A *Decisionist* Approach to Democratic Political Order

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> 'There is no getting away from the need in a democracy for the people to decide.'[1]

1 Introduction

The two most noteworthy ideas of Bonnie Honig's article are, to my mind, (1) her shift away from deliberative democracy to 'democratic politics in *medias res*' (p. 118) and (2) the paradox of politics, discovered in Rousseau's *Social contract*, determined as the *undecidability* between *volonté générale* and *volonté de tous* or, in general, between 'the ideal' and 'the real' (p. 124). In other words, what democracy is and what it should be are matters difficult to separate. Normative concepts of democracy are inseparable from democratic politics itself: how can there be an outsider position from which 'true' democracy becomes visible? In her view, the ongoing debate between decisionists and deliberativists disregards the

> 'fecundity of undecidability, a trait that suggests that our cherished ideals – law, the people, general will, deliberation – are implicated in that to which deliberative democratic theory opposes them: violence, multitude, the will of all, decision'. (p. 124)

So, this idea of undecidability is at the heart of a new way of thinking, which leads us to 'the material conditions of political practice' (ARSP p. 1). At the end of her paper, she clearly states her position, asserting that we

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1 Bonnie Honig, 'Between Decision and Deliberation: Political Paradox in Democratic Theory', American Political Science Review (101) 2007, p. 1-17, at p. 7. All further citations from this paper are indicated, by page number in this issue, directly in the main body of the text. References that are to the original article only are marked (ARSP).

> 'get a politics, in which plural and contending parties make claims in the name of public goods, seek support from various constituencies, and the legitimacy of outcomes is always contestable' (p. 135).

My question, when reading the text, concerns her perception of decisionism. Honig tries to avoid the dilemma of 'deliberation' and 'decision', and opens up new avenues for taking a theory of democracy beyond this dilemma. Her argument, however, limits itself to a critical analysis of deliberative theory. The role played by 'decision' remains mostly implicit, and the concept is hardly elaborated. Accordingly, I intend, in this comment, to explore what a decisionist theory of democracy would look like. I will show that Honig's key concepts – political paradox and democracy – can be reformulated in decisionist vocabulary. My basic argument is that decisionism offers a more adequate articulation of social reality than varieties of normativistic and, especially, deliberative theories. This exploration will make clear that Honig does not overcome the dilemma, but rather takes sides with a decisionist theory of democracy.

My comment consists of three parts. Firstly, I will clarify the meaning of decisionism. Secondly, I will try to explain the paradox of politics (or political paradox) in decisionist terms. Thirdly, I will give an outline of a decisionist theory of democracy. My response to Honig's article will focus on some other authors than those she discusses. In particular, I will draw on Spinoza, as a classic thinker, and Panajotis Kondylis (and a bit of Niklas Luhmann) as a theorist of decisionism.

2 What is decisionism?

Honig refers to decisionism in three ways. Firstly, 'decisionism' is not understood in its own terms, but rather in terms of the definition proposed by its opponents. Decisionism then seems to point to a position in discussion or deliberation that refuses to give up certain things because it appeals to certain loyalties. 'Decisionists, deliberativists argue, cannot give valid justifications for the principles they champion.' (p. 116) Secondly, decisionism refers to an antagonism within a 'binary logic': politics seems to be reduced to deciding in favour of one of two opposing parties. This opposition (or antagonism) can be framed as friend and enemy: Germany and Russia (Schmitt), bourgeoisie and proletariat (Marx), liberalism and democracy (Mouffe), freedom and totalitarianism (Cold War), democracy and terrorism (Bush), and so on. Thirdly, Honig uses and accepts the concept of decision many times, mainly to criticise deliberative theorists. For example, she writes, 'the people (...) must nonetheless discern or decide the difference between the legitimate lawgiver and the pretender' (ARSP p. 6). She accepts Gould's

criticism, who faults 'Habermas and his followers for their neglect of "effective decision-making" (...)' (ARSP p. 14, note). The first definition, of course, is not a very convincing attempt to overcome the dilemma of 'deliberation' and 'decision'. The second definition fits in this proposal, but is too limited and simplified. The third meaning of decision, as an important category in social and political philosophy, might be part of a decisionist theory. That is what I intend to make plausible.

The most consistent and profound decisionism can be found in the work of Panajotis Kondylis (1943-1998), who wrote in Greek and German. He dubbed the second of the aforementioned definitions 'militant decisionism'.[2] It assumes that loyalty defined by a distinction between friend and enemy is a correct political attitude, attesting to faith in or rejection of the foundation of a particular political order, itself a representation of a particular people, culture, nation, class or whatever. The standard or ultimate norm in this case confines willingness to participate in political deliberation. This explains why partisans of deliberative democracy, for their part, reject any position that endangers a free and open participation in public debate. For them, decisionism constitutes a proviso that endangers deliberation. As Kant would say, 'decisionist' attitudes 'become the subjects of just suspicion, and cannot lay claim to sincere respect, which reason accords only to that which has stood the test of a free and public examination'.[3]

From the perspectives of its opponents, decisionism can only be a militant form of political behavior, incompatible with democracy. As Kondylis points out, this variety of decisionism is itself a form of normativism, claiming a priori knowledge of what is 'good' political behavior. It has to be distinguished from 'descriptive decisionism', according to which decisions are the stuff of which the human world is made, not a standard, 'blind' commitment with some founding principle or political power. The opposition between 'decision' and 'deliberation' is normative: it concerns possible ways of participating in political life, based on a moral view on the foundation of political order. In both cases, however, the moral foundation itself is a matter of decision – accepting or rejecting a particular attitude.

Descriptive decisionism sees decisions as basic elements of a social ontology.[4] A social ontology tries to explore what *being together* means. The fundamental idea of a decisionist social ontology is that a unifying concept of

2 Panajotis Kondylis, Macht und Entscheidung: Die Herausbildung der Weltbilder und die Wertfrage, Stuttgart: Klett-Cotta 1984, p. 7.

3 Immanuel Kant in the A-edition of his Kritik der reinen Vernunft (my translation of p. xi, note).

4 The concept of a social ontology was explicitly put forward in Kondylis' posthumously published work Panajotis Kondylis, Das Politische und der Mensch: Grundzüge der Sozialontologie. Band I, Berlin: Akademie Verlag 1999.

society is not the primary reality, but a construction that must remain fictional. 'Society' is a fiction, because social reality remains split or differentiated. Society is presented as a unity only in communication. Social reality is *not a unity*. So, the first principle of a decisionist social ontology is that being together is fundamentally marked by discord, disunity, differentiation.[5] If we start from this premise, all social activities (including publishing normative theories about democracy) become decisions.

3 The concept of decision

Up to this point, I have left uncertain the precise meaning I assign to the concept of decision. In my opinion, it has nothing to do with free will or arbitrariness. It does not matter whether *I* decide or choose to write this paper and not another, or that I have no choice. What counts is that, for an observer, the audience or the reader, it appears as if I decided to write this paper. In social reality, any utterance or act of communication could have been otherwise in the minds of those that are confronted with it. In this sense, decision stands for *contingency* in communication or social practice in general. Of all things one could expect others to do or say, people actually decide to do or say *this*, and not something else. This marks decision as an indispensable social (and political) category. *Decisions made by others* form the contingent, heteronomous social reality to which I have to respond. The same holds for the observers of my utterances: they have to make sense of it, independent of the meaning these utterances have for me.

In a decisionist social ontology, the available, ultimate alternatives are acceptance or rejection of claims or decisions made by others. (Of course, many decisions made by others are unimportant to me.) Certainly, this could be accepted even by deliberativists. But it becomes controversial as soon as decisionism goes one step further, and questions the horizon or context of justification within which people interact. People may perceive such a horizon as self-evident, but as long as there are people who contest this frame of thinking, remaining within it counts as a decision. Legitimacy

5 What follows is also inspired by the works of Niklas Luhmann and Peter Fuchs. I take systems theory as compatible with descriptive decisionism, which has its roots in Max Weber's sociology. In this respect, and despite their differences, Luhmann and Schmitt have much in common, cf. Chris Thornhill, 'Niklas Luhmann, Carl Schmitt and the Modern Form of the Political', in: European Journal of Social Theory (10) 2007/4, p. 499–522. I will not go into the theory of social differentiation. I take some notions from systems theory that will be helpful in formulating a decisionist theory of democracy. This theory is also inspired by Spinoza's dictum that democracy closely parallels what he calls 'nature', and what I call social ontology. Democracy is a political order that is as sparing as possible in its appeal to fictions of unity or foundation; Benedictus de Spinoza, Theological-Political Treatise, Jonathan Israel (ed.), Cambridge: Cambridge University Press 2007, Chapter 16.

and justice, to give only two examples, are part of the political game. If people dispute whether a policy is just or legitimate, they have to accept the terms and rules of deliberation first. Acceptance of support or justifications depends on the decisions of others.

We need not go into the details of how the acceptance or rejection of decisions made by others leads to a complex society. Society can take on different forms, depending on the specific decisions that are made and accepted.

If we return to our social ontology, we must also be aware of the fact that we may suppose people's minds proposing, supporting, accepting or rejecting ideas outside the social and political order. These claims appear as decisions when they are uttered, *i.e.*, as a selection of ideas from a plurality of alternatives. Contingency is the social appearance of the unknown spiritual realm (people's minds) surrounding society. If there is a spiritual foundation of social and political order, it is transcendent – a silence.[6] But, of course, we can always make conjectures about its content.

4 Two axioms of a decisionist social ontology

Two axioms of this social ontology are basic for what follows: (1) the differentiation of social reality and people's consciousness ('spiritual reality'); and (2) the will to power which drives individuals to present themselves in social reality.

The reason that I invoke the first of these axioms is the importance it has for the articulation of political order. 'Spiritual reality', *i.e.*, the existence of 'psychic systems' outside the social system, is often mystified. It is identified with God, a natural or historical *telos*, or a collective mind, 'social imaginary' or universal principles, in order to come to grips with what escapes the social system, but is still supposed to affect it. By giving social and political order a spiritual foundation, the psychic systems or individual minds are negated or actually disciplined to conform to this foundation. So, on the one hand, we have social reality (what people really do and say) and, on the other, a plurality of observations of social reality. The two do not match. On the contrary, because everyone observes social reality from his or her own position (marked by his or her 'history'), representations of social and political order tend to be different. I think this is a basic truth of social reality. This insight yields two approaches to the basic differentiation of social reality: a universalistic and a relativistic one. The former stresses the common grounds and the final *spiritual* unity of social and political order; the latter stresses the particularity of perspectives. Here lies the paradox of liberal democracy: it allows the free and equal expression of 'psychic systems'

6 Niklas Luhmann & Peter Fuchs, Reden und Schweigen, Frankfurt: Suhrkamp 1989.

in the social system,[7] while at the same time founding social and political order on universal principles such as freedom and equality. Although antagonism and consensus, or militant decisionism and deliberative democracy, are real possibilities, they both refer to the same social ontology.

Normativist theories of democracy, which try to show that there can be a universally binding spiritual foundation of social and political order, even one that conforms to liberal principles, are nothing more than an expansion of a *monologue intérieure*, the reflections of a philosopher, for example, on an imagined social practice. These theories conceal the differentiation or disunity expressed by the truths of social ontology. These truths imply (1) that a proposal for a spiritual foundation of social and political order (a concept of legitimacy, for example) is in social *reality* nothing but a *claim*; (2) that the meaning of this claim in social reality depends mainly on the *interpretation* others give of it; and (3) that the acceptance or rejection of the claim depends on the *decisions* made by others. This is not to deny that people *can* agree. But agreement or consensus is only a temporary, fragile *fiction of community* in which social reality seems absent. It is the illusion, for example, that the social system is animated by reason, expressing the conditions of the possibility of communication itself.

The second axiom of decisionist theory is that the substance of human reality is conflict, discord, disunity, in short, the existence of *contradictory, irreconcilable claims*.[8] Whatever people do when, entering the public space, they are present to each other, they are always driven by a 'will to power'. They want to be heard or recognized, or even worse, they want to be followed, obeyed, applauded. This principle implies, in particular, that even the ways in which people try to deal with conflict are contested. In some cases, some people will use violence as a means to enforce their claims. In other cases, people will use rhetoric, negotiations, deception, revelation or philosophy to convince their opponents. The principle of decisionism is that there are no a priori standards that can determine the right or just way of dealing with conflict. There is only a complex of conflicting claims to what is right or just. If I am not completely mistaken, it is exactly this kind of social theory that Honig is aiming at when she refers to 'a political understanding' of democracy, to 'the irreducible political condition' (ARSP p. 6), 'the real human world as we find it' (p. 124), and so on.

7 Historically, this becomes clear in the emergence of political rights (freedom of speech, of press, and so on) and the decline of religion as *potestas spiritualis*, i.e., the privatization of religion.

8 Panajotis Kondylis, Macht und Entscheidung (supra note 2).

5 Decisionism and the political paradox

The paradox of politics is connected to the concept of undecidability. In my view, those things are decidable that can be 'deduced' from norms, principles, rules given in advance. Undecidable matters require a real decision in the strong sense of the word. Decisionism holds that in the end all social matters are undecidable. Undecidability also leads us back to our former idea of disunity and differentiation. Being part of social reality means being alone with one's own observations and thoughts, and the way social facts (including persons and ideas) appear to us. We will never know for sure whether the world in which we live is 'the real thing'. This is all the more true for things like 'political order' and the legitimacy of political decisions.

A decisionist concept of political order could be phrased like this. Political order is based (a) on a decision to establish a way of dealing with conflicting claims (constitution); and (b) the availability of the means to enforce the results of this order. Thus understood, social and political order can be nothing other than a *modus vivendi*, a way to live together despite conflicting claims. There can be many kinds of constitutions, from the rule of one person (monarchy) to the rule by deliberation (liberal democracy). Even an adherent of deliberative democracy should accept this concept, if he or she has any interest in politics.

The paradox of politics appears as soon as one starts talking about the legitimacy of political power at a given moment, confronting a *potestas directa* to a *potestas indirecta*: the spiritual or moral ground of a genuine exercise of power.[9] In her evaluation of these kinds of paradoxes, Bonnie Honig apparently refuses to accept that such a *potestas indirecta* is accessible by any of the procedures proposed by Habermas, Benhabib, and others. The question is undecidable; therefore, we have to decide. If the people decide for a deliberative procedure, it becomes a *potestas directa*, which has all the usual consequences that derive from the exercise of power.

What complicates the matter is that participants in a political order will usually view this order as founded on moral principles, appealing to the citizenry and allowing them to imagine an *ideal* political order that conforms to those principles better than existing practices. Although political order can be described as a machinery of decisions having effects in society,

9 The concept was used in the Middle Ages for the right of the Church or the Pope to intervene in the affairs of princes who had a *potestas in temporalibus* in case they sinned or interfered with the affairs of the church. The doctrine of the *potestas indirecta* was rejected by Thomas Hobbes on the ground that there cannot be two powers that rule simultaneously. Nevertheless, the concept remained influential, more implicitly in 'Christian' democratic societies, in the analogous idea that secular rule does not have the highest moral authority.

it also presents itself as the collective agent instituted to 'solve problems' or 'reach goals'. Its opponents, on the contrary, will present it as failing to do so. Perhaps the deliberative concept of democracy is more closely linked to political discourse, expressing what this discourse seems to promise. By contrast, the decisionist concept of democracy observes political practices or operations. A decisionist would say that normativist theories of democracy take politics nominally. They fall victim to the optical illusion that moral claims present themselves as objective social reality.[10] This, I think, is what Bonnie Honig is trying to say in her discussion of Habermas's reference to Paris and Philadelphia (p. 130-134).

A decisionist political theory is not concerned with legitimacy or justice, but with the acceptance or rejection of political decisions. Political decisions are *collective decisions about decisions* (made by others). Political decisions bind or control, forbid or guide the decisions made by others, *i.e.*, citizens. A political order is the system of decisions about decisions ruling the entrance of people into society. The degree of liberty or freedom in society can be measured by the quality and amount of decisions of people that are not controlled by political decisions. Liberty can take the form of explicit rights. I added 'collective' because there are all sorts of decisions made by others about decisions people make. The choice of speakers in this conference, for example, is not the decision of the audience. It is decided for them. Although I would not call this political, it is important to note that it could become political. If citizens make decisions for other citizens, there is a need to deal with the conflicts that may arise.

This is not the place to elaborate further on the concept of decision. Let me finish this section with a brief remark concerning one implication of the idea of political decisions as decisions about decisions. This implication is the need for some *hierarchy* of decisions that shapes the specific form of social and political order. Decisions of courts can be rejected by higher courts. Public servants can make decisions that are overruled by their superiors. Decisions of government can be renounced by parliament. National laws may be subordinated to supranational laws. The question arises whether there is a primeval decision at the top of this hierarchy that may overrule all other decisions. This question haunts Carl Schmitt's political theory.[11] Who or what will decide in case of an exceptional situation? What are the grounds of such a decision?

Schmitt was fully aware of the paradoxical nature of these questions, referring to the political paradox of which Bonnie Honig speaks. The primeval decision has to be made when confronted with the decision made by others

10 Panajotis Kondylis, Macht und Entscheidung, p. 56 ff (supra note 2).

11 Especially Carl Schmitt, Politische Theologie, Berlin: Duncker und Humblot 1922.

– a foreign nation – implying an existential threat. It is a power out of our control that forces us to decide who we are and what price we are prepared to pay in order to remain what we are. Schmitt's political theory is in line with the social ontology I formulated earlier. The enemy imposes on us the question of identity. Political order itself is established as a response to heteronomy, which is rejected and must be resisted. It is only then that society becomes a unity: in the face of death or destruction, the integrity of social and political order emerges. The presumption then is that society will not become unified from within.

6 A decisionist theory of democracy

In my view, modern liberal democracy developed due to positive recognition of the social ontology we described earlier. Therefore, its core is decisionist.[12] In this sense, democracy means that political power renounces any claims regarding truth or justice, and orients itself to 'public opinion', the social expression of the plurality of thoughts present in the environment of the social and political system. The way in which this is done may vary. In any case, the operation of the political system includes entrances through which public opinion can be expressed. Voting, of course, is the clearest example. However, some democratic states are more inventive in creating forms of citizen participation.

It is important to notice that in a modern democracy people are free to express themselves in the public domain; to this effect, an idea of 'the people' or 'popular sovereignty' is not needed. The political system will function anyway. It is not 'the will of the people', the *volonté générale*, not even the *volonté de tous*, that is expressed. People express themselves in the democratic domain. It is up to them to determine whether and what they express. Seen from the point of view of 'the people'[13], *i.e.*, of people's minds (observation of society), the democratic domain is that part of the social order in which they can express the thoughts they decide to express, knowing that they will have some impact on the political system. Seen from the point of view of the political system ('the prince'), the democratic domain is a part of the system that is marked by *contingency*. One never knows for sure in which direction the political system will be forced after elections, to give only one clear example. Of course, the political system will do anything to control the democratic domain by propaganda, manipulation or creativity,

12 Cf, Hermann Lübbe, 'Dezisionismus – eine kompromittierte politische Theorie', Schweizer Monatsheft (55) 1976, p. 949-960.

13 '(...) a conoscer bene la natura de' popoli, bisogna esser principe; ed a conoscer bene quella de' Principi, conviene esser populare' [Machiavelli, introduction to Il Principe].

to reduce contingency. In this sense, people who work in the political system will 'fear' the people, as other people fear God – and rightly so.

As noted before, political order is a system of decisions regulating other decisions. For example, whatever a government decides, it has to conform to laws. A democracy is a political order in which at least some political decisions are taken by 'the people'. Usually, people may decide indirectly about their constitution or the members of the government, so they have some control over the way they are ruled. Democracy, however, refers to a much broader concept, which is closer to the social ontology described heretofore. Following Spinoza, it is of interest to distinguish between democracy as the power of the multitude (*potentia multitudinis*) and democracy as a regime or political order. In decisionist theory, the power of the multitude consists of the sum total of decisions people make effective in social reality. One of these effects is the formation of power relations resulting in a configuration of the power of the multitude we call a political order.[14] A democratic regime is possible if people trust each other enough to accept dependence on the decisions of (all) others.

An important point is that the spiritual realm that surrounds society is not the realm of moral truth (reason, justice, faith), but a disseminated field of limited perspectives. What becomes obvious in democracy is that my view is only one out of many, that the world I live in depends on the decisions other people make or have made, and that my own decisions are only a very small part thereof. Recognizing this makes it implausible to think of a spiritual foundation of political order that does not depend on human decisions. Accordingly, democratic politics entails and must organise the following domains of decisions:

1. The constitutional domain: decisions about territory, nation, citizenship, basic rules of decision-making and so on.
2. The administrative domain: decisions about the administration of those things that belong to the business of government and administration (the political system). These decisions are in part internal (self-organizing decisions) and in part external (decisions concerning decisions of others outside the political system).
3. The democratic domain: formal or informal decisions of people that are part of the political system.

This scheme gives us a clue to the political paradox, on the one hand, and to the tensions inherent to democratic political order, on the other hand.

14 I refer to Benedictus de Spinoza, Theological-Political Treatise, Chapter 16 (supra note 5) and Benedictus de Spinoza, Political Treatise, in: Complete Works, (Trans.) Samuel Shirley, Indianapolis/Cambridge: Hackett Publishing Company Inc. 2002, Chapter 2, 4 , 5 and 11.

The political paradox appears if we connect (1) and (3). How is a democratic constitution possible, if decisions can only be taken when based on the very constitution that constitutes the people as a whole? Rousseau's *Social contract* shows us, as Honig indicates, that this connection is problematic. It is problematic because, consciously or not, we acknowledge that it remains undecidable whether the constitution we are confronted with is made by men inspired by reason, wisdom, divine knowledge or whatever, or by men driven by their appetite for power, money, lust and so on. This depends on *our* interpretation, so *we* (the people, that is, each of us) have to decide whether we will appear in public space. As political actors, for example, we pretend to know the answer, when providing justifications. Nevertheless, we decide.

Yet, if we accept decisionist social ontology as our point of departure, the paradox is replaced by the concept of differentiation. We start from the premise of the disunity of society and the human world, and the tensions that are part of it. Differentiation only becomes paradoxical, or even contradictory, when there is an attempt to represent society as a whole, including its spiritual surroundings. Modern democracy is the articulation of the differentiation between people's thoughts, on the one hand, and their participation in society, on the other. One may develop a complete theory of social justice, of moral duty, of legitimacy in one's mind, but, as soon as a theory is expressed in society, it becomes part of a game beyond our power. The only thing we can do in society is try to affect, change, or force other people's decisions as we see fit. For others, this theory will appear as a decision to take sides. That is what politics is about – at least in a secular age.

A decisionist theory of democracy deals with the tensions inherent to democratic political order between (3) on the one hand and (1+2) on the other. We do not have to exaggerate the impact of the democratic domain. The constitutional domain is usually only challenged in times of crisis (social struggle, revolution, war). Most decisions in the administrative domain are taken without notice, at least publicly. It is business as usual. In normal situations, 'the people' do not really bother about the political system. In fact, the democratic domain contains only a small part of politically relevant decisions, however important these may be. In most cases, the people only rule nominally, not actually. This should be kept in mind, although it is not my intention to belittle the achievements of democracy.

7 Conclusion

I am prepared to fully endorse Bonnie Honig's attempt to go beyond the dilemma of 'decision' and 'deliberation', if 'decision' is taken here as indicating a political position that refers only to a binary logic. Nevertheless, two

points need to be added. The first is that the field of thought she is opening up remains within the realm of decisionist theory, provided decision is taken as a fundamental category of social ontology. The second is that this implies the *possibility* of conditions in which 'binary logics' are inevitable. Carl Schmitt was talking about extreme situations (the 'Ausnahmezustand'), not about 'normal' politics, which leaves room for a plurality of options. One is not always forced to choose sides, but this does not affect the idea that, whatever we do in social and political life, we make decisions that cannot be founded on absolute principles. In this sense, a critique of theories of deliberative democracy leads to some form of decisionist theory.