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MISREPRESENTATIVE DEMOCRACY

Legislative Actions Against Political Misrepresentation in Post-1989 Bulgaria

Abstract

The report presents the findings of a study of political misrepresentation in Bulgaria. The main goal of the study is to develop a positive account of political misrepresentation, not as a misfortunate accident of sorts suffered by the political system, but rather as a particular capital dynamically produced and exploited by the political actors. I believe that studying the positive dimension of political misrepresentation will advance our understanding of the subtle mechanisms invented by the late modern democracies in order to protect themselves from the supposedly irrational behaviour of the public.

1. THE STUDY

1.1. THE BACKGROUND

Political misrepresentation has been relatively understudied. Political scientists tend to treat it as an aberration that a democracy should correct by means of developing proper legislation [Laycock 2005]. Sociologists, on the other hand, seem more interested in explaining the social causes and effects of misrepresentation [Ryden 1996]. In effect, political misrepresentation has been studied extensively, primarily by historians [Knights 2005].

Recently the theoretical discussions of misrepresentation have been influenced by the taxonomy introduced by Nancy Fraser in the context of her theory of post-Westphalian democratic justice, which differentiates between ordinary political misrepresentation (social groups being impeded to participate in the political process), misframing (social groups being refused participation in the political process) and meta-political misrepresentation (social groups being excluded from political process by elites able to monopolize the

frame-setting activities) [Fraser 2005: 56-8; Held, Kaya 2007: 22].

As insightful as it is, this taxonomy however does not offer a test capable of detecting impediments to participation, silencing, or the monopolization of frame-setting activities. Therefore, lacking a workable notion of political misrepresentation, sociologists and political theorists studying post-1989 East European democracies tend to rely on a minimalist idea of political misrepresentation: political parties represent the public if their conflicts represent principal social cleavages, and therefore political parties misrepresent the public if their conflicts do not overlap with social cleavages [Berglund 2004: 433; Elster 1998: 110-1, 132-5].

In order to apply that minimalist notion however, one has to detect the principal social cleavages, and researchers commonly do this by means of some stratification theory. Defining post-1989 Bulgarian social classes – quite an uneasy task – researchers often resort to a simplified model reducing Bulgarian society to three major social groups: the winners (or the elites), the losers, and the minorities [Andrain 2006: 48; Elster 1998: 133-4].

Alas, Bulgarian society is far more complicated than that, and splitting it into winners and losers, majority and minority, has produced policies and predictions that seem hardly justifiable today (e.g. that the minority party DPS will never cooperate with the socialist party BSP; that populist parties will be unable to gain influence because they would misrepresent the antagonism between former communists and anti-communists so pivotal to the post-1989 political system; and that the agrarian party BZNS would play an important political role, being the principal representative of the rural population) [Elster 1998: 255-6; Dryzhek 2002: 208-12].

What makes Bulgarian society more complicated is that its major cleavages are not reducible to stratification. There are also important ideological cleavages as well as cleavages in the distribution of social, cultural, and political capital. The 1990s conflict between UDF and BSP, for example, was framed as a conflict over the meaning of state socialism rather than as a conflict between winners and losers. The deficiencies of the stratification model have in fact been quite clear to Bulgarian researchers, normally more inclined to explain the faults of Bulgarian political institutions by their path dependency.

If we are to study political misrepresentation, we need a different and more complicated model than the ‘social stratification’ model. Notwithstanding its shortcomings, the ‘social stratification’ model has one important advantage – it is observable and, to an extent, even measurable. To put it simply, sociologists find it much easier to measure political representation against stratification cleavages than against cleavages in the distribution of cultural, social or political capital. So, if we discard the ‘social stratification’ model we risk being unable to detect misrepresentation, and in effect being unable to tell

what misrepresentation is.

Sociologists have already faced this problem in their studies of East European democracy. It seems the best solution they have come up with is that if one is unable to say what social reality is – or, in our case, what political misrepresentation is – then one should study what social actors say it is [Dryzhek 2002: 6-19]. The current study opts for this solution.

However, a simple description of what misrepresentation is said to be will not do. If one speaks on misrepresentation, one does not merely describe the reality. Since misrepresentation is something that should not take place, as accounts of misrepresentation have a normative dimension and are entwined with claims about what should or should not be the case. In order to include that dimension, one needs to study something beyond what misrepresentation is said to be. One needs to study why it is said to be what it is; in other words, one needs to study the rationality that accounts of misrepresentation are inscribed in.

Taking this into account, I have decided to approach the problem of political misrepresentation by studying legislative actions against misrepresentation, because their rationality seems both more accessible and more sophisticated than the rationality of the media accounts, which generally tend to blame politicians for betraying the interest of the people.

1.2. THE OBJECT

The object of study is legislative actions against political misrepresentation in post-1989 Bulgaria. I have taken into account any legislative actions against deficient representation (portions of the public being unrepresented); inauthentic representation (violating election procedures); insincere representation (not acting in the best interest of the constituents); or inadequate representation (not acting the will of the constituents). The relevant pieces of legislation include the 1974 Electoral Law; the 1990 Election of Grand National Assembly Act; the 1991 Election of Members of Parliament; the Municipal Councillors and Mayors Law, amended in 2001, 2002 and 2005; the 2001 Election of Members of Parliament Law, amended in 2005 and 2009; the 1995 Local Elections Law, amended yearly from 1996 to 2003, and between 2005 and 2007; the 2007 Election of Members of European Parliament from Bulgaria, amended in 2009; the Penal Code amendments concerning election fraud; the relevant decisions of the Constitutional Court from 1995, 2001, and 2009; and finally the 2009 presidential veto on the amendments in the Election of Members of Parliament Law. In order to understand the circumstances of these actions, I have studied the 1990 National Round Table, which negotiated the electoral system, the parliamentary debates on the electoral laws and their amendment, as well as the relevant bills rejected by the Parliament.

1.3. *THE GOAL*

The goal of the study is to describe the rationality of legislative actions against political misrepresentation in post-1989 Bulgaria. I have treated rationality as a set of ‘in-order-to’ and ‘because’ motives ascribed by the political actors to their actions [Schutz 1967: 86-96]. I have treated as the ‘in-order-to’ motive as any account of the future state of affairs that actors intended to achieve; I have treated the ‘because’ motive as any account of the reasons that made them act the way they did.

1.4. *METHODOLOGY*

The study made use of the methodological frameworks of grounded theory from Strauss and Corbin [1990] and discourse analysis from Foucault [2002]. The interpretive framework of the study is drawn from Foucault [2003], Butler [2006], Rancière [2005], and Hardt [2000].

1.5. *PROCEDURE*

In order to describe the motives, I have developed grounded theories of legislative actions against political misrepresentation following a five-step procedure.

First, I identified and read through the relevant pieces of legislation and parliamentary proceedings. I defined as an individual observation case any discursive event concerning misrepresentation, and treated as a discursive event any speech act of a subject – individual or institutional – countable as a single occurrence (e.g. a parliamentary speech, a bill, or an expert opinion).

Second, I summed up the arguments of the speakers as neatly as possible. For example, I rewrote the argument, ‘The education of the public in civil virtues, in civil values is a task of any present-day politician and he must take this stand before the eyes of the public’ as ‘education of the public’. In view of the goal of the analysis, this rewriting procedure did not cause any loss of meaning. Yet in order to guarantee its reliability, I asked a second judge to summarize a sample of 10 speeches. Then we compared the summaries and found out only 1 case of disagreement caused by the different weight ascribed to the concept of guilt.

Third, I coded the ‘in-order-to’ and ‘because’ motives in any speech. I treated as an ‘in-order-to’ motive any argument that can be successfully rewritten as an ‘in-order-to’ statement; and treated as a ‘because’ motive any argument that can be successfully rewritten as a ‘because’ statement (for example it seems plausible for a politician to claim that ‘because of low voter turnout we

must do X' but not 'we must do X in order to get low voter turnout'). In order to guarantee the coding reliability, I asked a second judge to code a sample of 10 speeches. Comparing the samples displayed no disagreements.

Then I tried to develop a grounded theory representing the relationships between the coded motives by means of the popular QDA software Atlas.ti, and finally, after building the grounded theories, I used the Atlas.ti semantic mapping feature to analyze the shape and the centres of gravity of the theories, which in turn shaped their narrative account.

In order to test the research protocol, I started with a pilot study of the 2007 debates over the introduction of compulsory voting in local elections. The study allowed me to identify 31 discursive events, and to develop 4 grounded theories of the rationality of the compulsory voting (cf. the codes and the semantic maps of the theories in Appendices 1-5). I have been able to differentiate the theories by the following procedure: in the event some relationship turned out to be unassimilable to the theory, I built a new theory representing the discursive event displaying the relationship. The next time I stumbled into a relationship conflicting with the first theory, I tried to assimilate it to the second theory and, if unsuccessful, developed another theory, and so on.

I then turned to the study of the parliamentary debates. After a closer review of the data I decided to focus on the first readings of the electoral laws in 1991, 2001 and 2009 because of their crucial importance to the legislative measures against political misrepresentation: the 1991 debates led to the establishment of the electoral system used until 2009; the 2001 debate was marked by the emergence of a new definition of misrepresentation as mistrust, something crucial to the development of the electoral legislation in the next years; the 2009 debate led to the introduction of a mixed electoral system with 31 deputies elected by majority vote, notwithstanding its little practical consequence in the recent elections. By contrast, the 1990 National Round Table and the 1990 parliamentary debates seemed inconsequential. This is because they construed misrepresentation as a potential conflict in which one of the political actors would refuse to recognize the election results, and because the electoral legislation was negotiated by the so-called contact groups of the parties rather than by the debates themselves. The 1995 debates seemed inconsequential because they focused on the equal opportunity for campaign and equal access to media coverage rather than political misrepresentation per se. The 2005 debates seemed relevant only to the extent they led to legislative measures intended to improve the political participation of disadvantaged social groups. This enjoyed the unanimous support of the speakers and did not produce diverging theories of legislative rationality (the 2005 debates also focused on media coverage, party funding and the provision of opportunities to appeal the decisions of section commissions). I have decided to focus on the first readings of the electoral laws in 1991, 2001 and 2009 because they

specifically concentrated on the motives of the proposed legislative measures.

The analysis of the 1991, 2001 and 2009 parliamentary debates allowed me to identify 108 discursive events and 7 grounded theories of the rationality of legislative measures against political misrepresentation (cf. the codes and the semantic maps of the theories in Appendices 6, 8-10). However, the procedure developed in the pilot study turned out to be applicable only to the 2001 debates, because the other debates on electoral legislation displayed remarkably homogeneous rationality. Therefore in those cases I decided to treat the coded sets of motives as differing grounded theories if they form 2-cliques, i.e. networks in which elements were tied to each other at a distance not greater than 2 (cf. the list of identified 2-cliques in Appendix 7). I chose the 2-clique approach because it produced stable and meaningful theories, as opposed to the clique, 2-clan or 2-plex approaches.

2. AGAINST DELEGATIVE DEMOCRACY

2.1. THE PROMISE OF DELEGATIVE DEMOCRACY

The problem of political misrepresentation is usually framed in the following picture of East European democracy:

Immediately after 1989, people trusted democracy. Yet the representatives they elected acted not in the best interests of the people but rather in their private interests and often in the interests of powerful and shadowy social actors (e.g. political or economic elites, the former State Security, and the mafia). Therefore people became increasingly disillusioned with democracy, which generated extensive social mistrust [Dawischa 1997: 25-6; Markova 2004: 181-2].

One can summarize this picture as a delegative democracy, building on the concept introduced in the early 1990s by the Argentinean political scientist Guillermo O'Donnell in order to describe the distinguishing features of presidential rule in Latin America [O'Donnell 1995; Dawischa 1997: 6-7].

The distinguishing features of the accounts of East European democracy as a form of delegative democracy can be summed up in the following way:

- Delegative democracy is a formal democracy;
- In contrast with normal democracies however, political actors in a delegative democracy do not represent the public;
- Therefore political actors act in their own interest rather than in the interest of the public;

- The democratic process enables the public only to delegate power to one or another political actor rather than to make political actors serve the public interest.

First, let me say that I feel somewhat uneasy about the very notion delegative democracy. Since its emergence in the mid-1990s it has been generally used to describe democracy in Latin America and Eastern Europe, implicitly suggesting that Western European or US democracy is not delegative, which I unfortunately doubt.

Now, East European delegative democracy has the peculiar feature that, being formal, it is formally indistinguishable from normal democracy. So, in identifying it, political sociologists tend to rely on a symptom generally called public mistrust.

The underlying logic of that symptom can be summed up in the following way: if the public mistrusts the political actors, then the public does not identify itself with the political actors, then the public feels unrepresented by them, then democracy is only formally representative, and therefore the democratic process is reduced to delegating power to political actors acting in their own private interests rather than in the interests of the public.

Taking that symptom into account, one can define delegative democracy as a formally representative but actually unrepresentative democracy producing high levels of public mistrust.

As convincing as this account of the rationality of legislative actions against political misrepresentations in post-1989 Europe may seem, it needs to be verified in the Bulgarian case, especially in view of the fact that Bulgarian electoral laws have not prevented the emergence of powerful populist parties, and that Bulgarian elections usually bring down the governing party. This is even more important because the delegative democracy account provides the basis of the bulk of the policies aimed at improving Bulgarian democracy.

3. THE GENERAL PICTURE

3. 1. TACTICAL LEGISLATION

In a discussion of the United States legislation after the Patriot Act, Judith Butler introduced the concept of tactical legislation:

The present insistence by the state that law can and ought to be suspended gives us insight into a broader phenomenon, namely, that sovereignty is rein-

roduced in the very acts by which state ... contorts law to its own uses. ... The suspension of the rule of law allows for the convergence of governmentality and sovereignty; sovereignty is exercised in the act of suspension, but also in the self-allocation of legal prerogative; governmentality denotes an operation of administration power that is extra-legal, even as it can and does return to law as a field of tactical operations. The state is neither identified with the acts of sovereignty nor with the field of governmentality, and yet both act in the name of the state. Law itself is either suspended, or regarded as an instrument that the state may use in the service of constraining and monitoring a given population; the state is not subject to the rule of law, but law can be suspended or deployed tactically and partially to suit the requirements of a state that seeks more and more to allocate sovereign power to its executive and administrative powers. The law is suspended in the name of the 'sovereignty' of the nation, where 'sovereignty' denotes the task of any state to preserve and protect its own territoriality. By this act of suspending the law, the state is further disarticulated into a set of administrative powers that are, to some extent, outside the apparatus of the state itself. (Butler 2004: 55)

Tactical legislation is motivated by an emergency situation and by the need to govern that situation. Unlike 'states of exception', emergency situations are local, time dependent, and dispersed throughout the fabric of society. Because of their dispersed and local character, they do not involve suspending the law, as declaring a 'state of exception' does.

Yet quite like states of exception, emergency situations involve extending the law to cover exceptional circumstances in order to make it work in exceptional circumstances. As Martin Kanoushev has demonstrated, the socialist penal code introduced a somewhat similar mechanism called analogy. With tactical legislation, however, the extension is done not by the court but rather by the administration, so it follows a governmental rather than a legal logic.

I will try to demonstrate that, since 1989, Bulgarian electoral legislation has been tactical, and that social discontent is an important element in the present-day articulation of its tactics.

3.2. 1989

At the end of 1989 both the government and the opposition declared that Bulgaria was in an emergency situation. The governing Bulgarian Communist Party (BCP) proposed to organize a national round table in order to negotiate political measures in response to the crisis.

At their first preliminary meeting, the BCP and the recently-formed opposition, the UDF (Union of Democratic Forces), agreed that the situation could not be normalized without democratic elections, and therefore without proper legislation on elections, parties and media.

The 1973 Election Law had adopted the single-member district system. Before

the elections, the state council divided the population into 400 equal constituencies, and each constituency elected one Member of Parliament. In order to get elected, a candidate had to receive more than 50% of the vote with more than 50% voter turnout. If this was not the case, two weeks later the district held another election.

The 1973 law did not prevent – in fact it even provided for – electoral competition between candidates put forth by different parties or public organizations.¹ Yet both the BCP and the UDF agreed on the need for new electoral legislation, and a month later they negotiated one at the national round table.

The tactics of negotiation were shaped by the disproportionate balance of power. The BCP was still in government, the party had well-developed organizations in any municipality and workplace, more than a million members, substantial economic, administrative and social capital. By contrast, at the end of 1990 the UDF had only around 5000 members and several dozen local organizations, lacked roots outside the big cities, and its leaders were relatively unfamiliar to the general public.

The tactics of the opposition generally consisted of improving the balance of power by any available means. The general tactics of the BCP on the other hand was shaped by the concern to keep the balance of power as uneven as possible, and at the same time to prevent the situation from escalating by negotiating with and making concessions to the opposition.

The opposition believed that a purely proportional system could improve the balance of power, and claimed that any other electoral system would make the elections unfair because it would give the BCP undefeatable advantage.

The BCP on the other hand insisted on a mixed electoral system with two-thirds of the seats allocated by a single district based on absolute majority vote, as was the case before 1989, and for one-thirds of the seats to be allocated by a preferential proportional vote (voters were to strikethrough the names of the candidates they distrust).

The representatives of the BCP argued that a mixed electoral system would combine the advantages of both proportional and majority systems, that the SMD (Single-Member District) vote was traditional to Bulgaria, and that it would enable the election of Members of Parliament renowned for their leadership, competence or virtue.

The representatives of the UDF on the other hand claimed that a strictly proportional system would be fairer because it would reflect the balance of power between the parties; it would let the voters choose between ideas; it

1 Of course, in reality no one dared compete against the candidates of the BCP. The 1971 parliamentary elections for example produced a 99.92% voter turnout, and out of 6,360,762 ballots only 780 were 'against' the Party and another 897 ballots were voided.

would reduce the risk of social unrest because it would not involve personal competition; and it would take into account any ballot, while in a SMD system the votes for the losing competitors would be lost.

The discussion was further complicated by issues related to the timing, the monitoring of the elections, the party finances, and by the discursive strategy adopted by the UDF at the round table.

The first issue related to timing was when to hold elections. The BCP proposed elections in June, while the UDF, fearing that the party would be unprepared, wanted to put off the elections at least until the autumn. This allowed the BCP representatives to censure the UDF for wanting to delay democracy and therefore reforms desperately needed to respond to the economic crisis, for acting irresponsibly, and for neglecting the national interest in favour of narrow party interests.

The second issue related to timing was what kind of parliament should be elected. The BCP insisted on an ordinary parliament, while the UDF insisted on a grand assembly, which would draw up a new constitution and at the same time have the prerogatives of an ordinary assembly, such as the communist-dominated National Assembly in 1946-1949. The relevance to timing came from the fact that the Grand Assembly would dissolve itself after one year and organize new elections, for which the UDF would be adequately prepared, while electing an Ordinary Assembly could postpone the next elections to 1994, giving the BCP enough time to avoid the flood tide of public resentment.

The monitoring issue came from the fact that while both the UDF and the BCP agreed on the need for foreign monitoring, the BCP wanted the foreign MPs to be invited as guests, while the UDF asked for observers fearing that if they had the status of guests they could be prevented from visiting electoral sections. In the ensuing argument the BCP claimed that inviting observers would be an insult to national dignity. The UDF responded that the communist regime had already dishonoured the nation to the extent it had no dignity to protect. Furthermore, the UDF wanted parallel ballot-counting by a student organization not associated with the government and hence associated with the opposition, while the BCP resisted this proposal fearing that parallel counting would entitle the UDF to protest the elections if defeated.

The party funding issue stemmed from the fact that the UDF was sponsored by United States and West European organizations, and the BCP wanted to limit foreign donations to 500 USD per donor. So the BCP claimed that unlimited foreign funding would violate the national sovereignty, while the UDF argued that limiting foreign funding would disadvantage the opposition and undermine the fairness of the elections.

The fourth complication came from the discursive strategy the UDF adopt-

ed following in the footsteps of other East European opposition parties. The strategy consisted in establishing the guilt of the communist regime. The UDF representatives attempted to do this by making interpellations to the Minister of the Interior about the terror of the communist secret service, State Security, and the concentration camps during the 1950s. The electoral rationale of this strategy was that if the BCP came to be successfully associated with guilt, then people would vote against it in order to dissociate themselves from the culpability of communism. Yet the strategy produced complications because the efforts of the UDF representatives to associate the BCP with totalitarianism escalated into claiming that all plurality systems were totalitarian, as well as direct elections for mayors, municipal councils, the president, and even referenda, which in its turn allowed the BCP representatives to display themselves as experts in government, knowing about democracy more than their democratic opponents (for example by pointing out that the United Kingdom had a plurality system or that referenda are generally recognized as democratic).

The argument was ultimately resolved by series of trade-offs between the so-called contact groups of the BCP and the UDF, which negotiated a compromise during the round table. As the BCP, which had already renamed itself to the Bulgarian Socialist Party (BSP), wanted Bulgaria to be more of a presidential republic and insisted on a direct vote for president, the UDF agreed to a presidential institution with a much more restricted authority than the BSP asked for, and in return got the Grand National Assembly, mixed electoral system with half proportionally elected deputies, and the first president being elected by the Parliament instead of by national elections. Furthermore, the UDF got a 1-year exemption from the foreign funding limitations and several types of tax exemptions, including duty-free import of paper, office consumables, video and audio equipment (which allowed the parties to go into rather lucrative business and led to the emergence of more than 200 parties in the next years²).

3.3. 1990-2001

The parliamentary debates on electoral legislation between 1991 and 2001 were dominated by the concern for stability. The political actors defined the Bulgarian condition as a particular kind of emergency situation usually called transition. Transition was believed to call for unpopular policies that involved curtailing social rights, declining welfare, perhaps even pauperization. In order to be able to pursue unpopular policies, government needed stability, and therefore needed a stable political system.

Since by unpopular policies the political actors usually meant policies against

2 The parties also benefited from the government grant for elections amounting to 20,000 BGN in 1990, a sum still capable of buying a 2- or 3-room apartment in Sofia.

the perceived interest of the public – though hopefully serving its long-term interest, i.e. policies that the public would deem against its interest – stability meant shielding the political actors from the discontent of the public, from the risk of the public successfully saying no to the political actors, and from the claims that the political actors misrepresented the public.

In order to do that, in August 1991 the parliamentary parties decided to abandon the 1990 mixed system in favour of a closed-list proportional system. From the perspective of the parliamentary debates the rationality of closed-list proportional system consisted in its unmatched ability to represent the balance of power between the parties, or in other words to focus political representation on the balance of power. Furthermore, the closed list and the allocation of the seats on the national level instead of on the level of electoral districts intensified the control of the party leaders over their deputies and regional organizations, which would eventually produce disciplined and stable parties capable of taking responsibility.

Responsibility was indeed the keyword of the debates on electoral legislation in the 1990s. This was what the parties claimed they were able to offer to the public: responsibility rather than representation because misrepresenting the public was deemed in a sense unavoidable for a government in the emergency situation of an economic and political transition. Furthermore, in order to improve stability, the political actors did not associate responsibility with any working mechanisms of accountability. The parties were accountable to their electorate only at elections and since the BSP and the UDF believed they could lose the election only to one another, and would never suffer defeat disastrous enough to relegate them to second-rank parties, accountability at elections was not really a matter of grave concern. So responsibility acquired a special meaning in the political language of the 1990s, as in ‘accepting the responsibility to govern’ rather than ‘being responsible for the government’.

The Bulgarian electoral system was further shaped by two seemingly heterogeneous concerns – on the one hand, to keep political space from fragmenting, which would have allowed many new parties to enter the parliament, some of them quite strong; and on the other, to allow at least one more parliamentary party other than the BSP, the UDF and the minority party, MRF (Movement for Rights and Freedoms), so as to make possible a governing coalition without the MRF (at the time, parliamentary representation of the BSP, UDF and MRF seemed out of the question).

The balance between those dissimilar concerns was to be achieved by the following legislative arrangements:

- 4% threshold for entering the parliament;

- D'Hondt method for allocating seats, which was believed to privilege the larger parties;
- Discrimination between parliamentary and non-parliamentary parties, which entailed privileged access to media, state funding and the electoral commissions;
- Distribution of the parliamentary seats at national level, which in combination with relatively large multi-seat electoral districts was intended to weaken the effect of the uneven geographical distribution of the parties' electoral basis;³
- Coloured ballots; the 1991 election provided for 4 solid coloured ballots – red, blue, orange and green – as well as for white ballots with three coloured ribbons for the parties that did not have the entitlement or the opportunity to use one of the solid coloured ballots; one could exemplify the edge the latter gave by the 1991 election results of the quite unknown Political Forum 'Transfiguration', which gathered 30,442 votes (0.5%) simply because they managed to get the orange ballot.

Of course, the proper balance shifted over time, so the political actors tried to maintain it by introducing new arrangements. In 2001, for example, the UDF proposed that the parties should pay for their ballots. The price of the ballots was to be decided by a government agency a few weeks before the elections. The estimates varied between 60,000 and 300,000 BGN (Bulgarian leva), a considerable amount, which smaller parties uncertain in their success would hardly risk to pay. The Constitutional court however annulled that requirement, construing it as an implicit property qualification.

As it seems, notwithstanding their shortcomings, the 1990s legislative arrangements worked for the political actors. The number of the parliamentary groups between 1991 and 2001 never exceeded 5, and between 1994 and 2001 the governing parties held a majority in the parliament.

3.4. AFTER 2001

After 1991 the parliamentary debates on electoral legislation displayed a stable pattern:

The opposition proposed reform of the electoral system, introducing some plurality or preferential element, and claimed that this would foster participation; improve representativeness, hence the legitimacy of the Bulgarian political system; and help elect competent deputies able to take responsibility for the government, to make unpopular decisions, or to defend unpopular policies.

3 This peculiar feature of the Bulgarian electoral system led some researchers to call it 'purely proportional system with pseudo-districts' [Dimitrov 1994].

The government party objected, arguing that the proportional system was more democratic because it reflected the balance of power between the political parties; it was more rational because it stimulated the competition of ideas rather than personal arguments; it was fairer because it did not waste votes as the plurality systems; it was more dependable because it enabled the parties to control their deputies, hence to take responsibility for their behaviour and for the government; and it did not thwart the election of competent and strong members of parliament but instead delegated their selection to the party leaders who arguably knew their candidates better than the general public.

Then the governing party proposed seemingly technical modifications of the election law, usually concerning the electoral lists, the registration of voters not included into electoral lists, the franchise of the Bulgarian citizens living abroad, the appointment of the electoral commissions, the registration of the candidates, the allocation of media coverage and state funding. The opposition protested that the technical modifications were designed so as to give unfair advantage to the governing party (which was more or less true).

This pattern of the parliamentary debates on electoral legislation was shattered in 2001 by the emergence of a new and powerful 'because' motive, namely social discontent, which brought about a peculiar regime of rationality in the next years. In order to understand that regime of rationality, we need to take into account three distinguishing features of the Bulgarian electoral system.

A. EXCLUSIVENESS

At the turn of the century, international experts believed that post-communist countries faced the following dilemma:

It is often argued that there is a trade-off between popular inclusion in the electoral process and effective party institutionalization. Both the legitimacy engendered by inclusion and the governability made possible through party institutionalization are seen as desirable from a normative perspective, yet choices over electoral institutional design are commonly held to entail compromises in the structuring of citizen-elite linkage patterns. ... Electoral systems with more single-member districts are associated with a reduction in the size of parliamentary party systems in post-communist Europe overall, though this effect is not so clearly manifest in the former Soviet states, where single-member districts are just as likely to have a fragmenting effect. [...] SMD systems appear to depress inclusiveness in post-communist states. But the relationship between the proportion of SMD seats in a system and inclusiveness is not linear. Interestingly, mixed systems are actually more inclusive than their PR counterparts, and considerably more inclusive than pure SMD systems [Birch 2002: 137].

The bulk of the East European countries have tried to balance party institutionalization and inclusiveness by adopting a mixed electoral system like Hungary or a preferential system like Poland. Bulgaria has often been considered an exception because it opted for non-preferential proportional system

and seat allocation at national level (normally in proportional systems seats are allocated in proportion to the number of votes cast for a particular party in a particular district, yet while Bulgaria is divided into 31 districts, the ballots cast in all the districts are pooled together and then the seats are allocated according to the national vote).

At the turn of the century the expert opinion held that, as a consequence, the Bulgarian electoral system neglected inclusiveness in favour of party institutionalization, and therefore was more exclusive than the other East European systems (Coppedge, Reineke 1991: 51; Beetham 1994: 108; Birch 2002).⁴

The exclusiveness of the Bulgarian electoral system was intensified by the peculiar tactics to keep some legislative arrangements open or ambiguous, so as to make their meaning contingent on future negotiations. An exemplary case is the membership and the prerogatives of the Central Electoral Commission. Since 1990 the commission has been given the authority to make obligatory interpretations of the electoral legislation in unclear situations, which back then included the status of international observers, the legitimate procedures for counting the ballots and the provision of public access to the election results. Since 1991 the commission has been given the authority to decide the number of mandates allocated to each electoral district as well as to which district the votes from abroad should be added to. Another important prerogative of the commission was its authority to make the final decision in case of argument over the fairness of the elections or over their results. The latter prerogative seemed particularly important in the late 1990s, which in its turn made membership in the central commission a matter of complex negotiations. The conventional practice was that the commission was appointed by the President after consultations with the political parties. The President usually chose several members of the commission from the legal profession, although this was never stipulated by the law (in 1998 and 2001 the UDF used this opportunity in order to dominate the commission, because the right-wing president Stoyanov allocated individual quotas to the UDF and its coalition partner, the Popular Union, appointed jurists renown for their close relations with UDF, so in effect the governing coalition got 17 out of 25 members).

The ambiguous legislative arrangements produced similar effects in the district electoral commissions as well. For example, in 1999 local elections the district commissions had 7 members; each of the 4 parliamentary parties was supposed to get at least 1 member, but since the governing coalition had been registered as 2 individual parties, it got 3 members; then the governing coalition tried to negotiate the support of the oppositional Euroleft party, which

4 Ronald Dahl defined inclusiveness as the size of the demos, i.e. of the citizens having the right to vote. The term 'inclusiveness', which I have borrowed from Sarah Birch, is closer to what Dahl calls participation (the British guides for auditing elections for example define that sense of inclusiveness as the ability of the voters to choose between real alternatives and to influence the outcome of elections [O'Donnell 2004: 14]).

also got 1 seat. If successful, the representatives of the governing coalition were elected as chairman and/or the secretary of the commission. The meetings of the commission were only legitimate if two-thirds of its members were present, and the invitations to the members were sent by the secretary or the chairman. As it occasionally happened, 2 of the opposition members mistakenly did not receive the invitations and consequently missed the meeting of the commission; so the actual size of the commission was reduced to 5 members, which enabled the 3 members of the governing coalition to decide whatever they wanted in case of disagreement.

The tactical openness and ambiguity of the electoral legislation made the electoral system more exclusive because it excluded the public from important decisions capable of determining the rules and even the outcome of the elections if the results of the leading parties were relatively close.

B. DISTANCE

Let us call distance the span of the chain of political actors mediating between the constituents and their parliamentary representatives. The bigger the distance the less individual deputies depend on their constituents. In SMD systems for example the distance amounts to 0, because voters delegate their sovereignty directly to an individual deputy. In the Bulgarian case the voters delegate their sovereignty to a party, which acts as an intermediary delegating to individual deputies the sovereignty it has been entrusted with by the constituents. The bigger the distance, the less individual deputies depend on their constituents. Hence the Bulgarian electoral system is characterized by bigger distance than plurality or preferential systems.

From the perspective of the parliamentary debates on electoral legislation, distance was considered so important that at the 1990 round table a consensus had been reached pretty much without discussion. The political actors agreed that the members of parliament represent the nation rather than particular constituents, and almost unanimously supported the relevant constitutional text (Art. 67.1). Furthermore, the political actors also agreed that the recalling procedures provided for in the 1974 Election Law could compromise the political system by putting the deputies in unfair dependency from their constituents.⁵ As a consequence, between 1991 and 2001 deputies blamed as

5 The 1974 Election Law established the principle of direct responsibility of the representatives to their constituents guaranteed by a particular recalling procedure. If a Member of Parliament violated the ideas or the program he was elected to defend, if he neglected his obligations, or if he dishonored himself, then the district party or the public organizations, or else one-fifth of the constituents, could recall him, in which case the district held a new election between the recalled representative and an opponent. The recalling procedure however was of little practical value. Between 1973 and 1989 it had been used in no more than 4 cases, and only for recalling members of district councils, not Members of Parliament.

misrepresentation mostly election fraud and the so-called political nomads, i.e. deputies who left and therefore misrepresented their parties.

C. AFFIRMATIVENESS

Let us call affirmativeness the extent to which an electoral system allows the constituents to say 'no'. In general, democracy allows the voters to say 'no' only by saying 'yes', by casting voided ballots or by refraining from participation.

Imagine SMD elections between two candidates, A and B, in a constituency of 10 voters. The elections lead to 90% voter turnout, 6 votes for A, 2 votes for B, and 1 ballot is void. A SMD system would give 6 'yes' for the deputy, but it would not turn into 'yes' the 2 votes for B, as well as the voided ballot and the passive vote. So those 4 constituents will not be represented, and their votes will be 'wasted', as the Bulgarian deputies used to say back in the early 1990s.

Now imagine a proportional system election between the parties A and B producing the same result in the same constituency. Now the 2 votes for party B do not get wasted because they are counted as yes to a representative, assuming that the deputy B will manage to get into the parliament. What is more, the void ballot and the missing vote will turn into 'yes', because they will be redistributed in the allocation of the parliamentary mandates. The election results in a proportional system will be that A receives 75% and B receives 25% of the vote, notwithstanding the fact that only 60% and 20% of the constituents said 'yes' to them. In a sense, the purely proportional system reads voided ballots and non-voting as the sort of indiscriminate 'yes' we usually mean by saying 'whatever'. Therefore proportional systems are more affirmative because they make even those that refrained from voting say 'yes' to political representation.

Furthermore, closed-list proportional systems are more affirmative than preferential systems because the latter allow the voters to say 'no' to particular representatives of the party. Imagine for example that party A offers an open list of 2 candidates, A_1 and A_2 , out of 6 votes for the party 5 go to A_1 and only 1 to A_2 , and as a consequence A_2 does not get a mandate. In that case the vote A_2 has received does not become yes for A_1 , because the preference of that single voter is not represented, notwithstanding the fact that she or he still says 'yes' to party A. Furthermore, mixed systems allow voters to say 'no' to a party while at the same time saying 'yes' to a candidate of the same party

The Bulgarian electoral system has maximized affirmativeness because it makes the constituents supporting smaller parties unable to enter the parliament. Even the non-voters say 'yes' to political representation by reallocating

their votes between the parliamentary parties in proportion to the real votes they receive in the elections (I guess that reallocation would not take place if only some of the seats stayed empty).

Maximizing affirmativeness was such an important concern to the Bulgarian political actors in the 1990s that one of the few unanimous agreements at the 1990 round table was to abandon the requirement of the 1974 election law stipulating that a candidate was elected if and only if he got more than 50% of the vote of more than 50% of the voters (the 1990 SMD elections were held by a two-round system).

Taking into account the distinguishing features of the Bulgarian electoral system, in the late 1990s international experts believed that the Bulgarian political process would be framed as an argument between two major parties, which would alternate in power.

Since that framing of the political process had its promise for all the major political parties, it brought about a sort of silent consensus. In fact, the rationality of electoral legislation in the 1990s was dominated by the need to shield that consensus from the intrusion of the general public (see the discussion in section 3.3).

Notwithstanding the efforts to maximize stability by making the constituents speak the language of the political actors even if remaining silent (by making voters say ‘yes’ to representation even if saying ‘no’), the public managed to reframe the political argument, and radically at that, by resorting to three types of electoral behaviour:

- The tactical vote, intended to reshape the balance of power by supporting new parties, by shifting the support to a party deemed to be weaker, or by avoiding parties that seemingly did not stand a chance to enter the parliament;
- The protest vote, intended to reshape the political language by supporting parties that specialized in saying ‘no’ to things that the already established parties tended to treat as unquestionable, so as to produce constant and shifting disagreement undermining the efforts of the political actors to treat their definitions of the situation as unquestionably valid;
- Non-voting, which took massive proportions until this year’s elections, thus seriously undermining the legitimacy of the political actors and their claims to represent anything beyond themselves (the voter turnout fell from 90.6% in 1990 to 58.86% in 1997, to 55.76% in 2005, and to 28.6% in the 2007 European parliamentary elections).

These types of electoral behaviour reframed the political argument because they put an end to the 1990s political consensus by undermining the alteration of power, by producing disagreements unassimilable to the political sys-

tem, and by changing the value of the parliamentary mandate.

The average value of the parliamentary mandate was 15,200 votes in 2005, 17,730 in 1997, 21,675 in 1995, and 23,086 in 1991. The value of the BSP mandate varied from 13,770 in 2005 to 17,321 in 1991; the value of the UDF mandate varied from 14,061 in 2005 to 17,305 in 1991; and the value of the MRF mandate varied from 13,747 in 2005 to 17,423 in 1991. The 4% threshold in 2005 amounted to 145,927 votes as opposed to 221,633 in 1991.

The value reduction in its turn had some important consequences. First, it stimulated vote buying since it reduced the cost of buying the votes needed for a mandate. Vote buyers usually do not buy all of the votes for their candidates, as they need to buy only enough ballots to make a difference. Because of the shrinking vote turnout in 2008 local elections, for example, this often meant buying only several hundred votes. Second, the shrinking value of the parliamentary mandate has also given crucial importance to technological issues such as making electoral lists and ballot counting. Third, the importance of electoral technology and vote buying tends to produce arguments over the election results ending in administrative courts, which in its turn has the consequence of involving the administrative courts into the political process – in other words, it increasingly transforms the administrative courts into a political force.

The erosion of the 1990s consensus brought about a new and powerful motive in the parliamentary debates on electoral legislation, which shattered the pattern of legislative rationality described at the beginning of this section. Since the 2001 debates, the deputies tirelessly declared that the general public distrusted them. As a result, they proposed a number of policies intended to repair or alleviate distrust.

I believe that the motive of public distrust has gained currency because of a number of tactical advantages it offered the political actors:

- Public distrust gives the political actors the opportunity to exploit the advantages of populism without any risk to be censured as populist. In a recent study Ernesto Laclau defined populism as an empty signifier articulated by establishing chains of equivalence between heterogeneous local claims and by drawing a clear demarcation line between the people and their other [Laclau 2005: 162-3]. Now people do not vote, or vote inconsistently, or vote for emerging parties for a number of reasons, hoping to make a number of heterogeneous and often irreconcilable claims. By subsuming their behaviour under the concept of social discontent the political actors treat as equivalent the heterogeneous claims the constituents are trying to make, and so melt their claims down into an empty signifier whose only stable meaning is its ability to demarcate the line between the people and their other, the politicians. What is more, demar-

cating the line between the politicians and the people in this way allows the political actors to take the side of the people against themselves, and hence to be always on the side of the people whatever policies they pursue.

- Oddly enough, public distrust gives the political actors an opportunity to improve political representation. Because when parliamentary representatives declare that the public distrusts its parliamentary representation, they represent the misrepresentation of the public, and therefore speak for the misrepresented public. To put it on other words, public distrust allows the political actors to represent the public through its very misrepresentation, to take the side of the public by reproaching themselves for not taking the public's side. From the point of view of a political actor, representing the misrepresentation of the public is much more productive than representing the public itself, because it makes political representation almost invulnerable to critique. What is more, representing the misrepresentation frees the political actors from the constraints of any particular constituency and widens the scope of representation. Now anything can be said for the public without undermining political representation because even if the public claims it is being misrepresented, it would achieve nothing more than saying 'yes' to the political actors claiming to represent its misrepresentation.
- The empty signifier of public distrust allows the incorporation of the public claims against political representation in the political rationality. First of all, it allows the political actors to define the current political condition as an emergency situation brought about by the continuous inability of the political actors to represent the public, resulting in an ineffective government, which in its turn allows the political actors to justify any legislation aimed at more government, at the intensification and elaboration of the governmentality. Social distrust has indeed been able to rationalize quite peculiar legislative measures, such as the penalty imposed on voters revealing their votes have been bought, the transparent ballot boxes or the requirement that each party should pay for its ballots the price set by the government weeks before the election.

Let me sum up the effects of the particular rationality which crystallized around public distrust by saying that it enabled the political actors to turn into political capital the misrepresentativeness of Bulgarian democracy, and that this phenomenon is hardly specific to Bulgaria. On the contrary, it seems coextensive with the recent developments in the European Union and the United States, which Judith Butler aptly called the emergence of sovereign bureaucracy.

Winston Churchill once said that democracy is the worst form of government except for all the others that have been tried. Today, both in Bulgaria and around the world, political actors have invented a worse form of democracy

that works better for them than all the others that have been tried – misrepresentative democracy.

4. DEMOCRATIC CYNICISM

In order to provide a more detailed account of the rationality of legislative actions against political misrepresentation, following the procedure described in section 1.5, I have been able to develop 7 grounded theories of the ‘in order to’ and ‘because’ motives in the first readings of the Election of Members of Parliament, Municipal Councillors and Mayors Act in 1991, and the Election of Members of Parliament Act in 2001 and 2009. The account of the development of those theories was expanded further by an examination of the 1990 Round Table debates, the 1990 and 1995 debates on the Election of Members of Parliament, Municipal Councillors and Mayors Act, the 2005 debates on the Election of Members of Parliament Act, the 2007 debates on the Local Elections Act, as well as of the second readings in 1991, 2001 and 2009 (for further details see section 1.5.).

In the following section, I will outline the theories, offer a brief discussion of their development of the rationality of political representation in Bulgaria, and try to make some general observations on its current constellation.

4.1. THE POPULAR THEORY

Popular theory claims that some piece of legislation should be supported because this is what the people want. What the people want is usually demonstrated by social surveys.

The MPs have resorted to arguments from popular sovereignty ever since 1990, although this type of rationality has been relatively marginal. Since 2001, however, the speakers often reshaped it as an argument that some piece of legislation is what the people need. After 2005 this reversal of the arguments from will into arguments from need has been disseminated by shifting the focus from the people to minorities, such as the disadvantaged, illiterate or hospitalized constituents, or the young generation that is supposedly well-adapted to digital technologies, or the Muslim population in areas considered to be strongholds of the MRF.

4.2. THE GUILT THEORY

This set of political motives claims that political representation consists in

democracy, and that socialism is essentially undemocratic and misrepresentative. Thus in order to avoid misrepresentation one should purge the electoral system of its socialist remnants and guarantee the political representation of the victims of the socialist regime.

Since the socialist electoral system was single-member district system, in the early 1990s right-wing speakers used these kinds of arguments in order to justify the strictly proportional system adopted in 1991, which they deemed able to compensate for the advantage of the socialist party. In fact, the enthusiasm about overcoming the remnants of socialism was so inspiring that even the direct election of mayors was proclaimed to be undemocratic because of its association with socialism. That type of rationality was also used in the early 1990s in order to justify the enfranchisement of the Bulgarian emigrants, allegedly forced to leave the country by the oppression of the socialist regime, and to insist on disclosing the identity of the agents of the former State security.

In the late 1990s the arguments from communism were marginalized by another type of guilt rationality based on claims the government pushed through the parliament unfair legislation in order to keep the opposition down and to legalize its corrupt and oppressive rule. The obvious advantage of this argument was its applicability to arrangements or actors which one could hardly associate with socialism.

4.3. THE PRAGMATIC THEORY

Pragmatic rationality consists in a set of motives capable of cancelling other theories. It incorporates arguments that one should not do something because of its excessive cost, its practical unfeasibility, or its inadequacy within Bulgarian conditions supposedly marked by backwardness. The pragmatic rationality also enables one to cancel arguments on account of their irrationality, as for example when one claims that the opponent speaks from passion or from ideology, and moreover to cancel arguments on account of their timing, as when one claims that some piece of electoral legislation is unfeasible because there is not enough time till the next elections.

In the early 1990s the left-wing MPs used this type of rationality in order to check arguments from guilt, particularly in the debate on the enfranchisement of Bulgarian emigrants, and later to protect the status quo from the subversive ideas of the opposition.

4.4. THE LEGISLATIVE THEORY

From the perspective of the legislative theory, political misrepresentation consists in contesting election results. In order to avoid contestations, elections should be governed by rules. In order to have workable rules, one needs legislation that is as detailed as possible.

In the early 1990s both left- and right-wing MPs used that rationality in order to ask for legal regulations on the legislative intention, on the colour of ballots, on political caricatures, and on the verbal assaults between political opponents. The trust in the power of legislation was so unquestioning that the electoral law was criticized for not having the ambition to shape the fermentation of the social relations in the next decade.

4.5. THE GOVERNMENTAL THEORY

The governmental theory claims that party representation is the most efficient form of political representation, firstly because it makes the political system immune to the irrational behaviour of the electorate and therefore brings forth stability, which is essential to any sustainable economic or societal development; and secondly because it improves political responsibility by making the experts in decision making, namely the professional politicians, responsible for the government.

If parties are the most efficient form of political representation, then in order to advance political representation one should improve their representativeness by enabling the party leadership to choose its deputies and to control and evaluate their performance. Furthermore, in order to make all votes count, one should eliminate the unrepresentative parties that are unable to enter the parliament yet collect some portion of the vote.

In the 1990s that type of rationality was used in order to defend the proportional system against the claims that it produced mediocre and faceless deputies submissive to their party leaders, and that it alienated the constituents from their representatives. In 2001 the governmental rationality was used by the right-wing government in order to justify several legislative arrangements intended to consolidate the vote by stipulating that in order to prove their representativeness non-parliamentary parties should produce a list of 10,000 supporters and pay the cost of their ballots. Paying the ballots was deemed particularly important because it was expected to prove that the party enjoyed active support by constituents willing to sacrifice not only their names but also some money.

4.6. THE CRISIS THEORY

This type of rationality consists in arguments that the political system is in crisis because the public distrusts or even despises the parties, as well as because of the low voter turnout, populism, corruption or the weakness of the authorities.

In order to redefine the Bulgarian situation as a crisis, the speakers referred to social surveys, to the decreased voter turnout and to the general attitude that 'everybody knows'. The disgust towards the political parties was usually explained by the excessive control imposed on the deputies by their party leadership, which made them personally unrepresentative, indeed unrepresentative as persons, and invited the constituents to treat as their representatives the party leaders rather than the parties.

The crisis rationality emerged in 2001. The speakers used it in order to justify the modification of the proportional system by means of introducing some kind of some portion of plurality mandates or low-threshold preference.

4.7. THE MISREPRESENTATION THEORY

This type of rationality involves claims that political actors are engaged in practices of political misrepresentation. Misrepresentation is commonly defined in moral terms as disguising party interest as public interest, hiding one's real motives, seducing the public by populist statements or simply lying. In the 1990s, particularly at the turn of the century, moral misrepresentation often merged with party misrepresentation identified as MPs leaving or disobeying the parties they got their mandates from.

Another cluster of motives centred on political misrepresentation emerged in 2001 and came to dominate the 2007 and 2009 debates on electoral legislation. That cluster identified misrepresentation with political corruption – first with double voting, later with vote buying, and more recently with the so-called controlled vote. The rationality of the parliamentary accounts of vote buying that flooded the 2007 and 2009 debates consisted in the argument that because of political corruption the parliament needs to agree on some piece of legislation.

Arguments against moral or party misrepresentation were used to undermine the claims of the opponents and therefore were in a sense negative. The arguments from political corruption however gained particular momentum in the recent years because of their positive nature, i.e. because of their ability to justify the most divergent legislative actions. Indeed, in 2009 debates the speakers used arguments against corruption in order to back their proposals for or against compulsory voting, digital vote, preference, plurality mandates, open electoral desks and even for the abolishment of the secret vote in favour of some kind of publicly declared and recorded political allegiance.

4.8. THE DEVELOPMENT

More or less, the theories described above enjoyed currency over the entire period. Yet their relative weight changed and a closer examination of its alteration would detect several shifts in the rationality of the Bulgarian electoral legislation:

- The legislative theory has been increasingly marginalized since 1991;
- The arguments from the will of the people have been displaced by arguments from the need of specific minorities after 2001;
- The guilt theory shifted its emphasis from accusing the opponents of communism to accusing the opponents from the governing parties of incompetence, corruption, oppression, unfairness, insanity, or to accusing the opponents from the opposition that they had done the same when they were in government;
- The governmental theory dominated the debates between 1995 and 2001, but after 2001 the arguments for the need for stable party representation were displaced by claims that the Bulgarian political system was in crisis, calling for emergency legislation;
- Since 2007 the governmental and legislative theories were superseded by a particular blend of arguments from guilt, crisis and misrepresentation claiming that the Bulgarian political system was in crisis because of the political misrepresentation brought about by the corruption of the parties;
- The success of the arguments from political corruption increased the importance of the pragmatic theory because the arguments from timing, cost or applicability turned out more effective in undermining claims against corruption than the governmental, legislative or popular theories.

One can summarize those shifts by saying that the point of electoral legislation shifted from establishing the rules of the game in the early 1990s to shielding the political parties against the electorate until the turn of the century, and then to fighting the political crisis by legislation intended to enable the political actors to protect the electorate from the political corruption.

4.9. CONCLUSIONS

Social scientists often describe the post-socialist political system as a delegative democracy, i.e. as formal democracy distinguished from normal democracies by the fact that the political actors do not represent the public and instead serve their own private interest, which in turn produces high levels of public distrust (see section 2.1. for further discussion).

From a delegative democracy perspective the crisis, guilt and misrepresenta-

tion theories described above would seem the naked truth. The popular, legislative or governmental theories on the other hand would seem to be nothing but a disguise trying to hide the naked truth under the garments of formal democracy. Furthermore, delegative democracy implies that disguising the undemocratic truth as a formal democracy is essential to the political system, because otherwise it would lose its legitimacy and the people would start to resist it.

From this perspective the shift of the Bulgarian legislative rationality from the empowerment of political parties to the relentless disclosure of political corruption by the political actors themselves is understandable only as a form of confession. Since confession is an effective procedure for proving the truth about one's culpability [Foucault 1978: 60], this would mean construing the political declarations of political corruption as a proof for the delegative nature of Bulgarian democracy.

But if one conceives the political declarations of corruption as confessions, then how can one explain their emergence, and what is more, their dominance in the present-day Bulgarian political language: as sudden and contagious pangs of conscience which infectiously spread through the Bulgarian political elite; as a cunning and malicious attempt of the political actors to push down others in order to balance on the brink?

In my view, the political declarations of political corruption are better explained by the efforts of the political actors to improve their representativeness. In order to understand these efforts, however, we need to take into account the situation in which Bulgarian political actors have found themselves since 2001.

After 1991 the Bulgarian electoral system has been shaped as a primitive language, in the sense of Wittgenstein, whose vocabulary consists in the names of the parties. The constituents speak the language by saying yes to a party, and they are saying 'yes' by putting its name into the ballot box.

The obvious advantage of this electoral language is that it offers a very powerful mechanism of legitimation. Let us define legitimacy of a government as recognition, as political scientists often do. Then we can simplify a bit further and define legitimate government as one that the public says 'yes' to. Now, developing such a primitive language is a powerful mechanism of legitimation, as it disables the public from saying 'no' to the party system, because even if one despises the government, one can say 'no' to it only by saying 'yes' to an opposition party and therefore to the party system.

Relying on the legitimating power of the Bulgarian electoral language, the national and international experts in the late 1990s believed that the Bulgarian political process would be dominated by two big left- and right-wing parties, which would alternate power and possibly form coalition governments with

smaller parties.

Things have turned out differently though, and not because of the political actors' efforts at reforming the political system. I believe that what made the difference was the invention of an electoral counter-language of sorts. The art of speaking that counter-language consists in poaching the electoral language in the sense of Certeau [31-40].

The counter-language poaches on the electoral language in the sense that it uses the same vocabulary of party names, but in a divergent and, to an extent, disconcerting manner.

Imagine for example that a party seems excluded from the political system because it specializes in saying 'no' to the other parties, which in turn unanimously censures its existence. Then, voting for that party would mean saying 'yes' to someone saying 'no', so it would effectively mean saying 'no'. Similar effects can be produced by saying 'yes' to parties excluded from the political system because they are newly established or because they are identified with their leaders to the extent they seem to be identifiable more so as persons rather than by their parties. The electoral language can also be destabilized by disrupting its repeatability (one of the constitutive features of any language), as for example when significant portions of the electorate shift their votes from one party to another in an unpredictable manner, or when voter turnout changes its proportion dramatically and unexpectedly. Of course, the electoral language can be destabilized moreover by not speaking it, by falling into silence. If practiced by significant portions of the electorate this would dramatically increase the value of the constituents who still have not given up speaking it, and particularly the value of the marginal constituents whose swing voters could decide the winner.

The eruption of the electoral counter-language after 2001 produced a situation of disagreement, in the sense of Ranciere [2005: x-xi]. Let me remind you that Ranciere has differentiated disagreement from the common arguments in which one side is saying 'white' and the other 'black', and defined it as situation in which both sides are saying 'white' yet one side gives to 'white' a divergent meaning that the other side fails to grasp, believing that both sides are saying the same and are therefore in agreement. Disagreement becomes explicit when one makes a claim which the other treats as an outcry of suffering, disappointment, discontent, or inarticulate roar, failing to recognize him as a speaking subject, as for example when the Roman patricians failed to recognize as speaking subjects the plebs until their secession to the Aventine hill. Finally, disagreement becomes successful if it reshapes the political language by incorporating into it new political subjects or objects.

The electoral counter-language produces disagreement because it does not

have words of its own and, though speaking differently, is unable to define its difference in a way understandable for a proponent of the electoral language. Furthermore, political actors have recognized the emergence of electoral counter-language as an outcry of distrust, in which the speaking subject is unidentifiable with any recognized social group; it is often closer to silence than to speech, as for example when the constituents refrain from voting or suddenly decide to pick mushrooms on Election Day.⁶

The disagreement produced by the invention of the electoral counter-language is not powerful enough to prevent the political actors from neglecting it. As one can probably recall, at the turn of the century they actually chose to do that. Yet the political actors also had the option to recognize and appropriate it.

I believe that the shift from governmental rationality to the peculiar blend of crisis, guilt and misrepresentation arguments after 2001 is explainable by the fact that Bulgarian political actors gradually came to realize that appropriating the electoral disagreement was more effective than neglecting it.

A closer examination of the relevant grounded theories shows that the political actors managed to appropriate disagreement by generalizing it into social distrust and then by representing that distrust.

Imagine that you dislike the current political parties because of their environmental policies; because of your environmental perspective these parties make no difference, and so you are too indifferent to vote. Then a political actor can generalize your behaviour by claiming that the low voter turnout means disappointment from politics. Even if this is so, it would generalize your silence because it would lump it together with the silence of the constituents who did not vote because they resented the social, economic, healthcare policies of the parties, or because they dislike the current political language, or just because they did not care. And the same holds if you vote for a party excluded from the political system, or change your allegiance.

Being generalized in that way, your response to the political situation comes to be melted down with an array of responses making such divergent points that it turns into an inarticulate 'no' to the political system, thereby unable to make any particular point. This enables the political actors to represent this generalized disagreement by voicing it, by saying 'no' to the political system themselves, as for example when a politician claims that people hate politicians.

Appropriating disagreement is more effective than neglecting it, because it

6 I am referring to the explanation a prominent right-wing leader gave to his party's disastrous defeat in 2001 elections after 4 years in government (he said that he had lost the elections because the weather was nice and his electorate, being absolutely assured in his victory, decided to go out of the cities, for example to pick up mushrooms).

enables the political actors to take a peculiar position both inside and outside the political system. For example, when a politician says that the political system is corrupt, s/he negates the system s/he belongs to, sets himself/herself apart from it and so is both inside and outside the political system.

Since the political actors are not forced into this indecisive political position but rather fight for it, it can be defined as a 'willed state of exception' in the sense of Agamben [2005: 3]. The 'willed state of exception' should be distinguished from what jurists usually call the 'state of exception' because it does not suspend the normal legislation but rather supplements it, because it does not cover territories but rather minority populations such as emigrants, and because it is justified by a need unforeseen by the law. Positioning oneself both in and out of the political system is interpretable as a 'willed state of exception' because it enables the political actors to ask for supplementing the electoral legislation in order to respond to the need to fight the corruption of a relatively small but powerful minority – the political elite itself.

The political appropriation of disagreement has the additional advantage of repairing the representativeness of the political actors because it gives them the opportunity to voice the generalized 'no' of the disagreeing multitude and therefore to speak on its behalf. In a sense, appropriating disagreement allows the politicians to take the side of the governed population against themselves while at the same time staying in government.

The distinguishing features of the political rationality which came to dominate the debates on the electoral legislation in the recent years can be subsumed under the concept of normalized cynicism, which Peter Sloterdijk identified with the formula, 'I know that what I am going to do is bad for you and I feel sympathy for you, but it needs to be done and even if I do not, others would do it' [Sloterdijk 1988: 3-5].

The power of cynic rationality can be illustrated by the 2005 decision to introduce a deposit payable by the political actors in order to compete in elections, and the significant increase in its amount in 2009. Back in 2001 the right-wing government passed similar legislation, which was later annulled by the Constitutional court on account of being effectively a property qualification. Of course, the 2001 arrangement was different because it required the parties to pay for their ballots on a price set by the government two weeks before the elections. Yet in 2001 some pessimists expected the price of the ballots to amount to 60,000 BGN, which is incidentally almost the amount of the deposit for the coming elections (50,000 BGN). So, as it seems, what made the difference was the rationality of the arrangements: while in 2001 the government claimed that the arrangement would improve political stability by making the emergence of new parties harder, the 2005 legislation was justified as an emergency measure needed in order to fight political corruption.

Let me conclude by stating that, in the long run, cynical representation is more detrimental to the Bulgarian political system than vote buying because it makes any political claim made by actors unconnected to the political elite indistinguishable from the general and pointless 'no' that the political actors say in the name of the people. To put it another way, I believe that cynical representation is dangerous because of its unmatched effectiveness in silencing the public. How then can we fight it?

The legislative measures like the criminalization of vote buying are hardly the solution in view of their inflexibility. They are ill suited, for example, to address a problem far graver than vote buying, which I will describe with the words of a speaker in this year's debates:

Unfortunately, in many places, instead of giving 50 BGN to a voter in an electoral section with 1000 constituents – this amounts to 50,000 BGN for an electoral section – it is much cheaper from a mathematical point of view if you buy 7 members of the electoral commission for 500 BGN each, as the whole deal comes to 3500 BGN, and you can naturally get from 100 to 300 votes for your party (Svetoslav Spasov, 24 March 2009).

What is more, the legislative measures are hardly able to keep up with the constantly emerging electoral inventions, such as the brilliant idea born in the 2009 European parliament elections to pay the constituents not to vote, thus serving the interest of particular parties in low voter turnout without violating the law.

In fact the current legislative measures against the controlled or paid vote enforce cynical representation because their inefficiency corroborates the claims it is based on – that the political system is corrupt and the political parties should adopt emergency legislation in order to fight its corruption. I believe that if we recognize political cynicism as an important concern then we need to combine such measures with legislation enabling the public to make effective political claims unmediated by professional politicians.

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