



UNIVERSITÀ
DEGLI STUDI
DI MILANO

UNIVERSITÀ DEGLI STUDI DI MILANO
FACOLTÀ DI SCIENZE POLITICHE, ECONOMICHE E SOCIALI
DIPARTIMENTO DI SCIENZE SOCIALI E POLITICHE

**NETWORK FOR THE ADVANCEMENT
OF SOCIAL AND POLITICAL STUDIES**

Doctoral Programme in Political Studies
XXXV Cycle

Doctoral Dissertation

DEMOCRACY AS A BATTLEFIELD
CONTEMPORARY GRASSROOT MASS MOBILISATIONS
IN WESTERN EUROPE, 'POPULAR SOVEREIGNTY'
AND THE REFRAMING OF 'DEMOCRACY'

SPS/01

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Academic Year
2021/2022

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ACKNOWLEDGEMENTS

This dissertation would not have been possible without the support of many people: I could not have undertaken such a journey alone, and I want to express my deepest appreciation for all of the aid, inspiration and encouragement I received along the way. My first thanks goes to my supervisor Antonella Besussi, for being the first Professor to support my research idea, the first to help me clarifying my initial doubts, clearing my initial confusion and progressively drawing the backbone and the structure of the project, so that at some point it could stand on its own feet. I am extremely grateful also to Professor Yannis Stavrakakis, for the teachings at the Essex Summer School in Social Science Data Analysis, which have been crucial methodological tools for my thesis, for the tutoring during my Visiting at the Thessaloniki Aristotle University and for the uplifting encouragement I always received from his part. I am also thankful to Professor Francesca Pasquali and Giulia Bistagnino: with resolute philosophical spirit, they have always been present throughout my PhD years, providing constant and challenging insights, feedbacks and sources of inspiration which have been fundamental in better refining my work. Many thanks also to Chiara Destri and Corrado Fumagalli, whose reviews have been critical in order to pinpoint some of my dissertation's shortcomings, to clarify some of its unclear passages and to better develop its potential. I would like to extend my sincere thanks also to Professor Licia Papavero and to Simone Muraca whose administrative and technical support and continual presence, patience and availability has been invaluable and essential for the completion of my work.

I also want to acknowledge the contributions of the colleagues which have supported my work and with whom I have constantly exchanged opinions and views, comments and observations, sharing both the professional and personal aspects of our PhDs and becoming friends within and beyond our common job. I would like to thank the whole group of the XXXV NASP Cohort, but especially Tamara Grechanaya, Matteo Mandelli and Elena Icardi for our journey together throughout different years, a PhD, many visitings, a global pandemic between smartworking

and via Pace, and all of our professional and personal struggles and joys. Thanks to Elena, in particular, for all of the theoretical and ethical discussions, and for sharing with me the challenges we face working as young women and researchers in philosophy. Thanks also to all of my colleagues which made the effort of organising the Permanent Seminar in Practical Philosophy and the Brown Bag Seminars of Political Philosophy, which have been opportunities for significant philosophical and professional development in many respects. I am also grateful to Beatrice Carella, Matteo De Toffoli, Antonis Galanopoulos and Dominykas Kaminskas for being part of an amazing, stimulating and supporting research group during the Thessaloniki parenthesis of my research. Spending my visiting with you has been heartwarming and inspiring and a crucial step in the development of my project. A special mention goes to Andrea Di Gesu and Marta Cassina, colleagues, comrades, friends of a lifetime and brilliant researchers whose perspective and acumen has always helped me clearing my thoughts and bringing forward my intuition. I also have to mention that Andrea Di Gesu's philosophical research and PhD dissertation on the Wittgensteinian thought and radical democracy have been pivotal for the development of the present work, its literature review and its theoretical framework. A significant part of my thesis would simply not exist without his contribution.

I am also deeply grateful to all the people who have always stood by my side, helping my growth and sustaining me in myriad ways: my research work would not have been possible without this strong background. My first thanksgiving is for my mother Elisabetta, my father Raffaele, my sister Lidia and my family as a whole, all of my cousins, my aunts, uncles and grandparents. I will be forever thankful for all the unwavering affective and material support you granted me throughout so many years. You will always represent some of the roots and of the supportive networks I cherish the most. A special thanks to Lidia also for the crucial technical help in revising the dissertation in its final steps. I want to acknowledge here also Esther, Carlota, and the whole group of my Catalan and my Spanish friends, which have been my second family my entire life: it is also thanks to you if Catalonia is my second home and if

the core of this dissertation has come to life. Thank you in particular to Carlota for hosting and accompanying me in Barcelona many times, granting me the privilege of witnessing first-hand the events mentioned in this research. A profound thank you also to Giulia for being my companion in the discovery and the study of the independentist movement and in many salient moments of my work about democracy. Lastly, I am grateful for the love, the help and the presence of all the people I am lucky to have as my friends, comrades and companions. To my dearest Marta, I treasure our friendship and our connection every day: thank you for everything and beyond. To my historical friends Martina, Dige and Richi, thanks for the privilege of growing together over the decades while also forging our paths on our own. To Federico, our bond is one of the things I hold dearest, and I will always be thankful for all of the ways you root for me to thrive and to find my voice. To my friends and comrades Stefano, Nicolàs, Sonia, Madda, Manu, Matteo, Leti, and also Fra, Eli, Ele, Giulietta, Mati, Fra, Filippo, Christian, Carola, Gio, and all the people with whom, in different ways and different degrees, I am learning the importance of being part not only of a family, but of a community, in the continuous titanic attempt of building together a more livable life through solidarity and mutual care. Having you as friends and allies and counting on a living support network has been vital in the darkest and in the brightest moments: today I know that nothing can be accomplished in seclusion, but we bloom only when our roots are deep and our connections multiply and thrive.

Thank you.

INTRODUCTION

1.1. *Grassroot Mass Movements, ‘Popular Sovereignty’ and the Democratic Debate in Contemporary Western Europe*

The starting point of the present work is an empirical observation. Between 2017 and 2019 a vast number of significant grassroots mass mobilisations takes place worldwide, with an exceptional peak in 2019. Within this context, heated political debates arise, often addressing key ethico-political topics. Among many themes, one of the critical issues is that the notion of ‘democracy’ is publicly contested, contended, debated and re-articulated. ‘Democracy’ is framed in different and competing ways, counterposed by antagonistic fronts, each of which claims to represent ‘true democracy’. In many instances, the emergence and persistence of movements which advocate for the primacy of ‘the popular will’ and equate ‘democracy’ with radical popular sovereignty can be observed. In some cases, ‘popular sovereignty’ is claimed to have primacy also *over* the ‘democratic’ Constitutions and Rule of Law, challenging the widespread notion that ‘popular sovereignty’ should be exercised *within* constitutional and legal limits. These claims spark disagreement over what ‘democracy’ should actually mean and fuel vehement public debates about the topic.

On the one hand, these debates appear on newspapers, on television and on social media, in Parliamentary debates, public speeches and statements, political assemblies, articles and institutional research. On the other hand, these themes recur in chants, slogans, placards, banners and graffiti during the demonstrations. In Western Europe, the most noteworthy cases are the debates revolving around the political platforms in favour but also against ‘Brexit’¹ in the United Kingdom (2018-9), the mobilisations supporting

¹ The debates considered in the present research are *not only* the ones revolving around Brexit *per se*, but also the debates about the democraticity of invalidating the 2016 Brexit Referendum’s outcome and holding a second Referendum about the same issue. Interestingly, both the pro-Brexit front, advocating for sticking to the first Referendum outcome, and the anti-Brexit front, advocating for its invalidation, claim to speak on behalf of ‘the people’, of ‘popular sovereignty’ and of ‘true democracy’. The structure of

the Independence Referendum (2017) and in solidarity with independentist ‘political prisoners’ (2019) in Catalonia and the *Gilet Jaunes* (‘Yellow Vests’) protests in France (2018-9).

These claims for a more radical exercise of popular sovereignty cannot be completely separated from the 2016-8 so-called ‘populist wave’. In 2016 a rise of right-wing populism has been observed in the ‘Western World’: the most infamous cases are the unprecedented exploit of the far-right populist ‘Freedom Party’ of Norbert Hofer which nearly wins Austrian elections; a rise of Nigel Farage’s UKIP (UK Independence Party) within the pro-Brexit campaign and the successful Brexit referendum in the UK; Donald Trump’s victory as President of the United States. In the same year, in Italy, Beppe Grillo and the *Movimento 5 Stelle* (‘5 Star Movement’) are gaining a considerable momentum, becoming the main political party of the Country according to the polls. They are not strictly ascribable to a right-wing positioning, since they integrate various elements across the political spectrum, but they surely are defiantly populist. In 2016, they successfully campaign against a crucial referendum for constitutional reforms, mainly endorsed by the then Prime Minister Matteo Renzi, and they do so openly resorting to a populist and anti-elitist discourse. After the referendum’s outcome against the reform and the consequent Renzi’s resignation, Grillo significantly declares: «Times have changed. The sovereignty belongs to the people again».

2016 is also the year of the implementation of their ‘Rousseau’ Online Platform ‘for direct and participatory democracy’. Their tribute to the philosopher Jean-Jacques Rousseau, theorist of the ‘general will’ and among the main contributors to the French revolutionary sensibility in the XVIII Century, leaves little doubt about the political legacy they would like to hint to. At the same time, an openly leftist populism is also on the rise. In 2016 in Spain there is the notable case of *Podemos* (‘We Can’),

the debate is complex and particularly intriguing. On the one hand, while the pro-Brexit front can be considered more properly populist and sovereigntist, it also maintains the necessity of respecting the ‘democratic’ outcome of the Referendum, which is presented as perfectly legitimate, constitutional and legal. On the other hand, while the anti-Brexit front is explicitly anti-populist, it nonetheless advocates for the invalidation of the Referendum’s outcome, despite it being a legal and constitutional procedure, and it does so in the name of ‘the people’.

which explicitly draws inspiration from Chantal Mouffe and Ernesto Laclau's populist theories. Leading a leftist coalition, *Podemos* doubles the electoral results of the previous year and becomes the third political force of the Country, with a significant weight in the formation of the new Governments. Moreover, in Greece, the leftist-populist Syriza party is still the main political force and is guiding the Greek Government (2015-9).

The so-called 'populist wave' continues also in the following years: in 2017, other nationalist and sovereigntist far-right parties with populist elements are gaining more importance in Western European politics. Even though they do not manage to win elections, they obtain significant and often unprecedented electoral successes. In France, Marine Le Pen's *Front National* obtains its major electoral success ever and arrives to the final ballot for the second time in history and for the first time in fifteen years; in the Netherlands, Geer Wilders' 'Freedom Party' is the second political force and its rise generates great concern among European liberal-democrats; in Germany, the AfD (*Alternative für Deutschland*, 'Alternative for Germany') becomes the third party of the Country and enters the Parliament, while the traditional and more centrist parties, albeit still prevailing, are losing votes. In this instance, on Twitter, Le Pen congratulates the AfD's «allies» for their «historic score», which is seen as «a new symbol of the awakening of the European peoples».

In 2018, the populist 5 Star Movement in Italy obtains its major electoral success, strikingly winning the elections and becoming the first Italian party by a wide margin. In order to govern, they form an alliance with Matteo Salvini's *Lega* (former *Lega Nord*, 'Northern League'), a right-wing party which integrates far-right, nationalist, sovereigntist and populist elements and which is also on the rise as the third party of the country. At that moment in Italy, both the first and the third party are openly populist or, at least, display some populist elements. The same year an interesting article in the 5 Star Movement official blog reports in bold letters that «the concept of democracy is evolving» and that they aim to directly participate in this evolution through the reinforcement of direct popular participation. In general, throughout its history, the 5 Star Movement always presents itself as the advocate of a more direct and

active political involvement of the people, intended as the quintessential form of democracy. In the Western European scene, it actively participates in shaping the debate about this issue and in proposing instruments to implement it beyond the left-wing and right-wing divide and beyond specific policies and topics, such as the already mentioned ‘Rousseau Platform’.

While approaching European grassroots movements advocating for radical popular sovereignty between 2017 and 2019, this general background has to be taken into account, since it provides some coordinates to understand the general political climate, the political sensibilities and the crucial political issues emerging in this period. There are intersections, overlappings and mutual influences between the movements which maintain a radical primacy of ‘the popular will’ and the populist parties rising in these years. Generally speaking, within this period, the notions of ‘the people’, ‘popular will’ and ‘popular sovereignty’ are gaining political centrality in many respects, and they are articulated in many different but interrelated ways. However, the grassroots movements addressed in the present research cannot be completely reduced or assimilated to this ‘populist wave’, despite exhibiting some clear common elements with it. First, they are not political parties, but wide and composite movements coordinated through platforms, organisations and assemblies, comprised of different groups and many individuals. They also do not aim at running for elections. Secondly, they maintain a grassroots composition, a movementistic drive and a bottom-up approach, at least to some extent. For this reason, even though some leaders, spokespersons and structures emerge, there are no single leaders in charge and no fixed power structures defined.

Thirdly, they cannot be strictly defined as ‘populist’. Despite being widely contested and differently defined, there is a certain consensus among scholars (see for instance Canovan 1981, 1982, 2004; Taggart 2000, 2002; Laclau 2005; Mudde 2014; Mudde, Rovira Kaltwasser 2012, 2017; Rovira Kaltwasser, Taggart, Ochoa Espejo, Ostiguy 2019) about the fact that proper ‘populism’ includes, on the one hand, the centrality of ‘the people’ and, on the other hand, an antagonism towards ‘the elite’. The

centrality of the ‘popular will’ and the invocation of ‘the people’ are necessary but not sufficient conditions for being deemed as ‘populist’: the displaying of a conflictual logic of contraposition with ‘the elite’ is also required. While the former element is clearly present in all of these movements, they often do not display the latter. In this respect, some of these movements could actually be considered as properly ‘populist’ (*i.e.* the ‘Yellow Vests’ and a wide part of the pro-Brexit platforms), some of them have populist components along with significant non-populist ones (*i.e.* the Catalan Independentists), some of them are basically non- or even strictly anti-populist (*i.e.* the anti-Brexit platforms). The focus of the present research is neither on the populist / non-populist divide, nor on populism itself, but on the reintroduction of a radicalised notion of ‘popular sovereignty’ at the core of ‘democracy’. This operation cannot be reduced to populism, even though it is clearly influenced by and intertwined with it to some extent. Therefore, throughout the present work, I do not employ the term ‘populist’ nor ‘populism’, but I rather use ‘popular’ or ‘radical-popular’ with reference to political worldviews, discourses, programs and practices which assume or posit the political primacy of the ‘popular will’ as the epitome of ‘democracy’. It is in this sense that I refer to a ‘radical-popular discourse about democracy’ or a ‘radical-popular understanding of democracy’.

1.2 The Struggle for Democracy: ‘Radical-Popular’ versus ‘Legalist-Constitutionalist’ Accounts

Because of the emergence of these movements, many public debates raising in the UK, in France and in Spain focus on the notion of ‘democracy’, beyond the specific issue which had initially sparked the protests. Many debates are structured along the contraposition between a discourse about ‘democracy’ which can be defined ‘radical-popular’ and a discourse which can be defined ‘legalist-constitutionalist’. The potential for conflict lies in the ‘radical-popular’ conviction that ‘the popular will’ is an immediate, overriding and absolute political force: this claim can easily result to be at odds with some of the basic assumptions of the widespread ‘democratic’ discourses which are based on the primacy of

democratic institutions, of the Constitution and of the Rule of Law. According to the former, the so-called ‘popular will’ has to be implemented *anyhow*, as it is intrinsically legitimate and ‘democratic’ by definition. If necessary, it can eventually operate beyond, outside or against the constitutional and legal frames and principles. According to the latter, ‘the popular will’ is legitimate and ‘democratic’ *only* if it operates *within* the boundaries of the Constitution and the Rule of Law, in accordance with constitutional and legal principles and through constitutional and legal procedures. Within these discourses, democracy is preserved if institutions, the Constitution and the Rule of Law hold in place and operate in order to frame, mediate and limit political forces, including the so-called ‘popular will’. In this sense, they create the political space within which ‘the popular will’ can be expressed and implemented properly, safely and sanely. According to this understanding, outside of this institutional, constitutional and legal space, ‘democracy’ does not even exist.

In the scope of these debates each front claims to represent and defend ‘true democracy’, while the opponents are deemed as ‘anti-democratic’. Each one justifies its own claims according to a different and specific usage of the word ‘democracy’: on the one hand, a ‘radical-popular’ democracy, and, on the other hand, a ‘legalist-constitutionalist’ one. These claims are not merely neutral and descriptive, but they also have a political and normative subtext: by claiming ‘democraticity’, each front implies at the same time its own political legitimacy and ethical superiority, and the necessity to exclude the ‘anti-democratic’ opponent from political participation. The two fronts are competing for the label of ‘true democrat’ and, more interestingly, for the definition of ‘true democracy’. They do not aim only at establishing their political framework as generally ‘better’ than the other. They aim at establishing their political framework as ‘the properly democratic one’, enforcing their own specific definition of ‘democracy’.

The deployment of this dynamic is related to the normativity implied in the usage of the word ‘democracy’, within political contexts in which the equivalence between democraticity and legitimacy is taken for granted. ‘Democracy’ here becomes a battlefield: a space to be conquered and

signified according to different political logics, aims, worldviews and value systems which struggle for hegemony over political legitimacy. Imposing a definition of democracy and attributing the labels of ‘democratic’ and ‘anti-democratic’ is not the outcome of a theoretical argument, but a function of political power. Following a ‘Wittgensteinian’ and ‘Laclausian’ immanentistic conception of language and meaning, the assumption of the present work is that, in these instances of political struggles, the concept itself can be re-produced, re-framed and re-articulated. In other words, these ‘battles over democracy’ can participate in the production, the development and the modification of the concept of ‘democracy’. The concept of ‘democracy’ itself can change in the scope of these events. For this reason, it is worth observing them closely and understanding their developments precisely.

The critical question prompted within these debates is the following: what would be the more ‘legitimate’ and ‘democratic’ outcome, if ‘the people’ demands something which is anti-constitutional and/or illegal? Would it be more ‘legitimate’ and ‘democratic’ to implement ‘the popular will’ infringing constitutionality and/or legality? Or, on the contrary, would it be more ‘legitimate’ and ‘democratic’ to preserve constitutionality and legality, while ignoring ‘the popular will’? Is ‘democracy’ the space for political participation framed and shaped by institutions, Constitution and laws, or is it the possibility of directly and radically engaging in their re-framing? As it will be further developed throughout the whole dissertation, the answer to this question entails theoretical, ethical and political arguments about democraticity, political legitimacy, ethico-political founding values and, ultimately, about the issue of the foundation of political communities and practices. The answer cannot be reached only through internal conceptual analysis, but it depends upon the definition of ‘democracy’ and the principle of political legitimacy which one chooses to uphold and enforce. This choice, which is deeply ethical and political, depends, in turn, upon the main values, dynamics and aims we desire for our political communities. Is it more vital to defend self-determination, autonomy, consent and an ongoing possibility for radical change, or to preserve security, safety, stability and pacific

coexistence against the deadly threats of civil war and dictatorship? Is it possible to negotiate between these different values? Which trade-offs can be reached and implemented?

It is important to underline that this question is not merely hypothetical and it is not drawn from an abstract thought experiment of political theory. In the context of critical political junctures, this issue stems from the actual demands of real mass movements. In fact, they are actually claiming the legitimacy of overcoming legal and/or constitutional principles, frames or procedures in the name of ‘popular sovereignty’, and they are massively organising to realise these claims in practice. As the debate about ‘democracy’ rages on televisions, newspapers and social media, in Parliamentary chambers and in popular assemblies, at the same time massive demonstrations are regularly taking place, along with strikes, blockages, boycotts, acts of mass civil disobedience, clashes and, in some instances, even massive riots. In Western Europe, the anti-Brexit protestors in the UK demand the withdrawal of the results of a legally conducted referendum; the Yellow Vests in France ask for the resignation of a legally elected President and reclaim the right to infringe several laws on behalf of ‘the right to protest’; Catalan independentists illegally organise a secessionist referendum which violates one of the main articles of the Spanish Constitution, and claim the innocence of the political leaders persecuted for the illegal and anti-constitutional secessionist attempt.

Even more critically, these movements stake a claim for ‘the people’ to be directly involved in fundamental *destituent*² and/or *constituent*³

² Throughout the present work, the word ‘destituent’ is employed with reference to political powers, actions and/or processes which result in the destruction or in the dissolution of a constituted and structured political order (e.g. the dissolution or destruction of a State; of political constituted institutions; of an existing and structured political community; of a Constitutional Chart). The word is *not* employed in strict correlation with the ‘destituent’ paradigm of the Italian philosopher Giorgio Agamben and it does *not* imply its theoretical and ethico-political assumptions and conclusions, notwithstanding the relevance of his thought and the role it has had as a source of inspiration for the present research. For instance, in this dissertation, the people is said to hold a ‘destituent power’ insofar as the popular will can determine the dissolution or destruction of an existing political order, or if the people can, at least, participate in it as a political subject.

³ Throughout the present work, the word ‘constituent’ is employed with reference to political powers, actions and/or processes which result in the foundation and in the construction of a new structured political order (e.g. the foundation of a new State; the constitution of new political institutions; the building of a new structured political community; a new Constitutional Assembly and Constitutional Chart). For instance, the

moments which liquidate a previously *constituted* political order (destitution) and/or establish a whole new one (constitution). ‘Popular sovereignty’ is not reduced to participation in routinary and ordinary decision-making practices within already established institutions and procedures, but it is radically reclaimed as an actual element of founding and constituent political processes. Albeit in different forms and different degrees, this happens in all of these movements to some extent. In the most radical versions, on behalf of radical ‘popular sovereignty’, ‘the people’ is considered to have the right not only to be involved, but to *initiate* the removal of an established political order and the constitution of a new one. The mentioned cases do not address only narrow and specific topics: all of them somehow cast light on foundational and constituent elements and on the issue of sovereignty.

The Brexit controversy questions the belonging to an international community and the foundations of the European Union as a political project, while also highlighting the underlying tensions between national and European sovereignties. The Yellow Vests claim the superiority of popular sovereignty, exercised through direct democracy, over parliamentary representative politics, over institutions and over legality. Generally speaking, they advance a demand for the radicalisation of democracy based on a radicalised understanding of direct popular sovereignty and of its destituent and constituent power. On behalf of ‘the popular will’ they feel entitled not only to demand the withdrawal of a disliked policy, but to dismiss a whole Government and to position themselves above the Rule of Law. They also demand radical constitutional reforms and the strengthening of referendum practices directly proposed by citizens (as the ‘*RIC*’, *Référendum d’Initiative Citoyenne* or ‘Citizen’s Initiative Referendums’). In some cases, they get to propose the institution of a new Constitutional Assembly whose members are to be chosen by lot⁴. From their part, the Catalan

people is said to hold a ‘constituent power’ insofar as the popular will can determine the foundation or the building of a new political order, or if the people can, at least, participate in it.

⁴ Picking political actors by lottery, or ‘sortition’, was a procedure originally existing in the ancient Athenian polis. It has later been adopted in a wide variety of contexts and it has been debated by many authors of political theory across millennia, from Aristotle,

independentists explicitly affirm the democratic superiority of the popular will over the Constitution and maintain to have the right of dissolving an existent institutional order to constitute a new one. They allegedly act in the name of popular self-determination and they do not have the slightest concern about the illegality and anti-constitutionality of their acts, since in their view ethico-political legitimacy lies in ‘the popular will’ alone.

The critical element of their claim is that a new Constitution is to be founded upon the dissolution of a previous one, which had to be destituted on behalf of ‘the popular will’. Their ‘constituent’ and founding act is rooted in a previous ‘destituent’ one. The birth of the new political order they envision is based upon the fact that ‘the people’ has the right to remove not only specific Governments, but the whole established institutions and Constitution of the State, and create new ones depending on their will. A crucial question about institutional stability arises here: in the future, will this new institutional and Constitutional order be susceptible to the same kind of dissolution if ‘the popular will’ demands it, or will it be immune? If the new political order is mainly based upon the right of ‘the people’ to remove and establish political arrangements, is an ongoing and unpredictable possibility of dissolution structurally placed at its core? In other words, is the act of destitution and constitution indefinitely replicable, or is the constituent moment happening once and for all? The case of Catalan secessionism, albeit failed, is particularly fascinating because it displays the possible dynamics of a conflictive and unauthorized political foundation in contemporary Western Europe, and it

Plato and Herodotus to Montesquieu, Rousseau and Burke. The randomisation of the selection can be considered a high form of fairness and neutrality, immune to factionism, lobbying, corruption, persuasion and manipulation. This system also gives to every citizen the same possibility of being elected, without privileging the people with a higher economic, social or cultural capital and without penalising people belonging to marginalised groups. Moreover, within very small communities such as the ancient Athenian polis, sortition combined with other methods (such as the prohibition to hold the same political charge twice) grants to each citizen a very high possibility of being elected at least once in their life. Therefore, each citizen has a very high chance to directly participate in governing their own community at least once. In this sense democratic ‘self-government’ is literal: each citizen has the actual possibility of directly and actively participate in the government of their own community, that is, to govern themselves. The *ratio* of this practice is grounded in the values of self-determination, autonomy, agency and direct participation, differently from a more epistocratic approach based on knowledgeability. Therefore, depending on different understandings of ‘democracy’, sortition can be considered as the epitome of the democratic politics or as an excessively unreliable form of governing.

does so by positing the primacy and the originality of the popular will over the Constitution. Constituent moments are rare, and observing them is a privilege, since they illuminate some of the most essential elements of politics. The Catalan crisis, in the end, does not result in a proper new constituent moment, but it nonetheless addresses the issue. In the contemporary Western European scene, it is probably the case in which the issue has been addressed more openly, clearly and critically.

In this regard, the debate about ‘the true meaning of democracy’ is central. Within a ‘radical-popular democracy’ the right of popular self-determination goes *beyond* the necessity to stably maintain a constitutional and legal order, even if this leads to crisis and instability. ‘Democracy’, intended as radical abidance to ‘the popular will’ goes beyond the Constitution. As the then Catalan President Carles Puigdemont remarkably claims:

A people cannot be forced, against its will, to accept a *status quo* that it did not vote for and that it does not want. The Constitution is a democratic framework, but it is equally true that there is democracy beyond the Constitution.

Contrariwise, within a ‘legalist-constitutionalist democracy’, maintaining the stability of an institutional order is essential, even if this means somehow restricting the popular will. A political order cannot exist if continuously threatened with its own dissolution from within. As the then Spanish President Mariano Rajoy animatedly asks:

Can we accept a right to self-determination that means perpetual blackmail on Spain's territorial identity and on the stability of its institutional system? Is it possible for a democratic State to survive with this constant prospect of disintegration, with this permanent pressure on its institutional stability?

The Spanish debate about the topic is especially interesting because it addresses these fundamental issues in an exceptionally open and clear way, highlighting the main themes with a surprising political acuity. As the debate unfolds, the clash between the ‘radical-popular’ and the ‘legalist-constitutionalist’ understandings of ‘democracy’ reveals a clash of

different ethico-political values, worldviews and of different ways of imagining the bases of a political community. The former insists on freedom as autonomy, self-determination and consent, imagining a community always open to radical rearticulation in accordance with ‘the popular will’. The latter advocates for concordance, safety and stability, envisioning a community secured by strong and solid bases, with the main aim of protecting pacific coexistence and basic individual rights and freedoms. The origin of conflict is that there is no neutral, objective and shared standard for ‘democracy’ and political legitimacy to objectively compare the different views and to evaluate which understanding is the more appropriate representation of ‘true democracy’. Each front is appealing to its own standards for democraticity and political legitimacy, while at the same time surreptitiously introducing them into the debate. There is no external single standard for democraticity and political legitimacy: these competing standards are part of the debate itself, and the effort to win over the opponents is at the same time an effort to enforce them. It is not possible to answer the question about the ‘true meaning’ of ‘democracy’ without previously making a choice in this respect.

In light of these considerations, the present dissertation presents two research questions and two related research hypotheses.

1) The first research question is the following: *is it possible to consistently and fruitfully frame and analyse such contemporary events as struggles over the meaning of ‘democracy’?*

The first research hypothesis is that, *in the scope of these events, ‘democracy’ operates as a Laclausian floating signifier⁵ contended between a ‘legalist-constitutionalist’ and a ‘radical-popular’ discourse.*

2) The second research question is the following: *which could be the philosophical and political consequences of reframing ‘democracy’ through the reintroduction of a radical understanding of ‘popular sovereignty’?*

The second research hypothesis is that *framing ‘democracy’ through a*

⁵ According to Ernesto Laclau, a ‘floating signifier’ is a signifier whose meaning is neither fixed nor univocal, but ambiguous and contended between two different political projects. Each project attributes a different meaning to it and competes for asserting its understanding as hegemonic (Laclau 2007)

radical understanding of 'popular sovereignty' could challenge some of the basic principles of contemporary Western European democracy, which is grounded in the primacy of the Constitution and the Rule of Law, bringing into question the issues of political foundation, constitution and sovereignty.

Both the questions and the hypotheses will be presented and specified more extensively throughout the dissertation.

1.3. Theoretical Premises: Immanence, Contingency, Performativity

As it has already been briefly mentioned, the theoretical and ethico-political assumption of the present research is that concepts are immanently produced by collective practices. Therefore, the concept of 'democracy' is not an abstract and autonomous entity. It does not have a fixed core and an independent existence, unrelated to concrete political occurrences and conflicts, or detached from concrete collective decision-making and community-building practices. The concept of 'democracy', as many key ethical and political concepts, is forged within the concrete reality of political communities, according to their developments, their struggles and their needs. The main theoretical framework employed in the present dissertation will be the Wittgensteinian paradigm⁶, according to which the meaning of a word is its usage within a living form of life. In this perspective, the meaning of 'democracy' is its actual usage. For this reason, it is not possible to answer the dilemma posed by these debates recurring to a theoretical argument about democracy, to conceptual analysis alone or to the different traditions of democratic theory. The 'true meaning' of 'democracy' will depend upon the actual collective usage of the word which will be hegemonic at a given time. This is the reason why the present work employs a bottom-up approach, starting from actual empirical cases in which the word 'democracy' is questioned, debated and

⁶ Following in particular the interpretation of Stanley Cavell and the so-called 'New Wittgenstein' current (Cavell 1969, 1979, 1986, 1990, 1994, 2004; Glock 1996; Crary, Read 2000; Proops 2001; Conant 2002, 2005; Conant, Diamond 2004; Norris 2006, 2017; Shieh 2006; McGinn, Kuusela 2011; Norval 2011; Sluga, Stern 2018), which will be more extensively treated in a following section

re-articulated, and not from the conceptions of democratic theory or of democratic traditions of thought.

The addressed debates represent cases of political communities within which the unwitting collective agreement about the meaning of a word goes into crisis generating conflict. The debates about the ‘true meaning’ of the word display the articulation of structured and complex competing discourses, each one of which has its own worldview and system of values. The notion of ‘discourse’ will be employed according to the Laclausian Discourse Theory, as it has been later developed by the Essex School: a ‘discourse’ is a collective practice of production of meaning, or a ‘meaning-making practice’, which produces a comprehensive and meaningful worldview, articulated around some ‘nodal points’. When integrated within the structure of a discourse, each word assumes a particular usage and meaning. Therefore, each front makes a political and discursive effort to endorse a specific framing of the word, consistently with their specific discourse. For instance, the ‘radical-popular’ front makes an effort to integrate and signify the word ‘democracy’ within its discourse, and the same goes for the ‘legalist-constitutionalist’ one.

In the light of the Wittgensteinian and Laclausian paradigms, the addressed debates can be interpreted as actual laboratories which produce meaning. Therefore, these debates can be interpreted as empirical cases in which the meaning of ‘democracy’ is actually re-framed. The actors defining ‘democracy’ in a certain way are *not describing what ‘democracy’ already is, but participating in the production of what they want ‘democracy’ to be*. In other words, their discursive operations are not descriptive, but performative and normative. The issue is relevant because, in contemporary Western Europe, defining democracy has major ethico-political consequences, since ‘democracy’ is posited as an ethico-political supreme standard. Defining what ‘democracy’ is implies defining what has the political legitimacy to be endorsed, defended and enforced. At the same time, defining what is ‘anti-democratic’ implies defining what has to be fought, persecuted, or excluded from the political community. This is why analysing and understanding the instances in which ‘democracy’ is contested and re-articulated is pivotal, and why the outcome of these

struggles is particularly relevant. Defining the meaning ‘democracy’ is a fundamental function of contemporary political power and, therefore, the battles about the meaning of ‘democracy’ cannot be overlooked.

On a side note, it is certainly true that these claims could be purely rhetorical, instrumental and dishonest usages of the word ‘democracy’, which are way too common in contemporary political debates. They could be only strategic attempts to gain political credibility and discredit competitors, with no particular conceptual depth and no ethico-political significance. Nonetheless, the mentioned cases appear to be politically and philosophically relevant, since, as it will be furtherly argued, the word ‘democracy’ is not randomly and arbitrarily employed, but appears to be grounded in specific ‘discourses’ which produce structured and significant worldviews. As it will be shown in greater detail, each discourse deploys its own political ontology, value system and its own understanding of what a political space, a political community and political practices should be. The antagonistic fronts are not only providing simple and arbitrary definitions of what ‘democracy’ is, but different comprehensive accounts of how a legitimate and desirable political world should be, according to different political logics. In contemporary Western Europe, defining ‘democracy’ imply defining the desirable political world.

Moreover, these debates are significant because they openly address and highlight some of the most critical issues of political theory: the relation between stability, safety, freedom, self-determination and consent; the nature of the foundation of political communities; the theoretical and practical implications of constituent moments; the difference between constituent and constituted powers; the political handling of critical and conflictive trade-off; the establishment of collective decision-making practices. As it has been briefly mentioned, one of the pivotal questions emerging is how a political community could survive without being secured and anchored by a stable and unquestioned *previously constituted* base, remaining at mercy of a fickle and unpredictable ‘popular will’. In parallel, and conversely, a critical point is how practices of authentic democratic self-determination can be implemented realistically and safely, without depriving them of their intrinsic *ongoing destituent and*

constituent potential. To clarify these controversies, which will be extensively addressed throughout the dissertation, the notion of ‘sovereignty’ has to be elucidated. One of the critical questions raised is what a ‘sovereign’ is, whether it should exist in democracy or not, and who actually can be considered to have this title. Does a ‘sovereign’ exist in democracy? Is ‘the people’ the democratic ‘sovereign’? What would this mean in practice? Is ‘sovereignty’ a decisional power to be exercised within legitimate institutions which had been already constituted, or is sovereignty the constituent power of founding institution and enforcing criteria of legitimacy?

As it will be shown, in some cases the lucidity, precision and sharpness of the political actors pinpointing these issues is staggering. Undoubtedly, they may do so instrumentally or even dishonestly, in order to pursue their interests without any ‘honest’ democratic concern and without being ‘honestly’ committed to the ethico-political view they are publicly endorsing. They may also be unaware of the deep politico-philosophical assumptions and implications related to certain understandings of ‘democracy’, and of the most critical consequences of consistently developing certain paradigms. The present dissertation does not in any way assume neither their ‘honesty’, nor their profound awareness of the politico-philosophical assumptions and potential consequences of their discourses. A full honesty and a full awareness in this sense would be both unprovable and improbable. In some cases, it appears pretty evident that the political actors involved are speaking moved by some ulterior motives and agendas. It often seems clear that they have no actual intention to radically and consistently stick to the full ethico-political implications of their words, nor to actually commit to the ‘desirable world’ they are depicting.

However, the aim of the present research is to analyse such discourses as public political practices, according to a performative paradigm. The focus is on the public deployment of discursive practices and their possible implications, regardless of the private intentions and convictions of the agents which participate in this discursive production. The discourses are analysed in their public deployment and in their potential effects as

performative practices which *produce political reality*, and *not* as expressions or descriptions of the agents' private intentions and convictions. What matters in this respect is that they are actually publicly participating in the re-framing of 'democracy', and that this re-framing has potentially critical implications. Other kind of considerations are out of the reach, the scope and the aim of the present work. The adherence between the political actors' internal intentions or convictions and their external declarations, as well as their non-awareness of all of their possible implications, may be useful for other kinds of research, but are irrelevant to the performative paradigm employed in the present dissertation.

It is also to be specified that the discourses presented here are certainly structured, complex, meaningful and often explicitly related to ethico-political and politico-philosophical key issues, to politico-philosophical traditions and schools of thought, but they are *not* proper and consistent theoretical paradigms of democratic theory. The actors participating in these debates are politicians, not scholars, and they are doing politics, not political philosophy. The bottom-up approach of this research starts from actual political discourses about 'democracy', not from philosophical accounts of democratic theory. This research is undoubtedly contiguous to democratic theory and partially intertwined and overlapped with it, but not completely assimilable or reducible to it. The aim is *not* tracing the discourses back to some specific structured and consistent theoretical paradigms and/or traditions of the democratic philosophical thought, even though some relations, contaminations and affinities will be highlighted, insofar as democratic theories actually have effects on political discourses. For this reason, this work refers to 'discourses about democracy' or to 'understandings of democracy', rather than to 'democratic theories' or 'paradigms'. When a 'radical-popular' or 'legalist-constitutionalist' discourse is addressed, the reference is to the discourses actually deployed by the political actors in the public debates which are analysed. The reference is *not* to alleged 'radical-popular' or 'legalist-constitutionalist' theories of democracy developed by scholars within democratic theory. This dissertation highlights some of the theoretical, ontological and ethico-political assumptions and implications of such discourses. However, they

are derived from the internal structure and logics of the discourses themselves, from the political contexts they are part of, and from the political legacies and sensibilities they pertain to, *not* from alleged politico-philosophical structured schools of thought they are supposedly ascribable to.

1.4. Research Aims and Scope

The aim is *not* choosing or elaborating a consistent and structured democratic theory in order to answer the raised dilemma or solve the conflict either. I cannot theoretically answer the question about what ‘true democracy’ really is, or about the ethico-political choice between institutional stability and radical self-determination. Consistently with the paradigms employed, I believe that the solution to such conflicts can be only contingent, political, pragmatic and collectively build within the living communities experiencing them. For this reason, the solution cannot be found *a priori* and through philosophical reasoning, but only constructed step by step through political practice. This happens for a variety of reasons. Firstly, the conflicting value systems can be considered incommensurable: it is difficult to theoretically argue in favour of a *definitive* solution to the trade-off between security and self-determination. There are extremely valuable and consistent arguments of moral and political theory in favour of both. It is impossible to rationally and reasonably dismiss neither the concerns for the lack of security, which touches the primordial need for safety, nor the concerns for the restriction of self-determination, which affects the basic aspiration for freedom pertaining to every living being.

For an individual person, prioritising one over the other is ultimately a non-neutral ethico-political choice and an assumption of ethico-political responsibility which is not guided by theoretical arguments alone, but by a commitment to the kind of community we ought to live in and the kind of world we desire to build. This choice itself is performative: it does not describe, express, apply, implement or activate a state of things already existing in the separate realm of morality. It rather is an act which oughts

to produce the ethico-political world it desires, by assuming it as desirable. The choice of ethico-political principles is not derived by previous arguments, but it is the original act which guides the further production of arguments, as well as discourses and actions. It is not the application of some previously existing moral principle deduced through speculation, but the existential commitment to a form of life. In order to commit, we have to take a stance, on behalf of the life we desire to live and the world we hope to inhabit.

This is not to say that such a choice must be absolute, pure or rigidly immutable. Within the reality of political communities, it is implausible to fully and definitely commit to one of these values while removing the other completely. An absolute dismissal either of safety or of self-determination is a highly improbable instance. In a similar way, it is improbable for the notion of democracy to be defended with a complete dismissal either of popular sovereignty or of a minimal principle of stability. In practice, it is way more presumable that some kind of trade-off between the two will be negotiated, with a wide number of different possible balances. Since there are no fixed and objective rules which can define how to negotiate and choose between basic pivotal values, this negotiation can be intended as an ongoing process to be discovered, produced, experimented and adapted: *«We play, and make up the rules as we go along [...] And [...] we alter them – as we go along»*. This happens within the context of the concrete political practices of our living communities, in a continuous interrelation between different people, practices and circumstances. This does not mean that ethico-political choices and commitments are completely volatile, unreliable and meaningless either: this rather means that they are adapted, modified and developed insofar as they are dropped into the pragmatic reality of their form of life. The ethico-political posture or *'ethos'* which can be derived from the Wittgensteinian and Laclausian paradigm is the effort of living within the concrete political context of our community, participating in the collective production of meaning as an ongoing contingent practice of world-building.

Secondly, as it will be shown in more detail, the competing discourses are not organised according to a consistent iron logic and theoretical

structure, but through the construction of a meaningful worldview which articulates together logically heterogeneous or even inconsistent elements. Discursive production is precisely a non-strictly-logical articulation of heterogeneous and independent elements, to produce some meaningful view of the world. The concept of 'democracy' itself is internally heterogeneous and somehow inconsistent, comprised of different irreducible and independent elements: popular sovereignty, basic human rights, respect for the Constitution and the Rule of Law, are all part of the contemporary Western European usage of the word 'democracy', but they do not form a logically and theoretically consistent and coherent unit. In some respects they are even potentially in conflict among them. The articulation of each discourse and of the concept of 'democracy' is not a function of logical and theoretical thought, but a political practice which is conducted also through non-logical, non-rational and non-theoretical means, and which is immanently produced throughout its own development. For these reasons, the results of these processes are not something which can be known or deduced *a priori* through logical or rational speculation, but only something that can be produced contingently, by concrete political actors situated within their political space. This unpredictable and contingent element is part of the discourses' and the concepts' ontology itself.

Thirdly, the outcome of the negotiation also depends upon various material circumstances, such as economic, militar, political, geopolitical and institutional factors and power relations which fall outside the scope of theoretical, philosophical and conceptual analysis. The Laclausian paradigm employed preserves some marxist and materialist elements in this respect, maintaining the centrality of material circumstances as forces which drive political and discursive developments. In this sense, the causes and the outcomes of a discursive struggle (*i.e.* the struggle over the meaning of 'democracy') cannot be predicted relying on theoretical and conceptual analysis alone, but have to be indagated in light of the reality of these material factors. The final outcome itself will depend upon the power relations which are established throughout the struggle, and not upon logical, theoretical and philosophical arguments alone. However,

Laclau diverges from classical marxism and materialism, and it is to be considered more properly post-marxist and post-materialist. He maintains that material factors do have a significant impact to be taken into account, and that, for instance, they can spark a radical discursive re-framing or bring into crisis a hegemonic discursive order. In this respect, for example, some commentators have linked the re-framing of ‘democracy’ occurred in the 2019 wave of protests with a critical juncture in the ‘neo-liberal’ economic order.

These kinds of hypotheses cannot be quickly dismissed and it is certainly true that an analysis of the material circumstances surrounding certain events can provide a more refined and more illuminating understanding and prediction of their development. However, Laclau nonetheless defends the importance of discursive practices as being pivotal and productive on their own, according to a post-Gramscian theory of hegemony which asserts the centrality of discursive and allegedly ‘super-structural’ elements. Moreover, one of the crucial aspects of the Laclausian paradigm employed here is *radical contingency* as opposed to materialist strict determinism. While it is certainly true that material factors do cause and influence discursive struggles for hegemony, the deployment and the final result of this struggle is nonetheless radically unpredictable. This unpredictability is related to the way in which the heterogeneous elements will be discursively articulated together beyond mere logic, to the political actors which will engage in the struggle and situate themselves in the antagonistic fronts in ways which do not strictly depend upon classical ‘class’ divisions, and to the instances in which such conflictive antagonism will emerge and explode.

For all of these reasons, through philosophical speculation, the present work is not able to provide neither a theoretical nor a political solution to the raised dilemmas. More modestly, what I aim to do with this dissertation is casting light on one aspect of a contemporary conflict which can be critical for our political lives. On the one hand, I will try to highlight how some discursive dynamics develop in public debates. On the other hand, I will try to pinpoint their possible implications: the theoretical, ontological and ethico-political premises we should assume in order for these

discourses to make sense, the type of ethico-political world they discursively produce and envision, and the possible political consequences of actually implementing and enforcing certain principles. The point of view and the paradigms I choose to adopt are not able to theoretically argue in favour of one or the other position, and they are not intended to do so. In the spirit of a Wittgensteinian approach, what I can do is trying to elucidate and clarify certain discursive and political dynamics in order to gain a more perspicuous understanding of them. On the basis of this operation, I will try to illuminate the fact that choosing a paradigm over another one is not a matter of logics nor a theoretical argument, but a contingent ethico-political choice situated in the collective space of a political community and positioned along the lines of political disagreement, negotiation, struggles and conflict.

1.5. The Anti-Foundationalist Choice

As it will be explored in more detail, the Wittgensteinian and the Laclausian paradigms share an anti-foundationalist intent: within their accounts, there is no fixed and stable foundation, neither theoretical nor material, which anchors choices, acts, language, discourses and the philosophical investigation itself. Performativity, immanentism, pragmatism and contingency are all aspects of this anti-foundationalism. This is the key reason behind the impossibility of providing a fixed, objective and definitive answer to the raised dilemmas: the answer will be dynamically produced in practice by the involved actors, and cannot be theoretically articulated in advance through the means of logic and philosophical speculation. This stance is often accused of relativism, of moral indifference or apathy and seen as a risky premise for a complete instability and unreliability of both ethico-philosophical and political systems. If no objective and shared foundation exists, then it seems impossible to defend our values and argue for them, to evaluate which ones are right or wrong, as well as to secure them from corruption, seizure, manipulation or upheavals.

In the scope of the present dissertation, this controversy is overlapped

with the conflict between the ‘radical-popular’ and the ‘legalist-constitutionalist’ accounts of ‘democracy’. One of the most critical objections to the ‘radical-popular’ discourse is that it jeopardises the foundational elements which secure the political community, substituting it with a new foundation (*i.e.* ‘the popular will’) which is too unstable, unpredictable, unreliable and arbitrary, due to its performative and contingent character. Interestingly, as it will be furtherly developed, many contemporary commentators have associated the anti-foundationalism of the Wittgensteinian paradigm with a non-foundationalist, immanentistic, pragmatic and dynamic understanding of ‘democracy’ (Pitkin 1972; Tully 1989, 1999; Mouffe 2000, 2001; Zerilli 1998, 2005; Norval 2006, 2007; Robinson 2009; Luxon 2013). Some of them have specifically pointed out how this kind of democracy results to be at odds with constitutionalism (see for instance Tully 1989, 1999). The basic idea of this approach is that political practices do not presuppose ‘the rules of the game’ but immanently produce them ‘*as we go along*’.

Following a Cavellian interpretation of Wittgenstein, as well as the so-called ‘New Wittgenstein’ approach, it is possible to argue that this fear of relativism, albeit sensible, is out of focus. It is certainly true that within these paradigms it is impossible to provide a fixed and stable foundation to theories, values and political systems. However, this is not a claim for ethical indifference. On the contrary, precisely because they are not definitively secured by anything, these accounts stake a claim for an ethico-political ongoing responsibility and accountability. Theories, values and political systems are ours to be produced, maintained and to be defended in the scope of our living communities, since outside of our collective practices there is no further element which can grant their persistence. Both Wittgenstein’s and Laclau’s paradigms are not based upon a disillusioned or apathetic posture, but upon a call for engagement within the concrete world we inhabit to actively participate in its production. In this perspective there are no fixed certainties, since the ontological status of everything concerning the human world is intrinsically contingent, precarious, vulnerable and exposed. Partaking in collective practices, in community-building and in politics means, at the

same time, trying to performatively produce some stability and safety, and bearing the perpetual risk of failure or damage. Within a Cavellian account, this inescapable precariousness is not a limit to be bypassed or a weakness to be amended, but a human condition of finitude to be embraced.

Deciding to employ these paradigms is itself a non-neutral choice, which casts a whole ontology and a whole ethico-political disposition onto the analysed subject. Choosing to employ a paradigm and an ontology can often be an ambiguous move, between the descriptive conviction that such paradigm and ontology are appropriate and working tools to analyse and describe the world, and a normative drive of commitment to the kind of worldview and of ethics they produce. They can be chosen, on the one hand, because they seem ‘plausible’, or at least ‘useful’ descriptions of the world, or, on the other hand, because they seem to participate in the production of a world which is ‘desirable’. These descriptive and normative components can be intertwined and overlapped in ways which are not always clear and which often unwittingly remain as underlining drives of the reflection without being systematised. In the scope of the present dissertation, the choice of this ontology and this frame does *not* imply the claim of them being objectively and universally ‘true’ or to ‘correctly’ depict reality⁷. On the one hand, this choice is guided by the conviction that these paradigms are plausible, reasonable, internally consistent, but also useful, fruitful, viable and effective tools when it comes to the analysis. As I hope to show throughout the dissertation, and especially with the exploration of the first research hypothesis in PART II, these paradigms do actually work when employed to analyse empirical events. They provide a consistent, meaningful and interesting account of empirical cases, illuminating some of their dynamics and helping in the aim of reaching a more ‘perspicuous understanding’ of them. On the other hand, this anti-foundationalist choice has an ethico-political component: choosing performativity over descriptivism is a performative act itself, akin to the Cavellian claim to choose responsibility over certainty, commitment to human finitude over a universal logic, engagement with

⁷ This choice does *not* imply the full assumption of a Laclausian ‘negative ontology’ either, since it is not believed to be essential for the application of his discursive paradigm.

the contingent and precarious concreteness of the world over conceptual objectivity.

1.6. Research Structure

The present dissertation is comprised of three different parts. PART I is devoted to the preparatory work of the research, in relation to both the empirical cases to be analysed and the theoretical framework underpinning the analysis. The two research questions and hypotheses are introduced, along with the general aim and drive of the work. In relation to the empirical cases, the section then proceeds in presenting the criteria for the case selection, the chronological and geographical coordinates of the research, a general overview and some examples of the selected cases and a brief focus on the main Catalan case. In relation to the theoretical framework, the first focus is on the Wittgensteinian paradigm of ‘*meaning as usage*’, employed according to the Cavellian and ‘New Wittgenstein’ interpretation. The main features of this interpretation are highlighted, illuminating its ontological, methodological and ethico-political components, whose key elements are anti-foundationalism, contingency, immanentism and performativity. A brief focus on the radical-democratic interpretations of Wittgenstein in this respect is added in order to better clarify the positioning of the present work in the scope of contemporary democratic theory. This paradigm is then integrated with elements drawn from Walter Bryce Gallie’s *Essentially Contested Concepts* and from Ernesto Laclau’s *Empty and Floating Signifiers*. The notions of competition or antagonism, conflict, appraisiveness and affective drive are introduced in order to gain a more complete and complex understanding of the ontology of ethico-political concepts. These theoretical premises are considered necessary in order to understand both the possibility for the concept of ‘democracy’ to be performatively, contingently and immanently re-framed in the scope of critical political debates, and the political significance of this possible re-framing. They therefore constitute the theoretical horizon of the whole project.

PART II is the core section of the research, dedicated to the exploration

of the first research hypothesis through the analysis of the Catalan debate about ‘the true meaning of democracy’. The analysis is conducted through the application of Discourse Theory Methodology as it has been first systematised by Ernesto Laclau and then developed by the Essex School. The notion of ‘discourse’ as a ‘meaning-making practice’ is presented in detail along with its main components, with examples drawn from the empirical cases. After pointing out the methodology, this section proceeds in analysing the Catalan debate about ‘democracy’ sparked by the ‘self-determination Referendum’ on the 1st of October 2017. The ‘legalist-constitutionalist’ and the ‘radical-popular’ discourses are outlined in detail through a wide number of direct references from the actual debates and the different emerging understandings of ‘democracy’ are discussed. In the end, the hypothesis that ‘democracy’ functions as a Laclausian ‘floating signifier’ contended between a ‘legalist-constitutionalist’ and a ‘radical-popular’ discourse is considered to be proved, with some cautionary caveats.

On the basis of these results, and starting to explore the second research hypothesis, PART III constitutes the tentative beginning of a politico-philosophical reflection about the main issues emerged from this debate about democracy: the understanding of democratic sovereignty, the issue of political foundation between constituent, constituted and destituent powers, the trade-off between stability and self-determination, or between safety and freedom, the possibility of imagining new forms of democratic communities. This part lacks the systematicity, completeness and consistency which are necessary to provide solid arguments in favour of a research hypothesis. Therefore, it is not to be considered as a proper and structured argument, but as the possible source of inspiration for further research.

PART I

1. Theoretical Premises, Research Questions and Research Hypotheses

The present dissertation starts from the analysis of the debates about ‘the true meaning of democracy’ emerged in the context of mass mobilisations in Contemporary Western Europe (2017-9) and displaying a contraposition between a ‘radical-popular’ and a ‘legalist-constitutionalist’ account of ‘democracy’. While the former claims the priority of ‘the popular will’ also over established institutions, Constitutions and the Rule of Law, the latter intends ‘the popular will’ as legitimate and as properly ‘democratic’ only insofar as it is expressed within legal and constitutional boundaries.

The research will proceed in the attempt to answer two related but distinct research questions. The first question is the following: is it possible to consistently and fruitfully frame and analyse such contemporary events as struggles over the meaning of ‘democracy’? The first research hypothesis is that, in the scope of these events, ‘democracy’ operates as a Laclausian floating signifier⁸ contended between a ‘legalist-constitutionalist’ and a ‘radical-popular’ discourse. Each discourse aims at political hegemony and articulates ‘democracy’ in a specific way, relying on different political ontologies, logics and value systems. Each discourse produces different criteria for political legitimacy and different

⁸ According to Ernesto Laclau, a ‘floating signifier’ is a signifier whose meaning is neither fixed nor univocal, but ambiguous and contended between two different political projects. Each project attributes a different meaning to it and competes for asserting its understanding as hegemonic (Laclau 2007)

understandings of the foundation of desirable political communities.

The theoretical premise of this hypothesis is that conceptual re-articulation and re-framing is immanent, open, dynamic, contingent, historically situated and intertwined with concrete political practices and struggles. In other words, that concepts are produced and framed immanently and contingently in the scope of concrete political practices, and that they can be re-articulated in the instance of critical political junctures. Hence, throughout the present section, the research will start with the elaboration and the presentation of a consistent theoretical framework in this respect, mainly drawn from the paradigms of scholars such as Ludwig Wittgenstein, Walter Bryce Gallie and Ernesto Laclau, with some integrations with the work of Judith Butler. The analysis of the empirical cases will then be conducted applying the Essex School's Discourse Theory Methodology to some of the main public speeches and debates occurred during the addressed political events. The exploration of this hypothesis through discourse analysis will be covered in the PART II of the dissertation and its main purpose will be an interpretative description of the empirical cases. Namely, describing such events through the lens of a theoretical frame in order to cast light upon some of their vital elements. Such an immanentistic and performative frame aims at overcoming the dichotomy between conceptual essentialism and mere nominalism, between the idea that concepts have a fixed and rigid core which is separate from concrete practices and the purely nominalistic idea that concepts could be whatever anyone wants them to be at any moment. The guiding conviction is that such an operation could both deepen the understanding of these events, and inspire political and philosophical reflections, but it is not in itself normative.

The second research question is the following: which could be the philosophical and political consequences of reframing 'democracy' through the reintroduction of a radical understanding of 'popular sovereignty'? In other words: what would happen if we took these 'radical-popular' claims seriously and if we developed them consistently? Which would be the theoretical and normative assumptions we should posit in order for this demand to make sense and which would be the political

implementations we should enforce in order for this demand to be realised? The relevance of this question is related to the normativity of the concept of democracy. Defining what ‘democracy’ is (and what ‘democracy’ is not) is not a mere descriptive act, but a normative and political act which aims at reframing the political space, its boundaries, its practices and its criteria for political legitimation, participation and inclusion. Therefore, re-framing ‘democracy’ as radical ‘popular sovereignty’ would not only be a conceptual exercise, but an act which is fraught of political consequences.

PART III will proceed exploring the second research hypothesis, which is the following: framing ‘democracy’ through a radical understanding of ‘popular sovereignty’ could challenge some of the basic principles of contemporary Western European democracy, which is grounded in the primacy of the Constitution and the Rule of Law. This reintroduction of ‘radical’ and ‘popular’ elements could bring into question the issues of political foundation and constitution, through an understanding of ‘sovereignty’ as a radical constituent power. These ‘radical-popular’ claims are grounded in a different philosophical and political understanding of the exercise of sovereignty, of the production of political legitimacy, of the constitution of political communities and of the deployment of political practices. This can carry major consequences in terms of political stability, political self-determination and their complex relations and trade-offs.

This second section will employ the empirical cases as sources of inspiration raising critical philosophical and political questions. In this sense, the reasoning will partially detach its path from the descriptive account of the empirical cases and of their actual developments, in the attempt of constituting an autonomous philosophical reflection about certain pivotal notions of political theory. However, the reflection itself remains rooted in the reality of the mentioned empirical cases, intended as actual political and philosophical laboratories of conceptual re-articulation, consistently with the spirit of the theoretical framework employed. This operation is not in itself normative, but it can be the premise for normative questions and considerations about the desirability of the outlined implications of ‘popular democracy’. Is radical ‘popular

sovereignty' desirable? Is radical 'popular sovereignty' feasible? Why, or why not?

Throughout the whole dissertation empirical analysis and philosophical reflection will be interrelated. In PART II the proposed theoretical framework will be employed as a tool for framing the description of the empirical cases, in order to highlight some of their remarkable facets. At the same time, according to the theoretical premises, empirical cases are believed to be potential examples of practices which actually participate in the conceptual re-articulation of 'democracy'. Given this theoretical framework, analysing conceptual re-articulation in abstraction without any reference to empirical cases, would be inconsistent, or deficient at best. In PART III the empirical cases will be employed to illuminate some crucial issues of political theory and to encourage a reflection in order to deepen their understanding. As previously stated, empirical cases will be used as sources of inspiration, in the firm belief that the pivotal issues for political theory should stem from concrete political events and not from theoretical speculation alone. In the background, the normative question about how to choose which political values should ground the construction of a desirable political community will constitute the horizon of the whole project. Unfortunately, or fortunately, providing an ultimate answer will not be possible.

2. Case Studies' Selection

The focus of the present work is on the significant mass grassroots political movements emerged in Western Europe in the last years. 'Significant' refers to the fact that such movements were notable both in terms of duration (more than one year of recurrent mobilisations) and of social and political impact (international attention, national massive media coverage, being trending topics on social media, public debates and speeches, parliamentary debates, academic attention, existence of parliamentary acts regarding them). 'Mass' refers to the fact that the mobilisations involved thousands / tens of thousands of people on an ongoing basis, and hundreds of thousands, or even more than one million people (depending on the sources), at their peaks. 'Grassroot' refers to the fact that a grassroots impetus from common citizens, civic associations, platforms and assemblies has been particularly relevant in the mobilisations' origins, organisation and developments⁹. The three main movements which have been identified are the UK pro- and anti-Brexit platforms, the French 'Yellow Vests' and the Catalan independentists.

⁹ This goes without denying the fact that also leaders, spokespersons, hierarchical organisations and political parties did actually play a role in the mobilisations in various grades depending on the circumstances.

2.1 Chronological and Geographical Coordinates:

Western Europe 2017-2019

Year 2019 has seen a peak of mass protests «in every corner of the globe», striking in terms of both quantity, diffusion, duration and relevance of the mobilisations. According to several reports, 2019 has represented the highest peak of protests worldwide in the last fifty years. Beyond the specific demands that each movement raised, a claim for ‘democracy’ and ‘popular sovereignty’ was central in several of the mobilisations occurred. The guiding conviction of the present research is that it can be fruitful to identify a specific wave of mass movements emerged within this period and to analyse them through the lens of a struggle over the reframing of democratic conceptions, practices and institutions and over the centrality of ‘popular sovereignty’ as an actual political force. The present dissertation does not aim at providing an explanation to this climax of mobilisations. More modestly, it is a proposal for a partial and specific descriptive frame, which could deepen the understanding and the interpretations of such phenomena, in a historical moment which have proved them to be timely and relevant.

The time span of the observed events covers 2017, 2018 and 2019. With 2019 representing the peak, the two previous years are the ones in which the starting point or at least a pivotal point of numerous mobilisations can be identified. This timespan therefore offers a background for a better and more encompassing understanding of the general situation. The developments of such movements between 2020 and 2023 will not be included in the present study. In order to draw a proper picture of the 2020-23 period it would be necessary to carefully consider the (actual or alleged) impact of the global SARS-CoV-2 pandemic on mass movements practices, which have been deeply affected for obvious reasons, and also on the overall reframing of the concept of ‘democracy’. The complexity of such an analysis would go far beyond the scope, the aim and the possibilities of this project. Moreover, the main movements identified (anti- and pro-Brexit, Yellow Vests, Catalan Independentists), and generally all of the mass movements which were at their peak in 2019,

have shown a significant reduction of participation and mobilisations from 2020 on. The analysis of their developments from 2020 hence appears less critical and their impact on the local and international debates about democracy during these years seems less relevant. Furthermore, analysing their 2020 decreasing would imply an analytical effort and the consideration of a range of factors which, again, exceed the possibilities and the aims of the present work.

It is important to underline that this temporal collocation chronologically separates this wave of mass mobilisations from the one occurred in the scope of the Great Recession and its immediate aftermath, as the 2008-2016 cycle of protests focused on anti-austerity, economic policies and social justice. In this regard, it can be argued that the claims for ‘real democracy’ and ‘popular sovereignty’ actually were a crucial aspect of such mobilisations, from the Spanish *Indignados* with their *¡Democracia Real YA!* («Real Democracy NOW!») platform (2011-2) to the USA ‘Occupy Wall Street’ and the worldwide ‘Occupy’ movements with their «we are the 99%» slogan (2011-2), from the so-called ‘Arab Springs’ (2010-2) and the Turkish ‘Gezi Park protests’ (2013) to the vast students’ movements and the massive anti-government and anti-austerity protests which spread internationally between 2008 and 2012. It can also be argued that the more recent movements somehow inherited the legacy of the previous ones and that they show a continuity with them. In general, it is hard to deny that the frames through which organised the discourse about ‘real democracy’ and ‘popular sovereignty’ was organised still operate in the more recent events and that the magnitude of their impact on movementistic practices and discourses has not faded away yet. In this sense, for example, it would be meaningless to posit a clear cut separation between the French anti-Loi Travail, the Nuit Debut and the *Gilet Jaunes* movements, or between the Spanish *Indignados* and the Catalan Independentist movements, as if they were totally unrelated.

However, even though some inheritances are hard to deny, each one of these 2017-2019 movements shows its own peculiar genesis, composition and development, which differentiate it from other somehow similar movements previously occurred in the same Country. Moreover,

albeit chronologically close, these mass movement waves have occurred in the scope of historical moments marked by different material and political circumstances, characterised by different sensibilities and different discourses. For example, it cannot be overlooked that the 2008-2016 cycle of protests took place under the specific circumstances of the 2007-2008 Financial Crisis, the 2010 European Debt Crisis and of the so-called Great Recession in general. On the other hand, it would be difficult to separate the 2017-2019 wave from the revived interest for the new contemporary forms of ‘populism’ as well as from the intersection with new sensibilities over topics such as anti-racism, transfeminism and climate justice.

Furthermore, it is interesting to note that each wave of mobilisations develops also throughout the construction of its own narrative, built upon imaginative constellations of cross-references and mutual influences. It makes sense to consider ‘a wave of protests’ as a cycle and not as a mere juxtaposition of events not only because they are chronologically close, they occur within the scope of similar historical and material conditions and advance similar demands, but also because they display the production of mutually influenced claims, practices, symbols, slogans and discourses. The Italian student movements occupying high schools, universities and mobilising massively in 2010 were not only aware of the co-occurrent Greek riots and of the ongoing so-called ‘Arab Spring’. They were also citing them as critical objects of inquiry in their assemblies and public statements, or even as explicit sources of inspiration for their demonstrations. Similarly, in its early stages, the Spanish *Indignados* movement openly addressed the Italian, French and Greek mobilisations as a direct sources of inspiration for their practices. In this sense, pertaining to a different ‘wave’, the 2019 Catalan independentist protesters were more inclined to make references to the protests co-occurring in other continents such as Chile and Hong Kong, rather than to the *Indignados* protests occurred in their own Countries a few years earlier. Given all of these reasons, the 2017-2019 reference is believed to be meaningful and not merely arbitrary, despite it obviously being a sort of simplification and of a convention in some respects.

Geographically, the definition of ‘Western Europe’ is employed to make an operational reference to a definable geographical, socio-political, cultural and economical region in order for it to be understandable, operationally manageable and analytically meaningful. The focus is on a distinction along a west/east axis, instead than a distinction among northern, central and southern Europe. Even in the awareness of it being a simplified definition with serious political and historical limits, of the heterogeneities included under its canopy and of the vagueness of some of its borders, this distinction can be sensible for the aims of the present work. As it will be further argued, the specific historical genesis and significance of the contemporary west-east division, rooted in the aftermath of the WWII and in the Cold War, is meaningful in order to make sense of the specific developments of ‘legalist-constitutionalist’ and ‘radical-popular’ accounts of democracy in the Western European region¹⁰.

2.2 Event’s Overview

Each one of the analysed events is rooted in a specific national context and they differ from each other considerably in a wide range of factors, including premises, demands, composition, internal dynamics, forms, reception and outcomes of the mobilisations. A simple and general comparison between them would therefore be inaccurate and misleading. However, neither an overall analysis of such phenomena in all of their complexity nor a scientific comparative study of the cases are the aim of this research. Differently, the aim of the present work is to propose a specific and partial, but also fruitful and consistent, theoretical frame for the description of these events, in order to investigate if they could tell us something critical about the developments of democracy in contemporary Western Europe. In order to proceed in that direction, it can be useful to

¹⁰ It could be noted that the pertinance of the United Kingdom to Western Europe is controversial in different respects, and appears even more dubious in the light of the 2020 Brexit. However, despite the controversies and the peculiarities of this case, on the one hand, it can be argued that the United Kingdom would undoubtedly fall on the west side in the light of a west-east division of Europe. On the other hand, even assuming that we should conflate the membership to the European Union with the belonging to Europe, the analysed events definitely occurred before Brexit.

observe if similar practical and discursive dynamics are deployed within the scope of such events and, therefore, if it could be possible to posit that they display similar political and philosophical logics, manifest similar sensibilities, raise similar political and philosophical questions and, even more interestingly, could have similar political and philosophical implications.

In this respect, notwithstanding the significant differences, it is possible to highlight some notable similarities which are politically and philosophically relevant, and which could identify some common logics within such a wide heterogeneity. Those similarities are more related, on the one hand, to the practical forms of such movements and, on the other hand, to the logics of their discourses, rather than to their concrete and specific composition, actions and claims. Highlighting those similarities inevitably implies some grade of simplification, reduction, generalisation and even deformation. Nonetheless, they can be helpful tools for focusing on some crucial issues and deepening the understanding of their logics and their scope. However, it is crucial to remind that this is a proposal to use a specific and partial descriptive frame and not a claim to provide a comprehensive, all-encompassing and detailed descriptive account of such events in all of their immense complexity¹¹.

First, all of these movements maintain a strong grassroot impetus as well as a heterogeneous, multifaceted and somehow horizontal organisation and a movimentistic drive. They do often organise through platforms and assemblies, they do not converge into a single party and they are not represented by a single leader. Second, they all rely upon massive

¹¹ Such an exhaustive descriptive account would be extremely challenging to be realised in the scope of the present work, with the risk of dispersing analytical energies in a neverending meticulous inquiry, but it would be also unhelpful in order to advance towards meaningful philosophical and political considerations. Differently, the validity of the proposed interpretative frame does not lie in its exhaustivity, but, on the one hand, in its internal theoretical consistency and, on the other hand, in the fruitfulness of the political and philosophical questions it raises. Of course, this stance does not imply that therefore 'anything goes' as long as the interpretative frame is internally consistent and philosophically and politically fruitful. The highlighted similarities are not unfounded personal interpretations, but documented empirical facts and the discursive logics deployed in the scope of such events will be systematically analysed in a specific section applying the Discourse Theory Methodology (Howarth, Norval, Stavrakakis 2000; Howarth 2005; Glynos, Howarth 2007; De Cleen, Goyvaerts, Carpentier, Glynos, Stavrakakis, Trivundža 2021)

mobilisations, demonstrations, gatherings and marches. Third, they all defend the centrality of forms of direct popular participation in politics, such as referendums. Fourth, they all posit the centrality of ‘the people’ as a political actor and of ‘the popular will’ as a crucial criterion for political legitimation. Fifth, they all participate in sparking a vibrant debate about ‘the true meaning of democracy’, by framing it through a radical understanding of ‘popular sovereignty’. Sixth, they all maintain that ‘the issue of democracy’ is central beyond the initial topic of the protests.

The central claim of this research is that these events display the articulation of a public debate about the meaning of ‘democracy’, which interrogates and challenges some of the more vital aspects of politics and participates in the political reframing of the concept itself, with possible critical implications. This happens through the construction of different and competing discourses about democracy, democratic legitimacy and democratic sovereignty. These debates revolve around the meaning of ‘democracy’ besides and beyond the specific and particular issues which had initially provoked the mobilisations (*i.e.* Brexit, high cost of living, Emmanuel Macron’s presidency, Catalan independence, unjust trials). The idea that one of the core aspects of disagreement (and eventually conflict) is ‘democracy’ itself, beyond the particular and specific issues which sparked the movements, is recurrent and ever-present in all of the mentioned cases. Many of the political actors involved openly maintain the centrality of the debate about the meaning of democracy, and often insist on it being the central element of the dispute.

This research conducts an in-depth and systematic analysis only regarding the debates surrounding the Catalan Referendum in Spain. For this reason, the first research hypothesis will be properly argued and demonstrated only regarding this specific debate. Conducting an in-depth analysis of three different debates in three different Countries requires an amount of time, competences and efforts which exceeds the limited possibilities of this dissertation. Hopefully, the UK and the France debates about ‘democracy’ and ‘the popular will’ could be fruitful objects of further inquiries. However, a partial overview, collecting of data and analysis regarding these cases has been done and it is believed to be meaningful for

the aims of the present work. In fact, partially addressing also the debates surrounding Brexit and the *Gilet Jaunes*, in the scope of a ‘Western’ ‘populist wave’, helps in providing a wider context and perspective to the Catalan case, and in understanding its relevance more precisely. The debate about ‘democracy’ and ‘the popular will’ in Spain does not happen in a vacuum, but in the broader context of a revived interest for these issues, and in a historical moment in which they are related to critical political conflicts.

The existence of this wider context and the fact that similar topics are heatedly debated in different Countries in the same years, is believed to strengthen the hypothesis that the Catalan debate has some relevance. If it were a single and isolated case with unique features, it would be implausible to argue that it can tell us something relevant and timely about contemporary Western European politics. It would also be implausible to argue that the concept of ‘democracy’ is being actually re-framed in the scope of this debate. A single debate in a single Country does not have the potential to re-shape the general meaning of a concept. In turn, insofar as the meaning of ‘democracy’ is questioned and re-articulated in a ‘radical-popular’ way in many instances and in different Countries at the same time, rings a bell about the importance and the plausibility of the matter. When many political actors, in many occasions and in many places are questioning ‘democracy’ and re-framing it in similar ways, the potential for this re-articulation appears more probable and more compelling. This work is not trying to argue that the Catalan debate is *the* place within which such a re-articulation of ‘democracy’ occurs, but that it can be one of the many laboratories in which this re-articulation is occurring. Analysing it without any reference to a wider context would deprive this argument not only of its significance, but of its plausibility and of its overall meaning.

2.3. Examples of Public Debates

In the United Kingdom, the anti-Brexit platform significantly named ‘People’s Vote’, core of the anti-Brexit massive marches organisation, explicitly states in the main page of its official website:

It's now clear that this is a crisis that cannot be settled by our prime minister or his government. It can only be settled by us, the people. His Brexit crisis has now come down to a simple question about whether we live in a democracy: can we allow Boris Johnson to force No Deal – or another vicious form of Brexit – on our country, without all of us having our voice heard?

Meanwhile, the public debate over the opportunity of invalidating the first Brexit referendum is divided especially regarding the democraticity or anti-democraticity of the demand. On the one hand, one front considers the anti-Brexit marches as an example of «democracy in action»¹², as «the last chance to fight for democracy»¹³ and as a «democratic inevitability»¹⁴. On the other hand, the opponents consider the anti-Brexit movement as form of «democratic travesty»¹⁵, as an example of elitism which «blows to the heart of [...] parliamentary democracy»¹⁶ and whose demands are «inherently undemocratic»¹⁷.

In France, «*nous ne sommes pas en démocratie*» («we are not in a democracy») is one of the slogans of the *Gilets Jaunes* movement¹⁸. Their insistence on radically egalitarian and horizontal political practices, popular referendums, horizontal deliberation, constituent assemblies chosen by lot, spark a vibrant national debate with countless arguments and counterarguments over the relation of this movement with democracy¹⁹ (see also: Tomès 2019). While some consider it to be «deeply

¹²'People's Vote march on Saturday was democracy in action', *The Reader*, 23/10/2018, www.standard.co.uk

¹³'This could be our last chance to fight for democracy and our place in Europe', *The Independent*, 18/10/2019, www.independent.co.uk

¹⁴David Reichmuth, *The democratic inevitability of a People's Vote*, 11/02/2019, www.thenewfederalist.eu

¹⁵Adam Ramsay, *Ten reasons I came round to a People's Vote*, 17/01/2019, www.opendemocracy.net

¹⁶Chris Bickerton, 'Arrogant remainers want a second vote. That would be a bad day for democracy', *The Guardian*, 16/01/2019, www.theguardian.com

¹⁷Lukas Martini, 'Holding a second Brexit referendum would be inherently undemocratic', *The New Federalist*, 29/10/2018, www.thenewfederalist.eu

¹⁸ Beatrice Mabilon-Bonfils, 'Pour les "Gilets jaunes", «Nous ne sommes pas en démocratie!»', *La Tribune*, 22/12/2018, www.latribune.fr

¹⁹ Stéphane Vernay, 'Commentaire. Gilets jaunes et démocratie', *Ouest-France*, 15/11/2019, www.ouest-france.fr

democratic»²⁰, others accuse them to represent the «crisis of democracy»²¹. Meanwhile the *Agence Nationale de la Recherche* (ANR, the French ‘National Research Agency’) conducts an inquiry about «which kind of democracy» do the *Gilets Jaunes* actually want²² in the scope of a vast project for a multidisciplinary approach to popular mobilisations²³.

A notable example of the scope of this debate is the position of the historian and politologist Sophie Wahnich and of the anthropologist Marc Abélès, both Research Directors of the Centre National de la Recherche Scientifique (CNRS, French ‘National Centre of Scientific Research’) and of the *Institut Interdisciplinaire d’Anthropologie du Contemporain* (IIAC, French ‘Interdisciplinary Institute of the Anthropology of the Contemporary’), holding a whole cycle of studies about the *Gilets Jaunes* phenomenon²⁴. According to them this movement stems from a radical democratic drive which traces back to a primordial understanding of ‘democracy’:

The claim for a democracy which finds its primordial nature in the implementation of equality [...] Democracy is defined here less a procedure and more as a form of life oriented towards emancipation [...] and by presenting themselves as ‘the people’, [they] are reinscribing themselves in the French democratic political tradition since the French revolutionary foundation²⁵

²⁰ Sophie Wahnich, Marc Abélès, ‘Les gilets jaunes incarnent un mouvement profondément démocratique’, *Huffington Post France*, 17/11/2019, www.huffingtonpost.fr

²¹ Michel Winock, ‘«Gilets jaunes», la crise de la démocratie’, *L’Histoire Magazine*, 02/2019, www.l’histoire.fr

²² ‘«Gilets jaunes»: quelle démocratie veulent-ils?’, *The Conversation*, 27/10/2021, www.theconversation.com

²³ Agence Nationale de la Recherche, Project coordinated by Magali Della Sudda (Centre Émile-Durkheim - Science Politique et Sociologie Comparatives) *Les Gilets jaunes: approches pluridisciplinaires des mobilisations et politisations populaires*, source: www.anr.fr

²⁴ Cycle of studies organised by Marc Abélès et Serena Boncompagni (October 2019): *Approches ethnographiques des Gilets jaunes: enquêtes et expériences*, Institut interdisciplinaire d’anthropologie du contemporain – IIAC, source: <https://www.ehess.fr>

²⁵ S. Wahnich, M. Abélès, ‘Les gilets jaunes incarnent un mouvement profondément démocratique’, cit.,: «la revendication d’une démocratie qui retrouve sa nature primordiale d’être mise en œuvre de l’égalité [...] La démocratie se définit ici moins comme procédure que comme forme de vie orientée vers l’émancipation [...] et en se présentant comme “peuple”, se réinscrivent dans la tradition politique démocratique française depuis la fondation révolutionnaire française»

On the contrary, scholars such as Dominique Schnapper, sociologist, politologist and honorary member of the French Constitutional Council, highlights the concerning anti-democraticity of the same movement. Schnapper warns that the Gilet Jaunes claims and practices are to be considered «very disturbing» from a ‘democratic’ point of view. For instance, demanding the retirement of a President elected through universal suffrage and refusing to ask the legal permission for demonstrations in the name of the ‘right to protest’, should be considered outright antidemocratic, since it questions «the fundamental principles of representative democracy» such as elections and the Rule of Law:

The fundamental principles of representative democracy are being called into question, namely the legitimacy of the election on the one hand, and on the other, respect for the Rule of Law which guarantees public freedoms²⁶

Directly resorting to ‘the popular will’, eventually overcoming established legal procedures (*i.e.*, democratic elections; asking legal permissions to demonstrate) is seen by some as the epitome of democracy, or as a return to its purest and primordial essence: radical and direct popular sovereignty. At the same time, within the same political community, the same thing is considered by others a serious threat to fundamental democratic principles, such as electoral and parliamentary procedures and the upholding of the Rule of Law.

In Spain, the crisis over the illegal and anticonstitutional Catalan referendum for independence sets ground for a surprisingly explicit debate about the meaning of democracy, which can be paradigmatically summarised in the provocative question: «What is democracy? The Rule of Law or popular legitimacy?»²⁷. While the claim of Spain being a ‘fake democracy’ becomes one of the main slogans during independentist mobilisations, the simple word '*democràcia*' ('democracy') is adopted as

²⁶ Dominique Schnapper, ‘Gilets jaunes: la démocratie en danger?’, *Capital Magazine*, 18/01/2019, www.capital.fr: «il est très inquiétant que soient remis en cause les principes fondamentaux de la démocratie représentative, à savoir la légitimité de l’élection d’une part, et d’autre part le respect de l’état de droit qui garantit les libertés publiques»

²⁷ Edgar Fernández Blázquez (CUP Party), 30/10/2019 Parliamentary Intervention

the motto of *Omnium Cultural*, one of the main independentist platforms, which plays a key role in the organisation and promotion of all the main independentist mobilisations throughout the years²⁸. The *Omnium Cultural* platform also notably launches two political campaigns, named ‘*Crida per la Democràcia*’ (‘Call for Democracy’) in 2017, in order to promote the independentist referendum’s legitimacy, and ‘*Judici a la Democràcia*’ (‘Democracy under Trial’) in 2019 in order to sustain independentist ‘political prisoners’. In all of these cases, the possibility for ‘the people’ to self-determine itself through a referendum is assumed to be a pure expression of democracy, despite the referendum being illegal and unconstitutional. For the same reasons, the Government’s repression is presented as an example of anti-democratic authoritarianism, despite it being technically legal and constitutional.

The day of the controversial Referendum, in an extremely volatile political context, the then Spanish President Mariano Rajoy holds a public speech, reported on the Government’s official website with the significant title: «Today democracy has prevailed because the Constitution has been enforced». In the speech, Rajoy praises Spain as a «mature and advanced democracy, friendly and tolerant, but also firm and determined, which forms a State governed by the Rule of Law with all its guarantees». To him, ‘real democracy’ only could exist in the scope of the Constitution and the Rule of Law, in order for peaceful coexistence and concordance to be possible. In the same context, on the 3rd of October 2017, day of an independentist general strike, the Spanish King Filippo VI holds an official speech in which he directly links ‘democracy’ with abidance to the Constitution and the Rule of Law and with the necessity to preserve peaceful coexistence and concordance. Only one week later, on the 10th of October 2017, during the public speech for the first scandalous unilateral Declaration of Independence, the then Catalan President Carles Puigdemont incredibly asserts that «democracy can exist beyond Constitution» in order to sustain the referendum’s democratic legitimacy.

²⁸ Moreover, *Omnium Cultural*’s President, Jordi Cuixart i Navarro, has been one of the most notable ‘Catalan political prisoners’ detained in 2017 and then sentenced to nine years for ‘sedition’ in 2019.

Moreover, in the immediate aftermath of the referendum, in the scope of mass mobilisations, blockages and protests, parliamentary debates become another arena of an open dispute about the meaning of democracy. On the one hand, some political forces claim democracy to be rooted in the right of 'popular self-determination' as the right of 'the people' to directly express and enforce its will, regardless of legal and constitutional constraints. They defend their position according to principles of self-determination, autonomy, freedom and consent. On the other hand, their opponents claim that the substance of democracy is instead rooted in the State's Constitution, in the respect of representative institutions and in the Rule of Law. In their view, the legal and the constitutional frame is what grants the necessary stability and safety to secure individual rights and freedoms as well as pacific coexistence. In this context Rajoy provocatively states that «there is no Constitution in the world that recognizes the right of self-determination. And this is logical!». In the PART II of the research, an in-depth analysis of this debate and of the contraposition between the 'radical-popular' and 'legalist-constitutionalist' fronts will be conducted.

2.4. The Catalan Case

Among the other Western European examples occurred between 2017 and 2019, the Catalan case stands out at least for three reasons. First, it is the instance in which an institutional, legal and constitutional order is questioned and challenged to the deepest degree, and in which the issue of political foundation, sovereignty and of constituent powers emerges more blatantly. It is the case in which the dissolution of an existing political community and the foundation of a new one appear more concretely. Second, it is the case in which these pivotal topics are addressed more openly, deeply and acutely by political actors themselves. The debate on newspapers, television, assemblies, social media and Parliaments displays a surprising level of clarity and complexity about these key political issues. Third, in the context of contemporary Western Europe, it is the most extraordinary case in political terms, in the literal sense that it exceeds and

breaks the ordinary unfolding of politics. The Brexit and *Gilet Jaunes* cases surely have extraordinary elements, but the case of the Catalan Referendum is unprecedented.

In the months preceding the controversial Referendum, thousands of people, backed by the Catalan Regional Government, secretly work to clandestinely organise the vote, while the central Spanish Government and the Constitutional Court declare the Referendum to be illegal and anti-constitutional, forbid voting, close the voting polls and categorically demand citizens to refrain from vote. In September 2017, after furious debates, the Catalan Parliament approves some extremely controversial laws, calling for an official ‘self-determination Referendum’ and declaring its results to be binding, regardless of the reached quorum. Following these events, in the attempt to stop the Referendum, the ‘Anubis’ Police operation is launched: headquarters of the Catalan Government are raided, and numerous Catalan officials are arrested, along with the two leaders of the most prominent civic independentist platforms. These occurrences start to spark mass protests in Catalonia, generating a particularly volatile political climate.

On the 1st of October 2017, the voting day, with a 43% quorum almost three million of Catalans choose to illegally vote in thousands of unauthorised polling stations all over Catalonia. Each one of the thousands stations is illegally occupied, each one of the ballot boxes and of the voting papers is considered to be illegal material, researched by the police: all of the voting procedure has been secretly organised by a clandestine network, with a large support of the citizenry. In the name of ‘popular self-determination’, each one of the almost three million voters is participating in an illegal and anti-constitutional attempt to liquidate the existing Spanish institutional order and found a new one. Going to vote, and often physically defending the polls from police, millions of Catalans choose to face harsh police repression, with few arrests and hundreds of injured people (more than 800 in one day, according to the Catalan Health’s Department, Humans Rights Watch and some newspapers). While police and voters confront each others physically, among acts of mass civil disobedience, beatings, barricades and spontaneous demonstrations,

hackers from both sides conduct an online war on the Regional Government's and Referendum's websites. The same evening spontaneous mass protests against blatant police brutality start to rise across the Region and a massive general strike is called for the next days.

At the same time, the Law enforcement itself gets into crisis: in the days surrounding the Referendum, the Catalan Regional Police (*Mossos d'Esquadra*) is often considered too compliant with the independentists and accused to back the illegal occupation of the voting polls and the illegal voting procedures, or at least to refrain from intervention. In many instances, the Catalan police is therefore removed and replaced with the Spanish Civil Guard, which handles the situation with more decision. In some cases, there are even direct confrontations between the two police corps outside of the polls. In the next days, for the suspect of having backed the secessionist attempt, the Catalan *Mossos*' highest chief, Josep Lluís Trapero, along with other high officials, is removed from office and accused of sedition against the Spanish State, threatened with up to 15 years of detention. The central station of the Catalan Police is also raided and searched by the Spanish Civil Guard in search of proofs of a planned sedition of the Regional police corp.

In the same instance, some firefighter departments openly partake for the Referendum and support the independentist Catalan National Assembly (ANC) to help with its organisation. In addition to striking symbolic actions and statements under the slogans 'Love Democracy' and 'Defend Democracy', they also participate at some Referendum polls creating human cordons to defend voting citizens against Police intervention, sometimes even physically clashing with the Civil Guard. For entire days after the Referendum, the Civil Guard central station in Barcelona is encircled by thousands of enraged protestors, main roads are blocked in many cities, universities and high schools are occupied, daily oceanic demonstrations and also an extremely participated general strike take place. Meanwhile, at least in theory, politicians, members of the military, journalists and commentators discuss the opportunity of a proper military intervention in Catalonia to restore the institutional order. Later newspapers' reports have allegedly confirmed that an eventual military

intervention had been actually prepared by the central Government. In these frantic months, many public and private discourses foreshadow the likelihood of a new civil war. As it will be shown throughout the discourse analysis, the everpresent threat of this possibility repeatedly recurs in the public debates, and the reality of this fear has to be taken into account while approaching these events.

In the end, the Catalan Government officially declares secession, at first with a provisional and immediately suspended declaration (10th of October), and then with a more definitive one (27th of October), claiming that a new constituent process is to be started to found the new Catalan Republic. This constituent process never takes place. The same day of the secessionist declaration, the Spanish Government applies a constitutional emergency article (the infamous Article 155) to remove the whole Catalan Government, dissolve the Catalan Parliament and call for new elections. Since then, for more than seven months, the functions of the Regional Government are suspended and the central Spanish Government assumes its direct control. Few days later, many of the Catalan Ministers partaking in the independence declaration, including the then Catalan Vice-President Oriol Junqueras, are arrested, imprisoned and charged with ‘sedition’ and ‘rebellion’, threatened with up to 30 years of prison each. Few of them, including the then President Carles Puigdemont, clandestinely escape the Country and live some years as fugitives.

Besides this harsh judicial repression, which halts the secessionist process at its very beginning, the Catalan Government does not appear to take any concrete resolution and make any concrete implementation in order to actually realise a secession. It is unknown whether this is a consequence of the rapidity and the force of the Spanish repression, of the Catalan Government’s lack of concrete preparation, or a deliberate choice of not following the secessionist path in practice. Some commentators also believe that the Catalan Government never had the concrete intention of realising a proper secession and that they deliberately made a secessionist declaration which was invalid and ineffective both on a practical and on a legal, official and bureaucratic level. The reality of the Catalan Government’s intentions in this respect may remain a mystery. However,

the actual possibility of a secession is taken seriously, on the one hand, by millions of citizens partaking in the Referendum, as well as in demonstrations, blockages, strikes and confrontations with the Police, and, on the other hand, by the Spanish Government and the Courts, which react very resolutely and take extraordinary political and judicial decisions. In this sense, the declaration of independence actually produces considerable and critical effects.

After some frantic months, the acute phase of the secessionist threat starts to fade and the Country returns to institutional normality and to a more manageable public order situation. The Catalan independentist drive is still strong: the independentist front gains a Parliamentary majority in Catalonia again, periodic massive demonstrations still take place and the topic is still widely debated. However, the critical juncture of the Referendum seems to be surpassed. In 2019, the Court sentences the independentist ‘political prisoners’ to 9 up to 13 years of prison each, leading to a new wave of mass protests, blockages and strikes. While in 2017 demonstrations almost always stick to non-violent tactics of civil disobedience, in this case the protests take a more violent turn, with an outburst of fierce riots continuing for weeks.

In this instance some of the most spectacular actions take place, like the shut down of almost all of the Barcelona airport due to a massive occupation, and an impressive march which involves millions of people across the whole Region, walking for several days from their hometowns, blocking the main roads and highways of Catalonia, and gathering in Barcelona for a massive general strike, ended up in major clashes with Police. These events are inscribed in the more general political climate of a 2019 marked by massive protests all around the world, from Catalonia to Hong Kong, from France to Chile. The recurrent claim is always the same: a radical demand for ‘democracy’. Nevertheless, with the proceeding of time and in absence of concrete results, this wave of protests also starts to fade. In the next years, under a more left-wing Spanish Government guided by the Socialist Party, the ‘political prisoners’ are released thanks to an indult, and a political debate about the possibility of a constitutional reform which could allow an ‘agreed-upon’ referendum

begins to see the light amidst many controversies. However, to this day, the Catalan independentist conflict is still far from finding a viable resolution.

2.5 Popular Sovereignty and Democracy Beyond Catalan Secessionism

This research refrains from political evaluations about the opportunity of a Catalan secession and from predictions about the future outcomes of this crisis. The present work focuses on the Catalan case insofar as it displays the contraposition between a ‘radical-popular’ and a ‘legalist-constitutionalist’ understanding of democracy, through a vibrant debate which openly addresses and illuminates some critical political issues in this respect.

It could be argued that it is not possible to separate the Catalan debate about ‘democracy’ from the debate about secession. I firmly believe that this is not true. First, the preminence of the democratic topic beyond secession is continuously stated by the involved actors themselves. This has happened both discursively in the scope of the debate, and in practice in the scope of the Referendum and the demonstrations. Secondly, as it will be analysed in PART II, the radical-popular and the legalist-constitutionalist discourses elaborated in the Catalan debate are meaningful and consistent regardless of their relation with a secessionist or a unionist position about Catalonia. They are developed independently and autonomously, and they rely on their own structure, nodal points and value systems.

In this sense, this ‘radical-popular’ claim expresses the conviction that the Catalan people should decide for itself, and not necessarily that it should become independent from Spain. Within a radical-popular discourse, the main issue is for the Catalan people to be able to exercise self-determination, not necessarily to gain independence. In fact, the 1-O Referendum is almost never addressed as a secessionist or independentist referendum, but as ‘the self-determination Referendum’. The point is that, as long as the primal principle is popular self-determination, there is no

issue upon which ‘the people’ cannot decide, and at the same time there is no outcome that can be supported or adversed in advance. If the ultimate arbiter is ‘the popular will’, then the people should be just provided proper channels to express and implement this will, regardless of the possible outcome. In this sense, within a proper ‘radical-popular’ account, independence can consistently be defended only after that ‘the people’ has actually expressed an independentist will.

Of course, in this specific and contingent case, the majority of the ‘radical-popular’ front is also independentist. However, there is a smaller, but still significant, percentage of people which sustains a sovereigntist claim for self-determination, for ‘the right to vote’, without advocating for independence or even while hoping for a unionist outcome. Notably, the *Podemos* party falls under this category. Despite it being minoritarian at the time of these events, this party still has a relevant political role both regionally and nationally, and it is one of the major parties in Spain. The official *Podemos* position is neutral concerning secession, but in favour of the possibility for the Catalan people to self-determine about this issue. In this sense, they do not endorse secession, but they endorse the possibility of a Referendum.

The dynamics deployed during the 1-O Referendum also offer an interesting example which is often overlooked. If we rely on the results provided by the Catalan Government, the first element which stands out is that roughly the 90% of the participants voted ‘Yes’ to Catalan independence. This comes as no surprise. However, this also means that roughly the 10% of the participants voted ‘No’ to independence or made a blank vote. It is more than 220 thousands people²⁹, within a total population of approximately 7 million, who decided to actively participate in an illegal and unconstitutional Referendum, exposing themselves physically to harsh police violence, to allegations and sanctions, regardless of the fact that they were *not* in favour of Catalan independence. More than 170 thousands of them were even downright *against* independence. It seems plausible to infer that those people believed in the right to popular

²⁹ 177.547 ‘No’ votes (7,83%); 44.913 blank votes (1,98%). Total ‘No’ + blank votes = 222.460 votes (9,81%).

self-determination despite not being independentists. In this context, another minoritarian but meaningful phenomenon occurs: in the days following the 1-O, some unionist people participate to Catalan sovereigntist demonstrations displaying Spanish flags, not as a provocation, but as a sign of support for ‘popular self-determination’ beyond the unionist / independentist divide. Some of them exhibit slogans which equate ‘voting’ and ‘democracy’ on placards or on the Spanish flags themselves. Personally, they are against Catalan independence, but publicly they nonetheless support the idea that Catalan people should decide for itself.

This fact is underlined also by some of the politicians which take the floor in the scope of the public debate. According to Puigdemont, «the future of Catalonia, *whatever it [is]*, ha[s] to be decided by the Catalans»: the starting point is not secession, but the right of the Catalan people to freely decide for itself, regardless of the possible outcome («whatever it [is]»). In the same speech, he openly thanks not only the independentists, but every person who took part in the Referendum, regardless of their positions about independence: «Yes and No voters, and to those who voted blank», all of them are considered part of the exercise of popular sovereignty. During the 11th of October Parliamentary Debate, Catalan Deputy Feliu-Joan Guillaumes (CiU) thanks «all the parties, organisations and individuals from all over Spain who have shown solidarity with the situation in Catalonia [...], not out of sympathy for sovereignty, but simply out of sympathy for democracy»³⁰. The CiU Deputy is underlying that a lot of «parties, organisations and individuals» stand in solidarity with the Catalan cause and the right to hold a referendum, not because they agree

³⁰ The language used in this sentence can be misleading, but, as it will be furtherly explained in more detail, within the Catalan debate ‘sovereigntism’ and ‘secessionism / independentism’ are used as synonyms. «Sovereigntism» is used to indicate the will and the right of Catalonia to become a ‘sovereign’ State. This dissertation departs from this usage and theoretically separates the two notions. In the present work, ‘sovereignty’ is used to indicate the holding of the foundational and primal decisional power of self-determination of ‘the people’, regardless of its unionist or independentist positions. A ‘sovereign people’, depending on various factors and circumstances, could decide to become independent, but also to remain within Spain. The outcome is not given in advance. On the other hand, ‘secessionism’ / ‘independentism’ is used to indicate the specific claim for secession / independence. However, even though the used words are different, the concept expressed here is exactly the same.

with Catalonia being independent, but because they sustain the democratic principle, namely, the idea that the people should decide. Guillaumes is precisely saying that it is possible to endorse the self-determination Referendum despite not being in favour of Catalan independence.

The *Podemos* Deputy Irene Montero echoes the same concept very explicitly: «I am Spanish and I do not want Catalonia to leave Spain [...] but I believe that they should have the possibility to decide this and to be sovereign in this». This claim is representative of the general *Podemos* position about the Catalan issue. Few minutes later this declaration within the Parliament, the then Vice-President and Minister Soraya Sáenz de Santamaría attacks Montero lamenting her «destructive zeal», her will to «destabilise the institutions» and to «stir [the problems] up», within an heated talk which will be reported more extensively in PART II. On its part, Basque Deputy Aitor Esteban (PNV) enters the debate recalling the phenomenon of unionist people joining Catalan sovereigntist demonstrations with Spanish flags, in the name of ‘democracy’ and ‘popular self-determination’ instead than ‘independence’. In particular, he speaks about events happened on the massive general strike occurred in Catalonia on the 3rd of October, two days after the Referendum, to protest against the Spanish Government’s repression:

On the day of the strike - and this is what it is said by *El País*³¹, a newspaper that is quite close to the Government - we found people who went with Spanish flags saying: ‘I am not in favour of independence, but I could not stay at home’. And they said this because they do not agree with people not being able to express themselves and because they do not agree with what happened on the 1st of October [harsh police repression of the Referendum]

Catalan Deputy Joan Tardà i Coma (ERC) expresses the same concept:

You will agree with me - or should agree with me - that we Catalans can decide this [...] In the imagination of the Catalans, even many who are not pro-independence, the right to decide [...] is not going to disappear.

³¹ https://verne.elpais.com/verne/2017/10/03/articulo/1507043869_836205.html

These examples, despite them being minoritarian, illuminate the thin but crucial line which divides sovereigntism from independentism. This differentiation makes it easier to understand the Catalan conflict *also* as a conflict over popular self-determination and democracy, and *not only* as a conflict over the secession of Catalonia from Spain. In the scope of the Catalan crisis non-independentist sovereigntists are a (significant) minority. The aim of presenting this example is not to elaborate a theory starting from a minor exception. Differently, it is an attempt to cast light upon the fact that the Catalan case can be framed apart from unionist and independentist claims: this is theoretically consistent, practically possible and it has actually happened in the analysed empirical case.

This abstraction from the specificity and contingency of Catalan secession is also operated by the political actors themselves. It is certainly true that they also argue against or in favour of Catalan independence according to their personal opinions and interests regarding Catalan secession. However, they nonetheless dedicate a considerable effort and time in discussing the general principles of democraticity, legality, legitimacy, ethical and political values. On the one hand, there is a unionist claim against Catalan secession, but also an autonomous and independent discourse about the Law as the foundation of democratic politics, based on stability, safety and peaceful coexistence. On the other hand, there is an independentist claim in favour of Catalan secession, but also an autonomous and independent discourse about the primacy of the popular principle in democracy, based on the values of popular self-determination and consent. These discourses, the legalist-constitutionalist and the radical-popular ones, are pursued and developed on their own, and they constitute a part of the debate which is both wide and poignant.

This is one of the lines of reasoning through which this event can be analysed as a conflict over popular self-determination and democracy in a more general form, leaving aside the contingent opinions and interests in favour or against Catalan secession. In this more general form, the question is: should 'the people' be able to exercise a radical form of sovereignty and self-determination anyhow, eventually overcoming

established legal and constitutional boundaries and eventually overthrowing an established institutional order? Are there any limitations to be imposed over this sovereignty and self-determination, or are they absolute? Within a proper democracy, where should the line be drawn between self-determination and its limitations?

3. The Theoretical Framework

The starting point of the present research, therefore, is the following: some political events lead to the articulation of a public debate about the meaning of ‘democracy’ and within such a debate different parties endorse radically different and competing views. Each party deems itself as ‘truly democratic’ and claims to represent the most proper and authentic understanding of ‘democracy’, while the opponents are deemed as ‘non-’ or ‘anti-democratic’. On the one hand one party sustains a legalist-constitutionalist account of democracy, realised in institutions and procedures which are safeguarded by and rooted in a Constitution and the Rule of Law. On the other hand, another party advocates for the ‘popular will’ to be the essential element of a true democracy which can eventually overcome the Constitution and the Rule of Law. The issue is particularly pressing because of the fact that the protesters urgently claim for the realisation of their demands and because this happens within a political context marked by mass mobilisations which can eventually take the form of massive demonstrations, general strikes, occupations, blockages, clashes or riots.

On the one hand, this situation opens up the possibility for a significant philosophical reflection which interrogates the ontology of concepts and the way in which they can be conceived as open to rearticulation and intertwined with political practices. On the other hand, the fact that in a particular historical contingency the concept of ‘democracy’ is defined and fixed in a specific way rather than in another one is a discursive and conceptual hegemonic operation which has consequences in re-framing the political space. Defining what is ‘democratic’ means to define what it is politically legitimate, which political arrangements should be implemented, which political actors should be included in or excluded from political participation. This is the reason why conflicts for the hegemony over the concept of democracy can rise.

3.1 Two problems: instrumental and nominalist usages of the word 'democracy'

Two similar but different critical points could emerge here. The

first one is linked to the fact that in contemporary Western Europe ‘democracy’ stands as the ‘golden standard’ of political legitimacy and, moreover, the usage of this word is charged with normative and affective elements which can be eventually stressed at the expense of a proper, precise and consistent definition of its meaning. This can lead to the fact that some political actors could use the word ‘democracy’ instrumentally because of its appeal, to pursue their own interests without the actual intention of advocating for democracy or implementing democratic arrangements. Endorsing the definition of ‘democracy’ which better suits one’s political interests and consequently claiming to be ‘true democrats’ and deeming the opponents as ‘anti-democratic’, could be nothing more than a rhetorical strategy to gain legitimacy and credibility and to undermine the legitimacy and credibility of others. This doubt is valid and timely because such an instrumental usage of the word ‘democracy’ is not only plausible in theory, but very common in practice. Therefore, it is worth asking how seriously we should take the claims of political actors which are likely to be more concerned with the realisation of their own purposes rather than with the implementation of ‘true democracy’.

However, albeit legitimate, this question moves away from the scope and the aim of the present work. Endorsing one specific meaning of ‘democracy’ against another one in the scope of a public debate means to participate in the collective articulation of a discourse, especially within a political context marked by mass mobilisations and social tension. For the aims of the present study what is relevant is the public articulation of the discourse itself along with its public consequences, not the speakers’ honesty, that is, not the coherence between the speakers’ public stances and their private beliefs. In this sense it is indifferent if a political actor participates in this public discursive articulation led by material interests and egoism or by a pure commitment to the democratic cause. What is relevant is how this discourse evolves in the light of the public space, not the obscure realm of non-declared intentions which, moreover, would be theoretically and methodologically very problematic to analyse. The aim of the present work is not to investigate ‘behind the scenes’ or undercurrent dynamics which supposedly drive the discourse, but its development and

effects in the public arena. The fact that ‘democracy’ is publicly re-framed in some specific way can produce theoretical and political consequences regardless of the accordance between the public discourses and the actors’ sincere and intimate convictions. The path which the present work aims to follow is considering the discourses about the meaning of democracy as practices which produce consequences, not as the expression or representation of the speakers’ ‘real’ beliefs. In the latter case, such discourses could be deemed as ‘true’ or ‘false’, ‘truthful’ or ‘dishonest’ depending on their accordance with reality, according to a descriptive paradigm. Differently, within a performative paradigm, the meaningfulness of the discourses lies in the way they affect reality. The question we are asking in this regard is not whether the word ‘democracy’ is used honestly, but if it is used meaningfully. The problem is not if a political actor endorses a specific account of ‘democracy’ only instrumentally, but if their usage of the word is meaningful, that is, if it is collectively understandable, consistent and usable within a proper discourse.

Moreover, saying that ‘democracy’ can be intended in radically different ways and that the public discourse about its meaning participates in re-framing the concept itself, does *not* mean that every usage of the word is appropriate, nor that its meaning is re-framed every single time a political actor tries to do so. This would be a purely nominalist approach which would be useless to give any kind of account not only of the processes occurring in the theoretical and in the political spheres, but of human language altogether. After all, even far-right terrorist Andrew Breivik publicly claimed to represent ‘true democracy’ and to act for the protection of ‘the people’, but this does not mean that the concept of democracy has been re-articulated in order to include mass shootings as a legitimate political practice.

3.2 Meaning as Usage: The New Wittgenstein Current and Radical-Democratic Interpretations

One of the assumptions of the present work is that the concept of ‘democracy’ is re-framed and re-articulated within discursive practices

such as public political debates. In terms of philosophy of language, stating that a concept is re-framed through discursive practices presupposes a pragmatic, immanentistic, non-metaphysical and anti-foundationalist ontology. This kind of approach conceives language as a dynamic, contingent, precarious and open collective practice, intertwined with other collective practices within a living community. According to this view, the meaning of a word, for instance, the meaning of the word 'democracy', is practically and theoretically inseparable from its actual and collective usage. Meaning is stratified, produced, reproduced, developed and modified collectively. This happens within living communities which share a form of life and a system of signification, and in interrelation with other non-linguistic practices.

On the one hand, this implies that meaning does not exist *per se* in some transcendental conceptual and abstract dimension which stands beyond, beneath or above practice. On the other hand, this implies that theoretical speculation alone can neither provide a full account of the meaning of a word, nor successfully participate in its re-articulation, if it does not take into account its actual practical usages and if it is disengaged from actual public debates. One of the direct implications of this ontology is that meaning is always dynamic and open and, therefore, intrinsically contingent and precarious: it is dependent upon the ongoing development of linguistic and non-linguistic practices. Words do not have an essential core or a foundational element which is completely external, independent from or immune to this development: there is nothing to anchor and secure their meaning definitively.

This approach can be better understood within the scope of the paradigm of the Austrian philosopher Ludwig Wittgenstein, according to which *the meaning of a word is its usage within a form of life*³². This paradigm is. The paradigm employed in the present research generally draws from the so called 'New Wittgenstein' current, and in particular from the 'therapeutic' and 'ethical' interpretations of his work (see Glock 1996;

³² Even within the wittgensteinian paradigm there are some exceptions to the conception of 'meaning as usage'. However, such exceptions are not relevant to the issue addressed in the present text, as they are related to specific terms and do not invalidate the overall conception nor the possibility of applying it.

Crary, Read 2000; Proops 2001; Conant 2002; Conant, Diamond 2004; McGinn, Kuusela 2011; Sluga, Stern 2018). The analysis is mainly based on the crucial work of Stanley Cavell (Cavell 1969, 1979, 1986, 1990, 1994, 2004; see also Conant 2005; Crary, Shieh 2006; Norris 2006, 2017; Norval 2011), and then integrated with the research of other relevant scholars in the field, which interrogated the relation between the Wittgensteinian thought, its ethico-political dimension and democracy (Pitkin 1972; Tully 1989, 1999; Mouffe 2000, 2001; Zerilli 1998, 2005; Norval 2006, 2007; Robinson 2009; Luxon 2013). The present section will introduce some of the key elements of the New Wittgenstein (NW) interpretation, pinpointing some of its vital politico-philosophical aspects. In particular, the interrelations between the logical-ontological dimension and the ethical-political drive will be highlighted. In addition, the understanding of the Wittgensteinian paradigm within some contemporary radical-democratic scholars will be briefly treated, with the aim of positioning the present work within the context of the contemporary philosophical debate about radical democracy.

As it will be shown, despite not being strictly assimilable one to the other, these currents share a similar ontological, ethical and political sensibility in broad terms, and actively dialogue among them. They can therefore be considered part of a large constellation of thought which recognise and employ the Wittgensteinian immanentism, pragmatism and anti-foundationalism in ethico-political terms, explicitly intertwining political philosophy and the philosophy of language in a radical-democratic perspective. This overview, albeit necessarily partial, is believed to be useful in order to illuminate the theoretical framework, the methodological choices, the bottom-up approach regarding the empirical cases, and the overall spirit guiding the dissertation.

Moreover, the Wittgensteinian thought is particularly significant in relation to all of the other main scholars employed in this research, from Walter Bryce Gallie to Ernesto Laclau to Judith Butler: a focus on the Austrian philosopher is therefore pivotal for the aims of the present work. However, consistently with the employed paradigm, the meaning of this Wittgensteinian approach for the present dissertation, in all of its various

facets, will be further clarified and elucidated through the step-by-step development of the analysis and in its tentative conclusions.

3.2.1. *The New Wittgenstein Interpretation of the Tractatus*

The first element of the New Wittgenstein (NW) interpretation is the conviction that, according to him, philosophy is not an ensemble of theories, theses or doctrines: philosophy is not a body of knowledge, but an activity. In particular, philosophy is a non-metaphysical ongoing practice of clarification of the linguistic life, intended in its concrete, ordinary and pragmatic dimension. Philosophy inquires the linguistic life, clears confusions and deceptions, dissolves intellectual dishonesties, contradictions and metaphysical enchantments. It solves problems and illuminates the limits, patterns, relationships and connections between things. In other terms, the philosophical activity helps us to understand our (linguistic) life in a ‘perspicuous’ way. In Wittgenstein’s words:

The object of philosophy is the logical clarification of thoughts.

Philosophy is not a theory but an activity.

A philosophical work consists essentially of elucidations.

The result of philosophy is not a number of ‘philosophical propositions’, but to make propositions clear.

Philosophy should make clear and delimit sharply the thoughts which otherwise are, as it were, opaque and blurred (Wittgenstein 1921, proposition 4.112)

This conception is the Wittgensteinian version of the ‘*Sprachkritik*’ (‘critique of language’ or ‘linguistic critique’), which, at the time, was the beating heart of analytical philosophy, logics, linguistics, sociology and anthropology in Central Europe and in the United Kingdom. Since language was intended as the most distinctive and vital human feature, its elucidation was conceived as the royal road to gain a proper knowledge of the human thought and mind, of philosophical controversies, but also of human communication, relations, society, culture and, in the end, of the whole world – or, at least, of the human world. Within this perspective, an inquiry of the ‘linguistic life’ can be somehow intended as an inquiry of

human life and of the human world altogether. For this reason, an activity which clears the confusions, dishonesties and deceptions of our thought and language is both 'therapeutic' and 'ethical'. It is a 'therapeutic' process which seeks clarity and lucidity, increasing the awareness we have about us, our thought and our language, our forms of life and the human world we inhabit. Through the philosophical activity, our self-awareness and our understanding of (the linguistic) life becomes more complete, perspicuous, sensible, sane and logic. Similarly, this process is also 'ethical' in a Cavellian 'perfectionist' sense: an ongoing commitment to (self-)understanding, a continuous dedication to (self-)awareness which breaks our alienation from ourselves and our forms of life. This 'dis-alienation' enables a more direct engagement, a more active participation and a more concrete possibility of (self-)improvement and (self-)building within our forms of life and within the human world.

However, in order to fully grasp the therapeutic and ethical dimension of the Wittgensteinian approach, another set of considerations is to be made. A vast part of the linguistic critique of the time was driven by the conviction that the 'correct' and 'true' essence of language is its ideal, pure and logical form, structured according to ideal and universal meta-linguistic logical rules. This ideal meta-language is transcendental, it is independent from and external to ordinary language, and it has a logical and ontological priority. Within this perspective, the meta-language is the metaphysical ideal, model and reference, while ordinary language is its imperfect empirical and contingent instantiation: applying the logical rules of the meta-language it is possible to correct the ordinary language's errors and overcome its shortcomings. Applying these rules to ordinary language helps illuminating the hidden pure logical form which underpins propositions: this was considered the way of clearing linguistic misunderstandings such as ambiguity, vagueness and contradictions, therefore dissolving philosophical controversies. Moreover, this meta-language is the metaphysical and transcendental foundation, structure and essence of ordinary language, above, beyond and beneath its empirical realisation. For this reason, figuring out this ideal meta-language was intended as a fundamental way of understanding the essence of language,

of thought, of the conceptual sphere, of philosophy, of logics itself and, in some cases, even of the logical structure of the world, in concordance with a logical-mathematical scientific sensibility.

Wittgenstein's *Tractatus Logicus-Philosophicus* (Wittgenstein 1921) holds a very peculiar place in this context. A major part of his work is dedicated to the enucleation of the fundamental and universal logical rules which underpin language. He also affirms that each proposition has a single logical structure which can be eventually hidden, and which must be illuminated and clarified in order to gain a proper understanding of it. In this regard, the *Tractatus* expresses the same sensibility and the same drive of the majority of the analytical philosophy of the time. To this extent, it can generally be seen in consistent continuity with the works of scholars such as Bertrand Russell and Gottlob Frege, which are both explicitly quoted by the author in the Introduction. However, according to the 'New Wittgenstein' interpretations, there are some significant differences which separate the Wittgensteinian work from the other philosophers, and which pave the way for the further development of his paradigm in a more radical anti-metaphysical and anti-foundationalist direction.

First of all, according to these interpreters, the logical structure is conceived as being immanent to language and not transcendental. There is no further foundation of ordinary language, nothing beyond, beneath or above our ordinary linguistic practices, neither to ground or anchor their sense and meaning, nor to provide a fixed ideal model to evaluate, guide and correct them in absolute and universal terms. The 'New Wittgenstein' current draws this conception from the Wittgensteinian radical understanding of 'nonsense', following the 'resolute' and 'austere' interpretations of the author's thought. The present paragraph provides a brief overview of this position, which is believed to be critical in order to understand the logical, ontological and ethical consequences of Wittgenstein's work. The 'resolute' readings are the ones which take the infamous conclusion of the *Tractatus* literally:

6.54 My propositions serve as elucidations in the following way: anyone who

understands me eventually recognizes them as nonsensical, when he has used them—as steps—to climb up beyond them. He must transcend these propositions, and then he will see the world aright.

7 What we cannot speak about we must pass over in silence. (Wittgenstein 1921, propositions 6.54, 7)

According to these interpreters, Wittgenstein maintains that the philosophical theses are literally nonsensical and that his text literally does not provide any meaningful philosophical proposition. This includes the philosophical propositions which describe the universal logical rules of language. This reference to ‘nonsense’ is not intended in a metaphoric, symbolic, poetic, paradoxical or ironic way: philosophical propositions literally have no sense because they literally say nothing. The point is neither that they say something contradictory, ambiguous or vague, nor that they violate a logical, syntactical or grammatical rule, nor that they address ‘something’ ineffable which stands ‘somewhere’ beyond the limits and the possibilities of language. Differently, they are nonsensical because they have no meaning, that is, they do not signify, express, represent or describe anything: the speaker has failed to assign them a proper meaning and therefore they are not speaking about anything.

This interpretation follows an ‘austere’ understanding of ‘nonsense’, as opposed to a ‘substantial’ one. According to a substantial understanding, there are different types and grades of nonsense. On the one hand, there is mere nonsense as an unintelligible babbling with no meaning. On the other hand, there are propositions composed by parts which would be meaningful and intelligible in themselves, but which are combined in illogical ways, breaking some logical rule and therefore producing a nonsensical outcome. This conception implies the existence of an ideal set of logical rules which pertain to an ideal and logical meta-language, and that these rules can be applied incorrectly in the practice of ordinary language. Nonsense is therefore the outcome of such a violation of logical rules. According to this view, endorsed by Bertrand Russell and at least partially maintained by Gottlob Frege, the ordinary language is an empirical, contingent and imperfect instantiation of the ideal logical meta-language: the latter must therefore be used as a model to clarify, evaluate

and amend the former. As already mentioned before, this conception underpins the efforts of a vast part of the analytical philosophy of language of the time. Its guiding conviction is the idea that philosophy is a clarificatory activity which acknowledges the existence of an ideal model, external to practice, and then proceeds in applying it to correct ordinary language, clear its mistakes and overcome its shortcomings.

Differently, the ‘austere’ view, which is endorsed by Wittgenstein according to the ‘resolute’ interpreters, does not posit such a distinction between different types of nonsense. Within this account, ordinary language is inherently and intrinsically logic: logic is immanent and intrinsic to language itself. Consequently, ordinary linguistic practices always unfold logically. Logic is not an independent, ideal, metaphysical and transcendental model external to ordinary language and it does not provide an external and independent set of rules which can be correctly followed or incorrectly violated. Therefore, a proposition is ‘nonsensical’ not because it has violated an external logical rule applying it incorrectly, but because it does not say anything: its propositional components do not refer to anything existent in the world (intended, in the *Tractatus*, as the ensemble of facts and states of affairs). Nonsense happens when the speaker, albeit sometimes unwittingly, has not assigned a proper meaning, object or reference to some of the components of a proposition. This is the case of metaphysical propositions and, in general, of all propositions which attempt to exceed the dimension of the world, trying to affirm metaphysical truths which have no actual referents. They are nonsensical not because they try to say something which is unfathomable, but because they literally say nothing.

For this reason, the ‘austere’ and ‘resolute’ interpretations maintain that claiming «what we cannot speak about we must pass over in silence» is not a poetic hint to the ineffable: on the contrary, it is a departure from metaphysical inquiry and a radical commitment to this world, the only dimension we can properly and meaningfully speak about. This is Wittgenstein’s anti-foundationalist gesture: renouncing to the metaphysical hope to define and describe something ideal beyond, beneath or above, and returning to this world as it is in itself. The world, the human

world, the linguistic life, the philosophical activity, have their intrinsic and immanent rules and dynamics which unfold and develop without the need of being anchored, guided, justified or evaluated by anything ‘superior’, ‘extra’, or ‘deeper’. It has its own intrinsic and immanent sense, meaning, logic, rules, explanations, justifications and its own living life. The aim of the Wittgensteinian philosophy is therefore to engage with this world in itself, not with the ‘essence’ beneath it, the ‘ideal model’ above it, or the ‘further meaning’ beyond it.

According to the NW current, the logical, ontological and ethical implications of this approach all come from this same anti-foundationalist choice. It is important to note that Wittgenstein is *not* claiming that a metaphysical dimension, either ontological or ethical, is nonexistent or insignificant. He is *not* maintaining that nothing relevant exists beyond the concreteness and limitation of the ‘facts’ and the ‘states of affairs’ of this world. More modestly, on the one hand, he is stating that this metaphysical realm is not a meaningful object (*i.e.* literally ‘something endowed with meaning’) for philosophy, for human language and for logic. On the other hand, he is maintaining that the metaphysical sphere is not necessary in order to give sense and meaning to our world and our life, to understand it and to operate within it as humans. Within this perspective, the ‘therapeutic’ and ‘ethical’ dimension illuminated by the NW current becomes even clearer.

The philosophical activity is intended as a ‘return’ to the concreteness and the responsibility of practice, departing from the alienation of abstract theory and redirecting our efforts towards our concrete human world. This form of ethics is a commitment to our pragmatic life, through an ongoing activity of (self-)awareness, (self-)building, (self-)improvement and (self-)care to be done in the scope of the ordinary human world and not above, beyond or outside it. This kind of ethics is radically different from the attempt to elaborate general moral theories and to draw action-guiding principles from them. It is not an ensemble of moral propositions, theses, theories or doctrines to be understood and followed: in this sense, it is both anti-intellectualistic and non-prescriptive. The Cavellian ‘perfectionist’ ethics of the Wittgensteinian approach is rather an activity of commitment

to oneself, one's form of life and the world: an ongoing process of producing, building, developing, clarifying and perfecting understanding and meaning. It is a pragmatic way of acknowledging and taking care of the meaning-making processes which build ourselves as subjects, our relations, our communities and our world. In this perspective, ethics is the activity of producing and giving meaning and understanding to our human existence. Philosophy itself is an ongoing and lively activity of humans which engage with the human world, trying to understand it more 'perspicuously', but so are language, ethics and life in general. These activities have immediate meaning and sense in themselves and are resolved in themselves, in the concrete and pragmatic dimension of the ordinary: any attempt to provide them an anchoring foundation, to trace them back to an ideal model or to find a deeper or superior meaning beyond them is simply nonsensical.

3.2.2. Wittgenstein's Anti-Foundationalism from the *Tractatus* to the *Investigations*

In this regard, the 'New Wittgenstein' scholars posit a strong continuity between the aims of the so-called 'First Wittgenstein' with his *Tractatus Logicus-Philosophicus* and the so-called 'Second Wittgenstein' with his *Philosophical Investigations*. In both cases philosophy is intended as an anti-metaphysical, pragmatic, therapeutic, ethical and perfectionist activity of elucidation and clarification of the ordinary linguistic life, that is, of the ordinary human world. This activity is conducted renouncing to metaphysical aspirations, deemed nonsensical, getting rid of ideal models of meta-language, and returning to the meaningfulness of the ordinary world, in the attempt to understand the unfolding of its immanent rules. Following the 'austere' and 'resolute' interpretations of the *Tractatus*, and substantiating it with the analysis of a vast number of texts and lessons written between 1921 and 1951, the 'New Wittgenstein' approach therefore refutes a clear-cut separation between the First and the Second phase of the author's thought. Differently, it considers the *Philosophical Investigations* to be a radical development and improvement of the ethico-philosophical drive guiding the *Tractatus*, underlying an overall

consistency of his body of work.

However, also according to these scholars, there are nonetheless some crucial differences between the First and the Second phase, even though they tend to present them as a slow development over time rather than as an abrupt change. One of the main differences highlighted is that the *Investigations* radicalise the anti-metaphysical conclusion of the *Tractatus* about the contents of the philosophical activity and extends it also to its framework, its methodology and its case selection. Following this path, Wittgenstein overcomes the *Tractatus* dogmatic approach, which posited the existence of one single philosophical method, capable of illuminating one single (albeit immanent) universal logic underpinning ordinary language, tracing back all philosophical problems to one single general issue and therefore solving all of them at once. According to these interpreters, Wittgenstein's later dissatisfaction with his early work was related to these dogmatic, monistic and unwittingly metaphysical elements which had been removed from the content of philosophical activity, but still persisted surreptitiously in its theoretical framework and methodology. In his later work, he is more oriented towards a pluralisation of philosophical problems, issues and methods, and towards a more fluid, contingent, dynamic and plural conception of linguistic logics and rules. The peculiar, fragmented and miscellaneous style of the *Philosophical Investigations* interestingly reflects and expresses this new approach.

The Wittgensteinian philosophical activity, therefore, can be conducted through a plurality of methods which are drawn from the specific cases. It is not possible to identify a unique, definitive and universal 'ideal' method which is independent from and external to the cases and which can always be applied regardless of the cases' features. Differently, methods are plural, fluid, contingent and dynamic and they are derived from a case-by-case pragmatic approach. For this reason, a method cannot be chosen in advance in an ideal and absolute condition which precedes the actual philosophical activity, but it is found in the actual practice of engaging with specific problems. The same holds true for the outcomes of this activity: they have to be found as an actual result of the investigation and its development in relation to the cases, not deduced *a priori* through the

application of a pure, ideal, universal and absolute external logic.

According to Cavell and the NW current, the Wittgensteinian aim is *returning to* and *remaining within* the concrete, ordinary and pragmatic dimension of language, resisting the metaphysical urge to find something within, beneath or beyond it. This kind of philosophical activity is inevitably precarious, contingent, immanent and situated and it inevitably engages only with punctual and non-general cases, refuting generality, universality and idealisation. In this regard, the Wittgensteinian philosophy is radically limited and radically superficial, since it cannot exceed the limits of the ordinary practice and it cannot explore underneath its surface. The main intuition of Cavell is that being limited and superficial in this sense is not a weakness, but a strong return to the reality of human finitude. Getting rid of metaphysical anxieties by acknowledging and inhabiting this finitude, this philosophical practice restores the dignity of the ordinary human experience and «gives back the concepts to humans» (Gargani 2008, p. XVI), since concepts have life and meaning only within concrete human relations and contexts.

According to Cavell, the human experience is inevitably limited, situated, contingent and precarious: considering this to be an insufficiency to be amended and overcome is both unfair and impossible. In Wittgenstein's words, philosophy has to remain on the «rough ground» of «actual language» without chasing the «crystalline purity of logic» of «ideal conditions». First, because this crystalline purity is not an actual result found by the philosophical investigation, but an ideal requirement superimposed *a priori* by a metaphysical drive and surreptitiously projected onto its object of inquiry. Secondly, because the purity of the ideal conditions makes it impossible for the philosophical practice to proceed meaningfully, having a meaningful development and meaningful outcomes:

The more narrowly we examine actual language, the sharper becomes the conflict between it and our requirement. (For the crystalline purity of logic was, of course, not a *result of investigation*: it was a requirement.) The conflict becomes intolerable; the requirement is now in danger of becoming empty. – We have got on to slippery ice where there is no friction and so in a certain sense the conditions are ideal, but also, just because

of that, we are unable to walk. We want to walk: so we need friction. Back to the rough ground! (Wittgenstein 1953, §107)

This return to the ordinary is not to be intended as a return to some sort of primal and original dimension of language, with its own different kind of ‘purity’ or ‘superiority’. The ordinary language is not posited as ‘better’, ‘superior’ or ‘original’ compared to the ideal one. This philosophical operation is a return to language as a live and actual concrete practice of meaning-making and community-making between actual humans. It is a return to the way in which human forms of life actually exist, a return to language as an ordinary practice: both philosophy and language are practices to be deployed within (and to be applied to) our ordinary life, not ideal theories or doctrines to be thought. This is not done because ordinary language and ordinary life are the ‘original’, ‘authentic’ or ‘primal’ ones from which ‘abstractions’ are drawn. The issue is not the chronological, logical or ontological priority of ordinary language and life. The issue is not even merely epistemological, since the Wittgensteinian point is neither that ordinary language is the only thing that we are able to properly investigate nor that we do not have the intellectual or theoretical tools to elaborate universal, general, ideal and pure doctrines. Albeit this may be certainly true within his paradigm, this is not the diriment point. According to Cavell and to the NW current, the diriment point of the whole paradigm is ethico-political: committing to and engaging with the ‘rough ground’ of the human world, with the contingency, precariousness and finitude which pertain to humanity, inhabiting and reclaiming them without considering them a flaw.

This choice implies, at the same time, both an assumption of personal responsibility and a commitment to community. Since there are no metaphysical foundations and no permanent bases to anchor and secure human life, everyone is called upon to an accountability towards the human world and their communities, which are to be continuously and actively built together by the people inhabiting them. In this perspective, everyone has an ethico-political practical responsibility both towards themselves and towards the community. Meaning, values, rules, ethico-

political drives, are not given in a permanent and fixed way and they do not exist outside of our common life: they are ours to be built together. This approach highlights personal responsibility, accountability, engagement and agency, but, for the same reason, it also considers the individual to be always part of a community and of a world which they inhabit and participate into, but which they can never control. In this sense, according to Cavell, each individual ethico-political and existential claim is also ‘a claim to community’, whose meaning and realisation will depend upon the community’s collective answer and upon the way in which it is integrated within the collective world. For all of these reasons, each individual is constitutively exposed to its community in a state of vulnerability and precariousness from which they cannot be permanently safeguarded. The same holds true for any value or rule: they are guaranteed only insofar as they are reproduced within the community, since they do not have an autonomous existence beyond it.

3.2.3. Wittgenstein, Vulnerability and Radical Democracy

Within this account, this precarious and vulnerable condition is the figure of humanity and it is impossible to overcome. Notably, within other paradigms, the same human vulnerability and precarity are often interpreted as a permanent state of danger and employed as the main arguments to endorse some kind of strong foundation, both for ethics and for politics. From Hobbes onwards, the fact of being permanently ‘exposed’ to others represent the critical reason for searching the protection of an ulterior constituted and transcendental power beyond the immanent threats of common life. This constituted power serves as the stable foundation for a political community, intended as an ensemble of individuals, in which each person renounces and delegates to a portion of their agency and freedom in exchange for a higher security. Interestingly, as it will be shown throughout PART II, in the scope of the addressed debates this line of reasoning constitutes one of the cores of the legalist-constitutionalist discourse about democracy.

Contrariwise, many contemporary radical-democratic theorists, among

which Judith Butler is one of the most notable (see for instance Butler 2004), consider this permanent exposition to others as a positive feature of human communities. While it is certainly true that this condition bears some permanent risks and threats, building communities upon the radical acceptance and the radical embracing of vulnerability, rather than on the attempt of bypassing it, can open a path for collective practices of mutual understanding, care, solidarity and support, of collective community-building and of collective production of meaning, values, and rules. The interconnectedness with others and the radical dependance upon them is not something to be eliminated, but an opportunity, the only opportunity we have, of building our world together.

Of course, this is not a naïve stance which overlooks the permanent threat for violence, prevarication and abuse which is intrinsic to human communities. Everyone of the authors endorsing a similar view do acknowledge this aspect clearly, and often starts the reflection precisely from the existence of some kind of prevarication. The difference is that they do not consider the establishment of a solid and permanent ethico-political foundation as a plausible, functional or desirable answer to the problem. Either because human vulnerability is ultimately ineliminable, or because the stable constituted power becomes a form of prevarication and abuse itself, or because the permanent ethico-political conflict within communities is seen as something positive and productive, or because a focus on vulnerability can produce communities which are more sympathetic and supportive, many contemporary scholars try to elaborate anti-foundationalist paradigms of radical-democratic theory which do not rely upon the existence of a stable and permanent constituted foundation. Interestingly, many of these authors make explicit reference to the Wittgensteinian paradigm, its frame and its ontology, in relation to ethics and politics.

For instance, James Tully posits the Wittgensteinian account as a radical-democratic possibility opposed to constitutionalism, that is, as opposed to the idea that political practices need a previous foundation and a fixed constituted frame to be deployed (Tully 1989, 1999). The critical point of this reflection is the famous Wittgensteinian notion, drawn from

on the the most influential passages of the *Philosophical Investigations*, that the rules which guide and structure practices are contingent and immanent: they can be made and also modified ‘as we go along’. For Tully, the same goes for politics: political practice does not presuppose its own rules, but it produces them. In this regard, Tully opposes the famous Arendtian conception of the foundation of the political space as the necessary premise for the deployment of political practices.

Within Hannah Arendt’s account (Arendt 1963), the act of constitution and foundation creates the proper institutional space for political practices, and not viceversa. The constituent and founding act has to happen once and for all as a mythical moment which precedes politics. This is necessary in order for proper politics to be possible and for a political space of freedom and agency for every citizen to be created. According to Arendt, continuously bringing the constituent and foundational moment into question represents an ongoing threat and an ongoing state of emergency and urgency which jeopardises political freedom and agency. The necessary premise for ‘free’ politics to be properly deployed is the stability provided by a constituted institutional system, while continuous upheavals are a receipt for tyranny. This line of argumentation is also specifically present in the legalist-constitutionalist discourses as they are deployed in the scope of the Catalan debate. Tully argues the exact opposite: to him, the Arendtian stance is a neutralisation of politics and of ‘the political’ which is deployed precisely in the production of its own space and frame.

Few years later, Chantal Mouffe follows Tully’s path and posits the Wittgensteinian account as a fruitful ‘third’ democratic alternative both to the Rawlsian and Habermasian ‘universalist rationalism’ and to the ‘relativist comunitarism’ of Charles Taylor and Richard Rorty, while also highlighting its contraposition to the ‘liberal tradition’ initiated by Hobbes (Mouffe 2000). Her intuition is that the Wittgensteinian paradigm provides a possibility for deploying practices and engaging in politics without the need of finding a further legitimation for them, in the scope of a agonistic conception of the political space. While collaborating to a work about the Wittgensteinian legacy (Nagl, Mouffe 2001), she argues that this paradigm provides the notion of a ‘*democratic ethos*’ to be deployed in the concrete

practices of agonistic pluralism and which is resolved in the practices themselves without the need of further justifications.

In the following years, other authors engage with Wittgenstein from a radical-democratic perspective. Among them, Linda Zerilli uses the Wittgensteinian account as a source of inspiration for intending politics as a productive and creative practice which produces instances, definitions, perspectives and meanings, rather than ‘true’ paradigms. According to her, the ‘creative’ element of ‘doing’ has priority over the ‘epistemological’ element of ‘knowing’ and of having certainties. In this regard she speaks about ‘the abyss of freedom’, which gives the title to one of her works (Zerilli 2005): embracing the creative and transformative character of human practice as it is, in the complete absence of external and further guarantees. Politics is a collective productive practice which does not only depend upon certain already constituted conditions, but which changes the conditions themselves. Only one year later, Aletta Norval follows the same path, associating Wittgenstein to a ‘democratic ethos’ based upon the engagement with the ongoing creation of the political space, rather than upon its presupposition (Norval 2006, 2007). The focus is on returning to concrete political practices which are accessible to everyone and immanent to the community, rather than looking for something else beyond it. Democracy exists upon the continuous reactivation of democratic practices.

3.2.4. The Difference Between Anti-Essentialism and Nominalism

Within this perspective, ‘democracy’ as no fixed essence, but it is intrinsically intended as a contingent practice, which continuously embraces a possibility for change. Democracy is a collective political practice of engagement and community building whose nature is mutable in an anti-essentialist sense. However, the evident anti-essentialism of the wittgensteinian position does not result in pure nominalism because the ‘usage’ it refers to is not a single act of nomination: paraphrasing a passage of the *Philosophical Investigations*, it is not something that can be done once and by one person alone (Wittgenstein 1953). Using words is a

practice that makes sense only within a shared and sedimented reiteration over time, which exceeds the single act of nomination both in its collective dimension (not ‘done by one person alone’) and in its temporal dimension (not ‘done once’). Furthermore, the practice of properly using a word exceeds the single act of nomination because it makes sense only in interrelation with other practices. The condition of possibility for the proper usage of a word, and therefore for mutual understanding, is being rooted in a form of life: a collective world of shared linguistic and non-linguistic sedimented practices which are (re)produced according to shared rules and within a shared system of signification and references. This is also the condition of possibility for changing the meaning of a word over time: using a word in an arbitrary and random way does not re-frame a concept. Differently, the meaning of a word can change through a sedimented collective usage rooted in a shared form of life (see also Gargani 2008; Mazzeo 2014).

Moreover, being rooted in a whole system of signification and in a network of different interrelated linguistic and non-linguistic practices, a radical change in the usage of a word does not happen in isolation, but is intertwined with changes of the system as a whole. These changes, again, are collective and sedimented over time. If we consider words such as ‘democracy’ this appears even more plausible, since its usage is deeply related to political, social and cultural collective practices and knowledges. This paradigm can be fruitful to distinguish meaningful usages of the word ‘democracy’ and to exclude the arbitrary ones, or at least the most blatant among them, from the analysis. To properly participate in the discursive practices over the meaning of ‘democracy’, a political actor should use the word in a way which is understandable and consistent within their community. As previously stated, this can happen only as long as the usage is in harmony with a sedimented collective usage, part of a living network of linguistic and non-linguistic practices which are rooted in a common form of life. This is why, also according to a Wittgensteinian framework, we can easily affirm that Breivik’s terrorist attack is not an example of ‘true democracy’, even if he has publicly claimed so.

However, it is nonetheless true that this paradigm cannot find a fixed

core definition of ‘democracy’ to permanently secure its meaning from upheavals, and it is not intended to do so. On the contrary, relying on the assumption that the production of meaning is immanent to discursive practices, it leaves room for an indefinite possibility of change. This is the reason why the Wittgensteinian approach, compared with the essentialist ones, provides a better theoretical framework for analysing and understanding how a word actually changes its meaning and how a concept is actually re-articulated over time and space. The meaning of a word changes, developing as practices and systems of signification develop, and it is not possible to rigidly limit this change in advance. In some distant future and/or in some distant place³³, within a community built upon radically different linguistic and non-linguistic practices and relying on radically different systems of signification, the meaning of some words could be radically different. This does not appear to be problematic, neither from a theoretical nor from an ethico-political point of view. The history of the word ‘democracy’ across different millennia and different territories represents an excellent example of such a dynamic. As already mentioned in the Introduction, this immanentistic, anti-essentialistic and non-foundationalist aspect of the Wittgensteinian framework can raise concerns about relativism. This can seem particularly problematic with words such as ‘democracy’ since it leaves room for their usage to be modified and adapted to disguise authoritarian regimes. However, in the spirit of the Cavellian interpretation of Wittgenstein, this is not a reason to dismiss this framework, but to embrace it. If democracy is at risk of taking an authoritarian turn, the solution is not appealing to its alleged fixed and neutral meaning, which, moreover, is widely contended and contestable, but assuming the ethico-political responsibility of actively engaging in its reframing.

4. Integrating Paradigms: Wittgenstein, Gallie, Laclau

The Wittgensteinian legacy therefore provides a useful, consistent and illuminating framework which can ground the analysis of how the meaning

³³ If 'distant places' exist in the globalisation era

of some words can change overtime and, also relying on the literature development, this seems particularly appropriate regarding the word 'democracy'. However, relying on this paradigm alone, it is theoretically and practically challenging to give a proper account of the addressed empirical cases. In such occurrences, not only the same word can have different meanings and/or change meaning over time and space, but it is used in radically different and antagonistic ways at the same time and in the same place, in the scope of a conflict within the same political community (or among different communities which share the same political space³⁴). The Wittgensteinian paradigm of 'family resemblances' (Wittgenstein 1953) is also not particularly useful in this regard³⁵. The 'family resemblances' paradigm accounts for variety and fluidity, but it seems less apt to account for radical disagreement or conflict over the usage of a word. The problematic point of the clash between a 'legalist-constitutionalist' and a 'radical-popular' understanding of democracy is that the two usages are not only different, but they are in competition within the same political space. The point of such a disagreement is not that different things can be listed as 'democracies' because the term 'democracy' has a wide and various meaning which can include different possible features. The point is that there is no agreement about what can be listed as 'democracy' because there is no agreement about its meaning.

³⁴ What constitutes a 'shared political space' is to be better defined, but such a more precise definition exceeds the possibilities of the present text. As a suggestion it could be possible to say that sharing a common political space means to share (discursive and non-discursive) political practices. Of course, in an era marked by globalisation, international and supranational relations, the notion of 'common political space' could be intended in a very broad sense. A disagreement about the meaning of 'democracy' can raise problems even if it occurs among political actors which belong to different and geographically distant communities, as they take part in the same global scenario of political relations. However, the focus of the present text is on the disagreements which occur within the same community.

³⁵ According to this paradigm the same word can be used in various ways even if not all of the usages refer to the same single, defined and essential set of descriptive features. The different usages of the same word are interconnected as they form a net of overlapping similarities where no feature alone is essential and necessary. This net, as a system of 'family resemblances', is based on the fact that every usage of the same word has something in common with at least another one, but it can have different things in common with different usages and it has not necessarily something in common with every other usage. This kind of approach could be useful in order to give an account of the fact that there is a wide variety of the possible usages of the word 'democracy', and that therefore we can consistently list different political arrangements as 'democracies'. However, the problem addressed here is different.

One of the central claims of the present work is that some contemporary political struggles can be analysed as struggles over the meaning of democracy and that they are the space in which the concept itself is re-articulated. A question which must be answered before moving further is how this could be theoretically possible and consistent. The fact that different parties use a word in radically different and antagonistic ways and that there seems to be no agreement over its meaning raises some of the most classical challenges of the philosophy of language and of the understanding of human language altogether. A first issue is related to the proper usage of a word. If the meaning of a word is its usage within a language, knowing the meaning of a word equates properly using it, or correctly mastering the rule of its application within a language. But if radically conflicting usages of the same word exist within the same community, what can guarantee if a usage is proper or improper? Within a political space marked by disagreement or even conflict, how can we differentiate among proper and improper usages of the word 'democracy'?

Another different but strictly interlaced issue is related to the fact that the different parties are not simply disagreeing because they are claiming different things. They are disagreeing about the same thing. How is it possible to affirm that they are both advocating for democracy if they provide radically different accounts of it? How can we give a consistent account of the fact that the parties are debating about the very same thing and not about different things misleadingly named after the same term? In other words, how is it possible to affirm that this is a genuine disagreement and not a mere misunderstanding about 'democracy'? As Jacques Rancière puts it, this is not a disagreement between a party which states 'X' and a party which states 'Y', but between two parties which both state 'X' (Rancière 1995). Highlighting this point is crucial to understand how it is possible to have a disagreement over the same concept and to make sense of the whole issue the present text is addressing: a battle for the hegemony over democracy. A key point is to determine which are the elements that are common to the competing usages of the term 'democracy'. Those common elements constitute the ground and the condition of possibility both for the disagreement to exist and for the distinction between proper

and improper usages of the word.

As the Wittgensteinian paradigm does not provide fully satisfying answers to such questions, it could be useful to integrate it with suggestions from other paradigms. The aim is to outline a consistent and fruitful theoretical framework to give a proper account of the kind of disagreement analysed in the present text and of the theoretical questions that have been raised from it³⁶. In order to do so, the analysis will proceed considering also Walter Bryce Gallie's paradigm of Essentially Contested Concepts (ECCs) and Ernesto Laclau's paradigm of Empty Signifiers (ESs) and Floating Signifiers (FSs).

Integrating Gallie's and Laclau's paradigm can seem inconsistent at first glance. They do in fact exhibit very significant theoretical differences, rely on different ontologies and pertain to different philosophical and political legacies as well as distant chronological, geographical and social contexts. The former (1912 – 1998) is a Scottish scholar which develops the ECCs paradigm in the Fifties and Sixties within the context of the post-WWII United Kingdom, close to a social-democratic sensibility and in strict dialogue with the analytical philosophy of language of the time. In different ways, both the direct experience of WWII and the major theoretical controversies of the philosophy of language of the time inform all of his work. The timeline and the geographical location of his intellectual production is also very close to Wittgenstein's one, even though they do not precisely overlap. As it will be further argued, despite it being quite heterodox, his paradigm is still inextricably intertwined with the main concerns of the analytical philosophy of language of the time and with an ontology of language which is basically descriptivistic.

³⁶ In order to do so a first possibility which comes to mind is the classical Rawlsian distinction between 'concept' and 'conception' (Rawls 1971). According to this paradigm there can be different 'conceptions', or specifications, of the same 'concept', or of the same common conceptual content, since such conceptual content is wide and thus open to different interpretations. However, the Rawlsian distinction relies on an understanding of a word-content (or signifier-signified) relation which seems not compatible with the Wittgensteinian paradigm of 'meaning as usage'. In order to consistently apply this Rawlsian reflection in the present analysis, it would be necessary to get rid of the Wittgensteinian intuition rather than integrating it. In this regard, it can be argued that the Wittgensteinian paradigm of 'meaning as usage', along with the performative paradigm which is underpinned by it, offer a more consistent and fruitful account of the situations analysed in the present text.

Differently, the latter (1935 – 2014), an Argentine author, starts to formulate the ESs / FSs paradigm in the Nineties. Despite being based in the United Kingdom at the time, and therefore participating in the UK's cultural environment and tradition, his line of thought is inseparable from his Argentinian biography and from his direct experience of the Peronist regime. He draws inspiration from his post-gramscian and post-marxist legacy and from a constant dialogue, on the one hand, with his long-term partner and often co-author Chantal Mouffe, and, on the other hand, with the leftist interpretations of Jacques Lacan's work and in particular with Slavoj Žižek's contributions. As it will be shown in more detail, his theoretical framework pertains to a tradition which has radically cut ties with the concerns and the ontologies of the analytical philosophy of language of the previous decades, and which follows the path open by post-structuralist paradigms.

However, notwithstanding the significant differences, Gallie's and Laclau's paradigms do actually show very relevant similarities. They both consider the 'appraisive' or 'normative' dimension to be relevant in order to understand the meaning of ethico-political terms; they both address the impossibility of understanding and describing some terms in a singular way as they are complex, ambiguous, vague and permanently open; they highlight the tension and antagonism which raises among different parties competing over the definition of these terms and participating in their rearticulation; they make reference to the dynamic and historic dimension of these contrapositions and of these rearticulations. For all of these reasons, these paradigms seem particularly interesting for framing the problem addressed in the present text.

Generally speaking, there are some clear continuities and affinities among the issues addressed by Wittgenstein, Gallie and Laclau, even though each one of these authors follows a different path with its own peculiarities. First of all, all of them in different moments participate in the UK's and in Cambridge's universitarian environment and are influenced by its cultural climate to some extent. All of them keep the philosophy of language and its controversies at the core of their analysis and deeply engage with the philosophy of language's Anglosaxon and European

tradition. In particular, they are all concerned with the ontology of concepts, with nature of the *usage* of words and with the relation between meaning and usage. Albeit in different ways, they all point out the dynamic, open and collective dimension of meaning and its relation with actual linguistic practices: for Wittgenstein, meaning is immanent to linguistic practices within a form of life; for Gallie, the ECCs meaning changes and develops through debate, arguing and competition; for Laclau, the ESs and FSs meaning is dynamically produced through discursive practices. Moreover, for all of them, the philosophy of language and the usage of words have a crucial ethical and political dimension which informs all of their intellectual production. Furthermore, they not only address similar problems, but they explicitly or implicitly dialogue among them. Gallie measures himself with the wittgensteinian paradigm, explicitly quotes Wittgenstein and directly engages with the ‘family resemblances’ theory (Gallie 1956b; see also Freedman 1996; Newey 2001; Collier, Hidalgo, Maciuceanu 2006). The crucial issue of the same word having different meanings and of its dynamic and open usages is at the core of the reflections of both.

From his part, Laclau clearly takes into account the theoretical legacies that Gallie and Wittgenstein represent and the philosophical issues they had engaged with. Laclau explicitly quotes Wittgenstein more than once in his main works (*e.g.* Laclau, Mouffe 1985, p. 125; Butler, Laclau, Žižek 2000, p. 283; Laclau 2005, pp. 13, 106, 117, 168). In *On Populist Reason*, in the scope of a long digression on the relation between the signifier and the signified, he clearly refers to both Gallie’s and Wittgenstein’s paradigms despite not openly mentioning them (Laclau 2005a, pp. 101-110). As it will be covered in more detail in the next paragraphs, in the same pages he also explicitly engages with the thought of Saul Kripke, whose work (Kripke 1982) has been crucial in the development of Wittgenstein’s reception in the contemporary philosophical tradition and is considered by some to be one of the most influential Wittgensteinian interpretations existing nowadays (Wilson 1998, Stern 2006). The strict relation between Laclau’s and Wittgenstein’s paradigms has also been acknowledged by a varied contemporary literature (*e.g.* Zerilli 1998,

Norris 2002, Marchart 2004 just to name a few).

From a theoretical point of view, besides these philological considerations, the Wittgensteinian paradigm of a dynamic, immanentistic and collective production of meaning is highly compatible with the non-descriptivistic and non-essentialistic performativity which underpins Laclau's framework. If broadly intended in these terms, the Wittgensteinian paradigm, with the intermediation of post-structuralism, can be seen as the forerunner of the contemporary performative current Laclau and Butler pertain to. For this reason, it continuously resonates and recurs in their intellectual production as well as in Žižek's one (e.g. Butler, Laclau, Žižek 2000, pp. 74, 78, 118, 186, 271, 282-4; Žižek 2012³⁷). The most notable difference which theoretically separates Wittgenstein from these three authors, is that he is not properly ascribable to a 'negative ontology', that is, an ontology which is centered on lack and absence at its core. The Wittgensteinian ontology is clearly non-foundationalist, in the sense that it does not postulate the existence of any foundational element which underpins and anchors the production of meaning in linguistic practices beyond the practices themselves. In this sense, it could be said that within the Wittgensteinian paradigm there actually is 'a lack' or 'an absence' of a foundation.

However, within negative ontologies, the existence of this inescapable absence has an active role since it continuously puts in motion the production of meaning while also setting its unspeakable limits from within. The production of meaning actively stems from and engages with this inescapable absence in the neverending failed attempt to signify, amend, overcome, deny or relocate it. For this reason, within negative ontologies, every production of meaning, every discursive practice and every signification reproduces some sort of absence and is marked by an absence at its core. These paradigms are non-foundationalist in the sense that their foundation is an absence of foundation. In Laclau, for instance,

³⁷ Even though it has to be pointed out that Žižek is more concerned about Wittgenstein's contribution about the limits of language and the unspeakable, mainly referred to the infamous *Tractatus Logicus-Philosophicus* conclusion: «Whereof one cannot speak, thereof one must be silent» (Wittgenstein 1921, 7). On his part, Laclau seems more interested in the notions of 'following a rule' and 'linguistic games' as presented in the *Philosophical Investigations* (Wittgenstein 1953).

this is what grounds the endless possibility for concepts to be dynamically rearticulated. This is not the case in Wittgenstein. Within his paradigm, the production of meaning does not stem neither from the presence nor from the absence of a foundational element: the production of meaning is, simply, a practice which makes sense in itself. In a very pragmatic perspective, the absence of a foundation is neither a trigger nor a problem for producing meaning and signification. Linguistic practices (and practices in general) simply do not have and do not need an anchoring foundation in order for them to make sense, that is, in order for them to work. After 'returning' to the ordinary world and abandoning metaphysics, there is no 'grief' or 'absence' to be elaborated, but a collective world to be inhabited.

Mainly relying on the Wittgensteinian paradigm according to a Cavellian interpretation, the present dissertation will employ Laclau's and Butler's paradigms to integrate the theoretical framework and to have operational tools to fruitfully analyse the empirical cases. This will be done taking into account the non-foundationalist, immanentistic and performative nature of their paradigms, the dynamic, historic, collective and antagonistic ontology of concepts they deploy and the ethico-political dimension of their work. All of these elements are consistent and/or compatible with the Wittgensteinian legacy and are believed to significantly contribute to its further development and enrichment and to its analytical and interpretative potential regarding empirical cases. However, this integration will be done without subscribing to a negative ontology. Albeit it being a crucial part of Laclau's and Butler's paradigms, it does not seem theoretically necessary in order to employ the analytical tools they offer, as long as they are maintained within a non-foundationalist, immanentistic and performative framework.

By proceeding through the analysis of these fundamental paradigms of the philosophy of language and using them as a source of inspiration it will hence be possible to elaborate a more robust framework and to provide a better account of the different usages of the word 'democracy' and of the disagreements which raise over it.

4.1. Walter Bryce Gallie: Essentially Contested Concepts

In the scope of his famous essays about Essentially Contested Concepts (ECC), philosopher Walter Bryce Gallie dealt with the same theoretical problems that have been just raised (Gallie 1956a, 1964) and his paradigm's legacy is still relevant to contemporary literature on the topic. Hence, it can be interesting to briefly analyse his theoretical framework. The author's concern is that some concepts, and especially 'appraisive' concepts like 'democracy', are at the core of endless disputes among competing parties which endorse different understandings of them, and which participate in its rearticulation and refinement over time. Gallie introduced the notion of ECC in order to give an account of disagreements raised not only about specific and particular 'correct' or 'incorrect' usages of certain terms, but about the more fundamental and primary issue of which kind of usage is appropriate to certain concepts in general. There are situations in which there seems to be no clearly definable general usage of a concept that can be set up as the correct or standard. Different parties maintain different interpretations of the same concept and each one of them defends its position against the others claiming to represent the correct, fundamental or primary interpretation of it. Such disputes do not come to an end because they are not resolvable by arguments or evidence of any kind. This happens, for example, with terms like 'art', 'democracy', 'Christian life' or 'social justice'.

According to Gallie, in order to count as an ECC a concept must be 'appraisive', that is, signifying or accrediting some kind of valued achievement. This achievement must be of an internally complex character and must be characterized by different parts or features, even if its worth is attributed as a whole. Consequently, the accredited achievement is (initially) variously describable, as its different parts or features can be evaluated, weighted and set in order of importance in various ways by different parties. This causes the concept to be (initially) ambiguous. The different parties can considerably modify their description of the concept, they can reshape their strategies in sustaining it according to changing circumstances over time, for example raising or lowering the target-

achievement or focusing on some features over others in a way that cannot be predicted in advance. This causes the concept to be ‘open in character’ and therefore to remain persistently vague. As the concept’s usage itself is rooted in a permanent dispute, each party recognises that its own usage is contested: the existence of an ECC sets a competitive space and the contestants are conscious of the fact that their usage of the concept is led against some competitors and has to be maintained against them. In this sense Gallie states that the concept is used both aggressively and defensively. The first example given in his paper is related to the field of sports’ competition and appeals to an (ant)agonistic scenario: different supporters aim to attribute ‘championship’ to different teams, each one according to different interpretations of the same game. Interestingly, in the depicted situation, a score quantitative system does not exist.

There seems to be a sort of ambiguity in the way we should intend this kind of contraposition between different parties. Gallie starts referring to ‘disagreements’ and to reasonable philosophical disputes led through the providing of logical justifications and evidence. However, at the end of the paper he also hints at the possibility of more conflictual outcomes as some parties could try to use violence or to eliminate their ‘heretic’ opponents instead of winning them over with the force of their arguments. Gallie’s insistence on the possibility of ‘genuine’ disagreement reveals the effort to provide a framework in which some endless disputes can be understood as reasonable and inevitable: they should therefore be maintained rather than put to an end with an ‘ultimate resolution’ against the ‘heretics’, ‘deviants’ or ‘minorities’. Gallie seems to hope that promoting acceptance for the ineliminable existence of these endless disputes, instead of seeking a way of eradicating them, can be an ethico-philosophical path to preserve healthy disagreement, without sliding neither into violent conflict nor into a totalitarian agreement. In this sense the reasonableness, logical consistency and intellectual respectability of the different positions play a crucial role in Gallie’s argument. To strengthen this position he also states that, in order for a concept to count as an ECC, its contestation has to enable a conceptual development that enriches and sharpens the understanding of the concept itself rather than impoverishing it. In this

sense he interestingly endorses a dynamic historical and developmental paradigm for the ontology of concepts. In this perspective, disagreements about ECCs are not only inevitable, but also desirable, both ethico-politically and theoretically.

4.1.2. *The 'Exemplars'*

In the scope of the analytical philosophy of language of the time, one of Gallie's main aims was to demonstrate that such disputes are 'genuine' and not rooted in a misunderstanding, in inconsistency or in dishonesty. To prove his hypothesis, Gallie has to answer a challenging question: if each party endorses or presupposes a radically different understanding of a concept, how is it possible to say that they are actually debating about the same thing? Which is the element that guarantees the existence of a common ground between the contestants and a minimal meaning to the concept despite the different interpretations that are at stake? According to Gallie, a fundamental condition for counting as an ECC is the existence of an '*exemplar*', a prototype or tradition that all the contestants acknowledge as the primary and fundamental reference for the concept's usage. This guarantees that the parties are actually addressing the very same concept and not different concepts misleadingly named after the same word. We could say, in other terms, that the disagreement about an ECC does not simply concern the same word (or the same signifier), but the same content (or signified) and that the focus of the dispute is on the latter. The underlying assumptions of Gallie's argument can be traced back to the descriptivist tradition of the philosophy of language inaugurated by Russell (see Russell 1905, 1919), in the conviction that each word has a content which is a cluster of descriptive attributes, and that the word's correct usage depends on a consistent reference to such attributes. According to this view there is, or at least there should be, a conceptual overlapping between the word and its content, descriptively intended. Sticking to these kind of theoretical assumptions major problems arise when the content of a word happens to be variously described and consequently variously used by different parties. If taken seriously, in a

descriptivist perspective this situation seems to challenge the very possibility of stably relating words (or signifiers) to contents (or signified) and, in the end, of language itself, leaving no ground for a proper understanding and usage of words.

This quick insight in the philosophy of language, even if inevitably brief and partial, highlights the pivotal importance of the existence of an *exemplar* in Gallie's account of ECCs. The possibility itself for the usage of an ECC and for the raising of disputes about it depends on the existence of such an *exemplar*. Otherwise, in Gallie's perspective, without any kind of reference it would be impossible to consistently use the concept in different ways, let alone advocating for a use to be 'the most correct one' among others. The existence of an *exemplar* hence provides unity and coherence to a differently described word's content and grounds the possibility for its different usages and for the disputes about them to exist. In virtue of the reference to the same *exemplar*, the contested concept is the same for all the contestants, but there can be a variety of interpretations about how it should be intended, described and applied. This happens because the *exemplar* itself is complex and composed of various parts or features that can be differently evaluated, weighted or set in order of importance. On the one hand, this is the reason why different parties can reasonably and consistently claim to properly represent and revive the same *exemplar* and to use the same concept in the most correct way, even if each one of them does it differently. On the other hand, this is also why it is often impossible to reach a unanimous agreement. In Gallie's words, this is the reason why we can speak about the existence of a 'genuine dispute' about a concept. Going back to our specific topic it is relevant to point out that 'democracy' refers to *exemplars*, even though Gallie himself admits that it is not possible to identify a singular and specific reference acknowledged as fundamental and primary by every 'democrat'. According to him, it is nonetheless possible to identify some traditions and events that can count as *exemplars* as they are widely recognised as authoritative and, at the same time, variously interpreted and described (*i.e.* the French Revolution, to which we could add at least the Athenian democracy, the Glorious Revolution and the American Revolution).

However, it is possible to present some relevant criticisms to Gallie's proposal. An external criticism is related to the fact that *exemplars*, as they are presented by the author, can be intended as a valid and valuable solution only within the scope of a descriptivist conception of language and of its specific understanding of the relation between the signifier and the signified of a word, its usage and its meaning. Within non- or anti-descriptivist linguistic paradigms the reference to an *exemplar* loses its force and meaningfulness and maybe even its whole sense. The possibility for this criticism highlights the fact that in this regard the solution that we choose is not neutral, but it is grounded in and interlaced with a specific conception of the philosophy of language. It is therefore important to be aware of the implications of choosing a philosophical paradigm over another one. On the other hand, an internal criticism is related to the fact that, as Gallie himself admits, there can be different *exemplars* for each essentially contested concept. This is, for instance, the case of democracy. But as long as the *exemplar* is the element that guarantees a common ground of debate for the contestants and a minimal unity to the concept, if different parties refer to different *exemplars*, then this objective is not achieved. Especially within a descriptivist conception of language, if each party refers to something different they are literally speaking about different things.

In the case of democracy, using as a primal reference the model of Athenian democracy, the English Glorious Revolution, the French Revolution or the American Revolution, just to name a few possible examples, have radically different consequences in terms of the concept's understanding. Not only each one of these events is internally complex and therefore each one of them alone can be differently interpreted, but also choosing one event as an *exemplar* instead of another one can lead to a different understanding of democracy. If the different understandings derive from different interpretations of the same complex *exemplar*, then such *exemplar* actually provides a common ground for the debate and a unity to the concept according to Gallie's account. On the contrary, if the different understandings of 'democracy' derive from the reference to different *exemplars*, then there seems to be no conceptual unity and no

common ground. For example, as Hannah Arendt interestingly shows in the second chapter of her essay *On Revolution* (Arendt 1963)³⁸, the French Revolution can be intended as the aspiration to realise the ‘popular will’ and to centre politics on the needs of ‘the people’ conceived as a unitarian political subject, while the American Revolution can be seen as the attempt to create an institutional framework that guarantees a space of political rights and freedoms for different individuals. As Arendt tries to argue, these two aims are deeply different both in their theoretical premises and in their ethical and political consequences. To make another example, the English Glorious Revolution is used as the main reference by a significant part of contemporary positive political theorists, seen as a forerunner of modern democracy specifically intended as the realisation of effective institutions based on the Constitution and the Rule of Law and on a system of ‘check-and-balances’ of different powers instead of the dominance of an absolute and arbitrary power (Weingast 1997). This kind of problem could maybe be overcome finding a minimal common element among the *exemplars* in order to guarantee that they are all actually *exemplars* of the same concept and that they can therefore serve as references within the debate about its proper meaning. This solution, however, would deprive the *exemplar* of its function and importance within Gallie's paradigm and it would reduce it to a mere, albeit meaningful, ‘example’ with an explanatory rather than a foundational role. It would liquidate and reverse the role of the *exemplar* as such, and it would be an entirely different theoretical approach.

Hence, if the contestants intend the word ‘democracy’ in radically different and competing ways and they also refer to different *exemplars*, how is it possible to say that they are speaking about the same thing? If they were speaking about two different things, this would not be the case of a disagreement about democracy, but of a misunderstanding. This is logically possible, but it does not give a proper account of the case we are addressing. As stated above, this is not a disagreement between a party which states ‘X’ and a party which states ‘Y’, but between two parties

³⁸Arendt's aim is not the reflection about democracy as an ECC nor about *exemplars*, but her analysis and arguments about the two Revolutions are deeply meaningful in this sense

which both state 'X'. The political relevance of such a case lies in the fact that the parties are not competing to assert the ethical and political priority of a concept over another one, therefore comparing two different concepts. Differently, the parties are competing to assert their own understanding of the same concept, a concept which already has an ethical and political priority that they both acknowledge. Of course, the two parties are also endorsing two different and competing political arrangements, but they are not simply stating that the political arrangement they endorse is 'the best', they are stating that it is 'the best realisation of democracy'. Again, what is a stake in such a competition is the hegemony *over 'democracy'*.

4.1.3. The Notion of 'Appraisiveness'

This can make sense only as long as we centre the importance of 'appraisiveness'. Within Gallie's account, all the ECC are 'appraisive', that is, they signify some kind of valued, worthy and positive achievement and they are used to attribute a positive judgement to something. According to the author himself, 'democracy' is nowadays the political appraisive concept *«par excellence»*. In this sense, attributing 'democraticity' means to attribute a positive political judgement to someone or something. Of course, it is both theoretically and practically possible to consider those terms in a neutral or even in a negative way, because being 'good' is not an intrinsic part of their descriptive and positive content. For instance, it is possible to consistently believe and argue that 'democracy' is not the best or not even a good political system, or to be fairly neutral, or indecisive about it. However, in the contemporary Western European public and mainstream usage, the hegemonic understanding is of 'democracy' being not only a 'good', but the 'golden standard' for just and fair politics. Beyond the political realm, similar things hold true for ECCs such as 'art', 'beauty', 'love', 'freedom' or 'equality'. While Gallie focuses more on concepts which entail a positive judgement, some more recent research on the topic has focused on ECCs which entail a negative one. This is the case of ECCs as 'violence' (de Haan 2008), 'terrorism' (Johns 2014), 'torture' or 'rape' (Reilan 2001). As absurd as it may seem at first glance, being 'bad' is not a necessary and

intrinsic feature of the positive descriptive *content* of these words. However, the strong negative judgement attached to these words is an ineliminable part of the practical way in which these words are understood and applied within our communities. If the meaning of a word is its usage within a living form of life, this implies that being 'bad' is a crucial part of their meaning despite it not being a necessary and intrinsic part of their positive descriptive content. Without considering this negative judgement, it is impossible to understand the way in which these words are actually understood and employed within our communities: their *usage* is not understandable if the judgement attached to them is overlooked.

In this sense, it is possible to say that all the ECCs are 'appraisive' in the sense that their application is inseparable from a strong judgement, which can be ethical, political, religious or aesthetic, and which can be both positive or negative. Being included or excluded from the scope of an ECC therefore means to be subjected to a strong judgement. For this reason, defining the ECC 'X' is not only relevant *per se*, but it is critical in order to know 'who / what counts as X' and, therefore, who / what has to be applauded or reproached, rewarded or punished. This is why defining an ECC is not a function of epistemology, but a function of politics, ethics, aesthetics and power which works in terms of inclusion and exclusion. Moreover, appraisiveness seems to be a crucial element which provide the contestants a common ground for understanding each other, at least in the sense that they both know they are competing over the same concept. They disagree about the concept's usage, its content and therefore a part of its meaning, but they agree on the fact that this concept is appraisive: it describes something they both aspire to. The aim to define this 'desirability' in their own terms is what grounds both their possibility for mutual understanding and their antagonism.

4.2. Ernesto Laclau: *Empty and Floating Signifiers*

This sort of considerations leads us very near to the other theoretical paradigm which is going to be analysed: Ernesto Laclau's Empty and Floating Signifiers (ES and FS) (Laclau 1990, 1996, 2005a,

2005b, 2006, 2007). Searching the unifying element for a word which is differently used by different parties, Laclau focuses on the elements of desirability and aspiration that Gallie had highlighted, but not posed at the center of his analysis. To better understand Laclau's account of ES and FS and to fruitfully compare it with Gallie's paradigm it can be useful to recall some brief considerations regarding the philosophy of language. Laclau himself provides a quick overview of the studies of the relation between 'names' and 'things' in contemporary analytical philosophy, focusing on the distinction between descriptivism and anti-descriptivism (Laclau 2005a). While descriptivism, as explained above, assumes a conceptual overlapping of the signifier and the signified and a conceptually determined fixed link between them, the emergence of anti-descriptivist accounts leads instead to an increasing emancipation of the signifier from the signified and to a progressive autonomisation of the 'name' from the 'thing'. This theoretical operation can be traced back to Kripke's interpretation of names as 'rigid designators' that are associated to things regardless of their descriptive attributes. According to Kripke, this paradigm provides an account of why and how we can continue to use the same name for a thing even if its characteristics change or if we discover that it has not the characteristics we thought it had (Kripke 1971, 1980). This can allow us to avoid some of the complications related to descriptivism, but at the same time it leads to another crucial problem: what constitutes the thing's identity if all its attributes can change? What is the element that can provide unity and coherence to such an object?

To answer these intricate questions Laclau detaches his theoretical path from Kripke, embracing a lacanian perspective and making primary references to Slavoj Žižek (Žižek 1989) in order to accomplish a more radical autonomisation of the signifier from the signified. According to their paradigm the object as a cluster of attributes has no positive identity or consistency *per se*: it is the name, the signifier, that reversely guarantees the identity of the object, providing a discursive unity and coherence to it. The object's identity is given by the retroactive effect of the nomination and do not exist *a priori* before it. Of course, this is possible only if the nomination is not subordinated to a description nor to a previous

designation. This kind of account radically reverses the descriptivist assumption that the descriptive content of a word has logical and practical priority over its understanding and usage. Laclau's anti-descriptivism subordinates the content of a word to the act of nomination, locating himself in the philosophical tradition derived from the wittgensteinian intuition that a word's meaning depends on its usage. In this sense, Laclau contraposes the paradigms of 'conceptual determination' and of 'nomination', firmly endorsing the latter.

The other fundamental reference for understanding Laclau's paradigm is Saussure's linguistic structuralism as it assumes language to be a symbolic system of relations among differential elements (De Saussure 1922). According to this account, language is a relational structure whose relations are constitutive: the elements of the structure are constituted through relations and do not pre-exist to them. The pivotal role is played by differential relations among terms, as they are not conceived as singular positive terms, but only as differential identities. In a structuralist paradigm the holistic structure in which the differential identities emerge is crucial: the meaning of each term depends on its position relatively to the other elements within the structure and therefore the structure constitutes a fundamental symbolic frame for signification. In a purely differential set of elements, its totality has hence to be present in every act of signification in order for it to have a meaning: conceptually gathering this totality is essential to signification.

The paradox arises as, given this account, the only way for understanding something is by gathering its limits and this is possible only by differentiating it from something else. But as this totality embraces all the differences, then there is nothing external in comparison to which it can be differentially defined. The only possibility to have something external is to exclude something from the totality: the constitution of the totality is reached through an exclusion. According to Laclau this operation is necessary because some kind of closure, albeit precarious, is ontologically essential to signification and identity. At the same time, however, this operation is impossible: in order to ground the possibility for signification and identity, a totality has to be constituted and it will

inevitably fail to do so. Defining itself through a difference from something excluded, totality denies its own constitution while constituting it. This is why, for Laclau, any reference to some kind of universality is necessary and impossible at the same time: universality is a frame for signification and meaning, but it cannot provide some sort of positive foundation and therefore there are no conceptual tools to directly represent it.

The notions of Laclau's ES and FS are grounded in this theoretical framework, as the notion of Gallie's ECC was rooted in descriptivism. An ES is a 'name' with no conceptual content and no positive meaning: its semantic role is not expressing a positive content, but giving a name to a universality that cannot be directly represented. The universality is conceived as an undifferentiated fullness that is felt as necessary even if it is impossible to be properly represented in positive and thorough terms. In this sense a 'signifier' is 'empty' when it addresses an absent fullness and when the reference to this absent fullness is the only way to understand it. The ES constitutes itself as a totality that provides unity, consistency and identity to a set of differential elements which are logically heterogeneous among them, but which are equalized through a negative comparison with something excluded from it. For Laclau this holds, for example, for terms as 'justice', 'equality', 'liberty' or even 'love', as they signify the aspiration for an impossible but necessary fullness that cannot be understood but in negative terms: it is because there is no human situation without something unjust that we give sense to the term 'justice'.

The act of constitution of an ES is a 'radical investment' through which a particular term is invested with the role of condensating, expressing and signifying a totality, providing unity and coherence to a set of differential elements that would otherwise be logically heterogeneous. Given this heterogeneity, the ES cannot be logically deduced from or reduced to the elements it expresses, as the ES itself is the foundation of their identity and meaning, the (impossible) totality that constitutes the frame for their signification. In the scope of an anti-descriptivist conception, the 'name' has priority over the 'thing' and 'nomination' is not a matter of discovering or referencing to a pre-existent word's content: it

is a performative act that provides a foundation for its own content while expressing it. At the same time, within this poststructuralist account, the elements can be understood only as they are inscribed within a discourse that provides a symbolic framework for their signification through an ES.

Laclau exemplified an empty signifier with the case of the *Solidarność* movement led by Lech Walesa at the Lenin shipyards in Gdansk, Poland, in 1980. At the beginning, the demands of this movement were linked to a set of precise demands of the workers of the ship industry. However, they started to be employed in the context in which many other demands in different areas were also articulated. At the end, *Solidarność* became the signifier of something much broader. When this universality comes about, it cuts off the connection between the signifier and the signified. In the case of *Solidarność*, in the beginning it had a signifier but then, because the appeal increased too much, the reference to a particular signified was diluted (Morales 2014)

The same logic could be recognised, for example, in the composite *Gilets Jaunes* movement, which had caused major concerns precisely for the impossibility of relating it to any identifiable claim, appearing at the same time ‘too empty’ and ‘too heterogeneous’.

Differently, a FS is a name which is not empty, but ambiguous, which can therefore be connected to and employed within different discourses and which can be contended among different political projects which aim at hegemonising its content (Laclau 2007). The theoretical framework for understanding ES and FS is exactly the same, and ES and FS can also display major overlappings, since in some cases the same name could be considered both an ES and FS. The difference lies in the role the name plays within a discourse. An ES is the ‘nodal point’ around which a discourse is articulated: in virtue of its emptiness and universality and throughout the deployment of a logic of equivalence it can regroup logically heterogeneous demands which would otherwise be unrelated. Differently, a FS is related to a content and it is therefore neither empty nor universal. Hence, it cannot fulfill the role of a nodal point which articulates logically heterogeneous elements.

The same name employed in different ways could be both an ES and a FS. For example, according to Laclau’s account, ‘democracy’ could

be the ES within a discourse in which plays the role of condensating heterogeneous political demands and signifying an unattainable and ineffable aspiration without any definable content. At the same time 'democracy' could be a FS with an ambiguous content, contended among different parties according to a logic of conflict. This could be the case of the debates analysed in the present research: the first research hypothesis is that in these events 'democracy' operates as a floating signifier contended between two different political projects which define it in competing ways. PART II of the dissertation will analyse this possibility in detail.

4.3. 'Equaliberty' and the Meaning of 'Democracy' Between and Beyond Gallie and Laclau

A crucial difference between Laclau's and Gallie's paradigms is the following: within the Laclausian account, the association of an ES or FS with some particular positive elements is contingent and cannot be deduced from the elements themselves, as the signifier is literary 'empty' and not fixedly linked to any specific signified. Therefore, the understanding of the ES cannot derive from a logical deduction or from a dialectic development: it is constituted through a performative 'investment' which is 'radical' in the sense that it is not derived, but originary. A particular element is 'invested' with universality and it is hold as a totality, expressing at the same time its own particularity and universality. This investment is not driven by logic or reasonableness, as logic and reason cannot deduce the content of the ES in any way. It is driven, instead, by 'affection' and it has a pure emotional and even irrational ground, as it complies with the logic of a primary and unconscious affective need: the aspiration to totality, fullness, completeness and pacification within the community. As Laclau recalls, psychoanalysis traces this need back to the mythical and original unity with 'the mother', impossible and necessary at once, which 'absent presence' is signified with the affective investment of some particular object. The name of this object is the name given to fullness and to its absence in a certain historic horizon.

Within this framework, if we consider 'democracy' as an ES we could give an interesting account of the way the word is used, considering the aspirational element and the affective charge of the word to have priority over its positive and descriptive content as long as it signifies a desirable political horizon which is never fully realised. Laclau's paradigm also provides an account of the reasons why there can be a battle for the hegemony over the usage of such a word and of the way every specific usage of the word re-articulates the conceptual sphere through acts of definition which are at the same time acts of closure and exclusion. The elements of desirability, aspiration and affection would therefore constitute the ground for disagreement both in the sense that they are the common elements that both parties recognize and the reason why they are driven to assert their specific view over competitors. It could therefore be possible to say that the disagreement about 'democracy' is the disagreement about the desirable political arrangement which realises the aspirations of a community. While on the one hand everyone shares the same affective tension towards it, on the other hand everyone could fill its content in a different way.

While considering 'democracy' as a FS, the situation is similar. In this case, the word is not empty, since it has some positive content, albeit ambiguous. However, the dissolution of the ambiguity and the decision of a meaning over another one is still not a function of logic and reasonableness and it is not derived from logical or theoretical arguments. The prevalence of a meaning over another one is the (precarious) result of a struggle for political hegemony conducted also through non-rational, non-logical and non-theoretical means. Besides the various material circumstances which influence the outcome, the result also depends upon the force of the discourse in terms of poignancy of the envisioned worldview, efficacy of the nodal point, persuasion, emotional investment, political potential of the equivalential chains produced, engagement of the political actors involved and active mobilisation of wide sectors of the population. For all of these reasons, also in the case of a FS, the final 'meaning' of democracy is highly contingent and precarious, not anchored and not secured by some essential conceptual feature.

The crucial point for the present research is the attempt to provide a consistent account of the fact that the meaning of 'democracy' is not fixed, but (re)articulated and refined in the scope of a disagreement or conflict between contestants. The struggle for the hegemony over its meaning is strictly interlaced with its appraisive and aspirational dimension, which is not part of its descriptive content, but is a key element for the understanding of the concept's *usage* and of the conflicts which can raise about it. The wittgensteinian paradigm of the meaning as usage provides a theoretical ground for the analysis of conceptual articulation as immanent to discursive practices. Nonetheless, as previously argued, this is not sufficient in order to give an account of the fact that the word 'democracy' is used in different and antagonistic ways within the same political community. In this respect the wittgensteinian framework is not to be abandoned, but it can be integrated with further reflections which share some similar theoretical and ethico-political sensibility and drive in some respects: the analysis of the ECC and the ES/FS paradigms is useful in order to enrich the theoretical analysis, highlighting some interesting points regarding the ontology of the concept of 'democracy'. The aim of the present work is to use the ECC and the ES/FS paradigms as a source of inspiration and to consistently integrate some of their more fruitful elements rather than committing to one of them and to their ontologies as a whole.

The ECC paradigm is useful as long as it points out the crucial elements of the concepts which are 'essentially contestable': appraisiveness, ambiguity, vagueness, openness, historical development, aggressive and defensive usages. Those elements are crucial in order to give a proper account of such concepts' ontology and they have been considered as a reference by the subsequent literature. However, the ECC paradigm has a more descriptive rather than an explanatory force. It provides an interesting and fruitful description of such concepts' features, but its introduction of the *exemplars* in the attempt to explain the theoretical consistency of essential contestedness is not satisfactory. On the other hand, the ES/FS paradigm moves forward, focusing on the appraisive, aspirational and affective elements with an explanatory and not

a mere descriptive intent. The fact that concepts as 'democracy' entail those elements is not a mere feature, but one of the critical keys for understanding the possibility, the ground and the terms of the conflict over its meaning.

An account which centres the elements of aspiration, affection and desirability hence seems to grasp a crucial element of the way the word 'democracy' is used within political disagreements and of the ground of the disagreement itself. The fact that the word 'democracy' is affectively charged and it is used to signify the contemporary supreme political aspiration, as the name of political desirability itself, is both consistent and helpful to understand the terms and the reasons of the disagreement. However, something seems to miss. The fact is that, in order to give a proper account of its usage and of the disagreements we are addressing, the desirability of 'democracy' and its aspirational element are not sufficient to account for the way the word is used. We do not and we cannot deem as 'democratic' every political order we think is desirable, we aspire to or we have an affective drive towards. In this sense, generally speaking of affection, aspiration and desirability is not enough neither to understand the meaning of 'democracy' nor to the development of a debate about it. In this regard going back to Gallie could provide a helpful suggestion. Analysing his account of 'democracy' we find the element of 'aspiration' to be crucial: for the philosopher, in fact, there is an elementary use of the term that expresses political aspirations. However, this reference to aspirations is not the arrival point of his analysis, since there is something which is further specified: these aspirations are centred positively in a demand for equality or negatively in an opposition to inequality (Gallie 1956). Moving forward, the same thing could be said for liberty. Generally speaking, it seems plausible and reasonable to maintain that every proper usage of the word 'democracy' should include at least a minimal element of equality and a minimal element of liberty, at least formally.

With reference to these elements it can be clearer how to properly use the word 'democracy', how a debate and a disagreement about its meaning can develop and how it is possible to differentiate 'democracy' from other non- or anti-democratic political arrangements.

Equality and liberty: it is difficult to conclude whether one of these elements should have a conclusive priority over the other, being conceived as the primal and ultimate feature of democracy. According to different positions it is possible to differently evaluate the relevance of every element and to set them in some order of priority, but it seems not possible to reduce democracy to a single element alone and to completely ignore the other. Could we ever deem as 'democratic' a political system in which everyone is equal, but in which any kind of freedom is denied or, on the contrary, a political system in which basic freedoms are granted, but structural and radical inequalities among individuals are maintained? It seems that none of these elements can be completely overlooked in order to properly speak about 'democracy', to properly differentiate it from non- or anti-democratic political arrangements, to consistently debate and to genuinely disagree about it.

'Democracy' seems therefore to be related at least to a dyad of other concepts rather than to a single distinctive element. In this sense an interesting suggestion is the notion of 'equaliberty', coined by the philosopher Étienne Balibar (2010). Even if the usage of Balibar's notion in the present text will not strictly follow the original one and will eventually depart from its elaboration and aims, the main intuition will be maintained. The idea is that modern democracy is understandable only with reference to both equality and liberty, even if these two concepts are heterogeneous because none of them can be logically reduced to or derived from the other, and even if they can be in tension and lead to trade-offs. Modern democracy only exists in the frame of this tense relation and eliminating one of the two elements would mean to miss the possibility of understanding this concept and of properly using it. Both concepts are necessary in order to give a proper account of what 'democracy' means and in order to distinguish what is 'democratic' from what is 'non-' or 'anti-democratic'. If either 'equality' or 'liberty' are missing or overlooked, then we cannot properly speak about 'democracy': both of them are necessary.

It is to be specified that this meaning of democracy as 'equaliberty' is related to the current usage of the word as it is widely and collectively understood and employed, at least in Western Europe. These 'minimal'

elements could gradually shift overtime and be radically different in a hundreds years. The reference to equaliberty, therefore, does not serve the purpose to provide a fixed, permanent and essential core to the word 'democracy': consistently with the paradigm employed throughout the whole dissertation, this meaning is still to be considered precarious and contingent to some extentm and its development is still to be considered as being immanent to political practices. However, this reference to equaliberty serves the purpose of providing a minimal content of the word according to its current widespread usage, both in democratic theory and in empirical cases. This usage is stratified and stabilised through collective practice overtime, but this is not to say that it cannot change or be modified.

It is also noteworthy that the current usage of both 'equality' and 'liberty' generally entails the elements of affection, aspiration and desirability and that such a current usage generally entails a normative dimension, especially in the scope of debates, disagreements and conflicts. In this regard it is possible to say that the desirability and the normativity of 'democracy' is related to, or even derived from, its relation to those concepts. The aspiration for 'democracy' can be seen as the political aspiration for 'equality' and 'liberty' and it can be considered valuable and desirable because of that. In this regard one of the main problems is that terms such as 'equality' and 'liberty' are as vague, ambiguous, open and contestable as 'democracy'. They can be (and are actually) intended both as ECC and as ES/FS, so that it is possible to have radically different understandings of them and to use them in radically different ways. Therefore, when it comes to the implementation of concrete 'democratic' political arrangements, different understandings of such concepts inevitably lead to different understandings of how 'democracy' should be concretely realised. Referring to 'equality' and 'liberty' the vagueness, ambiguity, openness and contestability of democracy are not eradicated, but rather maintained, even if within a more complex and enriched picture drawn through the connection of different elements. As John N. Gray affirms (Gray 1977)

An essentially contested concept is a concept such that any use of it in a social or political context presupposes a specific understanding of a whole range of other contextually related concepts whose proper uses are no less disputed and which lock together so as to compose a single, identifiable conceptual framework

Following the intuition of Gallie, to conceive a concept as 'essentially' contestable means to acknowledge that its vagueness, ambiguity and openness are permanent features that cannot be eradicated. An 'essentially' contested concept cannot be definitely and permanently 'decontested' but its conceptual nature is such that it will always remain potentially open. It is therefore possible to deepen and broaden the understanding of the concept of 'democracy' highlighting its relation with concepts such as 'equality' and 'liberty', but this will not cancel vagueness, ambiguity and openness in anyway. On the contrary, it is possible to say that linking the concepts of 'democracy', 'equality' and 'liberty' opens up to further complexity in this regard. The actual or potential existence of radically different usages of these terms leads to the impossibility of fixing a permanent univocal sense for 'democracy'. Therefore, intending democracy as a political aspiration for equality and liberty is neither an act of closing nor an act of decontestation: openness and contestability are maintained because equality and liberty are open and contestable themselves. This is the reason why merging the ES/FS paradigm and the notion of 'equaliberty' can be consistent. 'Equality' and 'liberty' have no fixed descriptive content and therefore they do not provide a fixed descriptive content to 'democracy'. On the contrary, they ground its potential permanent openness. Within Laclau's account, a 'discourse' is precisely the articulation of a structured specific worldview which integrates various elements: these elements, which can be vague, ambiguous, contradictory or empty on their own, assume a specific meaning within a specific discourse. Being integrated in a discourse, 'contested' concepts are 'decontested', 'floating' signifiers are fixed and 'empty' signifiers are endowed with meaning. In each discourse 'democracy', 'equality' and 'freedom' will be intended and defined differently, depending on the endorsed worldview. This notions will be treated more in detail in the first part of the next section.

Tentative conclusions and open issues

On the one hand, specifying ‘democracy’ with reference to the concepts of ‘equality’ and ‘liberty’ is helpful in order to clarify its meaning, to give an account of its usage and of the disagreements which rise over it and to differentiate between proper and improper usages of it. On the other hand, this leads to at least two different challenges. The first one is that the order of priority between ‘equality’ and ‘liberty’ can be variously set. The second one is that both ‘equality’ and ‘liberty’ can be intended in radically different ways. The range of the usages of both words is immense and it varies according to different parameters. The analysis of this point will be deepened in a subsequent section. As a tentative conclusion it is possible to say that the meanings of ‘equality’ and ‘liberty’ are the ground for the disagreement over ‘democracy’, as they constitute both the common and the differential element of the various usages of this word. In this sense, referring to ‘equality’ and ‘liberty’ fuels disagreement rather than solving it. As normative and affective elements are entailed, this can also lead to the rising of conflicts.

Defining ‘democracy’ hence implies a definition of ‘equality’ and ‘liberty’: a concept cannot be defined in isolation, but in its relation to a wider conceptual system. In this case, this implies the definition of a system of values which are to be defined both in themselves and in their mutual relations. Conceptual definition does not and cannot happen for one single word alone, but it entails the mobilisation of a wider system of concepts, as long as every usage makes sense only within a system of interlaced significations and references: namely, within a discourse. In the case of ‘democracy’ the definition of its meaning has a normative dimension, as it entails a definition of a system of values. This consideration opens up for a reflection about the relation between ontology and normativity which will be clarified in the next section of the present work.

As all of those interlaced concepts are radically and essentially contestable, every fixed definition is an operation of decontestation.

Decontesting a concept thus means to define a conceptual framework by closing and fixing the concepts' meaning, excluding possible alternative usages. According to a performative paradigm of language, this does not mean that the 'true' content of the word has been finally found, but that a certain usage has been set as the most common and widely recognised within a community. The possibility for re-contesting the meaning of a word is always present, as the closed concept can be re-opened through the reintroduction of the excluded (or even new) alternative usages into discursive practices. In the scope of the present work, the ongoing dynamic of decontestation and re-contestation of the meaning of a concept through discursive practices in the public debate will be the theoretical framework used to analyse the raising of conflicts about the concept of 'democracy' and some of their potential conceptual and political consequences in contemporary western Europe.

PART II

1. Laclau's Discourse Theory

PART II will employ Ernesto Laclau's Discourse Theory as a methodological tool to analyse the Catalan debate about 'democracy'. In particular, his framework will be applied in order to investigate the first research hypothesis about 'democracy' operating as a 'floating sigifier' contended between a 'legalist-constitutionalist' and a 'radical-popular' discourse. In the first part of this section the Laclausian paradigm and its components will be outlined in detail and furtherly explained through examples drawn from the empirical cases.

In Laclau's conception, a 'floating signifier' is a word which content is neither totally 'empty' nor totally 'fixed', but ambiguous, since it 'fluctuates' between different definitions in different contexts. A floating signifier is usually contended between antagonistic discourses or 'projects' which compete in order to appropriate it and to assert their specific

definition as hegemonic. According to non-essentialist language ontologies, no signifier is inherently and permanently related to a specific positive content. Therefore, at least in principle, every signifier could be considered as ‘floating’. However, what makes a signifier actually ‘floating’, ‘empty’, or ‘fixed’ is not merely its ontology, but its factual discursive role. A certain signifier is ‘floating’ as long as it is actually contended in the scope of a hegemonic struggle between different discourses. Conversely, within each discourse, the signifier is (precariously) fixed and defined according to a specific positive content. This definition does not exist in isolation, but it is integrated in the context of an overall discursive practice and it is interrelated with a complex of other definitions. The present section explores the structure and the elements of a ‘discourse’ in order to gain a more precise understanding of its nature.

1.1 Nodal Points

In a performative sense, ‘meaning’ is not something to be found, but something to be produced. The underlying idea of Discourse Theory is that ‘meaning’ is not an inherent and inert quality of (linguistic and non-linguistic) elements, but something that is created throughout the practice of connecting, organising and structuring elements together. A ‘discourse’ is precisely the attempt of producing meaning, or a ‘meaning-making practice’. Each ‘discourse’ consists in the articulation of different heterogeneous elements around certain reference points (‘nodal points’, ‘quilting points’ or *‘points de capiton’*). These reference points (precariously) grant a core, a structure and a sense to an ensemble of signifiers which would otherwise be chaotic, unrelated, unorganised and ultimately meaningless. For instance:

In the [...] discourse of communism a series of floating signifiers [...] such as democracy, state, freedom, etc., acquire a certain meaning through their quilting by the signifier ‘communism’. [...] Democracy is conceived as real democracy opposing *bourgeois* democracy, freedom acquires an economic connotation, etc. In other words, they acquire the meaning imposed by the nodal point ‘communism’ (Stavrakakis 1997)

To make another example, within a 'feminist' discourse the notion of female oppression is the center which confers meaning, organisation and even an explanation to the other elements, since they are all articulated around it. Differently, within a 'communist' discourse it is «class struggle [which] confers a precise and fixed signification to all other elements» and «therefore the exploitation of women [is] resulting from the class-conditioned division of labour» (Žižek 1989). In the latter case, the feminist notion of 'female oppression' does not operate as the core of the discourse anymore, but is rather defined and conceived in relation to 'class struggle', the communist nodal point. Hence, 'female oppression' becomes a (relevant, but secondary) moment of the communist discourse. Similarly, within a 'Green' or 'ecologist' discourse everything «is connected to the Green *rationale*» (Stavrakakis 1997), so that, for instance, the element of 'feminism' is re-articulated according to the 'Green' nodal point: «hand in hand with the exploitation of the earth has gone the continuing social, economic and political repression of women in particular» (Porritt 1984). Nodal points are the *rationale* of the discourse and they have an explanatory role, since they give a key to understand, organise, interpret and eventually predict reality as something meaningful and not only as a chaotic ensemble of unrelated parts. In the extreme case of 'ideologies', discourses aim at encompassing the entirety of existence.

More importantly, though, nodal points produce meaning by conferring a positive and precise content to other elements which would otherwise be 'empty' or 'floating', extremely vague and/or ambiguous, as well as by drawing specific meaningful interconnections between elements which would otherwise be unrelated. Words such as 'justice', 'equality', 'freedom', 'harmony', 'good', but also 'injustice', 'oppression', 'inequality', 'conflict', 'evil' can have different meanings and can be interconnected among them in different ways depending on the discourses they are part of and on the nodal points they are 'quilted' by. For example, they will have different meanings and deploy different interconnections within a marxist, a liberal, a fascist, an anarchist, a feminist, an ecologist or a christian discourse. The same holds also true, for instance, for words

like 'person', 'rights', 'democracy', 'State', 'market', 'Law', 'Nation', 'nature', 'gender', 'sex', 'race', 'violence', 'war' or 'terrorism', just to name a few possibilities. What is justice? What is equality? What is freedom? How are they interrelated between them? Which are their connections with the Law? With violence? With the market? With the Nation? A marxist, a liberal, an anarchist and a christian discourse would answer these questions in different ways, differently defining the terms and their interlacings on the basis of their specific nodal points.

1.2 Particularity, Universality and Contingency

The 'nodal point' of each discourse works as a bridge between universality and particularity. Discursive practice is an ongoing precarious dance between the universal and the particular. To some extent, the nodal point is a particular and specific element, but it somehow transcends its particularity and assumes the guise of universality since it is posed as the general principle which sustains and organises the architecture of an entire discourse. All of the other elements are re-articulated according to it: they are defined, understood, explained, evaluated, combined and set up in the light of it. This happens when, through the nodal point, an ensemble of heterogenous elements are meaningfully connected and integrated in a way which makes some kind of sense, that is, when a 'discourse' is produced. In order for this to happen, the nodal point provides a common ground and a common frame for the elements to be articulated, associated and understood. Being rearticulated through the nodal point, each element is therefore positively defined, positioned within a structure and interrelated to the others. The broader the connections, the broader the number of elements included, the broader the conceptual scope and richness of the nodal point and of the overall discourse. This process cuts both ways. Integrating and connecting too many heterogeneous elements implies the nodal point and the discourse to be conceptually less consistent, the connections to be less cogent, less meaningful and less understandable. If the nodal point becomes too universal and the discourse becomes too wide, if its boundaries become too loose and its content too general, then meaning can be lost. Conversely, to produce a discourse which is both

meaningful and able to encompass different aspects of reality, it is insufficient to rely only on strict, univocal and narrow definitions of words and only on elementary, rigid and direct deductive connections between elements. If the articulatory practice is too restricted, then no meaning can be produced.

This means that discursive articulation goes beyond and prescind from formal logic. The interconnections drawn between heterogeneous elements are not based on formal logic principles, the outcomes are not implied in the premises and therefore they are not strictly necessary. The interconnected elements are heterogeneous in the sense that they are not necessarily interrelated. Logically, semantically and conceptually they are neither derivable one from the other, nor reducible one to the other. They could exist separately both in theory and in practice, or they could be interconnected in several different ways. The fact that they are associated and organised in a specific way is the contingent result of a specific discursive practice which is creative, unpredictable, culturally and historically situated, and, ultimately not logically compelling. In a sense, a discourse is an *invention* and, therefore, it is fundamentally neither true nor false. This does not imply that there are no criteria to assess it. A proper ‘discourse’ significantly interconnects heterogeneous elements through a nodal point and it displays a virtuous balance between universality and particularity, generality and specificity, rather than being either too general or too narrow, too vague or too rigid. However, more simply, a proper ‘discourse’ is a discourse which *works*, that is, a discourse which creates some meaning, which produces some significant perspective, which gives some sense to the world. It is possible to affirm that this happens as long as the discourse is understood, embraced and endorsed by some collectivity³⁹. The satisfaction of this criterion is empirical, contingent and the limits of its conditions are somehow vague. However, when it comes to the pragmatics of language and meaning, there seems to be an ineliminable and elusive element of both contingency and vagueness. The unfolding of practice is somehow always a step beyond its conceptual

³⁹ ‘Collectivity’ is here intended not necessarily as a community, but more simply and more generally as a plurality of individuals

systematisation.

Moreover, a discourse can be analysed, evaluated, defended or adversed according to various parameters. For example, it can be more or less useful to certain projects, values, groups or interests. It can be more or less successful and impactful. It can be more or less comprehensive, significant or deep. It can be progressive or reactionary, inclusive or exclusive, conflictual or pacifying. It can be the product of an elite, an avant-garde, or a community, of a privileged group or of an oppressed class. It can be hegemonic or marginalised, mainstream or countercultural. It can reinforce or either challenge certain power relations, certain hierarchies, the general *status quo*. Defending or adversing a discourse can be a normative choice based also on these factors beyond mere logical consistency, since both its endorsement and its refusal can have cultural, social, ethical and political consequences.

1.3 Empty Signifiers and Fantasies

Other key elements to understand and assess discursive practices are empty signifiers, the equivalential or differential logics and fantasies. While the notions of empty signifiers and of equivalential / differential logics had been already developed by Laclau himself, ‘fantasy’ and ‘phantasmatic logic’ have been furtherly elaborated by other Essex School’s academics. Scholars like Jason Glynos, David Howarth and Yannis Stavrakakis have focused on some of Jacques Lacan’s psychoanalytic notions, which were already relevant in Laclau’s Discourse Theory, but whose connections have been deepened, widened and more explicitly placed at the heart of the theoretical paradigm.

Fantasy names a narrative structure involving some reference to an idealized scenario promising an imaginary fullness or wholeness (the beatific side of fantasy) and, by implication, a disaster scenario (the horrific side of fantasy) [...] This narrative structure has a range of features that will vary from context to context, but one crucial element is the obstacle preventing the realization of one’s fantasmatic desire. Realizing one’s fantasy is impossible [...] But the obstacle, which often comes in the form of a prohibition or a threatening Other, transforms this impossibility into a ‘mere difficulty’, thus creating the

impression that its realization is at least potentially possible [...] it furnishes the subject with an ideal [and] an impediment to the realization of an ideal [...] it is a necessary condition for political mobilization and change as much as it is functional to social passivity and maintaining the status quo. In other words, fantasies are ineliminable and essential to action, whether these are characterized as progressive or regressive. (Glynos 2011)

Fantasies are crucial in deploying, structuring, but also promoting a discourse, since they provide an affective reason to endorse it, alluding to a further and wider meaningful dimension of hope and touching emotional and subconscious elements. In this regard, fantasies are strictly related to empty signifiers. In Laclau's account, an 'empty signifier' is a specific signifier, a word, or a name, that within a discourse transcends its own specificity and becomes a universal: its content becomes so general, broad, vague and heterogeneous that the word is actually 'empty'. The word is not associated with a single, specific and determined signified, but it is used to signify an ensemble of multiple independent things without being reduced to any of them. At the same time, this 'empty' word signifies universality and totality, a 'wholeness' which cannot be directly and properly represented through language. It signifies a promise, a hope, a desire, a drive for a beatific condition which cannot be neither directly represented in itself nor directly experienced. In this sense, the empty signifier fulfils the same role of the psychoanalytic 'part-object', 'transitional object' or '*objet petit a*', a specific object onto which subjects project their longing for fullness, and which they therefore invest with their affection and desire. This is the dynamic of a synecdoche: a part for the whole. In a 2013 interview Laclau exemplifies this dynamic with the example of the *Solidarność* ('Solidarity') trade union, founded in Poland in 1980:

At the beginning, the demands of this movement were linked to a set of precise demands of the workers of the ship industry. However, they started to be employed in the context in which many other demands in different areas were also articulated. At the end, *Solidarność* became the signifier of something much broader. When this universality comes about, it cuts off the connection between the signifier and the signified. In the case of *Solidarność*, in the beginning it had a signifier but then, because the appeal increased

too much, the reference to a particular signified was diluted.

With reference to the movements analysed in the present work, it is possible to say that within the contemporary Catalan independentist discourse, 'independence' becomes an empty signifier. It transcends its defined and specific content and gets to signify not only 'freedom', 'self-determination' and 'national sovereignty', but also 'democracy', 'social justice', 'economic growth', 'political progress', 'antifascism', 'Republic', 'resistance', or in some cases also youth empowerment, feminism, judicial amnesty, aversion towards police violence, anticapitalism. In principle, these elements are not necessarily interrelated between them in a logically compelling way, but in some specific occurrences they are discursively articulated together through the signifier 'independence', which comes to signify all of them, while at the same time transcending them. For this to be possible, the content of the word 'independence' is broadened beyond logical consistency, transcending its defined and specific content and including multiple heterogeneous meanings. Throughout this discursive, political, emotional and psychological process, 'independence' comes to signify precisely the aforementioned promise, hope, desire, drive for a beatific condition, a state of freedom, justice, and redemption which is equally powerful and vague, craved and unattainable.

The French 'Yellow Vests' discourse could be analysed in a similar way. At the beginning, the yellow vest represented truckers and other workers protesting against the rising of fuel prices which started to occupy and block roundabouts and highways wearing the infamous yellow jacket. Throughout the months, the movement developed and widened, and the 'yellow vest' came to represent a more general revolt against the Government and growing economic inequalities, attracting heterogeneous sectors of society. Moving forward it become an even more general and radicalised protest against neo-liberism, capitalism, representative democracy, police violence and social injustice, integrating anticapitalist, feminist, antiracist and environmentalist activists, stances and practices. Many commentators noted that the 'yellow vest' symbol meant 'all and

nothing' at the same time, and, in a sense, they were right: it was an empty signifier. It was a definite and specific symbol which was invested discursively, politically, emotionally and psychologically, which transcended its definite and specific meaning, being broadened beyond logical consistency and coming to signify multiple heterogeneous elements, as well as a general and generic promise and hope for redemption, liberation and justice. Those elements were not logically or necessarily related. Advocating for cheaper fuel is probably not necessarily related to feminism or antiracism, and it is surely not logically linked to environmentalism. The elements united under the banner of the 'yellow vests' are heterogeneous and they can be considered contradictory to some extent, at least from a logical and theoretical point of view. Yet, *it worked*, and it represented one of the most notable mobilisations in contemporary Western Europe, in terms of numbers, duration, political consequences and radicality.

The notion of 'empty signifier' is very akin to the notion of 'nodal point'. In many cases, the distinction between the two can be very blurred, and they are often overlapped both in their definition and in their application. There are nonetheless some subtle differences which can be pointed out. These differences are mainly related to their functions within a discourse. A nodal point organises a discourse interconnecting heterogeneous elements in a meaningful structure, but it does not necessarily produce an 'equivalential chain' as an empty signifier does. In the former case, the heterogeneous elements interconnected share a common reference to and a relation with the nodal point, but they are not necessarily posed as equivalent between them. In this sense, equivalential chains produced by empty signifiers often have the function of politically organising an antagonistic front by equalising different demands, while the interconnections produced by nodal points have the function of producing a meaningful worldview. There is no clear-cut separation between the two functions, since they are often displayed together, and since the same word is very often both the nodal point and the empty signifier. However, for both theoretical and analytical purposes, it is worth noting that they are not strictly the same.

2. Applying the Theory to Empirical Cases

2.1 *'The People' in Practice: the Catalan and the French Cases*

In both the Catalan and the Yellow Vests cases, the notion of 'the people' plays a central role within the discourse. On the one hand the 'will of the people' is a source of political legitimation, while on the other hand the usage of the category of 'the people' is a rhetoric device of identification and mobilisations which participates in the production of an active collective subject. This collective subject is internally heterogeneous and it includes a wide range of different groups, previously independent and unrelated, which are now articulated together under the common banner of 'the people'. In Laclau's account 'the people' is the empty signifier *par excellence*, since it paradigmatically represents the synecdochical dynamic of 'a part for the whole', a specific element which assumes the discursive role of universality (Laclau 2005). The usage of the notion of 'the people' always bears an ambiguity, since it refers at the same time both to the totality of the population (*populus*) and to the partiality of the poor, the underdog, the '99%' or the commoners (*plebs*) as opposed to the elites. 'The people' signifies the totality of a political community, a political community as a whole. However, in practice, this totality and this wholeness can never be properly represented nor experienced. 'We are the people' does not mean 'we represent every single person of this political community', and 'this is the will of the people' does not mean 'every single person of this political community wants this'. However, when the notion of 'the people' is politically employed with reference to a collective subject, there is always a part, which can be 'the *plebs*' or 'the majority', which presents itself as a whole, as the *populus*, despite being specific and

partial.

In order for this dynamic to work and to make sense, the exceeding part is posited as external to ‘the people’ and it is discursively excluded from the political community. Paradoxically, but intuitively, the part (*plebs*) poses itself as a totality (*populus*) via the exclusion of another part and the contraposition to it. This exceeding part can be ‘the elite’, ‘the rich’, ‘the 1%’ the ‘foreigners’, the ‘immigrants’, a social minority: in a sense, the category of the ‘enemy’ is itself empty, as it can assume various contents depending on the articulations of the discourse. In any case, the discursive operation is the attempt of signifying a totality, a community as a whole, while at the same time deploying and manifesting a logic of fracture, division, conflict and antagonism. The discourse of ‘the people’ stems from this social fracture while trying to externalise it and projecting it outside of society. ‘The people’ is articulated as a whole, a unity, a harmonic body, antagonistically contraposed to the agents which have betrayed the dream of a society grounded in justice and concordance, and have been therefore expelled from it. In the face of this expulsion, ‘the people’ acknowledges itself as ‘one and all’. Again, the constitution of ‘the people’ is not the derivation of any previously existing reality, but the outcome of a discursive process which articulates social and political tensions in specific ways.

The notion of ‘the people’ can be employed with reference to an actual totality only as long as it is conceived as the ensemble or aggregation of all the differentiated individual subjects of a specific political community, each one of which has its own agency, interests and will. In this sense, it can be properly said that ‘the Catalan people’ coincides with the totality of the citizens of Catalonia, and that Emmanuel Macron governs over all of ‘the French people’. But insofar as ‘the people’ is conceived as a single collective subject with its own agency, will and aspirations, a mobilised agent which wants, claims and does things on its own, then its defining characteristic is *claiming* to be the totality of the political community, rather than actually *being* it. After all, it is highly unlikely for every single member of a community to want the same thing and agree on the same acts. Moreover, and more importantly, even in the off chance that this

happened, it would be impossible to know it, let alone to incontrovertibly demonstrate it through the means of social and political sciences. 'We are the people' and 'this is the will of the people' are ultimately unprovable claims because 'the people' has not a fixed essence, substance or reality which can be grasped or proved. It cannot be seen, measured or experienced.

This dynamic generates obvious ontological, epistemological, political and ethical dilemmas and concerns. However, for the aims of the present paragraphs, it is sufficient to highlight that, from a performative perspective, it is not relevant whether the claim to 'be the people' is 'true' or 'false'. What is relevant is analysing the paradigmatic dynamic of the deployment of an empty signifier. The point is that the universal signifier 'the people' is appropriated and deployed by some specific sectors of the population, which present themselves as a totality and as politically legitimated in pursuing their will. These sectors are diverse, heterogeneous or even contradictory and they have different claims and demands whose only contingent similarity is being frustrated by the *status quo*. In the moment in which a political discourse articulates their claims together through a proper empty signifier (like '*Solidarność*', the 'yellow vest' or 'independence'), they are identified together as the same 'people' and they are contraposed against the same 'enemy', then the heterogeneous ensemble of separate individuals and groups discursively becomes a collective subject and a whole. In Laclau's conception this operation is performative in the sense that it creates a reality rather than describing it. Saying that 'we are the people' or 'this is the will of the people' does not describe the fact that 'a people' exists and wants something. Rather, it discursively produces a political subject which claims to exist and to have a will, and with more or less explicitly implies to have the legitimacy to enforce it.

A crucial element in this process is contingency. Being an 'empty signifier', 'the people' does not have a predetermined content and can therefore include heterogeneous individuals, groups and classes as the result of contingent political practices and not as the deterministic result of some compelling dynamics. This marks a major difference between Laclau and

Mouffe's post-marxism and classic historical materialism: they «[contemplate] contingency, precariousness, indetermination and paradox as ontological dimensions of the social» (Mendonça & Rodrigues 2008). History is conceived as being radically contingent, reality as radically precarious and discursive processes as radically creative. Therefore, 'the people' has no predetermined material basis and specific discursive articulations do not deterministically derive from specific material structures. 'The people' is not necessarily 'the proletariat' or 'the working class'. The same material circumstances can generate different discourses and the same discursive logics can be deployed with different material contents. Social conflict rises and fades at different paces, through unpredictable and non linear paths. Neither the logical nor the material premises contain the outcome: the outcome is the ongoing contingent and precarious product of performative political praxis.

A decade after Laclau, while analysing the radical-democratic claims of the 2010-4 worldwide wave of grassroots massive protests, Judith Butler follows a similar path, even though her political positioning is more oriented towards radical democracy than towards a Laclausian 'populism'. Butler employs her performative paradigm, in its classical version, to the 'the people': claiming to be the people is what produces the people itself as a political subject, by assuming it as already existing (Butler 2015). In this respect, it is worth noting that, even though the linguistic element is central and prevalent for both, neither the Laclausian discourse nor the Butlerian performativity are strictly and exclusively related to language only. Non-linguistic practices are crucial parts of the production of meaning and of political subjects as well. For this reason, it is relevant to note that these claims are voiced in the scope of massive mobilisations. Wide sectors of the population are not only 'saying' that they are the people, but they are also gathering, marching, chanting, organising, discussing and debating in assemblies, writing declarations, protesting, occupying, striking, blocking, rioting, and they are *doing this together, to thousands, with their voices and with their bodies*, on behalf of the fact that they 'are the people'. In some cases, as in the historic '*acampadas*' or, generally, in occupations, they are also living, playing, sleeping, cooking

and spending their daily life together in a public space. ‘The people’ is performatively produced also through this collective experience of being part of an active political subject and of a living political community: being the people is the act of speaking, acting, organising and living together. Therefore, it has to be taken into account that the production of the people is not limited to the mere utterance ‘we are the people’, but it is a complex, multifaceted and stratified ensemble of linguistic and non-linguistic collective practices. In this regard, Butler (2015) especially underlines the practices of horizontal assemblies and the physical re-appropriation of the public space as concrete performative practices of political and subjective production.

In the Catalan case, this dynamic takes a step further. Not only the Catalan independentists take the streets to millions with particularly radical and conflictive practices. They also partake in the material organisation and in the material defense of the ‘self-determination Referendum’ with the explicit aim of building a new Republic together. They participate in hiding the clandestine ballot boxes and in secretly delivering them to the polls; in printing millions of illegal voting papers; in occupying the polling stations, organising events to cover their illegal activity, building barricades, confront the police; in the bureaucratic organisation and deployment of the Referendum itself; in besieging the headquarters of the Spanish Civil Guard; in massive demonstrations and marches for several weeks in a row; in massive general strikes; in occupying high schools and universities; in hundreds of assemblies. Throughout all of these massive and collective practices realised ‘in the name of popular self-determination’, they are producing ‘the people’ itself. For this reason, in the course of the present dissertation, the report of the events surrounding the Catalan 1-O is often highlighted. On the one hand, it represents an example of concrete production of the people as a political subject through collective political action. On the other hand, Parliamentary discourses about ‘democracy’ and ‘the people’ would be meaningless if deprived of this context. An ensemble of speeches about democracy does not have the critical political force to operate a political re-articulation alone. Their meaningfulness is related to the fact that they

happen within a political context in which a collectivity is actively, politically, discursively and materially mobilising.

This perspective is slightly different, but overall consistent with the Laclausian paradigm. In his account, the major focus is on the discursive practices which provide a frame, a meaning and also a strategy to political actions and subjects which would otherwise be unorganised or even non-existent. However, also for Laclau, the notion of ‘discourse’ is not overlapping with the notion of ‘speech’, since it represents a wider, more complex and more multifaceted practice of meaning-making which includes also non-linguistic practices. Concrete collective political actions are certainly part of a discursive production about ‘the people’. In particular, gathering and organising together in such a way can be a productive tool for creating the ‘meaningful worldview’ of a ‘discourse’ and to envision the desirable horizon suggested by beatific fantasies. The discourses centered around the notion of ‘the people’ bear a promise and a hope for fullness and totality, for the experience of a community without fractures, for a collective future of redemption: gathering, organising and living together on behalf of ‘the people’ can be intended as a practical and partial experience and prefiguration of this beatific promise, therefore functioning as a crucial element of the discourse.

2.2 Equivalential and Differential Chains in Practice: the Catalan and the French Cases

In order to better understand how an empty signifier works, it is necessary to recall the notions of equivalential and differential logics (or ‘logic of equivalence’ and ‘logic of difference’). The basic discursive logics highlighted by Laclau and Mouffe are the equivalential and the differential one. On the one hand, according to a differential logic, all of the elements of an ensemble are conceived as different, independent and peculiar and they are approached individually and separately. The ensemble they are part of is an aggregate of discrete unities. On the other hand, according to an equivalential logic, the elements of an ensemble are conceived as equivalent among them, since they are articulated together through the same empty signifier. The elements, otherwise separated and

unrelated, are interconnected and equalised through the discursive production of a 'chain of equivalence'. To recall one of the aforementioned examples, within the contemporary Catalan independentist discourse, a 'chain of equivalence' is produced through the empty signifier 'independence': independence = selfdetermination = freedom = democracy = social justice = economic growth = antifascism = resistance = Republic (in some cases also = youth empowerment = feminism = anticapitalism = amnesty). 'Independence' signifies all of these things at the same time, and all of these things become the same struggle, the same claim, the same political stance and the same program. In parallel, a specular negative chain of equivalence is discursively produced and projected onto the 'enemies': unionism = oppression = authoritarianism = social injustice = corruption = fascism = monarchy = police violence = political persecution and so on. Claiming independence becomes a battle which is at the same time in favour of justice, democracy and freedom and against authoritarianism, oppression, corruption and the monarchy.

'The people' as an empty signifier works in a similar way. According to a differential logic, the members of a political community (or 'citizens') are individual and independent. Their interests and demands are differentiated and unrelated, they are pursued separately and they are met individually by the institutions. In some circumstances, according to an equivalential logic, the members of a political community unite under the name of 'the people' against an 'enemy', articulating their interests and demands together through the same empty signifier. In Laclau's account, this happens when institutions fail to meet social demands through its differential logic, leaving some demands frustrated and some groups impotent and marginalised. This leads certain sectors of the population to social and political resentment and highlights the structural fact that society is fragmented, unjust and uneven, while 'wholeness' and 'concordance' are a fiction. The fantasy of a harmonic society is disrupted and the overlapping between 'the people' and 'the totality of the population' goes into crisis since a sector of this population feels marginalised and unfairly treated. When the institutional differential logic fails, the frustrated sectors of society appropriate 'the people' and under its

name articulate their demands together according to an equivalential logic: they present their claims and their social positions as equivalent between them, so that they create a single social and political front. Therefore, the members of ‘the people’ pose as a single collective subject and they expect their demands to be met as a whole. The equivalences between the subjects and between their demands do not derive from their content, but from the fact that they are articulated together and positioned together against an enemy, deploying an antagonistic and conflictual dynamic.

Uniting against the French government (and later against the whole ‘neo-liberal system’) and in the name of ‘the people’ a socially and politically heterogeneous ensemble of agents gathered and articulated their demands together under the empty symbol of the ‘Yellow Vest’: truckers, working class and middle class citizens, high school and univeritarian students and professors, independent reporters, anticapitalist, anarchist and far-left militants, feminists, immigrants, anti-racist activists, *banlieusards*, environmentalists, trade unionists. The ‘Yellow Vest’ did not represent a specific identifiable social or political group and did not have any specific identifiable content, but it came to represent all of their demands and all of their interests, united through a logic of equivalence and antagonism. Notably, the first phase of the Yellow Vests mobilisation was marked by a struggle between right-wing and left-wing narratives, which tried to hegemonise the protest, appropriating it with their specific contents. On the one hand, a right-wing nationalist articulation of the social conflict, and a chain of equivalence which linked the truckers’ protest with far-right claims and with certain sectors of the population. In their framing of ‘the people’, nationality and ethnicity had a major role. On the other hand, a left-wing articulation of the social conflict, and a chain of equivalence which linked the same protest with left-wing claims and with other sectors of the population. In their framing of ‘the people’, social and economic conditions played a major role. In the end, neither side succeeded in completely and definitely hegemonise the protest. Within the movement persisted and coexisted anarchist, far-left, left-wing, right-wing, centrist and apolitical organised groups, along with individuals of every political orientation, a composite set of demands and a complex intersection and

overlapping of different frames.

For example, national symbols as the French flag and anthem were ever present, even though they were often intended as representations of the Republic, the Revolution's legacy, and not necessarily as nationalist emblems. To make another example, the movement was interclassist to some extent, in the sense that persons, groups and advocates of different social classes were actively taking part in the protests and assemblies since they were all part of the 'French people' betrayed by the Government and the 'neo-liberal elite'. However, the demands of the working class, the lower-middle class and 'the poor' became central, while claims for 'social justice' and the overcoming of the capitalist economic system gained prevalence. In conclusion, despite the complexity and contradictions, and despite the fact that no group achieved a complete hegemony, observing the evolution of the discourses deployed by the movement throughout the months, the prevalence of a leftist, radical and anticapitalist discursive articulation appears nonetheless evident. This is true both in terms of slogans, claims and demands and in terms of organised groups which actively participated in the protests and assemblies with preminent roles.

3. The Analysis of the Catalan Case

As the main elements of the Laclausian Discourse Theory have been pointed out, it is now possible to apply them in more detail to the Catalan case. The notions of nodal points, fantasies and equivalential chains will be applied to highlight the key features of the discourses emerging from the debate. The discourses will also be analysed in order to show whether they display a ‘decontestation’ of some pivotal ‘floating signifiers’, and in particular of ‘democracy’. The main value systems and ethico-political aims underpinning the discourses and their possible trade-offs will also be highlighted. Before proceeding further, a brief overview of the Catalan context and an explanation for the selected materials is provided.

3.1. *The ‘Catalan Process’*

The Catalan ‘*Procés*’ (‘Process’) is a complex and multifaceted issue and in the scope of the present dissertation it is not possible to take into account all of its different aspects. Economic, social, historical, cultural, political, nationalistic and psychological elements are intertwined and variously contribute to its origins, its evolution and its outcomes. Moreover, its causes, its development and even some facts are controversial, often contested and differently interpreted. The present dissertation generically and broadly refers to the Catalan ‘Process’ as an ensemble of political events developed in Catalonia since 2012 with the explicit and concrete aim of gaining independence from Spain, culminated with the illegal Referendum for Independence and unilateral Declaration of Independence in the October 2017.

The roots and the background of these events are themselves

controversial. Throughout the centuries, since the Spanish unification, Catalan claims for cultural and/or political recognition emerged often but intermittently. Overall, these claims draw an ancient, complex and non-linear history of struggles, intertwined with local, national and international political events and discourses. Focusing on recent times, for example, the history of Catalanism appears inseparable from the XIX Century European romantic-nationalist wave which fueled it⁴⁰, from the XIX - XX Century process of decolonisation which have inspired it⁴¹, as well as from the XX Century authoritarian regimes which have repressed it⁴². Contemporary Catalanism is still shaped by the discursive relations and contraposition developed in these contexts. For instance, the framing of Catalan nationalism through an ideal of ‘freedom’, ‘emancipation’, ‘justice’ and ‘progress’, the centrality of cultural, linguistic and literary elements, and the ‘republican’, ‘democratic’ and ‘antifascist’ contraposition to ‘authoritarianism’ can be traced back to such historical dynamics and events. Considering these aspects is useful in order to grasp some of the logics of today’s Catalan independentist discourse and to explain how they can leave room for a left-wing and even for a radical-left interpretation. However, unfortunately, an in-depth analysis of these elements is out of the reach of the present work. In the present section, the focus will be only on the recent wave of mass mobilisations

3.2 Catalonia 2006 – 2017

One of the triggering events of the recent wave of mass mobilisations, representing a notable peak in the whole history of contemporary Catalan independentism, was the fact that in 2010 the Spanish Constitutional Court. Some authors individuate the ‘original sin’ in the elaboration of the 1978 Spanish Constitution, a pivotal moment of the transition from the

⁴⁰ Contemporary Catalanism is inextricably intertwined with the XIX Century’s ‘*Renaixença*’ (‘Renaissance’), a revival of Catalan culture, language, poetry and literature, within the wider context of the XIX Century’s European Romantic and Nationalist movements.

⁴² Both the regimes of Miguel Primo de Rivera (1923 – 1930) and Francisco Franco (1939 – 1975) openly repressed the expression of Catalan language and culture, as well as Catalan independentist parties and movements.

former authoritarian Francoist regime and the contemporary democratic regime. According to these scholars, major controversies can ensue as the Constitutional Chart remains intentionally open or vague about several issues, delegating the power of regulating them to the Constitutional Court, which is elected by the Parliamentary majority. In practice, this can lead to the democratic paradox that the Constitutional Court can invalidate and label as anti-constitutional the outcomes of a legal and legitimate citizen's referendum or Parliamentary legislation, if held on issues about which the Constitution is open or vague. These occurrences can therefore create a friction between citizens and the central Spanish institutions, undermining the trust and the bond between them (Amat 2017; Forti 2018). One of the main critical moments that fueled the Catalan conflict and led to the 'Process' can be understood from this perspective. In 2006 a new Catalan Statute of Autonomy⁴³ was legally approved by the Catalan Parliament and then by a citizens' referendum, although with a voter turnout of only 49, 41% of the total electorate. The 2006 Statute was an attempt to increase Catalan self-government, obtaining more institutional, fiscal and judicial autonomy from the Spanish central Government, reinforcing the preservation and promotion of Catalan cultural, historical and linguistic heritage and defining Catalonia a proper 'nation'. Such a Statute revealed a Catalan autonomist, nationalist and sovereignist tension, but not an actual independentist claim.

Throughout the years, a complex series of political events and of institutional and judicial manoeuvres took place between the Catalan Government, the Spanish Constitutional Court and the Spanish Government, always intertwined with the mass mobilisations of the Catalan civil society. Simplifying, the main controversy was that the Catalan Government, sustained by a sector of Catalan civil society, legally attempted both to modify the Regional Statute and to obtain a new 'fiscal pact' in order to gain more autonomy, but encountered the opposition of the Spanish Constitutional Court and of the Spanish Government in both

⁴³ In Spain, the Statute of Autonomy is the basic law which defines the rights and obligations of the citizens of an Autonomous Community, its political institutions, their competences and relations with the rest of Spain, and the financing of their Government.

respects. The contraposition developed and escalated from 2006 to 2012 and both parties ultimately failed to maintain a fruitful dialogue and to reach some kind of agreement. The failed mediation between the Catalan and Spanish Governments strengthened and radicalised the Catalan sovereignist movement, which increasingly shifted from claiming more autonomy to claiming full independence, and gradually paved the way for a unilateral declaration of independence.

The topic of independence became a central issue in the Catalan public debate, and a significant part of Catalan politics, including parliamentary alliances, was reorganised along the contraposition between unionists and independentists, instead than along a left-wing / right-wing divide. 2012 is conventionally known as the beginning of the Catalan ‘Process’. On the one hand, Catalan sovereignists insisted that the ‘Catalan people’ has the ‘right to decide’ for themselves. On the other hand, the unionists and the Spanish Government always maintained that Catalan independence was not only undesirable in different respects, but also impossible, since the Spanish Constitution clearly posits the indivisibility of Spain. The situation developed throughout the years, with notable events such as the 2014 (non-binding) ‘consultation’ over independence, while the 2015 Catalan elections were marked by the promise of organising a binding Referendum for ‘self-determination’, with the immediate answer of the central Spanish Government forbidding it. The ‘Process’ finally culminated in the October 2017 with the holding of the Catalan Referendum for Independence (‘1-O’) and the following (failed) Unilateral Declaration of Independence.

The present chapter focuses on the construction of different, competing and antagonistic political narratives and discourses, pursued by conflicting parties in the 1-O context. In particular, this chapter aims at investigating the fact that a significant part of the debate was devoted in constructing different, competing and antagonistic discourses about ‘democracy’. Each party presents a different understanding of what ‘democracy’ ‘really’ is, prioritising different political values and implying different political ontologies. Simplifying, a party which claims the prevalence of the ‘popular will’ opposes a party which claims the

prevalence of the Constitution and the Rule of Law. According to the former, 'democracy' means that 'the people' has the right to enforce its will anyhow. According to the latter, 'democracy' only exists within constitutional and legal boundaries. On this basis, each party claims to be 'really democratic' and deems the opponents and their political practices as 'undemocratic'. As highlighted in the previous chapters, these are not mere descriptive statements. They directly infer, politically and normatively, that the opponents and their political practices are illegitimate and inadmissible, placing them outside of the boundaries of legitimate, sensible, just and fair politics and disqualifying them as credible counterparts.

3.2. The 1-O Events

The Referendum was held illegally in exceptional and objectively incredible circumstances. According to the Catalan Government, more than 7.200 institutional representatives and approximately 50.000 volunteers were implicated in the organisation of more than 3 thousands illegal polling stations all across Catalonia. Given the illegal nature of the consultation, the Spanish Government ordered the closing of the polling stations. In order to ensure that the Referendum could take place, thousands of institutional representatives and volunteers, organised through the independentist parties, the civic platforms for independence and grassroots local assemblies, occupied thousands of polling stations during the two days preceding the Referendum, arranging acampadas, assemblies, but also fake lessons and fake game. Thousands of 'official' illegal ballot boxes were secretly imported from abroad, clandestinely delivered all over the Region, distributed to common citizens, concealed for weeks and clandestinely carried to the polling station the morning of the referendum adopting creative expedients. During the weeks preceding the consultation, the Spanish police investigated in order to confiscate the illegal ballot boxes, but incredibly failed: not a single one was found by the police, but in the 1-O morning every polling station in the Region clandestinely received its box, even though with some delays.

The previous weeks as well as the day of the Referendum were also the scene of an informatic battle between the Spanish Government and the sovereignist platform. Dozens of websites were shutted down in order to block the Referendum and restored or re-created in order to ensure it could take place. Due to technical difficulties and to the impossibility to officially grant ballot papers, the sovereignist platforms circulated the ballot papers sample and asked the citizens to print them and to bring them themselves to the voting stations⁴⁴. The 1-O, millions of voters arrived to the illegally occupied polling stations with their self printed ballot papers and put them in the illegal ballot boxes clandestinely delivered there by anonymous activists. The Spanish Government informatic attacks, the difficulties in delivering some boxes and the disorganisation of some polling station caused various delays and the formation of long cues, but, incredibly, the complex apparatus of the illegal Referendum started to work throughout the whole Region in the 1-O morning.

During the day, the police stormed dozens of polling stations in order to confiscate the illegal ballot boxes, the illegal ballot papers and phisically impede the illegal voting. With the exception of some single isolated cases, nearly all the responses to police were non-violent, marking a notable difference with the subsequent 2019 riots. Inspired by the principles of non-violent civil disobedience, during the 1-O tens of thousands of activists and common citizens displayed tacticts of mass passive resistance protecting the polling stations with non-violent human chains, but also erecting barricades, boarding up the polling stations, sabotaging roads. In some cases, when the police eventually managed to access the stations, the activists tried to trick them by concealing the ballot boxes in unusual places (a cemetery, a freezer, the branches of a tree...), by substituing them with 'fake' ones, by creating labyrinths to disorient the police inside the buildings, by making up fake recreational activities to cover the voting. Searching the internet, nowadays it is still possible to find hundreds of posts by Catalan sovereignist accounts which mock the police for being unable to find the boxes and which celebrate the creative

⁴⁴ This controversial move was highly criticised and was held as the umpteenth proof of the Referendum's unreliability in the eyes of its detractors

inventiveness of the citizens which managed (or at least tried) to protect them. The sarcastic «Where are the ballot boxes?» was one of the main chants of the day.

In order for the Referendum to take place, the active involvement of tens of thousands of activists was necessary. Independentist political parties and official civic associations played a key role in structuring the organisation, both involving their representatives and recruiting volunteers. Despite the active and direct opposition of the Spanish Government, they managed to illegally occupy and then set up thousands of polling stations simultaneously, to clandestinely store and deliver thousands of ballot boxes all across the Region, to react to dozens of cyber attacks, to maintain a constant and widespread communication and promotion through different media, and, ultimately, to make the vast majority of the polling stations work the day of the Referendum. This manifests the existence of a wide network of people, somehow overt and somehow clandestine, with a structured plan, organisational and logistical abilities, intentionality, determination and willingness to pursue their aim despite it being illegal, anticonstitutional and adversed by the Spanish Government. According to the Catalan Parliament, this network involved both institutional representatives and volunteer citizens, most of which remain anonymous.

In several cases, the police reacted to passive resistance with outright physical violence, tugging and hitting large numbers of people and sometimes shooting the crowd with rubber bullets. Photos, videos and reports of the police brutal beatings at the polling stations became viral the same day of the Referendum, massively shared with indignation by sovereignist channels and by various international media. Unionist channels, on the other hand, either ignored them, minimised them, or claimed that most of them were dubious or false. According to the Catalan Government and to several national and international media, more than 800 people, including elders and minors, were injured by the police and were attended by health personnel that day. Some sources counted more than 900 injured people. Conversely, the Spanish Government and unionist media firmly maintained that these numbers were inflated and that police

officers had suffered injuries too.

The precise dimension of these facts is controversial and difficult to be demonstrated. At this point, it could be ultimately impossible to state how many people were actually injured and under which circumstances. Nonetheless, any review of the photo and video material and of the reports of the 1-O accidents undoubtedly reveals that in the vast majority of the cases it was the police that resorted to physical violence, while the sovereignist activists mainly stuck to (illegal) non-violent tactics. Moreover, while it is true that certain records were proved to be fake, it is nonetheless true that various images of savage beatings were proved to be true. The same day, spontaneous protests against police violence erupted. The Police Headquarters of Laietana street in Barcelona were put under siege by thousands of demonstrators and since then became one of the hotspots of the mobilisations.

Considering this specific context is extremely important to understand the scope, the relevance and the urgency of the debates which take place in the Parliament in the same days.

3.4. Results and Consequences of the Referendum

According to the Catalan Government, 2.286.217 people voted in the 1-O Referendum, amounting to 43,03% of the eligible voters. 770.000 ballot papers more should have been added but were not officially counted because they were confiscated by the Police. It is very plausible that more people would have voted if the dozens of polling stations closed by the Police would have remained open throughout the day, but it is not possible to estimate how many they would have been. The victory of the 'Yes' vote for Catalan independence was overwhelming: of the counted votes, 90,18% were a Yes, 7,83% were a No, 1,98% were blank⁴⁵. It is difficult to draw objective conclusions from these results. It is also to be considered that the exceptionality of the situation may have affected the participation, even though it is difficult to argue whether under different and more neutral

⁴⁵ Catalan Parliament web archive. Accessed 03/10/2022

circumstances the participation would have been higher or lower. On the one hand, it is possible to assume that more people would have voted in a legally conducted Referendum, held according to the Spanish Government's authorisation, without the need of breaking the law and without the explicit threat of being beaten, injured, arrested or deemed an enemy of the Spanish State.

On the other hand, it is possible to assume that the Spanish Government's rigid opposition, the perceived impossibility of a dialogue, judicial repression and police violence have strengthened and radicalised the sovereignist movement, fueling more indignation than fear and positively affecting participation. These are both conjectures and they could also be simultaneously true for different people. It would be more honest to state that we cannot know whether the Referendum results are a reliable and accurate depiction of the will of the Catalan people as a whole. On the one hand, the participation to the Referendum was massive, actively involving more than two millions people in a Region with a population of approximately 5 millions and a half. The relevance and the urgency of the sovereignist aspiration within Catalan society is therefore undeniable. On the other hand, participation, albeit massive, did not reach a 50% quorum and we are ultimately unable to deduce whether such a quorum would have been reached under 'normal' circumstances. It is therefore difficult to conclude that the sovereignist desire is vastly majoritarian in Catalonia. Given all the already mentioned caveats, it seems more accurate to say that the Referendum results reveal a society split into two. The present dissertation will not proceed further in this regard.

The 1-O police brutality sparked outrage in the Catalan sovereignist ranks and was perceived by many as an authentic collective trauma and as the ultimate betrayal of the Spanish institutions towards Catalans. In the sovereignist narrative, the violent police attacks to the Referendum polls were a «shame», a «scandal», a «irremediable wound» and the definitive proof of the Spanish Government's undemocraticity. As long as they framed voting at a referendum as the purest form of democracy, and presented the voters as armless non-violent people which just wanted to exercise 'the right to vote', police violent repression could

not be seen as anything else than a direct attack to democracy, human rights and Catalan society. On the other hand, the Spanish Government and unionist media framed the illegal and anti-constitutional Referendum as a subversive direct attack to the Constitution and the Rule of Law. In their eyes, albeit physically non-violent, the activists and the voters were not only breaking the Law and the Constitution, but literally committing an eversive act against the Spanish State and its territorial integrity. Therefore, the police acting were not only understandable, but expected.

This latter position has its undeniable consistency and it is somehow surprising that the illegal, anticonstitutional and objectively eversive elements of the Referendum are totally overlooked by the sovereignist accounts of the events. At the same time, the excesses in the usage of brute force by the police against unarmed and non-violent civilians were undeniable, largely documented and worldwide spreaded. In this respect, it is frankly puzzling that in their official speeches following the 1-O facts, the Spanish President and the Spanish King, as well as the main unionist media, not only completely ignored the very existence of these excesses, but praised the police for their proportionated and professional acting and for their service to democracy. Comparing the sovereignist and the unionist narratives of the 1-O is somehow disconcerting.

3.5. Antagonistic Narratives

It is remarkable that both sides seem to be entirely blind with respect to their opponent's arguments and seem incapable to acknowledge them any minimal legitimacy. The sovereignist discourse presents voting at the Referendum as a completely innocent democratic act. Within their frame, in the face of millions of people determined to vote, any consideration about the Constitution and the Rule of Law appears irrelevant. Contrariwise, the unionist discourse posits the abidance to the Constitution and the Rule of Law as the core principles of legitimate politics, and it is both unable and unwilling to recognise the political relevance of the existence of a mass movement acting outside

constitutional and legal boundaries. The two counterposed narratives created «parallel truths» and «two parallel universes»⁴⁶, incapable not only of reciprocal communication and comprehension, but also incapable of imagining the existence of the opponents as rationally, ethically and politically acceptable. The people forming part of the opposing party are conceived, at best, as irrational or maneuvered and, at worst, as malicious. The impossibility of inhabiting a common frame and of sharing a minimal understanding of basic ethical and political principles precludes the possibility of dialogue and can result only in conflict and antagonism.

This was one of the elements which contributed to deepen the cleavage between the parties in an already deteriorated situation. Moreover, this was an element of radicalisation for the sovereigntist movement, reinforcing the idea that after the 1-O there was no way back and planting the seeds of renewed anti-police and anti-system sentiments that would have exploded in the subsequent years, reaching their peak in the 2019 riots. The narratives constructed along the years depicted, on the one hand, the Spanish State as a ruthless oppressor of Catalonia and, on the other hand, Catalonia as a rich selfish Region which threatens the Spanish common project of unity and solidarity. Throughout the years, these highly emotionally charged narratives have heavily influenced the political debate, fueling resentment and undermining the possibility of communicating among the parties. The public understanding of the development of the Catalonia / Spain relationships and of the escalation of their conflict over the last 16 years is significantly shaped by these narratives.

This quarrel about ‘democracy’ is far from being the only topic of the political and public debate, let alone of the whole ‘Process’. Economic, fiscal, political, electoral and nationalistic interests do obviously have a significant weight and keep some considerable space within the debate, influencing argumentations and positionings. It is also difficult to argue that it is the most relevant one. Furthermore, contentions about a wide and

⁴⁶ Carlos de las Heras-Pedrosa, Carmen Jambrino-Maldonado, Patricia P. Iglesias-Sánchez, Elena Millán-Celis, ‘Populism and Independence Movements in Europe: The Catalan-Spanish Case’, *Social Sciences*, 9(4), pp. 1–20, 2020

various range of heatedly discussed topics influence the debate: the conditions of legitimacy of secessions; the differences between autonomy, federalism and independence; the relations with and within the European Union; the Francoist heritage; the tension between the Monarchic power and Republican aspirations; corruption; social, economic and fiscal policies; specific laws, constitutional articles, procedures, parliamentary deliberations, Court sentences; relations between national and regional institutions; police brutality; management and repression of the sovereignists mobilisations; credibility of single politicians and single political parties; parliamentary alliances. From 2019 on, after the Court harsh sentences against nine Catalan independentist leaders and the subsequent riots ⁴⁷, the issues of Catalan ‘political prisoners’, of the possibility for an amnesty or a pardon, and of the violent escalation of protests also become central to the debate.

The literature about Catalan secessionism is very wide. Throughout the years, this issue has been addressed with different focuses. A part of the literature addresses the socio-economical nature of the movement’s components. The outcomes in this regard are contradictory. Some authors argue for high-income classes supporting independence and low-income classes being more driven towards unionism (Quiroga, Molina 2020; Boylan 2015; Oller et al. 2020). Contrarily, others underline the vast and crucial support of ordinary citizens from all classes (Hedetoft 2020; Della Porta, Portos 2020; Serrano 2013). In parallel, some authors interpret Catalan independentism as nationalist, ethnicist and elite-led (Barrio, Rodríguez-Teruel 2017; Miley 2007), while others describe it as a grassroots movement encompassing various different socio-political sectors and arguments (Guibernau 2013, 2015). Some maintain that the movement is fundamentally multidimensional (Crameri 2015; Gamper Sachse 2018; Quiroga, Molina 2020). Another part of the literature focuses

⁴⁷ The Catalan ‘political prisoners’ were the then Catalan vice President Oriol Junqueras, the then President of the Catalan Parliament Carme Forcadell, various Catalan Ministers and the two leaders of the main independentist civic platforms (Òmnium Cultural and Assemblée Nacional Catalana). First convicted in 2017, in 2019 they have been definitely sentenced to 9 - 13 years of prison each for the crime of ‘sedition’. The sentence sparked two weeks of mass protests, strikes and violent riots. In 2021, after having spent 3 years and a half convicted, they have been pardoned by the new left-wing Spanish Government, led by the Socialist Party of Pedro Sánchez.

on economic explanations for the rise of this movement. In this respect, some authors affirm that the ‘Great Recession’ did not have a critical impact on support for secession (Boylan 2015; Serrano 2013), while others maintain that the economic factors related to this crisis are pivotal (Guidi, Karagiannis 2014; Orriols, Rodon 2016; Dalle-Mulle, Serrano 2019; Dowling 2018). Finally, after the 2017 referendum the frame of ‘populism’ was adopted as an analytical tool to approach these events (Barrio et al. 2018; Gamper Sachse 2018; Miró 2021; Ruiz Casado 2020, 2021; Straehle 2019).

For the aims of the present research, a recent article named *Who Owns ‘Democracy’? The role of populism in the discursive struggle over the signifier ‘democracy’ in Catalonia and Spain*, written by Juan Alberto Ruiz Casado (2022), working for the National Taiwanese University, is particularly interesting. The article provides a wide and comprehensive literature review on the topic, noting a gap in the analysis of the Catalan debate through the lens of Laclausian Discourse Theory. The hypothesis of the article is that, in the scope of this debate, ‘democracy’ operates as a Laclausian floating signifier contended between two irreconcilable discourses which defend two antagonistic understandings: a ‘constitutional democracy’ and a ‘majoritarian democracy’. The conclusions of the article regarding the ‘populist’ nature of the Catalan independentist movement differ from the interpretation of the present dissertation, which rather defines it as ‘radical-popular’. The article also focuses on the Parliamentary debates preceding the 1-O Referendum in the Catalan Parliament, while the present work focuses on the Parliamentary debates immediately following the 1-O Referendum in the Spanish Parliament. However, all of the major theoretical and methodological premises, as well as the hypothesis and the final results are surprisingly converging to the point of being almost identical.

When the present research was being outlined in 2019, no Laclausian Discourse Theory analyses regarding this topic seemed to exist in the literature. The fact that some of these analyses are starting to emerge, independently pinpointing the same ‘floating signifier’ and extremely similar ‘competing discourses’, and reaching very similar conclusions,

seems to strengthen the plausibility of the research hypothesis. At the same time, other recent articles seem to support parts of the research hypothesis to some extent. In particular, recent works by Donatella Della Porta and other scholars have pinpointed the radical-democratic drive of the Catalan movement and have argued that the issue of Catalan independence was related to a radical claim for democracy, emancipation and social justice, beyond the specific topic of secessionism (Della Porta, O'Connor, Subirats Ribas 2017; Della Porta, Portos 2020). Moreover, some recent in-depth empirical analyses conducted through mixed methods and taking into account a vast body of materials, have confirmed the fact that the debate has been structured as an antagonistic contraposition between irreconcilable narratives, and that they focus on critical and general political topics regarding democracy and sovereignty, and not only on the specific topic of secessionism (de las Heras-Pedrosa, Jambrino-Maldonado, Iglesias-Sánchez, Millán-Celis 2020).

However, due to both the chronological proximity and the complexity of the addressed events, the scientific literature regarding the specific debate surrounding the 1-O and the re-articulation democracy within it are still very incomplete. Given the extraordinariness of the events in the context of contemporary Western Europe and the relevance of the political issues emerged, I believe that a more perspicuous understanding of these occurrences can be meaningful. For this reason, I hope that the present dissertation could be a useful contribution in the attempt to fill this literature gap.

4. Discourse Analysis of the Catalan Case

4.1 Presenting the Research Question

Providing an overall and complete account of the debate surrounding the Catalan ‘Process’ would mean analysing all of these issues and all of the ways in which they are interrelated and in which they influence each other. This would exceed the possibilities and the aims of the present dissertation by far. Each one of these topics could be a viable way of framing the analysis of this subject, and keeping their interconnections in mind is useful in order to have a more complete picture of it. The present dissertation focuses on the contraposition between ‘radical-popular’ and ‘legalist-constitutionalist’ discourses as a struggle for the hegemony over ‘democracy’. The research question to be answered is whether ‘democracy’ operates as a floating signifier in the context of the Catalan ‘Process’. That is, whether it assumes an ambiguous character while being contended between two conflicting political projects which compete for hegemony and which produce conflicting discourses. The research hypothesis to be explored is that in the scope of the Catalan ‘Process’ ‘democracy’ is contended between a ‘radical-popular’ and a ‘constitutionalist-legalist’ discourse, which antagonistically and conflictively oppose one another, relying on different political and ontological premises and on different systems of values. While this is surely not the only way (and maybe not the main way) in which the Catalan ‘Process’ can be analysed and understood, the thesis of the present dissertation is that the controversy about the definition of ‘true democracy’ and the attribution of ‘real democraticity’ is one of the key ways in which its later developments can be framed, and one of the more interesting in terms of political theory.

One of the reasons this frame of analysis seems viable is that both the ‘radical-popular’ and the ‘legalist-constitutionalist’ discourses and argumentations can be autonomously developed and pursued on their own. They are not dependant upon the other kind of argumentations and issues which are at stake in the Catalan ‘Process’. This is true both from a theoretical perspective and as a concrete reality of the debate.

For example, believing in the indivisibility of Spain and/or believing that ‘popular sovereignty’ pertains to Spaniards and not to Catalans will obviously concur in taking a stance in defence of the Spanish

Constitution and Law and against an illegal and anti-constitutional implementation of the Catalan Independence. The same holds true for any belief or interest which sees Catalan independence as socially, economically, fiscally or politically undesirable, or for the adherence to a narrative which depicts Spain as a victim of Catalan selfishness. On the other hand, believing in the ‘popular sovereignty’ of Catalans will obviously concur in taking a stance in favour of the Catalan Referendum for Independence. The same holds true for any belief or interest which sees Catalan independence as socially, economically, fiscally or politically desirable or for the adherence to a narrative which depicts Catalonia as a victim of Spanish authoritarianism. Nonetheless, it is possible to argue for both positions regardless of all of the other factors. Theoretically speaking, both the ‘radical-popular’ and the ‘constitutionalist-legalist’ accounts of democracy have their own structure and consistency, so that they can be sustained autonomously, regardless of other factors. This emerges in practice also in the analysis of the actual debates, articles and speeches. It is certainly true that part of the debate primarily relies on the other arguments, and also that, when presented, the ‘popular’ and the ‘constitutionalist’ arguments are often accompanied by the other topics. However, in a significant part of the debate they are often presented alone as having their own normative force, or presented as crucial and central, at the core of the discourse, while the other arguments serve a more peripheral or ancillary role.

As it has been already outlined, the research question to be answered here is the following: is it possible to consistently and fruitfully analyse such contemporary events as struggles over the meaning of ‘democracy’? The first hypothesis is that, in the scope of these events, ‘democracy’ operates as a floating signifier⁴⁸ contended between a ‘constitutional’ and a ‘radical-popular’ discourse. Each discourse aims at political hegemony and articulates ‘democracy’ in a specific way, relying on different political ontologies and logics.

⁴⁸ According to Ernesto Laclau, a ‘floating signifier’ is a signifier whose meaning is neither fixed nor univocal, but ambiguous and contended between two different political projects. Each project attributes a different meaning to it and competes for asserting its understanding as hegemonic (Laclau 2007)

4.2. Selected Materials

The selected materials include the ‘Institutional Declaration’ of the then Spanish President Mariano Rajoy (1st of October 2017), the ‘Extraordinary Institutional Message to the Nation’ by King Felipe VI (3rd of October 2017), the official speech held by the then Catalan President Carles Puigdemont for the (suspended) Catalan Unilateral Declaration of Independence (10th of October 2017), and a debate among Rajoy and other 19 Spanish Deputies during a Parliamentary plenary session, the day after the (suspended) Declaration of Independence (11th of October 2017). These selected materials of the Parliamentary Debate include the ‘Presidential Appearance’ and two other speeches of the then President Rajoy, along with the declarations of all of the 19 Spanish Deputies which take the floor during the session addressing the Catalan conflict as it is developing and escalating at the time. Among those Deputies there is the then Spanish Vice-President and Minister Soraya Sáenz de Santamaría, and three other then Ministers.

Of the 19 Deputies, 10 express unionist and ‘legalist-constitutionalist’ positions, while 9 express ‘sovereignists’ and ‘popular’ positions. The Deputies taking part in the debate belong to 11 different political parties. 5 of them can be identified as unionists and as ‘legalist-constitutionalists’: *Partido Popular* – ‘People's Party’ (PP); *Partido Socialista Obrero Español* - ‘Spanish Socialist Workers’ Party’ (PSOE); *Ciudadanos* – ‘Citizens’ (Cs); *Unión del Pueblo Navarro* - ‘Navarrese People's Union’ (UPN); and *Coalición Canaria* – ‘Canarian Coalition’ (CC). 6 of them can be identified as sovereignists and as ‘popular’: *Podemos* - ‘We Can’; *Esquerra Republicana de Catalunya* – ‘Republican Left of Catalonia’ (ERC); *Convergència i Unió* - ‘Convergence and Union’ (CiU); *Partido Demócrata Europeo Catalán* - ‘Catalan European Democratic Party’ (PDeCAT) and the Basque parties *Partido Nacionalista Vasco* – ‘Basque Nationalist Party’ (PNV) and *Sortu* - ‘Create’. For the purposes of the present research, the unionist / sovereignist and the ‘legalist’ / ‘popular’ divides are more relevant. In this respect, the sample

is surprisingly balanced as it is almost divided in a half both considering the single politicians (10 vs 9) and the parties (5 vs 6) positionings.

It is to be noted that in terms of these positionings, the unionist stances overlap with the 'legalist' ones, while the sovereigntists stances overlap with the 'popular' ones. This is not true for other classical political distinctions, which are rather transversal and create a complex and multifaceted picture. First, considering the rightwing / leftwing divide, of the unionist and 'legalist' parties 4 can be identified as rightwing or centrist-rightwing (PP, Cs, UPN, CC), while 1 can be considered leftwing (PSOE). Even though there is a clear prevalence of rightwing parties within the unionist and 'legalist' front, the PSOE represents a notable leftwing exception, since it is one of the major and most relevant parties in Spain, both historically and at the present time. On the other hand, the ensemble of the sovereigntist and 'popular' parties is extremely heterogeneous: 2 parties can be identified as rightwing or centrist-rightwing (CiU, PDeCAT), 1 can be identified as centrist or oscillating between rightwing and leftwing positions (PNV), 1 can be identified as leftwing or centrist-leftwing (ERC), 2 can be considered somehow closer to the far left (*Podemos* and *Sortu*). Secondly, considering the national / regionalist divide, within the unionist and 'legalist' front there are 3 parties with a national dimension (PP, PSOE, Cs) and 2 regionalist parties from the Navarre and the Canarian communities (UPN, CC). Within the sovereigntist and 'popular' front there is 1 party with a national dimension (*Podemos*) and 5 regionalist parties from the Catalan and Basque communities (ERC, CiU, PDeCAT, PNV, *Sortu*). Finally, while the vast majority of the parties within both fronts are traditional parties, there is the notable exception of the populist *Podemos*, which has gained considerable relevance in the last decade both at a national and at an international level. Although this could seem surprising to some extent, the clear majority of the parties endorsing sovereigntist and 'popular' claims can be considered non-populist traditional parties, and most of them can be considered politically moderate, reformist and liberal (ERC, CiU, PDeCAT, PNV).

The *ratio* of this choice is simple: the 1-O Referendum and the first Declaration of Independence have been individuated as two cardinal and

critical events of this political juncture. The analysis has initially included *all* of the official speeches held by high political representatives (the King, Presidents, and Spanish parliamentaries) addressing the issue of the self-determination Referendum, of secession and of democracy in this time-span (including the day following the Declaration) and in the context of the Spanish public debate. All of these materials have been consulted in their entirety in their original Spanish and Catalan forms in the official web archives of the Catalan and the Spanish Government. A text analysis has then been conducted in order to highlight the main themes of each of their passages. *All* of the passages regarding the issue of ‘democracy’ have been selected, translated into English and taken into account to develop the present section. The vast majority of them is directly reported here. A minoritarian part of arguments which were considered to be repetitive has been omitted for time and space reasons, but no argument regarding ‘democraticity’ has been overlooked. After this operation, the speeches have been thematically re-organised following the Laclausian Discourse Theory Methodology, trying to investigate if they exhibited nodal points, fantasies, equivalential chains, underlying value systems and ontologies, and if they constituted an independent and autonomous structure of arguments, in order to analyse if they actually displayed the main features of a proper ‘discourse’.

Besides the theoretical elaboration, the ethico-political reflection, and the discourse analysis itself, the exercise of selecting and organising the materials alone has required major pragmatical and analytical efforts, comprised of archival work, material selection, text analysis and linguistic translations, which have taken a very long time to be completed. At the same time, countless reports, news, newspaper’s articles, social media posts, blogs, photo-shootings, videos, declarations and manifestos have been consulted in order to gain a complete and more complex picture of the socio-political and cultural climate in which these debates were occurring. This latter kind of materials is not systematised in a proper way, and the systematisation of such a diverse, multifaceted, and wide amount of material would require an amount of time and competences that I do not possess. For this reason, it is not included in the present research, even if

it has participated in shaping my understanding of the issue.

The research has therefore proceeded along different trajectories, straddling between the theoretical and the empirical, following the paths of philosophical reflection, but also archival work and discourse analysis. At the same time, fueled by a personal interest, the issue has been observed and investigated also through various non-scientific angles and tools. In many respects, the development of this dissertation has been somehow experimental, most of all in the attempt of navigating the different levels of analysis and the interconnections between them. I believe that these elements represent both the strength and the weakness of this work. On the one hand, integrating different paradigms, approaches and aims is enriching and allows to take the research a step further and to illuminate new perspectives in relation to less inter-disciplinary projects. On the other hand, this amount of work and this divergence between the various drives can cause the research to be more dispersive, less consistent and less able to reach a definite outcome. Notwithstanding these undeniable difficulties and its many shortcomings, I hope that this dissertation can provide some minimal contribution to research and open fruitful paths of further investigation.

4.3. Exploring the Research Hypothesis

Therefore, does ‘democracy’ operate as a floating signifier, contested and contended between a ‘legalist’ and a ‘popular’ discourse which struggle for political hegemony within this debate? In order for this hypothesis to be substantiated, it is necessary to illustrate both that the meaning of ‘democracy’ contended, and that the ‘legalist’ and the ‘popular’ stances are proper ‘discourses’. This means that they produce a meaningful ethico-political horizon, that they are organised through nodal points which integrate and articulate a variety of heterogeneous elements together, that they produce equavalential chains, that they are animated by fantasies, that they create and convey a specific vision of the social world, that they operate through affective or emotional investments and, as I would personally add, that they ‘decontest’ some key ‘contested’ ethico-

political notions, or ‘floating signifiers’.

The source of inspiration for both the question and the hypothesis was the observation that the notion of ‘democracy’ was recurring in the debate in a way which seemed notable both in quantity and in quality. Following the debate through the Spanish and Catalan media, I noticed that a major part of it was dedicated to discussing the ‘democratic’ issue and most of the persons involved were explicitly claiming that the conflict was specifically ‘about democracy’, and not merely about secession. In most cases, the notion was employed either for defining what ‘democracy’ ‘really’ is in opposition to what ‘democracy’ is not, or for deeming something as ‘democratic’ in opposition to something ‘undemocratic’. Each front advocated for a specific definition of ‘true democracy’ and consequently for different criteria of ‘democraticity’, in open and sharp contraposition with the definition and criteria defended by the rivals. In fact, they were intended, on the one hand, with reference to the Constitution and the [Rule of] Law, and, on the other hand, with reference to popular sovereignty.

4.5. Philosophical Analysis of Empirical Cases: Description, Interpretation and Validity Conditions

This hypothesis implies that this event can be framed specifically as a struggle over the meaning of ‘democracy’, over the trade-off between the principles of legality and popular sovereignty and between the values of stability and self-determination. Not as a struggle over nationalism, regionalism, secessionism, federalism, States’ right to territorial integrity, political and economic interests or fiscal policies. Neither as a struggle between arguments and/or interests against or in favour of Catalan independence. In a sense, this is a *descriptive statement*, which has to be sustained by empirical evidence.

First, it is to be noted that the involved political actors themselves explicitly frame the issue in such a way within the scope of the public debate. It is first and foremost them who claim the Catalan conflict to be primarily a conflict over ‘democracy’, legality and popular sovereignty. Second, apart from these overt and specific claims, it is possible to observe

how this public debate is actually developed around the contention of the notion of ‘democracy’ between ‘legalist’ and ‘popular’ principles. The dispute about democracy is not a mere collection of rhetorical and isolated declarations by some self-absorbed politicians, but a deep, articulated and structured debate with a specific architecture. The present chapter will provide extensive direct quotes of the politician’s explicit claims and direct examples of this dynamic, with references to the main public speeches held and to significant Parliamentary plenary sessions. I hope to be able to show that framing these events as a struggle over ‘democracy’, legality and popular sovereignty is not a forced superimposition, but a dynamic which emerges from the debate itself, a structure which the debate itself is exhibiting.

At the same time, as every description, this is an interpretation, a partial and specific way of reading this event. This means consciously focusing on some elements and overlooking others, as well as framing the elements, their correlations and their implications in partial and specific ways. This inevitably comes with some degree of distortion. There is a fine line between ‘gaining a perspicuous understanding’, providing a lens which highlights certain aspects, allowing certain dynamics to emerge, and downright making up a scenario, deforming facts in order to bend them to our own biases. While sometimes the difference could seem glaring, most times the inquiry unfolds in the grey zone which extends between these two extremes. This could be said for every descriptive attempt, but it is even more pertinent when it comes to *interpret empirical facts philosophically*. Applying and prioritising this frame is an active choice which directly projects its assumptions onto the analysed event, and as every choice it has both strengths and limitations. The validity of this interpretation cannot be scientifically proven, neither in a ‘hard’ nor in ‘soft’ sense. The aim is neither demonstrating that this is the only or the best frame to interpret the events, nor that it has some rigorously demonstrable predictive force. Differently, I will try to develop an analysis which meets the following conditions of reliability and of relevance:

- 1) Being grounded in a consistent theoretical paradigm
- 2) Being internally consistent

- 3) Adhering to empirical facts as they are documented
- 4) Shedding light on some interesting contemporary processes which could otherwise be overlooked
- 5) Serving as a source of inspiration for furtherly elaborating on key philosophical, political and ethical issues

Conditions 1), 2) and 3) are about consistency, while conditions 4) and 5) are about fruitfulness. In this sense, if these five conditions are met while developing the research hypothesis, it could be possible to answer affirmatively to the research question. That is, whether it is possible to consistently and fruitfully analyse such contemporary events as struggles over the meaning of 'democracy'. PART I of the dissertation tried to elaborate a paradigm in order to meet condition 1). The present PART II tries to present an analysis which fulfills conditions 2), 3) and 4). PART III will try to satisfy condition 5).

5. The Legalist Discourse

The 'legalist' discourse is organised around the notions of the [Rule of] Law and the Constitution. Legality and constitutionality are the frame for the definition and the evaluation of political, social and ethical theory and practice, as well as their conditions of possibility. They constitute both

the boundaries and the ground of all of the other elements. The discourse contingently articulates together different and heterogeneous elements, which would be otherwise not necessarily correlated by cogent logical relations. For example, the discourse articulates together legalism-constitutionalism, proceduralism, democracy and liberalism. Throughout the process, each element is re-defined according to a specific legalist-constitutionalist conception and perspective, which is the core of this discursive practice.

5.1. 'Democracy' Within the Legalist Discourse

Among the other elements, 'democracy' is defined and intended with reference to the Constitution and the [Rule of] Law, which become its criteria, boundaries and frame. In some cases, 'democracy' is directly equated with the [Rule of] Law and the Constitution. Compliance and abidance with constitutional and legal principles is what defines the existence of democracy and grants democratic legitimacy. On the 11th of October 2017, the day after the (suspended) Catalan Unilateral Declaration for Independence, a plenary session is held in the Spanish Parliament, which becomes the arena of a heated debate. In this occasion, the then President Mariano Rajoy gives a long speech about the Catalan issue and later intervenes again a few times in reply to other Deputies. According to him, «legality» is one «of the pillars on which a democratic society is based»⁴⁹, «a basic principle of any democracy» and «a fundamental value», one of the main «principles and values that have made us great»⁵⁰. Therefore, he explicitly and plainly maintains that «what is not legal is not democratic»⁵¹ and reiterates this concept three times in two separate interventions: «I insist, what is not legal is not democratic»⁵². In his view,

⁴⁹ M. Rajoy, Presidential Appearance, Spanish Parliamentary plenary session, La Moncloa, Madrid 11/10/2017

⁵⁰ *Id.*, President's Reply, Spanish Parliamentary plenary session, La Moncloa, Madrid 11/10/2017

⁵¹ *Id.*, Presidential Appearance, Spanish Parliamentary plenary session, La Moncloa, Madrid 11/10/2017

⁵² *Id.*, President's Reply, Spanish Parliamentary plenary session, La Moncloa, Madrid 11/10/2017

not only «a democracy without rules and procedures is not viable»⁵³, but more radically and fundamentally «a democracy in which rules and procedures are ignored or violated is not a democracy»⁵⁴. In the same occasion he continuously reaffirms the centrality of the Constitution and the Rule of Law in relation to democracy, repeatedly insisting that «it is so important that we are able to defend and affirm the Rule of Law» and «to be with the constitutionalist forces, with the Rule of Law and democracy»⁵⁵.

During the same Parliamentary session, several unionist Deputies, Ministers and high State Offices, among which there are judges, jurists and diplomats, intervene stressing their commitment to the Constitution and the [Rule of] Law and associating ‘democracy’ to the respect of these principles. Soraya Sáenz de Santamaría, jurist, State Lawyer, then Vice-President of the Government and Minister, calls on to «defend together the democratic Rule of Law, the democratic Rule of Law for which so many Spaniards have worked [...] defending democracy, defending the constitutional order»⁵⁶. The diplomat and then Minister Alfonso Dastis⁵⁷, along with the jurist and then Minister Íñigo Méndez de Vigo and the judge and then Minister Juan Ignacio Zoido⁵⁸ similarly highlight ‘democracy’ and ‘the Rule of Law’ together as crucial elements to be preserved and defended. Méndez de Vigo, in particular, mentions «the Law» seven times in the course of a short intervention in which he repeatedly and earnestly claims the «necessity» to stay «within the Law»⁵⁹.

The *Partido Popular* lawyer and Deputy Rafael Hernando very

⁵³ *Id.*, Presidential Appearance, Spanish Parliamentary plenary session, La Moncloa, Madrid 11/10/2017

⁵⁴ *Ibidem*

⁵⁵ *Id.*, President’s Reply, Spanish Parliamentary plenary session, La Moncloa, Madrid 11/10/2017

⁵⁶ S. Sáenz de Santamaría Antón, PP (*Partido Popular* - ‘Popular Party’), Vice-President of the Government, Minister for the Presidency and for Territorial Administrations, Spanish Parliamentary plenary session, La Moncloa, Madrid 11/10/2017

⁵⁷ A. M. Dastis Quecedo, Independent Candidate, Minister for Foreign Affairs and Cooperation, Spanish Parliamentary plenary session, La Moncloa, Madrid 11/10/2017

⁵⁸ J. I. Zoido Álvarez, PP (*Partido Popular* - ‘Popular Party’) Minister of the Interior, Spanish Parliamentary plenary session, La Moncloa, Madrid 11/10/2017

⁵⁹ Í. Méndez de Vigo y Montojo, PP (*Partido Popular* - ‘Popular Party’), Minister for Education, Culture and Sport, Spanish Parliamentary plenary session, La Moncloa, Madrid 11/10/2017

plainly claims: «We defend respect for the Law as the basic foundation of any democratic system». As he maintains: «It is simple: without Law there is no democracy»⁶⁰. The prominent *Ciudadanos* Deputy Albert Rivera states that «Constitution and democracy must be defended» and appeals to «join hands among democrats to defend our Constitution»⁶¹. From the Socialist Party, the judge and Deputy Margarita Robles (now Minister⁶²) and the Deputy Adriana Lastra reaffirm that «for this Socialist Party that has fought for democracy [...] that recognises, assimilates and assumes the basic values of the Constitution [...] it is essential to do politics and to do it here, in this framework»⁶³ and that their party will always stand in «defence of the Rule of Law and the constitutional order»⁶⁴.

Deputies of minor parties also take the floor advocating for the respect of the Constitution and the Rule of Law. Íñigo Alli Martínez from *Union Pueblo Navarro* insists in underlining his party commitment to «the legal system» and the «Magna Carta»⁶⁵. Economist and Deputy Ana Oramas from *Coalición Canaria* claims the will of sustaining «the constitutionalist and democratic forces, always within the Rule of Law and within the framework of the Constitution»⁶⁶.

One of the most crystal-clear exemplifications of this discourse is the speech held in the evening of the 1st of October 2017, the same day of the Referendum for Independence, by Mariano Rajoy. His «Institutional Statement» as it is reported on the Government's official website, has a paradigmatic title: «Democracy has prevailed today because the

⁶⁰ R. A. Hernando Fraile, PP (*Partido Popular* - 'Popular Party'), Spanish Deputy, Spanish Parliamentary plenary session, La Moncloa, Madrid 11/10/2017

⁶¹ A. C. Rivera Díaz, Cs (*Ciudadanos* - 'Citizens' Party'), Spanish Deputy, Spanish Parliamentary plenary session, La Moncloa, Madrid 11/10/2017

⁶² María Margarita Robles Fernández is currently Minister of Defence for the left-wing Spanish Government (updated to November 2022)

⁶³ M. M. Robles Fernández, PSOE (*Partido Socialista Obrero Español* - 'Spanish Socialist Workers' Party'), Spanish Deputy, Spanish Parliamentary plenary session, La Moncloa, Madrid 11/10/2017

⁶⁴ A. Lastra Fernández, PSOE (*Partido Socialista Obrero Español* - 'Spanish Socialist Workers' Party'), Spanish Deputy, Spanish Parliamentary plenary session, La Moncloa, Madrid 11/10/2017

⁶⁵ Í. Alli Martínez, UPN (*Union Pueblo Navarro* - Navarra's People Union), Spanish Deputy, Spanish Parliamentary plenary session, La Moncloa, Madrid 11/10/2017

⁶⁶ A. M. Oramas González-Moro, CC (*Coalición Canaria* - Canary's Coalition), Spanish Deputy, Spanish Parliamentary plenary session, La Moncloa, Madrid 11/10/2017

Constitution has been complied with»⁶⁷. The primacy of the legalist-constitutionalist principle and the definition of ‘democracy’ through the association with it is plain and explicit. The aim of the speech is at the same time tightly associating democracy with legality and constitutionality, while disqualifying the sovereigntist pretense of framing democracy as popular self-determination beyond legality. A firm contraposition is outlined between the two fronts:

From the beginning of this senseless process and throughout today, we have seen how some have tried to break the Law, the margins of coexistence and the limits of public order; but what they have found is the serenity and good sense of those who know that their rights and freedoms are protected by the Law, guaranteed by the Courts and backed by the Rule of Law.

On one side, illegality and the attempt of breaking coexistence down; on the other side, the preservation of rights, freedom and coexistence within the framework of legality. In this scope, the preservation of the Constitution and the Rule of Law is essential and primal. The Catalan Referendum is mainly framed as ‘illegal’ and ‘undemocratic’ and repeatedly presented as a direct attack to the constitutional order, the Rule of Law and democracy, three elements that are continuously intertwined:

I have always believed that my main obligation as President of the Government is to comply with the Law and enforce it, to protect and guarantee democracy [...] Today all of us Spaniards have seen that our Rule of Law remains strong and valid, that it responds to those who contravene it, that it reacts to those who wish to subvert it, that it acts with all its legal resources in the face of any kind of provocation and that it does so effectively and calmly. Today we have not witnessed any kind of consultation, but a mere staging; yet another episode in a strategy against democratic coexistence and legality.

In this irresponsible political strategy [...] they have violated the most fundamental rights and have gone beyond the limits of the most elementary democratic decorum [...] they attempted to cancel the Constitution and the Statute with the stroke of a pen, while at the same time liquidating the democratic rights [...]

To pretend that the arbitrariness and abuses we have witnessed since then should pass for democratic exercises is a mockery of the very essence of democracy. We have seen

⁶⁷<https://www.lamoncloa.gob.es/presidente/actividades/Paginas/2017/011017referendum10.aspx>

behaviour and attitudes that are repugnant to any democrat and which must never be repeated [...]

The referendum was illegal, improper and impossible; but they decided to go ahead and promote a real attack on the Rule of Law and the democratic model [...] The referendum that sought to liquidate the Spanish Constitution [...] simply did not exist. It has been avoided with the basis of the Law, with the support of democrats, with the determination of the Courts and with the action of the State Security Forces and Corps [...] It would have been easier for everyone to look the other way while such a serious attack on our legality was perpetrated, but they have not done so. They have all responded, with loyalty, to their commitment to democracy and the Rule of Law.

[...] What was at stake here was the validity of our constitutional order.

[...] We have fulfilled our obligation, we have acted, as I said from the beginning, with the Law and only with the Law, and it has been demonstrated that our democratic State has the resources to defend itself against an attack as serious as the one that was attempted with this illegal referendum.

Democracy has prevailed today because the Constitution has been complied with.

According to the legalist discourse, everything that breaks or overcomes the constitutional and legal order is «illegal, improper» and even more interestingly «impossible». For this reason, Rajoy can claim that the Referendum «simply did not exist». This is a recurrent argument of the unionist-legalist front. Within a legalist frame, even though millions of people have actually participated in it, the fact that they have acted outside constitutional and legal boundaries makes their action not only illegitimate, inadmissible and undemocratic, but politically insignificant. The political space created through the constitutional and legal architecture of norms and procedures is the space within which democracy can be practiced. In this sense, this conception of democracy is procedural. Outside of the Constitutional and legal frame and of constitutional and legal procedures, there is no proper form of practicing democracy and no legitimate way of doing politics. Constitutional and legal rules and procedures are the framework which makes democracy *possible*. During the ‘Presidential Appearance’, in the scope of the 11st of October Parliamentary Debate, Rajoy is again very explicit in this regard:

A representative democracy such as the one we Spaniards enjoy is inseparable - I repeat, inseparable - from the respect for *the very framework that makes it possible*: the

framework of the Constitution and the Law [...] Democracy *cannot be exercised outside the rules that govern it*. A democracy without rules and procedures is not viable. And a democracy in which rules and procedures are ignored or violated is not a democracy⁶⁸

On the same occasion, Deputy Albert Rivera speaks in a similar fashion, but he also adds an element: according to him it is necessary to «defend the democratic laws», and «not to cheat *at the margins* of the Constitution». This is interesting because it highlights even more the fact that the governing rules and the defining limits of democratic practice are considered transcendent (and fixed) instead of being its immanent (and ongoing) product. In a sense, according to this vision, the rules which govern democracy and the limits which define it are external, prior and above the practice which is governed and delimited. Conversely, from an immanentistic and contingent perspective, the limits are part of the system and the rules are part of the practice. Within an immanentistic and contingent paradigm, ‘the margins’ of a normative system can be intended as liminal spaces of possible, although controversial, transformation. The limits of a system develop as the system changes and the rules which govern a practice evolve as the practice unfolds. The borders of a system can be a space of vagueness, ambiguity, contradiction, debate, conflict, experimentations which stimulate innovative changes in a productive way. However, from a strict legalist perspective, operating at the margins is framed as ‘cheating’. This is perhaps one of the most crucial and intriguing differences between the two clashing paradigms.

5.2 Political Ontologies of the ‘Beatific’ and the ‘Horridic’ Legalist Fantasies

Analysing the debate through the lens of Discourse Theory, it is possible to individuate two specular vital elements which sustain the legalist discourse: a beatific and a horridic fantasy. In order to proceed with this analysis, it can be useful to recall the notion of fantasy:

⁶⁸ M. Rajoy, Presidential Appearance, Spanish Parliamentary plenary session, La Moncloa, Madrid 11/10/2017

Fantasy names a narrative structure involving some reference to an idealized scenario promising an imaginary fullness or wholeness (the beatific side of fantasy) and, by implication, a disaster scenario (the horrific side of fantasy) [...] One crucial element is the obstacle preventing the realization of one's fantasmatic desire.

In this debate, on the one hand, it is possible to individuate a 'beatific fantasy', an idealised scenario which can be fulfilled abiding to the Constitution and the Rule of Law. This fantasy expresses the hope for a harmonic society based on pacific coexistence, concordance, tolerance, serenity, sanity and on the full enjoyment of (liberal) rights and freedom(s). In the delineation of this fantasy the element of peaceful coexistence is prevalent, often framed as a pluralist unity and commonality beyond differences. Society is intended as plural and diverse, but united in a common project because of the abidance to common frames, which are the Constitution and the Law «of all and for all». All of the citizens, without exception, are included within this common frame. In this sense, this is a fantasy of wholeness, whose opposites are discrimination and exclusion. Within this common frame, all of the different citizens can coexist peacefully instead of pursuing division, antagonism and conflict: all the differences are equally respected and disagreement is handled peacefully with moderation, sanity, reasonableness and tolerance, without escalating into confrontation. Conversely, antagonism, social division and social conflict express the 'horrific side' of the same fantasy.

The political ontology implied by this fantasy is akin to the one of the 'institutional logic' outlined by Ernesto Laclau (Laclau 2005). The political space is imagined as a single, shared, neutral and homogeneous space created by the shared institutional architecture of principles, norms and procedures. The political space is 'single' and 'shared' because it is only one and it is the same for everyone. It is 'neutral' because it prescind from singular interests and preferences and it is therefore impartial towards all of the citizens: they inhabit the political space and operate within it, but do not actively produce it. It is 'homogeneous' because it is an undivided whole⁶⁹. Within this space there is a prevalence of the 'differential logic'

⁶⁹ The 'homogeneity' of this political space can be better understood by contrast, if compared to the 'heterogeneous' political space of the antagonistic logic

and political subjects are conceived as a plurality of discrete and different individuals, with different interests and demands. All of the individuals, despite their singular differences, are *formally* equal: they are equally part of the same political space and frame, they are equally subjected to the same rules and procedures, and they are equally able to pursue institutional channels in order for their different interests and demands to be met.

Through the implementation of these channels, defined by constitutionally and legally valid procedures, subjects participate to politics individually, while institutions answer individually to the different interests and demands which are presented. Within this paradigm, the constitutional and legal frame allows all of the different individuals to coexist as free and equal citizens. In this sense, this logic is pluralistic, while at the same time intending the institutional frame as comprehending the totality of the citizens. All of the citizens, and not just the majority of them⁷⁰, are included within this institutional frame. The political body is an ensemble, composed by the aggregate of each single individual of the citizenry, no one excluded. This is the reason why it is possible to define this political space as 'homogeneous': the political space has neither an exteriority nor an internal division, but it is a whole which includes the continuum of all the discrete elements aggregated. These elements are formally equal individuals, and the institution interacts with them individually, in a formally equal way. Therefore, even though the single individuals are different and heterogeneous among them, the political space they inhabit is homogeneous. Different political subjects are all harmonically included, juxtaposed and aggregated. They take up the same space, they formally have equal weight and equal value within the institutional framework. Thanks to this homogeneity and to this formal equality, granted by the shared institutional frame, each individual can maintain their specificity and diversity, while at the same time coexisting with the others. Plurality and pacific coexistence are two of the main pillars of this conception and they are strictly interlaced.

⁷⁰ It could be even possible to argue that, given its individualistic-based ontology, this logic can be intended as anti-majoritarian. However, this aspect is controversial, especially within frameworks which are deemed as 'democratic'

These insights can help illuminating the beatific fantasy of the legalist discourse as it emerges throughout this debate. On the other hand, the counterposed ‘horrific fantasy’, which often graphically appears in the same debate, can cast light on the ‘beatific’ side by contrast. This «disaster scenario» is the disgrace produced when the Constitution and the Law are infringed: the threat of disunity and confrontation, which can escalate into hatred, chaos, conflict, violence and even civil war, and result in systematic violations of (liberal) rights and freedom(s). Economic prosperity and wealth are similarly correlated with the respect of constitutional and legal principles, while illegality and unconstitutionality are associated with social and economic deterioration and crisis.

As above, it is possible to say that the underlying political ontology which characterises this fantasy is similar to the one of Laclau’s ‘antagonistic logic’. In this case, the political space is imagined as ‘heterogeneous’, which means that it is fractured and divided into different blocks. The political space is crossed by a line which counterposes conflictive fronts, conceived as external relatively to each other. Within this space, political subjects are no longer distinct and discrete individuals, but collective subjects formed through the antagonistic positioning. The unity for a common cause and against a common enemy is what primarily constitutes these collective political subjects, in a performative way. The political space itself is performatively produced as a space of political struggle through this confrontation. In Laclau’s account, this logic prevails when the institutional logic fails in receiving and meeting individual demands. When this happens, the social sectors which consequently feel frustrated, deceived and betrayed, experience the falsehood of the institutional promise of an ‘inclusive’ ‘wholeness’ which comprises ‘everyone’. As they do not manage to be included in the institutional logic, they experience that the ‘totality’ the institutions claim to represent and comprehend is broken. Therefore, they unite their demands through chains of equivalence and constitute an antagonistic front.

This front is a specific part of society which claims to be society (or ‘the citizenry’, ‘the people’, ‘the nation’ etc.) as a whole, and it does so by excluding their ‘enemies’ from society itself. In this sense, this process is

explicitly confrontational, exclusionary and allegedly majoritarian. The ‘totality’ expressed through this logic is a synecdochical totality (*pars pro toto*) which is produced through an exclusion, not a (virtual) totality which encompasses all of the aggregated elements of the ensemble. This totality is internally homogeneous because of the shared antagonistic positioning and because of the equalisation of the different demands within it. Even though this logic is not strictly monistic⁷¹, it is nonetheless true that the prevailing logic displayed is ‘equivalential’ and that this ontology relies on collective and not on individual political subjects.

While Laclau is openly sympathetic with the antagonistic logic, within the legalist discourse this conflictual process is instead framed as a deliberate and malicious attempt of breaking coexistence down and of harassing disagreeing groups. Interestingly, Rajoy highlights exactly this logic in the course of his Presidential Appearance. Speaking of the sovereigntists he says that «to impose their project they need to whip up some Catalans against others, harass the dissenting and impose a uniformity that does not exist». In this concise but effective sentence, the then President highlights all of the elements of the antagonistic logic: the conflictual («whip up some Catalans against others»), the exclusionary («harass the dissenting») and the equivalential («impose a uniformity that

⁷¹ The antagonistic logic, at least as it is presented by Ernesto Laclau and Chantal Mouffe, is not strictly monistic. In fact, the separation between different individuals and different demands persists even when they become part of a collective subject and of an equivalential chain. This is true for two main reasons. First, within an antagonistic discourse, different demands are not posed as ‘equal’ or ‘identical’ but as ‘equivalent’. Equivalence is not identity: it means that different elements have the same value, not that they are the same. In this respect, Laclau refers to the marxist theory of value: through the intermediation of money, different objects can be said to have the same economic value. The same applies to political discourses: through the intermediation of a ‘nodal point’ or of an ‘empty signifier’, different elements can be said to have the same political value. These are both processes of abstraction of particular and specific elements, through the intermediation of another universalised element. In Laclau’s theory, it is important that the elements maintain their specificity and particularity to some extent. A discourse is a practice of articulating different heterogeneous elements together in order to produce meaning. If the articulated elements are identical, there is no discourse and no production of meaning, but just an enunciation of a identity principle ($A=A$). Secondly, in Laclau and Mouffe’s account, contingency and precarity are crucial. No discursive articulation is closed and fixed and no collective subject is permanent. The ‘universal’ and ‘general’ empty signifier which gathers the specificities together is itself contingent and precarious, and the discourse is an ongoing practice within which particularity and universality dialogue. The single particular elements always maintain a grade of specificity and of mobility and can continuously interact, change, disgregate and be-rearticulated in different ways.

does not exist»). The same day, in another passage, he claims: «when the law is violated [...] there is division among the people, harassment of honest citizens who have done nothing wrong but thinking differently from the harassers». Here, he is repropounding the same themes of conflict («division among the people»), exclusion («harassment of [...] citizens») and equivalentiality (impossibility of «thinking differently») as a direct consequence of the legal framework being infringed. Of course, his description is tendentious and he absolutises and deforms the sovereigntist positions and actions (and the antagonistic logic itself) to some extent. However, his considerations are somehow on point: this actually is a way of which an antagonistic logic can be deployed.

Throughout the debate about the Catalan conflict, the reference to diversity and plurality is recurrent, and it is always associated to the possibility of coexistence in the mark of a constitutional and legal democracy. In the legalist narrative, the juncture of the democratic Transition (1975-79), sanctioned by the 1978 Constitution and the establishment of a renewed Rule of Law, is crucial. Within this discourse, the Transition is both a theoretical and a practical example of the possibility of maintaining plurality while implementing pacific coexistence. This happens through the intertwining of democratic, constitutional and legal principles. This Transition, pivoted around the Constitution and the Rule of Law, overcomes a precedent era marked by armed conflict between different political positionings (the 1936-39 civil war) and by the violent repression of political dissidents (the 1939-75 dictatorship). Within this narration, the frantic 1936-75 period in Spain serves as both the paradigm and the spectre of an ever-present ‘horrible fantasy’ of social fracture, violence and injustice.

At the same time, the Constitution and the Rule of Law of the ‘democratic Transition’ carry the hope-filled promise of a peaceful society which is the basis of a beatific fantasy. From a wider perspective, this discourse is inscribed not only in the domestic Spanish context, but in the (Western) European one. In the last decades, the European States, populations and community have been recovering from two World Wars, several internal civil wars, numerous authoritarian regimes and the so-

called ‘Cold War’. It is difficult to separate contemporary discourses about ‘democracy’, constitutionality and legality from this historic context. In fact, the shadows of these threats are almost ever-present in most democratic, liberal, proceduralist, constitutionalist and legalist discourses in contemporary Western Europe. The debate analysed here makes no exception.

Between his official declarations on the 1st and on the 11th of October, the then President Rajoy gives an interview to *El País*, one of the main Spanish newspapers. The author of the newspaper’s article dramatically defines the juncture as «one of the most serious situations in the history of Spanish democracy» and «the period of greatest upheaval, at a time when Spain suffered the greatest social conflict in a long time». Throughout the conversation, many of the key points of the legalist discourse explicitly emerge in Rajoy’s direct words. In a particularly interesting passage he states:

This is the battle of Europe. [...] What this great European project was about was overcoming a situation that had led to two World Wars on our continent. It was about no more wars, it was about creating an area with principles and values such as democracy, freedom, the Rule of Law and respect for the Law. An area of economic and social progress.

In a sense, Rajoy is right. This passage is illuminating because it highlights the origin of contemporary hegemonic conceptions of ‘democracy’, which is precisely the post WWII (Western) European context. The horrors of the World Wars, of civil wars and of authoritarian regimes, the renewed hegemony of liberal democracies combined with the Cold War perception of political precarity, were fertile ground for the rearticulation of political discourses. In particular, the notion of ‘democracy’ was articulated together with principles such as proceduralism, the prevalence of the Constitution and the Rule of Law and the preservation of liberal values (*i.e.* individual rights and freedoms, pluralism, tolerance).

This specific and contingent conception of democracy is produced through a discursive articulation which combines heterogeneous elements: democracy, proceduralism, legalism and constitutionalism,

liberalism. The articulation of these heterogeneous democratic, liberal, proceduralist, legalist-constitutionalist elements can be found in all of the main speeches quoted here, but, very interestingly, also in the speeches held by Euro-Parliamentaries at the EU Parliament addressing the Catalan issue in the same days in a debate named '*Constitution, rule of law and fundamental rights in Spain in the light of the events in Catalonia*'. In this instance, many Euro-Deputies of different Countries express concern about the events occurring in Catalonia, articulating together democracy, respect for the Constitution and the Law and the protection of basic rights and freedoms. The first intervention in the EU Parliament, made by the Dutch Frans Timmermans, First Vice-President of the Commission, starts recalling WWII:

In Europe, after the Second World War, then after the end of dictatorships in Spain, Portugal and Greece, and again after the fall of the Berlin Wall, we have shaped our democratic societies on the basis of three principles: democracy, respect for the Rule of Law, and human rights. The three need each other. They cannot exclude each other. You cannot use one against the other. If you remove one pillar, then the others will fall too⁷².

The same line of argumentation is then followed by the majority of Euro-Deputies which take the floor. This comes as no surprise, since, for the historical reasons addressed in the present paragraph, this articulation is widely hegemonic in contemporary Western Europe. In fact, the same discursive articulation of these heterogeneous elements is present in all the official documents and reports about 'democracy' redacted by the EU⁷³

⁷² '*Constitution, rule of law and fundamental rights in Spain in the light of the events in Catalonia*', Verbatim Report of Proceedings, 4 October 2017, Strasbourg, European Parliament

⁷³ European Union – Aims and Values - https://european-union.europa.eu/principles-countries-history/principles-and-values/aims-and-values_en

and the UN political institutions and agencies⁷⁴⁷⁵⁷⁶⁷⁷ and other main international organisations⁷⁸.

This discursive articulation is certainly plausible, and some of the correlations between the different elements have some consistent theoretical and/or empirical ground. For instance, Constitution and the Rule of Law can be considered as the ground to implement legitimate procedures, which serve both to safeguard and to exercise individual rights and freedoms, as well as popular participation to politics. However, the overall discourse which embraces and interrelates all of these elements is far from being strictly logically cogent and necessary. It is one specific discursive articulation among other possible discursive articulations. These elements are and remain heterogeneous, sometimes even in friction or contradiction between them. Ultimately, it is at least possible to say that their correlations are highly contested and controversial. Nonetheless, they are actually correlated within all-encompassing discourses which articulate them and draw their connection in plausible and meaningful ways. This is what effective discursive practices do according to a Discourse Theory paradigm.

Depending on the circumstances, different discourses can be produced and different elements can fulfill the role of a nodal point. In some cases, the nodal points can be the liberal values, while in other cases it can be the democratic principle of popular sovereignty. In the contingent scope of this debate, these heterogeneous elements are articulated together through the nodal points of the Constitution and the Rule of Law. The speech Rajoy gives during his Presidential Appearance in the Parliament on the 11th of October is a textbook example of this operation:

⁷⁴ United Nations Definition of ‘Democracy’ - <https://www.un.org/en/global-issues/democracy>

⁷⁵ Office of the United Nations High Commissioner for Human Rights - Definition of ‘Democracy’ - <https://www2.ohchr.org/english>

⁷⁶ Office of the United Nations High Commissioner for Human Rights – Considerations about the issue of Democracy - <https://www2.ohchr.org/english/issues/democracy/index.htm>

⁷⁸ Council of Europe - Definition of ‘Democracy’ – <https://www.coe.int/en/web/compass/democracy>

What we have seen these days on the streets of Catalonia (the disorder, the division between Catalans and, finally, the flight of companies) are nothing more than the dramatic consequences of the violation of the Law. It is the Law that allows us to live in a civilised manner, that protects the rights of all, that defends the weak and that delimits the channels of harmonious coexistence. When the Law fails, arbitrariness triumphs, abuse and injustice gain ground, rights are trampled underfoot and harmony disappears.

We are free when we all submit to the Law and we lose that freedom when the Law ceases to protect us. That is why what is not legal is not democratic.

In a subsequent paragraphs he states:

Either the Law is the axis of gravity of coexistence, or any society becomes atomised in a myriad of conflicts.

When the Law - the democratic Law - is broken, society as a whole suffers and paves the way for generalised unreason and chaos. Fear, insecurity and anxiety arise, coexistence breaks down and well-being is liquidated. [...]

These serious consequences will be followed by worse ones as long as order, legal certainty and the Rule of Law are not restored in Catalonia. It is therefore urgent, ladies and gentlemen, to return to legality as soon as possible. We must do so as soon as possible and prevent further social tension and economic deterioration.

In the last paragraph, Rajoy invokes an «inclusive, friendly and serene Spain» and concludes the speech with words which again recall the issues of division, concordance and the necessity for moderate and sensible behaviour. Coexistence is the «ultimate aim»: the talk ends stating that «it is time to put an end to this cleavage, and to do so calmly, prudently and with the ultimate aim of restoring coexistence». Throughout the whole talk, democracy is directly equated with the respect for legality and constitutionality, which, in turn, are directly and continuously associated to the guarantee for rights, freedoms, pacific coexistence and also economic stability. The basic liberal principles of (individual) «rights and freedoms» hold a special place in this fantasy. The insistence on coexistence, tolerance, reasonableness and pluralism⁷⁹ are also akin to the liberal tradition.

⁷⁹ Further examples of the role of ‘reasonableness’ within the legalist discourse and

Through the articulation of all of these elements under the aegis of the Constitution and the Rule of Law, a friendly world of harmony, serenity, prosperity and concordance between fellow citizens is promised. In parallel, illegality and unconstitutionality are repeatedly associated with division, violations of rights and freedoms, conflict, violence and also economic crisis (which is first hinted at with reference to the «flight of companies» from the Region and then more explicitly mentioned as «economic deterioration»). A disordered and threatening world of unreason, turmoil and injustice is produced when the constitutional and legal order is broken. The mirror beatific and horrific fantasies of harmony and chaos, peace and violence, are both clearly manifest, and they directly stem from the abidance or from the infringement of the Law. These fantasies are both vividly and energetically depicted, but the negative one, in particular, is described with a profusion of hellish images.

«Either the Law is the axis of gravity of coexistence, or any society becomes atomised in a myriad of conflicts»: Rajoy is, probably on purpose, proposing a version of the Hobbesian '*homo homini lupus*' adage. According to this view it is the abidance to the Rule of Law that «allows us to live in a civilised manner, that protects the rights of all, that defends the weak». When the Rule of Law is violated «arbitrariness triumphs, abuse and injustice gain ground, rights are trampled underfoot and harmony disappears». A society without the Law is a society of «unreason and chaos» within which «coexistence breaks down and well-being is liquidated».

Rajoy proposes an almost identical line of argumentation, although with different insights, a few days later. In the course of the 11th of October Parliamentary Debate, after the interventions of both unionist and sovereigntist Deputies, Rajoy gives a second speech, replying to some of the other politicians. Here, he mainly addresses Pablo Iglesias, the leader of the *Podemos* leftist-populist party. In this occasion, he proposes again the same legalist discourse, grounded on the same conceptions: «in defence of legality, of the Constitution, of the Rule of Law, of the existence

further considerations about these notions will be developed in subsequent paradigms of the present section

of a stable framework and of the vindication of the 1978 Constitution» which grants «freedom, democracy and human rights»:

Under the 1978 Constitution we lived through the best period in the history of Spain, but in terms of everything: freedom, democracy, human rights [...]

Mr Iglesias and other representatives of your parliamentary group [*Podemos*]. You have said that there is a problem here that is not a ‘public order’ or ‘legal’ problem, that it is a ‘political’ problem. I can agree, but allow me to make a few comments on the Law. The Law is the rules of coexistence that we all have, without the Law we would be in the jungle. The Law guarantees our rights, those of the strong and those of the weak. If we suppress the Law, if we go beyond it, we will be in the Law of the strongest. The Law guarantees the security of citizens, the Law provides stability; we are all subject to the Rule of Law [...] That is why I say - you did not like it, but I reaffirm it here - that without Law there is no democracy; there is no democracy, Mr. Iglesias [...]

[with the 1978 Constitution] certain rules of the game and certain rules of coexistence were agreed upon and they should not be broken.

In this second speech, Rajoy repropose the Hobbesian leitmotif and the classical contractualist theme of the Rule of Law as a protection from the «Law of the strongest» and as a pathway from exiting the dangerous «jungle» of the ‘state of nature’. The legal framework protects «the weak», «guarantees the security of citizens» and «provides stability». It is specifically for this reason that constitutional and legal principles are paired with the preservations of rights, freedom, equality and therefore democracy. This is the foundation of the paradigm which allows the then President to adamantly repeat that «without Law there is no democracy». Interestingly, through this reasoning, he tries to overturn one of the main arguments of his opponents. Sovereignists use to reproach unionists because they frame the Catalan conflict only as a ‘legal’ issue, instead than as a ‘political’ one, acknowledging only the ‘illegality’ of the independentist actions and claims while ignoring their political significance. This is one of the workhorses of the sovereignist front in the scope of the debate, and in this speech Rajoy refers precisely to this point: «you have said that there is a problem here that is not a ‘public order’ or ‘legal’ problem, that it is a ‘political’ problem. I can agree, but allow me to make a few comments on the Law». He then proceeds reasserting his

conception of the Law as a social and political foundation: «The Law is the rules of coexistence [...] without the Law we would be in the jungle. The Law guarantees our rights [...] The Law guarantees the security of citizens, the Law provides stability».

The point Rajoy is making is that the Rule of Law is a foundational element. Therefore, insisting on legality is not a formality, a peripheral argument or something that can be overlooked. ‘Political’ significance is not something which can have a priority over legality. On the contrary, legality is the premise, the ground and the condition of possibility for legitimate politics. This is a clear exemplification of a legalist discourse: the Rule of Law is not an element among the others, but a crucial nodal point which provides meaning and justification for the other elements. From this perspective, the sovereigntist critique is invalid. In this sense, the legalist and the popular arguments are external relatively to each other.

5.2. ‘Beatific’ and ‘Horridic’ Fantasies in the Debate

These ‘beatific’ and ‘horridic’ fantasies recur continually and powerfully in the unionist speeches and seem to represent the horizon and the root of their concerns. Within this discourse, abidance to the Constitution and the Law leads to democracy, pacific coexistence and prosperity, while the infringement of the constitutional and legal order is directly and immediately related with undemocraticity, dramatic social division and with the rupture of coexistence. Rajoy’s Statement on the 1st of October repeatedly insists on this topic. In the first paragraph of the speech, he claims to be committed, as President, «to protect coexistence and seek harmony». On the same note, the last words of the talk invoke the values of «freedoms, justice, progress and democratic coexistence». Throughout the Statement, this theme recurs both positively and negatively, in an almost elementary way. Sovereigntists are accused of promoting, in parallel, «the violation of legality and the breakdown of coexistence», or of operating «against democratic coexistence and legality». On the other hand, unionists are said to «place themselves on the side of democracy and in favour of coexistence». Rajoy’s description of

sovereignists' actions is at the same time a vivid depiction of the horrific fantasy of social conflict, characterised by division, hostility among citizens and public disorder:

[The Referendum is] a process that has only served to sow division, pit citizens against each other, inflame the streets and provoke undesirable situations [...] It has only served to cause serious damage to coexistence; coexistence, a good that we must begin to recover as soon as possible.

On the contrary, for their part, unionists claim to seek coexistence, peace, well-being and progress, always underlying the element of legality:

From this respect for peaceful and legal coexistence, together we have built and will continue to build a nation that has been able to build a full democracy and a common desire for well-being and progress. Throughout our long shared history, we Spaniards have been able to overcome the most painful differences and also the most seemingly insurmountable difficulties.

Two days later, on the 3rd of October, King Felipe VI's gives a speech which is pivoted around the same theme. This talk is relevant because it is the only official speech held by the King regarding the 1-O Referendum, and one of the very few 'Extraordinary Messages' given by a Spanish Monarch since the democratic Transition. For this reason, all of the speeches of the following days somehow take this one into account:

We are living through very serious times for our democratic life [...] We have all been witnesses of the events that have been taking place in Catalonia, with the Generalitat's [Catalan Parliament's] final attempt to proclaim - illegally - the independence of Catalonia. For some time now, certain authorities in Catalonia have been repeatedly, consciously and deliberately breached the Constitution [...] Through their decisions, they have systematically violated the legally and legitimately approved norms, demonstrating an inadmissible disloyalty towards the powers of the State [...]

They have violated the democratic principles of the Rule of Law and have undermined harmony and coexistence in Catalan society itself, to the point of - unfortunately - dividing it. Today Catalan society is fractured and confrontational.

These authorities have disregarded the affection and the feelings of solidarity that have united and will unite Spaniards as a whole; and with their irresponsible conduct they may

even put at risk the economic and social stability of Catalonia and all of Spain [...] These authorities, in a clear and categorical manner, have placed themselves totally outside the Law and democracy.

The King proceeds affirming that «without this respect [for the Law] there is no democratic coexistence in peace and freedom, neither in Catalonia, nor in the rest of Spain, nor anywhere else in the world». Within this discourse, being outside of the Law, being outside of democracy and breaking coexistence among citizens are inextricably intertwined. Conversely, «within constitutional and democratic Spain there is space for harmony and getting together with all [the] fellow citizens». He states that he will fully support «the absolute guarantee of our Rule of Law in the defence of [...] freedom and [...] rights» and that Spanish «democratic principles are strong [and] solid [...] because they are based on the desire of millions and millions of Spaniards to live together in peace and freedom». In conclusion, he renews «once again the Crown's firm commitment to the Constitution and to democracy, my dedication to the understanding and the harmony among Spaniards».

Peace, unity, harmony, understanding, concordance, coexistence, rights and freedom(s), social and economic stability are continuously centered and strictly associated with the Constitution and the Rule of Law and with a legalist-constitutionalist conception of democracy. Conversely, division, confrontation, social fracture, rights' and freedoms' violations and economic instability are repeatedly evoked as major perils and associated with illegality and unconstitutionality, which are at the same time deemed as undemocratic. These are specular examples of equivalential chains, based on the legalist-constitutionalist nodal point and upon the outlined fantasies: on the one hand, legality and constitutionality = democracy = coexistence and concordance = harmony and peace = rights and freedom(s) = justice = social and economic stability. On the other hand, illegality and unconstitutionality = undemocraticity = disunity and confrontation = violations of rights and freedom(s) = injustice = chaos, conflict and violence = social and economic crisis. This line of reasoning constitutes the backbone of the legalist discourse and it very clearly recurs in almost all of the unionist contributions.

During the course of the Parliamentary debate several other prominent politicians speak similarly to Rajoy and to Felipe VI. Each in their own way, they all offer examples of this discursive articulation: the preminence of the legalist nodal point, the relevance of liberal values and principles, the fantasy of harmonic coexistence as opposed to division and violent conflict, the equivalential chains which bring together heterogeneous political, social, ethical and economic elements. The then Vice-President and Minister Soraya Sáenz de Santamaría (PP) claims that «[the Catalan Government] has divided Catalan society [...] it has generated economic anxiety and also a breakdown in social cohesion». The then Minister Juan Ignacio Zoido (PP) describes the 1-O Referendum as a «threat to democracy, the Rule of Law and the freedoms of each and every citizen in Catalonia» which «put[s] at risk the coexistence of the rights and freedoms». Left-wing Deputy Adriana Lastra (PSOE), member of a Socialist party which at the time is minoritarian, in this exceptional circumstance affirms to support the right-wing Government she generally opposes. She does so against «social fracture», in «defence of the Rule of Law and the constitutional order» and in the name of coexistence:

It seems that ungovernability has also reached Catalonia. Nobody has any doubts, and nobody can have any doubts, about the position of the Socialist Party in this situation: the defence of the Rule of Law and the constitutional order as the guarantors of social and political cohesion of our Country [...] The dialogue has to take place in the institutions [...] and always bearing in mind that the priority of any decision taken must be to maintain, conserve and preserve the coexistence of a plural and diverse people who do not deserve this suffering and this social fracture. For this reason, we reiterate our support for the national Government, for the Rule of Law.

From the same party, the then Deputy (and now Minister) Maria Robles Fernandez gives a speech which highlights and interrelates the same key elements: democracy, respect for the Constitution and the Rule of Law, pacific coexistence, rights and freedoms. In her words, the notion of ‘framework’ (often with an emphasis on its ‘stability’) recurs insistently: the Constitution and the Rule of Law are presented as the indispensable ‘stable framework’ for democracy and for coexistence.

And because we have and have always had a sense of the State [...] that is how we will continue to behave: as a State party in defence of legality and the Constitution. And do you know why? Because the Spanish Constitution of 1978 was the result of the efforts of many people; of those generous people who made the Transition in our country, who put aside many differences to build a stable framework, a stable framework for coexistence, a stable framework [...]. We socialists defend this constitutional framework because during the Transition [...] many socialist men and women even paid the price of their freedom to achieve this State of coexistence that we have today [...] We say this because we firmly believe in the values of the Constitution and the Rule of Law. [...] I would also like to say that for this Socialist Party that has fought for democracy [...] that recognises, assimilates and assumes the basic values of the Constitution of freedom, equality, justice and political pluralism, it is essential to make policy and to do it here, in this framework [...] The Socialists [...] have always been with the Rule of Law, with the Constitution, with rights, with freedoms, with the citizens of this country [...] We want [...] scenarios for dialogue, but we want them here, in this Parliamentary seat, with respect for the Constitution and the framework of coexistence resulting from that Transition of which we are so proud [...] There, with dialogue, with the Rule of Law, with the basic principles of coexistence and tolerance, the Socialist Party, with its history, makes an appeal to the citizens of this Country to have hope, so that we can all work together for a peaceful and democratic future, and this is possible. There, in that defence, in that constitutional framework, you will always find us of the Socialist Party.

Robles Fernandez stresses the position of her party within the legacy of the 'Transition' (1975-79), the process which led Spain to democracy after three years of civil war and almost forty years of Francoism. This Transition is the juncture which has constituted the contemporary Spanish democratic order within which the Constitution and the Rule of Law have a foundational role. Constitutional and legal principles are the framework which makes a democratic society possible, which produce the conditions for pacific coexistence and which safeguard the basic values of society. The socialist Deputy refers to the more general values of «freedom, equality, justice» along with more liberally connotated mentions of «rights and freedoms», «political pluralism» and «tolerance». But it is the theme of «coexistence» which recurs insistently, representing one of the main axes of argumentation: the word is repeated four times in a brief speech.

The speech is also projected towards a hopeful future, whose pivotal point are again the Constitution and the Rule of Law and which resembles a beatific fantasy to some extent: abiding to the constitutional and legal principles it will be possible to achieve a «democratic future» of hope, peace, coexistence and tolerance. The horrific side of fantasy is not explicitly mentioned, but the recurring reference to democratic Transition (and to the price paid to achieve it) can reveal its opposite in backlight: division, confrontation and violence which can arrive to the extremes of civil war and dictatorship. Robles Fernandez provides a fine example of legalist discourse: the Constitution and the Rule of Law are the cornerstones of democracy, the guarantee of fundamental values and the pathway to a harmonic society. Legalist, constitutionalist, democratic and liberal values are all articulated together starting from these nodal points and sustained by the promise of a hope-filled future.

5.3. The Threat of Civil War

Some contributions add an even more emotional and dramatic nuance to the debate and to the issue of pacific coexistence. They stress the topic of social conflict and division to the extreme of assimilating it, more or less explicitly, with the threat of violence, of armed conflict and even of civil war. For instance, Catalan Deputy Albert Rivera (Cs) openly pairs the 1-O Referendum with a failed military coup d'état actually occurred in Spain in 1981 (23F). He then gives an earnest speech centered around the issue of social division and conflict as counterposed to pacific coexistence:

They wanted to strike a blow to Spanish democracy; a blow to Spanish democracy [...] and we have to treat it as such. That is why today we cannot lose sight of the fact that we are facing the greatest challenge this country has faced since 23F⁸⁰ in this House, the worst challenge of all, which is to fight against division, to fight against confrontation and - let us be clear about this - to fight against an ideology that seeks to divide Spaniards

⁸⁰ 23F is an expression used in Spain referring to a failed military coup d'état, attempted on the 23rd of February 1981. This event occurred only six years after the beginning of the democratic Transition after the Francoist authoritarian regime (1975) and only three years after the implementation of the new democratic Constitution (1978).

[...] We can minimise this issue and simplify things, but I, as a Catalan, refuse to simplify what today is already a problem of coexistence, today it is already an economic problem, today it is a problem between neighbours, between colleagues, between family members; and those who are denying it and those who denied it are lying [...]

Ladies and gentlemen, when we entered this Chamber we swore an oath to the Spanish Constitution; I swore an oath to the Spanish Constitution to defend the Spanish Constitution, to defend the freedoms of all Spaniards, not to cheat at the margins of the Constitution [...] I am pleased that the Government has finally come to its senses and taken a decision, which is to defend the Spanish Constitution from the Spanish Constitution. No democratic country can renounce to defend democratic laws [...].

We are not only gambling with the economy and stability, we are gambling with coexistence among Catalans, we are gambling with not being enemies among ourselves, we are gambling with maintaining that which is intangible, coexisting in freedom [...]

They have divided families, groups of friends, neighbours. They are dividing us, and I don't want to go through this again.

Conflict within society is presented dramatically as a divisive and disruptive force which «strikes a blow to democracy» and leads «neighbours, colleagues and family members» to become «enemies» between them. «They are dividing us, and I don't want to go through this again»: this is a not so subtle hint to civil war, which Spain has actually suffered less than a Century ago and which has been followed by almost forty years of dictatorship. Again, Constitution and the Rule of Law are repeatedly presented as the pivotal elements of democracy and as the major guarantees for pacific coexistence, considered the supreme value to be preserved.

Right-wing Deputy Rafael Hernando Fraile (PP) speaks similarly, also comparing the 1-O Referendum to the 1981 failed military coup d'état (23F), describing it as an assault on democracy and on coexistence:

Spain is facing one of the greatest political challenges in its recent history. Not since the failed coup d'état of 23F have we experienced a coup d'état to democracy such as the one that is now being attempted to break our unity and coexistence.

He gives a long speech which repeatedly highlights the centrality of the Constitution and the Rule of Law in order to ensure democracy, freedom, stability and growth. Constitutional and legal principles are what govern a

democratic State, while illegality and unconstitutionality directly lead to social division:

The representatives of the Generalitat of Catalonia intend to liquidate by blackmailing [...] the Constitution of all and for all, which has given us the best forty years of our history in terms of freedom, democracy, stability and growth.

It must be said loud and clear: here the only people responsible for the sad days we are living [...] are the coup plotters who are attacking the unity of the nation and dividing and deceiving Catalan society. They will answer to history and they will also answer to justice, because that is what happens in a democratic state governed by the Rule of Law.

The 'division' he is addressing is obviously also the separation of Catalonia from the rest of Spain and therefore the liquidation of Spanish unity. The threat to the 'Spanish project' as a whole is of course an issue of major concern for all of the unionist politicians. However, the preeminent emphasis is put on the division within Catalan society, which is again dramatically depicted with tones reminiscent of a severe social fracture. The recurrent theme of hatred spread «between friends, siblings and entire families», of social rupture and confrontation is pivotal also in this speech. In contrast, the Rule of Law is associated both with democracy and with the values of freedom, coexistence, tolerance, harmony, pluralism, peace and sanity, all of which can be traced back, broadly speaking, to a classical liberal conception of politics. The ensemble of these terms outlines a beatific fantasy of tranquillity and unity, as opposed to the horrific fantasy of «rupture, confrontation or exclusion»:

The secessionist machinery [...] is breaking relations in Catalonia between friends, siblings and entire families [...] We are together in the struggle for freedom and democracy [...] in favour of the unity of Spain, of tolerance, of coexistence, of harmony, of the Rule of Law and of recovering sanity in Catalonia [...] a diverse, united, plural and peaceful Catalonia [...] the Catalonia that is committed to coexistence and integration and not to rupture, confrontation or exclusion [...]

Continuing his speech, Hernando Fraile is even more explicit in highlighting the primacy of the legal principle and in pinpointing the direct

interrelation between the Rule of Law, democracy and the basic (liberal) rights and freedoms of the citizens:

The Government of Spain has been ensuring compliance with the Rule of Law [...] Our Rule of Law must be upheld and the rights of citizens must be protected so that we can all remain free and equal. We defend respect for the Law as the basic foundation of any democratic system. It is simple: without Law there is no democracy and without democracy our freedom would not be guaranteed and that is precisely what differentiates civilisation from barbarism, the Rule of Law and the separation of powers.

The legalist discourse is expressed here simply and plainly: «without law there is no democracy and without democracy our freedom would not be guaranteed». This is one of the several explicit attempts of fixing the signifier ‘democracy’ integrating it within the domain of the legalist discourse. As Rajoy before him, Hernando Fraile affirms the classical contractualist conception according to which the Rule of Law «differentiates civilisation from barbarism». The PP Deputy then proceeds sanctioning his continuity with the King’s speech and, more generally, with the political efforts of the constitutionalist forces:

Today I would like to thank the Head of State, King Felipe VI, for his message of commitment to the Constitution, to democracy and to the unity and permanence of Spain [...] appealing to the democratic coexistence achieved in Spain, which is only possible if the laws are heeded by the citizens and by the institutions [...] And the unity of democrats today constitutes the weakness of the pro-independence supporters [...] That is why it is time to be united in defence of our Constitution. For this reason, I would also like to thank the constitutionalist forces for defending the Rule of Law

This is an explicit reference to a political legalist and constitutionalist front whose discourse is pivoted around the notions of the Rule of Law and the Constitution, in the name of democracy and coexistence. This front self-appoints as ‘democratic’ against ‘undemocraticity’: they represent «the unity of democrats». In conclusion, Hernando Fraile insists in reiterating the centrality of the Constitution one more time. Then, he mentions again the (liberal) values of pluralism and tolerance, and delineates a positive

fantasy of constructive coexistence, as opposed to the social and economic crisis caused by destructive and divisive attitudes:

We are renowned for our solidarity, we have one of the most plural, diverse and tolerant societies in Europe. For all these reasons, let us defend the Spain of the Constitution, one of the most modern in the world [...] [The] Popular Group will always defend these principles and values with the aim of overcoming this economic crisis and this social crisis [...] a Catalonia convinced that the future consists in creating and not in erasing, in building and not in destroying, in adding and not in subtracting.

On a similar note, but even more graphically and poetically, Canarian Deputy Ana Oramas (CC) insists on the topic of social confrontation and division, and invokes the Rule of Law and the Constitution as solutions:

The other day I saw an image from [the town of] Sant Boi⁸¹ with five hundred residents on one side of a small street, five hundred on the other and the *Mossos d'Esquadra*⁸² in the middle. Suddenly, you get goose bumps and say 'How far have we come?'. Forty years of coexistence have collapsed and today is not the day to debate why we got here, but [to say] that we are here. And because we are here, Canary's Coalition and the Canarian nationalists are going to be with the constitutionalist and democratic forces, always within the Rule of Law and within the framework of the Constitution. But we have hatred, as they said, among families and friends [...] In the end it is becoming a sentiment and passions and hatreds are being stirred up, and this cannot happen [...] I will stick with what the President said this morning: we have to restore the Rule of Law but we have to recover coexistence.

As Rajoy, Rivera and Hernando Fraile, she mentions «hatred among families and friends» and the «collapse of coexistence» as the ultimate unacceptable tragedy. The mention of «forty years of coexistence» refers to the forty years of democracy, implemented in Spain since 1975 after the civil war and the Francoist authoritarian regime. The Constitution and the Rule of Law are pinpointed as the main elements of this process. 'Coexistence' and social peace are implicitly equated with democracy,

⁸¹ Catalan town with less than 100 thousand inhabitants

⁸² Autonomous Catalan Police Force

while at the same time democracy is equated with legality and constitutionality. The undercurrent shadows of the civil war and of dictatorships persist as a sinister horrific fantasy which informs the whole discourse. Oramas then concludes her heartfelt speech with a direct quotation of a Canarian song, reaffirming the centrality and the interrelation of concordance, harmony and constitutional principles:

There is a Canarian singer called Braulio who has a wonderful song entitled *Canto a Canarias* (Song to Canary Islands), which says: *I'm afraid that one day the volcano will shake my land / If passions fester / God knows what will happen / Let us build the hope / That one day we will all move forward in peace / Side by side / Towards our identity*. May that identity and that Constitution of the 21st century embrace us all and may hatred disappear from this country, from friends, from neighbours and from towns like Sant Boi.

Here, as her colleagues, Oramas presents the beatific side of the legalist discourse's social fantasy: the «hope» for a future harmonic world based on peace and cooperation beyond conflict and divisions («*Let us build the hope / That one day we will all move forward in peace / Side by side*»). This world is freed from the «hatred» among «friends» and «neighbours» and grounded in the Constitution.

5.4. *Radicalism and Extremism*

It is noteworthy that, within a legalist discourse, respect for legalist and constitutional principles (and for all of the other associated elements) is politically connotated as 'moderate' and at the same time framed as 'reasonable', 'sensible', 'sane' and 'normal'. On the contrary, every attempt of breaking the Constitution and the [Rule of] Law (and therefore overcoming all of the other associated elements) is paired with 'radicalism' and 'extremism', which are, in turn, paired with 'unreason' and 'abnormality'. In this respect, a frequent target of this discourse are the far-left anti-capitalist CUP party [*Candidatura d'Unitat Popular* – 'Popular Unity Candidacy'], and the leftist-populist *Podemos* party. The CUP, explicitly independentist, is not present in the Spanish national

Parliament, but has some elected Deputies in the Catalan regional one. There, it has formed alliances with more ‘liberal’ and ‘moderate’ parties in the scope of a wide Catalan independentist front. Differently, *Podemos* is present in both the regional and the national Parliaments. The latter is not independentist, but it openly sustains the ‘right to decide’ of the ‘Catalan people’ and the right to hold an independence referendum, and it can therefore be considered ‘sovereigntist’. The two parties have many differences between them, but they both represent some sort of exception within institutions in which more classical parties are hegemonic⁸³.

In the already mentioned interview for *El País*, Rajoy follows the rhetoric which counterposes ‘moderate’ legalist and the ‘extremist’ sovereigntist politics. He praises the «constitutionalist and pacifist» previous Catalan ruling class which «contributed to economic growth in our country and to the improvement of our welfare and wealth», in contraposition with the current Catalan Government which forms «alliances with extremists and radicals». Similarly, in his Presidential Appearance, he harshly criticises the major independentist parties because «instead of seeking an agreement of concord, they decided to throw themselves into the arms of the most minority and anty-systemic political force of all: the CUP». In the same speech, he describes the ongoing events as «an escalation of radicalism, disobedience and tumult of which there is no precedent in our recent history». Then, in order to preserve the «the peace of mind of [the] citizens», he speaks about the necessity of «closing the rift and healing the wounds that so many issues and so much radicalism have caused in [the Catalan] social body».

Deputy Albert Rivera also directly attacks the CUP during the same Parliamentary session:

We cannot put ourselves in the mind of a CUP assembly, because they are outside the Law. Yesterday the CUP said: «our battle is in the street, not in the institutions». It's clear, they don't care about the institutions, they liquidate them. They have liquidated the Parliament of Catalonia, the statute of autonomy, democracy in Catalonia, so let's not put

⁸³ The informations reported in this paragraph refer to the legislations in power in Spain and in Catalonia on the 10th of October 2017

ourselves on their playing field and let's act within a democratic framework. We are right, we have democracy and institutions, so let's lead, please.

The legalist discursive articulation is again very explicit. On the one hand, the Law, institutional stability, democracy, righteousness: «we are right, we have democracy and institutions». On the other hand, illegality, instability, undemocraticity and extremism against the institutions. With their illegal and unconstitutional actions, the CUP and the whole independentist front has placed itself outside the «democratic framework», outside the right «playing field» of politics. From the unionist point of view, this self-exclusion from legitimate institutional politics is deliberate and intentional: as ‘extremists’ «they don't care about the institutions, they liquidate them». In the same debate, the then Vice-President and Minister Soraya Sáenz de Santamaría aggressively addresses a *Podemos* Deputy, Irene Montero, with these words:

You are the alibi of the secessionists, and why are you, Ms Montero? Because in your destructive zeal, anything that destabilises the institutions suits you, because you are always in the middle of all the problems [...] You are in the disruption and never in the construction. Ms Montero, I will tell you this very clearly, whenever there is a problem, you are always in the middle of it to stir it up.

The insistence against these parties in the Parliamentary context is curious, given their minoritarian presence within institutional politics. At the moment, *Podemos* is a minoritarian party within the national Spanish Parliament, and the CUP is not even present. In the regional Catalan Parliament the CUP is part of a majoritarian independentist alliance and it has a congruous number of Deputies. However, the Deputies of more ‘classical’, ‘moderate’ and ‘liberal’ independentist parties significantly outnumber these ‘anti-system extremists’. Despite having its relevance, the CUP is neither the first nor the second independentist party in terms of electoral success and number of militants. Nonetheless, unionist politicians repeatedly put some effort in targeting them. On the one hand, this can be a rhetorical operation: highlighting the more extremist elements of a political group in order to disqualify it as a whole. On the other hand,

it seems that the unionist Deputies are implying something more: despite them being politically ‘liberal’ and ‘moderate’, all of the sovereigntist parties and activists sustaining the Catalan Referendum are acting in a ‘radical’ and ‘extremist’ way. In fact, they are systematically violating the Constitution and the Law, or at least sustaining the legitimacy of these violations. From a legalist perspective, in this respect, there is no significant difference between a CUP far-left anti-capitalist, a *Podemos* populist and a moderate ‘liberal’ politician from a major independentist party, as CiU or ERC.

Since they are breaking constitutional and legal principles, all of the sovereigntists are presented as radicals, extremists, enemies of the institutions which are moved by destructive aims and behaviours. They are said to exharcebate problems and emotions on purpose in order to polarise society, undermine institutional stability and escalate conflict. The notion of «stirring things up» is recurrent. *Podemos*’ Deputies «stir problems up» for destabilising institutions; «passions and hatreds are being stirred up» to divide «families and friends»; independentists «stirred up the streets». Within the legalist account, the sovereigntist front «stirs things up», fuels conflict and therefore leads to unreason, chaos, turmoil, violence, which are the core elements of the legalist ‘horrific fantasy’.

5.5. *Anxieties and Fear*

In the legalist narrative, among other things, social conflict and institutional instability causes concern and spreads deep negative emotions and feelings, such as insecurity, anxiety, fear, frustration and sadness. This further undermines coexistence and well-being in a vicious circle. This aspect is often highlighted by the unionists: they underline the anxieties generated by the sovereigntists, to which they counterpose the ‘serenity’ of the pacific coexistence and the institutional stability granted by the abidance to the Constitution and the Rule of Law. Furthermore, ‘serenity’, ‘calmness’ and similar positive feelings are associated with values such as ‘moderation’, ‘reasonableness’, ‘common sense’ or ‘good sense’ and ‘prudence’. Rajoy insists repeatedly on this aspect. In an already mentioned passage, he states that «when the Law [...] is broken,

society as a whole suffers and paves the way for generalised unreason and chaos. Fear, insecurity and anxiety arise». In another already mentioned paragraph, he affirms that recovering coexistence is essential in order to guarantee the «peace of mind of [the] citizens». He also mentions ‘calmness’ at least three times in relation to the Rule of Law and the constitutional State, in evident contrast with the behaviour he attributes to sovereigntists. «The Rule of Law [...] acts with all its legal resources in the face of any kind of provocation and that it does so effectively and calmly»; «the State [reacts] firmly and calmly» against «a premeditated and conscious attack»; the unionist front, against the perils of division, aims at «put[ing] an end to this cleavage, and to do so calmly [and] prudently». The notion of ‘serenity’ is similarly recurrent. Sovereigntists have tried to undermine coexistence, «but what they have found is the serenity and good sense of those who know that their rights and freedoms are protected by the Law». «Institutional normality» will be restored «with firmness and serenity», while Constitutional Spain is described as «friendly and serene».

In his ‘Extraordinary Message’, King Felipe VI mentions the «great concern» within Catalan society and the fact Spaniards are profoundly «saddened» by the events. He therefore tries to reassure the citizens, acknowledging their negative feelings and promising hope, serenity and calmness:

To those who feel this way, I say that they are not alone, nor will they be [...] I would like to send them a message of calmness, confidence and also hope. These are very difficult times, but we will overcome them [...] And that is how we must continue along this path, with serenity and determination.

Deputy Íñigo Alli Martínez from the UPN party, in his short intervention advocates for stability, serenity, prudence and common sense, in the mark of the Constitution and the Rule of Law. However, it is the then Vice-President and Minister Soraya Sáenz de Santamaría to offer the clearest and most articulated expression of this facet of the discourse:

I believe we have had to defend together the democratic Rule of Law, the democratic Rule of Law for which so many Spaniards have worked. This is what it is all about,

defending democracy, defending the constitutional order, in which any dialogue is possible and in which, if we all comply with the Law, we are all capable of understanding each other. For some time now, the Government of the Generalitat has been in disobedience to the Law and to democracy, and has also plunged the entire Catalan people into anxiety and uncertainty. It is up to us to provide certainty, security and stability, [...] I believe that it is up to us to bring sanity, serenity and sanity when some have been losing it for a long time. I believe that it is up to us to show responsibility, moderation and prudence. I believe that it is up to us to offer the leaders and rulers of the Generalitat a return to the Law, which is the place where dialogue is possible: in this Chamber, within the constitutional framework, where everything can be debated, provided that we all respect the rules of the game [...]

It is in this Chamber that dialogue is made and built every day, and not from uncertainty, from illegality and from the breakdown of tranquillity and trust. You [the sovereigntists] are generating a lot of disturbance in Catalonia and the worst thing a ruler can do is to generate uncertainty, instability and fear. I ask you [the sovereigntists] to return to democracy, it is in your hands, and I thank you [the unionists] for your support, not for the government, but for the democratic State and the Rule of Law.

Towards the end of the speech, she also returns to the notions of division, social coexistence and economic crisis, stating that sovereigntists have: «divided Catalan society [...] generated economic anxiety and also a breakdown in social cohesion». The Vice-President talk is an interesting and complex example of legalist discourse which articulates several heterogeneous elements together through the legalist-constitutionalist nodal point. The Constitution and the Law are the cornerstones which grant ‘democracy’ but also «certainty, security and stability». Abiding to them is equated with «sanity and serenity» and to the political values of «responsibility, moderation and prudence» which generate «tranquillity and trust». On the contrary, «disobedience to the Law» (and therefore «to democracy») leads to «disturbances», «anxiety», «uncertainty, instability and fear», and this is «the worst thing a ruler can do».

5.6. Unreason and Abnormality

Within this discursive operation, these ‘horrific’ elements are presented as direct consequences of ‘extremism’ and ‘radicalism’: if institutions are challenged, pacific coexistence breaks down, violent

conflicts rise and society falls prey of anxieties and fear. In parallel, since they are said to generate violent conflict and serious concerns to everyone, and to do it on purpose, ‘extremists’ and ‘radicals’ are presented as ‘unreasonable’ by definition. As partially highlighted in the previous paragraph, the notions of ‘sanity’ and ‘reasonableness’ are recurrently associated with the legalist discourse, in explicit or implicit contrast with the sovereigntist ‘unreason’. It is said to be necessary to «[recover] sanity in Catalonia», while the Catalan process is categorically defined «senseless».

The element of ‘normality’ is also often stressed along with ‘reasonableness’, especially, but not exclusively, by Mariano Rajoy. Towards the end of the Parliamentary debate, referring to the (suspended) Catalan Unilateral Declaration of Independence, he claims: «Does what happened yesterday seem *normal* to you? Please! Does it seem *normal* to you? Do you think that everything we saw on television yesterday is *reasonable* and *sensible*?». Similarly, in the first paragraphs of his Presidential Appearance, he demands that sovereigntists «return to legality and re-establish institutional *normality*, as *everyone* is asking» instead of «prolonging a period of instability, tension and breakdown of coexistence in Catalonia». Here, various elements of the legalist discourse are articulated together one more time: legality, normality, stability, coexistence are all directly intertwined and claimed by the legalist front. At the same time, the sovereigntists are accused of operating against these principles and values since they are breaking the Constitution and the Law. The same day, in a subsequent speech, he maintains that «there is *no one* here, *no one*, who can think that what happened yesterday in the Parliament of Catalonia was *normal*, *reasonable* and befitting of a democratic country». Democracy, ‘reasonableness’ and ‘normality’ are again associated with the legalist discourse and counterposed to the sovereigntist one.

The claims are generalised as if they were universal: in a first case, Rajoy basically affirms that «everyone» agrees with the legalist principle, while in a second case he is maintaining that «no one» can approve the sovereigntist actions. In the same occasion, PP Minister Íñigo Méndez de

Vigo affirms that «*all*» the eminent figures which have intervened in the conflict as possible mediators «have said that dialogue is not possible outside the Law, because this is *normal*». Since literally millions of people are actually actively and passionately sustaining the sovereigntist front despite it acting illegally and unconstitutionally, these claims should be considered plainly false. Even as a classical rhetorical expedient in political speeches, it seems exaggerated in the light of the ongoing political events. However, these affirmations can be considered true with a caveat, which is probably an assumption that unionists are implying: maybe not every single person, but at least every *reasonable* person agrees with the legalist principle. Similarly, no *reasonable* person can approve the sovereigntist actions. After all, the then President and various unionist politicians are repeatedly referring to the principle of ‘reasonableness’, which is, between other things, a key element of classical liberal theory.

The notions of ‘normality’ and ‘reasonableness’ are notoriously controversial in many respects and it would be very difficult to state objectively and universally what is ‘normal’ and ‘reasonable’ in politics. However, for the unionist politicians engaging in the debate, it is assumed that ‘normality’ and ‘reasonableness’ reside on the legalist front. This is an example of surreptitious introduction of normative criteria which are taken for granted without being discussed. Moreover, these notions are not clearly defined. In the debate there is no clear definition of what should be considered as proper criteria for ‘normality’ and ‘reasonableness’ and according to which arguments. It is possible to say that ‘normality’ and ‘reasonableness’ consist in the abidance to constitutional and legal principles, but this is an assumption, not a proper argumentation. Within a legalist discourse this would be a *petitio principii*.

Logically consistent or not, through the operations highlighted, the equivalential chains of the legalist discourse are expanded including further elements. On the one hand, legality and constitutionality = democracy = coexistence and concordance = harmony and peace = rights and freedom(s) = social and economic stability = moderation = reasonableness = serenity = normality. On the other hand, illegality and unconstitutionality = undemocraticity = disunity and confrontation =

violations of rights and freedom(s) = chaos, conflict and violence = social and economic crisis = radicalism and extremism = unreason = anxiety and fear = abnormality. In fact, again, these further elements are not necessarily associated to the others through direct and cogent logical relations, but they are heterogeneous elements articulated together through specific discourses.

5.7. Change and Stability in the Legalist Discourse

In light of this analysis of the legalist discourse it is possible to draw some conclusions and to highlight some of its core underlying principles. The main aim of the Constitution and the Rule of Law is providing a ‘stable framework’ for the political community. Stability is the key element which characterises this paradigm. Safeguarding democracy, basic rights and freedoms, pacific coexistence, social cohesion, economic wealth and tranquillity depends on institutional stability. If ‘the will of the people’ (or ‘the will of the majority’) has no limits, if it can change the rules at any moment and do whatever it wants, then there are no guarantees of anything. For this reason, advocating that ‘the will of the people’ (or ‘the will of the majority’) can overcome legal and constitutional principles is a major threat, since it is a path to uncertainty, arbitrariness and instability. In order for institutions to work effectively, stability is pivotal, and in order for arbitrariness to be avoided, the Constitution and the Rule of Law must be maintained as superior principles.

It is, again, Rajoy, who points out these concepts with extreme clarity. In one of his last interventions in the Parliamentary debate, answering to the *Podemos* Deputy Pablo Iglesias, he maintains the necessity of preserving the «existence of a stable framework» and proposes this crucial argument:

The Law provides stability; we are all subject to the Rule of Law; the Law binds us all, even those who call referendums, because if we start making exceptions to the Law, the next question will be who decides which laws must be complied with and which laws must not be complied with, and with what moral authority could we force anyone to comply with the Law. [...] Can we accept a right to self-determination that means

perpetual blackmail on Spain's territorial identity and on the stability of its institutional system? Is it possible for a democratic state to survive with this constant prospect of disintegration, with this permanent pressure on its institutional stability?

This passage is extremely interesting because it highlights one of the main issues of the whole debate. «If we start making exceptions to the Law, the next question will be who decides which laws must be complied with and which laws must not be complied with, and with what moral authority could we force anyone to comply with the Law».

This does not mean that the laws and the Constitution itself cannot be changed: the constitutional and legal system are not immutable. Their openness to change is one of the features of their 'democraticity', since it means that they can be adapted to ever-changing social and political sensibilities and that citizens can participate in their modification, indirectly through the election of Deputies, or directly through referenda. For instance, one of the main proposals of the Socialist Party in order for the Catalan conflict to be solved is to start a process of constitutional reform. In fact, during the Parliamentary Debate, Socialist Deputies Adriana Lastra and María Robles both mention this possibility. The crucial point is that, within a legalist-constitutionalist framework, the Constitution and the Law can be changed, but only in ways which are constitutionally and legally legitimate. That is, only through the procedures and the institutional channels provided by the Constitution and the Law themselves. It is the Constitution and the Law which determine how, when and to which extent they can be modified. Change can happen, but always remaining within the constitutional and legal framework. The framework itself can be modified, but only on its terms. There is a critical difference between legal or constitutional reforms, which operate within and according to 'legitimate' boundaries, and illegal or unconstitutional acts which operate outside, beyond or against them. As Soraya Sáenz de Santamaría claims: «there [is no] room for dialogue based on changing the rules of the game that you do not like. When one does not like the laws in a democracy, one seeks to change them democratically». During the Parliamentary Debate, Rajoy pinpoints the same concept:

Is it possible to improve the framework for coexistence? Undoubtedly. Between all of us and within the framework of the existing bodies [...]

We can talk about everything that the Constitution and the laws allow us to talk about, and with all those who are willing to talk. Even the reform of the Constitution itself can be proposed. It is far from being a perpetual law, nor does it claim to be. Not at all, each and every one of its determinations, including its most essential precepts, can be modified, and this aspiration is recognised and protected by the Law itself. The Constitution can also be modified, but only through the rules and procedures provided for this purpose.

In a deliberative democracy such as ours, everything is susceptible to dialogue; but, let us remember, dialogue is the opposite of trying to advance by means of illegality.

In this respect, it is interesting to note that one of the main arguments presented by the sovereigntist front is that they have actually tried to advance their claims through legal and constitutional means, but that their demands have been remained unheard and frustrated anyway. This is the juncture starting from which the ‘legalist’ and the ‘popular’ front part their ways: since they are allegedly backed by ‘the people’ (or ‘the majority’), and since the supreme political value is the ‘self-determination of the people’, they are therefore legitimated to implement the popular will also in illegal and unconstitutional ways. According to the ‘popular’ discourse, ‘the popular will’ is not intrinsically or necessarily against the Constitution and Law. In ‘regular’ circumstances ‘popular sovereignty’ can be exercised, and it is in fact exercised, within legal and constitutional boundaries. However, in ‘exceptional’ circumstances, when the Constitution and the Law impede the expression and the implementation of the ‘popular will’ and a trade-off between the two principles is presented, then the ‘popular’ instance has to prevail. Conversely, within a legalist discourse the opposite is true: it is never possible for ‘the people’ to implement something which is illegal and unconstitutional, or through illegal and anticonstitutional tools.

5.8. Democracy, Sovereignty and Consent Within the Legalist Discourse

Within the legalist discourse, the principle of consent is restricted for other principles (representative democracy, pacific coexistence and cohesion, basic rights and freedoms, economic wealth, tranquillity) to be

preserved. «Is it possible for a democratic state to survive with this constant prospect of disintegration, with this permanent pressure on its institutional stability?»: this is a similar, even though slightly different, focus on the same issue. Claiming ‘the will or the people’ (or ‘the will of the majority’) as a principle which is superior to the Constitution and the Rule of Law ultimately means that no stability can be ensued and that nothing can be granted. Posing ‘will’ and ‘consent’ at the very core of political legitimation means exposing the institutions to perpetual uncertainty and instability. If ‘the people’ (or ‘the majority’) does not agree anymore, if they want to change, then institutions can be overthrown, and this could happen at any moment. In their radical form, it is an intrinsic characteristic of ‘will’ and ‘consent’ to be exercised in the present, without binding the subjects for the future. They could be revoked or modified at any time. For this reason, within the legalist discourse, the ‘will of the people’ can be certainly exercised, but only within an already established legal and constitutional framework. The supreme principle, the foundational principle, is the legalist-constitutionalist one, not the popular (or the majoritarian) one. The ‘rules of the game’ which govern the expression and the implementation of ‘the will of the people’ are the Constitution and the Rule of Law, and not viceversa.

Within a ‘democratic’ paradigm, this Constitution and Rule of Law derive their legitimacy also from the fact that they are ‘democratic’. This means that ‘democraticity’ is their normative source of legitimation. The definition of this ‘democraticity’ depends from the conception of ‘democracy’ which is assumed. In a substantive sense, this can mean that the Constitution and the Rule of Law safeguard and implement (either formally or substantially) fundamental ‘democratic’ values, such as basic rights and freedoms, some form of equality and some form of democratic political participation. Differently, in a proceduralist sense, this can mean that the Constitution and the Rule of Law establish a system of democratic procedures which organise political participation, discussion, deliberation and decision ‘democratically’ (usually according to a representative conception of democracy). In both cases, these conceptions do not

necessarily require the consent of ‘the people’ or of ‘the majority’ for the ‘democratic’ Constitution and Rule of Law to be established.

These ‘democratic’ Constitution and Rule of Law could also be the product of a minoritarian group which nonetheless designs them according to (substantive and/or procedural) ‘democratic’ principles. Anyway, ‘democraticity’ resides in the typology of political system which is produced, and not in the fact that ‘the people’ or ‘the majority’ have actually endorsed it. What this kind of process does is providing the institutional architecture within which ‘the people’ can express and implement its will. The Constitution and the Rule of Law are the frame for and not the product of the ‘will of the people’ (or ‘of the majority’). They are the premise, the space and the tools for democratic decisions, not an object of democratic decisions. Democracy is not a premise of the constitutional process, but its product.

Besides these conceptions, there is a third possibility of imagining a ‘democratic’ implementation of a Constitution and a Rule of Law which takes into account ‘the will of the people’ (or ‘the majority’) in the constitutional process. In certain versions of this democratic paradigm, the principle of ‘consent’ of ‘the people’ (or ‘the majority’) can have a direct or indirect role in the establishment of the legal and constitutional framework. For instance, in the scope of the constitutional moment, citizens can elect the politicians of the Constituent Assembly and of the Parliament and/or directly vote in favour of it through a referendum. In this case, ‘the will of the people’, the fact that the people have actually agreed, can be a fundamental tool of political legitimation and a criterion for ‘democraticity’.

However, in any of these cases, the crucial point of this debate is that, once the Constitution and the Rule of Law have been ‘democratically’ established, abidance to them is mandatory and it is not furtherly questionable. In certain cases, in the beginning, consent can be given by ‘the people’ (or ‘the majority’), but this does not mean that it can be revoked or that it has to be constantly renewed. The constituent moment, the foundational act of an institutional system is external to the system it has generated. Within this framework, the ‘sovereignty’ of ‘the people’ is

not to be intended as the radical ‘sovereign’ power of constituting a political system and founding its legitimacy, as it would be, for instance, within a more ‘Machiavellian’ or ‘Schmittian’ decisionist paradigm. The ‘sovereignty’ the people can exercise is less radical and less foundational: it is ‘only’ the power to actively participate to politics, within the boundaries and according to the procedures of a system whose rules and criteria for legitimacy had been already established in a separate moment. In this sense, this understanding of politics is more ‘Arendtian’: the foundational act of ‘sovereignty’, which establishes a system of political legitimacy, happens once and for all and it is not to be replicated on an ongoing basis. If that was the case, if ‘the people’ held this power at any moment, its ‘constituent’ force would rather be a constant possibility of destitution for the State.

This problem is generally not often highlighted, neither in theory nor in practice. Theoretically, the majority of the paradigms for political legitimacy assume the constituent moment and the sovereign power to be previous and external to ordinary political processes. Practically, the foundations of political legitimacy, of political power, of legality and of the constitutional order are not often challenged, and the *status quo* of already constituted institutional architectures is somehow implicitly accepted. The exercise of ‘popular sovereignty’ *within constitutional and legal boundaries* is generally assumed to be an unquestioned legitimate democratic standard. However, some particularly critical political events are able to cast light on these issues. The Catalan conflict is an exceptionally remarkable case, as it pinpoints the controversies related to both massive civil disobedience and the destitution / constitution of a political order.

The issues of sovereignty and of consent are crucial controversies for contractualist theory, democratic theory, and, in general, for classical theories of political legitimation of the State. When there is a reference to a ‘social contract’ or to a ‘social pact’, it is usually not intended that the totality (or majority) of the citizens actually gathers in order to sign a contract or to make a pact. According to some paradigms, the moment of the ‘social pact’ is an hypothetical regulative ideal. It is not something the

people has actually consented to, but something that, in ideal circumstances, it would be ‘right’ or ‘reasonable’ to consent to, according to certain moral and/or political and/or logical principles. According to other paradigms, the ‘social pact’ is an actual moment, a constituent moment, which can be ratified by the citizens, by their representatives or by a political élite. For example, in Spain, this moment has been the ‘democratic Transition’ between 1975 and 1979. In both cases an apparent paradox arises: once a constitutional and legal order has been established, it is not required that the citizens subjected to it actually agree, regardless of the fact that ‘consent’ is a crucial element of the contractualist paradigm.

For this reason, the Constitution and the Rule of Law cannot be liquidated, not even through a vastly majoritarian vote. ‘Voting’, both in elections and in referenda, is a crucial element in the Catalan sovereigntist discourse, since it is the plainest and most tangible form of expressing and ratifying ‘the will of the people’. Within their discourse ‘voting’ is the primal form of democratic practice and it is almost directly equated with democracy itself. ‘Voting is democracy’ is one of their main slogans. Conversely, within a legalist account, ‘democracy’ is equated with abidance to the Constitution and the Law. Therefore, voting is ‘democratic’ and legitimate only if it is done in abidance to the constitutional and legal procedures and if it is exercised within the legal and constitutional framework. It is not possible to vote outside, beyond or against it. In his Presidential Appearance, Rajoy expresses also this principle with great precision:

Voting is essential to democracy, I believe that; but the much-abused mantra that ‘voting is democracy’ is a complete falsehood. Voting against democracy, as it has been the case, and even voting outside democracy is not democracy. And in this particular case none of the rules linking voting to democracy have been fulfilled.

In order to understand the debate analysed here, it is to be highlighted again how the notions of ‘democracy’ and ‘democraticity’ can be differently intended. The sovereigntist discourse proposes a notion of democracy based on ‘the will of the people’ and ‘consent’ which is more restricted understanding of ‘democracy’ as it can be roughly intended in

its etymological sense. The legalist discourse proposes an expanded notion of ‘democracy’, articulating heterogeneous principles (*e.g.* the respect of basic rights and freedoms, of basic procedures for fair political participation, of the Constitution, the Rule of Law, the separation of powers), while at the same time restricting the classical ‘democratic principle’ of ‘the popular will’. This restriction of the ‘popular principle’ is said to be done with the double aim of preserving the other principles and of preserving the popular principle itself. In a sense, this principle is protecting the popular will from itself. In fact, paradoxically, the popular will could vote against itself and cancelling popular sovereignty, ‘democratically’ abolishing democracy. In the recent Western European history, this has actually happened with fascist and nazist regimes. The legalist-constitutionalist result is an attempt of balancing different principles (democratic, liberal, proceduralist, legalist-constitutionalist) and their various trade-offs. The critical point is that this operation can backfire since, despite claiming to operate for the protection of ‘democracy’, the basic democratic principle of ‘the will of the people’ can be stifled in the trade-off with the other principles. This is one of the critical dilemmas this dissertation is pivoted around.

6. The Radical-Popular Discourse

For its part, the legalist discourse is a discourse about many different things. Among them, ‘democracy’ is crucial and prominent, and a notable effort is put in articulating a legalist account of it. Including ‘democracy’ within the legalist narrative, defining ‘democracy’ according to a legalist account, is one of the main aims of this discourse. However, heterogeneous principles such as pacific coexistence, basic (liberal) rights and freedoms, institutional stability, are equally valuable and they equally form part of the normative system proposed. In turn, the popular discourse

is more basically and more plainly a discourse about democracy. Despite 'democracy' being a vague, ambiguous and contested notion with several different possible definitions, the 'popular' front maintains that 'popular sovereignty' and 'the popular will' are its ultimate core. Down to the bone, democracy is the expression and the implementation of the will of the people. This is the basic 'democratic principle'. Both historically and etymologically speaking, this can be roughly said to be accurate. However, it is also a matter of fact that the more recent political and theoretical articulations of 'democracy' have expanded the notion, including other (liberal, proceduralist, legalist-constitutionalist) elements, while at the same time restricting and diluting the 'pure' 'popular principle'. If the meaning of a word is its usage, then it has to be considered that there is a widespread usage of the word 'democracy' which has gone beyond and partially against the direct and complete identification of it with the 'popular principle'. This is a crucial cause of confusion and one of the reasons why it is not immediate to grasp the ultimate point of this controversy as it is analysed here.

The 'popular' discourse is organised around the notion of 'popular will'. The people is conceived as an autonomous political subject with its own will and agency, a subject which can decide for itself and which has the first and the last word in decision-making processes. The notions of 'popular sovereignty', 'popular self-determination' and 'popular consent' are crucial for political legitimation: political, legal and constitutional frameworks, institutions, procedures, laws and processes are legitimate as long as they enable the people to express and implement its will, and only as long as the people sustains them. Institutions, procedures and rules which hinder the expression and the implementation of the popular will, and/or the ones which are not sustained by the people, are illegitimate and undemocratic. The possibility of properly exercising popular sovereignty is the frame for the definition and the evaluation of political, social and ethical theory and practice, as well as their conditions of legitimacy.

If compared to the legalist discourse, the popular one seems less structured and complex and it appears in a more embryonic form. It also seems less wide and comprehensive in its articulation of heterogeneous

elements and of heterogeneous paradigms and it has a less definite and specific discursive structure according to Discourse Theory criteria. However, the discourse is clear, effective and plausible and it manages to produce a meaningful narrative with seemingly strong normative bases. Generally speaking, the nodal point of the discourse can be identified with the popular will. This nodal point discursively, ethically and politically grounds, justifies and defines all of the other key elements of the discourse, such as self-determination, sovereignty, consent, democracy, freedom, justice and rights. All of these elements are reframed through the notion of 'popular will'. All of them are presented as different facets of the same popular discourse, based on the same popular principle, namely, that the expression and the implementation of the popular will is primal. Self-determination, sovereignty, consent, democracy, freedom, justice, rights: within the popular discourse all of them can be somehow traced back to this principle. Throughout this dynamic they are also equalised: in virtue of their articulation through the popular principle, they produce an equivalential chain: popular self-determination = popular sovereignty = popular consent = democracy = freedom = justice = rights. This equivalential chain is not strictly consistent from a logical and theoretical perspective, since the various elements are heterogeneous and not necessarily related one to the other. Some could also be in tension between them. For example, as it will be furtherly argued, popular consent can be in contrast both with popular self-determination and with democracy, but also with some basic rights.

Moreover, the discursive articulation operates providing a specific understanding of different 'empty signifiers', reframing them through the popular nodal point. These are some of the most critical 'empty signifier' of ethics and politics: freedom, justice, rights and also democracy. These contested, controversial, vague and ambiguous signifiers are 'decontested' and defined more specifically thanks to the articulation through the notion of the 'popular will'. For instance, within the popular discourse, freedom is intended as the possibility for the people of expressing and implementing its will, therefore determining its present and its future, and the same goes for the other 'empty' notions.

Broadly speaking, it is possible to argue that the popular discourse articulates a meaningful worldview and that it displays its own ethico-political paradigm, based on the value of autonomy. The popular discourse also holds a promise for redemption, freedom, justice and prosperity in the near future. In the analysed case, references to beatific and horrific fantasies can also be retraced, even though they are not as well constructed as the ones highlighted in the analysis of the legalist discourse. Nevertheless, some fantasmatic element is present. Positively, a future of emancipation, justice and democracy is foreseen if the popular will is honored and if the people is enabled to self-determine (for instance, through the self-determination Referendum). Negatively, a horrific fantasy of violence, injustice, oppression, repression, authoritarianism and fascism is presented as the direct consequence of impeding popular self-determination (for instance, impeding the self-determination Referendum). These promises and fantasies are fueled by heated feelings of hatred towards oppression and injustice, by aspirations for emancipation, but also by resentment towards the central State and of pride for the courage and the determination of the Catalan people. In this sense, the Catalan sovereigntist discourse produces not only a fantasy, but also a mythology of the Catalan struggle for self-determination, within which the 1-O events hold a special place. This mythopoeic operation is crucial because it participates in the performative production of the Catalan people as an actual existing subject beyond an essentialist reference to a national identity.

6.1. The Structure of the Popular Discourse

Throughout the debate analysed, the sovereigntist front displays a popular discourse which is structured along these lines of reasoning:

- 1) The popular will is the ultimate source of political legitimacy and justice. A just and legitimate political organisation is the one which is sustained by the popular will (that is, an organisation with which the people agrees) and within which the popular will can be properly expressed and implemented.

2) Other ethical, political and legal principles are relevant and must be taken into account. For instance, individual rights and freedoms, as well as pacific coexistence, are relevant and must be protected. However, the primal principle is the popular one. One of the consequences of this point is that, in case of trade-offs between different principles, the popular one has to be prioritised.

3) Democracy coincides with the popular principle and therefore with the expression and the implementation of 'the popular will'. The direct consequence of points 1) and 3) is that the 'sovereignist' or 'popular' front is 'democratic' and 'legitimate', while the 'unionist' or 'legalist' front is 'undemocratic' and 'illegitimate'.

4) One of the main issues of the Catalan conflict according to sovereignists, is that the Referendum, the legitimate expression and implementation of the popular will, has been illegitimately repressed. Therefore, one of the most critical points to be addressed in order for the conflict to be resolved is re-establishing the primacy of the popular will, enabling it to be expressed and implemented without hindrance. Furthermore, for the same reasons, the sovereignist front represents the legitimate and democratic side of the conflict, while the unionist front is the illegitimate and undemocratic one.

6.2. The Struggle for 'Democracy' Within the Popular Discourse

One of the crucial elements of the popular discourse is identifying 'democracy' with the realisation of the popular principle. Democracy and the realisation of the popular principle are presented as being the same. 'Democracy' is not merely associated with it, nor it simply includes it: they are directly and completely equated. Within this discourse, 'democracy' is the expression, the respect and the implementation of the popular will. This 'popular will' is posed as the primal and ultimate source of democratic political legitimacy and as the core of democratic political practice.

Within the popular discourse as it is articulated in the scope of the Catalan conflict, it is not clear whether the normativity of the popular principle derives from it being democratic, or whether the normativity of

democracy derives from it realising the popular principle. The articulation of the analysed discourse is not always explicit and theoretically rigorous in this respect. It can maybe be argued that, within the popular discourse, the popular principle and democracy are maintained to be the same and that they both derive their normativity from the principle of autonomy (intended as ‘self-rule’), assumed as a primal value.

The popular discourse about democracy assumes different formulations throughout the debate, but the basic elements remane almost identical: legitimate politics, which is democratic politics, has to be based on the popular will. The two ethical and political principles which found this conception are the principle of self-determination and the principle of consent, both framed through the nodal point of ‘the popular will’: popular self-determination and popular consent. These two principles are strictly interconnected and they can be said to be both underpinned by the principle of autonomy. Nevertheless, they are not precisely the same: their similarities and differences will be pointed out in more detail in a subsequent paragraph.

A large part of the sovereigntist contributions within the Catalan debate revolves around the notions of popular will, popular sovereignty, popular self-determination, popular consent and (a popular understanding of) democracy, often intertwined and overlapped. These principles are sometimes phrased as ‘the right to self-determination’, ‘the right / freedom to decide’, ‘the right / freedom to vote’, ‘consent’ and ‘the agreement of the citizens’. Democracy is repeatedly associated with the popular principle, often in open contrast with a purely legalist and constitutionalist understanding of democracy. Several political actors openly challenge and question the legalist account of democracy proposed by the unionist front, energetically affirming the relevance of the popular principle along the legalist one or even over it. Analysing the sovereigntist contributions, the attempt of claiming a popular understanding of democracy against or at least beyond a legalist one emerges noticeably. The struggle against the legalist-constitutionalist account for the hegemony over ‘democracy’ is very evident and it is one of the main dynamics which shapes the development of radical-popular arguments.

One of the most adamant and staggering enunciations of the popular discourse about democracy can be found in Carles Puigdemont official speech for the (suspended) Declaration of Independence. On the 10th of October 2017, the then Catalan President, few minutes before unilaterally declaring (and suspending) the Unilateral Independence from Spains, asserts:

A people cannot be forced, against its will, to accept a *status quo* that it did not vote for and that it does not want. The Constitution is a democratic framework, but it is equally true that there is democracy beyond the Constitution.

In this passage, Puigdemont plainly and explicitly enounces the popular principle, its equation with democracy and its prevalence over the constitutional principle. This is perhaps one of the clearest examples not only of the popular discourse, but also of the battle for hegemony over the signifier ‘democracy’ between the popular and the constitutionalist front. Maintaining that «there is democracy beyond the Constitution» is not only a surprising affirmation from a President, but also a performative attempt of claiming democracy while subtracting it from the legalist discourse. In another passage of the same speech, Puigdemont states that «democracy [...] means [...] finding how to make collective aspirations possible», that is, implementing («make possible») the popular will («collective aspirations»). The term «self-determination» recurs several times in his crucial talk, along with the «freedom to decide» and the demand for the Catalans to be able «decide [...] democratically [...] through a referendum».

Puigdemont’s long talk offers other numerous clear examples of a popular discourse about democracy as counterposed to a legalist-constitutionalist one:

[*in Catalan*] We will never agree on everything, as it is obvious. But we do understand [...] that the way forward cannot be other than democracy and peace. What it means is respect for those who think differently, and finding how to make collective aspirations possible [...] But what I will present to you today is not a personal decision, nor anyone’s wish: it is the result of the 1st of October, of the will of the Government that I preside of

maintaining its commitment to convene, organize and celebrate the self-determination Referendum [...] We are here because the last 1st of October Catalonia celebrated the self-determination Referendum [...]

In 2005, a large majority, 88% of this Parliament, I repeat, a majority of 88% of this [Catalan] Parliament, following the procedures set by the Constitution, I repeat, following the procedures set by the Constitution, approved a proposal for a new Statute of Autonomy, and sent it to the Congress of Deputies [which truncated it] [...] The text that was finally submitted to a referendum in 2006 [had been truncated and] was very different from the initial proposal of the Parliament of Catalonia, but despite everything it was approved by the citizens who went to vote [...] The State, however, was not satisfied with the first truncation. In 2010, four years after the [already] truncated Statute was implemented, a Constitutional Court [...] passed a negative judgment that truncated the Statute for the second time, and modified the content that had already been voted by the people in a referendum.

It's worth remembering that, and underlining it. Despite having followed the procedures set out in the Constitution, despite having 88% of the Parliament of Catalonia behind it, and despite the popular vote in a legal and agreed referendum, the combined action of the Congress of Deputies and the Constitutional Court turned the Catalan proposal in an unrecognizable text. And it is worth remembering, and underlining it, too: this unrecognizable text, truncated twice and not voted by the Catalans, is the Law which is currently in force. This has been the result of Catalonia's latest attempt to modify its juridico-political status by constitutional means; in other words, a humiliation [...]

In parallel with the formation of a Parliamentary pro-independence absolute majority, a very broad and cross-cutting consensus has formed around the idea that the future of Catalonia, whatever it was, had to be decided by the Catalans, democratically and peacefully, through a referendum. In fact, in the most recent survey by an important newspaper in Madrid - not here, in Madrid - 82% of Catalans express it this way [...]

The Catalan demands [...] have always been expressed peacefully and through the majorities obtained at the polls. The people of Catalonia have been demanding freedom to decide for years. It's very simple [...] There is no State institution that is open to talking about the majoritarian demand of this Parliament and of Catalan society [...]

[*in Spanish*] And a people cannot be forced, against their will, to accept a *status quo* that they did not vote for and that they do not want. The Constitution is a democratic framework, but it is equally true that there is democracy beyond the Constitution [...]

[*in Catalan*] Ladies and gentlemen, with the results of the referendum of the 1st of October, Catalonia has earned the right to be an independent State, and it has earned the right to be heard and respected. [...] 'Yes' to independence has won an election by an absolute majority, and two years later it won a referendum under a rain of baton blows. The ballot boxes, the only language we understand, say yes to independence. And this is the path I am committed to follow [...] This is what has to be done today. Out of responsibility and out of respect [...]. We firmly believe that this moment calls not only

for a de-escalation in tension, but above all for a clear and committed will to push forward the demands of the Catalan people starting from the results of the 1st of October. Results that we must consider, unavoidably, in the stage of dialogue that we are ready to open.

There are many remarkable points to be underlined. The first one is that the primal political principle is affirmed to be the realisation of the popular will, as it is expressed both through elections and through referenda. The synergy between these two political practices is repeated at least three times in three different passages. Differently from some populist discourses, direct and indirect forms of democratic participation are meant to support one each other rather than being in competition. The elected Catalan Government is presented as an ally of the people, firmly committed to the implementation of its demands. There is a cooperation, and not an antagonism, between the people and its elected representatives. Of course, this rhetorical operation is contingently made easier by the fact that, in the specific Catalan case, the results of the two practices roughly coincide: the sovereingtist front has won both the elections (2015) and the Referendum (2017). Puigdemont insists that the results of both the elections and the referenda clearly express a majoritarian demand for self-determination and independence, and that therefore this demand has to be implemented.

In normal circumstances, it would not be controversial to affirm that democratic politics should implement the popular will as it has been expressed through elections and referenda, especially if the results of referenda and elections are concordant. The controversial point is that Puigdemont, along with the whole sovereingtist front, assumes that this has to be done overcoming the Constitution and the Law. Not only he states that «there is democracy beyond the Constitution», but he openly affirms that the ‘only’ source of political legitimacy is the popular will: «the ballot boxes [are] the only language we understand». The long digression about the 2006 Catalan Statute, voted by both the elected Catalan Parliament and the Catalan people and then truncated both by the Spanish Parliament and the Constitutional Court, serves the rhetorical purpose of advancing the same argument. The Catalan / Spanish quarrel over the Catalan Statute of Autonomy could easily be interpreted as a controversy between National

and Regional territorial competencies and authorities. This interpretation, which has been consistently advanced by a part of the literature, has its merits and it is not to be discarded. However, as the debate about Catalan self-determination evolved and escalated throughout the years, this issue began to be discursively framed more as a controversy over democracy, and this is what Puigdemont is pinpointing here. He underlines several times that the Catalan people has already and repeatedly tried to implement its will through legal and constitutional practices, but that this has resulted to be impossible: «this has been the result of Catalonia's latest attempt to modify its juridico-political status by constitutional means; in other words, a humiliation». This passage illuminates one of the critical points of the conflict: what should happen if it is impossible to implement the popular will through legal and constitutional means? Puigdemont's answer is the 'popular' answer: the popular will has to be implemented «beyond the Constitution», because it is the popular principle to have primacy, and not the legalist-constitutionalist one. Puigdemont is not maintaining that the popular and that the legalist-constitutionalist principles are always necessarily in conflict. However, he is claiming that, in the case of a conflict between them, the popular principle should prevail.

Consistently with this discourse, the then Catalan President also posits the popular principle as a non-negotiable premise for dialogue: «We firmly believe that this moment calls not only for a de-escalation in tension, but above all for a clear and committed will to push forward the demands of the Catalan people starting from the results of the 1st of October. Results that we must consider, unavoidably, in the stage of dialogue that we are ready to open». This is consistent with the popular principle being the nodal point of the discourse: realising the will of the people is not only an important element to be considered among others, but the principle which stands «above all» as the «unavoidable» premise for politics to be possible. If this condition is not met, dialogue is impossible, since abidance to the popular will is not something to be democratically negotiated, but the foundation of democratic politics itself. The subtext of this passage also seems to be that avoiding social conflict («de-escalation in tension»), and therefore preserving pacific coexistence,

is important, but not so important to overcome the popular will: «this moment calls *not only* for a de-escalation in tension, *but above all* for a clear and committed will to push forward the demands of the Catalan people»

As already mentioned in the previous sections, on the 11th of October 2017, the day after this Puigdemont's speech, Spanish Deputies heatedly debate the issue in the Spanish Parliament. The first Deputy which takes the floor to express a sovereigntist position is Xavier Domènech i Sampere from the *Podemos* Party, which defines the Catalans endorsing the self-determination Referendum as «a citizenship that wanted to express itself freely». He later gives a second speech in which he provides more arguments for his position, emphasising the notions of «the right to decide», of «collective wills» and of «the people». After him, Catalan Deputy Feliu-Joan Guillaumes (CiU) affirms that the Referendum, the right of the people to decide, is to be sustained simply «out of sympathy for democracy» and not as an endorsement for Catalan independence. However, it is Catalan Deputy Joan Tardà (ERC), to first elaborate an articulated and complex popular discourse. In an extremely interesting speech, he very explicitly insists on the «democratic principle», mentioning 'democracy' (or the adjective 'democratic') at least ten times. He identifies the 'democratic principle' as the principle of «consent», of «the right to decide» and of the will «to empower citizenship». He also explicitly posits this «democratic principle» over the constitutional one, and openly accuses the unionist front of disregarding it:

Historically there have been two ways of resolving national conflicts: one, the democratic way - perhaps the case of Scotland would be the last example of this model - and two, the authoritarian way. [...] We say that there is no democracy without consent. It is not force that makes the union; rather, it is consent that is fundamental. If we look at the percentage of Catalan citizens who voted for constitutionalist parties in 1978, we are talking about a 90%, and today we are talking about less than a 40%. Then we will have to recognise that this consent towards the Spanish Constitution has decreased [...] The Catholics attending here will recognise this quote: 'The Sabbath was made for man and not man for the Sabbath' [Mark 2:27]. Therefore, Constitutions must respond to the democratic principle; in other words, there is no Constitution without respect for the real truth, which is the democratic principle.

Did not the Supreme Court of Canada, even though the Canadian Constitution did not provide for the right of Quebec to secede, put ahead the respect for the quebecois people's will of deciding their own future? And if we go further back, did the King of Sweden not have the protection of the Swedish Constitution to crush the Norwegians militarily when the Norwegians unilaterally decided to become independent? Why didn't he do it? Because he clearly put a democratic principle first. But it is true that you and us do not share this principle. If we do not share it, it must be because we come from different origins. [...] For you, the unity of Spain prevails over and even precedes democracy. This is unprecedented in the 21st century [...]

You will agree with me - or should agree with me - that we Catalans can decide this [...] In the 21st century, the men and women who walk this earth are free men and women [...] This is why we are talking about the right to decide and to empower citizenship [...] [Repression] is useless, it is sterile, democracy always wins. It is true that they can make us suffer [...] but in the end we will win. In the end, democracy will win, democracy is invincible. What's more, historically we know what suffering is, because in the imagination of the Catalans, even many who are not pro-independence, the right to decide - whether they like it or not - is not going to disappear.

This speech is notable because Tardà enunciates a popular understanding of democracy («there is no democracy without consent [...] it is consent that is fundamental») but also because he separates the constitutionalist and the democratic principle, putting the latter above the former: «'The Sabbath was made for man and not man for the Sabbath'. Therefore, Constitutions must respond to the democratic principle; in other words, there is no Constitution without respect for the real truth, which is the democratic principle». In fact, he praises political actors which «put the democratic principle first», even at the expenses of the State's territorial integrity, institutional stability and even in contrast with their Constitutions, while he accuses the Spanish unionist front of not «shar[ing] this principle». He also very clearly maintains that the preservation of a State's territorial integrity and institutional stability does not have prevalence over the popular principle: «for you, the unity of Spain prevails over and even precedes democracy. This is unprecedented in the 21st century»⁸⁴.

⁸⁴ It is to be noted that this speech is particularly pivoted around the issue of secession, as the various examples (Scotland, Quebec, Norway) indicate. This is one of the cases in which the secessionist argument and the democratic argument are more or less implicitly

Proceeding in the debate, Basque Deputy Aitor Esteban (PNV) also insists on the notion of democracy, which recurs at least six times in his talk, and he openly challenges the legalist definition claimed by Rajoy. Directly addressing the then Spanish President, and in continuity with his colleague Joan Tardà, he poses the principle of popular consent over the legalist one:

Mr Rajoy, you said that what is not legal is not democratic, I have heard you say that on several occasions. I would add a little something because I believe that this is not true, not everything that is legal is democratic, and we have examples in many countries. What I would say is that what is democratic is not always legal and what is legal is not always democratic, because, Mr President, democracy is the Rule of Law, yes, but also the acceptance of the citizens, and in Catalonia there is a significant part of the population that does not accept the legal system. And we must react to this, we cannot say: I am imposing it just because I want to. Listen, 2 million people, more than 2 million people [...]

Seek a solution that connects legality and legitimacy because the objective, Mr President, should not be to be able to impose the Law, but to get the citizens, and in this case the Catalan citizens, to agree with it.

During the unfolding of the Parliamentary Debate, Esteban intervenes again with a second speech, which is maybe even more remarkable:

You said that without Law there is no democracy. Yes, Mr President, but the mere existence of the Law does not ensure that there is democracy; the people must feel that way [...] You said: ‘Is it possible for the State to endure the blackmail – you have defined it that way – of secession again and again?’ I tell you, Mr. President: ‘And is it possible that an advanced democracy, such as the Spanish one claims to be, can endure permanent unrest and revolt every few decades within the same State’s space?’

Is it possible? Is that acceptable and the other is not? [...] I am talking about [periodically] imposing certain positions against a will [...] Is that a good thing for a democratic state in the 21st century, really?

overlapped and conflated. The relevance of the secessionist frame here is undeniable. However, as pointed out elsewhere, this does not negate the democratic interpretation, both because Tardà himself insists on it, and because the democratic argument as it is presented here could be defended and applied regardless of the secessionist one.

Esteban's speeches are significant because they are another explicit example of the popular discourse competing with the legalist one for the hegemony over the concept of democracy. According to his account, legality is neither sufficient nor necessary for democracy: in the first speech he states that «what is democratic is not always legal and what is legal is not always democratic», while in the second he maintains that «the mere existence of the Law does not ensure that there is democracy; the people must feel that way». What is essential is popular consent, the fact that the citizens agree with the political system in force («the acceptance of the citizens»). In case of a discrepancy between legality and democracy, the acceptance of the citizenry is to be considered over the Law. In this regard, Esteban differentiates the notion of «legality» and the notion of «legitimacy», equated with popular consent: «seek a solution that connects legality and legitimacy because the objective, Mr President, should not be to be able to impose the Law, but to get the citizens [...] to agree with it». If the people does not agree with a legal system and does not will to accept it, then legality and legitimacy are 'disconnected'. This presupposes that the normative source of legitimation for the political system is popular consent and not abidance to the Law. Therefore, in case of a contraposition between the two, popular legitimacy should be prioritised. Another particularly interesting point Esteban is making, is that the legalist concern for institutional instability («'is it possible for the State to endure the blackmail [...] of secession again and again?») should not be prioritised over the the principle of popular consent and should not lead to the authoritarian tendency of «imposing certain positions against a will». In this paragraph, the Basque Deputy is openly taking up the challenge posed by Rajoy, whose previous intervention in the debate had finally brought up the crucial issue of institutional stability⁸⁵. By directly answering Rajoy's question, Esteban is highlighting one of the deepest and most critical points of the debate, which is the trade-off between stability and autonomy. The following part of his speech, not reported here yet, is even

⁸⁵ M. Rajoy: «Can we accept a right to self-determination that means perpetual blackmail on Spain's territorial identity and on the stability of its institutional system? Is it possible for a democratic state to survive with this constant prospect of disintegration, with this permanent pressure on its institutional stability?»

more interesting in this regard: within the sovereigntist front it represents one of the most conscious and on point considerations about this trade-off. That part of the speech will be reported in more length and commented more accurately in the last part of the dissertation, devoted to a reflection around this issue.

Proceeding in the Parliamentary Debate, Rajoy's legalist account of democracy is criticised, more defiantly, also by another Basque Deputy, Marian Beitialarrangoitia (*Sortu*). During the debate, she quite explicitly accuses the legalist principle of being authoritarian rather than democratic:

A large majority of the Catalan population is asking to be the subject of a decision and, therefore, to decide its future [...]

I ask you a question, Mr Rajoy, was Francoism democratic for you? Because there were laws. For me it was not democratic because of this, perhaps for you it was. You will clarify this for me [...]

Catalan citizens have spoken clearly on the 1st of October, they have done so despite all the obstacles, and now it is time to open a path of dialogue to implement the existing social demand, so that Catalonia becomes an independent State in the form of a Republic.

In her speech, Beitialarrangoitia is posing two distinct but interrelated points. On the one hand, she emphasises the principle of popular self-determination («be the subject of a decision» and «decide [ones] future») and the necessity of implementing the popular will («implementing the existing social demand»), regardless of the fact that this implies breaking the Constitution and the Law and destabilising an entire State. In parallel, she is openly trying to separate the notion of democracy from the legalist principle («was Francoism democratic for you? Because there were laws. For me it was not democratic because of this, perhaps for you it was»).

Of course, this criticism, probably on purpose, misses the fact that the legalist principle, as it is endorsed by Rajoy's front, implicitly assumes an allegedly 'democratic' Law. In fact, even though this is often taken for granted and not made explicit, the political actors which equate 'democracy' and 'the Law' presuppose a Law which allegedly meets contemporary baseline criteria for democracy. Among these, for instance, there are the guarantee of basic rights and freedoms, formal freedom and

formal equality for all of the citizens, equal possibilities for all of the citizens of participating in the political decision-making process, the separation of powers, a 'fair' system of elections. In contemporary Western Europe it is almost impossible for a politician to deem 'democratic' a legal system while at the same time openly acknowledging that some of these widespread criteria of 'minimal democracy' are legally and formally unfulfilled. Not only the Law has to meet these criteria in order to be considered democratic, but, within a legalist account, the Law is 'democratic' precisely because it is what implements and protects these criteria. Within a legalist discourse, the Law is democratic as long as it produces the framework for the existence of democracy. It is fair to presume that the legalist front engaging in this debate is assuming these elements as essential preconditions for the Law to be considered the mark of democracy. Therefore, resorting to Francoism in order to disqualify the legalist principle seems an improper rhetorical strategy.

However, it should also be admitted that Beitialarrangoitia actually makes some good points. First, it is to be taken into account that she is speaking from a positioning which is within the popular framework. Therefore, the allegedly 'democratic' qualifications of the Law are meaningless to her if the main democratic criterion, which is the realisation of the popular will, is not only overlooked, but repressed. Within her account, there is no diriment difference between the Francoist dictatorship and contemporary Spain, since they both harshly repress the expression and the implementation of the popular will, which should be the foundation of legitimate politics. If the popular will is repressed, the existence of an allegedly democratic Law, of an allegedly democratic Constitution and of allegedly democratic minimal standards are not sufficient: respect for the Law, even for a 'democratic' Law, is authoritarian if it is exercised without respect for popular self-determination and popular consent.

From a popular perspective, the legalist principle itself, the idea that the Law can prevail over the popular will, that popular self-determination can be obstructed in the name of the Law, and that the Law can be enforced against popular consent, is authoritarian by definition. After all, it literally posits authority over freedom and autonomy (or over

‘freedom as autonomy’). In this sense, this intervention is interesting because it addresses one of the main elements of the ‘horrific fantasy’ pinpointing this discourse: authoritarianism and fascism. A world in which the popular will is suppressed and popular consent is disregarded is a ‘fascist’ world. For this reason, Beitialarrangoitia defiantly addresses Francoism. In the same spirit, during the same Parliamentary Debate, the independentist Carles Campuzano (PDeCAT) repeatedly addresses his opponent, the unionist Albert Rivera (Cs), as a ‘falangist’, being called up for inappropriate behaviour by the Parliamentary Session’s President.

After King Felipe VI, Mariano Rajoy and Carles Puigdemont, one of the most notable political actors engaging in the debate is Pablo Iglesias, leader of the *Podemos* party, internationally known as one of the most prominent leftist populist figures in contemporary Western Europe⁸⁶. Iglesias speech pinpoints the elements of democracy, legitimacy and legality, even though his intervention is less explicit in articulating a proper popular discourse about democracy. Nonetheless, his words are very interesting:

Sometimes, Mr. President, in a democracy, the most sensible thing to do is to change the laws. This is something that everyone should understand. When the laws do not serve to solve political problems [...] perhaps it would be sensible to try to change the laws [...] to create new legalities, because sometimes it is necessary to create new laws to solve political problems [...] Wouldn't it be sensible, gentlemen of the Partido Popular, for us to be capable of inventing new legalities that allow us collectively to build a new agreement that overcomes the crisis of legitimacy that our political system is going through? Because our political system has a crisis of legitimacy.

Iglesias does not mention the popular will or popular self-determination, therefore it is not possible to strictly ascribing his speech to an openly popular discourse. However, he addresses the issue of the nature of democracy, of collective agreements and of the complex relation between

⁸⁶ Pablo Iglesias, one of the main founders and leaders of *Podemos*, is also a Euro-Deputy between 2014 and 2015. At the time of the analysed events (October 2017), he is a Deputy at the Spanish Parliament (2016-2021) while also being the *Podemos* party secretary (2014-2021). Between 2020 and 2021 he becomes a Minister and ‘Second Vice-President’ of the ‘Sánchez II’ left-wing Government (XIV Spanish Legislation).

legitimacy and legality. From his talk it emerges that, according to him, «in a democracy» legitimacy does not reside in legality, but in building the conditions for a virtuous political order based on a collective agreement. In this sense, one of the underlining principles grounding his conception of legitimacy is a principle of consent, in a contractualist version. In his words, this consent principle is not explicitly framed through the ‘popular’ nodal point. However, it is fair to presume that this agreement has to be made by the people (or by ‘the citizenry’). Moreover, given Iglesias’ notorious populist legacy it seems even more sensible to make this assumption. For these reasons, in the present analysis Iglesias’ speech is considered an example of sovereigntist and popular discourse.

Within this speech, the Law is not a primal political principle, but a political tool which is useful in order to solve political problems, which has to be subordinated to the legitimacy derived from collective agreements. Iglesias ambiguously speaks about ‘changing the laws’ and ‘creating new legalities’. The former phrasing seems a more moderate and reformist proposal of changing some single laws in the cases in which they result outdated. This would not be in contrast with a legalist principle, since it addresses some single laws and not the legal apparatus or the Rule of Law itself: in this case, the laws could be changed by legal means, remaining within a legal framework and according to a principle of legality which would not be questioned. Contrariwise, the latter phrasing, ‘creating new legalities’, repeated twice, is extremely more radical, especially when associated with the idea of «build[ing] a new agreement» and producing a new «legitimacy»: «wouldn't it be sensible [...] for us to be capable of inventing new legalities that allow us collectively to build a new agreement that overcomes the crisis of legitimacy [...]?»). What Iglesias is not so subtly implying, is that *the social contract is broken*, and that therefore the Law alone is not sufficient in order to maintain neither an efficient nor a legitimate political order. Iglesias claim is more radical than it seems at first glance: he is maintaining that the political order can be rebuilt from its foundation. In the last part of the dissertation, this point will be analysed in more depth.

It is to be underlined that this discourse implies a strict overlapping between ‘democracy’ and the principles of political justice and political legitimacy. Within this discourse, stating that something is ‘democratic’ is the same of stating that something is politically just and legitimate, and viceversa. This overlapping is so deeply ingrained that the link is never made explicit, but it is continuously assumed. The ‘democratic principle’ (*i.e.* ‘the popular will’) is the basic principle for political legitimation. In fact, throughout the debate, various actors of the ‘sovereignist’ front use these notions interchangeably.

Within the ‘sovereignist’ front of the debate it is assumed and not furtherly argued that ‘the democratic principle’ (*i.e.* ‘the popular principle’) is the criterion for political justice and legitimacy. This assumption is the bottom-line of the popular discourse. There are no further elements which legitimise the claim or which serve as normative foundations for the ‘democratic’ or ‘popular’ principle. ‘Democracy’ is the same as ‘expressing and implementing the popular will’ and it is inherently normative both morally and politically. In this sense, it defines both what is just and what is politically legitimate. In the course of the debate, every proposed explanation of this source of normativity is basically tautological. Saying that something ‘is democratic’ (*i.e.* based on the expression and implementation of ‘the popular will’) is presented as both a necessary and sufficient condition for being just and legitimate. The ‘democratic’ principle is not something to be justified, but the basic moral and political criterion for justification.

6.3. The Principle of Popular Self-Determination

The two main principles underpinning the popular discourse are self-determination and consent, both framed through the ‘popular’ nodal point. As briefly mentioned, the two principles are very similar, but they are not strictly the same. Popular self-determination focuses on sovereignty, choice, decision and agency. The people is the ‘architect’ of its own present and future. The people has the right to choose, decide and act for itself on its own, to be the active subject of choices, decisions and

actions which concern it. This right is the foundation of the political system and its primal criterion for legitimation. The notion of popular self-determination is closely related to the notion of popular sovereignty, that is, the conviction that the people should be the ‘sovereign’, the political subject holding decisional power. The notions of popular self-determination and popular sovereignty are theoretically and politically almost overlapping, at least as long as the political decisions taken and the sovereignty exercised by the people concern the people itself. In other words, as long as the people is both the subject and the object of political decisions and of political power. Throughout the analysed debate, the two expressions are recurrent and they are often used interchangeably. However, it is arguable that, among the two, the normative foundation lies in the notion of self-determination. The people has the right to rule, to hold decisional power, to decide and to enforce its will because it has the right to decide for itself and to determine its own future. In other words, the popular conception of democracy is basically a conception of ‘self-government’ or ‘autonomy’, whose subject is the people.

The expression ‘self-determination’ is recurrent many times within the Catalan sovereigntist discourse. Analysing the discourses, it can be said that it is one of the most recurrent expressions. In particular, the 1-O Referendum is often addressed as ‘the self-determination Referendum’, rather than the ‘independentist / secessionist Referendum’. The same principle is also framed as ‘the right (or ‘the freedom’) to decide’. ‘The right to vote’ is also often used as a synonym of this principle. In his official speech for the (suspended) Declaration of Independence, Puigdemont claims that «the future of Catalonia [...] ha[s] to be decided by the Catalans». He also repeatedly mentions the notion of «self-determination», the «right to decide», claims that «the people of Catalonia have been demanding freedom to decide for years». According to his view, the Government has the duty to implement the will of the Catalan people «out of responsibility and out of respect». A democratic and legitimate Government is a tool for the self-determination of the people: its aim is enabling the expression of the popular will and realising it. During the Parliamentary Debate, as it has been illustrated in the previous paragraph,

several Deputies highlight this notion. Tardà (ERC) mentions the «right to decide», and insists on the fact that «the Catalans can decide» and that the people has «the right to decide for its future». Domènech i Sampere (*Podemos*) also mentions «the right to decide», while Beitialarrangoitia (*Sortu*) speaks about the demand of «becom[ing] the subject of a decision».

There are two fundamentally different ways of intending the self-determination principle. First, it can mean that the people has the right to decide ‘for its future’, that is, determine which political system has to be established for its political community. This includes deciding about the institutions, the legal and constitutional framework and the structure of political decision-making procedures. In this sense, the people is the active subject of the foundational and constituent moments of the political system since it actively decides upon its foundation and constitution. Secondly, ‘popular self-determination’ can mean that the people has the right to be the active subject of every policy concerning it, but this happens within an already established political system, posteriorly in respect to the constituent moment. The people is the primal subject of decisions, but within already established institutions, legal and constitutional frameworks and procedures. In this case, popular self-determination is not circumscribed to a specific constituent moment (or period), but it is a practice to be exercised on an ongoing basis or at least periodically. In both cases, at the core of the discourse there are the notions of popular self-determination and popular sovereignty. However, in the former case these notions are assumed in a more radical and absolute form, which is foundational and constituent. In the latter case, their understanding is more moderate and limited, since they are exercised within an established political framework which has been already founded and constituted.

Both in theory and in practice, these two different understandings are not mutually exclusive: it is possible to imagine a political system constituted through an act of popular self-determination *and* within which the people is an active subject of political decision-making processes. Nonetheless, it is both theoretically and practically possible to separate them and to implement the former without the latter, and viceversa. Either way, it is important to theoretically differentiate between the two in order

to proceed in a rigorous analysis and to understand the root of this controversy about democracy.

Moreover, a further and even more decisive distinction needs to be made. Claiming that the people should be the active subject of the constituent moment in order for a political system to be considered democratic and legitimate, generally relies on an understanding of the constituent moment as a specific, circumscribed and separate extraordinary period. This constituent moment enshrines the birth of an established political system designed for a stable permanence in the future and precedes the ordinary unfolding of political practice. It is important to note that the precedence of the constituent moment over the constituted political system is chronological, but also logical, ethico-political (since it grounds its criteria for political legitimacy) and pragmatical (since it establishes institutions, legal frameworks and procedures which enable the unfolding of political practices). Therefore, the people is put in the conditions of participating into politics by virtue of the existence of these established institutions, frameworks and procedures. Contrariwise, within established institutions, the people is not periodically called to take decisions about the ultimate foundation of the State, its possible destitution and the constitution of an entirely new political system, since this foundation is assumed as already occurred and it has already been deemed legitimate and democratic.

The controversy arises when this radical and absolute form of popular self-determination and popular sovereignty is conceived as a viable political practice to be exercised on an ongoing basis. The form of popular self-determination and sovereignty Catalan sovereigntists are advocating for brings into question exactly this element. According to them, the people has the right to directly decide about the permanence of institutions, eventually deciding of overthrowing them and of constituting new ones according to their will. Claiming this kind of power means including a radical, absolute and 'extraordinary' form of sovereignty into ordinary political practices. This introduces an ever-present possibility of destitution and (re)constitution which challenges the conception of a 'established' or 'constituted' political system to its core.

In this regard, the notion of ‘popular sovereignty’ generates a critical misunderstanding. Roughly speaking, it is widely assumed and unquestioned for popular sovereignty to be one of the core elements of democracy. However, on the one hand, ‘sovereignty’ can be intended as the foundational power and the legitimacy’s source which precedes the constitutional and legal system, and that it can be maintained that this kind of power pertains to the people at any moment. On the other hand, it can be intended as a decisional power to be exercised ‘within the limits of the constitutional and legal system’. Contemporary hegemonic discourses about democracy generally assume, more or less explicitly, that the people is sovereign ‘within the constitutional and legal limits’. Within this view, the people is assumed to have no legitimate power of founding a new political order according to their will. What Catalan ‘sovereignists’ are claiming is that the people should have this power. In this sense, the usage of the term ‘sovereignists’ is to be considered in an even more poignant form than the common and current one.

6.4. The Principle of Popular Consent

Similar but not identical to the principle of self-determination, the principle of popular consent is a criterion for the legitimation of political systems. The core notion of this principle is agreement. Positively, something can be legitimately implemented as long as the people agrees with it. Negatively, something cannot be imposed if the people does not agree with it. The already reported Puigdemont’s speech offers a crystal clear negative formulation of the principle of consent: «a people cannot be forced, against its will, to accept a *status quo* that it did not vote for and that it does not want». The then President is adamant in this respect and this is one of the key lines of his speech, asserted only few minutes before actually declaring Catalan Independence. In other passages he stresses the fact that a Statute is democratic and legitimate as long as it is «approved by the citizens». Contrariwise, substantially changing it against the popular will is illegitimate, even if it is legally done by the Constitutional Court. In the same speech he also mentions the «very broad and cross-cutting

consensus», within Catalan society, about the necessity of holding a Referendum. In this respect, he refers to the fact that «82% of Catalans express it this way». This widespread consensus is a crucial argument in favour of the Referendum, regardless of all the other considerations about its illegality and unconstitutionality.

On a similar note, Domènech i Sampere (*Podemos*) underlines the notion of «collective will» and emphasises that the Referendum is «what 80% of Catalans want», therefore highlighting the broad popular consensus about it. Tardà (ERC), even more explicitly, states that «there is no democracy without consent. It is not force that makes the union; rather, it is consent that is fundamental». Iglesias (*Podemos*) insists on the notion of «building an agreement» while Esteban (PNV) highlights the priority of the «acceptance of the citizens» over the Law. As he claims, it is necessary to consider that «a significant part of the population [...] does not accept the legal system» and that the Law should not be «impose[d]», but «agree[d]». In another intervention during the same Debate, he reiterates that «the mere existence of the Law does not ensure that there is democracy; the people must feel that way» and that «imposing certain positions against a will» is not «acceptable» and is not «a good thing for a democratic state in the 21st century».

This is both a positive and a negative formulation of the principle of popular consent: on the one hand, positively, it can be said that something can be legitimately implemented only as long as the people agrees with it; on the other hand, negatively, it can be said that it is not legitimate to enforce something upon the people against its will. In these quotes Esteban directly addresses the trade-off between legality and the popular will which lies at the core of the dispute. Following his reasoning, it emerges that the primal principle is the popular and not the legalist one, since popular consent operates as an ultimate extrinsic criterion of legitimation for the Law and as an ultimate external limit to it, while the Law alone cannot justify and legitimate itself. In fact, while counterposing «legality and legitimacy», the Baque Deputy is equating legitimacy with popular agreement and not with legality: the Law needs popular consent in order to be considered democratic and legitimate.

Theories of political legitimacy based on consent are diverse. For instance, consent can be tacit, implicit or explicit, hypothetical or factual, revocable or irrevocable. The practical ways in which consent can be actually expressed and/or assumed are also disparate and controversial. In the analysed case, the Catalan sovereigntist front intends popular consent as explicit, factual, revocable, and expressed both through voting procedures such as elections and referenda, and through mass mobilisations and demonstrations. This means that the people is called to actually express its agreement or disagreement (factual) in an explicit way (explicit) through voting and mobilisations, and that these expressions of agreement or disagreement can invalidate or modify a previously enforced decision (revocable).

In the analysed debate, the element of factuality is critical. Within many paradigms, consent to the foundation of a political order is framed as an hypothetical moment which serves as a regulative ideal. For instance, it can be said that a certain political order is legitimate if it would be 'reasonable' to consent to it, or if people would consent to it 'under fair circumstances'. The Rawlsian scenario of the 'veil of ignorance' is a classical and influential example of a regulative ideal of hypothetical consent which can be used to legitimise a political order. In broad terms, it can be said that a large part of modern contractualist theories rely on the idea of a hypothetical agreement. On the contrary, factual consent requires actual agreement by actual people under actual circumstances. In this sense, the key element is valuing what people actually want and what they actually do not want, despite what it would be hypothetically 'reasonable' and what it would be decided under hypothetically 'fair circumstances'.

Another crucial element is revocability. One of the main arguments of the unionist front is that the contemporary Spanish Constitution had been massively approved by the Catalan people itself through a Referendum in 1978. The Catalan people itself factually and explicitly consented to the Constitutional order and therefore should not try to break or overcome it. The sovereigntist answer is that this is irrelevant as long as the Catalan people does not consent to it anymore in the present. According to this perspective, past decisions are not binding in the present

if popular consent changes. Catalan Deputy Joan Tardà (ERC) stresses this point in the Parliamentary Debate:

We say that there is no democracy without consent. It is not force that makes the union; rather, it is consent that is fundamental. If we look at the percentage of Catalan citizens who voted for constitutionalist parties in 1978, we are talking about a 90%, and today we are talking about less than a 40%. Then we will have to recognise that this consent towards the Spanish Constitution has decreased.

Being understood as factual and revocable, consent is therefore mutable, since it does not abide neither to an ethical or theoretical superior principle nor to a previous permanent decision. Consequently, relying on consent makes it impossible to grant stability, persistence and even predictability: to some extent, consent is always unpredictable and potentially ever-changing. In the analysed case, the sovereigntist front underlines the factuality and the revocability of popular consent not only concerning ordinary policies, but with regard to the foundation of the State itself: the Constitution, the legal system, the permanence of established institutions, their dissolution and the foundation of new ones. This point is almost identical to the one already highlighted in relation to the principle of self-determination. According to this view, the entire foundation of a political system is not established and legitimised once and for all, but it is continuously subjected to the approval of the people, at least potentially. In turn, the people is subjected to it only as long as it actually agrees to be so. The huge implications of this point will be pointed out in more detail in the last part of the work.

6.5. Similarities and Differences Between Popular Consent and Popular Self-Determination

The principle of consent is akin to the principle of self-determination because they both assume the centrality of the popular will as a normative source and as a criterion for political legitimation. The people is considered as a subject and as an agent whose will has to be honored, valued and prioritised and which has a determining say about the

issues concerning it. The two principles are also theoretically and practically interrelated and partially overlapping: self-determining also entails implicitly agreeing with what is being determined, while expressing agreement or disagreement is a practice of self-determination. Moreover, the people can agree to be subjected to something (*e.g.* a legal and constitutional framework, an institution, a Government, a procedure, a policy, a law, etc.) which had been established by the people in the first place (in the scope of a constituent moment, or through practices of popular political participation). In this case, the legitimation's criteria of popular self-determination and of popular consent are overlapping. Furthermore, roughly speaking, it can be said that, within the conceptions and the practical implementations of 'democracy', the two principles often coexist in some form and they are often not clearly separated. On the one hand, some political practices and some political decision-making processes can be intended at the same time as acts of popular self-determination and as expressions of popular consent. Referenda are a good case in point. On the other hand, most democratic political systems are imagined as relying on practices for both the periodical exercise of popular self-determination and the the periodical expression of popular consent.

Self-determination and consent are also underpinned by the same principle, which is the principle of autonomy (in its etymological sense of *autos + nomos* or 'self-rule'), the notion that a subject should freely decide for itself instead of being subjected to external impositions. Ontologically, ethically and politically, the principle of autonomy assumes the capacity of a subject of deciding for itself on its own, and claims it as a primal and foundational ethico-political right. In the case of the popular principle, the subject which has the right to exercise this 'autonomy' is the people as a single collective subject endowed with proper agency and will. Without an ethico-political conception which conceives and values these elements, the popular discourse about democracy is meaningless. This conception of 'self-rule of the people' is close, albeit not identical, to the literal meaning of democracy as 'power', 'rule' or 'government' of 'the people' (*demos + kratia*), which is the most basic, but also the most historically and etymologically accurate, definition of 'democracy'.

However, despite affinities and similarities, the two principles can be both theoretically and practically distinct. Self-determination is intrinsically reflective in the sense that it pertains to a subject governing and ruling itself. The subject of self-determination is both the subject and the object of decisions. This implies that the subject is also somehow actively involved in the decision-making processes and in the ruling processes. In a popular account of democracy based on popular self-determination, the people which self-determines is also sovereign, that is, it is the ruling subject holding decisional power. Differently, consent can be given in order to be governed and subjected to an external rule. Giving (and withdrawing) consent is an act of autonomy and of self-determination, and the ever-present possibility of revoking consent assures a permanent grade of autonomy and self-determination to some extent. Nonetheless, a consenting agent can be subjected to an external rule, therefore renouncing to exercise its autonomy and self-determination on an ongoing basis, at least temporarily and/or partially. The distinctive element is that an external rule or government cannot be 'imposed' upon the people without its agreement and/or against its will. However, if there is consent, an external rule or government can be implemented and the people can be subjected to it. Within this perspective, the people is not necessarily self-governing, but it can agree to be governed. It is not necessarily self-ruling, but it can agree to be ruled. In this sense, the people can be considered 'sovereign' in the sense that it has the ultimate power of legitimising or delegitimising the rulers, giving or withdrawing consent according to its will. Therefore, in this perspective, it can be said that the people holds the fundamental decisional power to some extent. Nevertheless, as long as consent is given, it is possible for the people to be only the 'object' and not the 'subject' of ruling and governing practices and of political decisions.

Moreover, both in theory and in practice, the principles of popular consent and of popular self-determination can exist separately or even in contrast one with the other. For instance, it is possible for the people to disagree with something that had been legitimately established by the people in the past, but that it is not accepted by the people in the present.

Therefore, popular consent can be withdrawn also from something that had been decided through an act of popular self-determination (*e.g.* a popular constituent assembly or a popular referendum). Contrariwise, it is possible for the people to give consent to something (*e.g.* a legal and constitutional framework, an institution, a Government, a procedure, a policy, a law, etc.) which had been established through a decision-making process which did not involve the people. For example, it could have been established by a restricted group, by a single individual actor, or even by another different people. It is even ‘paradoxically’ possible for the people to agree to a political order within which the people is not involved in decision-making processes at all, going so far as consenting to completely abdicate to its decisional power. In this case, the principle of popular consent alone is prioritised as a criterion for political legitimation over the principle of popular self-determination. The people can agree to be subjected to a political order within which it does not have access to decision-making processes and to ruling processes.

This kind of ‘paradoxically democratic’ order could also be constituted through an initial act of proper popular self-determination (*e.g.* a popular constituent assembly or a popular referendum), but then it can be maintained through popular consent alone, without furtherly involving the people in decision-making processes or in ruling processes. The extreme end of this dynamic, which is the extreme end of the ‘paradox’ of democracy, is the possibility of legitimising an autocratic regime as long as the people agrees with it⁸⁷. On a side note, it is interesting to recall how this ‘paradox’ is one of the arguments often employed against a purely ‘popular’ conception of democracy, and in favour of the existence of some

⁸⁷ According to some views, this paradox is to be rejected as a perverted form of democracy, the extreme case which sets the limits of sensible and consistent democracy. Differently, according to others, the existence of this paradox means that the principles of consent and/or of self-determination are to be rejected as intrinsically paradoxical and self-refuting. More moderately, it can be said that the principles of consent and/or self-determination cannot be pursued as a primal principle alone, but they have to be limited and corrected by some other heterogeneous principle, in order to prevent this paradoxical outcome. Contrariwise, according to a third set of considerations, the possibility of autonomously renouncing to ones autonomy is considered as a totally legitimate form of exercising it, or even as the ultimate form of it. In general, ‘paradoxes’ with a similar structure are recurrent with relation to ethical and political paradigms which are based on the centrality of ‘freedom as autonomy’.

rules or procedures which limit the scope and the possibilities of the implementation of the popular will, in order to avoid ‘democratic undemocratic’ outcomes. As it has been already mentioned in the section about the legalist account of democracy, this is not only a logical and theoretical reasoning or a neutral practical political precaution, but also an emotionally charged narrative fueled by the historical experience of the XX Century European dictatorships, which often started according to the (real or presumed) popular consent. Legalist-constitutionalist, proceduralist and liberal political discourses, as they are articulated in the public political arena, are hardly separable from the XX Century’s traumas and fears.

Therefore, it can be said that the principles of popular consent and popular self-determination are separate for various reasons. However, it is nonetheless true that they are particularly similar and interconnected in different respects. Broadly speaking, within a popular discourse it appears sensible to consider them together and in the actual case of the Catalan sovereigntist discourse they are both mentioned and often considered as almost identical or interchangeable. As noted in the beginning of this paragraph, one of the main elements the two principles have in common is the centrality of the people as a subject and of the popular will. Both principles imply that honoring the popular will is at the core of democratic practice, that the popular will is the primal source of political legitimation and that it is the essence of democracy. It can be therefore said that the notion of ‘popular will’ operates as a nodal point within the popular discourse, grounding the political principles and at the same time meaningfully articulating them together. Moreover, both principles are somehow grounded in a consideration for autonomy as the primal right of a subject to have agency and control over matters concerning it. In this respect, it can be argued that the value of autonomy is the ultimate ethical foundation of the popular discourse, as the value of safety is the ultimate ethical foundation of the legalist discourse.

6.6. The People and the Popular Will

The popular will is arguably the nodal point which sustains and organises the popular discourse. In this respect, it is important to make some specifications about the notions of ‘popular will’ and of ‘the people’. Some of the most critical questions in this regard are the following: what is ‘the people’? Does it exist? Does something as ‘the popular will’ exist? If the popular will exists, how can it be expressed? Different answers could be provided to these questions. The popular discourse as it is articulated in the Catalan debate is neither completely explicit nor completely consistent in this respect, even though some elements emerge. First, it is important to note that the political subject envisaged within this conception is a single collective subject. ‘The people’ is not just the aggregate of all the individual citizens, but a proper subject on its own, with its own agency and its own will. Within this perspective, self-determination is not only conceived as the possibility for every single citizen of ‘having a voice’ in the decision-making process. Differently, self-determination is intended as the possibility for ‘the people’ to decide for itself as a single subject. In this regard, some passages of Puigdemont speech are particularly interesting:

I want to address the population as a whole; to those who mobilised on October 1st [1-O Referendum] and 3rd [independendist general strike], to those who did it on Saturday in the demonstration advocating for dialogue and to those who did it en masse on Sunday in defense of the unity of Spain. And to those who have not mobilised in any of these calls. All of us, with our differences and discrepancies, with our misunderstandings, form the same people and we must continue doing this together, no matter what happens, because this is how the history of peoples who pursue their future is made. We will never agree on everything, as is obvious. But we do understand, because we have already demonstrated it many times, that the way forward cannot be other than democracy and peace. What it means is respect for those who think differently and finding how to make collective aspirations possible [...] But what I will present to you today is not a personal decision, nor anyone's wish: it is the result of the 1st of October [...] We are here because last October 1 Catalonia celebrated the self-determination Referendum.

On the one hand, Puigdemont addresses «the population as a whole» and proceeds in respectfully acknowledging all of the different antagonistic fronts involved in the struggle. In one of the opening paragraphs of the

speech, he states that «all of us, with our differences and discrepancies [...] form the same people and we must continue doing this together [...] because this is how the history of peoples who pursue their future is made». The discourse endorsed by the then Catalan President tries to articulate together two different levels. «The population as a whole» is at the same time a pluralistic ensemble of single citizens, all of which can have a different opinion and interest, and a single collective subject with a single agency. This is almost necessary within a democratic popular perspective, at least in contemporary Western Europe. On the one hand, the singularity of the collective subject allows to speak about the existence of a single popular will to be pursued. On the other hand, pluralism is generically assumed to be a necessary feature of democracy, mainly as a result of a liberal cultural legacy which permeates the majority of political discourses, and which is also the political legacy Puigdemont himself comes from. Considering his political origins, coming from a moderate and mainstream right-wing party, he could hardly be defined a ‘populist’ or even a ‘radical-democrat’, but, as an individual politician, it should more properly be defined as a liberal. In this context, the pervasive liberal sensibility and the cultural ethico-political relevance of the principle of pluralism, often accompanied by the principle of tolerance, causes it to be almost impossible for a ‘democratic’ and ‘moderate’ politician to openly and explicitly endorse either a purely monist conception of the popular will, either an attack against a sector of the population for ‘thinking differently’ from the majority. At least rhetorically, the principles of tolerance and pluralism have to be acknowledged, and this is what Puigdemont is doing here, probably also to answer to the unionist grievances for the sovereigntist ‘harrassments’. It is impossible to establish whether he is sincere or not. However, it is to be noted that he actually strives to integrate these elements within the popular discourse.

Nevertheless, despite the acknowledgement and the respect for the fact that different opinions and disagreements exist within the population, the focus is on the will of cooperating and working together in order to pursue a common project, therefore becoming a single subject with its own agency, its own history and its own future: «all of us [...] form the same

people and we must continue doing this together [...] because this is how the history of peoples who pursue their future is made». This is a voluntaristic and performative conception of the people, in contrast with other more essentialist and/or more nationalist and ethnicist conceptions of the notion. After all, in this political juncture, the notion of nationality and ethnicity is *never* mentioned in this Puidgemont's speech, and *barely* mentioned by the other sovereigntist political actors which intervene in the Parliamentary Debate. The people can be intended as one as long as it pursues its future as one. In this sense, the people exists as a single subject when the population mobilises and acts together with the common intention of pursuing a common project. This is the reason why the 1-O Referendum is so important within the construction of the Catalan sovereigntist discourse. On the one hand, the victory of the 'yes' to independence 'proves' the fact that independentism is a majoritarian demand within Catalan society. On the other hand, more interestingly, the 1-O Referendum is a massive grass-root mobilisation made with the collective intention of practicing self-determination and of actively participating in creating the material possibilities for doing so. For these reasons, the 1-O Referendum is not only a tool for the legitimation of the independentist demand, in virtue of its results, but it is also part of a collective mythopoeitic operation of creation of the Catalan people as a collective subject which wants to self-determine:

What I will present to you today is not a personal decision, nor anyone's wish: it is the result of the 1st of October [...]

We are here because last October the 1st Catalonia celebrated the self-determination referendum. It did this in conditions which were more than difficult: they were extreme. It is the first time in the history of European democracies that a voting day takes place amid violent police attacks against voters queuing to cast their ballots. From 8 in the morning until the closing time of the schools, the police and the Civil Guard beat defenseless people so that the emergency services had to attend more than 800 people. We all saw it, and so did the the whole world, that shuddered in front of these images.

The aim was not only to confiscate ballot boxes and papers. The aim was to cause widespread panic and that the people, seeing the images of indiscriminate police violence, stayed at home and renounced their right to. But all of that backfired to the politicians responsible for this ignominy. 2,286,217 citizens overcame their fear, left their homes and

voted. We don't know how many tried without success, but we do know that the violently closed schools represent a census of 770,000 more people.

More than two million two hundred thousand Catalans were able to vote because they overcame their fear, and also because, when they arrived at their school, they found ballot boxes, envelopes, ballot papers, established tables and a reliable and operational voting register. The previous weeks police operations and records in search of ballot boxes and papers did not prevent the referendum. The arrests of high officials and government officials did not prevent the referendum either. The wiretapping, the monitoring of people, the computer attacks, the closure of 140 websites, the violations of the correspondence, did not prevent the referendum either. I repeat: despite the effort and resources allocated to combat it, when citizens arrived at the polling stations, they found ballot boxes, envelopes, ballot papers, established tables and a reliable and operational voting register. I therefore want to acknowledge all the people who made this logistical and political success possible. To the volunteers who slept in schools. To the citizens who kept the ballot boxes at home. To the printers who printed the ballots. To the computer scientists who devised and developed the universal census system. To the workers of the Government. To Yes and No voters, and to those who voted blank. To so many anonymous people who did their bit to make it possible. And above all, I want to send my affection, my solidarity and my warmth to all those injured and mistreated by the police operation. The images will remain recorded in our memory forever. We will never forget it [...]

Ladies and gentlemen, with the results of the referendum of the 1st of October, Catalonia has earned the right to be an independent State, and it has earned the right to be heard and respected.

Beyond its emotionally charged and 'epic' narrative, which is crucial for the construction of the popular discourse, the dynamic which emerges here is theoretically and politically mainly performative. The existence of the people as a single subject with a single agency and a single will, is at the same time assumed and produced by the performative practice. In this case, the performative practice is the massive mobilisation of the people in the construction of the self-determination Referendum, in the Referendum itself, and in the further demonstrations endorsing it. By massively mobilising in the name of the self-determination of the people, the population is actually performatively producing the people as a collective subject which wants to self-determine.

On a side note, it is important to underline that the recurring insistence on the 1-O Police violences serves the purpose of constructing

the horrific 'fascist' fantasy which underpins the popular discourse. A political world which tries to impede legitimate democratic practices of popular self-determination is an horrible world full of prevarication, abuse, injustice, and violence towards citizens: if it disregards the popular will and the popular consent, the Government becomes dangerous, since it can resort to violence towards its own people. Insisting on the complete innocence of voters and on the unacceptable violence of the Government produces the two sides of the popular fantasy, charging it both with moral and with emotional elements. In this case, this operation is oriented both towards the future, envisioning the world which could be build if the popular principle is dismissed, and towards the past, building the narrative of the history of the Catalan people. At the same time, this narrative performatively replicates and reactivates a political antagonism towards the oppressor and a political-identitarian unity between the oppressed, in a twofold operation which is both a promise to remember and a promise of revenge: «The images will remain recorded in our memory forever. We will never forget it». In the same days, «*I-O, Ni Oblit, Ni Perdó*» («1-O, We do not Forget, We do not Forgive») is one of the main slogans of the demonstrations.

Within the popular discourse, the ontological statute of the people is theoretically ambiguous, because the discourse assumes an already existent 'people' as a subject while at the same time characterising it only in terms which are voluntaristic and performative. On the one hand, 'the Catalan people' is assumed to be an existent subject on its own, and it is assumed to have the right to self-determination in virtue of this existence. This more essentialist and descriptivistic paradigm follows this line of reasoning: the people exists, therefore a popular will exists, therefore it is necessary to implement practices to enable the expression and the implementation of this popular will. On the other hand, it is the active mobilisation of the Catalan people and its active voicing of a demand to produce the existence and the legitimacy of the right to self-determination. This is a more performative paradigm, which in turn follows this line of reasoning: mass mobilisations and collective political practices are being deployed, a popular discourse is being articulated and a demand is being

advanced ‘in the name of the people’, therefore ‘the people’ as a collective subject is being produced. According to the former paradigm, the existence of the people as a subject, or the people’s identity, precedes its political action, while, according to the latter, the people is produced through collective political and discursive acts, even though these acts are done assuming it as already existent.

Barely any sovereigntist passage either of Puigdemont’s speech and of the Parliamentary Debate mentions features which characterise the Catalan people in an identitarian, essentialist or nationalist sense. There is no single mention of the word ‘identity’, only one mention of the word ‘nation’ and one mention of the adjective ‘national’. Specific Catalan cultural or linguistic features neither have any mention. All of these words appear more often in the passages uttered by the unionist front. Contrariwise, almost all of the sovereigntist politicians which take the floor insist on voluntaristic and performative elements which indicate the existence of agency and will: the focus is never on the fact that the Catalan people has some distinctive features and characteristics, but always on the fact that the Catalan people wants, claims, demands, agrees, disagrees, hopes, mobilises, votes. In this sense, the 1-O Referendum is not only a ‘descriptive’ attestation of the state of affairs of the prevalence of independentist opinions within the Catalan population as an ensemble of separated individuals. In the sovereigntist narrative and according to a performative conception of politics, the 1-O Referendum is a political act of collective self-determination, from which a single collective subject (‘Catalonia’) with its own rights is produced: «we are here because last October the 1st Catalonia celebrated the self-determination Referendum [...] Ladies and gentlemen, with the results of the Referendum of the 1st of October, Catalonia has earned the right to be an independent State, and it has earned the right to be heard and respected».

Through this practice, a collective superior and impersonal subject, with its collective superior and impersonal will, is performatively produced: «what I will present to you today is not a personal decision, nor anyone's wish: it is the result of the 1st of October». This does not imply that all of the citizens which are part of the population agree with this result

according to their personal opinions and interests. Differently, this means that the results of a collective practice of popular self-determination, actively pursued by the collectivity with the collective intention of participating in a common project, has its own consistency and legitimacy, and it is therefore binding for the population as a whole. It is to be noted that, in this specific case, the practice of choice is a referendum and that, roughly speaking, elections and referenda are the two practices which are generally taken into account in order for the popular will to be expressed, generally according to a ‘majoritarian’ criterion⁸⁸. Within the Catalan sovereigntist discourse, both elections and referenda are of particular importance. However, a popular discourse does not necessarily rely on these two practices, but it could virtually rely on any practice of collective decision-making processes.

6.7. The People, the Popular Will and the Right to Vote in the Catalan Case

The Catalan sovereigntist discourse is interesting because a more individualistic conception of the expression of the will of the people, based on ‘classical’ individual voting procedures and on the aggregation of individual votes, coexists and merges with a more performative and collective conception, based on collective mobilisation and on the active pursuing of a common project. The narrative of a collective history, enforced by the actual contemporary existence of ongoing massive demonstrations, culminated in the ‘epic’ collective effort of organising, defending and holding the 1-O Referendum, participates in creating ‘the Catalan people’ as a subject. The staggering massive involvement of the Catalan citizens in numerous demonstrations throughout the years, their

⁸⁸ It is interesting to note that the majoritarian criterion is often applied in relation to the actively mobilised people and not to the whole population. This is true both in general, in relation to widely implemented procedures of democratic participation, and in the specific Catalan case. It is very often not necessary to represent the actual majority (or the ‘absolute majority’) of the whole population for a decision or for a result to be considered democratic, legitimate and binding for everyone. Even in some cases of application of quorum rules or of qualified majority rules, the agreement of the actual majority of the whole population is not required. In the case of decision-making processes based on relative majorities it is also possible for the final result to be representative only of a minority of the population. This poses interesting questions about the basis of legitimacy of these practices.

determination and their willingness to endure adversities are a crucial part both of this narrative, discursively constructed, and of the practical construction of the popular subject and of its will. Through the repeated collective partaking in massive events, the political communities starts to define itself as ‘the people’. In this sense, the relevance of the 1-O Referendum is not only in the number of voters or in its results, but in the active participation of the citizens in its (illegal and often clandestine) organisation, in the defence of it against police, in the public endorsement of it through massive demonstrations in which millions of people from all of the Region gather together, in the creation of a collective memory and in the deploying of collective practices of political participation, in the myriad of public assemblies held and public documents redacted. This is precisely what it means to performatively produce a subject, while assuming it as already existence.

Throughout a time-span of roughly ten years, from 2006 to 2017, the Catalan sovereigntist narrative had gradually but significantly changed, moving from a discourse more pivoted around the ‘nation’ as a nodal point, towards a dicourse more pivoted around the notion of ‘democracy’. Following this shift, the Catalan people as a subject had been gradually characterised more in a more specifically voluntaristic and performative way rather than in an essentialistic one, as some the contemporary literature on the subject also confirms. Within this voluntaristic conception, the demand of ‘expressing a will’ is crucial as it is also one of the defining characteristics of its very existence. It is through the claim and the practice of ‘expressing a will’ that the Catalan people comes to existence as a collective subject. In a sense, what is claimed as a defining and diriment characterstic of the people is pure agency. The people as a subject is not defined by other features than ‘wanting to self-determine’ and ‘having the right to self-determine’. This can be considered the point of conjunction between a more voluntaristic and performative understanding of the Catalan mobilisation and the practice of vote, which in itself and out of context would be a more individualistic practice.

Within the Catalan version of the popular discourse, ‘the right to vote’ is also with democracy and often used roughly as a synonym for ‘the

right to self determination’ or ‘the right to decide’. In fact, voting is considered one of the most classic, elementary and straightforward ways of expressing the will of the people. The reference here is both to elections, through which ‘the people’ elects its representatives, and to referenda, through which ‘the people’ directly expresses its will. «*Volem votar*» (‘we want to vote’ in catalan) is one of the main chants of sovereigntist demonstrations in the course of this juncture. Slogans which equate ‘voting’ with ‘democracy’ are also recurrent in sovereigntist chants, public interventions, posters, flyers, banners, placards, social posts, blogs’ and newspapers’ headlines.

Within this version of the discourse, the act of voting is the hypostasis of democracy in its most pure and basic form: it is the direct expression of the will of the people. For this reason, within this discourse, it cannot be restricted and it cannot be sanctioned. There are no circumstances under which the people cannot vote, and no subject over which the popular will cannot be expressed and implemented. The people has the right to vote, period. Laws and Constitutions which impede or punish voting are undemocratic and unjust by definition. These claims overturn the legalist argument according to which voting is democratic only if it is exercised within legal and constitutional frameworks. As Rajoy says, and as it has been already mentioned, according to the legalist front: «voting is essential to democracy [...] but the much-abused mantra that ‘voting is democracy’ is a complete falsehood. Voting against democracy, as it has been the case, and even voting outside democracy is not democracy». This stance is intelligible only as long as the legalist principle is assumed as a basis and a premise for the overall political discourse and for the definition of democracy. Contrariwise, from the popular point of view, this argument does not make sense, since democracy is defined by the possibility for the people of expressing its will, and, therefore, of voting. The right to vote preceeds the legalist and constitutional principles.

The primacy of voting is presented by sovereigntists in the most simple and even naive way possible: voting is an inherently innocent and righteous practice. It is ‘just’ a matter of expressing ones opinion and of asking the popular will to be implemented: there is nothing more

‘democratic’ than this. Therefore, if the people actively wants it, it is eventually possible to vote also beyond, outside or against legal and constitutional procedures and principles. Being inherently democratic, the act of voting is never a ‘crime’, but a simple and basic right, a normal and legitimate practice. The people should be able to exercise it whenever it wants. The simplicity, normality and innocence of the right to vote is a crucial part of the sovereigntist rhetoric within the Catalan conflict. One of the most surprising part of the debate is that the sovereigntist front candidly presents the right of enforcing the popular will as a completely legitimate and uncontroversial democratic practice, regardless of the fact that this directly and openly implies overcoming the Constitution and the Law and overturning the institutional system of an entire State. This dynamic is completely normalised and justified through the ‘innocence’ and ‘normality’ of voting. In the sovereigntist discourse, voters are not doing something subversive. The fact they they are overtly committing an illegal and unconstitutional act is completely overlooked, since the popular principle has total priority. They are ‘just’ exercising a basic right, the basic right which underpins the core of democracy.

In the words of Puigdemont: «we are not criminals, nor madmen, nor coup plotters, nor rapted: we are normal people who ask to be able to vote». For the Spanish Deputy Xavier Domènech i Sampere (*Podemos*) the Catalans are simply «a citizenship that wanted to express itself freely». The Catalan Deputy Feliu-Joan Guillaumes (CiU) accuses police forces of having attacked people «for the simple fact of being in a queue [at the ballots]». Another Catalan Deputy, Carles Campuzano (PDeCAT), speaks similarly about «the hundreds of Catalans beaten by the police on that day simply for exercising their right to vote». While on the one hand they denounce the illegitimacy of police intervention, on the other hand they insist in framing the act of voting at the 1-O Referendum as the ‘simple’ exercise of a basic right. ‘Normality’ and ‘innocence’ are underlined also by the Basque Deputy Aitor Esteban (PNV): «on the 1st of October there were normal people, from all walks of life, who wanted to vote and who went to vote». During the Parliamentary Debate, he directly addresses the

then President Rajoy and his claim about the Referendum being «against democracy»:

Frankly, they did not want to vote against democracy, nor were they doing so. You cannot say that, Mr President, because they were not committing any crime. We cannot call it a crime to try to put a ballot paper in a ballot box.

The naivety of presenting the 1-O Referendum as a simple and uncontroversial act of democratic voting is probably also a pretextual rhetorical operation of the sovereigntist politicians. However, analysing the wider public debate, the transversal insistence over this claim catches the eye. The notion that the right of voting is intrinsically innocent and righteous is so deep-seated within the sovereigntist front that during the debate is often assumed to be something given and unquestionable. From the sovereigntist perspective, questioning this principle directly and immediately means being undemocratic, and therefore being morally and politically wrong. This perspective over ‘the right to vote’ is sensible and meaningful only within a discourse which is articulated around the core notion of popular self-determination. As long as popular self-determination is the nodal point which organises the discourse and provides meaning and justification to the other elements (justice, legitimacy, democracy, freedom, political practices, aspirations), then this stance makes sense. Outside of this discourse, or of a similar one, this claim is both inadmissible and incomprehensible. On the contrary, within the popular discourse, it is restricting ‘the right to vote’ in the name of legality and constitutionality which results inconceivable.

On a final note, it is to be noted that ‘the right to self-determination’ and ‘the right to decide’ designate the principle which lays at the core of the popular discourse. Differently, ‘the right to vote’ indicates a practice, an instrument or a tool which can be used in order to realise these principles. In this sense, ‘the right to decide / to self-determination’ are intrinsic foundational elements which ground the discourse. ‘The right to vote’, for its part, is a major and relevant element of the discourse, but it is also contingent and replaceable in the structure. The grounding principle

of this argument is not ‘the right to vote’ on its own, but the ‘right to self-determination’ which underpins it. The right to vote is crucial since it is a practical way of implementing popular self-determination, and not viceversa.

In this sense, the reliance on voting is contingent and it is not strictly essential to the popular discourse. It is a specific and contingent way of imagining a popular decision-making process, but it is not part of the basic structure of the argument. The discourse presented here would have the same meaning, the same consistency and would be grounded in the same principles and values, even if ‘voting’ is replaced by other popular decision-making practices (deliberatory practices, assemblies, ballots, plebiscites, etc). In this sense, in the course of the discourse analysed here, the relevance and the normativity of ‘the right to vote’ does not lie in the practice of voting itself. The normative source is the right to self-determination of the people, which can be practically implemented through voting procedures. In other words, the right to vote is an instrument of the democratic principle.

Of course, ‘voting’ is conceived as an important element of democracy also within a legalist discourse. The difference is that, from a legalist perspective, this is true only as long as both the subject and the procedures of the vote respect legal and constitutional criteria which had been already established. Conversely, from a popular perspective, voting is legitimate *per se*, regardless of the fact that the subject and/or the procedures of the vote are illegal or unconstitutional. This is one of the main controversies of the conflict over the Catalan Referendum. In fact, Spanish unity is one of the basic principles of Spanish Constitution and, therefore, the subject of the Referendum itself was unconstitutional. With the current Spanish Constitution in force, voting about the independence of Catalonia is not legally possible. Moreover, the Referendum was deemed improper by the Spanish Constitutional Court and it has been clandestinely self-organised by the Catalan regional Government without it being able of meeting all of the legal criteria of reliability, accountability and transparency. In short, it can be said that the referendum was illegal and unconstitutional both regarding its subject and the implemented

procedures. For this reason, the legalist front not only claims that the Referendum is improper and invalid, but it goes as far as to maintain that the Referendum did not exist. According to them, the minimum criteria for existing in the realm of legitimate political practices have not been fulfilled. Differently, according to a popular paradigm, the minimum criterion is not legality, but 'the will of the people'. Therefore, given that more than two millions of Catalans have voted, the Referendum is not only legitimate, proper and valid, but binding. The fact that constitutional and legal criteria have been blatantly disattended is completely secondary to the point of being irrelevant.

Conclusions

In this second section of the dissertation, the first research hypothesis has been explored and confirmed. The Catalan debate has been analysed applying the Discourse Theory methodology to some of the main speeches held and two different discourses about 'democracy', a legalist and a popular, have emerged. On the one hand, each one of the two positions can be said to exhibit a structure which is proper of a 'discourse' according to Discourse Theory criteria. In fact, each one of them presents the creation of a meaningful ethico-political horizon, the presence of a nodal point through which heterogeneous elements are articulated together, the creation of positive and negative equivalential chains, the deployment of fantasies (beatific and horrific) and of affective and emotional investments, the decontestation of key 'contested' ethico-political notions (or floating signifiers).

On the other hand, throughout the analysis, it emerges that democracy actually operates as a floating signifier within this debate, being contended between the two different discourses which compete for asserting their own definition of it. In this respect, two different understandings of democracy, grounded in two different wider discourses, are presented. Considering the political context within which this debate takes place furtherly helps in consistently framing this dynamic as a struggle for political hegemony and political legitimation. The contention of

‘democracy’ emerges as a critical element of this dynamic. Therefore, it can be said that the first research question can be answered affirmatively, and that the first research hypothesis is confirmed. Framing the Catalan debate as a struggle over democracy between a legalist and a popular discourse seems a fruitful path to be followed.

However, it is necessary to make at least two cautionary considerations about the validity, the consistency and the scope of this conclusion. First, in order for this analysis to consistently, efficiently and fruitfully be pursued, it is necessary to operate some abstractions and some separations from other conflicts and discourses present in the same debate. This operation can result artificial and restrict the scope of the validity of this hypothesis. Secondly, the popular discourse emerges very clearly in its basic assumptions and underlying principles, as well as in its specific understanding of democracy and in its counterposition to the legalist account. This being said, its articulation in the terms of Discourse Theory criteria is less stringent and systematic than in the case of the legalist one. In order for it to emerge as a methodologically consistent ‘discourse’ it is necessary to make a greater effort in order to apply the paradigm, which can result more artificial and somehow superimposed. Nevertheless, this does not invalidate the hypothesis, since the results are not theoretically inconsistent and the popular discourse maintains its specificity without being distorted in its basic principles and without ulterior elements being added to its line of argumentation.

With regard to the second research question and hypothesis, they have not been openly and directly investigated in this section in a methodologically and theoretically systematic way. However, their main elements have been extensively highlighted. Throughout the analysis of the debate, the critical issues of sovereignty and foundation, as well as the trade-off between the core values of safety / stability and autonomy / self-determination / freedom have emerged with clarity. Therefore, the hypothesis that the popular conception of democracy introduces subversive elements of instability which challenge some established notions about sovereignty, foundation, and politics, can be considered to be at least plausible to some extent. In the next and last section of the

dissertation, these elements will be addressed in order to present the terms of the issue more clearly, and to cast light on their assumptions and implications more consistently. Nevertheless, the effort of investigating this issue in all of its depth exceeds the possibilities of this dissertation at the moment. In this sense, the last part of the dissertation will be more of an open and tentative reflection to be furtherly investigated in the future.

PART III

1. Possible Philosophical and Political Implications of the Debates about Democracy

This last part of the dissertation represents an incipient reflection about the possible philosophical and political implications of the addressed debates about democracy. The time, space and possibilities of the present research did not suffice to complete an exhaustive, structured and consistent exploration of the second research hypothesis. This section is an attempt to start collecting thoughts about this issue, in the perspective of dedicating further research to it. The following paragraphs should be considered in this light.

Within well-established contemporary Western European democracies, the emergence and the persistence of these mass movements can have a significant impact and unpredictable consequences. Claiming that the 'popular will' is overriding, demanding the implementation of political arrangements accordingly and sparking a debate over the meaning

of democracy, is a challenge which opens up for the possibility of reconsidering the concept of 'democracy' itself. As philosopher Judith Butler says, «an open battle ensues on the meaning of democracy» (Butler 2015): the concept itself becomes a political and philosophical battlefield. The merit of such events is to cast light on the underlying assumptions of political orders which are usually taken for granted, but could actually be regarded as controversial or contradictory and become the ground for critical conflicts over political legitimacy (Kalyvas 2008). The guiding conviction of the present work is that those moments represent both the opportunity and the risk of reframing 'democracy' conceptually and politically. More radically, and more interestingly, they can reveal the blindspot of the link between political legitimacy, political sovereignty and political foundation. This aspect of the conflict is more 'radical' in the literal sense that it gets at the roots and addresses the origin: the act of foundation. Within legalist-constitutionalist paradigms, political legitimacy is granted by the fact that political practices are deployed through institutions and procedures which respect legal and constitutional criteria. For this paradigm to make sense, when political practices unfold, those criteria have to be already in place: they had been already established in a prior and separate moment which is removed from the scope of politics.

The constituent moment, the act of political foundation is removed from the horizon of concrete political practices (including political debates), since it constitutes their premise and condition of possibility and not their object. Once established, legal and constitutional criteria constitute the frame of legitimate political practices, not their product. In this sense in contemporary Western European democracies it is stated that sovereignty pertains to 'the people' *within* the boundaries and the limits of Constitutions and the Rule of Law. The legitimacy of the actual exercise of popular sovereignty is subordinated to the abidance to legality and constitutionality, and not vice versa. For this reason, movements which claim that 'the popular will' could legitimately overcome the Constitution and the Rule of Law, are doing something more than proposing an alternative arrangement for democracy. They are proposing an alternative

conception of political legitimacy and sovereignty. They are claiming ‘sovereignty’ for ‘the people’ in the more radical sense of a foundational and constituent power which produces political legitimacy rather than deriving it from an already established Constitution and Law.

This is entirely different from stating that laws can be changed and Constitutions can be modified, as it can actually happen within every contemporary Western European democracy without raising critical concerns. The difference is that within a legal-constitutional frame, Constitutions and laws themselves provide the rules through which they can be changed. The Constitution can be legitimately changed only according to the Constitution itself, and laws can be legitimately changed only according to the Constitution and the laws themselves. Established legal-constitutional principles and procedures bound, mediate and frame those changes and constitute the conditions of possibility for these changes to legitimately happen. Rules can be changed, but only abiding to already existing rules. Changing laws in a legal way is critically different from questioning the primacy of the Rule of Law and of the principle of legality. Differently, reclaiming radical ‘popular sovereignty’ as the possibility of overriding the Constitution and the Law, brings into question the constituent moment itself. This means that the fundamental principles and rules of a political community are not the premise nor the condition of possibility of political practices, but their ongoing product. The consequences in terms of political stability are evident.

Interestingly, those movements radicalise the assumptions of the contractualist tradition and the notion of consent: ‘popular’ abidance to the foundational social contract is not a mythological moment, a regulative idea or a hypothetical criterion for political legitimation. It rather is an actual and concrete choice which has to be renewed on an ongoing basis and which is part of the community’s real political practices. This has incredibly radical implications: believing that ‘popular’ consent to a certain political arrangement should be renewed on an ongoing basis, conversely implies that it could be withdrawn at any moment, since real consent is not predictable. This means that having given previous consent does not bind one in the future (at least not for ever) and especially that

consent given by past generations does not bind the present ones. If ‘consent’ and ‘will’ are intrinsically volatile, posing them as the primal source of legitimation for political institutions directly implies that the stability of such institutions is impossible to be secured and that the outcomes of political decisions are unpredictable. This is why radical popular sovereignty can be perceived as dangerous and why a ‘radical-popular’ discourse can be considered inadmissible if actually traduced in practice.

The aim of the present research is not affirming neither that these political movements are actually advocating for such a political and philosophical conception, nor that their ultimate and concealed plan is to implement such a political arrangement. This would be a misleading superimposition. More simply, it will be argued that taking seriously and developing consistently⁸⁹ the claims for the radical primacy of ‘popular sovereignty’ would raise significant challenges for contemporary Western European accounts of democracy. Taking these claims seriously and developing them consistently implies bringing into the debate the issue of political foundation and reconsidering political legitimacy and sovereignty in ways that within certain accounts of democracy could be not only inadmissible, but downright unfathomable.

Some further specifications about the contraposition between ‘legalist-constitutionalist’ and ‘radical-popular’ democracy are necessary. The actual democratic political arrangements implemented and the hegemonic discourses in contemporary Western Europe seem to integrate legalist-constitutionalist principles and the principle of popular sovereignty (as well as liberal principles of individual rights and freedoms and proceduralist principles) rather than counterposing them. On the one hand, Constitutions and the Rule of Law are not conceived as impediments, but as tools for a legitimate expression and implementation of the popular will. On the other hand, ‘popular will’ and ‘popular sovereignty’ are recognised as central elements according to several

⁸⁹ In this context «taking seriously and developing consistently» these claims means 1) maintaining the philosophical and political theoretical assumptions which are necessary for these claims to be consistent and meaningful in theory, and 2) implementing the political arrangements which are necessary for these claims to be realized in practice.

Western European Constitutional statements and official definitions of ‘democracy’⁹⁰. Moreover, Constitutions, laws and procedures are often considered to be expressions and implementations of the ‘popular will’ themselves, since they are often established by democratically legitimate Constituent Assemblies and Parliaments and/or approved through popular referendums. Furthermore, many ‘radical’ movements tend to despise Constitutions, procedures and laws only as long as they are perceived to be unfair, illegitimate or corrupted, leaving room for the eventual possibility of abiding to fairer and more legitimate ones. Therefore, it would be inaccurate to posit a clear cut and definitive separation or a necessary overt antagonist between legalist-constitutionalist democracy and the principle of ‘popular sovereignty’ or ‘radical’ politics. It would be more appropriate to notice that they are actually often intertwined and that they often rely on understandings of ‘democracy’ which take into account all of these aspects to some extent.

The underlying idea of the present research is that ‘democracy’ in contemporary Western Europe refers to a variety of complex institutional arrangements which are composit and hybrid since they result from the historical and dynamic incorporation of different political traditions, discourses and practices, rooted in different political principles, ontologies and logics: liberalism, proceduralism, legalism-constitutionalism and ‘popular sovereignty’. While those different principles and logics can often appear to be integrated in a consistent and working unit, some political events throw light on the undercurrent tensions among them. Through this lens, ‘democracy’ in contemporary Western Europe can be

⁹⁰ See for example: ‘*Constitution, rule of law and fundamental rights in Spain in the light of the events in Catalonia*’, Verbatim Report of Proceedings, 4 October 2017, Strasbourg, European Parliament

European Union – Aims and Values - https://european-union.europa.eu/principles-countries-history/principles-and-values/aims-and-values_en

United Nations Definition of ‘Democracy’ - <https://www.un.org/en/global-issues/democracy>

Office of the United Nations High Commissioner for Human Rights - Definition of ‘Democracy’ - <https://www2.ohchr.org/english>

Office of the United Nations High Commissioner for Human Rights – Considerations about the issue of Democracy

<https://www2.ohchr.org/english/issues/democracy/index.htm>

Council of Europe - Definition of ‘Democracy’ –

<https://www.coe.int/en/web/compass/democracy>

seen not only as a given and balanced unit of different but harmonic principles, but as an ongoing struggle between heterogeneous and potentially conflictual logics. In the scope of these events, such different principles and logics come to light through a process of polarisation, radicalisation and simplification which manifests their friction rather than their compatibility.

Hence, counterposing a ‘legalist-constitutionalist’ and a ‘radical-popular’ discourse is not an attempt to deny the complex intersections, overlappings, contaminations and possibilities of balance which occur within and between them both in theory and in practice. The simplification which comes with such a polarisation serves a different and twofold purpose. First, it is believed to be a frame with a descriptive, interpretative and explanatory force for the analysis of the addressed political debates, which actually display this polarised contraposition in practice. Secondly, it casts light on the possible tension and eventual trade-offs between different principles within contemporary Western European democratic arrangements. These principles can be integrated, but are nonetheless heterogeneous, especially when expressed in their most radical forms. In the scope of some political events marked by struggles for political hegemony, the tension between such different principles emerges. In the scope of these conflictual occurrences, each political position is discursively developed in a simplified and radicalised version which highlights incompatibility and produces a logic of polarisation rather than balance and negotiation.

Being those principles heterogeneous and relying on different political logics, the resolution of such a conflict is not a logical argument, but a political process. Such a process can result in different forms of integration and balances, namely, different ways of framing ‘democracy’, which cannot be theoretically predicted *a priori*. This means that the current contemporary Western European democratic arrangements and their specific balance of liberalism, proceduralism, legalism, constitutionalism and popular sovereignty, are neither given nor necessary, but can be reframed in various ways which are historically contingent. Political struggles are critical moments which open up to the possibilities for these

changes to happen. This dissertation is an attempt of interpreting these events and deepening their understanding.

The case studied analysed in the present work are believed to be examples of the emergence of some of the undercurrent tensions between these heterogeneous elements. In this sense, these moments represent a possibility for (or at least hint at the possibility of) throwing into question and re-negotiate the current democratic arrangements, that is, to reframe and re-negotiate 'democracy', envisioning new possible balances between the various 'democratic' elements.

1.2 Theoretical Nodal Points

The present section is dedicated to tentatively pointing out some of the main theoretical nodal points which ground such a framework and which could be furtherly developed and employed in subsequent research.

1.2.1 Immanent Conceptual Articulation

The most crucial aspect to be highlighted is that the debate over the meaning of 'democracy' is not a mere conceptual dispute, nor a mere disagreement about the content of a word. The point is not to win over a contestant with the logical force of consistent arguments, nor to neutrally compare two different conceptions of 'democracy' in order to rationally deliberate which one is more 'correct', nor to engage in the intellectual journey of discovering what 'democracy' 'really' is, as if such a 'real democracy' was an independent object hidden somewhere. The theoretical perspective employed here is both anti-essentialist and anti-nominalist in the path of the wittgensteinian legacy. It is assumed that conceptual articulation is immanent to discursive practices which are historically situated and which can be politically connotated. Applied to the present research, this means that the concept of 'democracy' is actually articulated and re-articulated in the scope of significant political events, especially if marked by conflict. In this sense a public debate about the meaning of 'democracy' can be the theoretical space in which such a conceptual re-

articulation occurs. The concept of 'democracy' does not exist as a fixed entity fluctuating in some sort of hyperuranium, detached from the empirical realm and unrelated to historical occurrences. On the contrary, the concept of 'democracy' is the product of concrete discursive and political practices which are historically situated. 'Democracy' is inextricably intertwined with historically situated political dynamics, practices and discourses. In a pure abstraction detached from communities' decision-making practices and processes and from struggles over political legitimacy, 'democracy' as a concept could hardly have a poignant meaning, and probably it would have not even existed in the first place.

Proceeding within this theoretical framework it is understandable how those public debates can be intended as battles to assert hegemony over the concept of democracy. 'Real democracy' is not some kind of autonomous object to be found and grasped intellectually, but it can be a space to be conquered and shaped through political and discursive practices. Claiming that 'real democracy' is something (and not something else) in a public debate within the context of a political conflict does not aim at describing neither a state of affairs nor the outcome of an objective analysis of reality. Rather, it is an attempt to participate in a discourse which shapes political reality in the scope of a conflict over political legitimacy.

This means that defining 'democracy' in a specific way is not a descriptive, but a performative practice. It does not report a precise picture of some pre-existing object, but it produces the object which is describing with the aim of producing a political reality. This is the reason why such debates do not aim at stating which definition of 'democracy' is more 'correct' or 'appropriate' in adherence to a predetermined neutral and objective standard which stands outside the space of the debate and functions as a common background for both contestants. Contrariwise, the aim of each contestant is to assert which definition of 'democracy' is more 'just' and 'legitimate' by enforcing their own political standards of justice and legitimacy. Those standards are not given nor neutral and they are not external from nor antecedent to political practices. They do not constitute an objective reality that can be used as a neutral reference in order to

resolve the dispute, because they are not external to such dispute. One of the key aspects of an immanentistic approach is that there is no exteriority, but the normative and political standards themselves are produced, reproduced and rearticulated in the unfolding of the same practices they sustain.

1.2.2 Neutrality, Hegemony and Certainties

In this regard it could be tempting to argue that some objective and neutral standards for defining democracy and political legitimacy do actually exist and are actually widely recognised. All the attempts to provide a fixed definition of a ‘minimal democracy’, from Joseph Schumpeter (1942), to Robert Dahl (1971), to Samuel Huntington (1990), to Adam Przeworski (1991, 1999) explicitly aim at fulfilling this purpose and are considered a baseline by a broad component of scholars, political scientists, political philosophers and theorists, politicians, political parties and organisations, national and international institutions. However, it is unfair to overlook the fact that those widely recognised definitions are also widely contested, being object of both internal and external criticisms, and that several alternative options with their own consistency and affirmed political traditions have existed in the past and still exist nowadays. Social, Marxist/socialist, deliberative, cosmopolitan, participatory, radical, confederalist or even populist accounts of democracy are just some of the possible examples.

Moreover, and more interestingly, those standards for ‘minimal democracy’ have a specific, historically and geographically situated and politically connotated origin. In fact, they are grounded in the context of the Western Bloc during the Cold War and shaped by the necessity, on the one hand, to oppose Socialism and, on the other hand, to avert a resurgence of Nazi-fascism. Quite ironically, those standards are far from being universal, neutral and objective: they are intertwined with a very specific historical situation and stem from a very specific political positioning. Posing them as the supreme standards for democracy and political legitimacy is not something that should be taken for granted, but a theoretical and political operation that should be interrogated. Adhering to

those standards is a specific political choice among other possible choices. It can surely be consistently argued that it represents the most suitable option and it is possible to defend it against the others as the more reasonable and/or rational, but to assume it to be universal, neutral and objective is an ideological stance. While advocating that objective standards exist as external to political practices, referring to these standards of 'minimal democracy' actually seems to argue in favour of the opposite position.

Two different sets of considerations are to be made here. First, it is worth noting that an articulation of the heterogeneous elements of liberalism, proceduralism, legalism-constitutionalism with the notion of popular sovereignty has become the hegemonic standard for democracy in contemporary Western Europe, especially after the defeat of Nazi-fascism and the collapse of the Soviet Bloc. This does not mean that it actually is universal, neutral and objective, but that it is taken for granted and its enforcement becomes transparent and invisible. A hegemonic operation occurs precisely when the historicity and the specific political connotation of a position is removed. This leads not only to the fact that these standards assume the guise of universality, neutrality and objectivity, but that they are removed from the space of debate, deliberation and doubt, as they constitute the limits of such a space. They are no longer objects of the political practices, but they constitute the borders and the frame of the space in which political practices take place. They become the Pillars of Hercules of politics itself and therefore they cannot be interrogated.

In this sense they fulfill a role similar to the Wittgensteinian 'certainties': basic propositions which are implicitly and unwittingly assumed within a collectivity and which are not objects of knowledge themselves in order for knowledge to be possible and for anything to have sense. Within a form of life there is a collective implicit and unwitting agreement over those basic propositions (Wittgenstein 1969). The role of 'certainties' in Wittgenstein is inseparably epistemological and pragmatic, as they represent the conditions of possibility for practices to 'make sense', to be understandable, meaningful and to actually work smoothly: namely, to be an integrating part of a living form of life. Having a 'certainty' does

not mean that we are sure that something is ‘true’, but that our questioning of reality halts before reaching it, since questioning it would mean to dismantle our form of life.

It is relevant to underline that, within Wittgenstein’s account, ‘certainties’ are neither separated nor independent from the space they delimitate: they do not constitute an exteriority, in the same way in which a perimeter is neither separated nor independent from the shape it draws. They are the frames and the limits of a living form of life, the conditions of possibility for the unfurling of meaningful collective practices. Consistently with an immanentistic paradigm, the relation of those frames and limits with the framed and limited practices is twofold, since they do not have an autonomous existence. The unfolding of collective practices is the space in which those frames and limits are continuously re-actualised and reproduced and also the space in which they can be re-articulated. As a living creature, a form of life is inherently open to change and its borders are continuously subjected to re-negotiation in the scope of practices themselves. Claiming that a form of life needs a frame in order to be possible and meaningful does not mean that such a frame should be considered fixed or universal. It only means that the condition of possibility of every collective knowledge and practice lays in the fact that there is a shared baseline of non-problematized and non-thematized assumptions. This is what allows knowledges and practices to unfold and develop, on the one hand, in a way which is collectively understandable and meaningful and, on the other hand, without falling in the paralysis of permanent skepticism and perpetual questioning. Within an immanentistic paradigm it is perfectly consistent, and coherent with Wittgenstein’s aims, to affirm that certainties can change as a form of life changes overtime, being continuously re-negotiated in the scope of collective practices.

This reference represents a cue in order to understand the kind of logic through which those democratic standards have become hegemonic and therefore *de facto* uncontestable, constituting the frame and the limits of democratic politics. However, it is necessary to specify that they cannot be strictly considered as Wittgensteinian ‘certainties’ even though they fulfil a similar role and the relation of subjects with them is deployed

according to a similar logic. In fact, they serve as the borders of the political space of a community, limiting and framing the political discourses, practices and dynamics that take place within it, but not as the epistemological and practical limits of the whole experience of a form of life. They do not constitute the conditions of possibility of knowledge and practices themselves, but ‘only’ of democratic politics. This is the reason why within this political framework a theoretical argument over the standards of democracy can be possible and meaningful, but the actual deployment of democratic political practices which override those standards is puzzling, as they challenge the frame which make the political space collectively understandable, meaningful, legitimate and viable.

1.2.3 Crisis and Conflict

This hint to Wittgenstein can illuminate the outline of the issue we are addressing and serve as some kind of clarifying metaphor, but in order to be more precise it could be necessary to part our path from the Austrian philosopher and to make some further specifications. The Wittgensteinian paradigm is pivotal in providing a framework for understanding the relation between practices, their unfolding rules and their standards of meaningfulness and appropriateness. It also gives a fruitful and consistent account of how practices performatively participate in a collective permanent production of reality and meaning, of how they are creative and of how they are incessantly related with change. However, in order to give a proper account of the political conflicts we aim to analyse, it is also necessary to address something else: the issues of origin, foundation, conflict and crisis. The empirical cases we are analysing are characterized by the fact that within a democratic political community there is a conflict between two parties which affirm two incompatible definitions of ‘democracy’. This means that the implicit and unwitting collective agreement about the basics of politics and the meaning of the political gets into crisis. As long that the implicit and unwitting agreement stands, the unfolding of such discourses and practices is unproblematic and the basic assumptions which ground and frame them are not only unquestioned, but

invisible. A crisis is a moment in which such basic assumptions become visible and questioned and this interrupts the unproblematic unfolding of practices along with the possibility of having a collectively shared set of criteria.

What is peculiar about the debate over the ‘real meaning’ of ‘democracy’ and about the clash between the ‘legalist-constitutionalist’ and the ‘radical-popular’ accounts is that they do *not* take place within the boundaries of common criteria for politics, *nor* according to a shared set of rules and decision-making processes. Otherwise, they touch and interrogate precisely such boundaries, set of rules and decision-making processes. This is not the case of criteria which gradually change overtime as long as the practices of a community develop, but a moment of crisis in which such criteria are questioned and the collective implicit and unwitting agreement is suspended. What is peculiar about the debates which take place in these situations is that the contestants do not confront themselves sharing the same basic assumptions and standing within the same horizon of meaning, because such common horizon is precisely what went into crisis. Conversely, each contestant enforces and introduces in the debate its own assumptions, principles and frames of meaning. Since there is no longer a shared standard for evaluating the legitimacy of the different positions, each position claims its own legitimacy according to its own standards. This is one of the crucial reasons why conflict arises and why its resolution cannot be theoretical, neutral and objective, but only political and contingent.

1.2.4 Contestability, De-contestation and Re-contestation of Democracy

The contestation of the meaning of 'democracy' is a simple matter of fact and its ‘essential contestability’ is acknowledged by an immense literature (Held 1987; Lawson 1993; Schmitter and Karl 1993; Dahl 2000; Whitehead 2004; Kurki 2010; only to cite a few contemporary works). However, it is also a matter of fact that in the last decades a conception of democracy which articulates liberal, procedural and legalist-constitutionalist elements with a moderate version of ‘popular sovereignty’

has become the standard which sets the parameters of 'democraticity' for positive and empirical political theory, for political science, international relations, international organisations concerned with democracy's preservation and promotion (Kurki 2010) and for the domestic and international legitimation of State institutions.

It is noteworthy that at least a part of this specific account of 'democracy', and specifically the more 'proceduralist' one is rooted in the theoretical work of authors like Joseph Schumpeter, Robert Dahl and Samuel P. Huntington, whose explicit aim, in the historical context of the Cold War, was to set a standard for democracy narrowing and fixing its meaning precisely in order to avoid contestability. The current hegemonic standard for democracy is based on a conscious operation of 'decontestation'⁹¹ of the concept, made with the deliberate intention of avoiding the risks of vagueness and ambiguity which come with 'essential contestability'. In order to do so the unclear and pernicious notion of 'popular will' has been limited in favour of more definite and measurable parameters (Schmitter and Karl 1993; Schmitter 1995; Collier, Hidalgo, Maciuceanu 2006; Kurki 2010). The arguments of political actors which claim the priority of legitimate procedures against the movements which advocate for radical 'popular sovereignty' are deeply grounded in this tension. Proceduralism, legalist-constitutionalism and liberalism cannot be downright overlapped, since they are heterogeneous independent political principles and traditions. However, when it comes to the contemporary articulation of 'democracy', their principles often seem to operate following a similar dynamic. The 'foundationalist' insistence on the necessity of stably preserving liberal values, as well as the foundation of the Constitution and the Rule of Law, stems from the same need of containing and moderating the 'original democratic principle' of the popular will. Both these theoretical and ethico-political operations take the cue from the need to grant some reasonable, stable and fixed element to anchor and safeguard democracy. In order to do so, 'the popular will', which is the most volatile and vague, but at the same time most originary

⁹¹ 'Decontesting' a contestable concept is an attempt to fix its meaning getting rid of its openness, vagueness and ambiguity

element of democracy, has to be limited and contained.

This is a paramount example of how the theoretical and political dimensions of conceptual definition are interlaced and of how this is related to the re-framing of the political space. The operation of Schumpeter, Dahl, Huntington and of all the scholars who followed their path (see e.g. Przeworski 1991, 1999; Barro 1999) is an explicit attempt of closing the concept of 'democracy' within clear boundaries, getting rid of its openness and vagueness and establishing defined parameters for understanding what is democratic and what is not. But every closure comes with an exclusion: in order to achieve this purpose, the notions of 'the people', 'popular will' and 'popular sovereignty' have been limited within the definition of the concept. In this sense, claiming the 'popular will' to be the core element of democracy stands as a theoretic and political act of re-opening and re-contesting a concept which had been closed and decontested. This happens re-prioritising the element which had been limited and marginalised for the closure and the decontestation to be possible.

1.2.5 Performativity and Foundation

It is noteworthy that enforcing one of these positions is a performative practice. In a basic sense it can be said that every practice is performative as long as it produces effects on reality. Specifically, within a public debate in the scope of a political situation marked by conflict, producing a discourse about the 'real meaning' of 'democracy' does not only describe political reality, but it participates in its re-articulation. Engaging in such a debate and participating in the production of a discourse which enforces a specific definition of 'democracy' against another one is not only a neutral descriptive exercise, but a way of 'making things with words' which has critical political effects. But what is even more remarkable and more specific to this case is that those acts are performative not only in the basic sense that they affect reality, but in the stronger sense that they pose their own presuppositions and they produce their own conditions of possibility. This is a version of the performative

paradigm which goes far beyond the original intuition of John Austin and which has been mainly systematised by Judith Butler (Butler 1990). According to Butler's account, performative acts (re)produce their own presuppositions by assuming them as already existent and taken for granted. Those acts are precisely the way in which such presuppositions are enforced and (re)produced, but they are not presented as such. Contrariwise, they are deployed as if they were neutral, natural, objective and obvious, concealing and removing the fact that their premises and conditions of possibility and meaning are historically situated, as well as socially, culturally and politically connotated. This is a process of invisibilisation and naturalisation of the premises which subtracts them from the space of doubt and debate and confers them a fictional guise of neutrality and objectivity.

Furthermore, according to this radical and immanentistic account of performativity, criteria, rules and norms do not exist independently from specific collective practices, but they are inextricably interrelated with them, since practices constitute the concrete and only space of their (re)production. However, what happens through the process of naturalisation is that they are fictionally posed as autonomous standards practices have to adhere to, rather than criteria which stem from practices themselves. The starting point of Butler's reflection about performativity is gender: according to the philosopher, gender is not something natural, neutral and objective and has no autonomous reality, since it does not exist separately from the acts through which it is performed. Still, gender is performed precisely as if it had a natural, neutral, objective and autonomous existence, as if gendered expressions were not productive practices themselves, but the derived product of gender as a pre-existent entity. This operation is mainly implicit and unwitting as it is deployed through an ensemble of practices which are non-reflective rather than explicitly and consciously thematised and theorised. The naturalised premises remain mainly concealed and this is precisely what allows the unproblematic unfolding of practices to take place. They are addressed and made explicit only if they become the object of a transgression, of a doubt, a crisis or a conflict, that is, only if some practices somehow challenge

their alleged naturalness, neutrality and obviousness.

The debate over the 'real meaning' of 'democracy' is led precisely by the same logic. Each claim that 'real democracy' is something (against something else) implies the mobilisation and the enforcement of a set of implicit premises and standards of democratic legitimation which are at the same time taken for granted and removed from the space of problematisation. Those premises and standards of democratic legitimation are the product of specific practices, historical occurrences and political positionings, but are posed as separate, neutral and objective criteria with an autonomous reality. There are no neutral, objective and autonomous criteria which can grant that constitutionalism is more legitimate than radical popular sovereignty or vice versa. Each one of the two options legitimates itself through their own criteria of legitimation, which are at the same time surreptitiously introduced into and removed from the conflict. The conception itself of a 'real democracy' as an autonomous entity with its own independent reality and as an objective reference for political legitimation is a product of the same discourses that presuppose its existence in order to legitimate themselves.

The specificity of the cases we are analysing lies in the fact that not only a hegemonic standard of democratic legitimation gets into crisis, but that a clash ensues between two different standards of legitimation. Therefore, each option cannot rely on an external, neutral and objective justification, but legitimises itself posing its own premises and enforcing them as neutral and objective. This means that enforcing a political standard of legitimation is a (historically situated and politically connotated) performative founding act, a sovereign decision which poses its own legitimacy. Political legitimacy is neither the premise nor the justification, but the product of such an act. The peculiarity of this operation is that the (historical and political) act of foundation as a sovereign decision is removed and the standards of political legitimacy which had been enforced become invisibilised and naturalised. What is notable about our case studies is that the issue they pose brings to light the foundational act that had to be concealed in order for political practices to unfold unproblematically and for the political community to exist

peacefully.

1.2.6 Weltanschauungen, Ontologies, Emotions and Enemies

Another crucial aspect to be considered is that those public debates are not analytical argumentations conducted through logical deductions, but through the production of discourses intended as practices of «meaning making». Advocating for a specific definition of ‘democracy’ implies the mobilisation of a *Weltanschauung* and its related narratives as a complex system of practices, beliefs and values, as a frame of signification and as a horizon of meaning. Every definition both presupposes and produces an ontology of the political space, subjects, community, practices. Each one of these accounts is sustained by a specific discourse which builds a specific narrative also through the mobilisation of emotions, hopes and promises. The promises of ‘radical-popular’ democracy are self-determination, social justice and popular power and they can appeal to a tension for redemption, liberation, but also resentment and revenge. On the contrary, ‘legalist-constitutionalist’ democracy promises safety, stability, fairness, reasonableness and concordance and it can appeal to the desire for security, but also to the fear of chaos, irrationality and violence. It is noteworthy that both narratives are conducted through the delineation of a desirable (or even ideal) horizon, but also through the depiction of an enemy of the political community, which becomes an object onto which negative feelings are projected. While on the one hand ‘the people’ has to find its redemption and revenge getting rid of the ‘enemies’ which impede self-determination, on the other hand legalist-constitutionalist institutions have to be secured from the ‘threat’ of irrationality and violence and from the always present specters of dictatorship and of civil war.

The modern account of ‘popular will’ can be traced back to the Rousseauian sympathetic aversion for social injustice and in the French revolutionary impetus led by an anti-authoritarian hatred towards monarchic and aristocratic power and by an aspiration for redemption from misery. This legacy has been revived in the early stages of the Russian Revolution, even though its tradition is nowadays perceived as more

controversial for obvious reasons. Differently, for instance, the primal purpose of liberalism, both in its original formulations and in its contemporary reinterpretations, was to secure the community from the permanent threat of civil war that the dreadful European religious conflicts had proved possible, and to safeguard the individual from the violence of both its fellow citizens and the Government. On its part, legalism-constitutionalism retains the legacy of the struggles against absolutism and the arbitrariness of monarchic power, exemplified in the 'mythical' history of the English Glorious Revolution. Contemporary democratic proceduralism was developed in the scope of the Cold War, under the sinister shadow of Nazi-fascist regimes, of the tragedy of the Second World War and the pernicious (both domestic and international) conflict against Socialism, in the attempt to fix some minimal standards for democracy to be more easily preserved against their manipulation, corruption or seizure by anti-democratic powers.

In this respect all of these accounts retain the legacy of the traditions they stem from and are still rooted in the same tensions of their origins. Democratic arrangements, political debates and political struggles in contemporary Western Europe are inseparable from these inheritances. In this regard, albeit heterogeneous and independent, it is possible to highlight some kind of constancy between some of the core aims of liberalism, legalism-constitutionalism and proceduralism, at least insofar as they hope to safeguard minimal individual rights and freedoms from ever-present possible threats, and they do so by relying on some kind of fixed political basis or upon some kind of fixed ethico-political principle, albeit minimal.

A proper analysis of political struggles in France cannot ignore the relevance that revolutionary sensibility and Rousseauian principles still play in the democratic culture within that national context. In the same way, the classical contractualist and liberal tradition along with the legacy of the Glorious Revolution are still meaningful to make sense of democratic politics within the United Kingdom. Making reference to more recent events, the specificities of the democratic contexts are to be taken into account for all of the Countries which had played key political roles

in contrasting Nazi-Fascism during the Second World War and in opposing Socialism during the Cold War. The same holds true for Countries which have suffered civil wars, authoritarian regimes and dictatorships in the last Century. In this sense, for example, an analysis of the debate about 'democracy' in Italy, Germany, Spain, Portugal and Greece cannot overlook the fact that within these Countries civil war, dictatorship, violent political conflict and, in some cases, also domestic terrorism, are a vivid contemporary memory and not mere rhetorical devices. If 'democracy' is a battlefield, its landscape is shaped by all of the previous struggles which had took place there. The narrative of a peaceful and untroubled Western Europe, albeit certainly true to some extent if compared with other regions of the World, tends to omit all of these struggles. Contemporary democratic arrangements tend to be considered as ahistorical, overlooking all of the undercurrent tensions which still operate within their political space.

1.2.7 The Normativity of 'Democracy'

One of the underlying assumptions of the present research was that imposing a definition of 'democracy' and, consequently, a criterion for the attribution of 'democraticity' can have significant consequences. This happens not only because the debate over such a definition enters the space of the public debate, is led by political actors within the political arena, happens in the scope of mass mobilisations, obtains significant media coverage and results in specific demands about political arrangements. Defining 'democracy' and attributing 'democraticity' in a public debate has consequences in a twofold direction, as it can participate both in the re-articulation of the concept itself and in the re-framing of the political space.

According to a butlerian performative paradigm, the act of defining 'democracy' and consequently attributing 'democraticity', is performative in the basic sense that it can produce and modify reality rather than merely describing it (Austin 1962; Butler 1988, 1990, 1993, 1997, 2013, 2015; Ginocchietti 2012). In this sense the act of 'definition' does not refer to a fixed descriptive content which exists independently, but it participates in the articulation of the concept itself, as this articulation is immanent to

discursive practices. Here the reference is not to a single speech act, but to the collective and multifaceted production of a whole discourse as a complex of 'meaning making practices'. Defining 'democracy' is not the single definition of a single word, but a part of the collective production of a whole discourse about the meaning of equality, liberty, justice, of political communities and of political legitimacy. Defining 'democracy' in a specific way within a political community is interrelated with the setting of standards for political legitimacy and participation, as well as the standards for political illegitimacy and exclusion. What is crucial here is the definition of 'democracy' as a discursive practice which is full of consequences.

A notable thing to underline is that, in order to fully grasp the meaning and the consequences of such disagreements, their normative and political elements should be highlighted. Albeit this is not universally valid in time and space, it is nonetheless possible to affirm that in nowadays western Europe claiming ones democraticity or anti-democraticity in the public debate is not a mere descriptive act. Here and now, if two political actors are publicly disagreeing about the definition of 'democracy' and about the possibility of attributing democraticity, they are not simply going through a verbal disagreement. Defining 'democracy' is a normative act, because it does not describe how things are, but it states how things should be; it does not describe a neutral state of affairs, but it states which state of affairs is desirable. In this sense, in the scope of the public debate, claiming that something is 'anti-democratic' implies that it should be changed or fought, while claiming that something is 'democratic' implies that it should be preserved or implemented. Defining 'democracy' is also a political act, because it implies the attribution of political legitimacy to political arrangements and actors. In this sense, in the scope of the public debate, questioning ones democraticity means to question their political legitimacy, while claiming ones democraticity means to sustain them. The current usage of the concept of 'democracy' goes beyond its mere descriptive content and it is inextricably related to these normative and political elements. Overlooking this aspect would mean to lose a crucial aspect of such a usage of the word. Moreover, ignoring the appraisiveness

or even the affective charge beared by such a concept, it is impossible to give a proper account of the ways it is used in public and political debates.

Taking this aspect seriously is a fruitful path to make sense of the consequences and the scope of such disagreements, which can result in (or rise in the context of) conflicts over political hegemony, political legitimacy and political change. Claiming someone's or something's democraticity or anti-democraticity in the space of the public debate is an act which entails a normative and political endorsement or accusation, and which implies a public commitment to sustain one party and oppose the other. Furthermore, if the shared underlying assumption is that democracy is the standard of political legitimacy, deeming someone or something as 'anti-democratic' directly aims at excluding them from the political space, from political competition and from the political community itself. This is not the case of two parties disagreeing or competing within a shared set of rules, but the case of two parties both claiming that their opponent falls outside the space of what is politically legitimate and should therefore be excluded from political participation altogether. This is the reason why, if taken seriously, a disagreement about the definition of 'democracy' can be tightly interlaced with the rising of political conflicts which are both difficult and critical to be dealt with. The aspect of conflict could represent one of the main concerns for the political management of such situations, as it can have significant consequences within a political community. It is challenging to imagine a commonly accepted solution in a situation in which each party has a different understanding of what is the frame for political legitimacy and acceptability and aims at excluding the opponents from it.

Thus, even though defining 'democracy' and attributing 'democraticity' could be seen as a purely conceptual issue, it produces important political effects. First, this debate leaves room for the rising of a conflict between two parties which both aim to exclude the opponent from the political space. Secondly, defining democracy can affect political reality as it aims at reframing the political space itself, drawing lines which separate what is politically legitimate and what is not, which actors legitimately belong to such a space and which actors should be excluded

(or straight up eliminated), which practices of political participation should be implemented and which ones should be rejected. Publicly endorsing one specific definition of ‘democracy’ is an attempt to claim one’s political credibility and legitimacy while undermining the credibility and legitimacy of the opponents, but it is also an attempt to re-frame political space, its borders, its structure and its content. In this sense, the disagreement between a party which endorses a legalist-constitutionalist account of democracy and a party who advocates for radical popular sovereignty is a good case in point.

It is to be specified that the normativity of democracy assumed in the present dissertation refers to the observation of the fact that the widespread common usage of the word ‘democracy’ entails an implicit normative component. This normativity is part of the meaning of the word insofar as it is part of its actual usage, but it is not part of its positive content. Moreover, as it relies on the actual ordinary usage of the word, the philosophical status of this normativity is not systematic and consistent. Throughout the various usages, the source of normativity can be different, and it is not always theoretically clear and definite. Therefore, the present work does not stick to a specific understanding or justification of the normativity of democracy within democratic theory, but to the simpler performative fact that political actors assume this normativity to exist and organise their political action accordingly.

The issue of normativity is crucial, since a wide part of the meaning of the present work would be lost without it. For the present research, the relevance of the debate about ‘democracy’ does not lie *only* in democracy *per se*, but it is *also contingently* related to democracy insofar as it is the contemporary standard for ethico-political legitimation. For this reason, it can be said that re-articulating democracy means re-articulating the political world and enforcing standards of ethico-political desirability. The underlying battle at the core of the struggle over democracy is a battle between the founding values we want to embrace or reject for our political communities, and between foundationalist and anti-foundationalist understanding of politics. ‘Democracy’ is the contingent, albeit powerful, name that this battle has in this historical instance.

Conclusions

The inevitably brief and quick overview of theoretical, ethical and political nodal points provided in the present PART III lacks the minimal necessary features to be considered a proper development of a research hypothesis. Albeit considered plausible and fruitful, nonetheless several considerations, specifications and developments should be made here in order for it to be more meaningful and consistent. The exploration of the first research hypothesis throughout PART II had already illuminated the main critical issues as they emerged from the debates. What this last part hopes to do is indicating some possible trajectories of further politico-philosophical research in relation to the contemporary re-framings of ‘democracy’.

In particular, focusing on the issues of sovereignty and foundation in relation to radical democracy seem a fruitful path both to illuminate some of the most crucial nodal points of political theory, and to refine the understanding of some critical contemporary events and their possible further developments. A more complete and consistent discussion of this topic will hopefully be the subject of a future research.

The dilemma between foundationalist and anti-foundationalist approaches, both in the theoretical realm of philosophy, and in the practical realm of ethics and politics, is particularly difficult to be solved as it invests and interrogates all of the main aspects of our lives. Exploring a mid ground between the necessity of relying on rigid constituted powers and the drive towards permanent openness and radical rearticulation without any kind of foundation, is a challenging but interesting path to be followed. Many contemporary authors are trying to delineate new possibilities in this respect, envisaging a possible community based upon some existing institutions, but always open to radical rearticulation through the ongoing active engagement of all the members. In this sense, politics can be conceived as a creative and productive collective practice which produces meaning, community, and the human world (Catoriadis 1975; Tully 1989, 1999; Zerilli 2005; Esposito 2020). However, while the theoretical

elements of these hypothesis have been outlined in some detail through the decades, the actual possibilities for the implementation of these kind of communities in Western Europe are still still lacking. Their plausibility is ours to be discovered.

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