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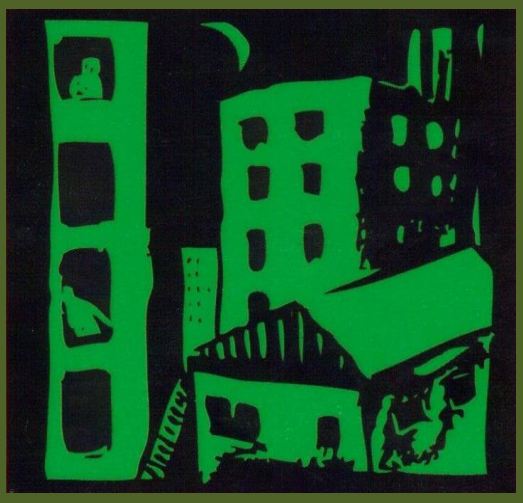

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A fourth transformation of democracy?

Liquid democracy, supra-national democracy and the fate of participation

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ABSTRACT

Liquid democracy is defined as a cyber democracy that combines representative democracy and spontaneous direct democracy by using technologies of the web 2.0. In recent years, some political theorists and actors have been optimistic that liquid democracy could make a more participatory and direct democracy possible to fulfil the democratic promise of freedom and equality of the people. One could even ask if a supra-national system could become a democratic option by using digital technologies for discussions and deciding. After the historical transformations of democracy,

from the Greek city state via the nation-state to a global or supra-national unit, and the second and third ones came or come with a loss of participation, there could be, according to net-optimists, a fourth and more participatory transformation of democracy. This article doubts the emancipatory and participatory potential of liquid democracy (especially for a supra-national system), and I choose the classical theoretical perspective of democracy´s ancient core elements of free and equal participation. By analysing the arguments of net-optimists the problems for participation in a political sphere are shown. The point the paper wants to make is that under the circumstances of a (digital) oligopoly-capitalism, fragmentation, and digital divide, or in short, the omnipresent influence of big social inequalities, a cyber-democracy is an unlikely ideal.

Keywords: Civic participation, ICT, Global democracy, Liquid democracy, Republicanism transformation

1 INTRODUCTION

According to Robert Dahl there have been two transformations of democracy.[1] The first established democracy in the ancient Greek city state (*polis*). There democracy was defined literally as the rule of the people, for instance by Aristotle.[2] Democracy was understood as the equal right of participation by free citizens in person, and the identity of rulers and subjects. The second transformation established representative democracy in nation-states. This happened by the end of the 18th and the beginning of the 19th century, based on political representation and free and equal elections. Dahl´s argument is that this is a history of a decrease in participatory politics, defined by the increasing size of the political unit. There is, however, a third transformation going on. This is democracy in a supra-national (or maybe, later globalised) system, as it appears in the European Union.[3] In an expanding territory and population in a supranational unit, the chances to make representatives accountable decrease.

However, this wave could be linked to participation via the Internet and information communication technologies (ICTs) in new ways, as many theorists (the net-optimists) , like Howard Rheingold or Esther Dyson[4], have hoped since the 1990s. "Previous technological breakthroughs have commonly generated exaggerated hopes that machines can transform society and democracy."[5] For example, Rheingold believes "that this technology, if properly understood and defended by enough citizens, does have democratizing potential in the way that alphabets and printing press had

[1] Dahl R *Democracy and its critics* New Haven: Yale University Press (1989) at 13-36.

[2] Aristotle (translated by Jowett B) *Politics* New York: Dover Publications (2000) at 40-b 16.

[3] See Dahl (1989) at 311-321.

[4] See generally Rheingold H *The virtual community: Homesteading on the electronic frontier* Boston: Addison-Wesley (1993) and Dyson E *Release 2.1: A design for living in the digital age* Danvers: Crown Business (1998).

[5] Norris P *Digital divide: Civic engagement, information poverty, and the internet worldwide* Cambridge: Cambridge University Press (2001) at 232.

democratizing effects"[6]. But he accepts that ICTs do not always generate a rational or benevolent outcome; at least the Internet would offer the potential for a participatory turn.[7]

However, such recent ICTs never made it into Dahl´s thought. So the question arises: could a *fourth transformation of democracy*, in its digital guise, bring participatory and direct democracy back into the representative practices so common to modern democracies? Such digital guise would be the concept of *liquid democracy* (also known as delegative voting), which means a fluid and flexible digital combination of representative and direct, spontaneous democracy in digital forums.[8] It is defended by contemporary net-optimists, such as, Anna Litvinenko , Jennifer Paech and Daniel Reichert.[9]

In this article, I examine the dialectics of liquid democracy in a supra-national democracy (meaning, the democracy after its third transformation) specifically: could liquid democracy as a form of direct democracy stop the decay of participation? ; could it cause a turn towards a broader political participation on a supranational level? My theoretical answer is orientated toward classical Greek ideas and original values of democracy, concerning the question of how to increase participation for the citizens.[10] This model shares some assumptions with Hannah Arendt´s,[11] or Aristotle´s account that a *polis* means the freedom to decide, especially to act and speak, about those issues that concern the community as a whole; and that one is free if s/he can participate in this public realm.

By using this model, I argue against the optimistic approach that there can be a certain form of digital democracy that increases participation in a political sphere, at least not under our current social circumstances. My argument is that analogous social problems make a participatory and egalitarian digital democracy, such as liquid democracy, hardly possible on a national scale and impossible on a supra-national level. Such social problems are, for instance, social fragmentation, neo-liberal economy and commercialisation of politics and society, and extreme social inequalities, combined with an unequal access to the digital sphere and very different socio-cultural traditions. All of them run against the egalitarian republican ethos of classical citizenship.

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[6] Rheingold (1993) at 279.

[7] Rheingold H *Smart mobs: The next social revolution* New York: Basic Books (2002) at 163f.

[8] See generally Winkel O "Demokratie und digitalisierung" (2012) 8(2) d*er moderne staat* at 409-434. This concept was developed by the European Pirate Parties and cooperating NGOs, including the German organisation Liquid Democracy e V .

[9] Litvinenko A "Social media and perspectives of liquid democracy: The example of political communication in the Pirate Party in Germany" in Gascó M (ed) *ECEG2012-Proceedings of the 12th European Conference on e-Government* v*ol 1* Berks: Academic Bookshop (2012) at 403-407. See also Paech J & Reichert D "Potenziale nutzen mit Liquid Democracy" in Friedrichsen M & Kohn RA (eds) *Digitale Politikvermittlung. Chancen und Risiken interaktiver Medien* (2014) at 499-515 & 506-511.

[10] Of course I do neither want to argue pro-slavery nor the exclusion of women, but for the conceptual core of democracy, as the equality and freedom of citizens nowadays.

[11] Arendt H *The human condition* Chicago/ London: University of Chicago Press (1958) at 28-37.

Therefore, I examine the dialectics of digital democracy, especially liquid democracy. Before this can be done, some short explanations are necessary, about the connection between the three transformations of democracy, and how a neo-classical democracy theory can be linked to that (part 2). Then, I summarize the assumptions and arguments of the net-optimists for a democratic renewal in the digital sphere (part 3.1). Afterwards, I elaborate five arguments against the digital turn (part 3.2), because democracy needs a basic republican consensus of the citizens and equal participation in a common sphere, oriented toward a common good, defined by the political community, the *demos*. This is not the case in the digital sphere, for reasons I indicate. A conclusion (part 4) brings my arguments into context with Dahl´s third transformation.

2 A CLASSICAL PERSPECTIVE ON THE TRANSFORMATION OF DEMOCRACY

According to the first model of democracy in ancient Greece, citizens were free in a negative way (freedom from oppression and economic, as well as private, forces) and in a positive way (freedom of the right to speak, act and decide freely). The *demos* of these face-to-face societies assembled in the *ekklesia* and decided about the issues concerning the *polis* as a whole, as opposed to one´s private needs, forces and interests (*oikos*).[12] So, *demokratia* means the free and equal participation of the citizens. The people´s assembly has legislative competences and should control the magistrates of the *polis*. Officeholders mostly were recruited by lot, because then the chances were really equal to become a magistrate.[13] These political offices are not just controlled by the *ekklesia*, but by political principles, such as, annuity, collegiality and the prohibition of iterations.

In this classical model, political power belongs to the collective of the multitude, who should decide together on issues that concern the State as a whole, and individuals should just get as much power as necessary.[14] According to Aristotle, a good political system is not driven by egoistic preferences, but the pursuit of the public or common good. If one combines Aristotle´s approach with classical democracies, a democracy is the direct participation of the people, in order to reach a common good for the people.[15] Stated shortly: if one can overcome the deterministic private sphere of inequality and hierarchy, which means, if one can fulfil his/her basic (mostly materialistic) needs , then one can become free to participate in a political community in order to decide for the *polis* as a community.

After the second transformation, representative democracy is less democratic or participatory , or even aristocratic, because elections are about recruiting elites, instead of free and equal participation in legislation. In classical democracies citizens decided on their own about political issues and controlled the administration of their respective polities; but in modern democracies there is hardly a direct political participation of this

[12] Aristotle (2000) at 17-b 41.

[13] Aristotle (2000) at b7-10.

[14] Jones AHM *Athenian democracy* Oxford: Oxford University Press (1957) at 108-118.

[15] Nagle B *The household as the foundation of Aristotle´s polis* (2006) at 19-32 & 54f .

kind.[16] Instead, there are elections to recruit political elites. Voting for the best person (instead of letting everyone decide) is, according to classical politics, an aristocratic way of recruiting politicians. While citizens could assemble in a city-state, this is not possible in an (extended) nation-state, because of the geographical and demographic sizes of the political unit. Thus, to classical democracy, the election of politicians who are free to decide what they may think is the best, is an elitist tool. The model of representative democracy is to let the representatives decide instead of, and for, the people. The direct power of the citizens is reduced to elections, to vote for actors who will do the job of a classical citizen: deliberating and law-making. With the second transformation, scholars, like Gordon Wood, state it to be the end of classical politics, because this shift was modern and liberal: it generated a representative democracy without large citizen participation or a concept of a common good, but a balance of power.[17]

The third transformation seems to enlarge the problem of the lack of political equality and participation as the two main core principles of democracy. In a supra-national system, or even a global state, as theorists like David Held suggest, it is not possible to have as many delegates as in a nation-state, because as the population grows, the number of representatives does not increase proportionally.[18] That is why the third transformation could be the one that harms the original promises of democracy the most.[19]

What Dahl explains seems to be a rule: *the bigger the size of territory and population, the lesser the possibilities of people´s participation, and the more independent the delegates become from the influence of the citizens*.[20] In a bigger unit, representation becomes more dominant (in relation to direct democracy), and if the political united grows even more, there are less representatives for more citizens; ergo, there is less representation of regions or certain social groups.[21]

The approach of a neo-classical model of democracy is a democracy with the free and equal participation of the *demos*, and, because representation is necessary in a larger political unit, a greater accountability of political representatives. The purpose is that the citizenry can choose on their own what they think is the best for the political collective by discussing and deciding together if there is a common attitude and a defined common good.

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[16] Dahl (1989) at 13-39.

[17] Wood GS *The creation of the American republic 1776-1787* (1969) at 606-615.

[18] See generally Held D *Democracy and the global order: From the modern state to cosmopolitan democracy* Stanford: Stanford University Press (1995).

[19] Dahl (1989) at 311-321. See also Jörke D *Die Größe der Demokratie: Über die räumliche Dimension von Herrschaft und Partizipation* Berlin: Suhrkamp (2019) at 132-177.

[20] One can even state that the positive freedom of the participation of equal citizens vanished gradually with the rise of liberalism and liberal democracy (Arendt (1971) at 38-78).

[21] Jörke (2019) at 41-79.

Indeed, there are many other theoretical concepts that could be used with regard to digital democracy in general or even liquid democracy .[22] Unfortunately, this article cannot go deeply into the theoretical discussions on different democracy concepts. However, some words on the neo-classical model may be necessary. There seem to be two main points for choosing such an approach for my analysis. *First*, ancient democracy was the original and first democracy. There, a neutral core of the concept got defined (as the free, equal and direct participation of the people in the public realm). This core idea got lost in many parts or fundamentally reduced during the second (and third) transformation. With regard to a digital direct democracy, the classical model with a high participatory approach could be useful for conceptual orientation. *Secondly*, if one focuses not just on rational discourses, but especially on the fate of free and equal participation, then a neo-classical perspective makes more sense, because it connotes the idea of an original democratic participation as the most direct and literal form: the rule of the people in a *polis*. It means, that the people rule as free and equals over their political system, driven by the common good of their political unit, because in the first place they are not motivated by private economic forces anymore.[23] This does not mean that other democratic theories would not be legitimate as well. It just means that the neo-classical perspective can offer a valid analysis of digital democracy, a perspective that is as yet hardly used for this topic.

3 DIALECTICS OF LIQUID DEMOCRACY

Global governance suggests a decrease of direct democracy and making MPs accountable. In the web 2.0, ICT offers the dislocation of acting, because the Internet is a global and open medium, and has multimodal possibilities of interaction.[24] The idea of the public sphere as an arena where political decisions are made, and collective political identities are shaped, is a crucial point for a (neo-)classical democratic approach[25]. There are different suggestions for ways to improve political communication in the digital sphere. Some definitions may be necessary. For instance, the ideas of digital political communication and control refer to the term *digital democracy*. That means, in general, every form of democratic interaction in the digital sphere. One more specific

[22] For instance, the concept of deliberative democracy is usually used in the debates on digital democracy. Habermas´s (Habermas J *Faktizität und Geltung. Beiträge zur Diskurstheorie des Rechts und des demokratischen Rechtsstaats* Frankfurt a M : Suhrkamp (1992)) theory of deliberation is very important in the debate on digital democracy, because optimists hope that the Internet can deliver certain new self-organised arenas for a public discourse to construct rational decisions; of course, my argument for choosing a (neo-)classical model has to be very short, and more points should be made.

[23] This perspective shares some similarities with other participatory republican theories, such as the one of Jean-Jacques Rousseau, like the critique of free mandatory representation, the idea of a common good that can be found by a people´s assembly etc.

[24] Petzold C, Katzenbach C & Fraas C "Digitale Plattformen und Öffentlichkeiten medialisierter politischer Kommunikation" (2014) 22/23 *Aus Politik und Zeitgeschichte* 28 at 30f .

[25] Gimmler A "Deliberative democracy, the public sphere and the internet" (2001) 4 *Philosophy & Social Criticism* 21 at 22.

participatory concept of such a digital democracy is *cyber-democracy*. It claims the self-government of the people by interacting in a virtual community. Further, the most participatory and very specific approach of a cyber-democracy is that of *liquid democracy*. Liquid democracy is defined as the possibility of everyone to participate in decision processes or to delegate his/her voice. This should make the distinction between representative and direct democracy fluid, by using ICT for spontaneous decisions, votes and debates for a collective intelligence.

Thus, this concept intends a democratic transformation, as Dahl demands it in order to stop the decay of participation: "people governing themselves as political equals, and possessing all the resources and institutions necessary to do so"[26]. It offers a link between web 2.0 and democracy 3.0 towards a fourth, digital transformation of democracy.[27] However, it is unclear if the digital sphere will become a genuinely political and democratic realm. That means more than information and communication. What is at stake is whether it can empower the *demos* to rule the *polis*.

"The Internet may broaden involvement in public life by eroding some of the barriers to political participation and civic engagement."[28] That is why net-optimists think that a digital democracy is possible because the technical instruments could create an autonomous sphere.[29] Because of new public forms, there is the hope that this will be the basis of a broad, free and equal participation of the people. Forms of direct democracy could become easier.

3.1 Arguments for liquid democracy

In the 1990s, it was believed that the Internet could be an addition to representative democracy and broaden political participation. The Internet could provide an empowerment of the people via e-voting, e-petitions and e-referenda. According to the optimists, there are several conditions that explain why the Internet has a democratic potential First, the number of its users has greatly increased in recent years. On a global scale this makes broad inclusion and political communication thinkable. Furthermore, the amount of political information on the Internet increased as well. So the optimists think that this could create a virtual deliberation, an enrichment of the political discourse. Let me summarize the main arguments for a participatory cyber-democracy.

First, access to the Internet would be easy to get, independent in time and space. The potential of interactions is global. ICTs make communication and participation easier. *Secondly*, information presented on the Internet could be independent of political

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[26] Dahl (1989) at 341.

[27] Kneuer M "Demokratischer durch das Internet? Potenzial und Grenzen des Internets für die Stärkung der Demokratie" in Schieren S (ed) *Demokratischer durch das Internet? Grundlagen, Trends und Herausforderungen* Schwalbach: Wochenschau (2012) at 36-44. See also Roleff D "Digitale Politik und Partizipation: Möglichkeiten und Grenzen" (2012) 7 *Aus Politik und Zeitgeschichte* 14 at 16-20.

[28] Norris (2001) at 97.

[29] Buchstein H "Bytes that bite: The internet and deliberative democracy" (1997) 4(2) *Constellations* 248 at 248f. See also Winner L *The whale and the reactor: A search for limits in an age of high technology* Chicago: University of Chicago Press (1986) at 54.

influence, and the missing professional control of the quality of the information could be compensated for by a check of the representatives by the *demos* in the system of checks and balances. *Thirdly*, the Internet seems to be transparent. *Fourthly*, access would be cheap or costless. *Fifthly*, it could shape a counter-public, emancipatory area. *Sixthly*, different interest groups could get connected in order to shape a new networked public sphere, achieved by self-regulation without the influence of a higher authority, just because of an increasing number of users. S*eventhly*, that is why a deregulated Internet would have the chance to become less immune from authorities or authoritarianism.[30]

The most radical approach of cyber-democracy , according to its own claim, that is near to classical democratic participation is liquid democracy. According to its proponents, liquid democracy would offer a more flexible form of making political decisions.[31] By using a liquid feedback, citizens or party members could discuss and decide politically on the web anytime. Programmatic applications could be presented there ad hoc. Furthermore, unlike a common representative system with regular elections, the citizen can at any time elect a delegate or take his/her vote away. This could be done by software, such as, Liquid Feedback or Adhocracy. In the first case, for instance, one starts an initiative to get support. Suggestions by others can be made on how the initiative or idea can be improved. Then the initiative or petition or application can be modified, based on the feedback[32].

Thus, citizens could locate themselves somewhere between representation and participation spontaneously. The delegates would no longer be representatives with independent mandates , because according to this new concept participants can vote for single policies as well. This would be done by voting for only one part of a political program of a candidate, and by making this person the delegate just for this specific topic; and maybe the majority make another candidate or party the delegate for another one. Citizens would not just vote online for a party but for different opinions and positions. More or less, the mandate would be imperative: if the delegate does not fulfil the program for which s/he was elected , citizens could take their vote away. This means a mixture of political programs and principles. If this would work, citizens could decide about political topics and could make the MPs accountable anytime. Politicians would rather present political decisions of the voters to the parliament and to society,

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[30] Buchstein (1997) at 250f. See also Winkel (2012) at 412-416. See further Dyson (1998). This digital participation could be done via different platforms: for instance, social media like Facebook and Twitter (one could even think of Instagram), interactive broadcast services such as YouTube, or online forums. Even the term *forum* implies an ancient approach and democratic promise of participation, as a place to assemble in person, to discuss and to decide, like the republican Forum Romanum or the Agora in democratic Athens (Buchstein (1997) at 257f. See also Perlot F *Deliberative Demokratie und Internetforen – Nur eine virtuelle Diskussion?* Baden-Baden: Nomos (2008) at 125-127.

[31] Adler A *Liquid Democracy in Deutschland. Zur Zukunft digitaler politischer Entscheidungsfindung nach dem Niedergang der Piratenpartei* Bielefeld: Transcript (2018) at 56-78.

[32] Liquid Feedback "Decisions made easy" (2019) *Liquid-Feedback-Online* at https://liquidfeedback.org/index.en.html (accessed 13 March 2019). In the case of Adhocracy, every citizen would be allowed to discuss and decide/vote on topics on this platform via the software (Adhocracy "Was it Adhocracy?" (2019) *Adhocracy-Online* at https://adhocracy.de/static/ueber-uns/was-ist-adhocracy-2.html (accessed 13 March 2019)).

than try to represent them.[33] The idea of elected representatives is an aristocratic concept of recruiting elites in order to let them rule for the people, instead of letting the people themselves decide on political topics on their own. The aristocratic representation would be undermined in favour of the *demos*. This implies the belief that the rights and possibilities of citizens to participate would make the rigid elements of the representative system in the second stage of democracy more fluid, liquid and participatory.[34]

Of course, this democratic approach implies at least a revolutionary element because the traditional model of a party democracy , such as free mandates as the core element of representative democracy, could vanish. However, most of the time liquid democracy is not thought of as a revolutionary concept but as a participatory digital addition to representative democracy. The egalitarian idea behind that concept is making hierarchies as flat as possible in a decentralised participatory democracy.[35] E-voting, liquid feedback and evaluations are suggested to become a virtual *ekklesia*. Filtering and refining political opinions would not need the reduction of participation in order to make the decisions of representatives decisive, because the virtual community of a liquid democracy could be coordinated by software. This includes the individual and easy choice of one´s own participation, collaborative shaping of political texts, a dynamic mix of representation and direct participation, the inclusion of the engagement of NGOs, and both top-down and bottom-up processes. Liquid democracy would be a promising concept to include the social potential into digital ways of participation.[36]

However, because of its decentralisation, the liquidazation promise of the software, and its virtual character, fans of liquid democracy can think about an adaptation on a supranational level by aggregating opinions.[37] Thus, if liquid democracy could realize the classical democratic approach on a national or supranational level, then it would stop the story of the decay of participation.

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[33] Liquid Democracy e V "Über Liquid" *Liquid Democracy-Online* (2019) at https://liqd.net/de/about/ (accessed 13 March 2019).

[34] See generally Bieber C "Die Veränderung politischer Kommunikation im Internetzeitalter" (2013) *Jahrbuch für Christliche Sozialwissenschaften* at 162-164.

[35] Moser H "Die Veränderung der politischen Teilnahme und Partizipation im Zeitalter der digitalen Netz" in Biermann R, Fromme J & Verständig D (eds) *Partizipative Medienkulturen: Positionen und Untersuchungen zu veränderten Formen öffentlicher Teilhabe* Wiesbaden: VS Springer (2014) at 35-38.

[36] Paech & Reichert (2014) at 507-511. Yet, this concept was mostly practised in the context of a nation-state, for instance in Germany, Japan and Brasilia, without success. In Germany, for instance, the Pirate Party tested liquid democracy for party members, but moderation and participation took too much time. So participation was quite low (1 to 1.5 per cent of the members) (Adler (2018) at 14-19).

[37] Dörre J & Bukow G "Die Grenzen geteilten Handelns und neuer partizipativer Demokratieformen" in Biermann R, Fromme J & Verständig D (eds) *Partizipative Medienkulturen: Positionen und Untersuchungen zu veränderten Formen öffentlicher Teilhabe* Wiesbaden: VS Springer (2014) at 90-92.

3.2 Why digital democracy does not work

Contemporary democracy theorists ask if the Internet shrinks the world to a global village. If this is true, the classical criteria for the people to assemble virtually in a new people´s *ekklesia* would be given by ICT. Benjamin Barber, for example, who argues for a participatory democracy in a Rousseauistic or Aristotelian style, is very sceptical about the possibilities of a strong digital democracy in a society dominated by technology,[38] and for good reasons.

He identifies three possible scenarios concerning the relation between the Internet and democracy. *First*, Barber is aware of the fact that market forces may drive or control the web. This could lead to an *Electronic Colonialism,* when basic techniques of political discourse get commercialised. *Secondly*, ICTs can lead to standardisation, control, or repression by elites. He is aware of the dangers and disadvantages, and questions the libertarian approach of some net-optimists. *Thirdly*, besides those dangers, Barber sketches one (Jeffersonian) democratic scenario of free and equal communication and information for education with a participatory approach to the citizenship (and the people´s knowledge, *sensus communis* and ratio) of interaction. This could lead to a plebiscitary majoritarianism of responsible citizens and self-governing communities. However, even if the scenario of a liquid democratic republic would be the case, Barber points out that this participation could be undermined because the Internet is also an economic sphere. That means that private issues, such as, entertainment, commerce, and consumerism, come together with the political approach of free and equal citizens seeking their common good.[39] Thus, this sceptical democrat and net-neutralist offers a highly differentiated perspective.

Mostly, I agree with Barber, and include his arguments in my own critique. Barber´s doubts show that the assumptions of liquid democracy are very idealistic or do not adequately point out many crucial analogous circumstances that influence the Internet. This causes several normative problems concerning the idea of a digital democratic republic. Barber does not specify those problems in detail, but I do. Therefore, I will present five main reasons.

3.2.1 *The lack of informed decisions*

First, there is a problem with information. On the web one finds a flood of unfiltered and contradictory information; and among this mass of information there is a lot of fake-news. It becomes harder to distinguish the latter from reliable news or opinions. If citizens are not informed in an, at least mostly, correct or coherent manner, it is difficult for them to decide, on the basis of more or less equal basic knowledge, on an issue. One could say,that a participatory democracy would just mean the rule of the majority. Then it would not matter if the information is correct when citizens vote; it

[38] Barber B *Strong democracy. Participatory politics for a new age* 2nd ed Berkeley/ Los Angeles/ London: University of California Press (2004) at 117-312.

[39] Barber B "Three scenarios for the future of technology and strong democracy" (1999) 4 *Political Science Quarterly* at 573-589.

would still be an (ineffective) democracy. Yet this is not the only classical approach of equal people. In an *ekklesia* citizens decide after getting more or less correct information in a free debate. That is why a working democracy is not a "tyranny of the majority". Free speech as *the* political freedom, according to Arendt is essential for politics.[40]

Furthermore, unfiltered information generates a dialectical perspective (and, in the best case, new information) on decision topics. Thus, the loss of the quality of political decisions – because of fake-news – causes a loss of quantitative factors as well, because then the question arises who and *how many citizens should participate* directly in a liquid democracy, if the common people can hardly distinguish what is true. If the digital political system bases itself on the direct participation of the people, concerning elections and voting on political decisions in the delegative voting of liquid democracy, fake-news and the knowledge of the citizens create a much bigger lack of legitimacy than optimists are willing to admit[41]. Just as in the elitist model of representative democracy – where representatives should decide rationally, because it is assumed that the common people cannot do so – the rational output of a decision trumps the input for the decision made by the citizens. If one assumes that the *demos* is uneducated and not enlightened, not because of a lack of information but because of fake-news, it is difficult to argue that such a system may be legitimate.

3.2.2 *Fragmentation and segregation*

These new digital floods of information do not lead to pluralistic discourses, but digital fragmentation and segregation. The approach of the people deciding together in one common public sphere erodes. The inclusive element of democracy is lost if groups separate themselves and will hardly interact. Because the masses of data and information on the web overcharge our minds, users integrate themselves into interest groups. There they get only preselected information, based on preferences and algorithms. Thus, the Internet may have the potential to shape certain small separated spheres that are only concerned with certain policies, ideologies, and worldviews. Cass Sunstein calls them "deliberative enclaves". This could cause isolationism, polarisation, or even extremism.[42]

It is so because social fragmentation would not shape an identity for the users as an autonomous collective, which is the necessary imagination of one *demos* or citizenry. Even if the people are pluralistic and diverse, for liquid democracy it is necessary to act together on one common platform and to shape common decisions after speaking/chatting and discussing with each other. Fragmented enclaves, however,

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[40] Arendt (1958) at 24-27.

[41] See generally Gaughan A "Illiberal democracy: The toxic mix of fake news, hyperpolarization, and partisan election administration" (2017) 12(3) *Duke Journal of Constitutional Law & Public Policy* at 64-74.

[42] Sunstein C *Republic 2.0* Princeton: Princeton University Press (2001) at 67-71. See generally Dahlberg L "Rethinking the fragmentation of the cyberpublic: From consensus to contestation" (2007) 9 *New Media and Society* at 828-831.

create different identities. These are unlikely to find the citizens' consensus (a contingent character of one *demos*) on basic topics and habits or even to accept one shared digital arena. Then it is impossible to seek a republican common will or good in a digital society with such great heterogeneity.[43] These sub-public spheres shape their own communities, which may not be linked to a certain State or other public realms.

Thus, the classical approach of people obtaining an overview of the whole *polis* and its issues, cannot be presented by the numerous different fragmented groups, topics, information, and the complex contexts of contemporary politics (on a national or international level). Even if these deliberative enclaves are *smart mobs*, as Rheingold calls them[44], using new tools for their social interests, they may not become a virtual citizenry. There is no common political identity. Something is missing, that could make them a *demos,* consisting of citizens that are willing to interact as free and equal on an online platform, driven by liquid democracy software. Indeed, the problem of a missing united political identity, that a classical citizen adds to his/her private identity, is a typical phenomenon of a modern atomistic society. This is not just a problem for digital communications, and Sunstein´s thesis is that digital enclaves and algorithmic digital bubbles even increase the isolation and atomisation of society.[45] The roots of such phenomena are of course not solely digital, and liquid democracy may be an option for those private, fragmented groups to organise themselves. However, fragmentation is a huge problem for a larger political unit. In fragmented societies of a national or supra-national unit liquid democracy will not happen, if there is not interaction but isolation.

3.2.3 *The digital divide*

Both the presented arguments lead to a digital divide. Especially in the 1990s the so-called net-pessimists thought that the Internet would be an exclusive sphere, because most users were male, young, and educated.[46] This is still correct, even if the number of users is increasing, and the users are becoming more diverse. If one thinks about a supra-national liquid democracy, the different possibilities of obtaining access in various world regions undermine an egalitarian approach. Yet one could speculate : what if those problems could be solved, maybe in one generation (at least in the West). A democracy 4.0 would be completed when every citizen of the supra-national unit has access to the Internet. However, even if everyone obtains access, there would still be two groups: a minority of very active and well informed users and a majority of passive ones that may give a political statement a "Like", but then they are done.[47]

At least such a distinction alone would just be a variable de facto distinction, because it does not distinguish de jure, like a representative system does, with the distinction between passive voters and active MPs. However, the passive group may be

[43] Buchstein (1997) at 254-259. See also Jakob D & Thomas M "Das Internet als Heilsbringer der Demokratie?" (2014) 22/23 *Aus Politik und Zeitgeschichte* at 38f.

[44] See generally Rheingold (2002).

[45] See generally Sunstein (2001).

[46] Norris (2001) at 230.

[47] Norris (2001) at 231.

passive as non-political people, or may be disinterested in certain issues. This is their free, non-civic decision.[48] However, this is even more problematic if the individual has to find out on his/her own how far his/her political engagement should go in a flexible and spontaneous system such as a liquid democracy. Furthermore, not everyone may be able or willing to use the devices or digital rules that are not self-explanatory as well. Even if everyone would have access to the web, not everyone has the necessary technical skills. The greater the barriers to participation(such as, the need for skills and devices) are, the less inclusive, egalitarian or participatory the political sphere is.[49]

These restrictions undermine the democratic approach because inside the digital system there would be at least two political classes, with just one of them part of the political debates and decisions. Undermining political equality creates the oxymoron of a *divided democracy*.[50] Combined, these three arguments show a strong discrepancy between dealing with masses of complex information and technical skills, on the one hand, and the expectation of equal participation, on the other .[51]

3.2.4 *Emotional debates and the problem of rationality*

The approach of digital democracy is often that of a deliberative democracy.[52] However, the digital discourses are shaped in a way that does not fulfil Habermas´s conditions for a deliberate democracy.[53] Neither do they fulfil the conditions for a classical republican democracy. That is one reason why digital discourses are often basically irrational. This does not mean that presented arguments always have to be rational and logical to realise a democracy. There is the risk that discussions become irrational in the undecided sphere of politics. But what is necessary is a basic consent on how to discuss topics, a certain debating culture that respects the rights of the participants. Such consensus is missing in digital *agoras*.[54] Provocative or extreme opinions are discussed much more than arguments. Quite often emotional debates, hate speech and masses of vulgar, verbal violence dominate the arenas, and harm the free speech that is necessary for a democracy. Thus hate speech etc. harm free discourse. This can be done by persons who are not really acting as citizens (in a public sphere as public persons) because they hide themselves in anonymity; and sometimes participants are bots.[55]

Since pre-emptive real-time media censoring or moderation is not really possible, the necessary function of moderating and planning the agenda to discuss does not take

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[48] Roleff (2012) at 15f.

[49] Jakob & Thomas (2014) at 37.

[50] Sunstein C *#Republic: Divided democracy in the age of social media* Princeton: Princeton University Press (2017) at 59-136 & 252-262.

[51] Winkel (2012) at 423f.

[52] Buchstein (1997) at 248.

[53] Habermas (1992).

[54] Sunstein (2017) at 191-212.

[55] These are computer programs, that automatically post and reproduce certain comments on social media by using fake accounts.

place in those virtual assemblies.[56] One could say that if there is no moderation, like the *boulé* in Athens, nor the necessary way of a citizenship with a political ethos, then the classical approach does not fit.

3.2.5 *Economic powers on the web*

Thus far we have heard about net-optimists who share the hope of a potential for emancipation of web 2.0, and the net-pessimists who think that ICT will not improve social and political situations. Even if this article appears to be quite pessimistic, it shares one point with a third group: the net-neutralists. I think that they are right in their view that the Internet does not have a genuinely democratic or political function *per se*, because web 2.0 is neutral in its function. [57] This makes the Internet not just a sphere of political discussion, but of economy and crime, too. Yet, the Internet is not an instrument of political decision-making, or the voice of a sovereign people; and there is anarchic resistance by, for example, hyper-libertarians, hyper-capitalists, resistance movements, or criminals. Global economic interests, that are coordinated and presented on the web, are dominating it.[58]

The new global powers of the web are transnational companies, but hardly one supra-national State (under the people´s power). Thus the Internet will not (and should not) only consist of political arenas. It is already a commercialised space, too. Both co-exist. Users that want to use one of these spheres will be forced to combine them. Further, the Internet is not a genuinely political sphere, but a sphere of social inequality as well, when companies dominate its structures and contents. Their economic power creates a hierarchy, because they have much more influence than a common citizen. These inequalities and commercials are not distinct from political debates. It is impossible to act as free and equal political entities when one tries to do it in a mostly economic sphere.[59] According to neo-classicism, participation and positive freedom are linked to a non-economic perspective.[60] Political freedom is just possible if one´s economic basic needs are fulfilled. Then s/he can overcome the need to accept other citizens as free and equal in the public realm, without being driven by one´s own private interests or needs. However, if both spheres are mixed up (*oikos* and *polis*) in one medium, classical political freedom and equality are impossible because of economic forces, distractions, advertisements, entertainment, infotainment, money and needs. A consumers´ and producers´ society, driven by mostly economic factors, cannot be political in its classical and original sense.[61] Capitalism and social inequality co-exist with political equality in the same place. Ergo, there is no possibility of finding a

[56] Gimmler (2001) at 30f.

[57] Barber (1999) at 573-589; Buchstein (1997) at 249.

[58] Barney D *Prometheus wired. The hope for democracy in the age of network technology* Chicago: University of Chicago Press (2000) at 238-269.

[59] Sunstein (2001) at 3-12.

[60] Arendt (1958) at 28-37.

[61] Arendt (1958) at 126-135.

common good in free political decisions, but just the fighting of different interests and needs. Also, if users focus on one of those spheres, there is not just the danger of fragmented sub-public arenas: they can choose between political debates (that may make some people feel uncomfortable) and private, commercial, or entertaining issues. Politics just becomes one (maybe not very fancy) virtual product, offered in a digital market. And so does democracy. This may make users non-political.

If democracy and politics are just two products of digital markets, and if, in a liquid democracy, users should decide spontaneously, maybe intuitively , on their own how much time and energy (or money) they should invest in which product or tool, it is unlikely that many people will choose political participation. According to neo-classical democracy, users will become just private people (*idotes*), and the liberal *homo oeconomicus* will succeed in every sphere. Furthermore, web 2.0 is driven by oligopolies, such as, Facebook and Google. If people mostly become informed and discuss by using the tools and algorithms of those companies, they may not get pure political information and debates, because of the interests of the dominating companies.[62] Thus, making informed decisions may be possible, but only if the political community is able to gather sufficient information on their own during the discourse. This is, of course, still possible, but becomes unlikely, if the political arena is a self-interested community.

A liquid democracy would just be possible, if the economic power of digital capitalism would be banned by a supra-national authority, and this is quite unlikely. Supporters of liquid democracy are aware of the fact that a platform of liquid democracy software may not be exclusively political, but could democratise man´s life in general.[63] However, this ignores the problem of the mix of the political and private spheres. It does not recognise that this causes a loss of political freedom because the economy dominates the public realm. Then it is not political according to the Aristotelian definition, which means, it does not serve the common public interest, but the single interests of one or more groups, maybe an oligarchic minority. Liquid democracy cannot offer the flexible individual and collective autonomy, the democratisation of a total life. If it tries to make the private life political, it will either become totalitarian (because it destroys the private sphere and its negative freedom if they decide about it in public) or make the public good an economic good – ready for sale. Also, economic power (such as the digital divide) perpetuates asymmetries of political power.

3.2.6 *A missing political identity*

These selected reasons speak against the possibility of a liquid democracy with a broad participation, and they have something in common: these arguments show that the assumptions of political participation via liquid democracy are idealistic and ignore the social basis or make its problems less central than they actually are. This is the case

[62] Barney (2000) at 132-191.

[63] Paech & Reichert (2015) at 507.

from the point of view of a classical participatory and republican approach. The digital sphere is not an independent area where everyone can easily act politically . This sphere is linked to, and contextualised in, the analogous world. That means that the possibility to participate politically on the Internet does not just depend on technical access and skills – both could improve in the future. It also depends on how economic and political power is structured. There, the increase of post-democracy at national and international levels with the huge influence of economic actors, the rise of a supra-national government with a loss of accountability of the representatives, and the complexity of political interdependences, determine it. Also, these problems get transferred to the digital sphere. This sphere reproduces the social basis of the analogous world, and maybe it does not just reproduce, but enlarge, the analogous problems for democracy.

Thus, my point is that the Internet cannot become a sphere of liquid democracy as long as analogous politics has so many deficits in participation, and makes social inequality grow. The Internet itself may, indeed, be more immaterial than the analogous world, but it is determined by materialistic and economic issues. Under these social circumstances a broad political free and equal participation is not possible. Furthermore, citizens do not fulfil the conditions that must be present to act democratically on the Internet when they get fragmented in private identities, or confronted with bots or hate speech, even more than in the analogous world. The Internet and politics are still driven by neo-liberalism. This cannot match with a citizen-identity, because their own private, fragmented interests and unfulfilled needs are more important to them than a common good and the collective identity of a *demos*. Thus, the classical idea of democratic participation cannot become combined with an extended, capitalistic, industrialised nation-state, because this means a loss of participation (during the second transformation of democracy). Similar reasons also determine the third (and maybe fourth) transformations of democracy, digital and analogous.[64] Thus, it seems as if the elitist elements still get reproduced or increased in the current transformation.[65]

4 CONCLUSION

The new transformation of democracy does not seem to improve the situation, according to the republican perspective of classical democratic participation. Indeed, it

[64] Usually liberalism does not highlight direct participation. Thus, as long as liberalism is more dominant than a republican attitude, a neo-classical democratic approach cannot be realised.

[65] The web 2.0 may be good for particular counter-public areas or as a cooperating tool for certain resistance movements, such as the Arab spring, if the people are willing to transfer it into the analogous world and it can possibly make political communication easier (on a local, national or supra-national scale). Furthermore, the Internet could help to intensify the communication between citizens and politicians. Indeed, those possibilities may help to reduce some political problems. However, it does not solve the problem of a loss of participation with the growing size of political units. Thus, under those political and social circumstances liquid democracy has to fail, and will be controlled either by mass-hate speeches between fragmented groups or by capitalism, without enough active users.

sounds fatalistic if one states that the transformation, as a new wave away from participatory democracy, cannot be stopped. Of course, this would be an oversimplification and deterministic. My point is that under the circumstances of a (digital) oligopoly-capitalism, fragmentation, and digital divide, or in short, the omnipresent influence of large social inequalities, a cyber democracy is an unlikely ideal.

There are several conditions for a (democratic) *polis*, described by Aristotle:[66] a relative homogeneity of the people in social or cultural ways, a face-to-face-society, and a spirit of citizenship, a *sensus communis* or political virtue, shown by the interest of the individuals to act freely, equally and for a common good. If none of those conditions are present for the majority of the citizens, one cannot think about a neo-classical democracy in order to increase participation again. Political communications may be made easier by ICT, but as long as social inequality dominates the Internet, a public realm of political equality cannot arise in this sphere. Thus, liquid democracy suffers from the same problems as analogous representative democracy does at the beginning of the third transformation , and maybe even more so because the Internet is not as egalitarian as optimists think, but it has hardly any political filters either: *first*, the impossibility to shape a *cosmopolis* that still has democratic consensus and relatively equal interests, and *secondly*, the increasing problem of representation.

What one could think about, under certain circumstances, is establishing liquid democracy at a communal level, to increase participatory elements in a smaller political unit; because the smaller the political unit, the greater the probability will be for direct participation in this public realm , at least if a payment for participation is introduced. This could help to minimize the problem of representation on a regional scale, if citizens decide on local issues they may know well. They may find consent easier. Indeed, this option would try to use ICT not to change the third supra-national transformation of democracy, but to stop it.[67] What remains uncertain is the question: how digital (or even liquid) tools of participation at a regional unit would interact with national and supra-national politics.

[66] Aristotle (2000) at b14-16.

[67] Of course, the digital age and virtual participation will influence global politics as well, not just the other way round. However, the way it will presumably change politics is not democratic, but may be anarchic. As Charles Raab and Christine Bellamy point out, the digital age could lead towards a mixed polity of parliamentarism and post-modernism where plural modes of decision-making, bureaucracy, and market processes co-exist, but without a clear sovereignty, and without truth claims, but with fragmented identities. (Raab C & Bellamy C "Electronic democracy and the ´mixed polity´: Symbiosis of conflict?" in Gibson R, Römmele A & Ward S (eds) *Electronic democracy. Mobilisation, organisation and participation via new ICTs* London/New York: Routledge (2004) at 29-38. This mixed form may be many things, but certainly even less participatory and egalitarian than modern representative democracy.

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