SYSTEMIC CORRUPTION

CONSTITUTIONAL IDEAS FOR AN ANTI-OLIGARCHIC REPUBLIC

CAMILA VERGARA

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Introduction

CRISIS OF THE REPRESENTATIVE REPUBLIC

TODAY THE IDEA that democracy is failing, not only in the United States but around the world, has become ubiquitous.[1] Even if it was only after the 2016 presidential election that the "crisis of democracy" narrative went mainstream,[2] this particular cycle of political decay in our constitutional regimes appears to have begun in the 1970s and 1980s with the first neoliberal experiments led by General Augusto Pinochet in Chile, Margaret Thatcher in the United Kingdom, and Ronald Reagan in the United States.[3] Increasing income inequality and immiseration of the working classes were effectively depoliticized and naturalized to the point that today it is considered legitimate that three individuals in the United States own more wealth than the bottom 50 percent; that while the wealth of the superrich has grown 6,000 percent since 1982, median

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1. The rise of far-right supremacist parties in many European countries, which are forming alliances at the supranational level; a government in India that is building concentration camps for religious minorities; and a government in Chile that represses mass protests, violating human rights, to protect a neoliberal model imposed in dictatorship: all show that democracies are malfunctioning. On the totalitarian experiments in India, see Jeffrey Gettleman and Hari Kumar, "India Plans Big Detention Camps for Migrants. Muslims Are Afraid," *New York Times*, August 17, 2019, https://www.nytimes.com/2019/08/17/world/asia/india-muslims-narendra-modi.html. On the popular uprising in Chile, see my article "The Meaning of Chile's Explosion," *Jacobin*, October 29, 2019, https://www.jacobinmag.com/2019/10/chile-protests-sebastian-pinera-constitution-neoliberalism.

2. For an elitist republican interpretation on the crisis of democracy, in which elites are the culprits of decay, see Levitsky and Ziblatt, *How Democracies Die*.

3. For a partial historical account of neoliberalism, see Slobodian, *Globalists*. A Euro-centric viewpoint prevents Slobodian from taking into account the illiberal origins of neoliberalism, first implemented in Chile under Pinochet with the help of the so-called Chicago Boys, trained in the United States in the 1960s.

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household wealth has gone down 3 percent over the same period; and that one out of five children currently lives in poverty in the richest country in the world.[4]

Because patterns of accumulation of wealth at the top, in which corporations pay zero taxes despite high profits while their employees have to rely on public assistance to make ends meet,[5] are far from natural—but rather enabled by existing rules and institutions—part of what this book sets out to accomplish is to extend the horizon of analysis so we can better appreciate our political regime as an experiment that has led to acute inequality and a dangerous oligarchization of power, and therefore in need of structural reform. Representative democracy is an artificial political infrastructure that we have designed for ourselves, and that, as it was first established, it can similarly be overhauled. Structural innovations to political systems, even those considered radical or extreme, have been achieved in the past, and there is no reason to believe they cannot be attained in our lifetime.[6]

I theorize the crisis of democracy from a structural point of view, arguing that liberal representative governments suffer from *systemic corruption*, a form of political decay that manifests itself as an oligarchization of power in society. I trace and analyze the concept of political corruption in Plato, Aristotle, Polybius, Cicero, and Machiavelli and then offer a critique of our current juridical and individual understanding of corruption. I argue that we need to move away from the "bad apples" approach, the view that corruption exists only because there are corrupt people in office, and look at the structure in which these corrupt elites are embedded. We must entertain the possibility that if a tree consistently produces "bad apples," it might be a "bad tree." Systemic corruption refers to the inner functioning of the system as a whole, independent of who occupies the places of power. A democracy is a political regime in which an electoral majority rules, and therefore it makes sense to think that "good" democratic government would benefit (or at least not hurt) the interests of the majority. When the social wealth that is collectively created is consistently and increasingly accumulated by a small minority against the material interests of the majority, then it means that the rules of the game and

4. Chuck Collins, "The Wealth of America's Three Richest Families Grew by 6,000% since 1982," *The Guardian*, October 31, 2018, https://www.theguardian.com/commentisfree/2018/oct/31/us-wealthiest-families-dynasties-governed-by-rich.

5. Louise Matsakis, "The Truth About Amazon, Food Stamps, and Tax Breaks," *Wired*, September 6, 2018, https://www.wired.com/story/truth-about-amazon-food-stamps-tax-breaks/.

6. My viewpoint originates in a deep-seated constitutional skepticism rooted in the experience of having lived in Chile, under an illegitimate constitution that entrenched a neoliberal economic model and a small, subsidiary state as well as religious and patriarchal social norms.

how they are being used and abused are benefiting the powerful *few* instead of the *many*. This trend of oligarchization of power within a general respect for the rule of law, regardless of who controls the government, is what I conceive as systemic corruption in representative democracy.

As a response to this political diagnosis, in which the crisis of democracy is due to an overgrowth of oligarchic power, I propose to retrieve the constitutional wisdom of past republican experiences with oligarchic domination to find an institutional solution to structural decay.[7] Based on an in-depth analysis of institutional, procedural, and normative innovations proposed by Niccolò Machiavelli, Nicolas de Condorcet, Rosa Luxemburg, and Hannah Arendt, I propose to institutionalize popular collective power in a mixed constitution as the most effective way to deal with systemic corruption and oligarchic domination.

A mixed constitution necessarily entails opposing institutional powers for the few and the many. From the realist and material perspective of the republicanism of Machiavelli, society is seen as divided between the powerful few and the common people, and therefore the political order needs to include institutions both to allow a selected elite to rule within limits and to enable the common people to push back against the inevitable domination that eventually comes from the government by few. Recognizing this oligarchic tendency and the asymmetry of power between the few and the many, mixed constitutions set up *plebeian* institutions to resist the overreach of the few. Constitutional frameworks today have nothing of the sort and therefore have left the many vulnerable to oligarchic domination. Democracies contain only institutions through which representatives govern and check each other (e.g., Congress, the president) and elite institutions supposed to censure their decisions (e.g., the Supreme Court), effectively leaving the elites to police themselves. Common people do not have an exclusive political institution through which they can veto oppressive measures coming from representative government or directly censor their representatives. We thus have much to learn from ancient and modern republics about the kind of plebeian institutions—empowering the common people who do not rule— that are necessary to effectively counter the relentless oligarchization of political power.

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7. I approach the decay of constitutional democracies and possible institutional solutions from the perspective of radical republican thought, and therefore I will not engage with other diagnoses and solutions offered from within democratic theory—most prominently coming out of participatory and deliberative democratic theory—but rather focus only on the republican tradition and its model of mixed constitution.

 I take therefore as a given that representative democracies are not mixed orders but *monocratic* regimes with separation of functions:[8] a form of government in which the selected few, authorized by the people, exert ruling power through different institutions, and the collective power of the many is not institutionalized. While legislative, executive, and judicial powers are the virtual monopoly of the selected few[9]—who exert legitimate power based on citizens' consent—the many—common citizens who do not effectively govern—do not have a collective institutional role in the political decision-making process,[10] and therefore there is no effective counterpower to an increasingly corrupt and oligarchic representative government. The many are today atomized, and their power has been reduced to selecting representatives and sometimes proposing and voting referenda through the aggregation of individual preferences. The high degree of political corruption in most representative systems evidences that elections are not an effective means to control public officials who write corrupt laws or support policies that benefit powerful corporations to the detriment of the common welfare.

Political power is today de facto oligarchic. Materially, the people who get to decide on policy, law, and the degree of protection of individual rights—the president, members of Congress, and Supreme Court justices—are part of the richest 2 percent and therefore tend to have the same interests and worldview of the powerful few who benefit most from the status quo.[11] Moreover, the control of special interests over politics via campaign finance has allowed money to influence lawmaking and public policy, which has in turn allowed the building of legal and material structures that disproportionally benefit the wealthy at the detriment of the majority. In the United States, the richest 1 percent currently owns 40 percent of the country's wealth—more than the

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8. Pasquino, "Classifying Constitutions."

9. All modern constitutions today lack a popular institution in which citizens can collectively participate in the decision-making process by proposing, deliberating, and deciding on law, except for the Swiss "cantonal assembly" system (*Landsgemeinde*), one of the oldest surviving forms of *direct* democracy, which is practiced in only two of the twenty-five Swiss cantons. They are nevertheless subject to Swiss federal law.

10. Elections, recalls, referenda, and citizen initiatives are powers of the individual, not the many as collective subject. In addition to being weak, in my view, these political instruments (or "methods" as Machiavelli calls them) have already been (ab)used as weapons of domination by the better-organized parts of civil society. See, for example, Proposition 8 in California banning same-sex marriage.

11. This material structural analysis of elite institutions does not exclude, of course, the few social justice advocates, such as Justice Ruth Bader Ginsburg, who, despite sharing material conditions with the rest of the elite, has ruled consistently in favor of the *many*.

bottom 90 percent combined.[12] This pernicious inequality enables billionaires and their CEOs to live the life of feudal lords in mansions, surrounded by servants, having the power to hire and fire legions of workers who struggle to maintain a precarious standard of living in a society in which most basic services have been privatized and the minimum wage is not enough to cover basic housing, food, health-care, and education costs. To tackle this problem of systemic corruption, in which the structure consistently works to enrich the few and oppress the many, I argue we need to go beyond legal reform and partial fixes—especially in countries where oligarchy has become too powerful to allow for meaningful legislative change—and establish a new plebeian institutional counterweight strong enough to keep elites in check.

The plebeian branch I propose to add to current constitutional orders would be autonomous and aimed not at achieving self-government or direct democracy, but rather at serving anti-oligarchic ends: to judge and censor elites who rule. The plebeian branch, which is designed to be incorporated into already existing democratic regimes, is composed of a decentralized network of radically inclusive local assemblies, empowered to initiate and veto legislation as well as to exercise periodic constituent power, and a delegate surveillance office able to enforce decisions reached in the assemblies and to impeach public officials. The establishment of local assemblies not only would allow ordinary people to push back against oligarchic domination through the political system but also inaugurates an institutional conception of the people as the many assembled locally: a collectivity that is not a homogeneous, bounded subject but rather a political agent that operates as a network of political judgment in permanent flow. The *people-as-network* would be a political subject with as many brains as assemblies, in which collective learning, reaction against domination, and social change occurs organically and independently from representative government and political parties.

I begin by providing in chapter 1 a diagnosis for the crisis of democracy based on systemic corruption. After reconstructing from the works of Plato, Aristotle, Polybius, and Machiavelli a notion of systemic political corruption particular to popular governments, I then engage with recent neorepublican and institutionalist attempts at redefining political corruption within our current political regimes. I argue that we still lack a proper conception of systemic corruption comparable in sophistication to the one offered by ancient and modern philosophers because we are as yet unable to account for the role that procedures and institutions play in fostering corruption through their normal functioning. The chapter concludes by proposing a definition of systemic

12. Wolff, "Household Wealth Trends in the United States."

corruption as the oligarchization of power transpiring within a general respect for the rule of law. This conception of corruption appears as intrinsically connected to increasing socioeconomic inequality, which enables inequality of political influence and the drift toward oligarchic democracy: a regime in which the many empower, through their ballots, the powerful few, who enable the dispossession and oppression of those many.

The recognition of systemic corruption as a relentless process of political decay prompted ancient and modern political thinkers to study existing constitutions and engage in efforts to design the perfect regime: a political order immune to the degradation of its institutions and procedures, and thus insulated from social decay and regime decline. Chapter 2 traces the intellectual history and institutional iterations of the theory of the mixed constitution, which originated as a critique of pure, monocratic constitutions and offered a realist redress for systemic corruption based on the institutionalization of different forms of social power. I offer a genealogy of two main strands of interpretation: (1) an *elitist-proceduralist* strand commenced by Polybius and Cicero, reinterpreted by Montesquieu, constitutionalized by Madison, and recently brought perhaps to its highest level of philosophical sophistication by Philip Pettit; and (2) a *plebeian-materialist* strand originating in the political experience of the plebs within the ancient Roman republic and continuing in Machiavelli's interpretation of this experience in light of the political praxis of the *popolo* during the Florentine republic. I make the distinction between elitist and plebeian constitutions based on who has final decision-making power in a given framework: the selected few or the common people. Throughout the book I provide a visual representation of constitutional orders based on this basic distinction between the few and the many, to allow for a better spatial understanding of the distribution of powers in any given constitution as well as for a comparison between different models of republics.

To rethink the republic from a structural perspective implies not only the need to theorize the crisis of democracy at the systemic level, and to find adequate institutional solutions, but also the necessity of approaching constitutionalism from a point of view that allows us to acknowledge ever-expanding systemic corruption and oligarchic domination. Chapter 3 proposes a novel methodological approach to the study of constitutions that goes beyond the written text and jurisprudence, to incorporate the material structure of society. This material interpretation originates in the factual organization and exercise of power that is allowed and enabled by foundational institutions, rules, and procedures—or lack thereof. What I term *material constitutionalism* is premised on the idea that the organization of political power cannot be analyzed without taking into account political and socioeconomic power structures, and it therefore establishes a constitutional ideology that stands opposed to
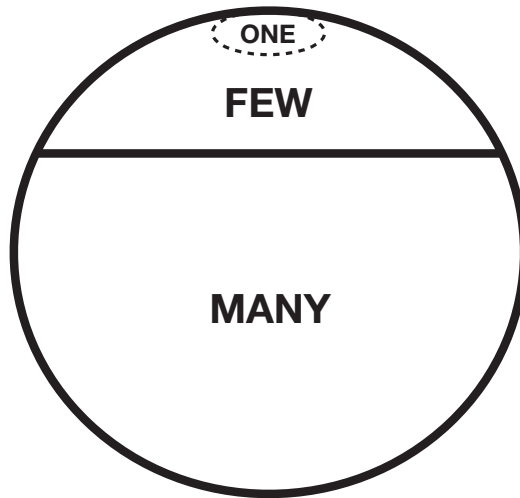
FIGURE I.1. The material constitution. Basic structure of spatial representation of the constitution as distribution of power.

legal positivism, formalism, and proceduralism. The chapter begins by putting forward this material approach, which I trace back to Machiavelli, and distinguishing two strands: one *institutionalist*, developed by Condorcet, Thomas Jefferson, and Arendt, and more recently by John McCormick and Lawrence Hamilton, and another, *critical*, developed by Karl Marx, Evgeny Pashukanis, and Antonio Negri, and more recently by Marco Goldoni and Michael Wilkinson. Within this taxonomy, Rosa Luxemburg's materialist critique of law and her proposal for institutionalizing workers' councils are a bridge between the critical and institutionalist traditions.

I dedicate the second part of the book to reviewing the constitutional thought of those who dared propose the institutionalization of popular power and endowed it with supreme authority to protect political liberty: Machiavelli, Condorcet, Luxemburg, and Arendt. These thinkers have all suffered reactionary backlashes, and therefore their work has consistently been misunderstood, instrumentalized, demonized, or neglected. Consequently, part of what I want to accomplish is to offer a serious engagement with their ideas and proposals using a plebeian interpretative lens under which they fit together, as part of a plebeian constitutional tradition. This sort of "B side" of constitutionalism is therefore composed of those who support the institutionalization of the power of the many as the only way to achieve liberty for all, misfits in an elitist tradition dominated by the impulse to suppress conflict in favor of harmony, stability, and security.

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I begin chapter 4 by presenting Machiavelli's constitutional thought as the foundation of a type of constitutionalism that is material in its analysis of law and procedures, and anti-oligarchic in its institutional design. Recognizing the influence that socioeconomic inequalities exert over political power, Machiavelli embraces conflict as the effective cause of free government and strives to empower and channel emancipatory, plebeian energies through the constitutional order. The chapter focuses on Machiavelli's most important contribution to materialist constitutionalism: the plebeian nature of constituent power. I argue that the constituent power in Machiavelli serves not as a bridge between basic principles and politics, but rather as the power exerted to resist oppression and establish plebeian and anti-oligarchic institutions. While in democratic theory the constituent power has been conceived as the *autopoietic* power of the community, a republican theory of constituent power is defined functionally, determined by the goal of achieving liberty as nondomination. Because for Machiavelli liberty demands the productive channeling of the plebeian desire not to be dominated, the preservative power of free government is the power the people have to periodically redraw the boundaries of what is considered permissible and what is deemed oppressive. Only the many—who desire not to be oppressed and do not partake in ruling—are the guardians of liberty. I analyze Machiavelli's proposal for reforming Florence through his theory of institutional renewal aimed at redeeming corrupt republics, focusing on his proposal to normalize instances of constituent creation and punishment in ten-year intervals as an antidote for systemic corruption.

Chapter 5 is devoted to the constitutional thought of Nicolas de Condorcet, the challenge of representing the sovereign demos, and his proposal for considering the people in its institutional character rather than as an atomized collective subject that can never be made fully present and therefore properly represented. As an alternative to the liberal constitution established in the American colonies, Condorcet proposed a republican framework in which the ruling power of making laws and decisions about administration is concentrated in a representative assembly, which is legally responsive to an institutionalized popular power—a network of primary assemblies—aimed at checking its laws, policies, and abuses. The chapter presents an in-depth analysis of the 1793 constitutional plan for the French republic proposed by Condorcet, read through the lens of his egalitarian tracts on education, slavery, and the rights of women.

While Condorcet was writing at the birth of modern representative government and was concerned with preserving the revolutionary spirit to protect the republic from corruption, Rosa Luxemburg proposes to embrace workers' councils as a political infrastructure of emancipation at a moment when the modern party system had begun to consolidate. It is when the Social

Democratic Party—a party in support of the interests of the working class—had gained partial control of the German government that she realized that the liberty of the working class demanded a different political infrastructure. The betrayal of the revolutionary party proved to her the truth of Marx's argument that the "working class cannot simply lay hold of the ready-made state machinery and wield it for its own purposes,"[13] and therefore she proposed to alter "the foundation and base of the social constitution"[14] from below by institutionalizing workers', soldiers', and peasant councils and establishing a national council of workers as part of a revolutionary constitutional political order.

The final chapter in this section analyzes Hannah Arendt's intellectual relation with Luxemburg's work, her critique of the American founding, and her proposal for establishing a council system. According to Arendt, the moment the founders focused on representation and neglected "to incorporate the township and the town-hall meeting into the Constitution," the revolutionary spirit was lost, and government became mere administration.[15] Arendt embraces the council system as an alternative form of government aimed at the continual reintroduction of freedom as action in a public realm dominated by administration. I argue that we should understand Arendt's proposal as a novel interpretation of the mixed constitution, one in which the division between the few and the many is replaced by that of *parties* dedicated to administration, and *councils* dedicated to political judgment.

In the third and final part of the book I survey the development of plebeian thought in the twenty-first century, its philosophical foundations and institutional proposals. In chapter 8 I analyze plebeianism as a political philosophy in the works of Martin Breaugh and Jeffrey Green and then provide and in-depth analysis of two recent attempts at retrieving the mixed constitution and proposing institutional innovations by John McCormick and Lawrence Hamilton. I first engage with McCormick's proposals to revive the office of the Tribunate of the Plebs and bring back plebeian power to exert extraordinary punishment against agents of corruption, and I argue that his radical republican interpretation of Machiavelli places class struggle, the threat of plutocracy, and the need for popular institutions to control the rich at the center of material constitutionalism. I then problematize the illiberal nature of his proposals and the legitimacy problems arising from lottery as mode of selection. The chapter then analyzes Hamilton's proposal to combine consulting

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13. Marx, "Manifesto of the Communist Party" in *Marx and Engels Reader*, 470.

14. Luxemburg, "The Socialization of Labor," in *Rosa Luxemburg Reader*, 343.

15. Arendt, *On Revolution*, 224.

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participatory institutions with an "updated tribune of the plebs" and a plebeian electoral procedure and discusses the challenge of proliferating sites of popular participation and competing authorities arising in such a scheme.

Finally, in chapter 9 I make my own contribution to plebeian constitutional theory by proposing to constitutionalize popular power in a "plebeian branch" that is thought through Arendt's model of parties and councils, incorporating features from the proposals establishing plebeian institutions analyzed in the previous sections. I first lay out a way to separate the few from the many that would in principle conform to the current liberal constitutional framework, and then I describe the two institutions that would make up the proposed plebeian branch: a network of primary assemblies with the power to initiate and veto or repeal any law, public policy, judicial decision, and appointment as well as to update the constitution, and a Tribunate office aimed at enforcing mandates coming out of the network of assemblies and fighting political corruption. To close this final chapter I offer a tentative juridical framework for this plebeian branch, which is meant to be incorporated into any existing representative democratic regime and is aimed at empowering plebeians—common people who enjoy only second-class citizenship within the current constitutional structure—as a more enduring solution to the systemic corruption of representative systems and the oligarchic domination that inevitably comes with it.

I close the book with an epilogue discussing possible scenarios in which plebeian power could be institutionalized from the point of view of revolutionary politics, and I argue that if—following Machiavelli, Condorcet, Luxemburg, and Arendt—the aim of revolution is liberty, which demands self-emancipatory political action, then revolutionary change—aimed at building the legal and material infrastructure for plebeian political power—could be achieved without the need of an outright revolution. The redistribution of political power could be done by revolutionary reformers within the boundaries of the Constitution or by the people themselves, claiming collective power and authority by disrupting the ordinary administration of power with their extraordinary political action in local assemblies.

Systemic Corruption and the Material Constitution

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Corruption as Political Decay

I begin this book from the premise that liberal democracy, as any other political regime throughout history, is flawed and perfectible, a product of fallible human thinking. Of the many deficiencies of our current regime form, perhaps the most problematic is its inability to effectively combat corruption. According to Transparency International, corruption is a serious problem. In 2016 only two countries—Denmark and New Zealand—out of 176 states surveyed scored above percentile 90 (equivalent to an A in political cleanliness), and over two-thirds scored below 50 percent, which indicates that the majority of representative governments[1] suffer from "endemic corruption," a kind of "systemic grand corruption [that] violates human rights, prevents sustainable development and fuels social exclusion."[2] Even if the Corruption Perceptions Index attempts to explicitly account for *systemic* corruption—as opposed to mere cash for votes, quid pro quo corruption—the current definition of political corruption does not yet allow for an accurate measurement of its structural layer because it remains blind to the role procedures and political institutions play in fostering corruption through their normal functioning. In this chapter I argue that we are working with an imperfect, reductionist explanation of political corruption that, even if it allows for quantitative research and generalizations based on discreet observable variables, does not capture the broader, more intractable and pernicious form of systemic corruption that ancient and modern political thinkers wanted to avoid.

The predominant definition of corruption as "illegal actions concerning public officials" is narrower and departs in significant ways from the meaning that was attached to corruption in earlier periods of Western thought.[3] Our

1. According to the *Democracy Index*, 69 percent of the 167 countries surveyed are considered a type of democracy (full, flawed, or hybrid).
2. *Corruption Perceptions Report 2016*.
3. Barcham, Hindess, and Larmour, *Corruption*, 8.

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current understanding of political corruption is positivist and individualistic, which has served well the research model that became hegemonic in the social sciences in the 1990s, which demanded the development of concepts that could be easily measured and plugged into large N models. Corruption has thus been conveniently reduced to its most visible and clear expressions: illegal acts involving public officials (e.g., bribery, fraud, nepotism). But even if the reduction of political corruption to a discreet set of expressions serves the reliable measurement of the phenomenon, this account can be only partial since it is clear that political corruption is a slow-moving process, where meaningful change in the dependent and independent variables occurs only over the long run, tending then, in practice, to fall off the radar within this type of quantitative methodology.[4]

Despite a recent renewed empirical interest in systemic corruption and the most effective ways to counter it,[5] the concept is yet to be adequately defined and understood. The bulk of research on corruption is policy oriented, aimed at ameliorating the negative economic consequences associated with corruption, especially in the developing world.[6] "Corruption is thus presented as if it were a matter of misconduct on the part of public officials who are seen, especially in poor countries, as pursuing their own private interests and likely to act corruptly in return for money and other favours, thereby undermining economic development."[7]

In conformity with the individualistic model that undergirds the current conception of corruption but acknowledging the limitations of analyzing corruption only through its narrow definition, the different organisms aimed at combating corruption have relied on individuals' *perception* of corruption as a way to complement the tallying of individual illegal acts as a proxy for the rate of corruption in society. This is of course very problematic. If there is no working definition of corruption beyond the legal, on what evidence are respondents of these surveys basing their perceptions? Corruption conceived in this way is guilty of moral relativism and legal positivism because it does not consider an independent standard to judge the law and thus could even end up legalizing the most prominent means of corruption (e.g., campaign finance, donations, lobby).[8] In our current juridical conception of corruption, for example, there is no way to account for *legal* corruption, for laws and

4. Pierson, "Big, Slow-Moving, and . . . Invisible."

5. Johnston, *Syndromes of Corruption*; Mungiu-Pippidi, *Quest for Good Governance*.

6. Rose-Ackerman and Palifka, *Corruption and Government*.

7. Barcham, Hindess, and Larmour, *Corruption*, 3.

8. While lobbying was illegal for much of US history, today it dominates politics. For a historical account, see Teachout, *Corruption in America*.

policies that promote the interests of a few against the common good, what the ancients would understand as the gradual decay of good government.

The few attempts at engaging with the concept at a theoretical level fall short of fully conceiving the fundamentally systemic nature of political corruption,[9] or adequately grounding it on intellectual history and its contexts,[10] and thus these attempts are potentially liable to anachronism through what Quentin Skinner has identified as "mythologies of doctrines."[11] This chapter contributes to this emerging literature by providing a contextualized theoretical analysis of a type of political corruption that seems a systemic feature of all constitutional popular governments. Systemic corruption, which encompasses structural forms of corruption such as legal and institutional corruption, not only is different from the actor-based meanings of the term— the bending and breaking of the law by a clan or class for their own benefit, or the buying of political influences by private interest[12]—but also differs from definitions of corruption as the undermining of the rule of law.[13] Systemic corruption is a term that seems to directly address the nature of the superstructure itself, and not the manipulation or dismantling of a structure that is seen as the normative ground for neutrality.

Systemic Political Corruption in Ancient Thought

Even though today we associate corruption with illegal action, the etymological origin of the word has a far more complex meaning. The Greek ancestor of the word *corruption* has been traced to *phthora* (φθορά), which meant destruction, decay, and "passing away" as correlative to genesis—the beginning of a process.[14] While in early pre-Socratic texts the word was used only to denote

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9. DeLeon, *Thinking about Political Corruption*; Heywood, *Political Corruption*; Thompson, *Ethics in Congress*.

10. See Patrick Dobel's gathering of "scattered insights" by Thucydides, Plato, Aristotle, Machiavelli, and Rousseau in "Corruption of a State." A notable exception is *An Intellectual History of Political Corruption*, edited by Lisa Hill and Bruce Buchan, even if it centers on tracing the current individual, juridical concept of corruption, devoting only a few pages to systemic corruption.

11. Coherence, prolepsis, and parochialism. Skinner, "Meaning and Understanding in the History of Ideas."

12. In his taxonomy of corruption Michael Johnston identified the corruption of "influence markets," in which private interests seek political influence, as the most pervasive in advanced market democracies. *Syndromes of Corruption*.

13. See for example Rothstein, *Quality of Government*.

14. Peters, *Greek Philosophical Terms*, 158.

the moral degradation of women and youth, and the ruining of crops from bad weather, the concept appears to acquire a decisively abstract meaning in the sixth century BC. The theoretical conception of phthora was first developed, according to Aristotle, by Thales of Miletus, the founder of the school of philosophy that studies unchangeable elements in nature, principles that are "neither generated nor destroyed, but persist eternally."[15] The Physicists—as Aristotle called this school of thought—attempted to understand how plurality in the cosmos could be generated from matter as a "single underlying substance." Anaximander argued matter was governed by a "diversifying antithesis" in which matter is constantly being generated through "condensation and rarefication," and that phthora was the natural process through which things returned to the original, indefinite principle.[16] Empedocles and Anaxagoras assigned a direction to this *poietic* process of generation. While for Empedocles generation of matter was circular, always coming back to its starting point, for Anaxagoras this movement was spiral, never repeating itself.[17]

The concept of corruption acquired a political meaning when it was first attached to the constitution of the state by Plato, and then furthered analyzed by Aristotle in the *Politics*—work explicitly dedicated to the analysis of the corruption (φθορᾱ) and preservation of constitutions. I would argue both authors developed their conception of corruption responding to their own sociopolitical context, and thus we should analyze their ideas on political corruption as inherently tied to a stable democratic regime in a diminished, post-imperial Athens. Through a contextual analysis of their ideas, in what follows I show that while for Plato the source of corruption in democracy was the constitutive principle of liberty, which gradually eroded hierarchies and rule, for Aristotle corruption sprang from the full realization of the principle of equal share in government.

Since the series of constitutional reforms begun by Cleisthenes (508/7 BC) based on the principle of *isonomia* (ἰσονομία), right up to Pericles's prodemocratic policies, the popular sectors in ancient Athens were gradually empowered until acquiring preeminence. By the fourth century almost all magistrates were selected by lottery from a broad pool of citizens[18] who enjoyed *isegoria* (ἰσηγορία)—the equal right to speak to the assembly—and were paid by the

15. Air, water, earth, and fire. Aristotle, *Metaphysics*, 984a.

16. Simplicius, *Commentary on Aristotle's Physics*, 24.13–21.

17. Aristotle, *Physics*, I.IV, 187a.

18. Even wage laborers, *thêtes*, could become officeholders. Aristotle, "On the Constitution of Athens," 7.4. See also Ober, *Mass and Elite*, 80.

state to exercise political power.[19] The empowerment of nonelite citizens came hand in hand with Athens's increased naval power and state revenue, and with the diminishing of the elite's institutional power. While during the golden years of Athens the increased participation of the masses in political power was financed through colonial tributes and high production of state silver mines, after Athens lost its empire and the production of mines begun to decrease, equal share in government was mostly financed through direct taxation on the leisured classes, whose political influence decreased especially after the aristocratic Areopagus was stripped of its veto power.[20]

An Athenian citizen of high status, Plato came of age in the midst of the Peloponnesian War (431–404 BC), in which Athens was ultimately defeated, and the longtime-brewing 411 oligarchic coup.[21] He also witnessed the execution of his mentor, Socrates, condemned to death by the Athenian assembly for corrupting the youth and religion. Pay for assembly goers and jurors, and the establishment of the *nomothetai* (νομοθέται) selected by lot,[22] had effectively made the popular sectors the judges of behavior and the interpreters of law, and in Plato's eyes the death of Socrates came to evidence the hubris the multitude was capable of when drunk with liberty. *Dēmokratiā* was certainly not a perfect form of government, and its consolidation (or radicalization) was seen by Plato as only one more phase in the relentless decay of political organizations. In *The Republic* he envisioned the best form of government as that of the philosopher-kings, an aristocracy of the guardians of virtue, who are able to organize society in the best way possible because they lack a stake in it; in *Kallipolis* guardians would live communally, separated from other classes and barred from owning property. However, even this seemly perfect constitution maintained by the most virtuous elite would not be able to escape corruption, because "*phthora* (φθορά) awaits everything that has come to be, [and] even a foundation of this kind will not survive for the whole of time."[23]

Even if in later writings Plato further explores phthora only as a process of degradation that is proper to *physis*, since there is no strict separation between the natural and the political in his thought, this process of decay would also

19. Citizens were paid for exercising all three functions of state power: judging, lawmaking, and making and executing decisions. Ober, *Mass and Elite*, 53–103.

20. Ephialtes's reforms in 462 undermined the elite's power to preserve the status quo through vetoing "unconstitutional" decisions by the Assembly. Ober, *Mass and Elite*, 77.

21. Thucydides, *History of the Peloponnesian War*, 8.45–98.

22. A sort of popular constitutional tribunal aimed at protecting democracy. Hansen, *Athenian Democracy*, chapter 7.

23. Plato, *Republic*, 546a; Plato, *Laws*, 894a.

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rule the political realm created by men.[24] In *Timaeus* Plato puts forward a basic intuition about the decay of bodies, which would later be validated by the discovery of the second law of thermodynamics[25] as revealing an inherent process of degradation through the transfer of energy:

> For when any one element suffers a change of condition that is contrary to nature, all its particles that formerly were being cooled become heated, and the dry presently become moist, and the light heavy, and they undergo every variety of change in every respect. For, as we maintain, it is only the addition or subtraction of the same substance from the same substance in the same order and in the same manner and in due proportion which will allow the latter to remain safe and sound in its sameness with itself. But whatsoever oversteps any of these conditions in its going out or its coming in will produce alterations of every variety and countless diseases and corruptions.[26]

What Plato depicts as the extremely difficult process to preserve the nature of things is what the second law of thermodynamics explains as the inevitable transfer of heat energy and the resulting increase of entropy (disorder) in closed systems. Degradation occurs because internal energy is transferred within different bodies in a given system, and in this inevitable transfer process, energy is transformed and wasted until the process ends at a certain temperature in which there is no difference of heat between the inside and outside of a body. The only way to reverse this process of decay is by applying "work" through an *external* energy source. So, if the system is for instance an ice cube with tight molecules, the natural process according to the second law is for these molecules to move more and more, and for energy to be transferred from the warmer parts to the colder ones, until the molecules have separated and spread out and the cube has completely melted. The only way to preserve the ice cube is to artificially keep the molecules tight by creating an environment below freezing level through the use of external energy.

The same way that an ice cube will inevitably melt at room temperature and cease to be an ice cube and become water, the constitution of a given state would be completely ruined by the entropy inevitably produced by its normal functioning, and turn into a different political order. From the utopian aristocracy of *Kallipolis*, according to Plato political forms would gradually

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24. Aristotle further develops the relation between *physis* and politics, arguing that political virtue also requires *ethos* and *logos*. See Ward, "Two Conceptions of *Physis*."

25. Discovered by Robert Clausius in 1850.

26. *Timaeus*, 82a–b.

degrade first into the lesser form of timocracy (the regime by the honorable), then into oligarchy (rule by the wealthy), then into democracy (based on equal share in political power and liberty), and finally into tyranny, the worst form of government that imposes "the harshest and most complete slavery."[27] Tyranny is for him an order that is the complete opposite of the virtuous aristocracy of the guardians, in which all citizens are virtuous and contribute in their particular roles to the harmony of the polis. Tyranny is for Plato anarchy, the transgression of natural hierarchies and the absence of rule.

When developing his idea of political decay Plato's target was the democracy of his own time. While he recognizes that liberty is the principle of democracy, he argues that liberty is itself a liability, a source of disorder because it results in individuals living according to "their own constitution," having their own rules, pursuing only their own interests, and respecting no other authority but their own will.[28] For Plato, corruption in a democracy would be the inevitable result of the equal distribution of liberty, which allows for the pursuit of individual interest and the consequent increase of entropy, as it were, within the constitutional framework. In other words, liberty as constitutive to the democratic regime is for Plato a liability that contaminates the public realm, weakening the possibility of *arche* and virtue, permanently undermining hierarchies, tradition, and rules, and making government prone to *hubris* and destined to injustice and tyranny.[29]

Departing from Plato's linear pattern of corruption as a gradual process of decay from aristocracy to tyranny, Aristotle argues for a typology of regimes based on the fundamental "diversifying antithesis" of genesis and corruption that exists in everything. Since "all things that come into existence in the course of nature are either opposites themselves or are compounded of opposites," corruption can be analyzed as a movement "along the determined line between the terms of contrast; or (if we start from some intermediate state) the movement towards one of the extremes."[30] On this premise of the generative nature of opposites Aristotle bases one of his most original observations, with far-reaching political implications: that change comes about through the corruption of nature, that "change (μεταβολή) is primarily a 'passing away' (φθορᾶς)."[31] Phthora, therefore, is an inevitable, natural force driving change in the physical world, working within bounded spheres determined

27. Plato, *Republic*, 564a.
28. Ibid., 557b–e.
29. Ibid., VIII, 558a.
30. Aristotle, *Physics*, I.v, 188b.
31. Ibid., IV.xiii, 222.b.

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by the opposition implied in the "coming into being" of a thing; each thing has a principle (or mixture of them), and it is its realization that brings about corruption. Everything begins to corrupt the moment it is fully realized, and *metabole* occurs when that realization is fully negated.

Since "all things arose out of what existed, and so must be there already,"[32] according to Aristotle every political constitution would have constitutive principles that would become fully realized, enabling its demise. The degree of corruption of constitutions would relate to the movement within its extremes. Following this idea, Aristotle conceived of three good constitutions (kingship, aristocracy, and *politeia*) based on the nature of the sovereign (one, few, or many) and their final cause (ruling for the common interest, *eudaimonia*), and their corresponding perverted forms brought about by corruption (tyranny, oligarchy, and democracy) aimed not at advancing the common good but at satisfying the personal interests of the rulers.[33] There is much debate about the fundamental feature of the ideal politeia in Aristotle's thought. While some define politeia as a combination of democracy and oligarchy, and thus a mixed government in which the interest of the few and the many keep each other in check,[34] others emphasize its "constitutional" character given that the ultimate authority would reside on fundamental law and not on the will of the majority.[35] I would argue these interpretations are not mutually exclusive.

As Aristotle described in "On the Constitution of Athens" and the *Politics*, Athenian democracy during his time corresponded to the most extreme and corrupt form of democracy—the absolute rule of the many for their own benefit. In his classification of regimes, he identified four types of democracy based on the social basis of the sovereign, the degree of participation in government, and the supremacy of the law. The first three types of democracy, in which the masses share equally in constitutional rights but are unable, because of material constraints, to actually exercise their sovereign power, the rule of law is supreme and thus Aristotle considered them "good," constitutional forms of government. The fourth type of democracy, however, which he identifies with the Athenian democracy of his time, is inherently corrupt since the "mass of the poor," thanks to a system of state-payment for attending the assembly, are "the sovereign power instead of the law."[36] This extreme form of

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32. Ibid., I.iv, 187b.
33. Aristotle, *Politics*, III. vii, §2.
34. Pasquino, "Classifying Constitutions."
35. Castiglione, "Political Theory of the Constitution."
36. Aristotle, *Politics*, IV.vi §§2–6.

democracy, as it were, is brought about by "leaders of the demagogue type," who arrive precisely because decrees and not laws are sovereign, enabling the transformation of the sovereign *demos* into a type of despotic autocrat.[37] This form of government has no proper constitution, since the people are sovereign in all matters,[38] and are easily influenced by demagogues who have no official position other than the one conferred by the contingent favor of the masses. Demagogues educate the poor on how to advance their own interests, increasing their power[39] and thus are the agents of corruption, enabling interest to be made into law. The full realization of an equal share in government appears then to inevitably produce regime change since such a system, in which "everything is managed merely by decrees, is not even a democracy."[40]

In Aristotle's particular account of the history of Athens, demagoguery had plagued the state since the rise of Pericles, who not only "took powers away from the Areopagites" but also "impelled the state toward naval power [and] as a result of this power it befell that the masses took confidence and began in greater degree to draw the whole constitution into their hands."[41] Thus, departing from Thucydides's account of Athenian history, which puts total control of government in the masses *after* Pericles's death in 429 BC, Aristotle argues that the extreme form of democracy had begun three decades earlier with the reforms of the Areopagus, which enabled a regime change (*metabole*).[42] While the absolute liberty the assembly gained after the last aristocratic constraints were removed would mark the beginning of regime change, the complete realization of democracy occurs only when the principle of equal access to political power is fully materialized.

Even though a corrupt state implies for Aristotle a loss of virtue by both rulers and common citizens, he is very clear that virtue depends on the appropriate legal structure to thrive. Because virtue is not natural to human beings, but needs to be acquired by habit and action, the degree of virtue and corruption in the polis is determined by the law and its effects on the members

37. Ibid., IV.vi §§25–31.

38. Aristotle's argument stands against the codification of law at the turn of the century and the establishment of the *nomothetai* as a constitutional tribunal. See Hansen, *Athenian Democracy*.

39. Aristotle, *Politics*, IV.iv §§26–30.

40. Ibid., IV.iv §§30.

41. Aristotle, "On the Constitution of Athens," 27.1.

42. This interpretation appears based not on de jure modifications, but on de facto changes, evidencing for Aristotle a change in the spirit of democracy. Day and Chambers, *Aristotle's History of Athenian Democracy*, 140.

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of the state.[43] In Aristotle's account, good character—desire in accord with right reason—cannot exist without habituation. Moral virtue is difficult to acquire because it is concerned with pleasures and pains, the discipline of the appetites, and the internalization of social norms. Therefore, the right habituation must be learned from others and exercised constantly to create a sort of second, moral nature:

> For pleasure causes us to do base actions, and pain causes us to abstain from fine ones. That is why we need to have had the appropriate upbringing— right from early youth, as Plato says—to make us find enjoyment or pain in the right things; for this is the correct education.[44]

At the political level, it is the legislator who, grasping the principles of the common good, creates a constitution that can make "the citizens good by habituating them."[45] Good laws make good citizens by providing them with the principles of virtuous action, the form to which they should shape their character; the legal framework materializes the universal principles guiding action toward the common good, providing both the limits and the opportunities to engage in virtuous action. The same can be said for corrupt action (preferring individual/sectional interest against that of the polis), as being enabled by the legal structure, with the crucial difference that corruption is a natural tendency that will exist regardless of laws. Therefore, each regime needs to habituate its citizens appropriately through good laws aimed at fostering moral and civic virtue against relentless, unavoidable corruption. If a regime fails to do this and laws become inadequate, allowing and even fostering greed and the thirst for domination in the sovereign, citizens become habituated in this way, and the polis inevitably becomes a corrupt state. Democracy as absolute, unconstrained rule by the people, a form of government effectively lacking a constitution as higher law, is thus for Aristotle inherently corrupt.

Despite their different theories of constitutions, both Plato and Aristotle agree that political corruption occurs in pure regimes because of a loss of virtue in the sovereign body when personal interests take the place of the common good as the final cause of government. If viewed from the second law of thermodynamics, the process of political corruption as *phthora* could be conceived as the natural increase of entropy generated by the pursuit of individual/sectional interest against the common good within a given constitutional framework. This loss of virtue in the ruling body would mark the beginning of

43. Aristotle, *Nicomachean Ethics*, II.1.
44. Ibid., II.3.
45. Ibid., II.1.

the end of a given good constitution, if no constant or episodic external "work" is applied to it to counteract the thrust of actions aimed at the satisfaction of partial interests. Moreover, because corruption and the increase of entropy inevitably produce a change of nature and thus an effective modification of the constitution of the state, the quest for virtue is connected to the idea of *preservation against corruption*.

Aristotle aims at counteracting corruption by proposing as the best form of government one based on a mixture of natures and principles, in which both the few and the many share in government, and the majority of citizens are part of the middle classes. Aristotle's politeia is a constitutional direct democracy in which "the masses govern the state with a view to the common interest,"[46] and the masses are composed mainly of the middle classes, who possess "moderate and adequate property."[47] This best "practicable" constitution—an intermediate regime between the extremes of oligarchy and democracy—would successfully combine qualifications of wealth and legal equality because the middle classes—the majority after the exclusion of the poor—would effectively control government.

The politeia being a mixture of constitutions and thus in an intermediate position, one could argue that, following Aristotle's ideas on corruption, the politeia as an ideal type could become corrupt by tending either to oligarchy or to democracy. However, like Plato, he entertains only a corrupting tendency toward democracy, even if from his ideas of the nature of things it is clear that things that are in intermediate positions inevitably drift toward either of the extremes that define them. The same way a politeia would suffer metabole if the principle of equal share in government were fully realized, were the principle of oligarchy—inequality based on wealth, status, knowledge—to become predominant and driven to its extreme—with a handful of people owning most of the property—the politeia would inevitably undergo a regime change into a oligarchy, a regime "analogous to the last form of democracy" in which the sovereign is unbound to seek its own advantage, "closely akin to the personal rule of a monarch."[48]

Extending Aristotle's taxonomy of good and deviant constitutions, and combining it with Empedocles's cosmological theory of cyclical change,[49] the Greek historian Polybius, who documented the rise of the Roman republic from 264 to 146 BC, articulated a "cycle of political revolution, the course

46. Aristotle, *Politics*, III.vii §3.
47. Ibid., IV.xi §§10–1.
48. Ibid., IV.vi §§7–11.
49. See Tromp, *Idea of Historical Recurrence in Western Thought.*

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appointed by nature in which constitutions change, disappear, and finally return to the point from which they started."[50] According to his *anacyclosis*, pure regimes, starting from the best one—kinship then aristocracy and finally democracy—are bound to degenerate into their deviant forms, until the tyranny of the many establishes the rule of violence, and the people "degenerate again into perfect savages and find once more a master and monarch."[51] For Polybius corruption is inevitable in pure regime forms,

> just as rust in the case of iron and wood-worms and ship-worms in the case of timber are inbred pests, and these substances, even though they escape all external injury, fall a prey to the evils engendered in them, so each constitution has a vice engendered in it and inseparable from it.[52]

Following Aristotle, he argues that only mixture can stave off corruption. However, instead of combining the worse two regime types as Aristotle did, following the example of the Spartan lawgiver Lycurgus, Polybius argues that we must regard as the best constitution a combination of the three best forms of government—kinship, aristocracy, and democracy—which he conceived as forms of *limited* government. While the king's actions were bounded by rational principles, and aristocratic rule was limited by the morality and wisdom of the few selected to administrate public affairs, democracy was the regime in which majority decision prevailed within a traditional framework of popular obedience to the dictates of religion, elders, and civil laws.[53]

The Roman constitution was of a mixed nature because it institutionalized these three sources of authority, which shared "in the control of the Roman state."[54] While the consuls exercised authority in Rome over all public affairs, the Senate exerted control over the republic's finances and public works, in addition to dispatching embassies and declaring war, and giving advice to magistrates.[55] The people, on the other hand, through the Plebeian Council[56] and the Tribunate, had the "right to confer honors and inflict punishment," especially on individuals who had held public office, and the power of approving or rejecting laws and ratifying issues related to war and peace.[57] These three

50. Polybius, *Histories*, VI.9.
51. Ibid.
52. Ibid., VI.10.
53. Ibid., VI.4.
54. Ibid., VI.2 and 5.
55. Advice that was generally followed. Ibid., VI.12–13.
56. Concilium Plebis.
57. Ibid., VI.14.

Roman Republic

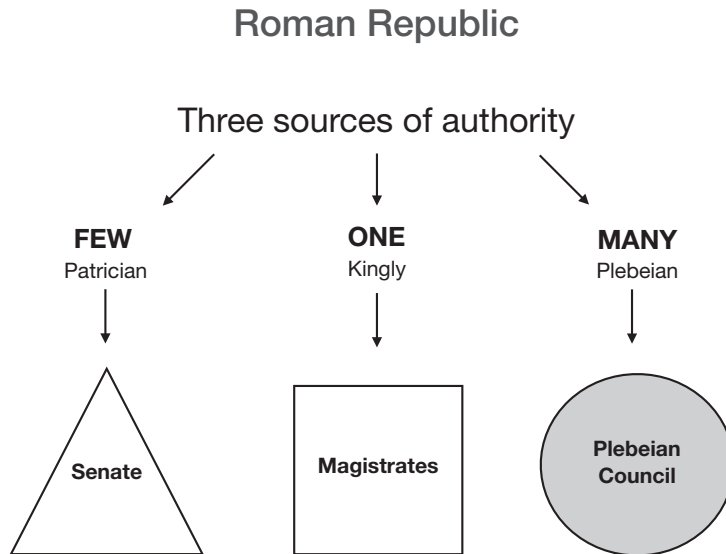### Three sources of authority

FIGURE 1.1. Sources of authority in the Roman republic.

forms of authority and institutional power were, moreover, in permanent dynamic balance in a system in which "none of the principles should grow unduly and be perverted into its allied evil, but that, the force of each being neutralized by that of the others, neither of them should prevail and outbalance another."[58] Corruption in this mixed regime, which Polybius associates with the Roman republic, is not the full realization of an *antithesis*, but the result of an *imbalance* of political power in the constitution, which allows for the domination of one of the principles or factions over the others. However, Polybius does not acknowledge the corruption slowly unraveling at the moment he was writing the *Histories*.

Even if by the late republic the Plebeian Tribunate appeared as a strong institution able not only to give protection to individuals against the consuls, but also to obstruct the Senate and initiate legislation, it was unable to ultimately thwart the overgrowth of the power of the nobility. The republic kept progressively drifting into oligarchy mainly because of the cooptation of plebeian tribunes into patrician ranks and the Senate's disregard of the legislative authority of the Plebeian Council. The tumults that resulted from this disregard of plebeian authority plagued the late Roman republic and served as a catalyst for regime change and the birth of imperial authority.

58. Ibid., VI.10.

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Individual Corruption and the Machiavellian Challenge

The translation of *phthora* into the Latin root *corruptus* kept its abstract meaning of destruction and decay at the systemic level[59] alongside a substantive, moral meaning related to individual political actions: to bribe, falsify, seduce, or pervert.[60] It was mainly Cicero who used the word *corruptus* in a political sense to refer to the decay of mores and the "depravity of evil custom"[61] as the culprit of the decline of Rome. Following closely Plato's analysis of the corruption of democracy, Cicero blames the decay of the republic to the success of the "extreme liberty" that inevitably reaches everything in a commonwealth in which everyone is free and "all sense of shame is lost."[62] This individual moral meaning of *corruptus* was further developed during medieval times, pivoting on the sinful nature of human beings. Following closely the Ciceronian legacy, Augustine famously argued all earthly governments are inherently corrupt, because rooted in the original sin, and veered the focus of analysis to civic stability as the highest attainable political good. This approach spawned more than ten centuries of "mirror of princes" texts centered on the moral virtue of rulers as a form of achieving stability and good rule.

After the reintroduction of Aristotle to philosophical inquiry in the thirteenth century, political analyses of virtue and corruption shifted once more from the moral qualities of individual rulers toward the institutional merits of political regimes. Within scholastic thought, Aquinas fused moral values to the Aristotelian conception of "right reason" producing a new political meaning of virtue and corruption associated with the *res publica christiana*.[63] Political corruption was once again associated with the preference for individual interest against the common good[64] but remained pegged to Christian morality and the Augustinian framework that conceived of civic stability as the highest political goal, and of civic discord as a sign of corruption. Scholastic thought had a significant impact on the new humanist strand that developed in early quattrocento Florence, which attempted to defend the republican experiment in scholastic terms based primarily on virtue ethics.[65] It is in this

59. The meaning of "damaged or spoiled," closer to the original *phthora*, was predominant in ancient Rome. Perseus Digital Library Project.

60. The Romans had a specific word for "electoral bribery," a common vice: *ambitus*. Hill and Buchan, *Intellectual History*, 27–29.

61. Cicero, *On the Laws*, in *"On the Commonwealth" and "On the Laws,"* I.

62. Cicero, *On the Commonwealth*, in *"On the Commonwealth" and "On the Laws,"* I. 67.

63. Aquinas, *Summa Theologica*, I.CIII, 3 resp.

64. Ibid., I–II.XC, 2.

65. Skinner, *Foundations*, 145.

Ciceronian-scholastic humanist legacy—according to which political corruption is reduced to individual vicious actions—that our current juridical conception of corruption is grounded.[66]

A crucial challenge to the scholastic view of political corruption centered on individual virtue came from a "civic" strand of humanist thinkers from the Italian city-states being threatened by papacy and empire in the fourteenth and fifteenth centuries. Reintroducing ancient Roman political values, this humanist tradition brought to the fore the political concept of liberty as connected to civic virtue and good, popular government,[67] and it put corruption as an evil in need of permanent contention in their proposed constitutional designs. Even if Machiavelli was not the first thinker of the Renaissance to focus on the role of corruption in politics, according to Skinner he reveals a "heightened awareness of the problem, and devote[s] an unprecedented amount of attention to the investigation of its causes."[68] By challenging humanists' virtue ethics and their support for the rule by an educated elite as the best form of government, Machiavelli proposes a structural understanding of corruption that puts the burden of good government on institutions, laws, and procedures rather than individual actions by the ruling elite. While "virtue-ethics" humanists saw virtue in the ruling class as the key to good government,[69] for Machiavelli, republican liberty was the result of good laws, which are themselves the product of the institutional conflict between the few and the many.[70]

Machiavelli's preoccupation with political corruption was embedded in the extraordinary democratic experiment of the republic of Florence, which began in 1494 with the establishment of the Great Council, a form of direct democracy that allowed for extensive citizen participation in legislative, electoral, and judicial authority within the republic. Despite the extensive powers of the Council, the republic remained effectively dependent on the financial oligarchy because of its reliance on mercenary armies that were paid by an extraordinary system of public debt. According to Jérémie Barthas, as secretary and second chancellor of the republic, Machiavelli saw as his central task to liberate the republic from the grip of the financial oligarchy through the introduction of a project of mass conscription, an "ordinary and socialized mode of defense" that would establish the autonomy of the republic of Florence from the

66. Hill and Buchan, *Intellectual History*. I disagree fundamentally with their interpretation of Machiavelli's approach to corruption.

67. Skinner, *Foundations*, 6–12.

68. Ibid., 166.

69. Hankins, "Machiavelli, Civic Humanism, and the Humanist Politics of Virtue," 102.

70. Machiavelli, *The Prince*, IX; *Discourses*, I.4, in *Machiavelli Chief Works*.

financial power of the *grandi*.[71] I argue Machiavelli's conception of corruption needs to be understood as connected to this constant threat of oligarchic power, and thus his constitutional proposals should be analyzed as socialized modes of defense against the relentless force of political decay.

Following the Aristotelian definition of political corruption as the favoring of individual interests instead of the common good, in *Florentine Histories* Machiavelli defines a corrupt state as the one in which "laws and ordinances, peace, wars, and treaties are adopted and pursued, not for the public good, not for the common glory of the state, but for the convenience or advantage of a few individuals."[72] Since for Machiavelli men are by nature wicked and fickle, prone to breaking the rules "at every chance for their own profit,"[73] every form of government has a natural tendency toward corruption. Even though a good foundation can counteract this egotistic inclination, it does not eliminate it, so the degeneration of political rule is a constant threat that needs to be averted through extraordinary measures.[74]

In his analysis of corruption, Machiavelli distinguishes three interrelated elements: matter, form, and method. In a city the matter is constituted by the citizens, the form by the laws, and the methods by the rules and procedures for selecting magistrates and making laws.[75] Even if Machiavelli certainly denounces "gifts" and "promises" as frequent means to corrupt individuals,[76] and agrees with Cicero that a corrupt government necessarily entails corrupt mores, his conception of corruption is decisively institutional, and his analysis thus focuses on the rules and procedures that enable citizens to exert domination. For Machiavelli the corrupting process does not begin in the *matter* (governed in part by the unavoidable egoistic tendencies of individuals) but on the *form* restraining individual interest and the *methods* by which rulers are selected. Individual interest is a force permanently trying to unduly influence government but succeeding, and thus effectively corrupting the republic, only if laws and methods are flawed and liberty's scaffolding is already being slowly dismantled from within. According to Machiavelli, "an evil-disposed citizen cannot effect any changes for the worse in a republic, unless it be already corrupt."[77]

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71. Barthas, "Machiavelli, the Republic, and the Financial Crisis," 273.

72. Machiavelli, *Florentine Histories*, IV.6, in *Machiavelli Chief Works*.

73. Machiavelli, *The Prince*, XVI.

74. For Machiavelli on dictatorship as the ordinary method to deal with extraordinary circumstances, see Geuna, "Extraordinary Accidents."

75. Machiavelli, *Discourses*, I.18.

76. Ibid., I.40; Machiavelli, *The Description*, in *Machiavelli Chief Works*.

77. Machiavelli, *Discourses*, III.8.

For Machiavelli good laws promote civic virtue, and bad laws enable general corruption. Throughout his writings he identifies two types of corrupting norms promoting two forms of evil: license and socioeconomic inequality. Referring to the case of Scipio—"that most excellent man, not only of his own times but within the memory of man, against whom, nevertheless, his army rebelled in Spain"[78]—Machiavelli makes the case that norms allowing for increased license bring ruin even to the most glorious men and institutions. Scipio was called "the corrupter of the Roman soldiery" because he was too lenient and "gave his soldiers more license than is consistent with military discipline,"[79] which encouraged them to become unruly.[80] And the same way that good, disciplined soldiers became bad and rowdy through the lifting of restraints to their behavior, the general corruption of mores is allowed to begin when "the laws that restrained the citizens . . . were changed according as the citizens from one day to another became more and more corrupt."[81]

In addition to promoting moral license and undermining virtue, laws play a key role in allowing for inequality, which ultimately makes the protection of liberty and the republican project impossible. Because republics need relative equality to exist—great inequality produces princedom, relative equality is conducive to republican rule[82]—if laws allow for accumulation of wealth in the hands of a few and the destitution of the majority, the gradual transition from good government into a corrupt one is inevitable. Because Machiavelli sees the republic as a type of political organization that is inherently tied to the socioeconomic structure of society, republican liberty demands that citizens live in *relative* equality, in a correspondence based on individual labor and frugality. For him lords (*gentiloumini*) "who without working live in luxury on the returns from their landed possessions" are dangerous for any republic; they are the beginners of "corruption and the causes of all evil."[83]

But even if Machiavelli strongly denounces wealthy elites and their great influence as "the cause of states being reduced to servitude,"[84] he also acknowledges that a "republic that has no distinguished citizens cannot be well governed"[85] and that it is the job of the institutions of the state to adequately

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78. Machiavelli, *The Prince*, XVII.

79. Ibid., XVII.

80. For further analysis on Scipio, see McCormick, "Machiavelli's Inglorious Tyrants."

81. Machiavelli, *Discourses*, III.18.

82. Ibid., I.55. For further analysis of the relation between inequality and constitutions in Machiavelli, see McCormick, "'Keep the Public Rich, but the Citizens Poor.'"

83. Machiavelli, *Discourses*, I.55.

84. Ibid., I.55; III.18.

85. Ibid., III.28.

channel individual interest for the benefit of the republic. Bad laws enable undue influence on government from "fatal families" and the division of society into factions that "will strive by every means of corruption to secure friends and supporters" in order to satisfy their interests.[86] Good laws, on the other hand, establish necessity and duty to create virtuous citizens and make sure the influence of wealth "is kept within proper limits"[87] by prohibiting the legal ability to command enormous fortunes, castles, and subjects.[88] Anticorruption laws putting limits to the command of wealth and patronage are thus essential to preserving a good constitutional form.

Even though in Machiavelli's theory fundamental laws make good citizens[89] by establishing appropriate limits, rights, and duties, it is for him on the *methods* that the burden of the maintenance of the constitution and the virtue of the citizens appears to be finally placed. Because human affairs are in constant flux, and the matter is not homogenous but composed of two opposing humors (the desire to oppress and to be left alone), there is a dynamic relation between form and matter, laws and men. Therefore, the methods regulating the creation of law and the exercise of power, the procedures allowing for the institutional balance between the elite and the people, are crucial. Good laws are not enough to shape good citizens and keep corruption at bay; an appropriate method of allocating political power and the management of state rule—good procedures aimed at nondomination—is also necessary. It is at this point in his analysis that Machiavelli criticizes, as vehicles for corruption, what are the two most fundamental elements of our current liberal representative systems: elections and free speech.

Using as an example the Roman republic, Machiavelli describes how corruption derived from inequality at the political level ultimately undermined the constitutional order. The procedures for the selection of magistrates, based on voluntary candidacy, and the right to propose legislation and speak in the assembly, even though they were in the beginning good, allowing for the most able to become magistrates and for "each one who thinks of something of benefit to the public" to have the right to propose it,[90] were the means through which corruption crept into the political system, undermining liberty:

86. Ibid., III.27.
87. Ibid., I.1.
88. Even though Machiavelli refers to the German citizens, who if they get gentlemen "into their hands, they put them to death," he does not want to bring equality by murdering the rich, but by adopting laws to curb inequality. *Discourses*, I.55.
89. Machiavelli, *Discourses*, I.3.
90. Ibid., I.18.

Such a basic custom became bad, because only the powerful proposed laws, not for the common liberty but for their own power, and for fear of such men no one dared to speak against those laws. Thus the people were either deceived or forced into decreeing their own ruin.[91]

While the procedure of election, based on the political equality to compete for office, brought corruption through the self-selection of candidates, the right to speak in the assembly, what for Athenian democracy constituted the fundamental principle of *isegoria*, became the vehicle through which the powerful imposed their values and ideas on the many, forcing their consent. The rights to election and political speech, at least as they were originally conceived, were thus the mediums through which corruption through hegemony[92] was imposed, creating a state in which the many chose and decreed their own ruin, undermined their actual power, and destroyed the republic. Consequently, for Machiavelli it is when the grandi dominate the popolo based on their own (forced) consent, by creating through deed and speech a narrative of their worldview that is gradually accepted as legitimate, that the matter is corrupted and laws are not enough to maintain liberty. In other words, when socioeconomic inequalities permeate the political process and laws are consistently being made (or not approved) for the interest of the few, amid generalized complacency, universal corruption ends up transforming the republic into a tyrannical government. This gradual corruption of the republic into oligarchy happens then not despite institutions and procedures but enabled by them.

At least two lessons are to be learned from what Machiavelli discovered in the examples of the ancients: that neither the matter nor the form is inherently virtuous, and that even if the matter has been made good through an original virtuous form, the form is not enough to keep citizens good when corruption has been introduced through legitimate political methods and has become pervasive. Moreover, when the matter is corrupt, the form and the methods do *nothing more* than foster corruption, and republics increasingly drift into an oligarchy of consent through the natural functioning of their methods.

Institutional Corruption and Corrupting Dependence

As seen from a *longue durée* perspective, it is clear that the concept of political corruption was meant to account for a systemic phenomenon, a layer of great explanatory value that was almost entirely dropped from theoretical analysis

91. Ibid.

92. "The ideas of the ruling class are in every epoch the ruling ideas . . . nothing more than the ideal expression of the dominant material relationships." Marx, "German Ideology," 172.

after the eighteenth century, when corruption was reduced to its current juridical form. While the ancients thought of corruption as inherent to everything, and thus inescapable for political forms, Machiavelli was perhaps the only modern thinker to engage, at length, with the problem of universal corruption as a constitutional challenge. I argue we need to pick up this lost thread of thinking that conceptualized political corruption as systemic and draw the contours of this structural form of political corruption for our present time. This alternative meaning of corruption should be seen as complementing, instead of replacing, political corruption as individual acts of misconduct by public officials, since particular instances of corruption are expressions of a universal phenomenon that cannot be reduced to their aggregation. This attempt at rethinking political corruption from a republican approach is meant to contribute to an emerging literature that has been assertive in criticizing the neorepublican interpretation of corruption (for not being different enough from the liberal conception) but not propositive enough.

The most prominent scholars to dedicate attention to corruption in republican thought are J.G.A. Pocock, Quentin Skinner, and Philip Pettit. Despite their invaluable contributions in bringing republican thought to the forefront during the last four decades, I would argue their misreading of Machiavelli makes them unable to grasp the systemic nature of political corruption. This misreading is of course not rooted in their lack of knowledge about Machiavelli, but rather on their own fierce commitment to liberal democracy. To question the constitutional structure of a regime that was progressively becoming "the only game in town" in the last stages of the Cold War would have been perhaps ludicrous, especially after legal positivism and a minimalist procedural conception of democracy had become hegemonic in the social sciences.[93] But it is precisely the consolidation of liberal democracies—when, according to Adam Przeworski, the regime "becomes self-reinforcing" and "no one can imagine acting outside the democratic institutions"[94]—that for Aristotle would prompt metabole, allowing for systemic corruption to begin taking hold of institutions, relentlessly moving the regime into oligarchy. This drift was missed by mainstream academia, oblivious of rising inequality and its effects on the political system,[95] dedicated to studying the institutional framework instead of appraising it, and thus unable to recognize systemic

93. Przeworski famously defended the minimalist definition, arguing that the ability to change governments through popular vote made democracy inherently valuable because it avoided bloodshed. "Minimalist Conception of Democracy."

94. Przeworski, *Democracy and the Market*, 26.

95. For a critique of the obscuring of inequality and its effects on American democracy, see Stepan and Linz, "Comparative Perspectives on Inequality."

corruption and articulate a structural critique of liberal democracy. Republican theory was no exception to this blind spot.

In his civic humanist reading of the Florentine secretary, Pocock famously identifies in Machiavelli the emergence of contingency as an "irruption of temporality in political discourse," which positioned republican thought as a radically immanent approach to theorizing the political.[96] Nevertheless he understood Machiavellism as a mode of thought that pursued "universal values in transitory form,"[97] which minimized both the role of institutional conflict to produce good laws and the radical creative force of *virtù* during republican refoundings. In his recent critique of Pocock, Robert Sparling argues that this Aristotelian reading of Machiavelli coupled with Pocock's attempt to construct a conceptual continuous tradition of corruption from the early Renaissance to the late eighteenth century resulted in a misleading interpretation of political corruption and the pessimistic outlook derived from it. If corruption is connected to universal values that cannot be fully realized in any given institutional form, then corruption is perennial and liberty at most only partial. What Sparling misses in his critique is that Pocock chooses principles as the source of normativity because he neglects the pivotal role institutional conflict between the few and the many plays in Machiavelli's theory of republican liberty. It is not constitutionalized principles that for Machiavelli keep the republic free from corruption, but rather political conflict and periodic renewals of fundamental laws and institutions. Pocock's hopelessness of effectively counteracting corruption in an era determined by commerce and self-interest also seems to run against Machiavelli's account of virtù as an inherently contingent force, grounded on necessity and effectual truth (*verità effetuale*), capable of bringing republics back to their beginnings even in the case of universal corruption.

Machiavelli's project in the *Discourses* was to figure out how to reestablish liberty and then keep it. In his theory of foundings, Machiavelli argues that refounding a republic is the most glorious action because it is the most difficult—because of the strength with which individuals benefiting from corruption will defend the status quo—and thus we should not only admire the actions of extraordinary leaders such as Romulus, Lycurgus, and Solon but also imitate them.[98] As Sparling argues, in Pocock's *The Machiavellian Moment* the language of corruption is one of "rhetorical excess and of moral absolutes,"

96. Palti, "On the Thesis of the Essential Contestability of Concepts," 123; Althusser, *Machiavelli and Us*.

97. Pocock, *Machiavellian Moment*, 333.

98. Machiavelli, *Discourses*, I. Preface.

which is neither coherent with the radical immanence of Machiavelli's thought nor conducive to a republican critique of corruption in liberal democracies, serving more as "dynamite than foundation"[99] for reformers aimed at addressing the threat of oligarchy.

Even if in Pocock's interpretation of Machiavelli political corruption is an "irreversible, one-way process"[100] of moral decay, and thus it is the degeneration of customs and mores that renders the constitutional framework ineffective to reactivate civic virtue, it is Skinner who decisively positions corruption within the current liberal, juridical paradigm. As Amanda Maher shows in her critique of Skinner's interpretation of Machiavelli, his humanist reading of the Florentine secretary coupled with his project to combine civic participation and negative liberty obscured the "sociological foundations of political corruption in Machiavelli's republicanism."[101] Skinner reduces corruption to a sinful disposition, to being unable "to devote one's energies to the common good,"[102] "a failure of rationality"[103] that can be best counteracted by promoting civic virtue and a sense of patriotism in the citizenry. Even if he acknowledges both the role of institutions in fostering virtue through participation and the connection between corruption and the capture of the state by oligarchs, like Cicero, Skinner puts the burden of liberty on the virtue of individual citizens instead of on institutions, procedures, and material conditions. Because he detaches this "ineptitude for a free way of life"[104] from its fundamental cause—inequality—in his analysis Skinner is unable to account for the structural conditions that determine individuals' public spirit incompetence.

Systematizing Skinner's interpretation of Machiavelli, Philip Pettit put forward a theory of republicanism based on the conceptualization of republican liberty as the lack of arbitrary interference. Despite Pettit's important contribution to the decoupling of domination from interference—broadening the conception of negative liberty to account for domination even in the absence of interference—his conception of corruption is even further removed from Machiavelli's than those of Pocock and Skinner are. In reducing domination to arbitrary power, Pettit is unable to escape laws and procedures as parameters for arbitrariness and legitimacy, and thus his theory of liberty as nondomination creates a problem of endogeneity with respect to corruption. If domination is defined by arbitrary power, and what is considered arbitrary is

99. Sparling, "Concept of Corruption," 170.
100. Pocock, *Machiavellian Moment*, 211.
101. Maher, "What Skinner Misses," 1005.
102. Skinner, *Foundations*, 164.
103. Skinner, "Republican Ideal of Political Liberty," 304.
104. Skinner, *Foundations*, 166.

CORRUPTION AS POLITICAL DECAY   35

determined by the legal regime, then there is no external referent to judge laws and procedures in terms of their potential corrupting tendencies.

Even if Pettit conceives interference as being nonarbitrary if it "track[s] the interests and ideas of those who suffer the interference,"[105] this surely can apply only to interference coming from the state, leaving interpersonal relations of domination largely unaccounted for. One could not reasonably expect that individual contracts must track equally the interests and ideas of all the parties involved—at least not in our capitalist societies in which relations of production are necessarily unequal. Moreover, because for Pettit liberty as nondomination is advanced "through a legal regime stopping people from dominating one another without itself dominating anyone in turn," the burden of keeping this basic constitutional structure free from corruption relies on citizens' "virtuous vigilance" and their effective contestation through institutional mechanisms.[106] However, while citizen's civic judgment might be "clouded by uncivic inclinations born of radical material inequalities,"[107] institutional mechanisms might be too corrupt to allow for meaningful input and reform.

In Pettit's framework, if a citizen suffers domination, he or she has the civic duty to contest it through a process that on the ground tends to be time-consuming and frustrating. From a collective action perspective, to expect aggrieved citizens to stand up for their interests, given the high costs involved in claim procedures, is wishful thinking.[108] To put the burden of keeping corruption at bay on individual agency is thus a recipe for disaster because it allows for the silent, gradual, apparently consented-to slip into oligarchy. Pettit is unable to see that material conditions determine the possibility of civic virtue—there is no vigilance when mere survival is at stake, and one does not need to be in abject poverty to be overwhelmed enough to remain passive instead of seeking redress when wronged. In addition to being time-consuming, dealing with bureaucracy and the courts is not a particularly pleasant experience, and thus placing the struggle against domination in the hands of individual citizens seems, from a realist point of view, not very different from leaving institutions to their own devices.

Recognizing the institutional corruption that the neorepublican conception of corruption neglects, in the mid-1990s there were increasing attempts in the fields of ethics to challenge the prevailing positivist, individualist

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105. Pettit, *Republicanism*, 55.
106. Ibid., 250.
107. Sparling, "Political Corruption," 638.
108. See Olson, *Logic of Collective Action*.

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approach to political corruption, which pushed the focus of corruption studies toward the political structure. Dennis Thompson was the first to identify a type of corruption that is institutional, "usually built into the routines and practices of organizations," that pertains to actions that tend to undermine institutions' normal processes, frustrating their primary purposes.[109] Corruption is for him the "condition in which private interests distort public purposes by influencing the government in disregard of the democratic process."[110] He highlights the case of democratic elections in which laws allowing for private financing of campaigns and lobby generate institutional corruption by enabling the distortion of public purposes by private interests.

Building on this perspective, Lawrence Lessig argues that institutional corruption is the outmost threat to democracy because it promotes "dependence corruption"[111] based on material relations of subordination, which undermines citizens' trust in democratic institutions. According to Lessig, corruption should be understood as

> a systemic and strategic influence which is legal, or even currently ethical, that undermines the institution's effectiveness by diverting it from its purpose or weakening its ability to achieve its purpose, including, to the extent relevant to its purpose, weakening either the public's trust in that institution or the institution's inherent trustworthiness.[112]

Corruption occurs when institutions deviate from their "intended dependence," what Lessig deems their "magnetic north," because of a competing dependence that skews institutions' public compass. Seen from this perspective, campaign finance laws would enable institutional corruption not only because they facilitate the distortion of public purposes but, more importantly, because they normalize and foster the dependence of elected representatives on their financiers rather than on voters.

Despite the important contribution of the institutionalist approach to corruption, which allows us to see more clearly the corrupting dependence fostered by electoral rules in the normal functioning of representative institutions, its functionalist definition leaves open the problem of determining the proper objective of government, and therefore it is unable to provide a systemic account of corruption beyond the direct link between financiers and elected representatives. Moreover, it has been argued that corruption might

109. Thompson, *Ethics in Congress*; Thompson, "Two Concepts of Corruption."

110. Thompson, "Two Concepts of Corruption," 1037.

111. Lessig, *Republic, Lost*, chapter 12.

112. Lessig, "Foreword: 'Institutional Corruption' Defined," 553.

even be functional to the primary purpose of institutions since some forms of clientelism may result in a more *efficient* delivery of goods and services, depending on the relative weakness of the state; if an institution is inefficient and unable to fulfill its task, patron-client relations may increase its efficiency, allowing it to fulfill its goal.[113] Finally, because it does not provide for criteria for the "magnetic north" of government, institutional corruption seems to be applicable only to particular institutions in relation to the political structure, taking basic institutional and procedural arrangements as a given.[114]

Perhaps as a way of salvaging the neorepublican tradition, Sparling suggests republican thought should incorporate this institutionalist conception of corruption by conceiving domination as a form of dependence. Since liberal democracies have eradicated "dominating dependence," Sparling argues republican theory should focus on analyzing and averting "corrupting dependence," which is the dependence "at issue in systemic corruption."[115] Even if I agree that republican thought needs a new theory of freedom to account for this type of systemic corruption, and that it is necessary to identify socioeconomic inequality and an "unbalanced regime"[116] form as the structural origins of corruption, Sparling's attempt to reduce corruption to a form of dependence seems to me misguided. First, because dependence is not inherently corrupting, the need for a substantive agreement on what kind of dependence would be considered corrupting would still be needed. Second, if corruption is the opposite of civic virtue, it has more to do with the prevalence of interest against the common good rather than directly with dependence—corrupting dependence being the result of corruption. And finally, reducing corruption to dependence does not allow us to escape interpersonal relations as the locus of corruption, leaving us unable to properly define systemic corruption structurally.

Systemic Corruption and the Oligarchization of Power

In his essay analyzing the problems associated with developing an encompassing definition of political corruption, Mark Philp argued that the main challenge any such definition encounters is that it presupposes a notion of an ideal,

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113. Efficiency in fulfilling an institution's primary purpose through clientelism would nevertheless damage the institution in the long run. Philp, "Defining Political Corruption"; Heidenheimer, *Political Corruption*, pt. 4, "Corruption and Modernization," 477–578.

114. For a liberal critique of institutional corruption, see Ceva and Ferrett "Political Corruption."

115. Sparling, "Political Corruption," 620.

116. Ibid., 639.

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uncorrupted form of political rule.[117] Whether democracy should be under-
stood as a procedural,[118] deliberative,[119] or radical[120] political form is in itself
a controversial issue. I do not wish to contribute to this debate but simply to
identify a minimal condition of good popular government.

Following Aristotle's logic, representative government could be conceived
both as a compound ideal type defined by its terms of contrast, and as an in-
termediate political regime that moves toward one of its extremes. Ideal liberal
democracy being a hybrid regime composed of the principles of democracy
and liberalism, a minimal definition of it would be a regime that fully realizes
its democratic and liberal ends: to accurately represent the interests of the
majority within the limits imposed by individual rights and separation of pow-
ers. The complete opposite of this ideal type would be an unrepresentative
illiberal government, in which neither the interests of the majority nor basic
norms are respected. This corrupt government would fall within the ancient
definition of tyranny, in which those in power benefit themselves without any
limitations on their will but their own power of coercion.

From the perspective not of principles but of the regime's ruling element,
given that representative government is factually a collection of individuals
elected by citizens to make law and policy decisions, this minimalist concep-
tion of an ideal type of liberal democracy would be akin to a constitutional
electoral aristocracy: a government by the few (the best, wisest, most repre-
sentative) chosen by the majority to rule within established constitutional
limitations. Seen through a republican lens, the corrupt form that completely
negates liberal democracy would be then an illiberal oligarchy: a government
by few, for the benefit of few, without constitutional constraints. Even if every-
one would agree that a government that does not represent the majority and
does not respect rights is no longer a democracy, this analysis is not helpful
for developing a definition for systemic corruption, which thrives within
highly guarded constitutional frameworks.

If we conceive this ideal type as an intermediate regime that corrupts by
moving toward either of its extremes, liberal democracy would corrupt by
becoming either unrepresentative of the majority, or illiberal, depending on
what principle is being undermined or realized. Therefore, a liberal democracy
could corrupt and become either (1) an *oligarchic democracy*, a nonrepresenta-
tive liberal government in which individual rights and separation of powers

117. Philp, "Defining Political Corruption," 21.
118. Saffon and Urbinati, "Procedural Democracy."
119. J. Cohen, "Deliberative Democracy."
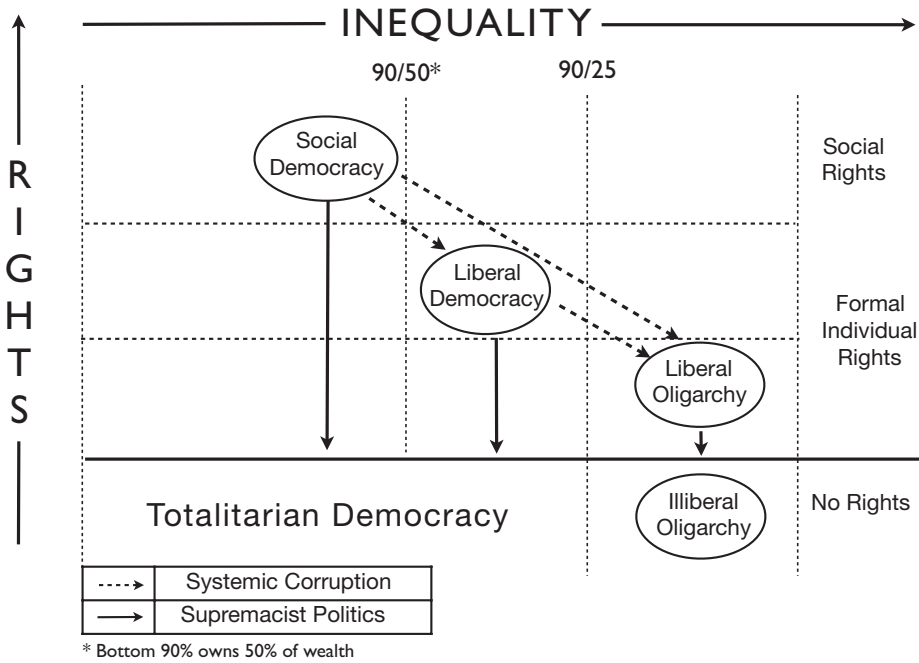120. Abensour, "Savage Democracy," 703.

FIGURE 1.2. Inequality, rights, systemic corruption, and regime change.

are upheld but the interests of the majority are consistently not represented, or (2) an *illiberal democracy*, a representative but illiberal government in which the majority's interests trump the rights of minorities. While an oligarchic democracy is still a democracy in which there are "free and fair" elections and formal individual rights are protected, an illiberal democracy is a totalitarian form of government in which human rights of minorities are systematically violated.

Even if certainly there have been examples of these three corrupt forms of government—illiberal oligarchy, oligarchic democracy, and illiberal democracy—the type of systemic corruption republican thinkers were most concerned about, and that is ubiquitous today, is the gradual decay of "representativeness" and the increasing oligarchization of government and society within a general respect for the rule of law. A conception of systemic corruption thus needs to be connected to increasing socioeconomic inequality, which enables inequality of political influence and the drift into oligarchic democracy, a regime in which citizens empower, through their ballots, those who enable those very citizens' own dispossession and oppression.

Perhaps the first contour we need to draw to accurately define systemic corruption is its political nature. Currently, political corruption relates to

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fraudulent action involving public office, which puts the focus on the corrupt nexus between public and private. Given the complex relation between corruption and the law, a definition that focuses mainly on the agents of corruption and their exchanges seems inappropriate to conceptualize the systemic layer of political corruption. The conception of institutional corruption, even if a step in the right direction—away from the mainly juridical conception—is also unable to appropriately track the oligarchic component of systemic corruption given its ungrounded functionalism that avoids substantive definitions of primary purposes. I would argue systemic corruption in liberal democracies should be understood as a long-term, slow-moving process of oligarchization of society's political structure, and thus it should be analyzed at the macro level. Instead of looking at the *inputs* of political corruption (undue influence, which is hard to prove and thus prosecute), we should focus rather on its *outputs*, as anything pertaining to rules, procedures, and institutions that has the *effect* of benefiting the wealthy at the expense of the majority. We need to move away from *intention* and toward the *consequences* of political corruption to identify and measure its structural character.

Following the ancients' insights on systemic corruption as an inevitable and progressive process, the first major implication of this alternative meaning of political corruption would be that our liberal democracies would not be exempt from this degenerative movement because of the individual liberty they guarantee. This awareness would make us not only recognize the folly and presumptuousness of the modern and contemporary men who believed their institutional creations were close to perfection, but, more importantly, acknowledge that our constitutional systems are inherently flawed and in need of immediate and periodic repair owing to the high degree of "entropy" they allow for.

The second implication, which was so evident to the ancients, as it was also to modern republican thinkers like Machiavelli, is that the law is not necessarily a source of virtue, and that not all constitutional forms are virtuous enough to counteract natural and relentless corrupting tendencies. Consequently, what is legal is not necessarily virtuous, and what is corrupt is not necessarily illegal. Campaign finance and lobbying regulations, which legalized forms of bribery and undue influence, are an example of this. If we take as a premise that all constitutions and the laws they produce could tend to foster corruption, the relativity of the *rule of law*, which both neorepublican and neoliberal thinkers argue is the mark of liberty, becomes evident. As we saw in Machiavelli's work, corruption is the vehicle for oppression, and it originates not only in individuals but also in laws, and thus the rule of law must not be necessarily understood as a source of liberty. Because laws can be manipulated and used as tools for oppression, the rule of law appears not only as an inadequate

measure of liberty, but also as an extremely problematic one since it could actually tend to uphold and sustain domination instead of combating it.

A third implication comes from qualifying political corruption as pertaining to rules, procedures, and institutions that affect the sociopolitical realm: there is an inevitable enlargement of the scope of the phenomenon. If the mark of political corruption is the advancement of individual or sectional interests against those of the majority, then we could think corrupt not only those laws and policies *actively* favoring the wealthy, and consider corrupting those ideologies that have this consequence when implemented, but also the negligence of lawmakers and policy makers to counteract oligarchic outcomes, *passively* letting the wealthy keep further enriching themselves. Because conceiving political corruption in terms of its systemic effects allows us to separate corruption from individual immoral disposition and its immediate, tangible actions, ideologies such as neoliberalism—which has the effect of increasing socioeconomic inequality and thus the power of the wealthy[121]—and governmental inaction, such as the lack of proper regulation in the financial system—which ultimately enabled the most recent global economic crisis and the transfer of wealth from the many to the few[122]—could be conceived as forms of political corruption because they enable the further oligarchization of liberal democracy.

In terms of how we could attempt to measure systemic corruption, the only way to account for the drift into oligarchy would be to take into account the effects that the legal structure and governmental action have on society. And thus the Corruption Index should include, in addition to anticorruption laws, number of prosecutions, and opinion polls, variables relating to the outputs of law and policy such as the degree of inequality, the gap between capital and labor, allocation of GDP among social classes, and regressive versus progressive taxation schemes. This data not only is already available but also seems better suited for undertaking a comparison among countries than is solely relying on laws, court records, and individual perceptions of corruption, which are in themselves conditioned by the legal political culture.

121. An example of the implementation of neoliberalism at the constitutional level is Chile, which has the highest rate of inequality in the OECD and is among the fifteen most unequal countries in the world.

122. Between 2009 and 2012, the top 1 percent of US households captured 95 percent of total income gains, while the bottom 90 percent of households saw their income fall by 16 percent. Saez and Piketty, "Income Inequality in the United States." Individuals and institutions on Wall Street that contributed directly to this upward redistribution of wealth still remain unpunished.

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If one agrees that the minimal normative expectation of liberal democracies is that governments should advance the interests of the majority within constitutional safeguards, increasing income inequality and the relative immiseration of the majority of citizens would be a sign of corruption. However, this insight is yet to be properly analyzed since our juridical, individualist conception of corruption prevents us from fully capturing its systemic nature and its effects on the exercise of individual liberties. Following Machiavelli's analysis, if corruption is reduced to individual illegal actions, the relentless process of political degradation and loss of liberty is obscured. Individual pursuit of interest is an inevitable feature in a free state, and so is the degradation of the constitutional constraints on undue influence on government. While the former cannot be eliminated, the latter must be acknowledged and remedied to keep corruption at bay.

9

Constitutionalizing the Power
of Those Who Do Not Rule

IT IS IN TIMES of crisis when political imagination is needed most—even if thinking outside of the constitutional box may seem for some simply ridiculous or too extremist. This final chapter aims at contributing to the ideas and proposals I have analyzed in the previous chapters and in this way pays tribute to those who dare to boldly think of how to institutionalize the power of the many—even if this brought them the contempt of those in power. Machiavelli was demonized as the teacher of evil; Condorcet was persecuted for treason and died in prison; and Luxemburg was shot to death, and her work was vilified and marginalized. While the three of them wrote in moments of revolutionary upheaval, and thus the consequences for their intellectual deviance was more severely punished, Arendt's proposal for a system of councils was written in a moment of relative expansion of individual rights and analyzed after representative democracy had become "the only game in town" and thus was not viciously attacked but simply dismissed as a utopia, the product of a lack of realism on her part. Given our current political conjuncture, I argue there is a possibility to move away from ridicule and dismissal, and toward a renewed, serious engagement with the idea of giving institutional form to the power to the people, the plebeian constituent power that Machiavelli identified as crucial for keeping a republic free from oligarchic domination.

My proposal for constitutionalizing this power of those who do not rule is aimed at establishing a mixed constitution in which the people, understood as the assembled *many*, are the guardians of liberty. Only when the *many* have the final decision in what is considered oppressive and unjust, and have a collective institution to push back against discriminatory laws and policies, does their active resistance work to protect and enhance liberty. The juridical infrastructure I propose is meant as a contribution to the plebeian constitutional strand I have identified here, taking core elements from proposals and insights

for institutionalizing popular power from Machiavelli, Condorcet, Luxemburg, Arendt, and contemporary thinkers of the subject like John McCormick and Lawrence Hamilton. I articulate these proposals aimed at addressing not only the liberal challenges raised by the introduction of class-based institutions but also the demands posed by a strong commitment to gender equality and the urgent challenge to manage increased migration due to material deprivation, violence, and environmental catastrophe.

The proposal is informed by Machiavelli's political philosophy, which is premised on the socio-ontological divide between the powerful *few* and the *many*, and the liberty-producing qualities of their conflict. A free republic demands plebian institutions. This new political infrastructure for the common people needs to allow for the exercise of a constituent power able to create laws and institutions aimed at liberty, as well as to punish those who, by engaging in political corruption, have betrayed the republic. I propose a way to institutionalize this dual constituent power following Machiavelli's "composite" approach to constitutionalism, which seeks to add new institutions and procedures while maintaining old forms and methods for the sake of stability. Consequently, despite these institutions having a rationale external to the current political framework, they are nonetheless designed to conform to the basic principles of the liberal structure existent in our current democratic constitutions. This "add on"method, however, would certainly not guarantee a conflict-free accommodation process. I argue that, the same as the introduction of a foreign object into a body could be accepted or rejected, plebeian institutions have a higher probability of acceptance by the liberal order if they are able to create as few antiplebeian bodies as possible. And the same way that a necessary medical treatment could cause a strong reaction before it is able to stabilize the body, enabling the healing process, plebeian institutions are likely to produce a strong reaction from oligarchy before they are able to effectively deal with its excesses.

Regardless, the successful establishment of plebeian institutions requires either a state of hegemony favorable for the introduction of a plebian political subject or a state of crisis in which a plebeian subject disrupts the political scene demanding a new constitutional order.[1] Despite free and fair elections,

1. Interestingly enough, in the current conjuncture, the three first neoliberal experiments, Chile, the United States, and the UK, are in crisis, facing plebeian challenges to the hegemony imposed during the last decade and a half of the Cold War. In the UK, Labour leader Jeremy Corbyn's government "for the many, not the few" was defeated at the ballot box, in great part because of the controversy around Brexit—the withdrawal of the UK from the European Union. In the United States the "political revolution" of Bernie Sanders could still win a majority and potentially change the existing hegemony through the electoral system. In Chile, a

establishing a counterhegemonic project of the *many* has proven difficult. Popular uprisings could potentially open a space for a redistribution of political power and institutional innovation from below—if they are able to survive state repression and achieve lasting organization.

In what follows I first give arguments for dividing the *few* and the *many* based on the position they occupy in the political system instead of along class lines, then introduce a sketch for a "Plebeian Branch" composed of two institutions: a sovereign network of local councils aimed at censoring governmental actions and renewing the republic, and a Tribunate office aimed both at enforcing the will coming out of the councils and at fighting corruption.

Separating the Few from the Many

Dividing the *few* and the *many* based on income or wealth would certainly be effective in making it easier for the people to scrutinize elites and punish them when they are self-serving. It would also promote the construction of a class-based identity among plebeians *against* wealthy elites, with long-lasting effects in the public imaginary. However, the division based on wealth carries within itself problems that are to be avoided if one wants to remain within the basic liberal structure of formal political equality. Even if establishing an updated version of the class-based political institutions in the Roman and Florentine republics would definitively have a positive effect in our representative democracies, I argue the political division between the few and the many should be done based on political power rather than wealth. Although the powerful few are almost always wealthy, it is not necessarily wealth what defines their oligarchic *umore* (appetite to oppress), but rather their power to *exercise* domination *over* ordinary people. Domination can be exerted in many ways, and even if money is a required resource to exert domination at a grand scale, the power to dominate is distinct from the amount of money a person possesses. This is true, even if all wealth is a social product and thus created through direct and indirect modes of exploitation.[2] Although wealth and the ability to dominate others are certainly related, there are individuals who oppress regardless of wealth (e.g., in a patriarchal system men subordinate women regardless of

disruptive plebeian subject took the streets in the popular uprising of October 18, 2019, to push back extra-institutionally against the neoliberal model, forcing the government to initiate a constituent process. On Chile, see my article "Chile Can Be a Laboratory of Popular Democracy," *Jacobin*, November 23, 2019, https://www.jacobinmag.com/2019/11/chile-protests -pinochet-constitution-neoliberalism.

2. Reproductive labor based on the indiscriminate exploitation of women is at the base of all social wealth. See Federici, *Caliban and the Witch*.

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class) and others who are wealthy but choose to not directly oppress others (e.g., wealth-conscious benefactors of the poor). I argue that domination becomes a possibility only in *positions* of power, and therefore the division between the powerful few and the many needs to be not along class lines but rather political borders, separating individuals who are able to exert power at a large scale given the role they occupy in society from the rest.

I argue that a division based on the *governing position* of the few instead of how much money they have is less arbitrary and reifying of class. While excluding the richest 10 percent cannot overcome the arbitrariness of cutoffs for wealth requirements (e.g., one year a person could be rich enough to be excluded from the many, and the next unwealthy enough to be included), excluding those who have the ability to formally exert power *over* others and unduly influence the creation of law and policy—for example, public officials and their staff, lobbyists, judges, military commanders, and religious leaders— would establish a strictly *political* division between those who rule and those who do not. This gives an opportunity to members of the elites to become partisans of the people without the need to become "poor enough." Excluding only the *powerful* few should give plebeian institutions enough protection against direct oligarchic domination, since wealthy individuals eligible to participate in plebeian institutions are so few that their influence in terms of promoting oligarchic interests would be marginal. The argument barring elites because they would negatively influence deliberation within plebeian institutions is a sound one; however, the amount of money a member of the elites has does not necessarily track the capacity to persuade others in favor of supporting oligarchic interests. Moreover, alienating progressive elites—especially the new generations of political subjects who need to be socialized into politics— from becoming plebeian partisans would be, in my view, not only a strategic mistake but also against equal political rights. Nobody chooses to be born into a wealthy family or in a low-income one, and thus allocating political rights based on wealth would reify class differences in a way that could have detrimental effects for plebeian objectives.

Exclusions cause resentment if they are not self-exclusions—giving away wealth just to be eligible to participate in plebeian institutions requires an a priori extraordinary commitment to the plebeian cause, something that is not likely to come naturally to those born into wealth. Consequently, the wealthy are likely to resent the exclusion and therefore unlikely to support the introduction of plebeian institutions. Imposing wealth restrictions to participate in plebeian institutions seems unnecessarily contentious—even if this controversy would certainly prove beneficial to the plebeian cause, allowing for a stronger class consciousness to emerge among plebeians. As Rosa Luxemburg argues, working-class political experiences—even if unable to establish a free

society—are crucial because they allow for the workers to become a political subject and accumulate experience to be able to achieve the desired transformation in the future.

The People as Network

Building on Condorcet's institutional proposal for establishing primary assemblies and Arendt's philosophical distinction between administration and politics, I propose to conceive the people-as-plebs as the assembled many who engage in political action: a sovereign network of local assemblies that makes decisions based on the aggregation of decentralized and autonomous collective judgments. Similar to the neurobiological structure of plants, in which there are "brains" in every root, local assemblies would operate as a bounded system, gathering information, processing it, and sending political signals through the network. And the same as a plant "decides" in precisely what direction to deploy its roots or leaves after gathering responses to the environment from its sentient parts,[3] the people-as-network would decide to initiate or oppose political actions based on local responses to domination spreading through the decentralized system. Approved motions would work as a "signaling" mechanism to bring awareness of domination to the network and prompt a response to it.[4]

This is different from a federation, in which diverse units with specific interests operate under an alliance. Assemblies in a network are stand-alone units but equal constitutive parts of a whole. Moreover, as a plebeian structure embodying the most proximate will of those who "do not rule," the collective decision in local assemblies would have legal power over representative government and its command structures. The people-as-network would constitute an institutional popular sovereign—and not an unorganized multitude in slumber[5]—with the strongest authority to judge the domination coming from the powerful few.

While as a *plebeian* institution the network of assemblies would fulfill the *functional* role of checking systemic corruption and resisting oligarchic domination, the internal organization of assemblies needs to be *democratic* and foster political action in order to achieve liberty for plebeians. Following

3. Michael Pollan, "The Intelligent Plant," *New Yorker*, December 15, 2013, https://www.newyorker.com/magazine/2013/12/23/the-intelligent-plant.

4. Plants of a same species signal each other to alert of pests by producing chemicals that work as neurotransmitters.

5. Tuck, *Sleeping Sovereign*.

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Luxemburg's insights on the need for the self-emancipation of the workers through political action, and Arendt's argument for a space in which individuals can engage in action and new beginnings as a necessary condition for political liberty, each assembly would constitute a material political space, open to all those residents who do not rule. This realm of appearances, grounded on equality and aimed at the disclosure of opinions about life in common, would enable political discussions of what is just and unjust—what Plato and Aristotle deemed as the core of political rhetoric and action.[6] Given that political liberty is inherently limited, speech would need to be bounded within rules of engagement aimed at enabling the exchange of facts and opinions, and discouraging the use of discriminatory speech so to avoid bringing violence into the realm of appearances. Therefore, for political speech to be emancipatory and productive of liberty and not a vehicle for supremacist ends, its exercise would need to be adequately limited by antidiscriminatory provisions (see II.E.2 of "Plebeian Branch" proposal below).

Since political freedom is exercised not only by disclosing opinions, but also by acting together, individuals aggregated in the network of assemblies would have the power to decide collectively, not only to propose and repeal any decision from any branch of government they consider unjust and a means of domination, but also to exercise constituent power and revise the constitutional framework. Consequently, the juridical infrastructure of plebeian assemblies would need to enable not only "ordinary" political action by plebeians, but also the possibility of new beginnings to renew the republic from the ground up. Therefore, the proposal contains specific provisions for a constituent process to be initiated and ratified by the network of assemblies (IV and V).

Following Condorcet's radical inclusiveness, every adult residing for one year in a particular district would be eligible to attend and vote in his or her local assembly, regardless of citizenship status. Since plebeians constitute a political subject determined by its "no-rule" position in the constitutional structure, the institutionalization of plebeian power should not conform to current juridical boundaries separating citizens from immigrants but integrate newcomers through political equality instead of reserving politics only to citizens and in this way continue with the political apartheid between citizens and noncitizens. Against increasingly reifying the citizenship boundary between natives and nonnatives, radical inclusiveness based on residence—the

6. In Plato's *Gorgias*, deciding what is just and unjust is the aim of political rhetoric, and in Aristotle's *Politics* it is what defines our collective human nature.

material occupancy of space—aims instead at redrawing the political boundary between the few and the many.

If each assembly has in average six hundred active members (Condorcet recommends between 450 and 900) this would mean that there would be several assemblies even in small towns, which would enable assemblies to effectively channel diversity even *within* specific communities, allowing for a more engaged, less polarized citizenry, especially in regions divided across ethnic and religious lines.[7] If such a system of local assemblies were to be implemented in the state of New York, for example, in which there are 51.5 million individuals of voting age, there would be about 85,800 assemblies in the entire state. Manhattan, one of the most populous counties, with about one million voting-age residents, would have about 1,660 assemblies.

Where my proposal departs from Condorcet's model is in the method proposed for the assemblies' self-governance: he proposed a Council with elected members. To avoid the corrupting effects associated with elections and campaign finance—which Condorcet was unable to foresee and are so ubiquitous today—I argue the members of the self-governing structure of local assemblies should be selected by lottery. Following the experience of the ancient Greek Boule (βουλή), the agenda-setting council for the sovereign assembly (ἐκκλησία), members to the self-government councils would be selected by lot for a year, from a pool of volunteers, in a rotating basis to allow for institutional learning (II.C.5–10).[8] The main task of these councils would be to put together the agenda for meetings, effectively enable the exposition of topics, and enforce antidiscriminatory rules of engagement. Regarding the size of this Council, Condorcet recommends one Council member for every fifty assembly members. I would add this number needs to be an odd number to avoid gridlock. Councils thus would be composed of nine to nineteen members depending on district size. One third of the Council would be renewed every four months to enable collective learning. After serving for one term, citizens may not volunteer again for this office for fifteen years, which means that in one decade about one-fourth of assembly members would have served in the Council. This would allow every plebeian to serve in the Council one to four times in his or her lifetime. To allow for equal access, Council members would

7. Even if Jane Mansbridge has shown with her research on the town meetings in Shelby that there can also be intimidation and exclusion within consensus-building practices, shattering the illusion of equal deliberation, these problems can be dealt with through adequate rules of engagement and material support. Moreover, the assemblies I am proposing are not aimed at consensus but at channeling conflict. *Beyond Adversary Democracy*.

8. For a historical analysis of these Greek institutions, see Ober, *Democracy and Knowledge*; Ober, *Demopolis*.

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receive a salary equivalent to the mean annual income in the district and would have their jobs back after their service.

Another departure from Condorcet's plan is that assemblies should not be convoked in a reactive manner, triggered by proposals coming from the citizens or the government. I argue this reactive mode of assemblage would mean that meetings could be either overwhelmingly frequent or too sporadic to serve as a proper way to politically educate its members. Given the busy lifestyles of twenty-first-century individuals, I argue meetings should be periodic, prescribed by law, and convoked only three times per year. Meetings are to be held on a national political holiday, and assembly goers are to be paid on an hourly basis for their participation with a special tax levied for covering the operational costs of plebeian institutions.[9] To assure gender equality, in addition to a civic payment for attendance, food and child care must be provided.

"Signaling" among assemblies would also follow Condorcet's proposal in which motions approved in one assembly are considered in other assemblies in the district. If one-third of assemblies in a district agree to a motion, then the proposal is considered by all the assemblies at the city/county level. If the issue were exclusively a city/county one, a decision by a majority of assemblies constitutes the will of the people at that level of political organization. This mechanism would be replicated at the state/region and national levels. In this way, political action aimed at resisting oppression and initiating change could arise in any part of the network of political judgment, giving individuals the institutional power to defend liberty against systemic corruption and oligarchic domination.

If, for example, a county such as Manhattan were to be divided into eight districts, containing about two hundred assemblies each, a motion passed in one assembly would prompt the other 199 assemblies in the district to consider analyzing the issue in the next assembly meeting. If one-third of these assemblies agree with the motion, then it would be added to the agenda of all the assemblies in Manhattan for the following meeting. If a majority of assemblies in Manhattan agrees to the motion, it is to be sent to the city Tribunate office, which presents it to the appropriate branch of city government and oversees its appropriate enforcement. The whole process, to have a motion

9. The civic pay for attendance should be pegged to an hourly rate, e.g., minimum wage, or based on GDP per capita and forty-hour week, or portion of universal basic income. If the state is going to end up paying people a universal basic income, I argue it would be better to link at least part of the UBI to active membership in political assemblies; unconditional UBI would just subsidize consumers for the market.

passed at each level of government, could take as little as four months if enough assemblies begin the process of inquiry simultaneously in the first meeting, and then a majority of assemblies votes in favor of the motion during the second meeting, or twelve months if the motion begins in a single assembly and follows the ordinary signaling mechanism. If the motion were one concerning state government, the motion is put in the agenda of all assemblies in every county, adding four months to the process. If the motion were one concerning the federal government, it is put in the agenda of the assemblies in every state, adding at least four more months. Consequently, a motion under federal jurisdiction could be approved by a majority of assemblies in four to twenty months.

The Tribunate as Enforcer and Anticorruption Office

The proposal also sketches a Tribunate office that would be subordinate to the network of assemblies, combining features of Machiavelli's provost office and Condorcet's Council of Overseers, with the impeachment prerogative of McCormick's Tribunate and public trials for political corruption. In its role of overseer and enforcer, the Tribunate would makes sure mandates coming out of the network of assemblies are properly and promptly carried out.[10] In its anticorruption function, the Tribunate investigates complaints of political corruption, having the power to initiate impeachment and prosecution procedures according to the constitution, and recommending a penalty. If the verdict of the appropriate branch of government in charge of impeachment or prosecution is not in line with the recommendation of the Tribunate, then the case is decided in a public trial in which all the members of the Tribunate pass judgment. The decision by the Tribunate is final.

To enforce the will of assemblies and persecute political corruption at every level of government, I propose offices of the Tribunate at the city/county and state/region levels, as well as the national level. Offices at the city/county level would each have nine members selected by lot from plebeian residents, while the state/region and national offices would have twenty-seven members selected in the same manner. To allow for collective learning and avoid corruption, tribunes would serve for one year, and one-third of the posts would be

10. The same as Rousseau's censorial tribunal, the plebeian Tribunate would only "declare" the judgment of assemblies. *Social Contract*, IV.7. The radical difference is that while the censorial tribunal declares the opinion of the people, which is "derived from its constitution," the Tribunate would declare the decisions reached in a majority of assemblies of the people. There is nothing to be derived since the will is declared and only in need of enforcement.

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renewed every four months. If such a plebeian institution were to be implemented in the state of New York, there would be sixty-two county-level offices staffed with a total of 558 plebeian members, and one state office with twenty-seven plebeian members, who would serve for one-year terms. In cases of political corruption in which there is discrepancy between the recommendations by the local Tribunate office and the relevant branch of government, all members of the Tribunate would pass final judgment.

Finally, following Machiavelli's insight that for plebeians to live in liberty they need not only good laws, but also weapons to defend the republic against oligarchic takeover, the proposal reinforces the legal power of the Tribunate to command the different branches of government with the constitutional prerogative to direct the forces of order if necessary. While the Roman tribunes had only the threat of popular mobilization to force the Senate and the magistrates to enforce plebeian law, the modern Tribunate would have the constitutional power to command the state's forces of order to back up plebeian decisions that the ruling elite would prefer to disregard. Instead of resolving a constitutional crisis in which a part of the government disregards plebeian authority, which prompts the killing of the tribunes as it happened in Rome, the proposal attempts to resolve a potential crisis by transferring the command over the forces of order to the Tribunate in cases the government decides to disregard plebeian authority.

In what follows I provide a juridical sketch for a Plebeian Branch aimed at constitutionalizing the power of the people as way to adequately counter systemic corruption and oligarchic domination. The sketch has five parts. Part I offers a preamble with general considerations framing the institutions. Part II establishes the network of local assemblies and details their functions, membership, organization, and procedures. Part III establishes the office of the Tribunate and details its functions, membership, and organization. Finally, while part IV establishes the mechanisms to initiate constituent processes, and the procedures involved in revising and ratifying draft constitutions, part V sketches a founding constituent process with the necessary steps to establish a plebeian republic.

The Plebeian Branch

General Considerations

A. Plebeian institutions allowing for the direct participation of all adult residents in deliberation and public judgment are foundational to free government; equal liberty for all residents cannot be guaranteed without them.

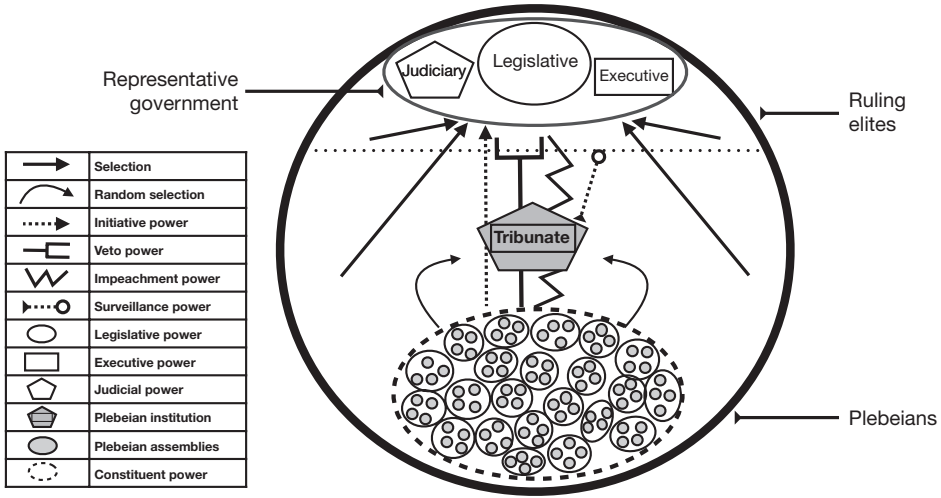|	
→	Selection
⤴	Random selection
••••▶	Initiative power
⊣⌐	Veto power
⋁⋁	Impeachment power
▶•••○	Surveillance power
◯	Legislative power
▭	Executive power
⬠	Judicial power
⬠	Plebeian institution
◯	Plebeian assemblies
⬭	Constituent power

FIGURE 9.1. Proposal for constitutionalizing plebeian power.

1. The Plebeian Branch is to be composed of two basic institutions:
   a. A decentralized network of local assemblies of residents (see section II).
   b. A Tribunate—an office aimed at enforcing motions approved by the network of assemblies, and at fighting political corruption (see section III).
2. The total aggregation of local assemblies is the sovereign subject of the republic; a decision reached in the majority of assemblies is the legitimate will of the people, and all branches of government must yield to it and properly enforce it.
3. The Plebeian Branch is to be funded by a national tax collected for the sole and direct purpose of funding all the costs associated with the operations of local assemblies and Tribunate offices, and their appropriate exercise of constitutional powers.
4. All branches of government—Executive, Legislative, and Judicial— are to obey decisions reached by the Plebeian Branch.

Local Assemblies

A. Functions
   1. Residents meet in local assemblies to deliberate on issues that affect the general interest of a district, city, county, or state, or the republic as a whole.

2. Members vote to:
    a. Initiate, veto, or repeal laws, policies, executive actions, judicial decisions, and appointments for public office;
    b. Initiate a constituent process;
    c. Propose amendments to the Constitution;
    d. Accept or reject a draft Constitution.

B. Membership
    1. Any adult person may register to be a member of a local assembly in any district if three conditions are fulfilled:
        a. Must have one-year residence in the district without interruption;
        b. Must not occupy a position of political, judicial, cultural or religious authority—including all public officials serving in political posts and their staff, judges, and religious leaders;
        c. Must not occupy a position as lobbyist advocating for wealthy individuals or corporations.
    2. Membership in a local assembly is to be temporarily lost by:
        a. Residence in another district for more than six months;
        b. Use of discriminatory speech or violent behavior in the assembly (see II.E.3);
        c. Occupying a position of political, judicial, cultural, or religious authority;
        d. Becoming a lobbyist or advocate for wealthy individuals or corporations.
    3. Any person who is absent for more than a year from the district is to regain voting in that district after three months.
    4. All members have the right to vote in all resolutions passed in their respective local assembly and are eligible for holding office in the Plebeian Branch in a rotating basis.
    5. No person is to vote for the same motion in more than one local assembly.
    6. Members have the right to propose a motion to be voted in their local assembly after collecting signatures from 10 percent of assembly members in support of the motion.

C. Organization
    1. Local assemblies are to be established throughout the republic according to residential districts or neighborhoods. Districts are to be set up in such a way that none of them have less than 450 eligible members, or more than 600.
    2. Local assemblies are to be grouped by neighborhood, city/county, and state/region.

3. Local assemblies are to meet three times a year in national political holidays for ordinary sessions. On the day of the meeting, communal meals as well as child care are to be provided, paid with public funds set aside for the operations of the Plebeian Branch.

4. Attendance at assembly meetings is voluntary and is to be compensated based on a predetermined hourly rate above the national minimum wage, using the public funds set aside for the operations of the Plebeian Branch.

5. Each local assembly is to be governed by a council selected by lottery from a pool of volunteers taken from the registered members of local assemblies. The council is to be composed of one councilperson per every fifty registered members in the assembly rolls. To avoid gridlock, the number of council members is to be an odd number. Councils thus are to be composed of nine to thirteen members depending on district size. Members are to serve as council president, leading and mediating meetings, in a rotating basis.

6. Members of the council are to be compensated for their service with a salary equivalent to the median wage in their district using public funds set aside for the operation of the Plebeian Branch, and guaranteed the return to their jobs once service is concluded.

7. Members of the council are to serve in their posts for one year. To allow for collective learning, one-third of the council is to be renewed every four months, before each general meeting of local assemblies.

8. After serving for one term, citizens may not volunteer again to serve in the council for ten years.

9. Duties of the council:
   a. Keep the register of members up to date;
   b. Convene the local assemblies in cases determined by the Constitution;
   c. Open and mediate member-exclusive forums in which members can raise concerns and proposals;
   d. Present an agenda for meetings based on the systematization of concerns and petitions coming from the members of the assembly, and motions passed in other assemblies;
   e. Gather and provide adequate information for deliberation;
   f. Enforce rules of engagement to enable adequate interaction in the assembly geared toward achieving a well-informed, deliberated decision;
   g. Present approved motions to other local assemblies and register them with the Tribunate office.

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10. Within the duration of their service, council members must remain neutral during local assembly meetings. Council members are not to use their office to offer publicly their own judgment on any issue. They shall exercise their individual right to vote according to their own judgment, regardless.

D. Deliberation and Voting

1. After local assemblies are convened, their respective councils are to introduce subjects for deliberation, reduced to simple propositions, asking members to decide if they merit further discussion.

2. Local assemblies are to vote to accept or reject the further discussion of proposals. Proposals for deliberation are accepted with a simple majority of members present.

3. If a proposal is accepted for further discussion, during the adjournment each council is to enable deliberation by opening a member-exclusive media platform and also enable an exchange of opinions among members once a week in the assemblies' meeting spaces. Deliberation is to conform to basic rules of engagement (see I.E.2).

4. Local assemblies' meeting spaces are to be open every Sunday of the year for informal discussion. At least one council member is to be present to enable discussion and maintain order. Food and child care are to be provided, paid using public funds set aside for the Plebeian Branch.

5. Members interested in presenting their view to their local assembly on the issue to be deliberated are to send statements to the council, which aggregates these statements and structures a discussion to be held in the next meeting based on these statements. The structured discussion is to include as many different opinions as possible considering time constraints.

6. To ensure adequate information, in the following ordinary assembly meeting the council is to first recall the object of deliberation and then present facts, testimonies, and expert opinions whenever pertinent.

7. After adequate information has been provided, the council is to allot time for exchange of opinions and to moderate a structured discussion. To avoid reproducing patterns of inequality and domination in the deliberation, priority for speaking to the assembly is to be given to women, members of minorities, and first-time speakers.

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8. After the presentation of evidence and opinion, the council is to present the issue as a simple proposition for members to vote yes or no.

9. A break of no less than fifteen minutes for informal discussion and caucusing is to precede every vote.

10. All votes are public except for the ones directed at disciplining members because of their use of discriminatory speech or violent behavior (see II.E.3).

11. All motions approved in local assemblies are decided by simple majority.

12. If the result of the vote is to support a motion, the issue is to be considered in the next meeting by all local assemblies in the city/county.

13. If an issue is a city/county one, a simple majority of local assemblies in support of a motion is to be understood as equivalent to the will of the people of that city/county. The decision is to be communicated to the local Tribunate office, which is to present it to the appropriate public office for enforcement.

14. If an issue was under the jurisdiction of state/regional authority, one-third of local assemblies in a city/county supporting a motion prompts the issue for consideration in all assemblies in that state/region. If at the state/region level one-third of local assemblies supports the motion of a national concern, it is to be put for consideration in all local assemblies in the republic.

15. A simple majority of local assemblies at the city/county and state/region is understood to be the will of the people at that particular level of organization.

16. If a majority of local assemblies in the republic approves a motion, this decision constitutes the will of the people, and the motion is to be presented by the Tribunate to the appropriate public office for enforcement.

17. If a majority of local assemblies in the republic approves to veto or repeal a law, the Legislative body is to be renewed: legislators who voted in favor of the vetoed or repealed law are to step down if still in office and their seats are to be up for election in the next cycle according to the Constitution.

18. If a majority of local assemblies in the republic approves to veto or repeal a policy, the elected public official(s) who approved that policy are to step down, and their positions are to be filled according to the Constitution.

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19. If a majority of local assemblies in the republic approves to veto a judicial decision, the judges who approved that decision are to step down and their positions filled according to the Constitution.

20. If a majority of local assemblies in the republic approves to veto an appointment for public office, the persons who approved that appointment are to step down and their positions filled according to the Constitution.

21. The Executive, Legislative, and Judicial Branches may consult local assemblies on issues that interest the entire republic. If the issue is urgent, an extraordinary meeting of local assemblies may be convoked by the Tribunate after a formal request from government.

22. If there are concerns regarding the legitimacy of voting processes within local assemblies, these are to be addressed to the national Tribunate office.

E. Rules for Internal Order

1. The enforcement of order in local assemblies belongs essentially and exclusively to each assembly and is to be exercised by the council.

2. The use of discriminatory speech, symbols, images, and actions aimed at demeaning individuals or groups based on their race, ethnicity, religion, gender, sexual orientation, disability, or place of birth is to be prohibited.

3. The council is to call back to order, give warnings, and censor members who engage in discriminatory speech or violent behavior. The council is to recommend to the assembly in such cases a penalty of temporary exclusion. The local assembly is to approve or reject the penalty with a simple majority. Ballots in cases of temporary exclusion are secret so to avoid personal retaliation.

4. In the case of assault and serious excesses, the council may, after authorization from the local assembly, issue warrants against the accused.

5. Weapons are prohibited in Primary Assemblies.

Tribunate

A. Functions

1. As exclusive delegate of the people, the Tribunate is to oversee that the will of the people—equivalent to a decision by a majority of local assemblies in a certain city/county, state/region, or in the whole republic—is carried out properly.

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2. As a surveillance office, the Tribunate is to oversee government to thwart corruption.
3. Duties of the Tribunate:
   a. Present approved motions to initiate, veto, and repeal laws, policies, executive actions, judicial decisions, and appointments for public office to the appropriate branch of government;
   b. Scrutinize the enforcement of the will of the people;
   c. Investigate cases of political corruption and initiate prosecution proceedings;
   d. Initiate impeachment procedures of public officials;
   e. Give final judgment on cases of political corruption when required;
   f. Analyze procedural issues arising from local assemblies;
   g. Initiate a constituent process by convoking constituent local assemblies.
4. Members of local assemblies have the right to present cases of abuse of power and violation of the law to the appropriate Tribunate office; cases are to be investigated and a report is to be sent back to the member(s) who submitted the case. If two-thirds of the pertinent Tribunate office agrees there is enough evidence of political corruption, the Tribunate is to recommend a penalty, and the case is to be prosecuted in open court or according to the Constitution.
5. If the verdict reached by the courts or other institutions sanctioned by the Constitution contradict the Tribunate's recommendation, the case would be decided in a public trial in which all members of the Tribunate are to participate in passing judgment. A two-thirds majority decision by the Tribunate invalidates the previous judgment.
6. If public officials disregard the mandates emanating from the Tribunate, they are to be stripped from their office and forced to resign their posts immediately. Any public official who is noncompliant is to be physically removed by the forces of order, put under arrest, and tried for treason.
7. The Tribunate is to direct the national police if necessary to enforce decisions reached by the Plebeian Branch in cases of noncompliance, overriding the authority of the Executive over the forces of order.

B. Membership
   1. Any member of a local assembly is eligible to serve in the Tribunate. Selection is to be done by lottery from a pool of volunteer members.
   2. Members of the Tribunate are to serve in their posts for one year. To allow for collective learning and avoid corruption, one-third of

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the Tribunate is to be renewed every four months, before each general meeting of local assemblies.

3. After serving for one term, members are not eligible to serve in the Tribunate for fifteen years.

4. Members of the Tribunate are to be compensated for their service with a salary equivalent to the median wage in their state using public funds set aside for the operation of the Plebeian Branch.

5. Members serving in the Tribunate must give up their position immediately if any of the requirements for membership in local assemblies prescribed in II.B.1 and II.B.2 are not met. Vacant positions are to be filled before the next ordinary meeting of local assemblies.

6. Members of the Tribunate who have completed their term may be indicted on corruption charges by a two-thirds vote in the renewed Tribunate office.

C. Organization

1. Tribunate offices are to be established at each level of government—city/county, state/region, and federal/national levels.

2. Each office at city/county level is to be composed of nine members selected by lottery from a pool of volunteers.

3. At each level, offices are to have jurisdiction over the corresponding government and public officials serving in that government at that level.

4. Tribunate offices at the state and national levels are to be composed of twenty-seven members each, selected by lottery from a pool of volunteers. The offices are to be further divided into three committees dedicated to dealing with challenges posed by government, corruption, and procedures.

Constituent Process

A. General Considerations

1. The constituent process is aimed at reviewing and improving the constitution of the republic.

2. Modifications to the constitutional structure can neither eliminate the foundational network of local assemblies nor go against the principle of equal liberty.

3. Every generation has the right to analyze and improve the basic structure of the society in which they live.

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4. Any member of a local assembly has the right to initiate a constituent process, after gathering fifty signatures from other members in their local assembly supporting the motion. The process is the same as for any other motion initiated in local assemblies (see II.D).

5. The constituent process is to be funded by an extraordinary tax levied specifically for this purpose. Allocation of funding is to be managed by the Tribunate.

B. Initiation and Processes

1. The constituent process is to be initiated periodically, in the seventeenth year after the acceptance of the current constitution, or when a majority of local assemblies in the republic demands it.

2. The constituent process is to go through three basic stages:
   a. Propositional—constituent local assemblies are to be convoked by the Tribunate to review the Constitution and propose amendments.
   b. Redaction—proposed amendments are consolidated and redacted in a National Convention convoked by the Executive Branch and elected by the people at large.
   c. Approval—amendments are voted in constituent local assemblies.

3. After the last ordinary meeting of local assemblies in the seventeenth year after the acceptance of the current constitution, or if a majority of local assemblies approves it, the Tribunate is to initiate a constituent process by convoking constituent local assemblies. Four meetings are to be scheduled in the first month of the eighteenth year after the acceptance of the current constitution. Meetings are to be held once a month within that year.

4. Each constituent local assembly is to follow the basic organization of ordinary local assemblies and be governed by a council selected by lottery from a pool of volunteers taken from the registered members. The council is to be composed of one councilperson per every fifty registered members in the Assembly rolls. To avoid gridlock, the number of council members is to be an odd number. Councils thus are to be composed of nine to thirteen members depending on district size. One of the members is to serve as president of the council.

5. Members of the council are to be compensated for their service with a salary equivalent to the median wage in their state, using public funds set aside for the operation of the Plebeian Branch.

6. Members are to serve in their posts for four months. This post can only be held once in a lifetime.

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7. Duties of the Council:
    a. Open and moderate a member-exclusive forum for concerns and proposals;
    b. Prepare and present a presentation of current constitutional framework;
    c. Present a series of simple propositions for amendments based on concerns and proposals coming from members, or motions passed in other assemblies;
    d. Gather and provide adequate information for deliberation;
    e. Enforce rules of engagement to enable adequate interaction in the assembly geared toward achieving a well-informed, deliberated decision;
    f. Present approved motions to other local assemblies and register them with the Tribunate office.
8. Within the duration of their service, council members must remain neutral during assembly meetings. Council members are not to use their office to offer publicly their own judgment on any issue. They shall exercise their individual right to vote according to their own judgment, regardless.
9. All motions approved in local assemblies are to be gathered and systematized by the national office of the Tribunate.
10. The Executive Branch is to convoke a National Convention in the first month of the nineteenth year after the acceptance of the current constitution, or when prompted by the Tribunate after a motion is accepted by a majority of local assemblies.
11. Each state of the republic is to select by popular vote three individuals to the National Convention.
12. The National Convention is to redact the proposals coming out of local assemblies into amendments to the Constitution.
13. All meetings of the National Convention are to be public, and detailed minutes are to be kept in a public record.
14. Members elected to the National Convention are prohibited from incorporating new proposals; they are to channel, as accurately as possible, popular judgment into constitutional form.
15. The National Convention is to present a draft constitution to the Tribunate in two months' time.
16. Upon receiving a draft constitution from the National Convention, composed according to the constituent process rules specified above, the Tribunate is to convoke a general meeting of constituent local assemblies to reflect and vote on the amended constitutional framework.

17. A new constitution is to be approved or rejected in a general meeting of constituent local assemblies. The document is to be approved by a simple majority of local assemblies in the republic.

18. If the new constitution abolishes or disables local assemblies, or contains provisions undermining the principle of equal liberty, even if approved by a majority of local assemblies, is to be considered null and void; such a constitution is not a free republic.

19. If the draft constitution is approved by a majority of local assemblies, it is to be implemented in the first month of the nineteenth year after the acceptance of the current constitution.

20. If the draft constitution is rejected, the National Convention has to present within one month's time a revised draft to the Tribunate, which is to convoke an extraordinary meeting of constituent local assemblies to vote on the new draft.

21. If the draft constitution is rejected a second time, the National Convention is to be immediately dissolved. The Executive is to call elections for a new National Convention, which is to present a new draft constitution to the Tribunate within three months' time. The constituent process is to unfold following articles 10 and 11 of this section.

Foundational Constituent Process

A. General Considerations

1. The constituent process is aimed at establishing a new constitution that gives institutional structure to a network of local assemblies and the Tribunate.

2. The new document must respect the principles of equality liberty and human dignity.

3. The constituent process is to be financed by an extraordinary tax collected specifically for this purpose.

B. Initiation and Processes

1. The constituent process begins after local assemblies have been established at the national level in accordance with sections II.B and C.

2. The constituent process must go through three basic stages:

a. Proposals: Constituent local assemblies are convened to propose basic principles and rights to frame the constitutional document. The documents emanating from each assembly are to be

systematized in regional and national Councils into a plebeian declaration of rights.

   b. Drafting: The new constitution is to be written, framed by this declaration, by a National Constituent Convention convened by the Executive Power and elected by the people at large.

   c. Approval: The new constitution is ratified or rejected in constituent local assemblies.

3. The first stage will be held in four meetings within a calendar year.

4. Each constituent local assembly is to follow the basic organization of ordinary local assemblies and be governed by a council selected by lottery from a pool of volunteers taken from the registered members. The council is to be composed of one councilperson per every fifty registered members in the assembly rolls. To avoid gridlock, the number of council members is to be an odd number. Councils thus are to be composed of nine to thirteen members depending on district size. One of the members is to serve as president of the council.

5. Members of the council are to be compensated for their service with a salary equivalent to the median wage in their state, using public funds set aside for the operation of the Plebeian Branch.

6. Members are to serve in their posts for four months. This post can only be held once in a lifetime.

7. Duties of the Council:

   a. Open and moderate a member-exclusive forum for concerns and proposals;

   b. Prepare and present a presentation of current and alternative constitutional frameworks;

   c. Present a series of simple propositions for articles based on concerns and proposals coming from members, or motions passed in other assemblies;

   d. Gather and provide adequate information for deliberation;

   e. Enforce rules of engagement to enable adequate interaction in the assembly geared toward achieving a well-informed, deliberated decision;

   f. Present approved motions to other local assemblies.

8. Within the duration of their service, council members must remain neutral during assembly meetings. Council members are not to use their office to offer publicly their own judgment on any issue. They shall exercise their individual right to vote according to their own judgment, regardless.

9. After the four meetings of the constituent local assemblies, twenty-one delegates will be selected for regional councils, which are to systematize the motions passed in local assemblies, and twenty-one delegates for a national council in charge of consolidating the proposals systematized by the regional assemblies in a document. Delegates will be chosen by lot from a pool of volunteers. The regional councils must submit the proposals to the national council in sixty days, and the national council must submit a final document in thirty days.

10. Members of the councils must be compensated for their service with a salary equivalent to the average salary in their state, using public funds for the operation of the plebeian institutions.

11. The Executive Power will convene elections for a National Constituent Convention once the national council has produced a declaration of basic principles and rights.

12. Each region of the republic will select by popular vote three people for the National Constituent Convention.

13. The National Constituent Convention must draft a constitution in accordance with the declaration issued by the constituent local assemblies.

14. All meetings of the National Constituent Convention must be public, and detailed minutes must be kept in a public register.

15. The members elected to the National Constituent Convention are prohibited from incorporating new proposals contravening the declaration of principles and rights; they must channel, as accurately as possible, the popular judgment into constitutional form.

16. The National Constituent Convention is to present a draft constitution within six months.

17. Upon receiving a draft constitution from the National Convention, composed according to the constituent process rules specified above, the constituent local assemblies are to reflect and vote on the new constitutional framework.

18. A new constitution is to be approved or rejected in a general meeting of constituent local assemblies. The document is to be approved by a simple majority of local assemblies in the republic.

19. If the new constitution does not establish local assemblies, or contains provisions undermining the principles of equal liberty and human dignity, even if approved by a majority of local assemblies, it is to be considered null and void; such a constitution is not a free republic.

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20. If the draft constitution is approved by a majority of local assemblies, it is to be implemented immediately.
21. If the draft constitution is rejected, the National Convention has to present within one month's time a revised draft. An extraordinary meeting of constituent local assemblies is to be convoked to vote on the new draft.
22. If the draft constitution is rejected a second time, the National Convention is to be immediately dissolved. The Executive is to call elections for a new National Convention, which is to present a new draft constitution within three months' time. The constituent process is to unfold following articles 11 and 12 of this section.

Epilogue

WHAT IS TO BE DONE?

THE FAMOUS political pamphlet that Vladimir Lenin published in 1902, *What Is to Be Done?*, charted the Marxist way forward for the brewing revolutions in Russia. Advocating to focus on developing a vanguard party instead of organizing the workers, Lenin chose a centralist strategy for a seizure of power that was effective in taking control of the state but did not yield the free society that many young revolutionaries had in mind. After the institutionalization of the revolutionary class and the brutality of Stalinism, the answer to the question *What is to be done today to realize equal liberty?* needs to avoid this ultimately failed centralist path in which the revolutionary party imposed a top-down project, "emancipating" from above the working classes, who could do no more than pledge their allegiance to the soviet state.

The original book from which Lenin took the title of his pamphlet offers instead a grassroots strategy. Nikolay Chernyshevsky's 1863 novel *What Is to Be Done?*, written after the emancipation of the serfs in Russia, became an instant classic and influenced generations of revolutionaries with its egalitarian ethos, feminist critique, and communal means to achieve freedom. This inspiration for social change, however, had no institutional projection. After surveying utopian socialist solutions, Chernyshevsky dismissed them all and did not answer the question positively.[1] This father of Russian populism,[2] the dominant ideological current of those actively opposing the tsarist regime in the nineteenth century, promoted a realist, people-centered approach to

1. For a politico-literary analysis, see Drozd, *Chernyshevskii's "What Is to Be Done?"*
2. For a brief analysis of Russian populism and its continuities with populist politics in the nineteenth, twentieth, and twenty-first centuries, see my article "Populism as Plebeian Politics."

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politics that nevertheless proved incapable of producing institutional proposals to empower the people within the political system.

In this time of crisis, in which the legitimacy of representative institutions is rapidly eroding, choosing a path of organization and institutionalization of popular power seems the only long-term solution to disable the oligarchization of political power. However, the same way that it is necessary to move away from vanguard-party solutions to domination, it is also essential to shed any traces of idealist thinking in regard to the self-organizing power of atomized peoples living in contemporary consumer societies. Without proper institutionalization, the power of the *many* vis-à-vis the powerful *few* is bound to be ephemeral and most likely too weak to achieve the structural reforms that are needed to reverse the process of increasing oligarchization of power and the consequent oppression of contemporary plebeians.

Writing also in revolutionary times, Rosa Luxemburg proposed a solution to this question of strategy, which she laid out in her pamphlet *What Does the Spartacus League Want?*, and which seems the best one in terms of its realism and long-term emancipatory capabilities: the revolutionary party's main task must be to support the organization in councils of the workers—the many— and to enforce their expressed will. Establishing councils is a revolutionary act that needs to be enabled but not controlled by the vanguard party. For a revolutionary process to be really emancipatory and produce a framework in which freedom can dwell, it needs to materialize the autonomous self-emancipation of the people in political institutions. To achieve equal liberty, the many need to perform their own emancipation *in* action, and therefore the institutionalization of equal access to political action—which according to Arendt can be experienced only collectively in the realm of appearances—is the proper end of revolution. The first decision of the revolutionary party that seizes control of political power must be to limit its power by recognizing the supreme authority of the assembled many. This act of self-limitation, similar to the ones performed by founders of republics in antiquity, would inaugurate a new political regime in which the many, not the selected few, have final decision-making power.

Even if the birth of the assembled many as new collective sovereign subject, the *people-as-network*, is in itself revolutionary, the means by which this revolutionary end can be achieved are not necessarily part of an outright revolutionary process, but this end could be accomplished through the procedures already in place in our political systems. In a republic in which political leadership still has legitimacy, a new prince à la Machiavelli could campaign on the need to institutionalize popular power to realize the promise of democracy and keep government in check, become elected to the highest place of power, and establish, by decree, autonomous plebeian institutions through which the

many can assemble to pass judgment on ruling elites. For the decisions reached in this network of plebeian assemblies to be binding, inaugurating with it a mixed order, the exiting constitution would need to be amended. However, if formal amendment procedures are not conducive to a constituent process, a majority decision in the network of local plebeian assemblies should have enough authority to initiate the process and at the same time constitute itself as sovereign subject. This new institutional plebeian power as ultimate guarantor of liberty would inaugurate a new regime form: a plebeian republic.

In the case that systemic corruption has taken hold of representative institutions and has undermined the legitimacy of elections to the point that a "new prince" might not be an option for a refounding, the only power with enough authority to lead structural reforms would be the one exerted by the assembled many themselves. Even if a constituent process from below, without the support of virtuous leadership and the legal power of the executive branch to institutionalize plebeian assemblies, would be extremely difficult to pull off, self-constitution and plebeian new beginnings are certainly not impossible. I hope my proposed blueprint for institutionalizing the power of the many contributes to guiding "prudent and able" leaders, revolutionary vanguards, and commonsense people in how to establish a plebeian republic capable of escaping the cycle of corruption and guaranteeing freedom from oligarchic domination to the common people.

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