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Publisher: Routledge

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Democratization

Publication details, including instructions for authors and subscription information:

<http://www.tandfonline.com/loi/fdem20>

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Published online: 28 May 2013.

To cite this article: Jeffrey Edward Green (2013): Analysing legislative performance: a plebeian perspective, *Democratization*, 20:3, 417-437

To link to this article: <http://dx.doi.org/10.1080/13510347.2013.786543>

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Analysing legislative performance: a plebeian perspective

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(Received 29 August 2011; final version received 23 February 2013)

Legislative performance can be understood in terms of results (the quality of the laws enacted) or in terms of the literal performativity of legislators (the quality of their appearances on the public stage). This article examines two different ethical frameworks for evaluating legislative performance in this latter, performative sense: a *deliberative model*, which restricts just political performances to deliberative exchanges among citizens, and a *plebeian model*, which expands just political performances to include those where political and economic elites endure special burdens as a condition of their elevated status. Given certain drawbacks of the deliberative model and parallel advantages of the plebeian model, I endorse the plebeian approach to political performativity. The article concludes by elaborating one of the key contrasts between the two models with regard to political communication, namely the plebeian model's embrace of a distinct form of legislative disruption. Beyond the way deliberation itself disrupts non-communicative forms of power and beyond the way protests physically disrupt governmental processes, plebeianism invokes a third kind of disruption – non-deliberative speech – intended to rebuke and humble leaders rather than reach mutual understanding about issues.

Keywords: plebeianism; democracy; performativity; deliberative democracy; disruption; non-deliberative discourse

Shout! Shout, citizens, while you still can! Soon you will no longer be able to do so with impunity! (Lentullus Marcellinius, Roman consul, to a crowd of plebeians amassed in an informal assembly, or *contio*, in 56 BCE)¹

Two meanings of legislative performance: results-based vs. performative

The themes of this special issue – the function of legislative protest in relation to practices of ritual, deliberation, representation, and popular self-government – revolve around the central normative concern that the legislative process should perform well in a democratic society. But what does legislative performance

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mean? The premise of my article is that the concept of legislative performance indicates at least two different meanings: the familiar, results-based notion of performance, which concerns how well legislative institutions produce results (that is, laws and policies) that accord with the preferences of the electorate, the public good, or some other standard of effective, efficient, and just lawmaking – and, on the other hand, the literal performative dimension of legislative politics: the choreography of legislative events as they appear in their concrete actuality, the phenomenon of governance as it is experienced by the practitioners who engage in it and the spectators who behold it, and so on. We can call the first form of legislative performance *results-based* and the second, actor-based notion the *performative* form of legislative performance.² My central argument is that this latter conception of legislative performance, though underappreciated by democratic theorists, deserves to play an essential role in evaluating and implementing democratic justice and that, further, a democratic society would do well to conceptualize the performative expectations placed upon its leaders as involving more rigorous forms of burdens than the familiar discursive obligations (in particular, the obligation to engage in deliberative discourse) emphasized by deliberative democrats.

Despite the clearly growing interest in issues of political performativity, when it comes to answering the fundamental question of how *well* a democracy is performing – how just or moral its political life is – the normal tendency is to assume that the answer relates to matters of results-based performance (the quality of laws and policies) rather than to performative performance (for example, the quality of political leaders' appearances on the public stage). Why has the results-based conception performance predominated as the criterion of good governance? On the one hand, there are features of results-based performance that seem to make it a natural proxy for performance in general. It accords with economic, utilitarian thinking that instrumentalizes politics in the service of material ends. It relates to power in its most conventional, Laswellian form of "who gets what, when, and how".³ It flatters democratic citizens with an optimistic notion of democracy as a system of government that either does or tries to carry out the underlying preferences of a sovereign electorate. Further, the most celebrated institution in contemporary mass democracy – *voting*, whether by citizens in elections or legislators in parliament – conforms much more easily to a results-based conception of legislative performance than to a performative conception.

On the other hand, the leading discourses on performativity, a burgeoning if still marginal concern of contemporary political science,⁴ have not generally presented political performativity as a criterion of justice. This can be seen most clearly in the fact that while there are well-known standards of just results-based performance (efficiency, popular self-legislation, laws that realize norms of fairness and equality), the notion of a just political performance is much less clear. In various different ways, prevalent perspectives examining the performative dimension to political life often treat political performativity as something other than a criterion for evaluating the justice of a democracy. Some treat it as a pathological distraction from the "real" business of democracy (as in numerous

condemnations of the theatrical or spectatorial nature of contemporary political life).⁵ Others engage with performativity either as vital to the success of leaders in winning and maintaining followings in contemporary mass democracies but not in itself determinative of the justice of regimes,⁶ or as crucial (in the form of well-orchestrated acts of civil disobedience) to combating authoritarian rule and motivating revolutionary acts in the name of liberal justice and democracy (but as less relevant to the normal functioning of liberal democracy once constituted).⁷ And still other leading discourses confront performativity as political rituals and ceremonies persisting within modern democratic regimes, which though perhaps essential to the generation of political identities and meanings nonetheless are not intrinsically a source of justice and legitimacy.⁸

However, there is good reason for resisting this bias toward results-based performance as a metric of justice in a democratic society. For one thing, insofar as performative criteria are more immediate and palpable than the abstract notions often used to evaluate results-based performance (such as the vague, hard-to-measure norm that citizens' preferences and interests be represented in laws and policies), there is a value in a democratic society being able to have its ideals enacted in direct and tangible ways.

Further, even on the level of abstract concepts it would be a mistake to overlook the performative dimension. It is indeed a remarkable feature of our political vernacular that the very notions widely used to measure the justice of democratic regimes from a results-based perspective also have obvious implications for standards of political performativity. For example, consider *responsiveness*. As a core criterion used by social scientists to judge how well democratic societies perform from a results-based perspective, responsiveness measures the degree to which underlying preferences in the electorate are channeled into the legislative output of a government.⁹ But of course there is also responsiveness on the performative level, where what is at stake is whether in a given situation a politician or leader *responds*, providing sincere answers to questions, or instead acts evasively, with silence, deflection, lies, and so on. A similar situation obtains for the concept of *accountability*. Within the dominant, results-based framework, accountability means that voters can throw politicians out of office: that politicians can be punished for failing to perform adequately.¹⁰ The performative rendering of this concept, however, has to do with whether leaders are compelled to testify about what they are doing or have done and thereby provide a literal account of their actions. In ancient Athens, a fundamental aspect of democratic governance – beyond elections, sortition, and the sovereignty of popular assemblies – was the *euthunoi* which compelled magistrates to provide public testimony in a formal audit after serving their time in office.¹¹ In the twenty-first century, in Britain, Canada, Australia, Finland, and a few other parliamentary democracies, the institution of “question time” appears as one of the most advanced in institutionalizing performative accountability as a regular feature of politics. In the United States and numerous other presidential style democracies,¹² by contrast, while leading ministers do testify before the legislature, they do so less regularly and it is rare for the

president to testify at all.¹³ From a performative standpoint, this lack of giving an account might be considered unjust, even if the leaders were held accountable in the sense of being thrown out of office for failing to produce laws and policies in the public interest.

Finally, there is *representation* itself. As a results-based notion, it summarizes the combined meaning of the first two elements: that a government is both responsive and accountable to its people. But performatively speaking, representation references the fact that there is a public stage on which government leaders, but not ordinary citizens, appear, representing themselves before the polity. Theorists of representation have often referred to this performative form of representation *before the people* as feudal, premodern, or religious.¹⁴ While they are certainly right to juxtapose the modern notion of representation (representation as popular sovereignty) to these other frameworks that have to do with leaders representing their power before amassed minions, it is a mistake to think that the performative notion has been eclipsed today. Especially in an age where politics is mediated via print and electronic journalism, the ordinary citizen experiences politics at least in part as a spectacle to behold – as something to witness and absorb without immediate or meaningful opportunities for direct response.¹⁵ Rather than only denigrate the political spectacle for its inferiority vis-à-vis a participatory, inclusive, and fully rational democracy, a performative approach to representation – and to democracy more generally – would seek to differentiate morally superior from inferior spectacles, on the assumption that there are more or less democratic modes of appearance on the public stage.

Given that the very conceptual terminology for evaluating the results-based justice of democratic regimes already implies alternate standards for evaluating the performative conduct of leaders and political elites – and given the usefulness of evaluating democracy not just in terms of abstract and hard-to-verify results-based standards but also in terms of concrete, more discernable performative ones – any analysis of legislative performance (that is, of the justice of a democracy) would do well to include *both* results-based and performative criteria. But, if this is right, if democratic justice ought to include a performative dimension, what precise form should such a commitment take? After all, even as performative phenomena there are different ways of construing responsiveness, accountability, and representation. And there are also alternate modes of understanding their relationship to results-based legislative performance.¹⁶

In order to both document and attempt to resolve tensions in how performative criteria might be conceived, I shall contrast two basic models for a moralized account of political performativity. The *deliberative model*, which restricts just political performances to deliberative exchanges among the leaders and the wider citizenry, invokes performativity as a means of producing laws and policies that are provisionally legitimate, rational, and so just. The *plebeian model*, which expands just political performances to include those where political and economic elites endure special burdens as a condition of their elevated status, seeks political performances that also will *disrupt* power and compensate the public for a

political–economic system that, however progressive and well-intentioned it may be, nonetheless fails to fully realize democratic norms of free and equal citizenship. Whereas the deliberative model seeks the contestation of arguments and claims, the plebeian model seeks the contestation of powerful individuals as they appear on the public stage. Importantly, these models are not diametrically opposed. In numerous cases they will overlap, or even mutually reinforce each other. Still, there are points of difference, when it matters which notion of political performativity one favours.

Both models are welcome exceptions to the tendency for conceptions of democratic justice to relate only to results-based, and not also performative, criteria. However, given certain drawbacks of the deliberative model I review in the second section and parallel advantages of the plebeian model I discuss in the third section, I endorse the plebeian approach to political performativity. I conclude, in the fourth section, by elaborating one of the key contrasts between the two models with regard to political communication, namely the plebeian model's embrace of a distinct form of legislative disruption. Beyond the way deliberation itself disrupts non-communicative forms of power and beyond the way protests physically disrupt governmental processes, plebeianism invokes a third kind of disruption – non-deliberative speech – intended to rebuke and humble leaders rather than reach mutual understanding about issues. If the particular concern of my essay is to defend a plebeian account of democratic disruption, its more general claim is to stress how the issue of performative disruption itself – central to the other contributors of this special issue – is of vital significance to the expectations democratic citizens should have of their polities.

Deliberative democracy's instrumentalization of performativity for good legislative results

Unlike other leading paradigms in contemporary democratic thought (aggregationist, pluralist, and agonistic approaches¹⁷), deliberative democracy operates on both the results-based and performative levels: it provides a theory of how laws can be rendered more rational and legitimate (insofar as they emerge out of deliberative discourse rather than mere negotiation, bargaining, voting, and political advertising) and a theory of how citizens should perform while in the public sphere (that they should pursue their aims through reasoned arguments, informed by norms of sincerity, reciprocity, listening, mutual respect, and willingness to have one's perspective altered in light of the "unforced force of the better argument").¹⁸ Both elements of performance figure prominently in recent studies that emphasize the institutional design of deliberation in real-world contexts over and against an earlier generation's more purely theoretical analysis.¹⁹

From the results-based perspective, the promise of deliberative procedures is that they will uniquely generate laws and policies in consonance with the public good and the educated will of the people.²⁰ From the performative perspective, deliberative democracy defends the propriety of citizens engaging each other in public speech devoted to the common good, framed in terms of free and equal

citizens of diverse backgrounds might accept.²¹ Because it operates simultaneously on the results-based and performative levels, the theory of deliberative democracy can generate two kinds of critique. It opposes underlying institutions that fail to be deliberative: for example, mere voting, secrecy, formal barriers to participation, and restrictions on the publicity and transparency of administrative decisions. And it opposes certain individual practices that fall short of deliberative ethics: for example, individuals who make appeals only in terms of an idiosyncratic conception of the good, who neither listen nor open themselves up to changing their preferences, or who do not engage others in a spirit of cooperation in trying to reach an understanding about the public good. This wide-ranging applicability, this span of both results-based and performative considerations, is part of deliberative democracy's strength and value.

Three criticisms of the theory of deliberative democracy

To be sure, deliberative democracy has been criticized on numerous grounds: that deliberative speech is false in its pretensions of neutrality, that it is culturally biased and exclusionary in ways that are unfair, that it rests on an overly ambitious and not credible conception of rationality, and that it appeals to a false and metaphysical notion of representation (by which the few who do deliberate are somehow able to fulfill the interests and views of those who do not).²² Notwithstanding the importance of these criticisms and the debates they have generated, there is another line of critique that arises from what might be considered the *overly circumscribed function of political performativity* within the deliberative model. Three points in this regard seem key.

First, deliberative theory provides only a very partial account of political performativity. While it focuses on the specific performance of rational speech-acts, and related processes of listening, arguing, and promise-making,²³ it does not address other practices often considered fundamental to the concept of political performativity: the theatrical nature of mass politics, its reliance on symbols and rhetoric rather than only rational discourse, its tendency toward spectacle, its division between citizens who are on a public stage and those who are not. This merely partial account of political performativity can be seen in the fact that deliberative theorists, even as they insist on a particular kind of performativity centered on rational discourse, are often strident critics of other, more dramaturgical forms of political communication.²⁴ It can be seen, too, in the choice metaphor of deliberative democracy: the likening of the public to a *sphere*, where presumably all have some access, instead of to a *stage*, where access is of necessity restricted.²⁵ The point is not that deliberative democrats are necessarily wrong to criticize the non-discursive, non-inclusive, often manipulative mass spectacles of contemporary democracy as normatively inferior to a reasoned debate among equals, but that given the obvious significance of such theatrical practices to our democracies, it is perhaps legitimate to request a theory of democracy capable of handling, and not just rejecting, the spectacular dimension of politics. Another way of putting this

is that deliberative democracy forgets a third possibility beyond the usual contrast between non-deliberative spectacles and deliberative discourse: namely, spectacles that, though still not fully deliberative, nonetheless are conducted in a relatively more democratic, or moral, fashion.²⁶

A second way in which deliberative democracy relies on an overly circumscribed account of political performativity is that it tends to provide a single, undifferentiated account of performativity (that is, deliberative discourse) for all citizens. Even though deliberation is a norm most obviously relevant to citizens who sit around a decision-making table – who are thus already empowered to a certain extent with decision-making authority – deliberative democrats usually assume that deliberation is no less relevant for ordinary citizens in their capacity as voters or participants in informal deliberative exchanges in civil society. This universalization of deliberative ethics, this assumption that all citizens can be treated under a single normative horizon, is problematic insofar as it obscures the obvious phenomenological difference between being a power-holder (for example, a parliamentarian, judge, high official, or leader) and an ordinary citizen without any formal outlet for making binding decisions beyond the vote. Ordinary citizens do not have the same opportunities for deliberation as political elites, but this difference in performative opportunities and responsibilities is overlooked by deliberative theory insofar as it assumes the ethic of deliberation it upholds is applicable for all citizens or believes that the very rationalism of deliberation minimizes the significance of *who* participates (on the assumption that if provisionally valid and rational decisions are being reached, the question of who precisely makes them is of secondary significance). One might legitimately seek an ethical theory of political performativity that, unlike deliberative theory, neither exaggerates the performativity of ordinary citizens nor ignores the enduring relevance of the few–many distinction in contemporary mass politics.

A third sense in which deliberative theory suffers from an excessively limited conception of political performativity is that it instrumentalizes performativity, treating it only as a tool for realizing laws and policies that are fair, provisionally true, rational, just, and so on.²⁷ It thereby forgets other potential uses for political performativity (which become fundamental within the plebeian model): for example, it can function as a kind of recompense by leaders for ineliminable injustice within a liberal democratic society, or as a means by which ordinary citizens, unable to be fully included in the deliberations of power-holders, can still make their (muted) voices heard. To be sure, deliberative theorists recognize that in conditions of gross injustice like discrimination against racial minorities or women, it might be necessary to pursue other types of political action – for example, protests and civil disobedience – besides deliberation.²⁸ But given the utopian quality of the liberal–democratic norm of free and equal citizenship, actual liberal democracies are likely to suffer, not just from episodes of gross injustice that require impassioned direct action and fundamental reform, but from more subtle and intractable shortcomings, more minor to be sure but nonetheless quite real, that are inescapable features of ordinary democratic life rather than exceptional

crises and abuses. Here I have in mind various well-known (which is not to say entirely uncontroversial) pathologies. These include social choice problems (difficulties aggregating individual preferences from voters into collective preferences that are coherent and non-arbitrary),²⁹ the difficulty of verifying the core notion of political representation in its results-based form,³⁰ and the inevitable intrusion of economic inequality into realms from which liberals of various stripes believe it should be excluded (for example, education and political voice).³¹ One might add as well the very inability to satisfactorily make deliberative contexts as inclusive as ideal theory would seem to require. Because deliberative theory only treats performance as a means to just, rational, and legitimate laws, it fails to consider that, in a world where politics will always lack full legitimacy, there is a place for another kind of political performance: one centered on political and economic elites who, as the most powerful and most fortunate members of a polity that is always something less than fully fair, take on certain special public burdens as a way to recompense the public for their never-fully-legitimate influence, stature, wealth, and authority. Such is the logic of the plebeian alternative I pursue below.

The plebeian model of political performativity

The plebeian model of political performativity construes performative criteria like responsiveness and accountability differently from the deliberative model, in that it places value in elites being *burdened* on the public stage. What is key from the plebeian perspective is not only that participants engage in rational discussion about the common good, but that the most powerful members of society also have imposed on them certain political and economic *disruptions* as a condition of their superior privilege and success within a democratic society.

This plebeian model of political performativity is something whose formal articulation I am myself introducing here, but it is already implied by the institutions of ancient Rome's plebeian democracy as well as certain other premodern republics grounded on differentiated citizenship (whereby the few, though elevated and distinguished from the many, nonetheless endured unique burdens as a condition of this elevation),³² by recent efforts to revive such plebeian institutions for increased elite accountability within contemporary democracies,³³ and by certain democratic-elitist conceptions of democracy that define democratization first and foremost in terms of the conditions and constraints placed upon leadership rather than the usual focus on equality, inclusion, and popular self-legislation.³⁴

Politically speaking, these various strands point to a conception of plebeianism as the norm that leaders appear in public under conditions they do not control, in situations where the possibility of critique and contestation renders such appearances risky, unpredictable, and potentially humbling for the elite participants. Economically, plebeianism stands for singling out the economically most advantaged citizens in a democratic society and requiring, in a kind of legalized noblesse oblige, that they make mandatory publicized contributions to the commonweal. The primary logic informing both sets of burdens is that, insofar as no liberal

democracy can fully achieve its own standards of free and equal citizenship, it becomes incumbent on its most advantaged members – those who have prospered the most within a system that is not fully fair – to endure special political and economic responsibilities that both acknowledge and in part remediate the lingering, indeed constitutive, failure of a liberal–democratic society to satisfactorily realize its own principles.

The plebeian model is based in large part on the plebeian democracy of late republican Rome, where the Roman citizenry was divided into ordinary citizens, or plebeians, and an aristocratic elite (the Senatorial class and the Equestrian Order) – but where, unlike other polities with hierarchical social structures and differentiated socio-economic classes, various institutions insured that elite Romans had to endure a variety of special political and economic burdens.

Economically, beyond the state supply of corn and land and the patronage of clients and electoral supporters, it was expected that the richest and most powerful citizens provide from their own pockets the funding of public feasts and banquets, games, the construction of buildings, and sometimes the costs of the magistracies they held.³⁵ *Politically*, there were various institutions that forced leaders to appear under conditions they did not control, where they might be contested and exposed to potential public humbling. For example, there was the *contio*, in which magistrates made appeals before a crowd that, though unable to participate in a deliberative way, could express itself via shouts, sometimes interrupting and embarrassing the speaker.³⁶ Just as important were the tribunes who, in addition to being able to veto the decisions of magistrates, could bring forward accusations of high officials in a *iudicium* before the amassed citizenry in the *comitia tributa*.³⁷ Moreover, leaders were contested through public audits of magistrates following their term of office.³⁸

Such public burdening of political and economic elites was not limited to Rome, as analogous situations existed in Hellenistic cities like Athens which though more egalitarian than Rome still had its politics shaped by a basic division between the rich and the poor as well as by at least a formal differentiation of citizens based on property classes.³⁹ In Athens the richest citizens built public buildings, performed services or “*liturgies*” (providing public services like equipping a trireme, underwriting theatrical productions, or sponsoring gymnasia), paid special taxes in emergencies and times of war (*eisphora*), and sometimes provided public feasts upon attaining high office and, in office, contributed personally to the administration of their official tasks.⁴⁰ Various political institutions also exposed the political elites to unique burdens: for example, ostracism,⁴¹ *euthunoi* (the public audits of magistrates upon leaving office),⁴² speaking before the assembly where they might be shouted down,⁴³ and courts in which prominent citizens would contest each other before the whole people.⁴⁴ In both Athens and Rome, then, the most advantaged citizens had to incur special responsibilities as a condition of their success. These ancient republics show that if the counter-egalitarian side of plebeianism is that it indicates second-class citizenship, the progressive, democratic aspect is that first-class citizens have to pay the public in a kind of

recompense through enduring various political and economic burdens on the public stage.⁴⁵

It is important to stress that plebeianism, in its relationship to political elites, is not altogether distinct from the deliberative model, as in certain cases both models will favour the same practices. After all, insofar as genuine deliberation itself requires that participants in a dialogue not be in full control of the proceedings – that they desist from propaganda and insulation from reasoned critique – there will be numerous instances when the deliberative democrat and the plebeian democrat seek the same ends. For example, the widespread parliamentary practice of prohibiting the reading of prepared speeches in parliament, loosely applied in Britain, Australia, and numerous other parliaments, would meet approval from both perspectives, albeit for different reasons (maximizing deliberation versus maximizing the risk and stress of the appearance).⁴⁶ And, *ceteris paribus*, an exponent of plebeian democracy certainly would favour a more rather than a less deliberative society.

Nonetheless, plebeianism is hardly reducible to conventional conceptions of deliberative democracy. In at least three different ways, a plebeian approach extends or alters prevailing norms of just political communication. First, much more than in a deliberative democracy, it matters to the plebeian democrat just *who* is doing the talking (that it is a person with real power, rather than a deputy or aide, however truthful or ample the information provided may be).⁴⁷ Second, the plebeian is much more interested than the deliberative democratic in retrospective, investigative proceedings where the matter at hand is not to select laws and policies going forward, but to assign blame and vent dissatisfaction toward leaders for what has happened, in a context where elites are forced to listen and respond.⁴⁸ Third, as I elaborate in the next section, certain proceedings likely considered a distraction by the deliberative democrat – heated argument, cross-examination with the goal of tripping up the opponent rather than reaching an understanding, even heckling from onlookers and ordinary citizens – will be deemed valuable by the plebeian, at least up to a point. Whereas deliberation invokes critical publicity to rationalize *decisions about issues*, the plebeian aims to expose *persons, the decision-makers*, to dynamic and rigorous processes of accountability.

Why does the plebeian care about this extra-deliberative, contested, live, and spontaneous form of political performativity? In placing such great weight on the regulation of elites, plebeianism takes seriously, and seeks to progressively respond to, the fact that it is never an all-encompassing public sphere which characterizes political life in contemporary mass democracies, but to some meaningful extent a public *stage* from which most are effectively excluded. Here it is important to point out that plebeianism is not only a set of institutional proposals – class-based representation, the mixture of electoral mechanisms with sortition, the revival of a tribunicial power, and, as I am emphasizing here, a conception of political performativity centered on disrupting power rather than only rationalizing it through deliberative discourse⁴⁹ – but the diagnosis of a set of “plebeian” social conditions, in particular the persistence of second-class citizenship within contemporary mass

democracies, that justify the modern recovery of elements of those institutions. Clearly there are important discontinuities between today's democratic citizens and the Roman plebs,⁵⁰ but the relevance of plebeianism as a philosophy of contemporary democratization rests on the degree to which ordinary politics today evinces certain plebeian characteristics. Consider three senses in which this tends to be so. First, just as the Roman plebs not only did not hold office but understood that office-holding was permanently foreclosed to them,⁵¹ so do today's everyday citizens experience politics in a way that takes it for granted that they will never have political careers. Phenomenologically speaking, especially once the period of early adulthood has passed, a citizen who has not attained wealth, fame, or some other special credential has no realistic expectation that he or she will hold, let alone seek, high office. Second, like the plebeians of the late Republic, whatever power ordinary citizens of today do exercise is mediated by *manyness*: that is, by membership in a larger mass (electorate, public opinion, protest movement) which not only is itself highly limited in its expressivity (usually bound to binary pronouncements and, thus, not deliberative⁵²) but mostly neutralizes the opportunity of its individual members to achieve the self-disclosure, discretionary decision-making, and fame of political elites like senators, presidents, and the like. Third, as the plebeian of the late Republic was kept from active political life primarily due to lack of great wealth,⁵³ so do contemporary democratic politics, albeit in less extreme fashion, have a plutocratic element – not necessarily in the sense that organized moneyed interests collude to control the state, but in the literal sense that wealth almost always exerts political influence, despite the best efforts of liberal–democratic societies to cordon off political space from economic inequality. While the effects of economic inequality on the political system are most apparent in democracies like the United States – where economic inequality is high and its political impact is magnified by first-past-the-post voting, limited campaign finance regulation, and complex voter registration rules (all of which have been shown to disproportionately privilege the socioeconomically advantaged)⁵⁴ – it would be a mistake to think that more egalitarian societies have entirely neutralized the disproportionate political advantages generated by wealth.⁵⁵ Even if some democracies, like Scandinavian ones, have dramatically reduced the impact of wealth on politics on a relative basis, it is also true that they have not done so entirely.⁵⁶

These plebeian social structures, when linked to other contemporary pathologies I have already discussed (social choice problems, the difficulty of verifying representation in the results-based sense, the unavailability of sufficient deliberative contexts for most citizens) generate the moral logic of seeking political and economic performances that burden and disrupt – rather than ignore, celebrate, or otherwise simply condone – elitism in a democratic society. To be sure, plebeian social conditions in contemporary mass democracies characterize some regimes much more than others, and it makes sense for progressive energies to be deployed toward achieving the best possible democracies, even if these prove less than perfect. Nevertheless, to the extent that plebeian social circumstances and other pathologies seem inescapable features of all democracies to some degree, the

relevance of a plebeian perspective within democratic theory ought to be clear, even as its precise requirements remain a matter of ongoing debate and evolution.

The plebeian form of political communication: non-deliberative discourse

The plebeian aims to have power *disrupted* on the public stage – and while this end is not necessarily in conflict with the deliberative focus on rationalizing political decisions through discourse, it does depart from deliberative norms insofar as it places greater emphasis on cultivating public venues where power is contested and publically burdened, on pursuing retrospective investigations aimed at extracting contrition and responsibility for prior leadership, and on insuring that it is not only issues and decisions, but *individuals*, who are subjected to the critical glare of publicity.⁵⁷

The *disruption* intended by plebeian institutional structures is different from the disruption internal to the practice of deliberation itself (the questioning and criticizing that distinguish a genuine deliberative exchange from non-communicative propaganda) and the physical disruption of ordinary politics through civil disobedience and other modes of protest (for example, boycotts, strikes, and related forms of mass mobilization). The plebeian model suggests the reality and importance of a third category beyond the disruption that cancels debate and the more limited kinds of obstructions and interruptions that define it: which we might call *non-deliberative discourse*. By this, I mean a type of discourse that is not outright disruption (in the sense of shutting down parliaments and other official fora) because it is discursive rather than violent or disobedient, but that, simultaneously, is not *deliberative* discourse, because it is not structured around reaching mutual understanding (or rational clarification of differences), relating instead to the imposition of potential risk and humbling onto power-holders. Examples of non-deliberative discourse include the verbal confrontation of leading politicians by their partisan rivals, the exposure of leaders to aggressive forms of journalism, and the heckling or other similar practices by ordinary citizens vis-à-vis power-holders.

All three kinds of disruptions – those internal to deliberative dialogue, the protest that shuts down dialogue, and plebeian non-deliberative discourse – have a role to play in a vibrant democratic regime. If the value of deliberative disruption is rationality, and the value of protest is combating manifest and correctible injustice, the value of non-deliberative discourse would be (in addition to protective vigilance and the egalitarian interest in keeping the powerful within their proper bounds) the aspiration that power recompense society with burdensome public performances for the lingering pathologies and intractable forms of unfairness discussed above.

Importantly, these three are not necessarily mutually exclusive concerns. One can conceive of various institutions – for example, question time – that realize simultaneously deliberative and plebeian forms of disruption.⁵⁸ Likewise while protests generally shut down all forms of discourse (conceived as an actual public exchange between two sides), it is still possible – and perhaps in certain cases preferable – to combine protest and non-deliberative discourse as in a

heckler serving a particular protest agenda. At the same time, there are situations of potential conflict among these approaches to disruption, where it matters which one is being privileged.

This specific plebeian form of disruption – non-deliberative discourse – has different meanings, depending on whether one is a political elite or ordinary citizen. For the political elite, non-deliberative discourse is primarily something to endure. For the ordinary citizen, by contrast, non-deliberative discourse is either something to witness from the outside or it is the likely form civic participation will take whenever the ordinary citizen achieves direct contact with the highest echelons of power on public stage. In this latter circumstance, what I mean to highlight is only this: because ordinary citizens usually cannot engage in a genuine public dialogue with their leaders (having either no access, or access that is severely limited in time allotted and infected by hierarchical communicative structures), it will tend to happen that if the ordinary citizen does engage with leaders upon the public stage, it will be through various forms of non-deliberative discourse: discourse that lacks the full communicativity of genuine deliberation (for example, a single question without even a follow-up) or, in its disruptive form, discourse that interrupts, challenges, shames, or otherwise destabilizes power-holders as they appear in public.

Given the default quality of non-deliberative discourse – given that, if the ordinary citizen wants his or her voice to be heard at all on the public stage, it must usually come from discourse that is less than fully deliberative – and considering what I have defended as the democratic value of leaders appearing contested on the public stage, democracies must learn to overcome their antipathy toward those who engage in this kind of speech. In particular, the figure of the shouter or heckler, who may be seen perhaps as the non-deliberative speaker par excellence, ought to be rehabilitated.

At the very least, heckling should be evaluated from the perspective of the heckler: namely, as exhibiting a kind of political courage – the courage to speak out in a forum where one lacks standing – distinct to the ordinary citizen. Heckling need not be mere harassment or obstruction, but when done well can be effective in publicizing an issue and challenging a leader on coherent, principled grounds. The history of heckling in democracy has yet to be written.⁵⁹ Such a history surely would include Thersites' heckling of Agamemnon in the Trojan War,⁶⁰ the classical prophets of the Bible who had to withstand heckling and abuse from the very crowds that validated their charismatic authority,⁶¹ the informal assembly of the Roman *contio* in which leading magistrates would address ordinary citizens and subject themselves to potential interruption from the crowd or effective cross-examination from rival leaders,⁶² innovative nineteenth century politicians like Andrew Johnson in the United States and William Gladstone in Britain who, much more than their predecessors, made extemporaneous public appeals where they were always in danger of being mocked and contested,⁶³ and more recent episodes of prominent politicians being heckled, like Harold Wilson in the 1960s and 1970s and John Kerry's famous incident at the University of Florida in 2007.

Such non-deliberative discourse, like the other forms of plebeian disruption this article has highlighted, might seem empty so long as legislative performance is conceived only in terms of producing legislative results. But I have tried to emphasize that there is a second kind of legislative performance – the literal performativity of leaders – which becomes indispensable if the purpose of democracy is not only to enact laws and policies for the common good, but to acknowledge and in some partial way remediate the problem that democratic ideals always will transcend any polity's ability to fully implement them. For the plebeian, whose very second-class civic status reflects the imperfection of any given liberal–democratic regime, the commitment to the public burdening of a society's most powerful citizens stems from a non-legislative but still legitimate need for public performances that recognize, in a spirit of repentance, that something other than the full realization of free and equal citizenship is being practised in contemporary mass liberal–democratic regimes.

Notes

1. Valerius Maximus, 6.2.6, in Malcovati, *Oratorum Romanorum Fragmenta*, 128.5,418.
2. Hajer, *Authoritative Governance*, 8.
3. Lasswell, *Politics*.
4. Hajer refers to “a tradition in political science that takes seriously the role of language and dramaturgy, of discourse and settings. That literature is subtle but has somehow always remained peripheral in the discipline.” *Authoritative Governance*, 12.
5. Debord, *The Society of the Spectacle*; Habermas, *The Structural Transformation of the Public Sphere*; Postman, *Amusing Ourselves to Death*. Closely related to the denigration of the spectacle as undemocratic is the assumption, nicely detailed and persuasively rejected by Manow, that “democracy has no imagery”, that it dispenses with all matters of embodiment and performance. See Manow, *In the King's Shadow*, 9.
6. Alexander, *The Performance of Politics*, esp. xii, 15; Pels, “Aesthetic Representation and Political Style,” 57. Hajer, *Authoritative Governance*, 3–4; Hajer and Uitermark, “Performing Authority.”
7. Maynia recently has defended a notion of “performative democracy”, involving mass events (like the tradition of Carnival analysed by Bakunin) where citizens “straighten their backs” – a somewhat vague formulation, but one which clearly indicates, as Maynia argues, episodic moments of rupture or resistance rather than ordinary occurrences in everyday democratic life. *Performative Democracy*, 4, 5, 9, 52.
8. Indeed, for Edelman, such performativity often amounts to instances whereby democratic politicians produce only the false appearance of satisfying the needs of their constituents, achieving acquiescence from the public rather than their objective welfare. Edelman, *Constructing the Political Spectacle*. Other studies which emphasize the importance of symbol and ritual to contemporary politics, without asserting the justice of such phenomena, include Merelman, “The Dramaturgy of Politics”; Gamson, *Talking Politics*; McLeod, “The Sociodrama of Presidential Politics”; and Hajer, *Authoritative Governance*, 54–6, 89–94, 181–4.
9. For a recent account of this dominant approach, see Enns and Wleizen, *Who Gets Represented?*
10. See, for example, Przeworski, Stokes, and Manin, eds., *Democracy, Accountability, and Representation*.

11. Hansen, *Athenian Democracy in the Age of Demosthenes*, 78, 223.
12. On the conception of presidential democracies, see Linz and Valenzuela, *The Failure of Presidential Democracy*.
13. In the United States, doctrines of legal immunity and executive privilege mostly prevent the interrogation of presidents while in office – and there is also precedent, set by President Truman, that ex-presidents cannot be called to testify. In 1953, now out of office, Truman refused to honour a Congressional subpoena that he testify regarding an investigation of espionage, declaring:

The doctrine [of presidential confidentiality] would be shattered, and the President, contrary to our fundamental theory of constitutional government, would become a mere arm of the Legislative Branch of the government if he would feel during his term of office that his every act might be subject to official inquiry and possible distortion for political purposes. (Quoted in James Hamilton, *The Power to Probe*, 169)

14. Habermas, *Structural Transformation of the Public Sphere*, 5–14; Schmitt, *Roman Catholicism and Political Form*; Mansfield, “Modern and Medieval Representation,”
15. McLeod, “The Sociodrama of Presidential Politics,” 363; Hajer, *Authoritative Governance*, 53–4; Green, *The Eyes of the People*, 32–63.
16. To be clear, I understand democratic theories espousing results-based performance as including not only consequentialist approaches that claim that democratic procedures have moral force only to the extent they produce good results, but equally approaches that uphold the representation of the electorate’s preferences as an intrinsic good. Both of these are results-based in the sense that they focus primarily on the enactment of laws and policies as the criterion of democratic justice rather than the performative appearance of leaders and events on the public stage.
17. While there is nothing in principle preventing the agonal model from being performative, the most influential purveyors of this theory have emphasized epistemological aspects (like the lack of universalistic, rationalistic solutions to most political problems and, hence, the permanence of agonism in politics) and broad sociological implications (like the need for active mobilization, rather than the dispassionate search for consensus, as the proper mode of addressing most issues), instead of how concrete individual political performances should be conducted. See, for example, Mouffe, “Deliberative Democracy or Agonistic Pluralism?” The question of what an agonistic mode of political performativity might consist in, beyond “a vibrant clash of democratic political positions,” largely has gone unaddressed. Mouffe, *The Democratic Paradox*, 104. For a partial exception, see Bickford, who advocates listening, among other qualities, as a specific performative trait required for an agonal – or “adversarial” – conception of democracy. Bickford, *The Dissonance of Democracy*, 16–19.
18. Habermas, *Between Facts and Norms*, 306.
19. Kahane, Weinstock, Leydet, and Williams, *Deliberative Democracy in Practice*; Warren and Pearse, *Designing Deliberative Democracy*; Goodin, *Innovating Democracy*; Ackerman and Fishkin, *Deliberation Day*.
20. Bohman and Rehg, *Deliberative Democracy*, ix; Fearon, “Deliberation and Discussion.” For an exception to this trend, see Pettit’s argument for the restriction of certain deliberative contexts to experts and elites insulated from direct popular accountability: Pettit, “Depoliticizing Democracy.”
21. Gutmann and Thompson, “Deliberative Democracy Beyond Process”; Christiano, “The Significance of Public Deliberation.”
22. See Sanders, “Against Deliberation”; Green, *The Eyes of the People*, 58–60.
23. Deliberative democracy’s restricted notion of performativity stems in part from the restricted conception of the performative that comes from linguistics, especially

- Austin's notion of "performative utterances" as speech-acts that do not just describe reality but constitute mutually recognized identities and relations. See Austin, *How To Do Things With Words*.
24. The normal assumption, hardly false, is that non-deliberative politics – shaped by spectacle, theatre, and constant opinion polling – is much more conducive to elite manipulation and abuse. See, for example, Ackerman and Fishkin, *Deliberation Day*, 18, 112, 199–200, 214, 217. But the inferiority of non-deliberative politics vis-à-vis deliberative politics ought not prevent normative analysis of relatively better and worse forms of non-deliberative politics, especially insofar as the full realization of deliberative norms is not possible.
 25. Beyond the clear privileging of the metaphor of sphere over stage in the voluminous literature on deliberative democracy, an explicit argument on behalf of this privileging can be found in Habermas, *Between Facts and Norms*, 361; also see Seyla Benhabib, "Models of Public Space," 79, 95. Benhabib links stage-based models, like the theatrical politics of Hannah Arendt, to the vying for excellence, whereas a deliberative politics, occurring in the abstract public sphere, has as its primary purpose the legitimation of social norms.
 26. For attempts to pursue this third way, see Green, *The Eyes of the People*; Rousseau, often seen as a critic of the spectacular nature of politics, in fact discriminates between morally better and worse forms, preferring, for example, winter balls, civic festivals, and *cercles* to the commercial theater. See Kohn, "Homo Spectator," 468–471.
 27. To be sure, it is also true that deliberative democrats frequently defend deliberation for its participatory features, above and beyond deliberation's alleged capacity to legitimate laws and social norms. See, for example, Barber, *Strong Democracy*.
 28. Gutmann and Thompson, *Why Deliberative Democracy*, 51.
 29. See Riker, *Liberalism Against Populism*; Arrow, *Social Choice and Individual Values*. For an important critical response, see Mackie, *Democracy Defended*.
 30. It is indeed a remarkable feature of contemporary democratic politics that one of the most vital notions of popular empowerment – a government's representation of the electorate – remains open to profound debate among political scientists regarding the degree and direction of its occurrence. On the particular representational issue of whether and to what degree American politicians are responsive to public opinion, the debate probably has only widened in the last decades. See Burstein, "Public Opinion, Public Policy and Democracy."
 31. On the inevitable penetration of economic inequality into education, consider the admission of Rawls, normally considered a seminal defender of liberal education that aims to provide equally talented and motivated children the same prospects of success regardless of the socio-economic conditions of their birth: "The principle of fair opportunity can be only imperfectly carried out, at least as long as the institution of the family exists." Rawls, *A Theory of Justice*, 74.
 32. Millar, *The Crowd in Rome in the Late Republic*, 73–94; Veyne, *Bread and Circuses*, 201–345; Lintott, *The Constitution of the Roman Republic*, 94–121.
 33. McCormick's *Machiavellian Democracy* advocates the revival of "plebeian republicanism" (147) which would enhance elite accountability beyond the usual focus on electoral mechanisms through the introduction of institutions – like tribunal political bodies and expanded political trials – that, in addition to protecting the "plebeians of modern republics" (150) from elite domination, would also clearly lead to greater public burdens placed on elites.
 34. Schumpeter's competitive–elitist model understands democratization as a process involving the subjection of leaders to "competitive struggle" rather than traditional democratic values. Schumpeter, *Capitalism, Socialism, and Democracy*, 271, 290, 293.

35. See note 32.
36. On the *contio* as a “hierarchical communication situation” but one where elites were exposed to competition and critique, see Morstein-Marx, *Mass Oratory and Political Power in the Late Roman Republic*, 4, 9, 119, 127–8, 132, 165, 170–1.
37. Millar, *The Crowd in Rome*, 14. As Millar explains, there is scholarly disagreement about the precise functioning of these trials. See Jones, *The Criminal Courts of the Roman Republic and Principate*, ch. 1, “*Iudicia Populi*.”
38. On the *lex repetundarum*, which mandated audits of higher magistrates by often lower-class judges, see Livy, *History of Rome*, xlii.221–22; Crawford, *Roman Statutes*, 65 (lines 8–9).
39. See MacKendrick, *The Athenian Aristocracy*.
40. Hansen, *Athenian Democracy*, 110–15; Ober, *Mass and Elite in Democratic Athens*, 28, 115, 117, 128, 199–203, 215–17, 221, 224–34, 277, 280.
41. See Forsdyke, *Exile, Ostracism, and Democracy*; Bederman, *The Classical Foundations of the American Constitution*, 195.
42. See note 11.
43. On the Greek practice of *thorubos* (shouting down elite speakers), see Tacon, “Ecclesiastic ‘Thorubos’.”
44. See Bauman, *Political Trials in Ancient Greece*.
45. On the idea of this form of compensation, see Veyne, *Bread and Circuses*, 93, 118, 152.
46. On this prohibition, see May, *A Treatise upon the Law, Privileges, Proceedings and Usage of Parliament*, 372: “The purpose of this rule is to maintain the cut and thrust of debate, which depends upon successive speakers meeting in their speeches to some extent the arguments of earlier speeches; debate is more than a series of set speeches prepared beforehand without reference to each other.”
47. On this difference, see Green, *The Eyes of the People*, 198.
48. On the significance of retrospective investigative audits to the Roman and Athenian republics, see notes 11 and 38; on the practice of shouting down leaders, see notes 36 and 43.
49. For a recent defense of these proposals, see McCormick, *Machiavellian Democracy*. Of course, deliberative democrats are not necessarily uncommitted to the norm of disruption, but I clarify what is particular to a distinctly plebeian notion of disruption in the fourth section.
50. A plebeian, in the political-economic sense that emerged in the last century of the Republic, was a full citizen who was not part of any aristocratic group and, so, usually lacked high levels of wealth, power, and usually fame. To be sure, the older notion of plebeianism as an hereditary, almost ethnic category lived on (as certain offices, like the Tribune, were restricted to members of traditional plebeian families, so that Clodius in 59 BCE had to renounce his patrician heritage and seek adoption from a plebeian family in order to attain the office), but plebeianism as I employ the term, and as the term came increasingly to be employed, refers to the multitude, i.e., the mass of ordinary citizens unelevated in status, wealth, or renown. On this rendering of plebeianism, both in the late Republic and early Empire, see Tacitus, *Histories*, 1.4.3; Machiavelli, *Discourses on Livy*, 1.29–31; McCormick, *Machiavellian Democracy*, 31; Gelzer, *The Roman Nobility*, 21; Cicero, *Ad Atticus*, I.16; Horace, *Epistles*, II.186.
51. On the restriction of the magistracies to the aristocratic classes, see Manin, *The Principles of Representative Government*, 46; Millar, “The Political Character of the Classical Roman Republic,” 11, 18; Gelzer, *The Roman Nobility*, 127; Katz, *Democracy and Elections*, 14–18.
52. On the non-deliberative quality of the legislative assemblies in which plebeians were restricted to yes–no votes, with effectively no capacity to set the agenda or engage in

- discussion, see Taylor, *Roman Voting Assemblies*; Nicolet, *The World of the Citizen in Republican Rome*, 254–55.
53. See note 50.
 54. Lijphart, “Unequal Participation: Democracy’s Unresolved Dilemma.”
 55. Verba, Nie, and Kim’s landmark, cross-national study on economic equality and participation – with its central finding that “the political advantage of those citizens more advantaged in socioeconomic terms is found in all nations” – has hardly been refuted in the more than three decades since its publication. Verba, Nie, and Kim, *Participation and Political Equality*, 1.
 56. On the plutocratic elements of Scandinavian societies –including their high levels of wealth (as opposed to income) inequality, their reliance on indirect, regressive taxation, and their simple inability to generate a political and educational system that does not in some ways bias the wealthy – see Winters, *Oligarchy*, 278–80; Beramendi and Rueda, “Social Democracy Constrained,” 627.
 57. I do not pursue here the plebeian emphasis on the *economic* burdens placed upon a society’s richest citizens – which would serve not just fiscal purposes, but the acknowledgement and partial remediation of the inescapable elements of unfairness afflicting all liberal–democratic societies – but these too are important to plebeianism.
 58. On the burdensomeness of question time, consider the first President Bush’s reflection on his not having to endure it: Interview on C-SPAN, 1991, available online (http://www.congress.org/news/2011/01/12/would_obama_take_questions).
 59. But see the all-too-brief, poorly named, White, “A Brief History of Heckling”; also see Herbst, *Rude Democracy*.
 60. Homer, *Iliad*, II.224–42.
 61. Weber, *Ancient Judaism*, 267–335.
 62. For examples of heckling and related forms of disruption within the *contio*, see Sallust, *Jugurtha*, 34.1; Cicero, *De Haruspicum Responso*, 8; *ar. Resp.* 8; Gran Licinian, 36.33 C. On the use of the *contio* as a venue to which a leading magistrate might summon a rival magistrate and engage in a kind of cross-examination, see Morstein-Marx, *Mass Oratory and Political Power*, 170–1; also see, 4, 119, 132, 165. As Morstein-Marx observes (127), “The right to shout in the *contio* could even be seen as the mark of freedom itself”.
 63. Green, *The Eyes of the People*, 130, 162.

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