

Social participation for the democratization of democracy¹

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Abstract: This text aims to analyze the democratic potential of institutionalized social participation. I argue that the expansion of the channels of participation is a tool for deepening democracy to the extent that it favors the empowerment of minorities and of actors systematically alienated from decision-making processes, for it contributes so that they have a chance to interfere in the political agenda and in the formulation of public policies. For this analysis, I will draw on the experience of Brazilian National Conferences and on some aspects of the theory of deliberative democracy developed by Seyla Benhabib regarding the theme of public participation and political judgment.

Keywords: Seyla Benhabib; National Conference; Participation; Political Representation.

Participação social institucionalizada para a democratização da democracia²

Resumo: Este texto pretende analisar o potencial democrático da participação social institucionalizada. Defendo que a ampliação dos canais de participação é um instrumento para o aprofundamento da democracia na medida em que favorece o empoderamento das minorias e de atores sistematicamente alienados dos processos decisórios e contribui para que estes tenham a chance de interferir na agenda política e na formulação das políticas públicas. Para essa análise, me baseio na experiência das Conferências Nacionais brasileiras e mobilizo alguns aspectos da teoria de democracia deliberativa desenvolvida por Seyla Benhabib relacionados ao tema da participação pública e do juízo político. Pretendo mostrar também que a resistência de parlamentares à institucionalização da participação social visa garantir o monopólio da deliberação política e obstar o aprofundamento da democracia.

Palavras: Seyla Benhabib; Conferência Nacional; Participação Social; Representação Política.

This text aims to analyze the democratic potential of institutionalized social participation. I argue that the expansion of the channels of participation is a tool for deepening democracy to the extent that it favors the empowerment of minorities and of actors systematically alienated from decision-making processes, for it contributes so that they have a chance to interfere in the political agenda and in the formulation of public policies. Moreover, I intend to argue that the active and institutionalized participation puts into question the monopoly of the political judgment and, in this sense, is allied to a process that can encourage the political learning and the expansion of a civic culture of public participation. Precisely because of their democratic potential, the institutionalization of social participation is facing enormous resistance from the political elite and from much of the professional politicians with a discourse that tends to exalt representation at the expense of participation. Against this speech, my thesis is that the democratization of democracy requires, beyond representation, the intensification of participation in every way, including its institutionalization:



which requires a critique of liberal (and elitist) models that tend to restrict political judgment and prevent the expansion of the channels of participation. For this analysis, I will draw on some aspects of the theory of deliberative democracy developed by Seyla Benhabib regarding the theme of public participation and political judgment.

PARTICIPATION, DELIBERATION AND POLITICAL JUDGMENT IN SEYLA BENHABIB.

According to Seyla Benhabib, the essential to the deliberative model of democracy is the “idea of a ‘public sphere’ of opinion-formation, debate, deliberation, and contestation among citizens, groups, movements, and organizations in a polity” (BENHABIB, 1996, p. 80). Because of this emphasis on participation and public sphere, this model is forced to confront both the liberal solutions and the elitist strain of republican solutions that, for different reasons, converge in restricting political judgment to the representatives or to the political elite. To analyze the democratic potential of institutionalized participation – as well as to explain the low democratic density of the speech contrary to its expansion – I will turn, in the following, to some elements of the theory of deliberative democracy developed by Seyla Benhabib. However, I would like to say, in advance, that at the moment I am interested the most in one feature of this theory, namely, the requisite that the political judgment is not a kind of specialized opinion consigned only to the “specialists”.

Benhabib defines democracy as “a model for organizing the collective and public exercise of power in the major institutions of a society on the basis of the principle that decisions affecting the well-being of a collectivity can be viewed as the outcome of a procedure of free and reasoned deliberation among individuals considered as moral and political equals” (BENHABIB, 1996, p. 68). This is a model consonant with the application of the principles of discourse ethics to the political and institutional life and, with a strong commitment to universalism (i.e., based on the principles of universal moral respect and egalitarian reciprocity), it defends the basic idea that it can only be considered valid those norms resulting from a deliberation processes with the following characteristics:

“1) participation in such deliberation is governed by the norms of equality and symmetry; all have the same chances to initiate speech acts, to question, to interrogate, and to open debate; 2) all have the right to question the assigned topics of conversation; and 3) all have the right to initiate reflexive arguments about the very rules of the discourse procedure and the way in which they are applied or carried out. *There are no prima facie rules limiting the agenda of the conversation, or the identity of the participants, as long as each excluded person or group can justifiably show that they are relevantly affected by the proposed norm under question.*” (BENHABIB, 1996, p. 70, my emphasis).

For lack of space, I will not examine here the radically proceduralist aspect of this model, nor will I examine its basis in discourse ethics, but I would like to emphasize, first, that if deliberation must be free and unconstrained it is because the legitimacy of the democratic institutions depends upon it. In other words, in order to achieve legitimacy and rationality it is necessary that the institutional arrangement of a political community enables the matters of common concern to be the subject of collective deliberation. This, of course, requires certain norms and procedures consistent with the principles of a democratic society and it works only and solely within the constitutional state. This is evident but insufficient. The defense of unrestricted dialogue and of free and unconstrained deliberation occurs in accordance with an achievement of political liberalism (and the language of civil, political and human rights is in this sense), but, at the same time, this defense is forced to transfigure political liberalism and to overcome its restrictions to the expansion of the public sphere, of participation and of deliberation.



From the perspective of the debate that I intend to analyze in this text, I will highlight some important aspects of this model of democracy and public space which have a strained relationship (positively ambivalent), and is disputant, with the legacy of political liberalism in the extent that it indicates its democratic limitations. The first aspect, highlighted above, is that, in a democratic regime, the agreement between citizens, generated through processes of public dialogue, is central to the legitimacy of institutions. This is also because of such dialogues, in so far as they result in a gain of public knowledge via public deliberation, put constantly to the test the “rationale behind the major power arrangements” (BENHABIB, 1992, p. 121), which begin to be questioned in its justice and equity. Political participation has, in this sense, at least two consequences that I would like to point out: it enables the grounded questioning of established structures of power and domination; and it enables, via dialogic practices, the formation of political judgment in submitting our opinion to the test of the judgment of others. Perhaps, claims Benhabib, “the most valuable outcome of such authentic processes of public dialogue when compared to the mere exchange of information or the mere circulation of images is that, when and if they occur, such public conversations result in the cultivation of the faculty of judgment and the formation of an ‘enlarged mentality’” (BENHABIB, 1992, p. 121).

The enlarged mentality, as the ability to form an opinion “in an anticipated communication with others with whom I know I must finally come to some agreement” (Arendt), entails the articulation of the perspectives of all involved and requires a “civic and public life in which the right to opinion and action is guaranteed” (BENHABIB, 1992, p. 140). This is, thus, the second aspect to be highlighted. To the extent that the articulation of the differences is crucial to understand and to begin to appreciate the perspectives of others, and to the extent that this articulation occurs in civic and political associations, we need to severely challenge the liberal position of confining political judgment (usually to the representatives) and of reducing the public sphere. In other words, political liberalism tends to weaken the formation of a democratic participatory *ethos*, to the detriment of democracy and the challenging of established forms of power and domination. Hence the defense of an inclusive and decentralized, participatory and non-bureaucratic decision-making model³. Thus, what is being emphasized is that participation can lead to a certain democratic learning (“Participation precedes universalizability”, Benhabib said in 1986!) (BENHABIB, 1986, p. 315). It is via these participatory processes that we *learn* to exercise moral and political judgment. Finally, it is via these processes that we develop the ability to see the world as it appears to perspectives different from our own.

The third aspect to be highlighted is the role of conflict and of the confrontation of opinions, worldviews and conceptions of the good. This version of deliberative democracy grounded in discourse ethics – a version that shifts the emphasis from the consensus to the democratic processes – does not mean, in any way, to reduce beforehand the highly conflictive burden of plural contemporary societies, and it does not rely on an ideal of reconciliation. On the contrary, it defends the belief that reflection, critique, struggle and contestation are crucial (BENHABIB, 1997, p. 108). Dilemmas and conflicts must enter the public sphere, also so it would be possible that some conceptions of the good could come to scrutiny, and the scrutiny of a universalist morality, in order to enable the challenging of entrenched forms of exclusion, violence or domination. This position challenges the liberal model that tends, in the name of a just and stable order, to defend conversational constraints that require excluding of the public debate certain matters that threaten the consensus. Against this, Benhabib argues that “no issues of debate and no conceptions of the good life are precluded from being voiced in the public arena”, even when they involve fundamental disagreements (BENHABIB, 1992, p. 97). Conversational constraints and restrictions of the political agenda are generally oppressive for certain oppressed groups because it prevents their agendas to become public. In this sense, the conflict is not only the reality of plural societies (or an unavoidable evil), but it is a privileged moment of democratic life in that its appearance in the public sphere may finally mean the challenging of the established structures of power, domination and violence.



THE CASE OF THE NATIONAL POLICY OF SOCIAL PARTICIPATION IN BRAZIL

On May 23rd, 2014, Brazilian presidency established, by decree, PNPS, which aims “to strengthen and to articulate the mechanisms and democratic forums of dialogue and joint action between the federal government and the civil society” (Decree 8243, Article 1). With this objective, the Act determines that civil society – that is, the citizen, the collectivity, the institutionalized or non-institutionalized social movements, their networks and their organizations –, the councils and the committees of public policy, the national conferences and other bodies, existing or to be established (such as the virtual environment for social participation), will be considered “in the formulation, implementation, monitoring and evaluation of programs and policies and in the improvement of public administration” (Idem, sole paragraph).

PNPS guidelines are the recognition of social participation as a citizens’ right and as the expression of the citizens’ autonomy; of the complementarity between the representative, participatory and direct democracy bodies; of the right to information, to transparency and to social control in public actions; of the promotion of active citizenship; of the autonomy of civil society organizations; of the expansion of social control mechanisms, among others. It means, in general, to consolidate social participation as a method of government, to further the articulation of the forums and mechanisms of social participation and to improve the relationship and the dialogue between the federal government and the civil society. PNPS does not introduce any great innovation, it only institutionally reinforces a policy adopted in the first term of PT’s federal government (Lula government) which aims to promote the articulation between government and civil society organizations, and to encourage the use of instruments for popular participation and popular consultation in the elaboration of the presidential agenda and in the formulation of public policies (see Provisory Measure 103). It must be remembered that managing councils, which operate in formulating and monitoring policies, for instance, have long existed in Brazil, before the arrival of PT to the federal government ⁴. The same goes for the National Conferences, they were established in 1941, they aim to inform the government about demands more locally restricted and they enable the citizen to have a voice in the national policymaking process (Cf. PROGEBINSCHI, T. 2014b). What actually happened after 2001 was the enhancement of these mechanisms for consultation, deliberation and participation. Of the 80 National Conferences held between 1988 and 2008, 55 were performed during the Lula government. This means that in seven years (2003 to 2009) 68% of all Brazilian National Conferences in twenty-one years were held. In the eight years of the Fernando Henrique Cardoso government 17 National Conferences were held and in Collor government, 2 Conferences were held during his two years and nine months term (Cf. POGREBINSCHI; SANTOS, 2010).

Take for example the National Conferences, they are of forums of deliberation and participation intended to provide guidelines for the formulation of public policies at the federal level. They are summoned by the Executive Branch through its ministries and its secretariats, they are organized thematically and have, as a rule, equal participation of government representatives and civil society. National conferences are generally preceded by local, state or regional stages, and the results of the deliberations that occurred at these stages are the subject of deliberation at the national conference, attended by delegates from the previous steps. The end result of the deliberation from the national conference is, generally, a final document containing guidelines for the formulation of public policies in the subject area of the conference. Since the middle of the 2000s, the National Conferences have encompassed an increasing number of themes and have begun to address a wide plurality of new public policy areas, many of them social and cultural policies focused on minorities. I mention, as an example, the National Conferences that formulate and articulate the interests of women (in the conferences for public policy for women), of the Indians (in the conferences on indigenous peoples), of the elderly (in the conferences for of rights of the elderly), of people with disabilities (in the conferences



for the rights of people with disabilities), of the gays, lesbians, bisexuals and transgender persons (in the conferences for the right of gays, lesbians, bisexuals and transgender persons), of children and adolescents (in the conferences for the teen and child rights and in the conferences on youth), of different races and ethnicities (in the conferences for the promotion of racial equality), etc. Thus, the National Conferences have become privileged forums for cultural minorities to formulate their legislative expectations:

National Conferences of public policies, therefore, are participative and deliberative experiences in which it's possible not only to give voice to the demands of minority groups but also, eventually, to make them present in Parliament. Even if those groups cannot get their candidates elected, they can take advantage of national conferences in order to have their interests represented in the Legislative Power (POGREBINSCHI; SANTOS, 2010, p. 20).

My goal here is not to scrutinize these experiences of institutionalized participation, nor it is to assess its effectiveness. I would like simply to point out that, since the return of our democracy and, in particular, after the Constitution of 1988, we see the implementation of institutional channels for social participation in local governments (for example, the experiences of participatory budgets and the Managing Councils), something that has intensified recently – also at the federal level – with the expansion of National Conferences. PNPS was formulated on the federal government's perception (in the first term of Dilma Rousseff, also from PT) that it was necessary not only to consolidate these already existing channels for social participation, but also to transform social participation in a “method of government”, that is, “to incorporate it in such a way that the practice of social participation would be present in all programs and in all [federal] government actions” (PONTUAL, 2014, p. 98). Thus, PNPS was presented to the Brazilian society and the legislative power as a policy aimed at strengthening and promoting democratic forms of dialogue and joint action between the federal government and civil society. For the federal government, its proponent, PNPS is justified to the extent that it recognizes the social participation as a right of the citizen and as an expression of his autonomy, it recognizes a complementarity between the bodies of representative and participatory democracy and also the need to expand the mechanisms of social control.

THE BACKLASH

The mainstream media and parliamentary opposition parties vehemently reacted accusing the federal government of “coup d'état”, “Bolivarianism” and subversion of the democratic order. The editorial of the newspaper *O Estado de São Paulo* (on June 29th, 2014) – one of the main media vehicles of the Brazilian press that, it is worth recalling, supported the military coup of 1964 and, in recent years, openly and systematically opposed PT governments – accused Dilma Rousseff of planning to change the constitutional order by decree and of intending to establish a “regime change”. Against PNPS, the newspaper argues that “social participation in a representative democracy is achieved through the legitimately elected representatives in the Congress”. What I mean to emphasize is that the argument against PNPS is based on a conception of the relationship between participation and representation according to which social participation in a representative democracy is achieved only through their elected representatives in Congress. Any other type of participation would mean a threat to the Brazilian representative system, therefore, would threaten the Constitution, since it established a body of power competing with Congress representative power. I quote the newspaper editorial: “What we see is that Comrade Dilma disagrees with the Brazilian representative system defined by the Constituent Assembly of 1988 and wants, by decree, to introduce another source of power: the direct participation”. The stated aim of the journal is to attribute to PNPS a “profoundly undemocratic” effect, since it enables “some specified citizens, those who are politically aligned to an idea, to have more voice [than others] and, thus, undermines the basic principle of democratic equality of “one person, one vote”. The participation in social movements, although legitimate, the editorial continues, “cannot mean the increase of institutional political power, because this means “to institutionalize inequality”,



especially when it is the government party that subsidizes and controls these social movements”. What the decree does, still according to the newspaper *O Estado de São Paulo*, is to establish the distinction – rejected by representative democracy – between citizens of first and second classes, creating specific channels in order that some citizens (the alleged first class citizens organized in social movements and aligned with the government) would have more voice than others (the majority of Brazilians, who “works all week” and therefore doesn’t have time to “participate in all these hearings, committees, councils and dialogue boards”). The “fallacy” that would sustain the Decree is the notion that social movements were the highest expression of democracy, whereas history showed, in contrast, that “where there is no institutionalization of power, there is the institutionalization of the rule of the strongest”. So, PNPS, according to this, is an assault on the democratic Rule of Law, which meant “a huge civilizing step by institutionalizing the individual secret ballot as the source of all state power”. In opposition to this civilizing step, PNPS would like to create “parallel channels of power not legitimized by the ballot box and, thus, to upend the logic of the system. It is therefore an unconstitutional act and a totalitarian onslaught of President Dilma Rousseff”.

Then Senator Alvaro Dias (PSDB), citing, on the Senate floor, the text of *O Estado de São Paulo* editorial, reiterated PNPS antidemocratic character and stated, with an explicit reference to the military dictatorship, that the presidential decree that proposes PNPS, though not requiring the forfeiture of the legislative terms of office and the closure of the National Congress, wants a “rubber stamp Congress” to the mere approval of acts emanating from the executive branch, “a kind of warehouse available to whoever runs the country”. The core of the Senator’s argument is the same one of the argument submitted by the newspaper *O Estado de São Paulo*: the decree would undermine democracy because it would diminish the power of the legislative body and because it would ignore, in order to consolidate social participation as “a method of government”, that “social participation in a democracy occurs through the legitimately elected representatives in parliament”⁶.

This speech of a Senator member of the largest opposition party to the federal government spells out what would be a clash between two different conceptions of democracy. One conception (supposedly the conception of the members of the PT, the government party), in which democracy would be based on social participation as a method of government at the expense of the Congress, which therefore would value the social movements while would purposely weaken the power of the representatives elected by the people (“with this decree, the President proclaims the collapse of the federal legislative power”); and the other conception, explicitly advocated by the Senator, in which social participation is understood as “occurring through the legitimately elected representatives in parliament”. The Senator’s speech is not silent as to how this second model (which he advocates) considers participation: citizens’ social participation and supervision should preferably be done, in the first place, “on the police station, the health center, the schools and the public transport of their neighborhood” and “a distant second priority would be to participate in national conferences and other instruments of the same kind”⁷. This means that participation is primarily “supervision” of services and should be done primarily at the local level.

PNPS would, therefore, be threatening in two ways: allied to the risk of popular participation (the Senator explicitly speaks of “risk of popular participation”), there is the danger of popular participation becoming party politics. That is to say, the good popular participation, besides being done locally as supervision of services, must be autonomous in relation to the parties and oblivious to the power struggle between government and opposition (“its effectiveness as mobilizing participation largely depends on its autonomy from the party differences, mainly between government and opposition”, according to the senator’s speech). What the current government of President Dilma Rousseff would intend is precisely to end this autonomy and to co-opt social movements and organizations. The simple fact that the government invites them



to participate would facilitate prevailing the party bias and promoting the voices of those more in tune with the government's practice. With it would come the risk of organized sectors being co-opted by the government (the examples he gives are the MST – Landless Workers' Movement – and UNE – a students' national union): "cooptation kills the autonomy of these movements and takes therefore its *raison d'être*"⁸.

Given this understanding of popular participation in a legal democratic state, it is clear why the mainstream media and opposition legislators say PNPS subverts democracy. After all, while in their model of democracy social participation is restricted to the vote and to the supervision at local level, PNPS proposal means to "strengthen and articulate the mechanisms and channels for democratic dialogue and joint action between the federal government and civil society" (Decree 8243, Art. 1). The conclusion of the conservative reaction is that PNPS is authoritarian, subverts the democratic order and usurps the role of our institutions: "popular participation does need to be strengthened by exacting demands on rulers and decision makers, the wisest formula for this is the vote, the urn is the most appropriate way to improve the country".

In November 2014, a few days after the presidential elections that brought Dilma Rousseff to her second term, the Chamber of Deputies approved with 294 votes in favor (and only 54 votes against) the Legislative Decree 1491/2014, a decree that suspends the application of Decree 8243, of May 23, 2014, which established PNPS. What is clear in the speech contrary to PNPS, as we have seen, and condensed in this Legislative Decree, is that PNPS "erodes the entrails of representative government, one of the pillars of the Legal Democratic State, legitimately adopted in the Federal Constitution of 1988". Furthermore, the critics also say PNPS favors the participation of social actors co-opted by the government and in line with its proposals, while "ordinary people, not accustomed to social activism, is relegated to the background". (PDC [*Project of Legislative Decree*] 1491/2014).

THE LOW DEMOCRATIC DENSITY OF THE SPEECH CONTRARY TO THE INSTITUTIONALIZATION OF SOCIAL PARTICIPATION

Briefly, I intend, in the following, to analyze some aspects of the argument against PNPS, starting with the allegation that it establishes a new regime and violates the Constitution of 1988. The sole paragraph of Article 1 of the Constitution states, "All power emanates from the people, who exercise it by means of elected representatives or *directly*, as provided by this Constitution". As Leonardo Avritzer notes, "the Brazilian constituent defined the country as a mixed system between representation and participation" and thus, "the truth is that the spirit of the Constitution is much better embodied by the decree 8243 [which establishes PNPS], which institutionalizes a new form of articulation between representation and participation according to which civil society can indeed participate in the formulation and management of public policies" (AVRITZER, 2014). Moreover, it is worth remembering that most of the Brazilian participatory institutions was created by the legislative powers (municipal, state and federal), a fact that calls into question the statement that PNPS attempts to supplant legislative power with participation. Finally, although it is a truism, I emphasize that we are talking about institutionalized participatory bodies, with formal rules and procedures, subject to the Constitution and which do not replace, in any way, the legislative power.

Regarding the argument of "co-optation", it should be noted that it intends to create the impression that the federal government and the members (supposedly rigged) of participatory instances specified by PNPS are in perfect harmony. This is questionable, as it is revealed by some social actors involved and by empirical studies on council dynamics (Cf. VALLE, 2014). As noted by José Szwako, based on interviews with civil and governmental agents of three Managing Councils at the federal level, the council dynamic



“makes room for the conflict” and enables the dispute between different political projects, projects that convey different conceptions of State and of how life in society should be like (Cf. SZWAKO, 2012). Moreover, these conflicts do not occur only in the relationship between governmental and civil actors, but also between civil actors, since they are not organized in a homogeneous block, but in “highly conflicting” groups or fields (SZWAKO, 2012, p. 94). The dynamic of these forums of institutionalized participation being open to the conflict between civil and governmental actors and, furthermore, the nature of civil society in these forums being heterogeneous, the argument of “co-optation” and rigging must be viewed with caution. The voices of the actors reveal that not only is there no unrestricted alignment, but that council dynamic enables the conflict and the expression of different political projects.

A rudimentary analysis of the argument against PNPS, briefly reconstructed above, shows that it is largely based on the supposed antagonism between participation and representation, so that the increase of participation implies regression of representation. Or, more accurately, the increase of the citizens’ participation in the process of development of public policies constitutes a threat to the power of elected representatives in Congress. It should be noted, however, that this position is supported by an overly formalistic conception of democracy and of political representation itself, based on the assumption that the “sovereign nation speaks only through the voice of the elected representatives” (URBINATI, 2006, p. 200). This is a small, minimalist conception of democracy that, in the name of maintaining the Rule of Law, reduces citizens’ action to the moment of the vote for the appointing of professional politicians. It is, therefore, this justification (“in the name of the Rule of Law”) that we should carefully scrutinize: what it means is that the preservation of the Rule of Law requires citizens who behave as spectators while the professional politicians govern. It is a political position that reveals certain antipathy to democracy: on behalf of the “just and stable” political order, it neglects other dimensions of political life “like life in political associations, movements, citizens’ groups, town meetings, and public fora” and, therefore, citizens are reduced to spectators and clients, while professional politicians do the actual governing (BENHABIB, 1992, p. 101; BARBER, 1988, p. 18).

The orchestrated reaction against PNPS must be understood as a reaction to a possible *democratic transformation*, which makes the “political class” (or its more numerous part as allocated in the Chamber of Deputies) severely react when faced with the possible loss of the monopoly on political deliberation. Hence the repeated insistence on deliberative processes referring exclusively to “democratically elected” representatives. A more detailed analysis of this reaction (which I will not carry out here) should take into consideration the interests these parliamentarians represent and that are threatened from the moment in which minority groups historically alienated from the decision-making processes have a voice. For example, it does not seem appealing to the Rural Caucus, composed by representatives of agribusiness, the empowerment of native communities representatives, of social movements for agrarian reform representatives or environmental groups. In the same way, the LGBT Conference (held in 2008 and 2011) – discussing the rights of lesbians, gays, bisexuals, transvestites and transsexuals – or the Women Conference (held in 2003, 2007 and 2011) – bringing to the discussion topics such as the criminalization of homophobia and the decriminalization of abortion –, profoundly displease the Evangelical Caucus. While social movements, via institutionalized participation as well, make public the agendas of women and LGBT people, the Evangelical Caucus (currently with 75 members of the 513 comprised by the House), in its disciplinary crusade, react denying that these are subjects of the country’s agenda⁹. Between organized society and the Chamber of Deputies there is a struggle for the political agenda and the reaction against PNPS clearly comes in the wake of an increase in the minority groups’ participation. It is interesting to note that the voices opposing the increase of institutionalized participation reveal, as a rule, an attempt to cover up the social and concrete identities of voters as if its unveiling was extremely dangerous for the preservation of democracy.



It should also be noted that the speech contrary to PNPS goes against the social demand, which intensified since June 2013, asking for greater participation and greater influence over the democratically elected representatives. Thus, most parliamentarians completely reject the diagnosis that the representation, as it occurs today in Brazil (and not only in Brazil), suffers from serious limitations when it comes, for example, to deal with non-majoritarian topics, and that the legislative branch face serious obstacles to connect with society (because of lobbies, of party coalitions, etc.) In this discourse on the “true democracy”, it is not included a reflection or even the admission of this demand for participation as something relevant. On the contrary, while society protest against the gap between representatives and constituents, when it asks for greater influence on the representatives and calls for an increase of accountability, representatives entrench and organize themselves against the institutionalized channels of participation ¹⁰.

The “slippery slope” argument that political representation and the Rule of Law do not survive the expansion of institutionalized participation try hard, as we have seen, to identify the figure of the representative as the only legitimate voice of suitable demands in a democratic regime. Accordingly, it is up to ordinary citizens to vote and supervise, but never to participate in the formulation of public policies or the construction of political agendas. The fear for the loss of the monopoly over deliberation and the political agenda is substantiated, thus, in a speech clearly favorable to institutions and practices that are exclusionary, conversation-blocking, and manipulative of agendas (Cf. BENHABIB, 2014, p. 710).

The episode of PNPS enables us to identify public speeches explicitly opposed to a political transformation leading to the democratization of Brazilian democracy. This resistance to participation – even though it appears under the guise of defending the Rule of Law and its institutions – is not, however, merely “institutional”. It has a liberal feature, but it’s important to stress its conservative character, favorable to the concentration of power that always benefits political and economic elites at the expense of the empowerment of the excluded and the minorities. The restraint of political judgment and the resistance to institutions that allow collective deliberation – institutions that enable the collective opinion and will-formation and the expansion of public knowledge – this restraint and resistance mean, ultimately, obstruction of the right to opinion and action. If we accept that participation, as Benhabib suggests, can have important consequences with regard to the questioning of traditional arrangements of power and the empowerment of minorities, the resistance of parliamentarians to institutionalized participation can be translated in these terms: intentional obstruction of these processes. When the voices contrary to PNPS talk about the “risk of popular participation”, what they are probably expressing is the “risk” of revitalization and expansion of Brazilian democracy and the development of a civic culture of political participation, this one indeed highly threatening to political elite, because it can transform the client or consumer citizen into a participating citizen.

The experiences of institutionalized participation gave rise to an extensive debate about its effectiveness, its scope and limits. As shown by Szwako:

The senses, subjects and practices of participation today are multiple and ambivalent: if a segment of actors and civil society networks sees in the so-called participatory spaces – namely participatory budgets, conferences and managing councils – an opportunity to change the dominant standard of decision-making, other voices are profoundly questioning whether and to what extent these spaces are constituted as effective power-sharing sites between governmental and civil actors (SZWAKO, 2012, p. 91).

I do not intend to reconstruct or evaluate here this ongoing debate and discussion regarding the effectiveness of the participatory channels (Cf. LAVALLE, A. 2012). However, I suggest thinking these experiences – even with its limitations – as institutional and political *learning* processes that favor the “enlargement of



mentality". If these experiences provide some political learning it is because they occur in institutionalized participatory forums that enable the appearance of conflicts, and because they are composed by agents with different points of views and different political projects who nonetheless have to reach agreements. Anyway, even recognizing the limitations of these practices of institutionalized participation, we cannot, conversely, minimize its contribution to the expansion of citizenship. As Silva, Jaccoud and Beghin state, they were:

... the result of popular movements' and civil society's achievements. This is an ongoing process that marks concrete possibilities for the development of new public arenas of interest-mediation and new formats for decision-making mechanisms, which may have the ability to incorporate in the State apparatus the increasing complexity of society's demands (SILVA, JACCOUD E BEGHIN, 2005, p. 390).

In this paper, I tried to suggest that the continually repeated thesis of PNPS critics that "social participation in a democracy occurs through the legitimately elected representatives in parliament", or that ordinary people "have to work" and doesn't have time for social participation, intends at all costs to ensure the monopoly of deliberation and the restriction of political judgment to professional politicians (as if it were a "kind of specialized opinion"). I suggest that it should be interpreted mainly as an attempt to block the development of a civic culture of public participation: after all, it seems aware that the promotion of a democratic-participatory *ethos* has the potential to put in check the rational basis behind the great power arrangements.

NOTES

1. The first version of this text was presented at the "Colóquio Justiça, Virtude e Democracia: Representação Política" organized by Daniel Tourinho Peres in August 2014 at the Federal University of Bahia. The second modified version was presented in March 2015 at the Department of Political Science and International Relations from Bogazici University at the invitation of Aysen Candas. I thank Daniel Peres and Aysen Candas for providing the discussion of the initial versions of this text and especially Aysen Candas for her valuable suggestions. I also thank Helga Varden, Maurício Keinert and Bruno Nadai for their contributions, as well as Renata Romolo Brito for the translation and careful reading of all the versions of this text.

2. A primeira versão deste texto foi apresentada no "Colóquio Justiça, Virtude e Democracia: Representação Política" organizado por Daniel Tourinho Peres em agosto de 2014 na Universidade Federal da Bahia. A segunda versão modificada foi apresentada em março de 2015 no Departamento de Political Science and International Relations da Bogazici University a convite de Aysen Candas. Agradeço a Daniel Peres e Aysen Candas pela discussão que propiciaram das versões iniciais deste texto e especialmente a Aysen Candas pelas valiosas sugestões. Agradeço também a Renata Romolo Brito, Helga Varden, Maurício Keinert e Bruno Nadai pelas contribuições.

3. To avoid misunderstandings, it's worth to mention that the deliberative model doesn't need to operate with the fiction that modern society can be organized in a general assembly of masses deliberating in public and collectively. In contrast, the deliberative model emphasizes the plurality of modes of association in which those affected can articulate their points of view, such as political parties, social movements, voluntary associations, etc. (See BENHABIB, 1996, p. 73-4).

4. All PNPS "aims to systematize and organize has been around since way before PT reached the federal government. In 2003, when Lula became president, there were 28,000 policy managing councils throughout Brazil. Since then, municipal health councils, which were so far about 5,000 in 2003, virtually one per county, were already active in formulating and monitoring policies, enforcing nothing more than the "community participation" guideline established by 1988 constituent." (PROGREBINSCHI, T. 2014a).



5. Editorial of the newspaper *O Estado de São Paulo* on June 29th, 2014. *As convicções de Dilma* <http://acervo.estadao.com.br/pagina/#!/20140629-44084-nac-3-edi-a3-not>
6. Senator Álvaro Dias speech on the Senate floor: <https://www.youtube.com/watch?v=TnGeAmPQzyo>
7. Senator Álvaro Dias speech on the Senate floor: <https://www.youtube.com/watch?v=TnGeAmPQzyo>
8. Senator Álvaro Dias speech on the Senate floor: <https://www.youtube.com/watch?v=TnGeAmPQzyo>
9. In an interview with *O Estado de São Paulo* newspaper, on February 9th, 2015, Congressman and current president of the Chamber of Deputies Eduardo Cunha says: “they will have to go over my dead body to vote [abortion laws]”. <http://brasil.estadao.com.br/blogs/estadao-rio/aborto-so-vai-a-votacao-se-passar-pelo-meu-cadaver-diz-cunha/>. Cunha was also the rapporteur of the Parliamentary decree that suspended the effects of the presidential decree establishing the PNPS.
10. As Andrew Arato warns, “the most important pre-condition for an accountability system to actually work is the activity of citizens in democratic public forums and civil society” (ARATO, 2002, p. 103).

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