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4. **Defining economic democracy: A challenge An institutionalist framework**

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This recognition of democracy as a universally relevant system, which moves in the direction of its acceptance as a universal value, is a major revolution in thinking, and one of the main contributions of the twentieth century. (Amartya Sen)

**THE PROBLEM OF ECONOMIC DEMOCRACY**

Is ‘economic democracy’ an oxymoron? When she heard that the Moulinex factory in Alençon where she had worked for 30 years was soon to close down, Monique protested: ‘They have exploited us for years and now they want shut of us. Every day we wait for news, hoping it won’t be too bad. Its racking my nerves. I can’t stand it. I feel cut off from the world, from society, left out of everything. Our lives have been put on hold.’

Her protest echoes the words of the Abbé Sieyès two centuries before: ‘What is the Third Estate today? Nothing.’ Except that Sieyès was challenging the forms of political power while the factory worker Monique contests the forms of economic power. In the economic sphere, rights are not distributed, granted or held by any egalitarian or democratic procedure. This, though, is not a concern for the many people for whom economics implies private property (and so owner power exclusively) and market-allocation of resources (and so unequal entitlement to power).

This attitude derives from the way we model society dichotomously as political machinery and economic machinery. In one set of models (mainly Greek and Roman political philosophy, and the models of Hobbes and Rousseau) society has a political foundation, whether in the form of a community (Plato and Aristotle) or of a social contract based either on fear and constraint (Hobbes) or on will and liberty (Rousseau). It also has some form of incentive be it virtue or reason. The most important issue is the organization of sovereignty, that is the distribution of political power, in relation to the type of incentive; the ensuing debates concern political
democracy. In the other set of models, society has an economic foundation in trade, social production or the division of labour. Individuals act for motives of utility or profit and power derives from the economic workings of markets. Economic matters remain separate from democratic concerns. Accordingly, the economic analysis of democracy is confined within the bounds of political democracy as in the 'public choice' approach (see for instance Breton et al., 2003).

A different approach is adopted in this chapter. It is argued that democracy and the workings of the political market are problems that cannot be studied independently of the organization and workings of the economic market. Therefore, the theory of political democracy (that is, of the distribution of political power and rights) requires an analysis of economic organization (that is, of the distribution of economic power and rights). This is a theoretical matter but also an empirical problem. If economics is indifferent to or, worse still, opposed to democratic organization, then the scope for democracy will be restricted in societies where the economic dimension is expanding. Limiting republican or democratic means of organization to the very classical political sphere leads to them being reduced to formal denominations, with social relations largely slipping away from their control and into the realm of market management. Can democracy withstand any form of devolution of economic power? One can interpret the crisis in politics as a symptom of this phenomenon: if the important things slip out of the political sphere to be taken over by the market, then why pretend to believe there is any point in political confrontation? As Ferguson (1799) and Tocqueville (De la démocratie en Amérique, 1835 and 1840) pointed out two centuries ago, the development of the market economy promotes concern for individual interests to the detriment of the common interest and may pose a threat to democracies. In our own times Amartya Sen (1987b) proposes to heal the fracture between ethics and economics by connecting politics and economics and by discussing the goals of economic management by governments. For Sen, freedom is a fundamental entitlement implying not only basic civil rights and equal opportunities but also equal satisfaction of certain basic needs such as being properly nourished or having self-respect and dignity. Accordingly, an attempt is made here to define economic democracy, in other words, to study the connection between the traditional subject matter of political science (republic and democracy) and economics, and especially the market dimension of contemporary societies.

Some economists have studied how political democracy relates to economic performance (Barro, 1991, 1995, 1997; Lipset, 1959, 1994; Lipset et al., 1993; Sen, 1984, 1987 a, b, 1993). However, this does not provide us with a theory of economic democracy and the question of democracy
remains within the realm of politics. Such thinking is similar to that of other social scientists who consider that modern societies include different social domains which have to be managed by different criteria. Ethical criteria concern the ethical dimension, democracy is a problem of the political sphere and economics works with efficiency criteria, regardless of any ethical or political considerations (see for instance A. Comte-Sponville, 2004). Fukuyama (1992), through the idea of the 'end of history', considers that everyone has now agreed to the market and democracy forming the two pillars of every modern organization, but he overlooks the incompleteness of democracy. Democracy has extended beyond the political domain to take in fields such as the family (women's rights, children's rights, and so on), schools, the armed forces, ... and economics. Even if rights are mainly defined in this domain as social rights and not as economic rights, it is still essential to point out the terms and conditions on which they are granted and held and the consequences they entail.

It is not a good idea to consider the market and democracy as two necessarily opposing institutions. Some commentators imagine that the growth of the democratic domain implies a corresponding contraction in the market domain. It is argued here that the market is one of the conquests of ‘modernity’ and the problem is not its existence but the forms it takes. This chapter discusses, then, the strictly democratic (or non-democratic) component of economic organization. If, like Rosanvallon (2000: 11), we use the standard definition of democracy as 'the implementation of popular sovereignty', what of the organization of popular sovereignty in economics or in the management of the economic sphere? And is the question meaningful? In the 1960s and the 1970s, theories critical of capitalist and communist societies developed different models of alternative organization within the framework of self-organization (for instance Kolm, 1977). Debates arose with the standard theory or the libertarian approach (Lepage, 1978) but disappeared with the globalization of markets and the expansion of free-market economies. Even so, the questions remain. Obviously, this chapter cannot cover the whole range of issues in economic democracy. It focuses on the basis for the distribution of economic rights and powers.

THE ANALYTICAL FRAMEWORK

The standard political concepts can be used in studying this problem, but a special-purpose tool is required for analysing the economic dimension. Fortunately economic theory provides us with a powerful tool in 'property rights' theory. It enables us to study entitlement to property rights and their
distribution, and hence the distribution of economic power and the consequences thereof. Democracy, then, refers to the definition and distribution of such rights and may take the form of republican democracy; can one speak, by analogy, of market democracy? More specifically, an attempt is made here to define economic democracy by combining property rights theory and an institutionalist framework.

It is standard practice to distinguish among political models of society between _societas_ models (society is an association of individuals) and _communitas_ models (society has a unity pre-existing individuals) using an organic conception of society. Here too we shall try to interpret economic society as a _communitas_, in the line of theories of republican political democracy. Property rights shall be considered as institutions that have been built up over time by individuals and groups in relation with other organizations and institutions (mainly markets and firms) and not just as some procedure for temporary exchange relations between autonomous individuals. This chapter does not consider the whole range of problems related to economic democracy but focuses on the foundations of the distribution of economic power.

This approach is based on three postulates. First, modern societies are societies of individuals (Elias, 1973). This invalidates ancient models of democracy, such as the Greek or Roman ones, and requires their principles to be reformulated. Nevertheless, it implies that consideration of the social unit, the social conditions in which individuals act, should not be omitted. Political philosophy of the sixteenth, seventeenth and eighteenth centuries distinguished between individual and collective interests, the interests of individuals and the interests of society. Society's interests are more than just the sum of individual interests because society reproduces itself over time on a different time-scale from individuals. Moreover, individuals' interests are simultaneously interests related to their individual personalities and interests as members of a collective organization. The classical theory shows that the dynamics of modern societies, in political and economic terms, are at the same time the consequence of this dual status of individuals: individuals as autonomous entities and centres of decision-making powers, individuals as members of a political society and of a cooperative market society. Individual autonomy is the precondition for innovation and for the possibility of seizing the opportunities the market creates, and it is the factor that distinguishes 'cold' from 'hot' societies (Lévi-Strauss); by belonging to a collective entity its members benefit from cooperation and the organization of collective power over nature and society.

The second postulate is that property rights in modern societies are based on the existence of two orders, the republican order and the market order, and are organized within these two contexts (Barrère, 2005: 295–300).
From an institutionalist point of view, both orders define systems of social constraint: the legal system represents the collective framework of each individual's action (effect of the inclusion of the individual in society) and the price system also represents the collective framework of each individual's action, but in the economic sphere (Samuels, 1971). Each order acts as a system. Each order implies constraints, incentives and opportunities, interdependence and autonomy. Each order defines powers and rights and entitlement to them. How are rights to participate in defining each of these constraining systems distributed? This is the question of democracy, which obviously comes close to the question of freedom because the distribution of rights is also the distribution of powers and liberties.

The third postulate is that social institutions and organizations, such as markets, firms and conventions, create a collective heritage that is handed down over time (Barrère et al., 2004). Individuals and groups produce their output using present inputs but also thanks to such institutions and common resources. Societies operate in a temporal dimension of their own.

Political models that discuss the issues of democracy and the organization of political rights and powers are founded on a distinction between private (individual) and public (common) interests. The major models dealing with the various kinds of political power, and especially with the topics of democracy, can be characterized as communitas models and societas models. Communitas models, based on the Greek conception of political power, use a positive conception of freedom: democracy and freedom, as opposed to dictatorship and tyranny, imply the possibility of participating in collective decision making about common policies (opting for war or peace, defining social institutions, and so on). As Montesquieu wrote 'It is a fundamental law of democracy that it is the people alone who make the laws'. These models involve a social claim to participate in collective decision making. They are republican models, the res publica defining the welfare of the communitas. Societas models conceive of society as a collection of individuals able to bargain for inter-individual contracts and use a negative conception of freedom: democracy and freedom are concerned with the protection and enforcement of such contracts and with the protection of individuals against the state and collective powers. These models lead to the theory of the rule of law. They purport to protect individuals' privacy and autonomy. Modern discussions of democracy seek to combine both negative and positive conceptions of freedom, defining democracy as a permanently incomplete process of 'tension' between the will to autonomy and the will to participate in social power.

In my opinion, the societas models of political democracy are an inadequate foundation for an economic democracy because they fail to develop any theory of the distribution of rights. They may propose different
solutions for political organization, be it an authoritarian solution (Hobbes) or a liberal one (Locke, Harrington), but they share a common view of modern society as an association of individual owners. This view, known as 'possessive individualism' (Macpherson, 1962), claims that the individual is the sole owner of his capacities, and more than that he is 'his own man'. Individuals are not indebted to society for anything. Accordingly, societas models mainly address two problems. One is the possibility of organizing the peaceful management of inter-individual divergences. The other is, in reaction to the models of Hobbes and Rousseau, the protection of individuals from central power. As a relation between the individual and society, as in Benjamin Constant's definition 'this quiet enjoyment of individual independence', freedom is negative freedom; and the myth emerges of a society divided into private domains which never overlap and can always manage their interdependence by exchange and bargaining.

What is democracy in this scheme? It is political democracy, limited to individual and negative freedom. A society has to protect individual property, an economic democracy is a nonsense or is limited to the protection of individual property and the enforcement of contracts. In these models and in their successors, economic freedom is analysed without discussing the distribution of rights and powers emerging from the working of the market. Locke is the staunchest defender of this idea. Individual property is sacred, the state is a company, the shareholders of which are the owners and its purpose is to enforce and protect property rights (Macpherson, 1962). Friedman (1962), like the Austrian school, considers that the free market and political democracy are tightly bound together over the long term, but implicitly thinks that economic democracy is a non-sense or is identical to the free market. The distribution and organization of powers have to allow maximum freedom. However, there is no discussion of the economic conditions of freedom. And economic democracy is not a real topic because the market is organized according to property rules. One can only think of economic democracy as a problem of the enforcement of property rules and the eviction of any exogenous intervention (mainly that of the state). Obviously, liberalism can suggest rules for the distribution of wealth or property rights. But there is no connection between these rules and the conditions defining a society. One has to refer to external criteria such as ethical criteria. On the contrary, in this work, we try to build a theory of a democratic distribution of power based on the conditions for defining a modern society, a market society. This would allow us to escape from the arbitrariness of individuals' ethical choices by laying down a general principle, even if ethics recurs in its application. For that purpose, we are going to investigate the republican framework, starting from a communitas model of society but extending it to the market.
Some *communitas* models emphasize unity and coherence, others rivalry and conflict.

In the ancient world, in the models of Greek philosophy and Roman political philosophy, democracy was considered within the question of the proper government of the community (polis, state, empire or republic, and so on). It concerned the collective political organization emerging from the community of citizens. The ancient paradigm posited not the individual but the community as the primary category, because the community was prior to the individual and formed the background to individual life and personality (Aristotle did not define a man as an individual but as a *ζωον πολιτικον*, a political animal). The city (πόλις) was conceived of along the lines of a large family. The collective project was pre-eminent. Leaders were chosen for their aptitude to ensure its pursuit and to reproduce over the ages the common inheritance handed down from their forebears and from the founders of the city before them. Good government was government that looked to the common good whereas bad government looked to particular interests; and where bad government used power in an arbitrary manner, good government meant government in accordance with the laws. Within these two categories, both republic (politically good) and democracy (politically bad, because the populace was uneducated and might be swayed by demagogues or might seek to further its own ends to the detriment of the nobles) referred to the participation of all the citizens in wielding political power (organization of the collective destiny of the community) as opposed to aristocracy and oligarchy (the power of a fraction of the community) and monarchy and tyranny (the power of a single man). Democracy meant there was no exclusion within the community of citizens because all were considered equal (this isonomy principle had the counterpart that not everyone was a citizen: women, children, foreigners, convicts, and so on). Democracy implied the right to participate actively in the government of the city. In these models, whether in Aristotle, Livy or Cicero, the common good is considered as objectively defined: beyond the diversity of opinions or private interests, there is only one common good, founded on civic morality.

Rousseau's republican model is rather similar. It defines a social contract between individuals but this contract institutes a new phenomenon, the 'corps social' which is a community and not the sum of inter-individual relations, contracts or exchanges. Accordingly the sovereignty of the *corps social* is inalienable and indivisible. The model distinguishes between private and public domains, the individual and collective domains, the
domain of private individual interest and that of the general interest of individuals considered as citizens and members of the corps social. Reason supersedes (Condorcet, 'Cinq mémoires sur l'instruction publique', 1791) or supplements (as in Rousseau, Du contrat social ou Principes du droit politique, 1762) morality as the cornerstone of the common interest. As society is not merely the sum total of individuals at any given moment but a community with its own roots, history and heritage, the common interest is not just the sum of individual interests but is founded on the historical specificity of the community and is expressed by its laws, which are the common project for organizing social development. Power is not wielded against citizens but issues from them and defending individual freedom from it is not an issue. Central power is governed by law. However, because it is a manifestation of reason, law does not limit individual freedom. The break with the ancient arbitrary system is supposed to introduce pure rationality which is capable of freeing humankind. Reason abolishes factions and improves the organic unity of the nation (as Robespierre said and as shown by the worship of the Supreme Being). Accordingly, what is at stake in political organization is the rationality of law (Kriegel-Barret, 1998) and good government is gouvernement de la raison (government according to reason). The republic is the regime that upholds the rationality of law against privilege. The issue is one of the substance of law and popular sovereignty is the procedure ensuring this rationality.

This corps social introduces a new representation of society as a political entity, a community of citizens, and no longer as a chrétienté (christendom) or as an extended family of the prince. Equality among individuals forms the basis of their status as citizens. In this model, political institutions are responsible for organizing the pursuit of the general interest and the common good, for establishing development trends, for leading society. Political society is responsible for its self-organization, its self-government, and its future; the state becomes the leading player of society and is responsible (answerable) for its unity. Society builds an autonomous order, based on human will, and no longer a heteronomous order deriving from nature, God or ideology (Padis, 1989). The submission of all to the law ensures social cohesion.

The question of democracy, defined as the question of the distribution of political power among citizens, is superseded by the question of the republic, that is, by the question of how to organize the formation of the common will for the common good and public interest and how to eliminate specific operations by the enemies of the people promoting individual and private interests. Sovereignty belongs to the people defined collectively; each member of parliament represents the whole people, the entire nation, and not just a section of the population. For Rousseau, democracy means
that the people are the legislator and the supreme magistrate, being the source of legislative, executive and judicial power.

In such a framework, conflicts between groups or individuals are underestimated. They are not totally ignored but the choice of leaders by virtue or reason is supposed to preclude struggles among factions. The republican model eludes the question of individual rivalry for two complementary reasons. The separation between public and private domains leads to consideration of the problems of the general interest alone and hides inter-individual conflicts of private interests; in parallel, the economic dimension is dissimulated, and the argument is developed in the political framework of the theory of sovereignty. Accordingly the general interest looks to be common and unified.

Rousseau's model and its interpretation by the French Revolution have to be viewed in their historical context. The main opposition was between the 'aristocratic party', or the tyrannical power of the king, and the people, because the main issue was the definition of law. The focus on a frontal opposition between the Third Estate and the aristocracy meant dissensions and divergences of interests or opinions within the people were underestimated or concealed. Another reason was that competition seemed to be a distinctive feature of the société de Cour. Analyses postulated that the opposition of interests was limited by the abolition of privilege and by citizens having identical statuses, and because law was enough to subject individual interests to the general interest it expressed. 'The people' was a unifying category and a homogeneous phenomenon. The idea of rationalization - reason induces progress - reinforced this framework and solved the Hobbesian problem of the necessity for a sovereign. The Ancien Régime was irrational, so it needed a Leviathan, but the new one was rational and the republic made society transparent. The underestimation of rivalry within the people was also the effect of the absence of any economic interpretation of modern society. The model was a political one and ignored the economic dimension. History was soon to show up this aporia.

The emergence of conflicting interests brought about a crisis of the republican model in the form it inherited from the French revolution. The development of the revolutionary process had soon shown the project was incomplete with the confrontations between Jacobins and Hébertistes over price regulations, the opposition between the right to existence and the right to ownership, and Jacques Roux's speeches that were to clearly show the limits of a robespierriste project and outline the idea of a difference between real freedom and formal freedom: 'Freedom is but a vain ghost when a group of men can with impunity starve another one. Would scoundrels' properties be more sacred than a man's life?'
The political freedom of 1789 claimed to integrate economic freedom by including the right to property among man's natural rights but the triptych of liberty, fraternity and equality soon revealed its contradictions because freedom encompasses the conflicting aspects of economic and political freedom. Economic freedom began by blowing apart political fraternity – via the development of the market and capitalistic competition – and went on to undermine equality. The equation one man equals another man was compounded or superseded by the equation one franc equals another franc. No rule extended the political principles of the republic to the production and the exchange of wealth and to the allocation of resources and no one thought out the coexistence of republican political democracy and a market economy. For a long time this republican aporia went unnoticed because of the success of economism in separating the political and the economic dimensions of social life. Liberal economism transformed the question of economic rights into a matter of respect for the free market and transformed the question of the submission to reason into one of acceptance of market logic. Marxist economism denied political democracy because class relations were determined by economics; there were no stakes in the political domain because everything came within the economic domain of the relation of exploitation. It also denied economic democracy because of the strict antagonism between labour and capital; the market and capital were to be destroyed, not reformed. Political philosophy had disappeared.

Another point is that the state wielded more power than civil society. Consequently, law appeared to be a powerful means of ensuring social cohesion. The question of the distribution of power did not arise because the problem was to ensure rational laws: the work of Montesquieu is considered as irrelevant for the new society. Kant too introduced the question of the distribution of power. In reference to Aristotle's distinction, he opposed autocracy (the power of one person), aristocracy (the power of a group) and democracy (the power of the people) as different distributions of power but he also distinguished republican (management for the common interest with separate legislative and executive powers) and despotic (management for private interests with confusion between making laws and improving them) forms of government. And the evolution of republics led to the question of the devolution of political powers among individuals and among groups. The guarantee of negative freedom has then to be examined.

History clearly shows that a republican order may take on different forms, from constitutional or non-constitutional monarchies, totalitarian republics in which the nation is confiscated by a leader, a clan, a party, or a class, to very different types of democratic republics. The republic is defined
by the way the general interest is expressed and managed. The notions of
gen eneral interest and the forms of its management are also highly change-
able, ranging from the worship of the leader as society's guide and the
person responsible for its future to forthcoming pluralist forms. The delimit-
ation of the domain of citizenry is a first problem. In Athenian demo-
cracy, slaves, metics and women were excluded. In the Roman Republic,
there was a censitary suffrage system. In the French Republic of 1793, most
of the aristocracy were outside the ranks of the citizens as the ci-devant.

In modern republics, foreigners are excluded from the electoral system.
More or less advanced forms of pluralistic democracy have been develop-
ping particularly because of the emergence of the working class, auto-
nomously expressing its own interests. This openly illustrated the problem
of the diversity of interests and opinions, of the existence of various classes
and groups, mentalities and representations, and therefore of the lack of
any a priori unified, general interest. Accordingly the aporia of the repub-
lican model had to consider the distribution of power and to shift from
republic to democracy. This raised the question of protecting minorities
and individuals. The 'Federalist papers' movement, with J. Madison, A.
Hamilton and J. Jay, had already discussed the problem of factions and
liberty. They showed that factions could not be eliminated and that legal
procedures were required to avoid dictatorship of the majority. For them
democracy was dangerous as it induced instability and the republic had to
be governed by an elite through a representative procedure. In this way fac-
tions could not directly influence the government and would neutralize
each other. A constitution avoids the succession of unconsidered changes
by limiting political power. Similarly, Benjamin Constant and the liberal
conception of democracy defined a limited sovereignty: sovereignty is only
relative and limited by individual rights. They opened the way to the
theory of the rule of law.

Defending the distinction between public and private interests and spheres,
Hanna Arendt underlines another limit of the republican model. She claims
that its traditional basis, the communitas idea, needs a social virtue that dis-
appeared with the collapse of the 'religion–tradition–authority' trilogy,
which dated from the Roman tradition whereby the leaders' authority derived
from the founders of the city. This can be tied in with the Nietzschean idea of
the collapse of the myth of human reason emancipating individuals and soci-
eties. Accordingly, discussions about the future of society lead on to discus-
sion of the procedures for social decision making and so to discussion of the
distribution of powers and rights.

The main political models focused on the coordination problem. In com-
munitas models, democracy is the way of organizing the common will by
associating all citizens in the political decision making process. But these
models ignore inter-individual rivalry. Rousseau’s model ignores or under-estimates the economic dimension of inter-individual rivalry, supposing that an educated people is a people without rivalry and able to lead society according to reason and, more specifically, in accordance with a rational political law. So it focuses on political organization. But, while the mainstream of communitas models understated rivalry, Machiavelli on the contrary focused on rivalry and conflict. Society was no longer a family as in the small societies of ancient Greece with their many formal and informal links among individuals. And there were times of struggle among the great families in the Italian cities and not only of wars against foreign enemies.

Machiavelli (The Prince, 1513) considers that conflicts and ‘tumults’ (tumulti) are inescapable but that they may have contrasting consequences. While conflicts in Florence degenerated into factional wars and impoverished the city, conflicts in Rome provide a strong impetus towards enrichment. So good government should not seek harmony but to manage the different moods (umori), especially the mood of the aristocracy and the mood of the people, through the constitution and the law. Montesquieu (De l’esprit des lois, 1748) used a similar definition of democracy to Rousseau’s and his framework is a communitas rather than a societas model. In the same sense, freedom is a consequence of law, as in the positive conception of freedom, and not the absence of law. The nature of the republic is the sovereignty of the people: if the people contains the entire population it is democracy, if it is limited to a subsection of it, it is aristocracy. Virtue as the source of individual behaviour, is the principle underlying the republic. However, like Machiavelli, Montesquieu thought that conflicts provided an incentive to social development. So, contrarily to Rousseau, the general interest is not an objective notion, similarly defined by every rational person, but the outcome of conflicts and struggles. In the same way Ferguson (The History of the Progress and Termination of the Roman Republic, 1799) thought that a market society diverted people from the debates on common interests in favour of private interests and market tranquillity, thereby weakening society. The consideration of civil conflicts led to the framework of pluralism. Tocqueville quoted Montesquieu and wrote similar commentaries, viewing conflict positively. For him, democracy ‘spreads in the whole social body an anxious activity, an overabundant strength, an energy that would never exist without it, and that may create marvels, as long as circumstances are favourable’.23

The Hobbesian model provides harsher criticism of the conception of a pacified communitas and constitutes a great challenge for it. Hobbes witnessed political conflict (the civil war in England, with its violence as attested by the decapitation of Charles I just two years before publication
of *The Leviathan* and of economic conflict (the development of competition in a market society).

For Hobbes (*The Leviathan*, 1660) the state allows social peace to be organized but implies an authoritarian form of conflict management. The state can even be thought of as democratic despotism if it derives from a ‘republic of institution’ which supposes the agreement of all – each person being equal to another – but invariably implies a loss of sovereignty for all. In this scheme virtue or reason are radically unable to ensure the unity of a ‘hot’ society. Freedom is much less important than security and may be sacrificed to achieve security.

This challenge is all the more important as the economic dimension of social interdependence grows. Already in Hobbes’ model, the state of nature is a shadow image of competition in a market economy (Macpherson, 1962: 50). The three sources of conflict are connected with economic competition: competition results from the will to possess, defiance (defence against a potential aggression) is the corollary of competition, and glory refers to competition for symbolic benefits. Moreover, it is not necessary for everyone to have a natural instinct towards the will for power for struggles and conflicts to arise. If some people want power, others also have to claim power to protect themselves. Therefore, people with an inclination for power force others to mimic their behaviour. In a market economy (a decentralized system of allocation of scarce resources) the relation between individuals (that is, the dual status of individuals as autonomous persons and members of a social network, the market) induces two types of economic problem. The first is the problem of coordination. How can many autonomous, a priori incompatible decisions be coordinated and create economic order out of disorder? The second one is the problem of rivalry. How can the struggle of individual and opposing interests, the incompatible claims on social wealth, be overcome to achieve economic peace?

Smith was aware of both problems. Nevertheless, classical liberalism contains an economic aporia similar to the political aporia of Rousseau’s model. Much as law creates a general and unified common interest transcending individual interests, so the market, through the price mechanism, creates a systemic efficiency for the benefit of all. It provides social freedom in relation to feudal bonds and privileges, and it provides economic freedom in relation to poverty and scarcity by releasing opportunities for growth: ‘It is the great multiplication of the production of all the different arts, in consequence of the division of labour, which occasions, in a well-governed society, that universal opulence which extends itself to the lowest ranks of the people’. In this Smithian framework the market is seen as a *communitas* that can coordinate all individual interests and allows all economic agents to participate in the growth of social wealth and its
distribution. Rivalry disappears because the division of labour benefits everyone. The later liberal contractualist model considers that a free market overcomes the potential rivalry between interests by improving a system of prices that establishes a social system of economic norms and prevents anyone from violating it.

Modern republicanism (mainly Q. Skinner and P. Pettit) tries to provide a democratic answer to the Hobbesian paradox. For Pettit, democracy has to be founded on the quest for freedom defined as non-domination.

The republican conception of liberty is akin to the negative one in maintaining that what liberty requires is the absence of something... It is akin to the positive conception, however, in holding that that which must be absent has to do with mastery rather than interference. Freedom consists, not in the presence of self-mastery, and not in the absence of interference by others, but in the absence of mastery by others: in the absence, as I prefer to put it, of domination, freedom just is non-domination.26

Using the roman legal concept of libertas and the related distinction between a person sui juris and a person alterius juris (subject to his own right or to the right of another person, like a slave) Pettit defines domination thus: ‘One person is dominated by another... to the extent that the other person has the capacity to interfere in their affairs on an arbitrary basis’.27 For him, only arbitrary interference deprives us of liberty, but not for instance legal restrictions.28 This is interesting because interference is inescapable in modern societies. Interference results from the social interdependence that characterizes both political and economic markets and is the source of cooperation as well as of domination.29

To better understand the change which results from this new definition we can relate it to the distinction drawn by Foucault between his conception of power as a relation of forces and the classical conception of power, namely theories of sovereignty, as possession of a set of rights and instruments. Power is not unique, general, abstract and centralized, but powers are multiple, local, concrete, decentralized, inherent in each relation of forces between individuals or groups. More than powers there are relations de pouvoir (relations of power): ‘Then, there is not one unique furnace from which all the relations of power come as an emanation, but a confusion of relations of power which, finally, allows domination by a class on another class, domination by a group on another group’.30 Surprisingly, this conception is very similar to Hobbes’ conception of power. For Hobbes, power is power over someone and power is a differential reality. Power measures the excess of your capacities over the others’ capacities; it is a relative quantity resulting from comparison (Macpherson, 1962: 68–9). Therefore, it implies an analysis of economic relations and not only
of the political domain, although economic analysis excludes powers. If mercantilism is set at the centre of economic working rivalry, and if trade is for us war by other means, political economy has progressively moved away from this point of view. The study of cooperative results of the market has understated and concealed analysis of inter-individual and inter-group rivalry (competition, rivalry, struggle for money or power, domination, and so on). Economic analysis has tended towards the abolition of conflict (Carrier, 1993) although conflicts are the core of the other social sciences. Nowadays the mainstream continues to exclude any analysis of power: for instance, Williamson proposes to exclude the idea of power because of its 'elusive' character. Obviously, there may be power relations in asymmetrical situations, mainly in hierarchical structures, but he (like Alchian and Demsetz) considers they result from free contracts and arrangements (they derive from delegations) between equals enjoying equal rights to contract.

Nevertheless, it is not easy to distinguish between a dominated relation and a cooperative relation, or between arbitrary and non-arbitrary interference: arbitrariness, for Pettit, refers to interference that ignores the preferences of the persons subjected to it. But economic relations, based on scarcity, lead to the distribution of resources and obligations. Defining arbitrariness implies defining social norms or criteria that allow us to separate 'just' or 'standard' relations and 'arbitrary' or 'dominated' relations. However, we cannot avoid these questions. They concern legal systems themselves when courts have to examine the conditions ensuring people act of their own volition. The history of the republic, in most western countries, raised the question of the forms of popular sovereignty: debates about the selection of voters among the people (is everyone entitled to participate in defining the common good?) or the kinds of representation (censitary suffrage or universal suffrage) show that political democracy may be more or less formal and more or less genuine (are lobbies, propaganda or social hierarchies able to influence individual preferences?).

The conception of democracy developed by Tocqueville (1835) provides a further incentive for considering the economic dimension of democracy. He derived the political definition of democracy (the sovereignty of the people) from a sociological property of modern societies: the equality of citizens as opposed to the hierarchy of the system of orders characterizing the Ancien Régime (Rosanvallon, 2000: 131). This also leads to consideration of the economic statuses of individuals.

Our examination of the republican tradition has shown the necessity for a democratic concern to discuss the economic conditions of democracy within a framework systematically introducing the questions of rivalry. History itself has raised these issues.
THE EMERGENCE OF THE QUESTION OF ECONOMIC DEMOCRACY

Instead of increasing wealth for everyone, the development of the market creates both wealth and poverty, employment and unemployment. Critical studies have denounced exclusion and exploitation, and have considered that they result from the market logic and not from market failures. Smithian liberalism is then discussed and opposing theories emerge, some of which connect the workings of the economy and democratic ethics.

The first current in France to pose the problem of the economic dimension of democracy was the socialist movement. After the economic crises of the early nineteenth century a new conception of democracy arose as political and economic democracy with the idea of ‘industrial democracy’ (Rosanvallon, 2000: 357). The economic domain is considered as an aristocratic domain: the relationship between proletarian and employer is the same as the relationship between serf and lord. Economic emancipation has to follow political emancipation. Proudhon (1853) was the movement’s leading advocate. Many models for a new economic organization emerged forming a strand of thought that would lead to the theme of workers’ self-management.

The republican current tried to provide a new response to the question of political democracy. Many French republican authors such as Jules Barni (Le Manuel Républicain, 1872) assigned two fundamental roles to the state: organizing security to protect individual freedom, but also contributing to social welfare (a new form of common good), for instance through the provision of public utilities.

Social Catholicism also proposed an extension of the democratic principle to the economy. For instance, in France, Marc Sangnier, leader of the Sillon, which developed a personalist approach, wrote in 1910: ‘As long as monarchy is in the firm it is impossible to have a republican society . . . Political democracy is insufficient: we don’t only want the worker to have a ballot to name a political representative but also to take part in the factory in the governing of the industry he works for.’ After the First World War, in France as in Germany and Great Britain, there was much debate on this topic and workers won new economic and social rights. The New Deal, Keynesian policies, the development of economic regulation, the debates about public policy goals and choices led to topics of democracy being extended to the economic domain.

This extension derives not just from debates but mainly from the very organization of modern societies. These are organized principally around two forms of socialization, that is, two kinds of relations between individuals and society. The first is political socialization, with political rights for
individuals defined as citizens. The second is economic socialization, with economic rights for individuals as members of the market society. The weight of market society has grown since the time of the debates about popular sovereignty. Both are specific kinds of socialization inducing diverse logics. Political socialization develops a rationale of constraint and sovereignty. Economic socialization develops a logic of exchange. The legal system is a system of coercive rules, expressing the mutual interdependence of citizens, and by the same token giving them obligations, rights and opportunities (right to property, to security, to marry, to express an opinion, and so on). It is a way to manage freedom and interdependence. The market system is another system of coercive rules, expressing mutual interdependence among economic actors, at the same time imposing constraints (prices), and providing rights and opportunities (to produce a new good, to invest in some activity, and so on). It too is a way to manage freedom and interdependence.

Then, through social struggles, the problem of economic democracy is set. How are the rights to participate in defining each of these constraining systems distributed? And, specifically, how is the distribution of rights on economic decision-making and of economic wealth organized? These rights concern the present but also the future of the individual and of the communities he is a part of (clubs, nation, humankind, and so on). Democracy is one such form of devolution guaranteeing equality (one citizen is equal to the next) and autonomy (each citizen has to be protected from power, so democracy is opposed to totalitarianism). This devolution depends not only on the definition and distribution of market rights but also on the delimitation of the market sphere relative to the non-market sphere. After the Second World War, most western societies, and mainly France, Germany, Italy and Great Britain, developed mixed economies with a dichotomy between two different areas, the private sector, targeting profitability and the public sector, targeting social welfare (Barrère, 2004). Market regulation and state public regulation shared the organization of the society. Then, aside from political rights, individuals obtained recognition of their social and economic rights. Individuals enjoy entitlement as citizens, as members of a community, the nation, and therefore independently of their market status. Social rights mean rights to use resources often within a frame of public utilities: a right to health, education, transport, communication, a right to benefit from national solidarity, and so on; for instance the French Constitution, including the Déclaration des droits de l’homme, refers to a right to health, employment and housing. The delimitation of the market sphere relative to the non-market sphere has distributive effects. The classical views of orthodox republicanism show that the different partitions between republican logic and market logic and the change in their significance for the workings of
society have social effects. Some groups take advantage of the expansion in the field of market regulation while others take advantage of its contraction to the benefit of republican socio-political regulation. Social-democratic movements point up the problems of distribution, poverty and public goods. There is therefore a contradiction and competition between entitlement by the market and entitlement by the res publica logic. There is also a modification of the market property through its inclusion in a special constitutional framework.

Hence, a debate arises about the relative size of the public and the private sectors. Two extreme positions appear. For proponents of the minimal state, the growing hegemony of market logic within a process of globalization means market property rights are better enforced and democracy is developed as the respect of individual preferences and choices compared with the bureaucratic regulation of society. For radical critics of the market (for example the altermondialist movement), society has to reduce the market sector in favour of the non-market one. As the Marxist myth of abundance is no longer popular, political norms of distribution of wealth and of economic power supersede economic ones. Accordingly, the main supporters of economic democracy seem to be the supporters of a minimal market. To my mind, this position is wrong for two reasons.

First, it presupposes that the market is always the same institution with the same mode of operation and the same consequences, and is invariably a bad institution. Moving towards economic democracy is not the same as reducing the market sphere to the benefit of political regulation. Instead of considering the market as an enemy which unfortunately cannot be eliminated but whose importance needs to be reduced, one can admit that the social construction of the market is a conquest of ‘modernity’ for what it has done in terms of efficiency and ethics. Market exchange makes possible precise management of the cost/advantage relation. Compared with the gift/counter-gift relation, it looks to deal in truncated transactions. It maintains a special form of reciprocity: a strict, measured reciprocity, under solvency conditions, consciously and explicitly calculated. Moreover, the market exchange has an ethical value and corresponds, in part, to the republican will of freedom. It is usual nowadays to contrast the beauties of the gift/counter-gift relation that forges a lasting alliance and socialization with the limits of the market exchange that cuts and isolates. Even so, these truncated transactions may have a liberating side to them. They create the formal conditions of liberation of individuals compared with a gift/counter-gift relation usually implying lasting personal dependence. The market exchange relation limits mutual dependence for it makes it possible to choose new partners for each transaction. The market contract is a forward, defined contract while the gift/counter-gift contract knows no
term or an unlimited term. Hence, the market creates freedom. Moreover, the gift/counter-gift relation, in its feudal form for instance, established obligations with a hazy and uncertain content that might exceed what the co-obligees had at first envisaged. Because of his allegiance to the suzerain, the vassal might be caught up in a lengthy war. Therefore, such a relation cannot be the result of precise costs-benefit comparison of the alliance and appears rather in contexts where there is no particular choice between becoming allied or not. By contrast, the market contract clearly stipulates (within limits, of course, as neo-institutionalists Coase and Williamson showed) obligations and counter-obligations, making it possible to compare and equate them and so reducing uncertainty.

The second reason is that we are now at the end of the model of social dichotomy that characterized the post-war period. This topologic sharing model had been in a crisis for about 20 years and another model has emerged. The dividing line between domains submitted almost exclusively to a single logic is fading to the benefit of a mix of both logics. Political and public criteria slightly but surely influence market management. Conversely, economic criteria and cost-benefit considerations influence the public domain. Market regulation and republican public regulation no longer coexist side by side and sharing the society; they interpenetrate each other within new regulationist complexes. So the problem is no longer that of the position of the boundary between public and private domains. The end of this topologic model means the end of the identification of the public interest with the political sphere and of private interests with the economic sphere. In politics, as shown by the public choice approach, common interests often coincide with private or club interests; in economics, private and common interests are also mixed. The distinction is no longer between domains but between logics and principles.

A significant consequence of this is that political republican principles influence the workings of the economy. The democratic form of republican logic promotes principles of freedom and equality that cannot be identified with the formal freedom and equality of the contract, implicit or explicit, and leads to a distinction between a constrained exchange and a free exchange, an equal exchange and an exchange within a frame of dominant positions. The institutionalization of the feudal corvée (the lord/serf exchange) is opposed to the republican order much like exchanges such as slave/slave-trader, prostitute/procurer, minor/paedophile, and so on. Freedom therefore depends on the relative positions of the parties, on the balance of power before the contract, on the exchange. True freedom involves a refusal of positions of dominance. Social criticism long distinguished more or less strongly between the formal freedom and the true freedom of exchangers, even in the market contract. If it is bankrupt and
negotiates in extreme conditions giving its customers massive discounts, is the firm contracting freely? Is the long-term unemployed worker who finds a new job really in a position to freely negotiate his pay? Has an underdeveloped country selling its raw material to a dominant country an ounce of power compared with the dominant purchasing country? The market contract may therefore mask what we can but call an unequal exchange. It may also hide the fact that the facade of freedom to contract and to stop contracting at will is denied to some because certain contracts are but constraints: those who are not the owners of the means of production have no other option than to be on the company payroll. Moreover, the existence of unequal positions on the market may have a cumulative effect and turn the forthcoming results as demonstrated by the debates on free trade and the necessary protectionism to industrialize a new nation. This again raises the main question of the initial arbitrariness of rights. The market works on the basis of a prior definition of the rights determining the possible contracts and the positions (situations) within the balance of power, the bargaining between individuals and groups. Thus, the contradiction between market inequality and democratic republican equality remains unsolved and gets deeper. Here is a new contemporary dilemma: giving up with republic or moving from a republican model of topologically shared market sphere/republican state sphere to a democratized market model considering collective interests.

Economic democracy is also necessary because, in an information society, communication strategies become more important in choosing among a range of projects. As communication is costly, strong economic players gain an advantage over weaker ones. So economic power, through social persuasion, engenders political power and undermines political democracy.

THE MARKET AS A NEW COMMUNITAS WITH RIVALRY

Two types of argument justify considering the market as a communitas and not only as a set of partial exchanges. The first highlights the organic and institutional nature of such exchanges. The second concentrates on the connections between past and present economic situations, over time.

Organic Exchanges

The market organizes its working through inter-individual relations appearing as free and limited contracts (in terms of time and object). Ever since the
classical school, economic analysis has shown the partial and illusive character of this representation.

The employee's participation in production is formally reduced to providing labour by selling hours of work. The market considers his involvement in production as a set of temporary exchanges. Nevertheless, while the relation of the firm (A) and the employee (B) may, as an inter-individual relation, be temporary, subject to renewal and individuals' choices concerning uncertainty (the employee may prefer to change jobs, the employer may change employees, and so on), it also has to be considered as part of a global and collective relation between employers and employees. The firm (A) is not defined by its singularity alone (firm A and not A', belonging to Mr So-and-So, in this particular place, producing this particular product) but also by its belonging to the category of 'firms'; the employee (B) is not only defined by his singularity (a male, of such and such age, such and such qualification, such and such height, such and such nature) but also by his belonging to the category of 'employees'. And the global and collective employer/employee relation is but temporary and occasional as production is based on their permanent association.

The same is true for consumers. The relation between the producer and the consumer is indeed a link that comes unravelled in most cases as soon as the product or the money are provided and that only ties two anonymous persons. But it is also a relation between two groups, the group of producers and the group of consumers, each having a definite status within the economic organization. So, on the market, each inter-individual relation is always coupled with an 'inter-categories' collective relation.

A re-interpretation of market organization can now be proposed that is capable of leading to a project of economic democracy. In sociology and anthropology, the market model is usually contrasted with reciprocal and redistributive models in terms of the opposition between status and contractus. We oppose to this analysis the argument of the organic character of the market order, that is, of the fact that contracts and inter-individual relations are only meaningful within an overall framework establishing collective relations between functional groups having their own places in the processes of production, realization, consumption, financing, and so on. This organic character gives individuals participating in this order a market status that is more than the sum of their inter-individuals contracts.

**A Social Link to Past and Future: a Social Heritage**

Solidarism, whose main proponent was Léon Bourgeois (1902) and which influenced the French legal school of the *Service Public* (Léon Duguit, Maurice Hauriou) argues that each individual is born into a society which
allows him to benefit from a social and cultural heritage (Audier, 2004). Social time is longer than individual time. Without this relation to society, no one would survive. So an implicit contract (a quasi-contract for Bourgeois) binds the individual and society: each individual has social rights (right to education, and so on) and social duties. The state too has social duties (to supply public policies, to allow each individual to survive) and rights (to use public constraint and power). For instance, the state can collect taxes that are a kind of rent for the use of social heritage and assets; as the individual earnings of this use are different, taxes may be progressive. A modern version of these ideas supports the theories of a 'universal income'.

The solidarist framework can be reinforced by considering the role of social and cultural heritage. A society produces goods and institutions. Most of these goods disappear in unproductive and productive consumption. Some remain and constitute a social and cultural heritage. Obviously, the stock of capital is an important part of this social heritage. But creative goods (artistic products, knowledge, and so on), rules, institutions and behaviour are another important part of the heritage. They have strong effects at the same time on consumption and on production, are both input and output, and are closely connected with the conditions of the economic working of present-day society. So it may be taken that social wealth depends as much on the social heritage as on the present choices of economic agents. Conversely, society has to manage this heritage (as well as the natural heritage) for future generations.

As individual exchanges are part of the overall workings of the market and as this working depends on heritage and on it being passed on, the market, like political society, is a communitas. This point contrasts sharply with societas models. In these models, society is a set of inter-individual explicit and implicit contracts between rational and omniscient individuals. The individual, then, is the source of the benefits he earns and no obligation can derive from a contract unless consciously accepted. Not all liberalists share this view. Hayek, for instance, considers society as a system and not an aggregate collection of independent individuals. And, he argues, this system has a history connecting past and present situations.

**Rivalry**

The market is an ambivalent phenomenon. It combines a dimension of cooperation and pacification with a dimension of competition and rivalry. Prices are social norms that do not derive from natural conditions but emerge from history and the configuration of power and economic forces. It is not only in situations of monopoly that power influences the equilibrium values,
it always does so. Economic power is everywhere; as in Foucault’s analysis it is a local and disseminated phenomenon. It derives from property but also from the possession of information or of specific assets. It is present in relations between producers and distributors, in vertical relations between firms, on commodities markets as well as financial ones. Markets are systems of economic forces and of relations of power. Values express social valuations that derive from a set of individual valuations but whose composition depends on the relative importance and power of each member of the market. No natural norm establishes the relative price of an hour’s work for a doctor in relation to an hour’s work for a plumber; none settles the national wages/profits ratio.

The Keynesian conception of the market is useful for understanding market rivalry. Unlike a classical market, a Keynesian market is not a symmetrical one where supply and demand have an equivalent and equipotent influence. Firms produce commodities but also the conditions of their demand; they can influence consumers’ preferences and they determine the prices they propose for confirmation by the market. Obviously, they cannot do whatever they like, because of competition, but the bargaining process begins based on their propositions. Rivalry is also competition among firms as they seek to split up aggregate demand in their favour. Accordingly, in the marketplace, economic actors are simultaneously cooperators and rivals; politics lies within the market. This provides a new incentive for discussing the distribution of their powers and rights and imagining an economic democracy.

AN ECONOMIC FOUNDATION FOR DEMOCRATIC ECONOMIC RIGHTS

In the political domain, the first question of democracy is what is the basis of sovereignty. Does political power derive from nature, from the gods or God, or from the people alone? The republican answer is that the sole source of political power is the people, and a democratic framework adjoins the idea that the members of the people, citizens, are equal. If the domain of democracy is to be extended to the economy, we have to examine the organization of economic powers. The preliminary question is that of the foundation stone of economic powers. A traditional foundation is property. Locke, as said, suggests that the main goal of social organization is to enforce procedures for the protection of property. Nozick chooses a similar criterion: ‘Whatever arises from a just situation by just steps is itself just. The means of change specified by the principle of justice in transfer preserve justice’. Nevertheless, property has to be legitimate, raising the
question of the original position and the institutionalist critique of the 'arbitrariness of rights'. No one can justify the child who prostitutes himself on the streets of Manila having fewer economic and social rights and powers than the child lucky enough to be born into a wealthy American family. Another line of reasoning can be explored. It consists in outlining an organizational principle as the foundation for collective economic rights instead of considering individual rights alone.

**Rights Over the Market Institution**

Substituting an organic conception of exchanges for the formal conception leads us to consider a new status for the individual within a society of individuals. He is not merely a citizen but also a member of the collective institution of the market. Just as the individual has political rights because he is a citizen, he has economic rights because he is a member of the market. Moreover, the individual benefits from the heritage built up by earlier generations and handed down from generation to generation. He also contributes to developing this heritage and adding to it. This common production of institutions and their efficiency can also be interpreted as a collective constitution of a social patrimony, the social patrimony of a market society. As the outcome of the participation of all, this heritage cannot be the property of a single group and the question of the rights of each individual together with the question of the rights of all considered as a group of individuals has to be asked with regard to its management. Individuals, then, because of their involvement in the market institution and because of their involvement in a social history contribute to the efficiency and systemic output of the market society, and have entitlement because of their involvement. After all, if the market is thought of as the social construction of an organization, all the constructors have rights in their common product.

By this argument, the contribution of every producing agent is twofold: a direct input of productive resource, for instance in supplying hours of labour; an indirect input through participation in the market process of production and in the surplus this form of organization allows by virtue of the participation of all. It leads to a global value of a product that varies with such contributions, with heritage and with the collective involvement of all the members of the market society. A relative measure of direct individual contributions is possible in relation to the system of prices.

On the other hand, a precise distribution between the value created by the present contributions and the value related to the heritage and to the general participation in social working is impossible. This is particularly true because the efficiency of individual contributions is strongly dependent on heritage and global conditions. For the same reasons, individuals
collectively make their contributions to the global working of the market, but none of them can be isolated. They correspond to team production that cannot be divided up on the basis of individual contributions. So aside from individual rights connected to the relative value of the individual contributions in spite of their connection to global conditions, it is possible to imagine collective rights that cannot take private property rights as their model. The institutionalist framework justifies this proposition. We can also invoke Hayek's analysis. When he shows that market organization is superior to planning constructivism as the market allows everyone to create, give, receive and treat a piece of information essential for the economic dynamics, does he not show that this collective product (the social surplus obtained) is fundamentally the collective product of all the participants in the market. In a way, the market is the common property of the individuals participating in it, and social welfare is partly the collective product of the team formed by individuals engaging in exchange. In short, the market has a dimension of a new commons!

In other words, society produces a set of institutions which appears as a social heritage, the heritage of market society. Because it derives from the action of every member of the social team, this heritage cannot be appropriated by any particular group. The market is a common heritage. Beyond his private rights over purchased goods, each economic agent has organic and collective rights over the market as an institution. Their community can organize a collective management of the market, define its scope, its forms and procedures. Economic democracy can be founded on a solid basis just as political democracy was founded on the equality of citizens as members of a political communitas. Economic democracy is based on a new communitas, the market society.

Rights Over the Institution of the Firm

We now have to apply to the market of factors the principle by which the market inter-individual relation has a collective organic relation as its corollary. The firm is not only a set of inter-individual contracts, but a collective being, embedded in history. The liberal conception of power in the firm founds them on traditional property rights. It limits the employee's relation to occasional and uncertain participation in production; it reduces the employee's payment to the purchase of hours of work. It does not grant employees any property right over the common output of factors. By contrast, we consider that employees, as members of an organization, which is what the enterprise is, participate in the collective output beyond their mere submission into the immediate process of work. So, they are entitled to rights.
We start from the same framework as Demsetz and Alchian in recognizing the firm as a collective phenomenon and a production team. We add the institutionalist idea that the firm has a history and produces by using a heritage built up by its previous members. Nevertheless, we disagree with them on the conclusions. They consider that the owner of the capital has to be the sole 'residual claimant' (Demsetz, 1988). This argument refers to efficiency, regardless of considerations of equity. In this chapter, we seek an economic foundation for the distribution of economic rights. Efficiency conditions are important but do not override equity as a goal. If the structural organization of market societies implies that the collective group is the final producer, equity implies that it should be the final holder of the collective surplus.\(^\text{36}\)

The Aristocratic Market or Equality of Individuals as Members of a Cooperative Institution

The idea of reserving economic rights to the owners of capital is an old one. A similar one was used in defining political rights and for the same reasons. In France, after the Revolution, the right to vote was reserved to property-owning citizens for reasons relating to incentives. Collective decision making fell to them because their fortune authorized them to be conscious and responsible. The organization of a monopoly of economic rights in favour of the owners of capital because they are the residual beneficiaries and so the most motivated actors makes the market into a censitary system with rights over the allocation of resources proportional to ownership and heritage.

On this view, the traditional market model appears to be an aristocratic model, in which rights (rights to appropriation and decision-making) over the collective product and heritage are reserved for the production factor of capital alone. In the feudal model, the lord was the main rights holder by virtue of his power over land, which was the privileged factor of production. In modern production, capital, as a new aristocrat, has the privilege of holding exclusive rights over the collective surplus.

A democratic model of market organization is based on the recognition of the rights of all the participants in production and exchange because they all contribute to the collective surplus generated by the market organization, either through the exchange of goods and information or through production. Accordingly a new working programme starts, which is to define the scope of such rights and the means of exercising them.

Such a conception seems to be fairer and truer to republican ethics than the conception that monopolizes the rights over the product for the benefit of one particular group of actors, the owners of capital. It is right too as the owners of the capital do not directly manage firms but hire managers.
It also seems more realistic in a world in which production is no longer connected to an energy-resources paradigm (production as the transformation of human and natural energy, production considered as worker’s sweat) but is increasingly connected to an informational paradigm (creation together with the management of factors give the product).\textsuperscript{37}

Obviously that does not mean that everyone will obtain equal power over a firm or over society, or indeed that the state should become the owner and manager of the market. Procedures have to be imagined which mix individual and collective rights.

**Autonomy**

Hobbes’ criticism can be extended to market management. For Hobbes, individuals alienate their freedom to the benefit of the law. In return, the state provides security and protection of property by improving rules and laying down political norms. In the same way, on the idea that, like the legal system, the market order is a system of constraints and opportunities, the market ensures free exchange, provides security and the protection of property and favours production and wealth by imposing a system of prices and determining economic norms but by compelling individuals to accept the system of prices instead of their own valuations. The standard answers are that the system of constraints is inescapable as it expresses scarcity, that it is the best way of managing scarcity, and that the freedom afforded by market exchange offsets the constraints it imposes. As already seen, the market exchange relation limits mutual dependence for it makes it possible to choose new partners for each transaction or to jump at opportunities. However, consideration of the organic character of exchanges qualifies that remark. For instance, the employee can change employer but cannot usually change his status as employee. Marxist or institutionalist analyses emphasize that positions in relations of exchange and production seem to be self-replicating; behind the anonymity of exchanges, it is the same groups that are invariably buyers or sellers, particularly on the labour market, reflecting a process of social segmentation of consumption and investment (especially in human capital). Such polarization of positions, with its cumulative effect, has repercussions on the conditions of political and economic democracy as it facilitates the reproduction of dominance. It contradicts the formal principles of republican equality and freedom.

Action to democratize the working of the market implies action to limit dominance in market relations. Economic actors, with their inequalities and their differences have to be re-introduced into the analysis of the workings of markets, as in Sen’s capability-based perspective.\textsuperscript{38} Obviously this does not mean strict equality but the protection of economic minorities.
The definition of the state as belonging to the rule of law gives individuals some rights and protection against collective arbitrariness. The rule of law protects the politically weak, but the same question arises for the economically weak. For Smith, a significant justification of the market was that it helped the poor. History shows this has not always been the case. As for the protection of individuals from the state in the political domain and for the protection of the weak (for example the mechanism of legal guardians) the question arises of the protection of individuals from the market in the economic domain and, mainly, of the protection of the ‘market disabled’. The principal form of protection is the law because protection implies the organization of relative power. For instance, European law defines ‘essential facilities’ or public utilities offering a universal service, with equal access and equal treatment whatever the costs of delivery.

Accountability and Pluralism

Any democratization of the workings of the market has to consider its dimension of rivalry. Rivalry is a rivalry of interests and of opinions, particularly of individual preferences and valuations, arising in explicit markets and implicit markets (for instance to evaluate damage to the environment or irreversibility costs). Nietzsche's philosophy showed that divergences of representations and subjectivities are inevitable, that is, objective scarcity cannot be separated from subjective valuations. So, unlike in Rousseau's model, reason is not a sufficient basis for defining a single common interest and managing economics. Pluralism is not only a property of politics but also of economics. A consequence of this is that democracy requires a more transparent market, against fetishism: prices have to be seen as scarcity and preferences indicators, according to the power of each agent. In the political domain, Habermas proposes forming a public domain where debate can take place, a public forum for deliberation. Arendt also emphasizes the need in a democracy for a public political arena for discussion and deliberation. Might the same not apply in the economic domain for managing conflicts among individual or group interests? In the same way, a public forum for debate reflects the emergence of public opinion as a separate entity from political power and the state. Might economic public opinion emerge and exist independently of the market mechanism? At the same time, there arises the issue of competence to decide on economic issues. Centuries ago, Plato criticized political democracy for giving too much power to demagogues and Sophists (the men who spoke too easily). Might the same not be true of economic democracy? The matter of the procedures by which an economic democracy can be organized is a fundamental one, but this topic is still in its infancy.
CONCLUSION

I have sought here to consider the distribution of economic rights in much the same way as the standard theory of democracy considers the distribution of political rights. I have tried to derive a principle of economic democracy not from ethical or a priori choices but from the conditions of a modern society considered as a *communitas*. A republican interpretation of political democracy and the related debates have yielded important results: democracy results from equality among citizens, which is the source of popular sovereignty; it allows a distinction to be drawn between individual and social interests; it seeks to organize the workings of society so that individual and group relations escape from relations of dominance and so that minorities and individuals are protected. Autonomy adds to equality. Nevertheless, this framework tends to understate economic rivalry.

History has raised the question of economic rights according to the dualism of our societies. What is at issue is not the size of the market domain but the articulation between republican and market logics. Even then, it is necessary to characterize market logic: it is not reducible to temporary and independent exchanges but organizes organic exchanges within a global framework, imparting to the market a character of *communitas*. As a *communitas*, embedded in time, the market bestows a peculiar status on agents: they are simultaneously rivals and members of a cooperative system. This forms an economic basis for democratic economic rights, considering that all members of the collective institutions of the market and the firm have some collective rights over their workings and their output. A new theoretical programme then emerges, that of imagining the conditions and procedures for such rights.

NOTES

3. Its object is not the incentive or the monitoring procedures for developing democracy. It is not mainly concerned by the working of democratic processes but by the definition of economic democracy.
4. ‘La mise en œuvre de la souveraineté du peuple.’
5. In both models, there may be a social contract, so contractualism does not suffice to distinguish them. In *societas* models, it is conceived as an inter-individual contract whereas in *communitas* models it is a central and global contract between each individual and the whole society.
6. ‘C’est une loi fondamentale de la démocratie que le peuple seul fasse les lois’, in *De l’esprit des lois*, Book II, Chapter II, quoted by Rosanvallon, 2000: 27. Amartya Sen uses a similar definition of freedom to include economic aspects of freedom such as the will...
to cooperate and conceives of economic freedom simultaneously as a social engagement and an individual capacity.

7. According to Berlin's definition (Berlin, I., 1969, 'Two concepts of liberty', in I. Berlin, *Four Essays on Liberty*, London: Oxford University Press. New edn. in Berlin 2002), founded on a distinction introduced by B. Constant between the liberty of the Ancients and of the Moderns. Negative liberty refers to a mere absence of constraints or obstacles external to the agent, whereas positive liberty refers to the presence of the possibility to act. Berlin wrote that we use the negative concept of liberty in attempting to answer the question: 'What is the area within which the subject – a person or group of persons – is or should be left to do or be what he is able to do or be, without interference by other persons?'; whereas we use the positive concept in attempting to answer the question 'What, or who, is the source of control or interference that can determine someone to do, or be, this rather than that?' (1969: 121–22).

8. Tocqueville used a conception of freedom considering both negative and positive aspects: freedom is not only a private liberty but also a political liberty, a possibility of civic participation.

9. Many authors (for instance, in political philosophy Pettit, 1997 and Skinner, 1998, in philosophy M. Callum, 1967) say that freedom (in the negative meaning) is not merely the absence of constraints and the enjoyment of a sphere of non-interference but the enjoyment of certain conditions in which such non-interference is guaranteed and then the presence of a democratic constitution. Conversely, freedom (in the positive meaning) implies commitment to democratic institutions with individual guarantees. For instance, Habermas defines on one-hand rights to privacy and individual autonomy and on the other rights to public participation (1997: 138–49).

10. Rawls, who focuses on the distribution of the basic rights and primary goods, develops a model of inter-individual contract that seems to be a societas model. However, the fiction of the veil of ignorance allows him to have undefined people whose social quality is only their belonging to society. They do not contract as separate individuals but as members of this collective institution that pre-exists social differentiation.

11. Macpherson also shows that the principle of balance introduced by Harrington connects the distribution of political power with the distribution of land ownership (absolute monarchy when a single man has more than three-quarters of the whole property, mixed monarchy when an aristocracy is in the same situation, republic when the people is the major owner).

12. 'Cette jouissance paisible de l'indépendance individuelle'. Guizot's liberalism extends this project by limiting democracy to the private sphere and abolishing the principle of popular sovereignty (Rosanvallon, 2000: 40).

13. Although the community results from a social contract, it constitutes a new phenomenon, over and above inter-individual contracts. After the social contract each individual acts not as a private and autonomous person but as a member, a component part of the community, a citizen.

14. Kant (Projet de paix perpétuelle, 1795 [1958]) wrote, in the same way, that obedience to the law is an act of freedom because the individual is both subject and legislator.

15. The idea of autonomy of the political logic of law is also underlined in the USA by the modern republican civic tradition; see Mercuro and Medema (2005).

16. Nevertheless, Rousseau wrote: ‘no citizen should be rich enough to buy another, and none so poor that he has to sell himself’ (Rousseau, *Social Contract*, 2.6: 87).

17. The same problem is addressed by Condorcet (Cinq Mémories sur l'instruction publique, 1791) with the issue of education. Education is the precondition of social emancipation and of social stability (la division du travail favorisant la stupidité du peuple, ‘l'instruction est le seul remède de ce mal, d'autant plus dangereux dans un État, que les lois y ont établi plus d'égalité’, quoted by S. Audier, 2004: 41).

18. ‘La souveraineté n'existe que d'une manière limitée et relative’, B. Constant, quoted by Rosanvallon, 2000: 106.

19. In British Republicanism, one strand (Nedham, Neville, Sidney) takes its inspiration from M. Chavelli's model and focuses on conflicts while another (Harrington) focuses on
harmony. Montesquieu, Ferguson and Tocqueville also developed the idea of the dynamic value of conflicts.

20. That of monarchy is the government of one person according to laws, and that of tyranny the government of one person without laws.

21. And not honour as in monarchy or fear as in tyranny. It is because virtue is the precondition for the smooth running of republics that Montesquieu thinks that the republican form is only possible for small societies and that a big society needs monarchy.

22. ‘In a free state asking for brave people at war and shy ones when in peace is something impossible; generally speaking anytime one can see everybody being quiet in a state calling itself a republic, one can be sure that freedom is not there’, Reflections on the reasons of the Romans’ rise and fall (‘Demander, dans un État libre, des gens hardis dans la guerre, et timides dans la paix, c’est vouloir des choses impossibles; et, pour règle générale, toutes les fois qu’on verra tout le monde tranquille dans un État qui se donne le nom de République, on peut être assuré que la liberté n’y est pas’, ‘Considérations sur les causes de la grandeur des Romains et de leur décadence’, 1734).


24. Rousseau would have liked to change the alienation of freedom into a conquest for freedom with the idea of a free adherence to law rationality.


28. In the liberal tradition J. S. Mill or A. Sen also insist on conditions of social dependency.

29. Nevertheless, Pettit understates the idea of community which was inherent to the classical conception of republic to mainly examine inter-individual or inter-groups relations (women/men, nationals/forágrangers, ...).

30. ‘Il n’y a donc pas un foyer unique d’où sortirait comme par émanation toutes ses relations de pouvoir, mais un enchevêtrement de relations de pouvoir qui, au total, rend possible la domination d’une classe sur une autre, d’un groupe sur un autre’, 1994, 3: 379.

31. Conflict of subjective rights or objective rules in legal theory, group and classification conflicts in sociology, all manner of conflicts in political science and history, struggles between races, sexes, ethnic groups, generations, civilizations, power struggles, and so on.

32. In the Mercantilist period, impoverishment was connected to restrictions in competition (guilds, collusion, barriers to entry, and so on). But, now, data show that market economies are unable to prevent mass poverty (in the United States and in France approximately 10 per cent of the population lives below the poverty line and this figure has not fallen with globalization since 1980). Beyond the situation of industrialized countries, there is the mass poverty of non-industrialised countries.

33. ‘On ne peut avoir la république dans la société tant qu’on a la monarchie dans l’entreprise... La démocratie politique est insuffisante: ce que nous voulons, c’est que le travailleur, non seulement ait un bulletin de vote pour nommer un représentant politique, mais soit, dans l’usine, capable de participer lui-même à la direction des affaires de l’industrie dans laquelle il travaille.’ Quoted by P. Rosanvallon (2000: 360).

34. The fact that the French supreme court itself has been led to distinguish between formal and real freedom is very meaningful. In its judgment of 30 May 2000, the court declared that the economic constraint hanging over a contracting party may be such violence that it invalidates its consent and nullifies the contract. If the contracting party can prove that it became involved under the constraint of its economic situation because it had no other choice than to contract and accept the proposed conditions, the contract will have to be nullified. Alongside the vice related to physical violence or to moral duress the introduction of economic duress not exercised by a person but by the economic and social context can completely change contract laws.

36. Hence the legitimacy of the claim of the Moulinex worker made redundant after 30 years in refusing that the factory’s future should depend on the decision of the manager and consequently countering it with the idea of rights conferred by her long-term involvement in a collective industrial undertaking.

37. This is attested, significantly by the fact that corporate management teams – and not only in Japan namely the case of stock-options for managerial staff – organize different methods of payment based on recognition of the employee’s long-term contribution to the firm.

38. Positive freedom becomes a capability, that is an entitlement to rights and the capability to convert them into actual earnings.

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