new democratic imaginary, of a *new democratic revolution* is simply a useful myth.[106] These myths are necessary to construct and defend a meaningful model of agonistic democracy, able to actually realise an egalitarian goal. Mouffe's solution to this puzzle is the possibility of a purely prudential democratic consensus, Laclau's is a repolitization of ethics, but both fall prey to the same *fundamental* problem.

But this fundamental problem has attracted much attraction from radical fellow travelers like Zizek, Critchley, and Boucher. Though they differ in approach

[105] Return: 151, 152;
[106] Hegemony 190; Reflections 177-196

and method, the core of their arguments come down to this: as Laclau and Mouffe's ontology commits them to a fundamental *contingency* and *indeterminancy*, any argument for a *determined* political project must fail.[107] It is easy to say why these moves by Mouffe and Laclau have attracted such controversy. Committed as they are to an ontology of indeterminacy, the formulation of positive arguments for a, determined and specified political project appears quite contradictory. Their ontology is incredibly well suited to *critique*, but not so much to something positive. Given their commitment to radical indeterminacy Laclau and Mouffe's proposed solutions might lack weight.

Could there be a way out? A way of reconciling the apparent power of Laclau and Mouffe's project without resorting to the exact essentialism they spent decades decrying? How practical is a political project when it requires its adherents to base their struggle on the fundamental contingency and relativism of all value, meaning and understanding? How fruitful might it be? In the next chapter, I will reintroduce Arendt and Kelsen and attempt a synthesis between Laclau and Mouffe. Mouffe refers to Kelsen at specific points in *Return*, focusing on his *legal philosophy*. Arendt is much less present in Laclau and Mouffe's work, but her idea of *citizenship* and political duties and their epistemic implications might offer attractive solutions, unforeseen by Laclau and Mouffe.

[107] Critchley, 'Ethics, Politics and Radical Democracy'; Žižek, *Ticklish Subject*, 174; Boucher, *The Charmed Circle of Ideology*, 111–23.

Chapter III

Democracy, truth and radical indeterminacy

Introduction

As I have argued in the last chapter, Laclau and Mouffe's use of this democratic revolution appears to reintroduce the kind of unconditional universal made impossible by their ontology. Some, like Boucher and Zizek, have argued that this poses a fundamental problem for Laclau and Mouffe. By conceiving of these democratic principles as an unconditional universal, they fall prey to a performative contradiction: one cannot simultaneously hold that all beliefs and judgements are discursively articulated, indeterminate and contingent while conceiving of democracy as universally compelling.[108] This, in itself, puts Laclau and Mouffe's *theoretical* project into question. If the practical political project requires a metaphysical foundation directly opposed by its theoretical underpinnings, what use is the theory?

This contradiction, articulated in several ways, gives Boucher sufficient reasons to describe Laclau and Mouffe's project as unfeasible and identical to Rawls's post-metaphysical liberalism.[109] Indeed, if this contradiction holds, it is difficult to understand why this radical democracy would still be convincing. In this chapter, I hope to offer a solution. The anti-essentialist, anti-rationalist emancipatory project formulated by Laclau and Mouffe has attractive elements I broadly agree with Lefort, Mouffe and Laclau in their analysis of democracy as implying (epistemic, hermeneutic) indeterminacy. The advent of democracy has had fundamental implications for both the form and content of the subject and the interaction between subjects. An essentialist political project imposing its absolute dominion over truth and value on society would result in a return to totalitarianism.

[108] Boucher, *The Charmed Circle of Ideology*, 111 and further; Žižek, *Ticklish Subject*, 174.
[109] Boucher, a self-described Marxist, is perhaps even more opposed to political liberalism than Laclau and Mouffe.

Thus, Laclau and Mouffe's critiques of Marxism, hierarchical conservatism and technorational political liberalism are still valuable. Their proposed 'solution' - emancipatory, pluriform New Social Movements - might not be the panacea they believe it to be. However, the idea of agonistic democracy and an expanded definition of the *political* serves as an exciting alternative to other conceptions of the political.

In short, would it be possible to conceive of *agonistic democracy* without accepting Laclau and Mouffe's post-structuralist ontology? Besides the risk of performative contradiction, it is questionable how *attractive* this ontology would be. Contemporary socio-political discourse is rife with the exact kind of universalistic attitudes problematized by Laclau and Mouffe, even – or especially – the New Social Movements. If anything, early 21st-century liberal democracy has become more enthralled by an objective, fixed conception of truth. Replacing such conceptions with a post-structuralist discourse ontology is easier said than done. Thus, I hope to find a more suitable, less radical alternative that might still satisfy Laclau and Mouffe's desire for a radically democratic politics opposed to universal rationality and conceptions of truth.

That is not to say that Kelsen and Arendt are easily synthesized with Laclau and Mouffe. There are certain areas of fundamental disagreement, not least the strict delineations between public and private and political and non-political in Kelsen and Arendt. However, when we take some of Laclau and Mouffe's insights and argue for an *expanded* concept of the public and political, this conflict might well be less fundamental. It is uncertain if Laclau and Mouffe's political project *requires* an ontological primacy of the political (and the corresponding conceptual impossibility of distinct public and private domains). Absent this problematic ontology, the promise of Radical Democracy might be sustained and could be made *even* more attractive.

Kelsen's relativism: an unexpected way out?

Surprising as it might be, there is one fundamental element on which Laclau, Mouffe, Arendt and Kelsen agree. What we find in either of their conceptions of the political – whether it is Kelsen parliamentarism, Arendt's republicanism or Mouffe and Laclau's radicalism – is the impossibility of *one political truth*. Whenever one

engages in (democratic) political activity, the judgements made and the decisions taken could or *should* never be justified by appealing to the supposed necessary *truth* of that decision. Each of these authors similarly agrees on the undesirability of essentialist political projects. To a certain extent, each of the great political ideologies – Marxism, conservative authoritarianism, rationalistic liberalism – presents itself and its preferred policies as necessary and rational and, in doing so, devalues the indeterminate core of the political.

To a certain extent, the conceptions of the political formulated by each of these authors problematize this tendency. Indeed, the agonistic pluralism defended by Mouffe in *Return of the Political,* either implicitly or explicitly, takes these earlier problematizations into account. *Pluralism and Modern Democracy*, one of the core essays in that work, attempts to reconcile a pluralist conception of *liberal democracy* with Schmitt's critique of liberalism.[110] Mouffe follows Schmitt when he argues that a fully liberalized conception of the political denies the possibility of political *struggle*.[111] However, Schmitt's conception of democracy as *substance* is still unsatisfactory, and thus Mouffe suggests Kelsen's proceduralist democracy as a possible alternative. However, where Schmitt argues for an unacceptably unconditional and unlimited popular sovereignty, Mouffe argues that Kelsen reduces democracy to pure procedure.[112] Each theory alone is more satisfying than any political liberal defence of democracy but, on its own, fails to convince. A radical, liberal democracy requires elements of both:

"[I am thus in partial agreement with Schmitt] because procedures are not deemed sufficient for creating the political unity of a democracy and a more substantial homogeneity is required; with [Kelsen] because of the view that the general will can never be immediately pregiven without the mediation of a certain number of procedures."[113]

According to Mouffe, this would be unacceptable to both. Schmitt would not accept such procedural limitations to popular sovereignty, nor would he accept such a limited conception of homogeneity. In her view, Kelsen would find this

[110] Mouffe, 'Pluralism and Modern Democracy'.
[111] ibid.121-124
[112] ibid. 130
[113] ibid.

unacceptable as reintroducing *power* and *contingency* in the political would counter to his *pure theory of law.* When we combine this characterization of democracy with the central role of indeterminacy and opposition to any universal conception of rationality or truth, Mouffe implicitly argues that a pluralist democracy could only be realized as a part of a broader discursive deconstruction of the social. Mouffe argues that Kelsen might agree that *truth* and *politics* are irreconcilable, but, following his pure theory of law, he is still committed to an essentialized, anti-agonistic conception of politics.

As I have shown in the last chapter, by arguing that a consensus on democratic principles is a necessary condition for a democratic homogeneity, Mouffe appears to reintroduce an essentialized, determined extra-discursive condition incompatible with her and Laclau's ontology. Combined with the attractiveness of a radical ontology in a decidedly unradical society, it might be valuable to see whether Laclau and Mouffe's political project can be grounded in a different political ontology/epistemology. Though she finds Kelsen's proceduralism valuable, she rejects his conception of democracy and its underlying epistemology out of hand. This might be easier said than done.

Critical in this rejection is Kelsen's (apparent) denial of *power* in the political. Mouffe follows Kelsen when he denies truth and rationality as factors in democracy but argues that Kelsen's is an altogether too *formalistic* conception of democracy. Mouffe argues that the outcome of a Kelsenian parliamentary procedure would be an entirely *rationalistic,* formal consensus – not the substantial, undetermined consensus she prefers. Before attempting to nuance Mouffe's interpretation, I will first mention one fundamental difference between Mouffe and Kelsen.

Kelsen and Mouffe diverge fundamentally in the *breadth* of democratic politics and the possibility of distinct public and private domains. Even beyond the political, Kelsen's pure theory of law revolves around a fundamental delineation between *law* and *politics*. Irrespective of its content, when a democratic decision is promulgated as *law*, its meaning is determined not by a popular will but by its

relation to higher *legal* norms. The political *decides* on what *becomes* law, but not how it ought to be *interpreted*.[114]

For Laclau and Mouffe, any strict delineation would be ontologically impossible. Following from their primacy of the political and their Lefordian conception of democracy as *indeterminate*, whatever meaning is attributed to any particular law or legal principle is both a *politically determined* - and purely contingent: any meaning could *be different*. Mouffe denies that Kelsen could accept such a conclusion and would hold that political powerplay could not determine the content and meaning of some legal norm.

Such indeterminacy might not be so unpalatable for Kelsen, however. In his political work he discusses the impossibility of absolute *truth* in democracy, reaches remarkably similar conclusions as Laclau and Mouffe. Kelsen holds that actual democracy is incompatible with an absolute conception of value or truth. There can be no external limit to the *content* of a democratically constituted society or its rules, and this content is always subject to later democratic decision-making.[115] However society presents itself, its actual content must always be indeterminate and contingent. Furthermore, the only limits to this democratic competency are imposed by its procedures: any decision can only be made by majority consent and ought to consider the interests of the minority.[116] The exact procedural consensus Mouffe seeks to realize is already present in Kelsen.

The democracy championed by Kelsen is a *parliamentary* democracy, where the will of the people – and thus the authority of the state- ought to be mediated. However, his argument for parliamentarism is fundamentally *instrumental*, as democratic representation is simply the best way of combining the democratic demand for freedom with the modern demand for efficiency.[117] Kelsen is reasonably sympathetic to the critics of parliamentarism and accepts that unrestricted parliamentarism could be elitist,[118] but diverges from Laclau and Mouffe in that he

[114] See, for example, Kelsen, *The Essence and Value of Democracy*, 2, 44.
[115] ibid. 101-103
[116] ibid. 67-77
[117] ibid. 49
[118] ibid. 57

holds that the will of the people – and the authority of the state - ought to be distanced from the people itself. [119]

At first glance, Kelsen's democracy is much less ambitious than Laclau and Mouffe's and would fail to satisfy their view of democracy as radical indeterminacy. Nevertheless, Kelsen's might be more compatible with Laclau and Mouffe, and either might expect. Though Kelsen's focus is mainly on the form of democratic political procedure, his discussion of truth and value in democracy lends itself surprisingly well to the ontological indeterminacy prioritized by Laclau and Mouffe. However, unlike Laclau and Mouffe, Kelsen does not explicitly discuss the responsibilities of the democratic subject. However, the connection between democracy and the impossibility of absolute, rational truth and value could lead to a similar radical democratic subject.

Kelsen, Laclau and Mouffe agree on the implications of *democra*cy and the inherent equality of the democratic subject, on judgements and knowledge claims. Democracy is fundamentally incompatible with any claim to rational, universally convincing truth, knowledge or value. 'Rationality' cannot coerce democratic subjects into asserting specific claims; they must autonomously and authentically internalize those claims themselves. For Laclau and Mouffe, this process of assertion results from a citizen participating within a discourse (and thus always contingent and politically determined). However, this autonomy is fundamentally limited by the necessity of a consensus on democratic principles and, therefore, internally inconsistent. Kelsen does not explicitly mention the process by which these claims are asserted. However, it follows from his description of democracy as fundamentally *relativist*ic that this decision to assert is similarly autonomous and contingent. Yet, because fundamental constitutional protections and limits to democratic competency are located *outside of the political* (specifically, in the already existing *democratic constitution*).[120] Kelsen is not similarly committed to an anti-essentialistic discursive ontology; the existence of these procedural limitations would not necessarily be inconsistent with the rest of his project. Thus, the question

[119] ibid. 57-58
[120] ibid. 67

Mouffe raises in *Return*, namely how a consensus on fundamental democratic rights and procedural limitations ought to be constituted, can be asked and answered in Kelsen.

Kelsen's hidden decisionism

Earlier in this chapter, I introduced Mouffe's criticism of Kelsen, decrying him for ignoring the importance of *power* and contingency in law and the political. According to Mouffe, Kelsen's apparent inability to deal with the role of power in political practice but especially the formulation and interpretation of *the law,*[121] disqualifies his political theory as a foundation for agonistic democracy. For Mouffe, *everything* is political; she would likely find the possibility of a*political* procedural limitations suggested by Kelsen unacceptable. Her opposition to this kind of apolitical phenomenon is evident in many parts of *Return*, where those championing an 'apolitical conception of the political' are subject to much criticism from her.[122] Still, the division between politics and law in Kelsen, and the *apolitical constitutional limitations* made possible by such a division, is of an entirely different order than, for instance, Rawls' post-metaphysical liberalism. For one, Kelsen's conception of politics has a much more *unfixed* character. Besides, the possibility of an apolitical constitution limiting the competency of the political has a fundamentally different, and I believe for Mouffe, much more *palatable* character.

For Kelsen, the constitution is primarily and fundamentally a *legal instrument*. As a legal instrument, it might be constituted in the political domain, but its applications and meanings are constituted in the *legal domain*. For Kelsen, statements about the meaning of a law can be true or false, but only relative to a particular moment: relative to the law being validly constituted qua the *basic norm*.[123] But, the validity of a legal norm alone is insufficient to determine its meaning. The method of determining/constituting this meaning *could potentially* result from some political discourse. Kelsen is opposed to the political *infringing* on the law (through clearly unintended interpretations or by resorting to actions clearly

[121] Implicitly denying the fundamentally *political* nature of law
[122] See, for example: Return chapters 3, 7, 8 and 9.
[123] Kelsen, *Pure Theory of Law*, 217–18.

made impossible by legal statutes) but does accept the possibility of the political or the social *determining the meaning* of legal norms statutes.

Indeed, the choice to accept a particular norm as lower or higher is not a *legal* decision, a *political* one.[124] Unlike later legal theorists like Dworkin, Kelsen vehemently denies the possibility of legal concepts having *one* unfixed, cognitivist, *apolitical* meaning. For Kelsen, it is the task of legal scholars to determine the many particular ways in which a particular statute or norm can be interpreted. But the one *valid* interpretation is not determined by the legal scholar, but in the *political*, by legal officials given the power of determination through political means.

For Kelsen, this process of determination is never reducible to a rational, necessarily true geometric function but always contains an element of indeterminacy. Accordingly, for Kelsen, the interpretation of legal statutes has a fundamentally *decisionistic* character. Perhaps surprisingly, Kelsen follows Schmitt's claim that all law is *political* and indeterminate and explicitly cites Schmitt's famous description of decisionism from his *Politische Theologie*.[125] Kelsen does not go so far as to argue that all law is purely arbitrary – certain inherent, interpretative limits still bind the question of application and interpretation- but the method of determining the procedural boundaries of the democratic process is fundamentally a *political* method.[126]

It is through this reintroduction of the political in determining fundamental procedural limitations that a reconciliation between Mouffe (and Laclau) and Kelsen becomes possible. Mouffe's limitations might be primarily constituted in the social, amongst individual politically active citizens rather than by empowered legal officials, but these legal officials do not exist in a vacuum. New developments in the social could radically affect how these procedural norms are interpreted. They could, accordingly, be expanded or limited. The appearance of new social movements and radically new appeals to human or constitutional rights could eventually reach such

[124] Kelsen, *The Law of the United Nations*, xvi.
[125] Kelsen, 'Wer Soll Hüter Der Verfassung Sein?', 592.
[126] See for more theoretical background of Kelsen's views on interpretation: Paulson, 'Kelsen on Legal Interpretation'; Paulson, 'Hans Kelsen and Carl Schmitt'; Paulson, 'Hans Kelsen on Legal Interpretation, Legal Cognition, and Legal Science'.

strong articulation that parliament and judge cannot stand idly by. Its character is perhaps the most significant difference between Kelsen and Mouffe's view of these limitations. Kelsen sees them as having a *legal* character emanating from the legal domain, while for Mouffe, these limitations have a prudential character on the level of the subject. Yet, the law is never removed from society, and whatever emanates from it will have implications for the subject. In this sense, Kelsen and Mouffe's democratic limitations might be much more similar in *practice* than might be assumed at first glance.

Kelsenian and Mouffian radical democracy, continued

If we, as I suggest, synthesize Laclau and Mouffe's radical democracy with Kelsen's, the apparent contradictions and radical presuppositions that loom over Laclau and Mouffe's project would be resolved. Democratic politics would still require the indeterminacy of values, judgements and truth claims and would still be limited by a broad consensus on democratic rights.

Confronted with this expanded Kelsenian conception of democracy -what I call *agonistic parliamentarism* - Laclau and Mouffe might well respond by claiming that this democracy is still insufficiently *radical*. Indeed, Kelsen is much more concerned with democracy in a practical sense, as a means of channelling the will of the people to legitimize the authority of the state and make practical political decisions. Partly due to their ontological primacy of the political and partly from their description of democracy as a *way of life*, these practical legal-political questions are far removed from Laclau and Mouffe's project. Though they do not *explicitly* state this, Laclau and Mouffe's conception of authority and power is likely much more *empirical*, probably informed by Schmitt. However, when we dig down and consider what an agonistic plural democracy would *look like* in practice, it could well resemble Kelsen's. Even in a society where political activity in the social - through a political struggle between irreconcilable identities and ideologies – is given extra weight, there would still be a need for some domain where this struggle could reach a temporary end in an indeterminate consensus. This is a recurring theme in *Return* and would play a crucial role in the daily practice of agonistic democracy. But, as I have elaborated in the previous section, Kelsen's theory of law

and democracy is much more similar to Mouffe's than she might expect, and his law-first view of procedural democratic limitations must eventually be internalized by political subjects outside the law.

In that sense, Mouffe need not explicitly reject a Kelsenian parliamentarism, potentially given a more comprehensive democratic practice outside of the fixed parliamentary structure. Of course, representatives in parliament would still need to make decisions, but, and this is the crucial element derived from Laclau and Mouffe, they could let the *extra-parliamentary* political struggle inform their decisions. By itself, this does not contradict Kelsen: it would just expect a more open attitude from political representatives.

This is exceedingly similar to what Kelsen argues for in *Essence and Value*. There, Kelsen argues that Parliamentary representatives and the electorate are locked in a constant dialectical relation, as the representatives' interests, values, and 'truths' are derived from and respond to those same elements in the electorate.[127] In Kelsen's view, *the will of the people* is as fictitious as the *will of the state*. The plethora of human actions, demands and wills in either civil society or a democratic government is so complex that it cannot be described as some empirical fact but ought only to be considered a useful fiction.[128] However, though these *wills* are pure fiction, the democratic demands of *the people* – the electorate – still serves as the means for control and accountability of its elected representatives and leaders. Democratic politics can only function if *the people* can access sufficient mechanisms to hold their democratic officials accountable.[129] This is perhaps a more mediated conception of radical democracy than Laclau and Mouffe's, but again we must consider what a Mouffian radical democracy *would like in practice*. Extra-parliamentary political struggle is all well and good, but this struggle would be empty without means of enforcing their demands. Thus, Kelsen's (mediated) democratic accountability might be required for a radical democracy.

[127] ibid. 72, 101-102
[128] ibid. 52-53
[129] ibid. 91-4

The relation between Laclau and Mouffe's ontology and their explicit, practical project is somewhat fraught. In *Reflections* on the *New Revolution of Our Time* and *Hegemony and Socialist Strategy*, they have argued that radical democracy could not be understood outside their post-structuralist discourse ontology. However, when Mouffe attempts to formulate what an agonistic radical democracy would like in practice, she reintroduces and requires the democratic principles of equality and freedom as essential, extra discursive elements. While they deny the possibility of any solid, non-contingent ground or limit to what is indeterminate, *democracy* itself appears to be determined and fixed.

This potential critique might be resolved when we instead *'plug*' Kelsen's democratic relativism into Laclau and Mouffe's radical democracy. As I have argued, Kelsen is *not* similarly committed to absolute indeterminacy. Though his arguments for a decisionism commit him to a model where limits to democratic competency are politically empowered in the political, they are first formulated by legal scholars and inform and are informed by subjects acting in social. The questions of practical realizability and the generally radical character of Laclau and Mouffe's ontology could be resolved given Kelsen's democracy's more *realistic* character. Laclau and Mouffe are still important, as their extended definition of democracy focused on collective action within the social shows that a procedural democracy alone is insufficient. Nevertheless, where Mouffe expects Kelsen to limit democracy to this procedure, his theory could be read as more sympathetic to radical democratic activity. Thus, this synthesis between Laclau, Mouffe and Kelsen could resolve the apparent contradictions in Mouffe and Kelsen while affirming the need for radical democratic activity *outside* of fixed debate in parliament.

There are, however, some questions still unanswered. What could we expect from a democratic citizen? Moreover, are there limits to democratic relativism? To further answer these questions, I will reintroduce Arendt. I believe her criticisms of parliamentary democracy could be resolved through the *agonistic parliamentarism* that follows from the Laclau-Mouffe-Kelsen-hybrid. Furthermore, Arendt's foundation of the political in the existence of *fact*ual truth might go a long distance in making this theory even more attractive. Any discussions of *fact-free* democracy

would likely be unacceptable in a contemporary debate but could be answered with an appeal to Arendt.

Arendt: the need for factual truth in politics

Compared to Kelsen, Arendt's conception of the political is far removed from Laclau and Mouffe. Even more so than Kelsen, her view of *political life* requires a strict delineation between the public, the private and the social. Such delineation, in itself, would be problematic for Laclau and Mouffe. Besides, her existentially and phenomenologically inspired conception of politics is much more *republican*. Though the decisions made in the political would require democratic (majority) consent, she makes an important distinction between (rhetorically) active political life and *passive* life. She appears to suggest that only some citizens would be well suited for the first. Like Laclau and Mouffe, all citizens owe it to themselves to participate in the political, but the extent of that prudential *obligation* is much less pronounced. Furthermore, the kind of political life she envisions is much more concerned with a *return* to pre-modern *authentic life* rather than something made possible by a democratic revolution.

Indeed, contra Laclau, Mouffe and Kelsen, Arendt holds that contemporary democracy, with an electorate primarily constituted in the *economic actors* and the purely formal, apolitical quality of *representative democracy*, cannot provide any *authentic* political life. Representative democracy is an example of the economy – of the private – intruding on the possibilities of the political.[130]

That is not to say that Arendt would fundamentally oppose the kind of radical democracy I have identified. Foremost in Arendt's critique of representative democracy – and the social in general – regards its devasting tendency to reduce meaningful communal life to a purely rationalized *personal* affair. In Arendt's view, representative democracy reduces the political to a matter of atomized, economized individuals weighing and realizing their determined and apparent interests. [131] But, in a similar vein as Laclau, Mouffe and Kelsen, the core characteristic of the *political* is

[130] Amongst others: Arendt, *On Revolution*, 219, 254–56, 273, 284. For more references, see chapter 1.
[131] Arendt, 'Public Rights and Private Interests', 105–6.

in the indeterminacy and relativity of any interest and desired outcome. In Arendt's words:

"*Public debate can only deal with things which – if we want to put it negatively – we cannot figure out with certainty. Otherwise, if we can all figure it out with certainty, why do we all need to get together?*"[132]

Of course, where Arendt and Laclau and Mouffe diverge is in the possibility of *certainty*. For Arendt, the political is the domain of indeterminate, relative judgements, of *doxa*, not *episteme*. Certainty and rationality do not belong in the political but still exist in other domains. Laclau and Mouffe, through their ontological primacy of the political, deny any possibility of such pre/apolitical certainty. Furthermore, though the *freedom* and *equality* of the political citizen stand in a contradictory relationship with the *coercive* character of truth, political action is difficult, if not impossible, without some bedrock of *facts*.[133] The existence of such coercive, undeniable extra-political fixed ground would be utterly unacceptable for Laclau and Mouffe, and even Kelsen would likely eye such truth warily.

This is the first significant point of comparison in comparing Laclau, Mouffe, Kelsen and Arendt. Each has different arguments for and against positing a fixed foundation for political deliberation. For Kelsen, Laclau and Mouffe, truth is always immediately connected to a *truth-claim*: a subject *claiming* that something is the case. Kelsen envisions different kinds of truth claims in different domains but expressly accepts relativism for truth claims in the political.[134] When engaging in *political* activity, no one subjective truth claim can be considered *rationally coercive* than any other. Laclau and Mouffe accept a similar kind of relativism but expand it to all subjective discourses, leaving themselves vulnerable to potential performative contradiction. Arendt similarly finds truth incompatible with political life but allows for a bedrock of factual *truth*, irrespective of particular truth claims, that ought to be respected as a necessary condition for productive political life.

[132] Arendt, *Hannah Arendt, the Recovery of the Public World*, 317.
[133] Arendt, 'Truth and Politics', 2006, 234–36.

Though Arendt does not shy away from problematizing *facts* in the context of the political, her argument for factual truth can easily be understood given the *kind* of politics she envisions. Again, Arendt's conception of politics has a more authentic, existential character and champions active *participation* and deliberation much more than either Mouffe's or Kelsen's. Mouffe and Laclau, of course, also highlight the importance of participation, but differently. For Arendt, this participation is always and immediately *practical*: it concerns making decisions that impact the entirety of the public domain. To ensure that these decisions are effective and able to connect and obligate all members in the public domain, they need to be informed by factual truths. Laclau and Mouffe, by contrast, envision a *looser* kind of political activity. Theirs is more concerned with questioning the status quo, ensuring sufficient political possibilities and then realizing (general recognition of) one's identity. This *unguided* kind of politics does not require the same factual foundations. There might be something to say for Laclau and Mouffe's claim that any fixed foundations would necessarily limit and inhibit the possibilities of this kind of political activity.

Could there still be something to say for factual truth – potentially in a more limited, contingent and relative formulation – within a Kelsenian radical parliamentarism as a bedrock for political activity? For Kelsen and Arendt, *truth* has a distinctly anti-political, coercive character: the existence of absolute (factual) truth would coerce assertion from all rational epistemic subjects. In that sense, Arendt and Kelsen interpret *truth* and truth claims as implicitly present within a cognitivist framework. For Kelsen, the relativist nature of democracy is incompatible with the existence of such truth, but if it *did,* it would have a cognitivist character.[135] For Arendt, factual truth - certain uncontroversial and elementary, truth-apt propositions - are necessary for a sufficiently effective democratic deliberation and decision-making. In contrast, for Laclau and Mouffe, such coercive demands are not a product of *truth*. Truths do not, in themselves, exist, and these demands instead derive from the rationalities present within a particular discourse. For Kelsen and

[135] "[Critical democracy] is the viewpoint that only relative truths and values are accessible to human cognition and that, consequently, every truth and every value must—just as the human individual who finds them—be prepared to abdicate its position and make room for others." Kelsen, *The Essence and Value of Democracy*, 103.

Arendt, rationality and truth are closely linked, but Mouffe and Laclau instead separate these elements.

Which approach is the more convincing one? Following Laclau and Mouffe's approach to its logical conclusion, one could argue that there might well be multiple truths, each equally likely but only relative to their discourse. Nevertheless, coercion would only follow if one were to accept the existence of an overarching *rationality* enforcing its authority even over competing discourses. For Arendt, such coercive rationality or truth is part of the *vita activa* within political life and cannot, by itself, be denied. Even the indeterminate, contingent political decisions require such rational bedrock. For Kelsen, democratic equality is fundamentally incompatible with such metaphysical coercion, and any such political appeal should be treated with scorn.

In essence, the agonistic parliamentarian conception of the political is committed to an epistemic relativism. However, it need not necessarily be opposed to Arendt. Truth in Arendt's concept of the political is required for *making decisions*, not necessarily for other kinds of political activity (civil disobedience, for example).[136] Thus, one convincing possibility would allow *truth* to play a role in making communally binding decisions in parliament while not imbuing truth with the same kind of power outside of parliament. Thus, by allowing for *parliament* as a specific, *sui generis* domain,[137] We would allow for the existence of truth within and *relative* to parliament and its procedure while allowing for the unguided and unlimited political activity *outside* of parliament not burdened by rationally demanding truth claims.

In doing so, we would respect Arendt's desire for factual truth in actual political decision-making without expanding its coercive powers to all elements of democratic politics. Subjects *outside* of parliament would not be similarly bound by truth as their representatives *within* and could not be held to assert any one truth claim. This would also satisfy Kelsen and Mouffe's desire and – need - for consensus within parliament while still allowing that such consensus is not the direct,

[136] For example, as stated in Arendt, 'Civil Disobedience'.
[137] Which Kelsen does explicitly and Laclau and Mouffe do *implicitly*.

necessary, and rational result of coercive truth claims but simply an indeterminate and contingent consensus relative to a parliamentary truth and certain constitutional limitations. It stands to reason that the constitutional and democratic procedural demands placed upon a parliamentary representative cannot be expected to be upheld throughout society. Thus, we allow for factual truth within *one* aspect of the political without similarly requiring it beyond parliament.

In doing so, we can satisfy both Arendt's desire for factual truth and Kelsen's desire for indeterminacy and relativism in the political within Laclau and Mouffe's expanded, agonistic conception of democracy. By providing for different, mutually supportive *kinds* of political struggle – one aimed at communally binding decisions, one aimed at a constant questioning of the political process – we allow for an unfixed, freeform domain while simultaneously requiring a fixed structure where it counts: in the making of communally binding, parliamentary decisions.

This new model of democratic politics takes cues from Laclau and Mouffe, Kelsen *and* Arendt, not least in terms of epistemology. Epistemically (and ontologically) speaking, this model of democratic politics denies the possibility or use of fixed *truths* and *values* as *justification* for the use of the state's authority. Decisions in parliament (must) reflect certain factual truths,[138] but should be considered -absent an absolute majority – an indeterminate, temporary and prudential consensus. Qua, Kelsen, the guidelines for the attitudes and actions in parliament are determined in a pre-existing constitution, whose meaning is flexible,[139] but determined.

Expanding on Kelsen with Laclau and Mouffe, we hold that the radical indeterminacy provided by democracy also extends to political activity outside of parliament in the social. Here citizens construct their identities and political positions in a broad political struggle, one unfixed by procedural and epistemic demands – which in itself is not fundamentally problematic as these activities do not directly correlate to communally binding decisions: actions in the social do not

[138] Parliament could hardly decide to *build a bridge to Mars*. Democratic decisions need to have some basis in reality.
[139] Never *fixed*.

directly impact other unless I choose to get involved. Understanding that each extra-parliamentary political struggle – even the ones I am involved in - is equally contingent and indeterminate as any other would go a long way in relativizing the power of any such movement. Thus we can envision a *dualistic* model of democracy, where the ideals of democracy as *self-government* and politics as radical *indeterminacy* are joined. These ideals are informed by the fundamental democratic principles of freedom and equality. Principles that can only be adequately realized when both *the social* and parliament, subjects and state, are open to political struggles.

In doing so, we can also respond to Arendt's criticism of parliamentary democracy. Parliamentary democracy, absent sufficient room for extra-parliamentary political struggle, might indeed be unable to realize the *vita activa* necessary for human flourishing. But, while parliament is retained as the domain for communal decisions, the subjects can act *politically* as political agents within the social. Kelsen's preferred democracy can thus be reconciled with Arendt's more *republican* conception of the political.

All in all, though this might be unexpected by both of these authors, unexplored similarities thus allow for a meaningful synthesis of these competing conceptions of politics and democracy. Without Laclau and Mouffe's problematic ontology, their desire for agonism can be retained and expanded within Kelsen's parliamentarism. Contemporary society might not entirely resemble this model, but it could serve as a useful goal. Laclau and Mouffe have already exhaustively researched the dangers of a depolitization democracy, and through applying this model, we can critique such problematic developments. It might be impossible to envision such an actual, fully realized democracy, but it surely *must be thought* about.

Conclusion

In this final chapter, I have examined the possibility of a synthesis between Mouffe, Laclau, Kelsen and Arendt. If we take Critchley, Zizek and Boucher's criticism seriously, the ontology of indeterminacy Laclau and Mouffe have committed themselves to leaves them vulnerable to a performative contradiction. This contradiction might not be as fundamental as it first appears, however. By drawing

on Hans Kelsen's relativism, I propose a synthesis, of sorts, between Laclau, Kelsen and Mouffe. Though Mouffe and Laclau *prima facie* disqualify Kelsen over his denial of the influence of power and the political on the law, I suggest that this might be based on a misreading. Kelsen's legal thought harbours a hidden decisionism, allowing for a (re)introduction of power and the political in law. Most practically, this allows for the determination of certain procedural limitations on democratic competency, something desired by Mouffe, Laclau *and* Kelsen.

In actual political practice, Kelsen's democratic relativism is compatible with Laclau and Mouffe's political project. I believe Kelsen's political theory and his relativistic conception of truth could realize the kind of political struggle desired by Mouffe and Laclau without requiring an unacceptably radical and theoretically problematic ontology. Instead, by allowing for *in* and *extra-parliamentary* struggle, each with a different character and place in society, an *agonistic parliamentarism* can be formulated, and the promise of democracy could be fulfilled.

Moving on to Arendt, I suggest that, though she fundamentally opposes *parliamentary* democracy, she might find the agonistic parliamentarism I have suggested somewhat more palatable. Arendt finds parliamentary democracy unsatisfying due to its *limited* character and its denial of political life and the *vita activa*. The agonistic parliamentarism I have identified, in contrast, allows for the meaningful political co-existence Arendt cherishes. It might not be the exact kind of politics Arendt defends, but Arendt would likely find this more agreeable. Furthermore, I argue that Arendt's arguments for *factual truth* must be taken seriously and could be given a place. To satisfy Kelsen's relativism, I argue that the coercive nature of factual truth claims only extends *within* parliament and could be formulated as an element within the broader scope of procedural limitations.

General Conclusion

Supreme Justice Stewart gave us a famous saying about the nebulous nature of pornography: *I know it when I see it*.[140] Perhaps, if this thesis is any indication, a similar saying might well apply to democracy. Despite growing up and living in societies that have known liberal democracy for nigh-on a century, it is difficult to describe it, but we *know democracy when we see it.* In Kelsen, Arendt, Laclau and Mouffe, we find fundamentally different conceptions of democracy and politics. Fundamentally different, but with some shared suspicions and distrusts, and potentially some shared desires.

Starting in chapter I, I identify certain an underlying tension between *democratic politics* and a coercive conception of truth. Both Kelsen and Arendt reject a kind of technocratic rationalism in the political, instead of conceiving of the political as a domain of *value, opinion, equality and autonomy*. Allowing for truth in the political would enable problematic coercion, something Kelsen and Arendt find deeply problematic. Though each sees a different kind of politics as meaningful and valuable, they share this suspicion, with Arendt only allowing for *factual truth* as a kind of minimal necessary condition out of purely prudential reasons.

Having reconstructed these theories and having introduced the tension between truth and politics, I move on to Laclau and Mouffe. Compared to Kelsen and Arendt, Laclau and Mouffe, hold that all concepts of understanding and all 'truths' are purely contingent relations between 'elements' constituted within a discourse. All Human experience is contingent and relative to a particular discourse, and all is constituted within an ontological primacy of the political. Reconstructing the complex and theoretically eclectic character of this onto-epistemology, I find that Laclau and Mouffe do not reach these conclusions out of *prudential*, *a posteriori* reasons – like Kelsen -but out of apparent necessity. As an *ontology*, it simply describes the nature of our human *being*.

[140] *378 U.S. at 197 (Stewart, J., concurring)*

In doing so, they might find themselves at odds with their own practical project. Arguing for an *agonistic pluralism*, where democracy is expanded beyond a defined method of legitimation into struggle as a fundamental *way of being*. Identifying positive elements in this theory, along with specific relevant critiques, I nevertheless argue that it is difficult to maintain an ontology based on a fundamental contingency and indeterminacy while championing a determined, concrete political project and conception of democracy.

To sustain the promise of Laclau and Mouffe's political project, I turn to Kelsen as a potential solution. I argue that Laclau and Mouffe are too quick to disqualify Kelsen and might be misinterpreting him. Not only do they ignore a certain *similar* attitude towards democracy as indeterminacy, but their interpretation of Kelsen's legal theory is also overtly strictly delineated. Rather than conceiving of politics and law as two fundamentally opposed domains and denying the possibility of *power* in the legal interpretation, Kelsen's hidden decisionism and relativistic conception of democracy could serve as a useful alternative. As such, I argue that Kelsen's epistemology could be synthesized within Laclau and Mouffe's political project, thus producing a kind of *agonistic* parliamentarism.

To further consider the practical implications of this agonistic parliamentarism, I return to Arendt. Though the name parliamentarism might be unpalatable for Arendt, Laclau and Mouffe's *expanded* conception of the political allows for meaningful political activity *in addition to* parliamentary politics focused on legislation. Beyond this, Arendt's argument for *factual truth* might best be given form in this more defined and limited kind of political activity. Where *extra-parliamentary politics* perhaps ought to be unlimited, indetermined and *uncoercive*, the procedural limitations inherent in the parliamentary form could allow for additional *epistemic limitations*. In this way, a certain foundational consensus on acceptable political activity might become possible, and the *fact of pluralism* that is so fundamental in liberal society might be respected. Where, at first glance, these authors might appear mutually incompatible and even internally contradictory, a synthesis might be able to resolve these apparent incompatibilities and contradictions.

That is not to say that this synthesis is over and done with. In this thesis, I have not attempted to get into the details of what this agonistic parliamentarism would be like in practice. Though Laclau and Mouffe exhaustively detail the practical implications of their political project, Arendt and Kelsen remain within more fundamental theoretical grounds. Though I have attempted to give a very preliminary overview of political practice under agonistic parliamentarism, in both its in- and extra-parliamentary 'domains', putting this model into practice would require much more elaboration.

Furthermore, I expect that the synthesis I attempt in the final chapter might attract criticism claiming that I have committed cherrypicking. Unfortunately, faced with limited space and time and three theoretically complex and not obviously clear theories, any positive claim as to any of these three theories might well be counterargued. Nevertheless, I have attempted to give as positive and charitable an account as possible of either of these theories. More than anything else, I have attempted to focus on the *positive* elements in these theories. I have tried to formulate my synthesis in such a way as to satisfy the desire of these authors desire qua the political, democracy, and truth. However, as might be evident from the length and complexity of this thesis (not to mention the primary and secondary sources I have used), these concepts are anything but immediately clear.

Writing this thesis has been a pleasure, and I can honestly say that it has led me to consider democracy and politics differently. We live in an incredibly complex world where everything is in flux, our societies are faced with immense internal and external pressure, and any *future* appears to be impossible. Perhaps, with a lot of hard theoretical and practical struggle and a little bit of luck, a new kind of politics might be able to offer a solution.

We have nothing to lose but a whole world to gain.

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