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The Representation of Society within Society
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What is This?

In the second half of the eighteenth century, all the basic concepts of the European political tradition changed their meaning. An epoch, that of *societas civilis*, of political society, was closed, and a new one began. This change had long been under way when the Bastille was stormed. It cannot be related back to the French Revolution, but through this it received a politico-ideological stamp which still today makes it difficult to approach political concepts with political impartiality. Since then, as regards political concepts — one thinks of freedom, equality, democracy, legitimacy, representation, participation — we have been assisting in the political struggle which began with the French Revolution, and this, only this, conflict makes clear where the progressive and where the conservative forces are.

If as sociologists we wish to distance ourselves from this conflict of ideologies and political trends, we must take into consideration the complex development already in progress at the level of the history of ideas, before entering into the analysis of historical realities. First, we must take account of the changes of meaning in the conceptual heritage of the ancient European tradition, which are connected with the dissolution of the concept of civil society. Words like 'legitimacy', 'representation' and 'participation' undergo a profound change of meaning, whose causes must be sought in a structural change in the societal system. And on the other hand, there is a growth of political interest in these concepts which, historical rather than accidental, is determined through Revolution and Restoration.

Given this state of things, it may be advisable to leave aside the consequences of the French Revolution for the moment, and so too the use of the term legitimacy in the context of Restoration politics, and concentrate instead on the phase shortly before the French Revolution. It seems to me that in the two or three decades preceding the French Revolution, rather than after it, one can see why the old European semantics of the social and the political lost their plausibility, and why new ways of posing the problem distorted the ancient concepts.

Let us first look at how the right to exercise power of government was justified. Essentially, there are two answers. The 'English'

solution, which was also welcomed as such in Paris, lay in the separation of powers and thus in the principle of the balance of political forces. The other was supported by the Physiocrats, especially by Le Mercier de la Rivière. Governing power is set up through the formula of 'legal despotism'. Both these proposals had something in common: they no longer deduce what we would call legitimacy from the law. The concept of legitimacy generally takes a step back and in any case loses its character as a juridical concept. On the other hand, political authority was considered the solution to a problem, be it that of the control of arbitrariness or of the scientific orientation of the direction of the State. Occasionally, formulations emerged that were first to be believed only in the second half of the nineteenth century. Authority was seen as nothing more than the effective tenure of power: 'sovereigns enjoy it because they enjoy it. The very exercise of their power is their title to it', Linguet states in his *Théorie des loix civiles* (1767: 1, 73). This in no way means the ruler can do everything he wants. The old problem of tyrannical despotism has dissolved itself. In their own interest, authority is restricted through the ecological and economic assumptions of social development, and in fact even more strongly than it could be controlled by juridical regulations or moral appeals.

Economic problems of social development, those of the agrarian economy, so strongly dominate that the ruler can also be described as the proprietor of sovereignty. On the one hand, this means that 'mere caprice becomes his rule' (Linguet, 1770: 40). And on the other, the room for manoeuvre in his actions is restricted by the rules of the economic system. Authority is thus the realization of what is economically necessary, and it is legitimated through the economic result. 'The spirit of the laws is property': Marx found this statement in Linguet and noted it (Marx, 1946: 629).

It is not difficult to see that this is still true two hundred years later. Hypotheses on the economic system and the interdependence between economics and politics have been refined. One can undoubtedly relate the problem of political legitimacy to the fact that wealth, as a source of political legitimation, has collapsed. Rich politicians, such as a Rockefeller, are suspect to us. On the other hand, political legitimation has been related to economic results that the politician has not himself created and indeed cannot by any means fully control. The effects of politics on the economy, and of the economy on politics have led to new problems: for example, what can politics do about the elimination of unemployment? Or, how can the economy calculate its

economic investments when the interest rates are politically mani-
pulated? Despite such problems, with which reality has to deal, it
does however seem that positive development in the economy is the
single decisive factor in keeping a government in power, whilst on the
contrary recessions are politically dangerous.

Despite some evidence for this connection, such a mode of
judgement is superficial. We have inadvertently equated legitimacy
with popularity. This is evidently quite common, with the result that
opinion polls and press reports treat legitimacy like stockmarket
trends or employment figures. One then finds that their tendency to
accept the opinions of the government diminish, or that their distance
from the judgements of the opposition lessens. But only fictitious
descriptions are produced, and their socio-theoretical relevance
remains obscure. I therefore propose going back to the eighteenth
century and again questioning both our authorities, Linguet and Le
Mercier. This time, the central questions must be: who is specially
authorized to speak on behalf of society? Who really, as part of the
whole, can represent the whole?

Linguet replies very clearly to this question: many, and there-
fore no one. 'In France, for example, the monarch calls himself the
nation; the parlements call themselves the nation; the nobility calls
itself the nation; the nation only can't say what it is, nor even if
it is. Waiting for this point to be clarified, everything stays confused;
everything serves as material for claims and disputes' (Linguet,
1778: 13).

A few years earlier, Le Mercier still had in mind the general
sovereign, the legal despot. Only he was considered. He represented
the unity of the system in the system, and indeed, in the old sense of
representation, in the sense of the tangible presence of something that
cannot appear as such, 'the majesty of the sovereign and his despotic
authority ever-present, even in those parts of his empire most distant
from his person' (Linguet, 1778: 180). But already the disaster is
becoming clear. The parliamentarism of particular interests cannot
represent unity. It would be meaningful only if politics lacked clarity,
if it were thus not possible to establish what was legal (Linguet, 1778;
137–8). Indeed, this was to become clear a little later. Representation
must indeed be parliamentarized, and thus the fiction of the general
will must be created. The legitimacy of parliamentary representation
must then be grounded in the fact that a representation of unity, a
representation of the system in the system, is no longer possible. Since
then, 'representation' has been a hopeless, romantic category. This

emerged, not least, from the discussion of the doctrine of constitutional law in the Weimar Republic (Schmitt, 1928: 204 ff).

My argument is that the problems of the legitimacy of political power are linked with this impossibility of representation. The capacity to represent the overall system in the system, the society in the society, is the source of legitimation. Whoever can represent the society in the society is thereby legitimate. Representation gives him the right. It is his right. If it dissolves, whoever still wishes to rule legitimately must then invoke values and ultimately show results. Starting from the premise that a part of the whole can represent the whole in the whole, the right of authority is a natural right. Without being able to think of an opposition or alternatives, it is up to the *maiores partes*, who clearly stay within the law and who, in the event of its infringement, must reckon with justified resistance.

All this world has foundered, and with it its semantics of self-observation and self-description. In place of *civilitas* we have civilization; in place of the good life, the difference between values and circumstances; and in place of the representation of unity, the representation of difference. Authority has been dissolved into nothingness. How can this change be explained sociologically? And to what extent do the changes experienced in the meaning of political semantics help us in this?

I believe that the explanation lies in a modification of the primary principle of societal differentiation: in the re-organization of the social system of stratification into functional differentiation. This transformation gives modern society its character. In the eighteenth century, this development was more or less clearly grasped, and this is why the conceptual universe of old Europe lost its plausibility.

The problem which forms our point of reference, the representation of the system in the system, plays a role in both social orders. One can thereby compare the old and the new, the traditional and the modern society on the basis of the question of how they are represented in themselves. And the difference appears, on the semantic as well as on the socio-structural level, to lie in the fact that the basic acceptance of a hierarchy in one instance corresponds to the facts, and in the other does not.

From a logical viewpoint, there is a paradox in both cases, a re-fusion of logical levels or 'types' which must be produced if one wants to analyse the self-referential relations involved (Herbst, 1976; Barel, 1979). However, this is not an objection against the possibility of real systems. They do not collapse because of a logical error.

Evolution is not a 'logical construction (or de-construction) of the world'. All differentiated systems have the problem that in relation to their surroundings they function as a unity, but at the same time they are broken down internally into partial systems, none of which as partial systems can represent the unity of the total system. For, as *everything* within, be it a sub-system, or a process or operative element, is *only a part*, they lack the ability to be what they are. They exist notwithstanding their logical impossibility: as paradox. But as this is clearly possible, one can only ask in what forms does the system experience the paradox of its existence, how it can be elaborated, and how it can nevertheless reproduce itself.

The classical answer to this question is in the form of hierarchy. Hierarchy was the evolutionary achievement produced to resolve this problem. In fact, it was a discovery of genius. The unity of the system was re-introduced into the system as difference, and in fact as a difference which exactly reconstructs the problem with which we are dealing: as a difference of rank. The unity of the system is the differenee of ranks, with a double significance: it gives each part a rank, and so lets the part participate by means of the difference. And it uses the same difference to represent itself in the supreme rank at the summit of the system. It is unity as difference, as difference permits the representation of the unity of the system through the *maior et sanior pars*. Hierarchy is the paradox dissolved, para-doxicalness reflected in itself, as it were, and which thereby becomes interconnectable. It was discussed precisely in this sense in the old European semantics of participation and representation, service and authority. Whoever uses these words today outside their context must be aware that he is taking on the responsibility of giving them a new meaning.

We can now only dream of this fine artistic product of social imagination. Socio-cultural evolution has gone far beyond it. It has replaced the stratification of society as the form of primary system differentiation with the re-differentiation between functional systems. This removed the plausibility of the semantic hierarchy. When we experience stratification, we do so as if it was a contingent, not necessary structure: as class structures, without legitimating power. No system of functions, not even the political, can take the place of hierarchy and its summit. We live in a society which cannot represent its unity in itself, as this would contradict the logic of functional differentiation. We live in a society without a summit and without a centre. The unity of society no longer comes out in this society. And

so for us legitimacy is a question of the popularity of the current government.

However, we shall remain romantics and, what amounts to virtually the same thing, we shall remain critics if we have to be satisfied with this explanation. If our society can no longer represent itself in itself as a unity, there remains, however, the paradoxicalness of each differentiated system. And if this paradox no longer takes the form of a hierarchy, it remains for us to ask in what other form it will now be active. The basic problem in fact remains unchanged; every operational act, every structured process, every partial system participates in the society, and is society, but in none of these instances is it possible to discern the existence of the whole society. Even the criticisms of society must be carried out within the society. Even the planning of society must be carried out within the society. Even the description of society must be carried out within the society. And all this goes on as the criticism of a society which criticizes itself, as the planning of a society which plans itself and always reacts against what happens, and as the description of a society which describes itself.

With the benefit of two hundred years' hindsight we can perceive the formation and development of theories of reflection which restrict themselves to particular systems of functions and deal with their specific problems. At the beginning, in the eighteenth century, these theories still appeared almost like theories of society, as though they involved jointly providing the reflection of society. So Kant, in the theory of cognition and thus in his reflections on the conditions of the possibility of science, sought the road to moral law and systematic organizations, and by this route achieved an unparalleled influence on movements seeking profound social reform. The Physiocrats also saw in their economic theories both a political theory and a theory of law. The concept of society is more or less limited to economic relations, so that reflection on the economy can at the same time serve as a theory of society. Marx was perhaps the last to have followed this approach in grand style. The result of his work, however, was only that the theory of society has subsequently appeared in sociology as an excessive demand and as a coercive, ideological position.

Clearly, official and academic sociology is backward today in lacking a description of society in the sense of a theory of reflection, a regulated theory of the unity of the system. Many writers on sociology, or even opponents of it, are involved in this task — even people who criticize it as a presumption. And in fact, how should

sociology resolve a problem of this stature? How should it as a mere science, if this is not too strong a description, be able to perform the representation of society within society? How might we obtain the ability to give form to the paradoxicalness of the self-reference of the societal system, to which society might orientate itself? Or, to refer back once more to Linguet, sociology is not the nation in the nation. It participates, at most, in the claim to be such, and, for that reason, its relations with society remain confused.

Marxism has sought with great logic to turn this problem around by proposing itself as the unity of science and ideology, a particular kind of science. In line with this, it expresses its own theory as a condition of legitimation. This can only appear dogmatic. A science is involved in issuing certificates of authenticity, and thereby becomes a science of *appellations contrôlées*. However, what is good for wine is not thereby valid for science. This may admittedly be a good way of resolving the paradoxicalness of representation of the system in the system. But it is not the only one.

We must in any case start from this to establish precisely our distance from such an approach. But then one very quickly sees that this is much more feasible as it occurs at present. I want to propose only three possibilities which lie, so to speak, on the threshold, and they are:

1. a perfecting of theoretically-oriented *historical analysis*, with the aim of clarifying the identity and difference of modern society in relation to older social formations;

2. a precise analysis of the problematic area of *self-referential systems* in connection with an interdisciplinary and persistent discussion;

3. a clarification of the logic and consequences of the *functional differentiation* of the societal system on the premise that it is possible to obtain from this a better understanding of the positive and negative characteristics of the modern one.

One would not readily expect that a theory of society would emerge from this capable of serving as a universally accepted representation of the system in the system. What might emerge, however, is a clearer recognition and foundation of the reasons why this is a very difficult problem in modern, functionally differentiated society.

However, the consequences for the problem of legitimation with which we are concerned lie at hand: legitimation under modern conditions can only be self-legitimation (Luhmann, 1981c). Every action which causes damage today gives itself a legitimation, and only

criminals take the liberty of renouncing this. So, whether this concept is confined to the political system, or whether one thinks primarily of legitimation of the law through a 'higher law', or whether it should function in every system of functions so that educators or doctors should be questioned about their 'legitimation', in every case the answer can only be the same: they do it because they do it. Or to formulate this in a less provocative way: every activity in a system finds its legitimacy in the fact that it is made possible through other activities of the same system. Systems of functions can only legitimate themselves. That is, no system can legitimate another.

More than one error can be eliminated at a stroke. The health service legitimates itself not as the application of a science but rather in its capacity to make a further medical service possible. The legal sentence legitimates itself not as the result of a legitimate political decision, but rather as the transfer of a normative quality from one action to another. The structures of functional systems have long been organized around these real situations. Only the false descriptions are still irritating as regards the vain search for legitimation from outside, from above, or through basic values or consensus by means of rationally ordered discussion. For this reason our society tries to include the population in all the functional systems, e.g. as the democratization of politics, or to ensure the solvency of everyone, even the poor. We know that this has happened in only very limited cases, but the type of concern reveals something about the type of legitimation. This should be interpreted as an *endowment of the functional system with the faculty of self-legitimation.* And a *functionally differentiated society can provide nothing else to its subsystems.*

The social cladding of the legitimation problem can thus no longer be formulated 'hierarchically'. Rather, it expresses itself as the imperative to self-legitimation. So it is not enough to replace authority by relations of value, or discussion, and with this modification stick to the model of hierarchy. We must take a radical position, and the central question in this matter seems to me to concern the socio-structural importance of the functional differentiation of environmentally-dependent, but also self-referential, subsystems.

We are, to use the current terminology, in a hopeless 'legitimation crisis'. What is lacking is not, however, a real legitimation but rather a better insight into the particularity of our societal system.