

## TRUST, DISTRUST AND DEMOCRATIC STABILITY

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### *Introduction*

The continuous decline of social and political trust in America during the last three decades of the twentieth century has given rise to a lively debate about trust and democracy.<sup>1</sup> Although trust is not exactly a new theme in liberal thought – we need only think of Locke – its connection with democracy is novel according to Mark Warren, who edited an excellent collection on the subject which opens with the following words:

It was not self-evident until recently that there might be important questions to be asked about the relationship between democracy and trust. Considered historically we may appreciate why: Liberalism, and then liberal democracy, emerged from the distrust of traditional political and clerical authorities. Liberal innovations were aimed at checking the discretionary powers implied in trust relations. More democracy has meant more oversight and less trust in authorities.<sup>2</sup>

Viewed against this background the recent debate on trust seems a useful correction. The idea that democracy needs a strong civil society based on mutual trust is cogent enough, but there is the risk of an overreaction. Many American authors are so focused on the trustful aspects of civil society that they lose sight of the distrustful aspects of constitutional democracy and endorse a view that is as equally one-sided as that of the earlier liberals. This trend is rightly criticised by Warren and other contributors to the volume *Democracy and Trust*.<sup>3</sup> Trust does make democracy work but without constitutionally channelled distrust the system would become very

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<sup>1</sup> For the decrease in political trust see, among others, Nye, Zelikow and King, *Why People Don't Trust Government*. It is interesting to make a comparison with the Netherlands, where, according to the opinion research by the Social and Cultural Planning Office of the Netherlands (SCP): *Sociale en Culture Verkenningen 1999*, public trust has increased since 1970.

<sup>2</sup> Warren, 'Introduction', p. 1.

<sup>3</sup> Jean Cohen writes for instance: '... the contemporary American discourse on trust and civil society is both one-sided and politically dangerous' (Cohen, 'Trust', p. 209).

unstable. We know from the stock market that trust and distrust can lead to vehement mood swings when they are left alone. It is important therefore to find out how these sentiments are kept under control in democratic politics. Do they co-operate or do they rather neutralise each other? A sophisticated model of democracy is required to answer these questions. Niklas Luhmann's work seems to provide an adequate model. Before presenting my findings, I will first say something more about the discussion on democracy and trust.

*Left and right on trust*

The American discussion on trust shows a remarkable similarity to the old right-versus-left opposition in Europe. On the one hand there is the Tocqueville party led by Robert Putnam and Francis Fukuyama, claiming that democracy can only work if you have a strong civil society with a rich associational life, in which particular forms of trust are generalised and transformed into what James Coleman has called 'social capital'.<sup>4</sup> Although the idea of a civil society is not in itself conservative, it can easily be used as an argument against statism. That is not far from the notion of *corps intermédiaires*, which the Christian Democrats in Europe share with earlier liberal conservatives like Tocqueville or Montesquieu and the still earlier tradition of Aristotelian republicanism. The use of the term 'civil society' itself is illustrative. The term derives from the Aristotelian *koinonía politiké* or political community, which refers to traditional republics antedating the modern distinction between state and society. It is true that the term is now used differently. Today, 'civil society' defines a social space between political society on the one hand and commercial society, or the market, on the other; it is conceived of as a sort of wildlife reserve for citizens, in which they can freely indulge their associational passions. But old connotations never die and my suspicion is that the popularity of the term 'civil society' in America still thrives on a traditional Republican dislike of the modern state.

Next, on the left-hand side of the political spectrum, there are the liberals and the progressives. They tend to be suspicious of this Tocquevillean picture of American democracy, because present-day society not only consists of individual citizens but also includes huge organisations directly influencing our lives. They could equally appeal to Coleman's authority, for this distinguished sociologist has repeatedly warned us of the advent of an 'asymmetrical society', i.e., a society in which natural persons will become marginalised by their big brothers, by legal persons or

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<sup>4</sup> Putnam, *Making Democracy Work*; Fukuyama, *Trust*; Coleman, 'Social capital'.

'corporate actors'. Now, it is most unlikely that these corporate actors will share the desire of association that was always attributed to natural persons in the Tocquevillean tradition, and it seems to follow that the celebration of Tocquevillean association is at odds with the way modern society in fact develops. Putnam and Fukuyama may have a firm belief in Coleman's rational-choice theory, but they overlook the fact that Coleman was very much concerned about the social role of collective actors and about the way the latter's activities might affect contemporary society. According to Coleman, their influence could be minimised only by the state; little was to be expected here from voluntary associations.<sup>5</sup>

Needless to say, Coleman's appeal to the state is in agreement with the old instinct of the left that the state is, amongst other things, needed in order to offer protection to the weaker members of society. This can be illustrated with the help of Theda Skocpol's reaction to Putnam's article 'Bowling Alone', which was published in 1995 and was the point of departure for a voluminous book that appeared five years later.<sup>6</sup> Putnam imputes the decline of public trust in America to a general decline in participation in voluntary associations like bowling clubs and in more serious organisations like the PTA ['Parents-Teacher Association'] or the NAACP ['The National Association for the Advancement of Colored People']. His advice is that private citizens should take back the initiative and thus revitalise public life. Skocpol retorted that Putnam unloads the problems of present-day society on the individual and, moreover, that he overlooks the historical fact that the most important public associations were originally founded or sponsored from above, by authorities and responsible elites.<sup>7</sup>

### *The two paradoxes of trust in a constitutional democracy*

I will not enter too deeply here into the American debate. The above should suffice to make clear that the participants in this debate have been talking in a circle. The conservatives emphasise the fact that the political system can only work on the basis of a trustful society and the progressives argue that a trustful society, in its turn, needs a responsible political system. So it may well seem that there is no real conflict between the two positions and that both are, in fact, defending complementary positions in the sense that what is considered to be the input in one position is the output in the other, and vice versa. This, indeed, is the view proposed by Piotr Sztompka in his

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<sup>5</sup> Coleman, *Power*; *idem*, *The Asymmetric Society*; *idem*, *Foundations*.

<sup>6</sup> Putnam, 'Bowling Alone'.

<sup>7</sup> Skocpol, 'Unsolved Mysteries'.

recent contribution to the trust discussion.<sup>8</sup> His argument is that the relationship between trust and democracy is a circular one, because output and input, as defined by the conservative and the liberal positions, mutually reinforce each other. Democracy both *presupposes* trust (as the conservatives argue) and *produces* it (as is argued by the liberals). Put differently, democracy does not work without a healthy social life – here Putnam is undoubtedly correct – nor can one have a healthy social life without a democratic state – and this is where the liberals are right when arguing that civil society would be a utopia without responsive and accountable institutions.

As soon as we are talking about circularities, however, paradoxes will inevitably appear because we get entangled in self-referential loops. In the case of trust and democracy there are, according to Piotr Sztompka, two paradoxes that deserve our attention. Both paradoxes focus on the function of the counterpart of trust, i.e. *distrust*. An account of distrust is missing in the essentially normative debate between the conservatives and their progressive opponents, but it is nonetheless absolutely essential. Preoccupied as they were by the notion of trust, neither the Tocquevillean conservatives nor the liberals were sufficiently aware of the functionality of distrust in the democratic system. Although Sztompka is certainly not the first author to focus our attention on the function of distrust, he summarises the issue at stake here in a nice and succinct way by distinguishing two paradoxes. One is that democracy can only engender trust by institutionalising distrust with the help of rules punishing the abuse of trust. In other words, democracy institutionalises distrust and precisely by doing so produces a world in which we can safely trust both our fellow citizens and the state. According to the second paradox the rules codifying distrust are, on the one hand, the condition of trust, but should, on the other, be appealed to as little as possible.

A democratic regime can only create trust within the framework of a constitutional state, or *Rechtsstaat* as the Germans and the Dutch would say. The notion of *Rechtsstaat* precedes that of a constitutional democracy as a matter of fact. The *Rechtsstaat* safeguards the rights of individual citizens; its representatives must therefore be on the alert for every possible abuse of power – and precisely this makes the democratic *Rechtsstaat* into the essentially suspicious and distrustful institution it is. Distrust and suspicion are recognised here as the supreme virtues, whereas trust will often prove to be a vice. To go one step further, if we ever actually have to deal with a constitutional democratic state, distrust must also extend to the popular will, although the popular will is supposed to be the source of all authority in a

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<sup>8</sup> Sztompka, *Trust*, pp. 139-151.

democracy. The contributions by Madison and Siéyès to the theory of representative democracy are telling examples of this. Their major effort was to conceive a constitutional matrix that would institutionalise the distrust of the general will in terms of the system of checks and balances characteristic of most contemporary representative governments down to the present day.

Here one may think, for example, of the distinction between the government, on the one hand, and its so-called 'loyal opposition', on the other. This truly is a most effective way of combining trust and distrust. The opposition ought to be distrustful and, as such, it can be an efficient check on the power of the government by the majority, but it should not overplay its role of watchdog since there is always the chance that it will take the place of the present government some time in the future. Then the opposition would not wish to be reminded of its irresponsible criticism of the previous government, since this might invite the future opposition to make life difficult for them with the same kind of irresponsibility. In this profoundly paradoxical way, opposition always has to be 'loyal'.

There are many more rules and practices for the institutionalisation of distrust in a constitutional democracy, but this one must suffice as an illustration of the first paradox. The second paradox concerns the application of rules. Rules have to be applied consistently but carefully and sparingly, because too much control can easily lead to the opposite result and stimulate distrust. For example, if a claim culture comes into being and people constantly resort to litigation, distrust may be expected to spread quickly. Citizens will then constantly ask themselves what might possibly be wrong with their fellow citizens, with society at large and with their political institutions, and, as a result of all this, tend to withdraw their confidence in government. The inevitable effect then is that the authorities will resort to a stricter application of the rules, which, again, reinforces the negative trend. Thus a vicious circle may ultimately result in an extreme distrust of the state by the citizenry, on the one hand, and in a proposal and enactment of draconian rules by the state, on the other. The Dutch have probably always been extra sensitive to the unpleasant dialectics that may arise between rules and their application because they have a long-standing tradition of informal pragmatism in legal matters, the so-called *gedoogbeleid* ['toleration policy'].<sup>9</sup> Nevertheless, changing circumstances, such as the rise of organised crime, may compel a government to enforce stricter laws. It has plausibly been argued that precisely this might cause the large supply of public trust in the Netherlands to gradually dry up in the near future.

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<sup>9</sup> Bruinsma, *Dutch Law*.

As is made evident by the second paradox, the circular relationship between trust and distrust has a positive feedback in democracy. The idea is that there is a self-amplifying causality both in trust and in distrust. As long as the democratic system has trust as its output that can be fed back as input into the system, the system will grow. People will then tend to have confidence in the system and be prepared to take the risks that are necessary to expand the range of their possibilities. If, conversely, distrust prevails, the system can, theoretically speaking, quickly end up in a downward spiral. The stock market shows in a laboratory way that small symbolic gestures of distrust may trigger an uncontrollable chain of events. Fortunately, society at large is not as volatile as, for instance, Wall Street. But what is the explanation for this? Why is democracy more stable than we might expect on the basis of the cybernetic feedback model? To answer this question one must take a look at Niklas Luhmann's theory of social systems.

#### *Luhmann on social systems and trust*

Most students of trust will know Niklas Luhmann. He pioneered the field in 1968 with an analytical essay, which is still highly praised by many authors.<sup>10</sup> It was also a pioneering study in the development of his own work. When Luhmann became professor of sociology at Bielefeld in 1968 after a short career as a civil servant, he submitted a research project for a new theory of society, which he thought would keep him busy for some thirty years. At the moment of his death in 1998 – indeed exactly thirty years later – the project was nearly completed. Some fifty books and four hundred articles had appeared and several publications would still follow posthumously, among which was a book on politics as a social system. The latter offers interesting ideas about the evolution of political systems, including modern democracy.<sup>11</sup> Strangely enough the words 'trust' and 'confidence' do not appear in it. This raises a question about the connection between Luhmann's previous work on trust and his later work on democracy. The answer is that there is only an indirect connection. Trust was for Luhmann a basic concept and, as it was for Coleman, an important building block for a social theory, but not a subject to write on repeatedly. The relation between trust and democracy in Luhmann's work has therefore to be reconstructed.

Both Luhmann and Coleman saw trust as a form of risk-taking, which makes it unnecessary to constantly check information about other people and helps us to reduce social complexity. To emphasise the importance of

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<sup>10</sup> Luhmann, *Vertrauen*, pp. 4-103. See also *idem*, 'Familiarity'.

<sup>11</sup> Luhmann, *Die Politik*.

this function they both called trust 'social capital'. Here the resemblance ends, because Coleman worked towards a theory of social action and Luhmann towards a theory of social systems. The difference between the two theories can be reduced to diverging views on trust and, more particularly, to the problem of double contingency. This now complicates our view of trust relations by introducing the element of reflexivity. Talcott Parsons had already formulated it as a classic sociological problem in the early 1950s:

... since the outcome of ego's action is contingent on alter's reaction to what ego does, ego becomes oriented not only to alter's probable overt behavior but also to what ego interprets to be alter's expectations relative to ego's behavior, since ego believes that alter's expectations will influence alter's behavior.<sup>12</sup>

In other words, actions may become contingent on mutual expectations, with the possible result that everybody is waiting for everybody and all action will be blocked. The classic situation is 'I do what you want, if you do what I want'. Parsons considered this situation a paradigm case for the explanation of social action and saw the solution in a shared system of cultural norms, which seems, by the way, a typical case of begging the question.

Coleman and Luhmann had different ways of dealing with the problem of double contingency. Coleman did not like the idea because his rational choice theory would become too complicated thereby. His *Foundations of Social Theory* allows only for 'single contingency' situations. Trust is defined as a risky decision, the outcome of which depends only on the performance of another actor (and not on all sorts of mutual expectations). This definition enables Coleman to make a risk calculation, which serves as a mathematical basis for the rest of his theory. It is no doubt an admirable theory, but its strength, which lies in its clearness and precision, is at the same time its weakness. The weakness consists in the very downplaying of the element of reflexivity that seems essential for social action and that Coleman only grants a place at the end of his book under the title 'Unstable and Transient Systems of Action'.

Luhmann, on the other hand, takes double contingency as the starting point for his theory. This implies that the effects of trust actions are not as predictable as Coleman liked to think. Luhmann had already noticed this problem in his essay of 1968:

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<sup>12</sup> Parsons and Shills, *Toward a General Theory*, p. 105.

Trust is, however, something other than a reasonable assumption on which to decide correctly, and for this reason models for calculating correct decisions miss the point of the question of trust.

This does not mean that trust is irrational in all respects. What is irrational in the individual case may be rational from a higher, social point of view, as the economic system often demonstrates: 'So, from this point of view, the label "rational" would not refer to decisions about particular actions but rather to systems, and mechanisms for maintaining systems'.<sup>13</sup> According to Luhmann, it is 'rational' for systems to uphold the distinction between themselves and their environment. If there is no longer a difference between inner and outer, the system has ceased to exist. In other words, the rationality of trust must be connected somehow with this fundamental aspect of systems: 'it is plausible to seek in this inner/outer distinction a *rational criterion for the distinctive location and the joint increase of trust or distrust*'.<sup>14</sup>

Social systems are, for Luhmann, communication systems with a great measure of autonomy. As communication systems they are of course materially dependent on human individuals, but in their operations they are independent. Human beings are not interesting for an explanation of the internal working of these systems, except for their fulfilment of certain roles. A bureaucratic organisation, the subject of Luhmann's dissertation research, can be described as a communication system which is relatively independent of the people who work in it. For a government agency or a big corporation, employees are only *personae*, functionaries or office-holders, who occupy certain communication nodes in a flow chart. Natural persons, however, are exchangeable and, after their deaths, the organisation lives on. It is hard to remain a methodological individualist in the face of these 'corporate actors'. Even Coleman went a long way towards accepting their holistic nature. What holds people back from fully accepting holism is the ethical/political argument that it has collectivist or totalitarian consequences. Generally speaking, it is possible to subscribe to this argument, but to Luhmann's kind of holism it is irrelevant, since the social systems he has in mind do not consist of human individuals but of communicative meanings.

Double contingency is of crucial importance in the emergence of independent communication systems, according to Luhmann.<sup>15</sup> The circular element of expecting expectations or anticipating anticipations makes the

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<sup>13</sup> Luhmann, *Vertrauen*, p. 88.

<sup>14</sup> *Ibidem*, p. 90

<sup>15</sup> Luhmann, *Social systems*, chapt. 3 (double contingency).



understanding between two people so complex that communicative structures are needed to simplify and streamline the contact. These structures develop more or less spontaneously and are the starting point of what may become a social system. An example is the money system, which considerably facilitates communication between strangers on the exchange of goods. And, if one takes a closer look, one can see that money is after all only a matter of trust.

Once upon a time people trusted money, because they knew gold or other valuable goods backed it. At that time people trusted in the intrinsic value of money, but the value gradually eroded, figuratively speaking. The last phase of the metallic era was the fall of the gold standard in the twentieth century, which was completed in 1971 when the United States ceased selling gold to national banks of other countries. The consequent 'floating' of the world currencies raised the question of what it is that we trust in when we pay and receive money. According to Luhmann it is trust itself that we put trust in. 'Trusting in trust' may sound sophisticated but, if we take a detached look, it is utterly realistic. People trust your money because others trust theirs, and because everybody sees that other people do the same. In this way, money becomes a self-carrying communication system that can no longer be defined in terms of individual conduct. Luhmann argues therefore that communication is strictly speaking not a process going on *between* individuals, but an emergent phenomenon to which we adapt in the same way as we do when we follow the rules of a game. So we may say, in the provocative style of Heidegger or Foucault, that it is not the individual who communicates but communication itself.

It is necessary to say something about the evolution of social systems before we can finally discuss the problem of democracy, because Luhmann considers democracy an evolutionary answer to the growing complexity of society. This complexity is caused by system differentiation. By creating subsystems, a system can, for instance, pass on tasks to lower levels and spend more energy on the growth of the whole. The change of system differentiation that took place, or at least became visible, in the eighteenth century was important for the rise of democracy. It was a change from a vertical to a horizontal model. The vertical model was to be found in the stratified society of the *Ancien Régime*, which was organised along hierarchical lines. The horizontal model, on the other hand, is typical of modern society. It shows a differentiation along functional lines, which results in the rise of different subsystems such as economy, politics, law, science and religion.<sup>16</sup> Each of these systems has a binary code to steer its own communication process and to filter information from the outside

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<sup>16</sup> Luhmann, *The Differentiation*.

world, e.g. true/untrue for science, just/unjust for law, govern/governed for politics, etc.

The consequences of functional differentiation are hard to understand since there is no longer a single, supreme viewpoint from which society can be described. Each representation of the whole is based on the perspective of a particular subsystem, whether it is political, economic, cultural or otherwise. It took a long time before this consequence of modernity was accepted. The self-description of modern society was still very hierarchical until recently. The elites of the *Ancien Régime* believed that they represented society within society, as is shown by historical self-descriptions like 'high society' or *le grand monde*. The hierarchical model suggested to them that the aristocracy could function somehow as a synecdoche. This pretension did not survive the French Revolution, but the idea that society could be surveyed from above lived on, ironically enough, in the tradition of revolutionary ideologies, which held sway until the middle of the twentieth century. After that time people began to speak about 'the end of ideology' and, concomitantly, about 'the fragmentation of society'. Only then did democracy too come under revision. The revolutionary tradition had in fact inherited the theory of sovereignty that was developed under the absolute monarchy. It was dressed in a new constitutional gown, but it remained, nevertheless, the old vertical *Herrschaft* model. As such it did not seem ideally suited to the new, horizontal society of functional subsystems. We will see in the last section of this essay how Luhmann tries to integrate tradition and modernity in his model of the democratic state.

### *Luhmann's model of the democratic state*

So let us now focus on the differentiation of the modern political system as it has developed since early modern times, when the modern nation state emerged and politics grew apart from religion and the economy. Undoubtedly the state has a special position, since it has the right to take decisions that are binding for the rest of society. Nevertheless, this fact about the state does not automatically place it outside society, as the absolutist theorists of the seventeenth century had suggested. According to the latter, the idea of a free sovereign hovering in some way or other above society made sufficiently clear why state and society should be firmly distinguished from each other. The distinction was further imprinted upon modern discourse by the constitutionalist movement of the eighteenth century. Constitutionalism suggested that the political system encloses itself within a written constitution and that, by doing so, it erects an insurmountable barrier between itself and society. In this way,

constitutionalism strengthens the image of society as being something 'out there'.

The spell of this distinction is still so strong that sociologists often define their field as that part of society which is left after the state has been taken out. But this is a curiously atrophied idea of society. Why should one not conceive of state and society as parts of a larger whole that closely collaborate for its benefit? The answer is, probably, that there are no good terms for this larger whole. 'Society' is the only alternative, but that would lead to paradoxical discussions about 'a society within society'. There is a problem here, but let us not be fooled by words and avoid the absurd idea that state and society are two incommensurable entities, living completely apart from each other and belonging to a completely different social realm. That we tend to give credence to such utterly unrealistic scenarios of the relationship between state and society shows how much trouble we still have in understanding the functional differentiation of state and society.

It is true that functional differentiation leads to the formation of autonomous systems, but we must be precise about the meaning of the word 'autonomy' here. The word does not refer to completely closed and self-contained systems, if only because such systems do not and cannot exist. 'Autonomy' simply means, in this context, that social subsystems are able to perform their tasks independently. That is the reason for their existence and that is why they are closed with respect to their internal organisation and their way of operating. This 'operational closure' does not exclude the possibility of openness in other respects, particularly communication. On the contrary, receiving information about the environment is essential to any system. One might even say that operational closure is the very condition of this openness to communication, for any exchange of information would be unnecessary if there were no distinction between inner and outer. Only 'black boxes' communicate. If one could look into someone else's head, there would be no reason at all to converse, put questions or give answers. There would simply be one single undifferentiated system of ideas. In brief, system differentiation entails not only closure and autonomy but co-operation and communication as well. It is important to bear this in mind when we look at the history of the political system, for the reverse side of the distinction between state and society was a much closer relationship between government and people.

The creation of public offices was a first step in this process. The state thereby became less dependent on contractors for fighting its wars or collecting its taxes and could perform these tasks autonomously. Another step was the introduction of the public debt, first in the Netherlands and

then, at the end of the seventeenth century, in England.<sup>17</sup> This innovation made government less dependent on private moneylenders though, admittedly, at the same time more dependent on its own subjects, particularly on bondholders and taxpayers. The interference of this new category of moneylenders in government's own affairs was less to be feared by the state than that of the private financiers of the previous period. Even more importantly in the context of the present discussion, the public debt created for the first time a circular trust relationship, because government and population needed each other as providers of either the input or the output of money. In order to pay back the bondholders, the government needed taxes, which, in turn, had to be approved by Parliament and, again in turn, the necessity of obtaining Parliament's approval gave the bondholders influence over the expenditure. In this way the circle was closed, with the result that state and society now had shared interests and the King's wars could truly be considered to be national wars.

However, the most important step towards the closure of the circle was the democratic revolution. The paramount symbolic event was the decapitation of Louis XVI in 1793. The death of the king created an enormous paradox for post-absolutist France. Who should now ascend the vacant throne? The people? But how could the people be both ruler and ruled at one and the same time? The paradox was and is real. Moreover, the paradox should not be denied, or downplayed by makeshift solutions such as the notion of the sovereign people electing their own government which they are then expected to obey unconditionally. This obviously is nonsense, as Guizot made most poignantly clear almost two centuries ago. So there truly is a mysterious problem here, a problem that strangely and paradoxically transfigures state and society into a mysterious unity.

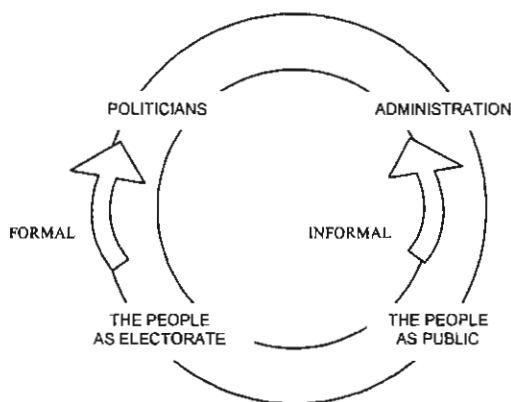
However, the paradox *can* be unfolded and be shown to be responsible for the actual working of our contemporary democracies. The solution lies in the factor of time. It is true that the people cannot be ruler and ruled at the same time – but maybe the truth is that they can be *both* of these, though at different and distinct times. Most illuminating here is the idea of what might be described as the doubling of the people into an electorate and a public. As François Furet has shown, the ascendance of public opinion was the real innovation of the French Revolution.<sup>18</sup> According to Furet, Tocqueville was right: the revolution did not change much in the political structure of France; it merely completed the sustained effort of the absolutist rulers to centralise power and to level society by eradicating the

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<sup>17</sup> The first Dutch experiments were already carried out in the early 1540s. See Tracy, *A Financial Revolution*.

<sup>18</sup> Furet, *Penser la Révolution française*.

*corps intermédiaires*. To understand what was after all revolutionary in the French revolution one must look at the rise of a new political culture, and primarily at the symbolic representation of the people in the new concept of public opinion. The experiments of the French Revolution resulted in a new set of distinctions, namely between the sovereign people, their political representatives, the administration and, lastly, the public as law-abiding subject. The paradox can now be unfolded into a cycle. The people choose their political representatives who make rules which the administration imposes on the public, and the public can then react as electorate – whereby the process has come full circle.<sup>19</sup>



This formal cycle describing the way power circulates still makes use of the old notion of sovereignty, but it is clear that we can no longer speak of some primeval origin or ultimate source from which everything emanates. This was already a makeshift contrivance in the seventeenth century and is simply unthinkable in modern democracy, although there are still people who claim to understand the meaning of Rousseau's General Will. The cycle implies that there is no true beginning and no real first decision. Each decision depends on earlier decisions; each action is a reaction to previous actions.

All players involved perceive that this is the final truth about the matter. The result is that they will always try to influence the decisions of their direct principals. All political players know that their own will is never decisive, but merely a factor in a continuous process in which their own actions are only an ingredient. Hence, the public will try to influence the administration, the administration does the same with the politicians, and

<sup>19</sup> Luhmann, *Die Politik*, pp. 253-266.

finally the politicians try to influence the voter, etc. This is a risky manoeuvre for all participants involved in the process, for the voter can punish the representative, the representative can punish the civil servant, and the civil servant can punish the citizen. But, this is known by all the players involved and, therefore, anticipated by a display of trust and goodwill. As Luhmann makes admirably clear, in this complicated situation of double talk and tacit understanding, a new informal power cycle starts running contrariwise.<sup>20</sup> There are several different nodes.

The first node in the informal counter-cycle is the contact between voter and representative. The politician naturally wants to persuade the voters to choose him and he will use all his devices to this end. The repertoire is known and most voters have learned to see through it, but curiously enough the same show is performed year in, year out. Apparently there is no other alternative than to resign oneself to this state of affairs. The defenders of the elite theory of democracy seized upon this point in order to suggest a correction of the formal cycle. They now interpreted this cat-and-mouse play between the voter and his representative as implying that, in fact, all power resides with the politicians. However, this view fails to appreciate the distinction between the formal and informal cycle of democratic decision-making and, furthermore, it overlooks the problem of trust. For however cynical one may become about the realities of the functioning of democracy, it cannot possibly be denied that politicians are sensitive, to a greater or a lesser degree, to the voter's opinions. So the interaction between the voter and his representative always goes *both* ways.

The second node is the relationship between politicians and bureaucracy. Here one will often hear the same complaint as before, namely that the servant manipulates the master. In this case, the servant is not the political elite but the bureaucracy. The numerous ways in which civil servants may manipulate politicians need not be explained here. Suffice it to refer to the amusing British TV comedy 'Yes Minister'. What is important is that power relations and trust relations are closely intertwined in this segment of the circle. Ministers are highly dependent on the top of their department for their information, while civil servants expect that their ministers will cover them politically, if necessary. Both parties are condemned to each other and try to manipulate each other in any informal way available to them.

The third node is the relation between the administration and the public. Here, too, we can observe the countermovement that we observed above. The formal cycle, which still has many vestiges of the traditional *Rechtsstaat*, assumes that the administration takes decisions, which are then

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<sup>20</sup> *Ibidem*. See also *idem*, 'Machtkreislauf'.

imposed on the public and, if necessary, rigorously pushed through; everything within the law, of course. If police officers or other officials exceed their powers, the citizen may address complaints to the judge or to his political representatives. However, the development of the democratic welfare state has changed this traditional Weberian model because the administration has become ever more dependent on the public for the realisation of its welfare programmes, and the public is no longer a mere multitude of individuals. Citizens have united themselves into numerous associations exploiting all the possibilities of the right of free speech and, by doing so, they can make life for the government administration more difficult than ever before. Government administrations, in their turn, respond to these new challenges presented by the public by becoming ever more 'responsive', as we currently like to say. The end result is that private and public spheres tend to converge and that a grey zone develops in which civil servants and business executives make deals in close co-operation. This is not without its oddities. The implementation of welfare programmes often creates situations in which rules are no longer applied in a universal way and privileges seem to make a reappearance. This strongly suggests how far the interaction between civil servants on the one hand and business on the other may actually go. In short, the contact between the public and the administration is the most complicated node of all.

### *Conclusion*

It may be argued that democracy is based on a distinction between two opposing power cycles, a formal and an informal one. The formal cycle corresponds to Sztompka's first paradox, i.e. the paradox that democratic trust presupposes institutionalised distrust. Distrust of the system is institutionalised successively in the electorate, the politicians and, in the third place, in the administration. If any of the parties involved feels that trust has been betrayed, they can end the discussion and put a final stop to things. However, this remains the ultimate remedy which is rarely, if ever, appealed to in actual practice. The normal situation is one of wheeling and dealing.

The informal circle corresponds to Sztompka's second paradox, according to which the rules of distrust must be used sparingly. The formal cycle generates so much complexity that it inevitably creates a counter-cycle, which hinders a strict application of the rules. In this way, Luhmann's two circles, the formal and the informal, keep each other continuously in balance; a balance that is determined, in the end, by the mechanisms of trust and distrust.

The question why the democratic system has more stability than the stock market can now be answered. The clue is to be found in the combination of formal and informal power that we *do* have in politics, but *not* in the stock market. If politics were geared only to the informal cycle of trust and distrust, it would undoubtedly run the same risks as the stock market. The positive feedback could then cause the most vehement of oscillations. However, thanks to the formal cycle, the political system can always decide to give priority to the official authority, as soon as things threaten to get out of control. This is the crucial stabilising factor of the political system. It is important, however, that all parties are able to differentiate between the formal and informal spheres and know how to deal with trust and distrust in a rational way.