

# Towards a General Theory of Political Representation

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## Abstract

Non-democratic “representatives” increasingly act on the global stage, as “representatives” of their dictatorships to the United Nations, or when an NGO represents prisoners of war. Standard accounts of political representation depend upon democratic institutions (like elections) and a certain kind of proper activity (like deliberation and constituent accountability) and thus cannot explain how these people are representatives at all. I argue that the standard account of political representation is thus inadequate to explain political representation throughout the globe. I offer a general theory of political representation which explains representation simply by reference to a relevant audience accepting a person as such. When audiences use democratic rules of recognition, the familiar cases arise. When audiences use non-democratic rules of recognition, non-democratic cases arise. The result is that political representation, *per se*, is not a democratic phenomenon at all. The account offers a more parsimonious explanation of political representation, providing a tool for analysis of political representation throughout the globe.

“...whatever else the political philosopher may do, one obvious project is the examination of the languages of political discussion and legitimation, the critique of various of the assumptions from which those languages start, the exploration of how far the languages cohere with one another and with the languages of other times and places, and the search for new and broader terms in which to frame political debate.”

—Phillip Pettit, *Republicanism* (Pettit 1997: p. 2)

On 27 July 2004, just after it had decided to allow Libya to negotiate for membership, Ms. Najat Mehdi Al-Hajjaji addressed the General Council of the World Trade Organization. Al-Hajjaji said that Libya “look[ed] forward to WTO membership...for the accomplishment of economic development for all.”<sup>1</sup> Officially, Al-Hajjaji was the “permanent representative” to the WTO of the Libyan Araba Jamahiriya, and if we asked, “who represented Libya in front of the WTO on that date?” we would correctly identify Al-Hajjaji as that person. Yet Al-Hajjaji was not elected by the people of Libya, nor should we have any confidence that she represented the interests of the people of Libya. Even if she merely represented the Araba Jamahiriya, their choice of her was likely dictated by that nation’s military dictator, Muammar Qadhafi. Al-Hajjaji purported to be a political representative (whether of Libya or merely the Araba Jamahiriya) despite not having been freely and fairly elected by those she purportedly represents and whose interests she may or may not in fact pursue. In what sense, then, *is* she a political representative at all?<sup>2</sup>

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<sup>1</sup> Information in this paragraph taken from the web site of the World Trade Organization, accessed on 9 March 2005 at [http://www.wto.org/english/news\\_e/news04\\_e/libya\\_stat\\_27july04\\_e.htm](http://www.wto.org/english/news_e/news04_e/libya_stat_27july04_e.htm)

<sup>2</sup> Two anonymous referees for the *Journal of Politics* helped to reconfigure the argument in its present form, and I am indebted to them and the journal’s editor for their careful reading and engagement. For comments on earlier versions of the argument I thank Randy Calvert, Chad Cyrenne, Mark Hansen, Emily Hauptmann, Jack Knight, Charles Larmore, Patchen Markell, Chris Rohrbacher, Sue Stokes, and Cass Sunstein.

This kind of case of institutionalized *non-democratic* representation is familiar in global institutions. In the United Nations, for example, individuals purporting to be political representatives act on behalf of their nations' interests whether or not the representative was selected according to democratic procedures. Other less formal cases raise a similar set of issues. Leaders of non-governmental organizations (NGOs) like the International Red Cross purportedly represent the interests of prisoners of war even when those individuals have had no say in the selection of their representatives. In other cases, like that of environmental groups, the interests represented are not even human ones.<sup>3</sup> Given the lack of any democratic structures by which those represented can authorize and hold these actors to account, given the fact that they may or may not actually be pursuing the interests of those they purportedly represent, are these even cases of political representation?

The question is critical because contemporary accounts of political representation explain why one *is* or why one *fails to be* a representative *at all* by reference to democratic norms: a representative is purportedly someone who looks out for the substantive interests of those who elected them through free and fair elections. Yet, when Nikita Khrushchev slammed his shoe on the podium at the United Nations observers had no problem recognizing that he was the representative of the Soviet Union (whether of the nation or of its government) despite his failing to have conformed to any reasonably democratic norms. Similarly, many who believe that George W. Bush became president of the United States in 2001 by deception or other means nevertheless recognized that he was the representative of that nation from 2001-2005.<sup>4</sup> If political representation

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<sup>3</sup> These are “non-human” concerns only to the extent to which they have “intrinsic” value. If they are valued *because* humans value them, that is another matter.

<sup>4</sup> Bush was reelected in 2004 without much controversy.

is explained by democratic norms and institutions, then it would seem that Bush and Khrushchev were not representatives of their nations, a result as strange as it is false.

What other conditions might explain why Sue, but not Tom, is the political representative of some group? What could “political representation” be if it does not necessarily depend on notions of accountability, authorization and “acting for another’s interests?” And if the concept is simply a non-normative description of a set of facts about the political world, what precisely is it descriptive of? In short, how do we explain political representation if not by an appeal to democratic legitimacy? These are the questions of this article.

In this article I argue that political representation has a robust non-normative descriptive sense, that is, it describes facts about the political world without necessarily appealing to normative standards of legitimacy or justice. Political representation, I argue, results from an audience’s judgment that some individual, rather than some other, is a representative of a particular group. The audience uses a set of “rules of recognition” to judge whether a claimant is a representative in any particular case.<sup>5</sup> When audiences use democratic rules to guide their judgment, the democratic, but special, case arises. Indeed, these are the cases we are most familiar with—democratic audiences judging whether to accept a particular person as their legislative representative using rules that follow from a normative account of legitimacy. When audiences use rules of recognition that do not

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<sup>5</sup> “Rules of recognition” are adopted directly from H. L. A.’s treatment of law (Hart 1997). They function in a similar way only to the extent that they indicate that audiences need to reference rules in order to determine whether this, but not that, is the object in question. Hart’s object was “law”, mine is “representation.” There are certain other similarities not developed here, including the role of first and second order rules, and an account of the emergence of the rules in the first place. But the fact that our objects of analysis are so different means that the use of rules of recognition may be an adequate explanation of one phenomenon without explaining the other. Thus, even if critics of Hart are right, these rules may still serve an important function in other contexts. An extended discussion of this point will be important to the extended development of the present argument, but it is tangential to our concerns here.

conform to democratic norms, however, non-democratic cases arise. These cases are particularly salient in the international sphere, where audiences regularly use rules like “whoever has control of the military” (in the case, say, of Pervez Musharref in Pakistan) or “whoever has the power to act” (in the case, say, of the head of the Red Cross) to determine who is the political representative of a group. By referencing the rules of recognition that any particular audience uses rather than any substantive evaluation about those rules we can thus explain how political representation *qua* representation arises. The standard, democratic account thus turns out to be merely a special case of the more general phenomenon: political representation arises simply by reference to a relevant audience accepting a person as such. Thus, political representation, *per se*, is not a particularly democratic phenomenon at all.

In the remainder of this introduction I develop in more detail the problem that gives rise to the present account, I explain what is at stake, and I provide a road map by which I proceed.

### *Development of the problem*

The questions in this article may appear to be settled or uninteresting. Political representation has been extensively used and discussed for over two millennia.<sup>6</sup> It entered pre-modernity with *Magna Charta* (Fasolt 1991), was limited by Hobbes (1994, 101-105), extolled by Madison (Hamilton, et al, 56-65), repudiated by Rousseau (1978 101-104), equalized by Cady Stanton (Keyssar 2000, 172-221), institutionalized by Mill (1991), vitalized by Dewey (1954), criticized by Schmitt (1996), and pluralized by Dahl (1956). Contemporary accounts begin with Hanna Pitkin’s analysis of this history (Pitkin 1997) establishing what I call the “standard account”

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<sup>6</sup> The claim by some of the American founders that political representation was “discovered” by the moderns is as erroneous as it is repeated. See (Manin 1997) for a good summary of the evidence of its use in Ancient Greece.

of political representation: political representation purportedly involves, *inter alia*, authorization, accountability and the looking out for another's interests.<sup>7</sup>

Consider how closely the dimensions of the standard account fit with accounts of normative legitimacy, that is, the conditions by which a group has the *right* to make and enforce laws that bind others.<sup>8</sup> Under the standard account, a political representative purportedly has *substantive* obligations to act on behalf of another's interests as *ipso facto* what it means to be a political representative.<sup>9</sup> Political representation must arise and be maintained through a set of *procedural* standards of

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<sup>7</sup> Despite some important disagreements around symbolic representation, few historical treatments have been so completely accepted as a standard account of a concept in all areas of political science. The work quickly became the point of departure for anyone writing on the topic, whether in political theory or elsewhere in the field, and has shaped the debate ever since it was published. This achievement is all the more impressive given the enormous democratization internationally and the post-Voting Rights Amendment debates in the United States that fully emerged only after her work was published.

<sup>8</sup> Thus I agree with Kit Wellman who has argued, "...political legitimacy is distinct from political obligation; the former is about what a state is permitted to do, and the latter concerns what a citizen is obligated to do. Although I believe these two are related, clearly they are not identical." (Wellman, 1996, p. 212) Normative legitimacy differs from "sociological legitimacy" (also called "empirical legitimacy") which often equates "legitimacy" with "public approval." The "group" that makes binding rules has usually been the government (in particular, the legislature) of a nation-state, but in the context of global institutions other groups are making rules that claim to bind governments and their citizens. Because political representatives are the ones who write and pass these rules I take the legitimacy of any political representative to be a necessary but insufficient condition for the normative legitimacy of the rules they pass. For more, see (Rehfeld, 2005: pp. 13-16).

<sup>9</sup> Another's interests may be identical to the representative's own interests, but the obligation to represent the former accrues only by virtue of their being someone else's. A more complex case arises when the representative is part of the group whose interests she is representing. This is not terribly difficult to understand as a case in which the representative *qua* representative is not representing her own interests but rather the interests of the group of which she, as a citizen, happens to be a member.

*authorization and accountability* usually by way of *free and fair* elections.<sup>10</sup> The fact that the standard account of political representation and analyses of legitimacy use the same kinds of standards is no coincidence: these obligations and standards are quite plausibly what render any case of political representation *legitimate*. But if we use the same criteria to judge whether a person is a representative *at all* we cannot then explain the kinds of cases described above, cases of purportedly illegitimate representation.

If Pitkin's treatment established the seminal treatment of the standard account subsequent work has only expanded, without seriously questioning, Pitkin's fundamentals. Of this next generation, Iris Young (1990), Anne Phillips (1995) and Melissa Williams (1998) all expanded on the standard view and offered different arguments for the inclusion of certain kinds of groups. In addition to these, Amy (1993), Bohman (Bohman and Rehg 1997), Bybee (1998), Cohen (1989), Fishkin (1991), Gutmann and Thompson (1996), Habermas (1996, 287-328 and 463-490), James (2004) and many, many others have argued for more legitimate or better representation through accountability (mostly through deliberation), authorization (mostly through electoral reform), and the pursuit of interests. Bernard Manin has argued that Representative Government is properly viewed as an elective aristocracy, but again, animated by the norms Pitkin described. Jane Mansbridge's terrific critique of empirical research on political representation argues these forms fail to meet "the criteria for democratic accountability." (Mansbridge 2003: 515). And John Dryzek (2000) and Andrew Kuper (2004) (to name just two) have argued in favor of democratic institutions

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<sup>10</sup> No less familiar, if less clearly distinguished, are disagreements about the epistemic source of these interests: should constituents or the nation *determine* the content of those interests, or should the representative's own wisdom be her guide? A representative might believe that her job is to pursue her constituents' interests, but nevertheless believe that she knows what is best for them. Similarly, she might take the national interest as her goal, but believe that asking her constituents what they think is the national



for global purposes that rely on particular views of political representation, again, tied closely to deliberative legitimacy and democratic justice respectively.

By wedding representation with the conditions that render it legitimate, the standard account is doing double duty: not only does it tell us when a representative is legitimate or democratic, it also purportedly tells us when a person is a political representative at all. By simultaneously defining conditions by which someone becomes a political representative and the conditions for her legitimacy we are unable to explain how the cases of illegitimate representation I illustrated above arise. Indeed, under the standard account, the question, “what makes Smith a representative but not Jones?” becomes impossible without an appeal to facts about the legitimacy of Smith’s claim.

Cases of illegitimate political representation are not mistakes of classification or cases in which the representative simply fails to achieve an ideal: political representation, say, in the early modern period in England, was less about legitimizing practices as about a practical way for the monarchy to extract taxes from the people. (Fasolt 1991) Similarly, in many nations over the last 50 years, whether in Africa, South America, Eastern Europe and the republics of the former Soviet Union, we see nations filled with political representatives, but whose elections, conduct and other criteria do not meet any plausible account of legitimacy. NGO’s now send their representatives who purportedly “represent” non-state actors and causes on the world stage. And, as I said above, between 2001 and 2005 there were many Americans who viewed their president as the illegitimate occupant of his office. Nevertheless, they called him “Mr. President” if they saw him and felt pride or shame as he acted *as their representative* in the international realm. If political representation entails its own legitimacy, it is hard to see how these things can be so.

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interest is the best way to find out what it is. Thus this epistemic question should be differentiated from the more familiar *delegate/trustee* distinction. See (Rehfeld, 2005: pp. 202-204).

*What is at stake: Who Cares?*

There are two main benefits of a general theory of political representation. First, if this account is accurate it will explain how political representation operates as a political phenomenon in democratic, non-democratic, formal and informal contexts. It will thus provide an extremely useful tool to study political representation in non-national, global arenas where non-democratic and informal representation increasingly occurs. We can explain why people can be political representatives despite there having been no free and fair elections that selected them, nor their plausibly acting on the interests of “their people.” The account shifts our attention from democratic norms to the more generally important rules of recognition that different audiences use to judge whether this person, but not that one, is a representative. The account also allows us to explain why and how the same audience will use very different rules of recognition in different cases. This alone would justify the treatment.

The second value of a general theory of political representation is that it helps explain and illustrate how norms are introduced into the political world. When we do not adequately distinguish the concept of political representation from underlying norms of legitimacy we allow ourselves to avoid the hard questions of what makes institutions just or legitimate. This is a familiar enough critique of empirical social scientists who uncritically adopt normative judgments into their purportedly “value free” research; for example, those who equate “legitimacy” with public opinion (rather than right). But in the case of the theoretical literature, “political representation” has now emerged as a normative category all its own. Thus do theorists argue about what “real representation” is, rather than what *legitimate* political representation might be. This obscures that fact that political representation need not be just, legitimate, equal, fair, or otherwise deserving of approval without failing to be any less “real” or “true” a case of representation.

The account here does not deny that normative judgments play a part in the recognition of political representation. Quite the opposite: a general theory of political representation allows us to specify precisely how and where normative arguments enter the political world. In the case of representation, it is the rules that Audiences use to recognize representatives rather than the institutions or practices of representatives themselves that explain why they are, or fail to be, legitimate or just<sup>11</sup>. Representation *really does happen* whenever a particular audience recognizes a case that conforms to whatever rules of recognition it uses, regardless of whether these rules are just or unjust, fair or unfair, legitimate or illegitimate. By demonstrating the conceptual limits of political representation, I mean to implicate the normative arguments that underlie its use in a more direct and uncompromising way, a point I will return to at the close of this account.

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The article continues over five more sections. In Section 2 I state the general theory. In Section 3 I explain the “rules of recognition” and how the audience operates in greater detail, answering some initial objections to the general account. In section 4, I describe how the terms of representation combine into necessary and sufficient conditions for representation to obtain. In Section 5, I show how this account is formally related to—but need not assume—conceptions of normative legitimacy. I conclude in Section 6 with a description of the concept as spanning substantive and formal dimensions.

## **2. A General Theory of Political Representation**

In this section, I lay out a general theory of political representation that depends not on institutional facts, but rather on an Audience’s judgment. Most of this section merely states the general theory without objection. In later sections, I defend it against important concerns.

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<sup>11</sup> As we will see, the rules of recognition an audience uses may correspond closely with the conditions for legitimate institutions.

Two things are trivially true of *all* representational relationships (including political, symbolic, artistic, and linguistic): there is purported to be some thing (loosely defined) to be represented and some thing (loosely defined) that represents it. Call the object of representation, the *Represented*.<sup>12</sup> Call that which represents it, the *Representative*. Formally, the *Representative* is a set, the members of which stand for the *Represented*. In many cases, there is only one member of that set (the single-member district, or the symbol that represents the artist formerly known as Prince<sup>13</sup>). In other cases, the *Representative* contains more than one member (possibly a multi-member political district, or the many different symbols that represent “God” in art.)

Descriptively, the audience uses a set of rules to denote the *Representative*. These rules specify a *Selection Agent* who uses a *Decision Rule*, to select a representative from a *Qualified Set*. In most democratic systems, the *Selection Agent* is “voters within an electoral district,” the *Decision Rule* is some variant of “majority rule,” and the *Qualified Set* from which the *Representative* must come is “citizens who reside in the district above a certain age.” In most democratic systems the *Selection Agent* and the *Represented* overlap considerably, in non-democratic representation, the *Selection Agent* differs from the *Represented*. For example, the *Represented* might be “the people of England,” and the set of rules might be, “Whomever (*Qualified Set*) the king (*Selection Agent*) desires (*Decision Rule*).”

Rules alone do not create representation; they are what an *Audience* uses to recognize a claimant as a representative in the following way. First, an *Audience* must take these rules to be valid and appropriate given the case. Second, the *Audience* must recognize that the rules in fact denote an

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<sup>12</sup> The word “constituent” might seem to be more natural here than “Represented.” But “constituent” has a technical sense that is tied too closely to democratic theory to be of help. Further, “constituent” often refers only to that subset of represented individuals who register to vote, actually vote, or vote for the winning candidate. In the case of symbolic political representation there are no “constituents” represented, even though there is a thing (loosely defined) that is. Thus I have decided on the less familiar term “Represented” to denote that which is represented. For more on “constituency” see (Rehfeld 2005).

individual claimant. When an *Audience* recognizes that the rules it uses designate a particular claimant, that claimant becomes the *Representative*. This happens whenever an *Audience* recognizes that a particular claimant meets *whatever* set of rules it uses, whether these rules are arbitrary, *merely* pragmatic or normatively justifiable.

I briefly note that the use of the terms “qualified,” “valid,” and “appropriate” within the rules of recognition may appear to introduce normative claims that are not merely descriptive. These terms describe how the Audience views the rules that they use; that the Audience takes them to be “qualified,” “valid” and “appropriate.” But they do not imply that the rules *in fact* are what *should* count as “qualified” “valid” or “appropriate.” For example, as long as an Audience takes “white men” to be the appropriate Selection Agents, then only claimants selected by “white men” will be Representatives, no matter how unjust that would be. Similarly, if an Audience takes “Mickey Mouse” to be the appropriate selection agent, only claimants selected by Mickey Mouse will be Representatives. (I will defend this claim in more detail later in Section 5.)

The *Selection Agent*, *Decision Rules*, and *Qualified Set*, simply describe the substantive content of the rules of recognition that any audience will use to judge who is, in fact, a political representative. A representative cannot represent something *simply* because some agent selected it; the Audience must recognize the Selection Agent through the rules it uses. Importantly, because representation relies on the correspondence between a claimant and an *Audience’s* rules of recognition, we can explain cases in which we think a claimant *is* in fact a representative, despite the Audience’s rejection of him, and those in which we think a claimant is not a representative despite the Audience’s acceptance of him. These cases are ones in which an audience makes a mistake relative to rules it uses (a point I develop in Section 4).

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<sup>13</sup>I thank Emily Hauptmann for her astute contribution to this point.

Who counts as the Audience? The Audience is the relevant group of people who must recognize a claimant as a representative, and the relevance of the group will always depend on the particular *Function* of a case of representation. Representation is always in service to some purpose or function; it is never “had” just to have it—a representative does not *merely* “stand for” another, she “stands for another *in order to do X*”. The *Function* of any particular case of representation describes the substantive activity a *Representative* is to do when “standing for” the *Represented*: “vote on laws”; “propose trade regulations”; “advocate for the environment;” etc. The Function thus also defines who counts as the relevant Audience in any particular case: if the Function is “to vote on laws *in the national legislature*” then the relevant Audience will be “the national legislature.” As we’ll see towards the end of the account, the *Function* plays a critical role in generating substantive, evaluative criteria against which we can say whether a representative is doing her job well or poorly.<sup>14</sup>

Box 1 below summarizes the initial terms of this account. Box 2 summarizes how Representation obtains, the details and defense of which I treat in the remainder of this article.

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<sup>14</sup> This account is an illustration of how representation forms a social institution that imposes what John Searle has called a “status-function” upon people. {Searle 1991} With Searle, to say that representation “*really* exists” means referring to individual collective intentions concerning a group activity. Whether one *is* a representative is a fact of the matter that corresponds to whether an audience recognizes a claimant as such. As a claim about the social world, it thus is no more or less true than the “brute fact” (in Searle’s terms) that Mt. Everest exists independent of our language representations of it. I say this only to indicate the underlying foundations upon which this account rests: far more is needed to substantiate this important but presently tangential point.

### Box 1: Definition of Terms

<b>The Function</b>	=	the purpose of representation defining the job the representative is supposed to do
<b>The Represented</b>	=	some person, group or thing represented.
<b>The Representative</b>	=	some set of persons or things that represents the Represented.
<b>The Audience</b>	=	the relevant parties before whom The Representative claims to represent the Represented and act as defined by the Function.
<b>Rules of Recognition:</b>	=	the three rules the audience uses to decide whether a claimant is a representative.
Qualified Set	=	the claimant(s) must be a member of a set the audience recognizes as qualified.
Decision Rule	=	the claimant must have been picked by the decision rule the Audience recognizes as valid.
Selection Agent	=	the person(s) who employed the decision rule must be one the audience recognizes as appropriate.

### Box 2: Necessary and Sufficient Conditions for Representation to Obtain

#### Representation obtains just in case:

- R1: There is some Function that requires a Representative.
- R2: A particular claimant is a member of the Qualified Set.
- R3: The claimant was selected using the Decision Rule.
- R4: The Selection Agent used the Decision Rule to pick a member of the Qualified Set.
- R5: If necessary, the Representative accepts the charge.
- R6: The Audience, in fact, recognizes that R2-R4 have obtained (that a member of the Qualified Set was selected by the Selection Agent to represent the Represented according to the Decision Rule.)

### 3. The Audience and its Rules of Recognition

In section 3.1 I explain the Rules of Recognition (“Qualified Set”, “Decision Rule” and “Selection Agent”) in greater detail. In section 3.2 I illustrate what I mean by the “Audience” (3.2.1), explain why it is necessary given the other features of this account (3.2.2), and consider preliminary objections to that term (3.2.3)

### 3.1 *The Three Rules of Recognition*

#### *The Qualified Set*

Qualified Set = the claimant(s) must be a member of a set the audience recognizes as qualified.

The “qualified set” indicates the group of which a claimant must be a member in order for her to be recognized as a representative by an audience. Examples include the following:

- members of a particular gender (in contemporary France)
- property owning white males (in Colonial America)
- individuals who nominate themselves to run (in Ancient Athens)
- district residents over the age of 25 (in the contemporary United States)
- members of a minority group (in Canada and Bosnia-Herzegovina )

In most cases, the Qualified Set is a subset drawn from the Represented, but conceptually it may be identical to the Represented when all members of a professional organization, say, have the right to run for office. Members of the Qualified Set may also be entirely independent of the Represented, as is the case when, say, a child welfare advocate represents children—most audiences do not accept the children in need of protection as themselves members of the qualified set. The Qualified Set can also be an almost trivial constraint when it is equivalent to “all humans on the planet” (though this would keep asses out of office).

#### *The Decision Rule*

The Decision Rule = the claimant must have been picked by the decision rule the Audience recognizes as valid.

A decision rule specifies the process through which some particular person or object (and not some other person or object) is chosen to be a representative. In this account the decision rule



can be any rule that denotes a particular object(s). Decision rules for selecting representatives have varied widely and may include:

- Voting (whether by plurality, majority or super-majority rules)
- Appointment
- Divine Intervention
- Imagination
- Reasoning
- Self-declaration
- Duels
- Random selection

Decision rules must pick-out a discrete set of people (at least one) to be a representative. Since the Audience will have to view the rule as valid (whether or not it is actually defensible), in most democratic contexts this will significantly limit the range of possible decision rules. All that is required now is that some rule be used that picks out a particular person or group of people, and that the Audience takes this rule to be valid, whether or not it actually is.

### *The Selection Agent*

The Selection Agent = the person(s) who employed the decision rule must be one the audience recognizes as appropriate.

The selection agent is a person or a set of people who use the specified decision rule to select a representative. In most political cases, decision rules require a Selection Agent.<sup>15</sup> Similarly, the selection agent is an insufficient condition for designating a representative. One can specify some agent(s) to pick a representative, but without any decision rule, a representative cannot be

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<sup>15</sup> Some decision rules can seem to be self actuating and not dependent on any Selection Agents. For example, it appears that no selection agent is needed to pick out a single individual if we use the decision rule, “whomever survives a terrible illness first.” But in this case the “we” that is using that purportedly self actuating decision rule is the Selection Agent: whoever is the appropriate person(s) to choose “whomever survives” as the decision rule is the selection agent no more or less than whoever uses ballots to choose a person. I thank Randy Calvert for raising this problem.

determined. Therefore, a selection agent and a decision rule (that the agent uses) are usually required (but insufficient) conditions to denote a representative.

As an historical matter, Selection Agents have varied widely. The agent may be the board of the International Red Cross who appoint a representative for their group to testify before a panel at The Hague. It may be the Governor of State of Missouri who selects an interim representative to replace a deceased member of the U.S. Senate. And in the most familiar democratic case the Selection Agent can be the adult citizens of a nation.

In table 1 below I present illustrative examples of selection agents in three cases of purportedly *legitimate* political representation: where the agent is a subset of the represented, equivalent to the represented, or independent of the represented. Other permutations (an infinite number) are possible.

**Table 1: Examples of Selection Agents (SA) in some familiar cases of representation**

- SA is a subset of the represented group, but not equal to it, when only some of the represented vote.
- SA is equivalent to the represented group when all of the represented vote.
- SA is not a member of the represented in cases where a member of the U.S. Senate dies in office and the State governor appoints a replacement representative until the next election.<sup>16</sup>

### 3.2 *The Audience*

Representation is always in service to some function—whether to lobby a legislature, pass laws, or negotiate a peace settlement—and this function determines the audience. The audience is defined as *the relevant parties before whom a particular case of representation needs to be accepted*. In a legislature, for example, for Smith to “count” as a representative of some constituent group, *the other members of the legislature* are the relevant parties, because they must accept him as a representative

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<sup>16</sup> Formally speaking, the governor *in his role as governor* is not part of the Represented, even though as a citizen of the state he is part of the Represented.

before his vote will count.<sup>17</sup> It will not matter if anyone else accepts Smith as a representative, the legislature alone is the relevant party.

Notice that in this case, the constituent's (i.e., the Represented's) own judgment that Smith is their representative (as expressed, say, through majority vote) does not determine whether Smith is the representative of the group. The legislature's recognition of Smith is what matters, and it is this recognition that renders him, and not Jones, the representative of the group. Of course, when Smith comes before his constituents to explain what he did in the legislature, his constituents are now the Audience and they often use the same rules of recognition that the legislature used to recognize him as their representative. In democratic systems, the legislature's recognition that Smith is the representative of a particular group *will* correspond closely, perhaps even exactly, to the group's own judgments, but this need not be and is only the case because each Audience is using similar rules of recognition.

In what follows, I will illustrate how the audience uses its rules of recognition (3.2.1), explain why the audience is necessary (3.2.2), and answer a preliminary objection to it based on role playing (3.2.3).

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<sup>17</sup> The fact that the legislature, rather than the home constituency, executive or judiciary, is the Audience in this case is a contingent fact about how legislatures tend to operate. For example, in the United States House of Representatives current members decide whether any one of them is a current member (Article 1, Section 5: "Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members..."). In this case, the rule is circular because it presumes the very existence of the legislature in order to determine who its members are, that is, it presumes its own existence in order to determine whether it exists! The rule nicely illustrates that political representation often presumes a great deal of stability: although the rule would fail to resolve multiple simultaneous disputes, it functions perfectly well for occasional disputes of a few members.

### 3.2.1 An illustration of the audience in action: Negotiating allowance.

Imagine three children want to raise their allowance. Instead of going as a group to plead before their parents, they believe they would do better by having one represent the bunch. They select their youngest sister, Margaret, because they think she will be most persuasive in the situation. Margaret speaks to her parents about a raise, explaining that she represents her siblings in the negotiation.

In such a case, given the Function of the representational relationship (“standing for the children in order to set allowance”) the parents are the Audience, that is, they are the relevant parties because they are (by stipulation) the only ones who could change how much allowance the kids receive. The parents will thus have to recognize Margaret as their children’s representative. If the parents failed, for whatever reason, to recognize Margaret as representing her siblings, she would not be their representative. Moreover, consider that it would not matter if *some stranger* believed that the eldest child, Sims, were the *proper* representative by virtue of his being the eldest child. Nor would it matter if some *other parent* as a matter of principle did not think children were qualified to be representative agents at all. It is necessary and sufficient that Margaret’s parents, the parties before whom the relationship has any relevance, recognize their daughter as the representative of her siblings.

Variations on this example are illustrative. Imagine that, unbeknownst to her siblings, and after their agreement to present Margaret as their representative, Sims takes matters into his own hands, petitioning his parents directly. He argues that as the eldest son he has a right to represent his siblings. Imagine that his parents change their minds and accept Sims but for very crude and different reasons: they simply love Sims more than they love Margaret. The others now protest. “Dad, Sims doesn’t speak for us, he may not argue on our behalf.” Yet the parents disagree and hurtfully say, “*We* like Sims best, so he does represent you; our agreement with him is binding on

you.” Such a change—from Margaret to Sims—does not change the Audience—it is still the parents. Nor does it change who the Represented are; they are still those children. A shift from Margaret to Sims does, however, signify a change in the Selection Agents that are part of the Audience’s rules of recognition. In the first case, the selection agents were the siblings themselves who chose Margaret, in the latter case they were the parents who chose Sims. In both cases, the representative (Margaret or Sims) had to accept the charge. Critically, we can see that it is strictly up to the parents to set the conditions under which someone represents their children. Those conditions of acceptance might be distasteful (whom they love more) or more plausibly legitimate (whom the children want). Consider yet another case: the parents ask the children’s cousin Owen to represent their children in the negotiation. The kids would be outraged. However, represent them Owen would.

In any particular case, the Function of representation specifies who the relevant parties are that is, who is the Audience. The reverse is true, though not to the same extent: specify the Audience and a limited set of Functions follows. So if I specify “Margaret’s parents” as the relevant parties, I’ve specified a range of functions of representation—from raising her allowance to changing her bedtime—but I’ve also limited them. Margaret couldn’t represent her siblings before her parents (in their roles as parents) in order to get them into a good college or for the purposes of affecting national child welfare policy.

In sum, “relevant parties” or the Audience are the set of people who have the power to do whatever a Function of a particular case of representation specifies. The Audience uses *whatever* rules of recognition they do to determine whether this person, but not that one, is the representative.

### 3.2.2 The illustration of relevant parties

Given that most accounts of political representation refer only to the content of what I am calling the “rules of recognition” without reference to the Audiences who use them, I need to illustrate the centrality of the Audience for representation. I will do this by working through an example in which I leave the Audience unspecified and demonstrate that without it we cannot tell whether a person is in fact a representative at all.

Imagine the other descriptive terms take on the following values:

The Represented	=	the City of Chicago
The Selection Agent	=	my mother
Qualified Set	=	anyone sitting around the table.
The Decision Rule	=	“If my son wants to represent Chicago he should; if not I’ll choose someone else.”
The Representative	=	my mother’s son (he wants the job)

Being my mother’s son and wanting the job, I claim to be the representative of Chicago. To which the understandable response is, “maybe in *your* and your mother’s mind you represent the city of Chicago, but in no one else’s.” Similarly, “You only *think* you represent the city but you don’t.” So, why wouldn’t I?

The answer lies in our background<sup>18</sup> assumptions about the Function of this case: we assume I would be laughed at (if not arrested) if I tried to act as a representative of Chicago before a trade union, the U.S. Congress, or in front of a neighborhood council. If the Function of a representative in a certain case is to do certain things (like speak for the members of the city before this or that group) then the group before whom I act will have to view me as, in fact, representative of some

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<sup>18</sup> The background here functions in the way (Searle 1991: 127-137) has described it.

other group for those purposes. As I demonstrated in the allowance example above, who the audience is depends entirely on what Function of the case of representation is.

In the present example I've purposely left the Function unspecified: was it to represent parties to a contract, vote in the Illinois legislature, or speak on behalf of the city of Chicago at a trade association? Yet I suspect most people would have a stronger inclination to discount the role of Function here and say, *whatever the function of representation is* my mother is simply mistaken, I don't *really* represent Chicago on her say so. Yet consider what happens if we make our background assumptions explicit and assert that the Function of representation in this case is, "standing for the City of Chicago in order to play a board game." In the game, someone needed to determine who represented different cities and it was my mother's choice how to allocate positions to play. In that context, I certainly did represent Chicago, though for the very limited purposes of playing the game. The Function of the particular representative case determines the Audience (in this case it was my mother, since she was the referee of the game) and, once specified, the Audience must recognize a claimant as the representative.

### 3.3.3 Representing vs. role playing: a first objection to the Audience function.<sup>19</sup>

Playing a game entails role playing and on the surface it may seem inappropriate to draw analogies to the political sphere from that kind of a case. First, it may seem that that these particular rules of recognition (e.g., "if my son wants the job...") crop up in domestic, informal situations, and are not used in the political world. Of course, this is simply not true, even if today the use of such discretionary rules is limited. Kings and dictators have routinely used their children to represent their nations for reasons not much different than "because they wanted to". And most importantly,

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<sup>19</sup> The more serious objection that the Audience's judgements are simply judgements about legitimacy will be taken up in detail in Section 5.

institutions like the WTO, United Nations, and NGO's regularly use similar rules of recognition for figuring out who are the political representatives from, say, Libya, pre-2003 Iraq, and Syria. Only slightly more complex (if equally objectionable) rules of recognition explain how representatives of the Soviet Union, China, and North Korea become representatives in international contexts. In all of these cases, the rules that world bodies use to determine who the representative is look very much like the rules my mother used in this example.

The more important general objection is that there is sphere confusion going on: political representation is a fundamentally different kind of *activity* from game playing and thus examples in one arena do not translate into the other. To specify this in more detail, the *Function* of political representation explains what kind of activity a representative will be engaged in, and defines the audience by context. The Function of political representation takes on this form: "A Representative stands for the *Represented* in order to do X" where X is some activity for which representation is needed. Now in the case of a game, "doing X" is simply "playing the game". In the cases of political representation most familiar to us, the *substance* of the Function is different but not its form: "advocate for a constituent's interests in the legislature" or "sign a global warming treaty to maximize a dictator's benefit." Structurally, then, the cases work in very similar ways.

Still there is a lingering sense that something is substantively distinctive about each case as to preclude analogical reasoning from one to the other. As a last response, it will be useful here to work through Hanna Pitkin's objection to exactly these kinds of concerns. For Pitkin, when I play a game, I do not "represent" the player, I pretend *to be* the role I take on. (Pitkin 1967, 26) In Pitkin's example, an actor does not "represent" Hamlet, he pretends "to be" (or not to be, I suppose)



Hamlet. Similarly, I don't represent the City of Chicago when I play the game, I pretend "to be" the representative of the City of Chicago.<sup>20</sup>

Pitkin's distinction between players and actors depends on the purported fact that actors have not been "authorized" by those they represent, *and* that their activity is different from that of political representatives.

Ordinarily the actor in a play does not claim or even pretend to be the authorized representative of anyone. He does not pretend to act on authority of Hamlet, but *to be* Hamlet. His entire manner and appearance are directed to creating the illusion that he is someone else, someone whom he is playing or, as we say, representing on the stage. Conversely, an authorized representative does not, under ordinary circumstances, pretend to *be* the person he represents. The agent of the king does not dress or behave like the king, or try to pass himself off as his royal majesty. The West-coast representative of a national corporation does not try to pass himself off as that corporation itself. Nor, of course, does a Congressman pretend to be a large number of citizens. (Pitkin 1967, 26.)

His "situation" *seems* to be "...defined not by prior giving of right or accepting of responsibility, nor by pretense to these, but by the content and manner of what he does and how he acts." (Pitkin 1967, 27.) So, for Pitkin, an actor is not a representative for two distinctive reasons: a) unlike the political representative, the actor is not authorized by those he represents; and b) unlike the political representative, the actor tries to "be" that which he represents. I will take each in turn.

What should we make of the claim that actors are not authorized by those whom they represent, but political representatives are? Well, it is certainly true that Hamlet (the historical

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<sup>20</sup> For the sake of symmetry I suppose I should say that when I play that game I do not *represent* Chicago, I pretend *to be* Chicago. Aside from being a meaningless statement, it is also not descriptive of the game. For

figure) did not authorize an actor in the 21<sup>st</sup> century to play him on stage. But the general claim that political representation necessarily involves *being authorized by those you represent* is just false: even democratic political representatives represent people who did not authorize them to act, say those who voted for the losing candidate or those who simply did not vote. When representatives are appointed for a population, say in the example of the International Red Cross representing political prisoners, or a monarch appointing a representative to work for the good of his people, these are also representatives who, like the actor, have not been authorized by those they represent. Once we see the role that third parties regularly play, we can also rethink the acting example: the actor is authorized by a casting director, producer and/or the audience who watches and accepts the performance as a reasonable portrayal.

What should we make of the claim that in theatrical representation an actor tries to be the character he represents, and is thus a different sort of activity from political representation? Here, this just seems mistaken on both sides. First, the actor is *not* really trying “to be” Hamlet, duping the audience into believing transubstantiation is occurring before their eyes. He is trying to imitate salient features of Hamlet (how he spoke, fretted, hesitated, killed, etc.) in order to represent him on stage. Second, as an empirical matter, political representatives often do exactly the same sort of things with those they represent. When deliberating and voting, for example, political representatives often ask themselves, “how would my constituents think about this matter?” trying out different modes of thought. When they campaign they often pretend to be something they are not, appearing more “of the people” than they really are. And when they purport to be a representative of the group, they are often criticized for not acting or being enough like the group they are supposed to represent. In neither the theatrical or the political case are the representatives

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by stipulation I am playing a representative of the city, able to negotiate its future success or demise based on decisions I make. So whether this playing counts as “representation” is exactly the matter at hand.

trying to existentially “be” those they represent, and in both cases the representatives are trying to model how those they represent *would* act in certain, if different, respects.

The problem can be resolved by precisely distinguishing “The Represented” from “The Selection Agent” and both from “The Audience”. In the case of performing, each is actually a separate entity. The Represented is Hamlet, the Selection Agent is the casting director, (the Decision Rule may be “the best available actor”) and the Audience is some combination of the play’s producer and audience *who must view the actor as representative of Hamlet for the role to be convincing*. It is representation with a very different function than the political case, but it is representation nonetheless. This example also illustrates the migration of normative judgments into the concept of “political representation.” In this case, Pitkin introduced the necessity of “authorization” of a proper kind onto the concept of representation: if the *actor* acted “on authority of Hamlet” then in some sense he *would* be a representative of *Hamlet* on stage. By analogy, the reason I fail to represent the mayor of Chicago in the example above, is, *inter alia* because the Mayor did not authorize me. But as we said, this was not the case.

As long as representation is cast only in terms of its own legitimacy it is understandable why the three roles of Agent, Represented, and Audience remain undifferentiated: in democratic systems these three roles are often identical. In democratic government, The Represented are said to be the constituents. The Agents that select the Representative are the Represented (at least a subset of them). And the Represented *are* often the Audience before whom the relationship must be taken as valid. By separating the roles that this same group (constituents) plays, we can see how in different cases independent individuals (or groups) may assume the roles. In such cases, all the necessary conditions are present for representation, but their content is vastly different. The account here parses out just how an actor is representative of the character he portrays, even if he represents that character in a way very different from the political case.

#### 4. Specifying the conditions for political representation

In 3.3.2, I demonstrated the centrality of the Audience to a general theory of political representation. But if the conditions for representation boil down to whether the Audience accepts John as the representative of some other group, why do we need the rules of recognition at all? Strictly speaking, we don't: *as long as an audience accepts John as the representative of some group he is their representative.*<sup>21</sup> As a descriptive matter that's the end of the story and by itself explains why some cases of political representation fail any plausible test of legitimacy: when Audiences accept people as representatives for really bad reasons they often turn out to be illegitimate.

Why then do we need to bother with the rules of recognition at all? The rules of recognition explain what it is the audience is judging when they recognize (or fail to recognize) a particularly claimant as a representative.<sup>22</sup> The rules they use will further allow us to say whether the case is a normatively good one, whether the representative is legitimate or not. And it is by reference to these three rules of recognition that we can explain why we sometimes believe Audiences make mistakes, failing to recognize a person we believe *should be* recognized as a political representative. As we'll see, such a case is one in which an Audience fails to follow its own rules.

In this section I complete this account by fleshing out these judgments. I will describe how the audience comes to view a relationship as representational (4.1), what "accepting the charge" amounts to (4.2), and explain the importance of the "enabling condition" to explain how Audience mistakes can occur (4.3).

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<sup>21</sup> I will refine this to account for Audience mistakes in Section 5.

<sup>22</sup> I do not mean to say that audiences always self consciously use these rules with intention, although in most cases they do. At issue here are questions of intentionality as developed in (Searle 1983) and (Searle 1991), I will take up in a more sustained way at another time.

4.1 How the audience comes to view a relationship as “representational.”

Recall the first four conditions that I said were necessary for representation to obtain:

- R1: There is some Function that requires a Representative.
- R2: A particular claimant is a member of the Qualified Set.
- R3: The claimant was selected using the Decision Rule.
- R4: The Selection Agent used the Decision Rule to pick a member of the Qualified Set.

R1 establishes the context and purpose of a case of representation. R2-R4 acknowledges that who the representative is and how she was selected *are* central to considering whether a person is a representative. These 3 separate conditions explain why relationships that we might want to call “representational” nevertheless are not.

To see the necessity of these conditions consider some examples where only two of the three conditions (R2-R4) obtain:

- 1) In 2005, the King of Morocco selects Grace Kelly (d. 1982) to be that nation’s representative to the United Nations. (Condition R2 fails)
- 2) Jim Drew (a living, adult, citizen of Chicago), is selected by lottery to be the US Senator from Illinois. (Condition R3 fails)
- 3) In 2005, my book group elects Elizabeth Dole by majority rule to serve as the head of the Red Cross commission to represent Prisoner’s of War. (Condition R4 fails)

In the first case, R2 alone explains why the UN does not recognize Grace Kelly (d. 1982) as the Moroccan representative to the UN, even though the appropriate agent (the King) used a valid decision rule (whomever the king wants) as its selection device.<sup>23</sup> Being dead, Kelly does not qualify for the position. Similarly, R3 explains why, in example 2, Jim Drew would fail to be the political representative of the state of Illinois: in 2005, the Audience (US Senate) would not consider random selection to be a valid decision rule even though the case fits its other rules. Finally, R4

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<sup>23</sup> As I said above, “valid,” “qualified,” and “appropriate” refer to an Audience’s judgment, and they need not be normatively justifiable. See Section 5 for more.

demonstrates how “appropriate selection agents” are critical to an audience’s rules of recognition: few Audiences are likely to accept “my book group” as the appropriate selection agents to select a representative for the Red Cross, even if we selected (by majority rule) Elizabeth Dole, a past president of that organization (purportedly meeting conditions R2 and R3).<sup>24</sup>

Less fanciful, historical examples are readily available. Qualifying limits for representative candidates are made explicit (and some—like being a human being—implicit) in all political constitutions. Indeed, one of the more contentious matters in England during the 17<sup>th</sup> and 18<sup>th</sup> Centuries was specifying who could decide qualifications for representatives in Parliament. The controversy led to the inclusion of the first line of Article 1, Section 4, Clause 1 of the U.S. Constitution: “Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members...”. For an example of rejecting a decision rule, we can imagine the start of labor negotiations. Although workers elected John to represent them, management rejects him as their representative because they elected him *viva voce*. Without a secret ballot, management (in this case, the Audience) argues, they do not accept him as the workers’ representative.

Now consider a case many people would consider “illegitimate.” The UN General Assembly accepts King Hussein as the representative of Jordan when he speaks before that body. They accept that he is qualified, that he was his own selection agent, and that the decision rule he used (“pick the king”) was an appropriate one. Many would thus take King Hussein to be the valid political representative of Jordan for pragmatic reasons without necessarily conceding that he is that nation’s legitimate representative.

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<sup>24</sup> Note that in all cases I am assuming that the relevant parties (i.e., the audience) reject examples 1-3 for the reasons I give. If they instead accepted dead people as qualified, random selection as valid, and my book

## 4.2 Accepting the charge

R5 was a conditional statement: “If applicable, the representative accepts the charge.” (See Box 2) R5 accounts for the fact that most, but not all, cases of political representation involve self-conscious human action, and therefore require an individual who accepts her role as representative. A representative need not “accept the charge” when the representation involved is symbolic, and where the representative is an *inanimate object*, R5 does not apply. Importantly, if this account is correct, symbolic representation need not be any more or less political than other kinds of representation that are active or non-symbolic.

Here are two examples to illustrate these exceptions.

- 1) **Symbolic representation:** Anatoly Sharansky is a representative of Soviet Refuseniks whether or not he accepts the charge.<sup>25</sup>
- 2) **The “Representative” is an inanimate object:** The Italian flag represents the hope and glory of Italians, whether or not it (the flag) accepts that charge.

In the first example, Sharansky *as a symbolic representative* need not have accepted the charge to represent Soviet Refuseniks because symbolic representation does not entail that he do anything. He

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group as the appropriate agents—then of course, representation would obtain. This only reinforces the centrality that these rules play in the establishment of political representation.

<sup>25</sup> Refuseniks were Soviet Jews who were refused permission to leave the Soviet Union and who often suffered persecution following their requests to leave. Anatoly Sharansky became one of the more celebrated cases and a rallying cry of the American Jewish community during the 1980’s. His symbolic stature was reflected in the words of the song “Anatoly”, written by Doug Mishkin, and sung at political rallies in the United States at the time: “Anatoly as long as you are there/We the people of Israel hear your prayer/Anatoly as long as you’re not free/Neither are we.” (Mishkin 1987) Sharansky finally immigrated to Israel where he took the Hebrew name, Natan and became very active in electoral politics. In a preface to his song recorded after Sharansky was released, Mishkin claimed that the “spirit” of “Anatoly” represents all who struggle against oppression. To the best of my knowledge, Sharansky never agreed to link his name (let along his story) to the cause, (although he was present on at least one occasion where the song was sung, and given his involvement in electoral politics, one must assume he would welcome the linkage). Thus it is that symbolic representation arises independent of a claimant accepting the charge.

might even explicitly reject that he was such a representative (“I’m just a guy who wants to leave the Soviet Union and that’s all I am”). However, because the Function of this case of representation is to be a symbol and symbols are often symbolic simply by “being”, it is not *necessary* that the symbol accept the charge. Thus, Sharansky was a symbol whether or not he wished to be simply because the Audience (before whom this symbol was relevant) took him to be symbolic. For analogous reasons, when the representative is an inanimate object (a flag) it can only be a symbolic representative and thus need not accept the charge (whatever that would mean).

What about those special cases, in which representatives are selected to serve “against their will” that is, they are coerced to act? For example, the Nazis coerced Jewish communities to select representatives to decide who would be deported to death camps. Where individuals served as representatives, they accepted the charge to be representatives *despite many reasons not to*, but not *against their will*. Coercion of course changes the moral responsibility of an agent. A representative acting with a gun to his head would have accepted the charge to represent (by virtue of his acting), although we would exculpate him for his decisions given the situation. But we might choose not to excuse such behavior (“He should’ve taken the bullet before acting as an accomplice.”). The point is this is a separate matter: the representative has to accept the charge to be a representative in cases where the representative is human and the kind of representation is non-symbolic.

#### 4.3 The Enabling Condition: explaining audience mistakes

The sixth condition puts the account all together, explaining how audiences use a set of rules to recognize a particular individual as being a Representative:

R6: The Audience, in fact, recognizes that R2-R4 have obtained (that a member of the Qualified Set was selected by the Selection Agent to represent the Represented according to the Decision Rule.)



R6 explains how R1-R5 come together to form a case of political representation: an audience must in fact recognize that their rules have been met for representation to occur. In finally explaining how the parts come together, R6 also accounts for two important kinds of audience mistakes (false positives and false negatives) that lead to anomalies of representation.<sup>26</sup>

First, audiences may mistakenly believe that a case conforms to their own rules of recognition when it does not (false positives). When this happens we can coherently, but imprecisely, claim, “Despite an audience’s judgment, that person is no representative at all.” More precisely, we’d mean, “That person does not meet the standards set by the audience’s own rules of recognition, and they are making a mistake to recognize her as such.” Second, audiences may fail to recognize, or mistakenly reject cases that do conform to their own rules of recognition (false negatives). When this happens, we can coherently, but imprecisely, say “Despite an audience’s judgment, that person really is a representative.” More precisely we’d mean, “That person meets the standards set by the audience’s own rules of recognition, and they are making a mistake not to recognize her as such.” I will take each of these failures in turn, and then clarify the issue of coherence and imprecision I just raised.<sup>27</sup>

Consider first a “false positive,” a case in which an audience believes that a claimant conforms to their rules of recognition when, in fact, the claimant does not. Imagine that a person named “George” was selected through fraudulent election tactics and then claims to be the

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<sup>26</sup> I am grateful to Jennifer Rubenstein who, as a reader for *The Journal of Politics* raised this issue. It led to a reconfiguration of the argument into its present form.

<sup>27</sup> A third kind of claim would reject the rules an audience uses because they are bad ones, say, “only men are appropriate selection agents”. In such a case, we might be tempted to say “that person is no representative at all because he was selected by an illegitimate rule.” This would be a mistake for reasons that have motivated the present argument: the representative who is recognized using normatively bad rules may be illegitimate, but she is still the representative. See section 1 for more on this; for the interaction between this model and normative evaluation, see Section 6.

representative in front of an audience that purports to use a different set of decision rules or selection agents (i.e., “clear ballots,” “all eligible voters,” etc.). Since the fraud was unexposed to the audience, when George claimed to be the representative they mistakenly thought that his was a case that conformed to their rules. Knowing that fraud had occurred, we would coherently say, “George is no representative at all.” But precisely we’d mean, “The audience is making a mistake; they should not recognize George as their representative because his case fails to conform to their own rules of recognition.”

This case, of course, is similar enough to how many people viewed George W. Bush’s claim, after the election of November 2000, to be the President of the United States. The case helpfully illustrates that rules of recognition need not be simplistic, and are often complex. Arguably, the rules that most Americans use to recognize who won the election began with those stipulated in the US Constitution, albeit indirectly.<sup>28</sup> But they are supported by secondary rules that explain how conflicts are to be handled.<sup>29</sup> I suspect most Americans who believed that the election of 2000 was premised on unclearly constructed ballots in the state of Florida, nevertheless accepted the role of the Supreme Court to intervene as a specification of their rules concerning “Selection Agents”.<sup>30</sup>

Second consider a “false negative,” a case in which an audience fails to recognize that a person conformed to their rules of recognition: the claimant was a member of the qualified set, selected using a decision rule they purport to deem as valid, as it was employed by a selection agent

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<sup>28</sup> “Indirectly” because I suspect most people rely on the signals of their media sources to tell them who conformed with the rules they purportedly use, rather than knowing the rules themselves or whether, in fact, they were conformed to. In this way, “headlines” and “news reports” function in exactly the same way as “white smoke” does in the case of the selection of a new Pope—it signals that certain rules have been met but does not itself constitute the rule. I will take up the case of white smoke and the Pope in a moment.

<sup>29</sup> (Hart 1997) uses secondary rules of recognition for similar purposes.

<sup>30</sup> If their rules were those specified in the US Constitution, they may have made a mistake. Still, even if they should not have recognized Bush as President, as long as they do, he is their representative.

they viewed as appropriate. For example, imagine that Joseph Ratzinger, a Cardinal of the Catholic Church (the qualified set), claimed that the College of Cardinals (the appropriate selection agent) had chosen him (the valid decision rule) to be Pope. He takes the name, “Benedict XVI” (thereby accepting the charge) and goes on television to claim that he is the representative of God on earth. This is, of course, what happened in the Spring of 2005. But now, deviating from the actual event, imagine that Catholics rejected Ratzinger’s claim to be Pope despite his conforming to all their rules of recognition. They respect this man as a Cardinal, but refuse to accept him as Pope.

What could explain this failure given, as I have described it, their own rules of recognition were met? Why wouldn’t Ratzinger have been the Pope, that is, God’s representative here on Earth? Imagine that in their excitement at the selection of a new Pope the Cardinals simply forgot to light the fire that produces white smoke in the Vatican chimney. Without the smoke, Catholics do not *believe* that the first three conditions were met, and thus would mistakenly reject Ratzinger’s claim.<sup>31</sup> Thus the other Cardinals might say coherently, “Ratzinger really *is* the representative of God on earth.” Precisely, they’d mean, “Given the rules of recognition that Catholics use to determine who the representative of God on earth is, you *should recognize Ratzinger* as the Pope because he met these rules.”

Both of these cases of mistakes emphasize that representation depends only upon the audience’s judgment of the case and *not* on the purported case itself independent of the Audience.

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<sup>31</sup> In this example I am assuming that “white smoke from the Vatican chimney” signaled that the rules had been met, rather than the smoke being part of the audience’s rules of recognition. I suspect that is the correct description of the case, that the white smoke is merely a ritualized signal: if the Cardinals had issued a statement saying that the chimney broke down and Ratzinger was the new Pope, there would have been little confusion or argument. By contrast, consider that few people would have accepted someone chosen in explicit violation of the rules, say, if the Cardinals announced that Rabbi Peter Schachtman (a Jewish, non-Cardinal) was the new Pope. This raises important questions of how rules emerge, evolve and change, a question that must be deferred for now.

In each of these cases, George and Benedict XVI will be (or will fail to be) representatives of their purported “Represented” case by case, dependent only on the rules of recognition used by a particular audience before whom they stand. In the case of George W. Bush, foreign governments and American citizens may well use very different rules of recognition to determine who the representative of the United States is. While US citizens recognize representatives who conform to rules specified in the US Constitution, foreign governments likely use a far more simplistic, pragmatic rule: “Whoever occupies the White House is the Representative of the United States.” (These two rules of recognition will usually be extensionally equivalent, but they may not be in times of civil unrest.) In the case of Ratzinger, his claim to be the representative of God on earth will fail when made in front of Non-Catholic audiences, simply because they do not use the same rules of recognition that Catholics use to recognize God’s representative on earth. However, they will almost certainly recognize the Pope as the representative of the Vatican. Indeed, the fact that the Pope regularly fails to be recognized as the representative of God on earth before an audience of non-Catholics is a tangible example of the need for claimants to cohere to an audience’s rules of recognition for them to be representatives at all.

Finally, I said that one coherent but imprecise response to a case in which an Audience makes a mistake would be, “that person should be considered a representative” or “that person is no representative at all.” The reason such a statement is coherent is because we understand colloquially what that claim means. But it is imprecise because, consistent with this account *there is no representation* as long as the audience fails to recognize a case conforms to its rules. Representation depends formally on the recognition by an audience, *not* on the coherence (or lack of coherence) of a purported case to a set of rules that the audience uses. In short, the beliefs of the Audience matter, not whether those beliefs are true.

The fact that most audiences use a reasonably stable and public set of rules to which cases must conform explains why these statements are then coherent if imprecise. For example, when a legislature fails to recognize as a representative an individual who met its own professed rules of recognition, and accepted someone who did not, we'd rightly say they made a mistake. But if they persisted in that mistake, and accepted, say, Libby as the representative instead of Florence, then Libby would be the representative simply on account of their recognition of Libby. As a matter of precision we'd want to say, *Florence should be considered the representative even though, in fact, Libby is the representative*. And to anticipate a worry here, the "should" in this sentence is a non-moral, epistemic and conditional "should": *if the audience wishes to recognize cases that conform to these rules, but not those, it should recognize this person, but not that one as the representative*. When such cases do persist in the light of open exposure of the facts, there is good reason to believe that the rules of recognition have changed.<sup>32</sup>

## 5. Political representation and Legitimacy

In real life, Audiences do not use any old rules of recognition. In democratic regimes they usually use rules that correspond closely, if not perfectly, to some normative account of legitimacy. The Selection Agents they recognize as appropriate are usually some subset of "citizens," and the Decision Rules they take to be valid are usually some form of "majority rule." In other words, the rules of recognition an audience uses are usually, but not necessarily, derived from a normative theory of legitimacy or justice. Yet the claim I am making is that these rules and representation

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<sup>32</sup> A separate issue is how these rules emerge in the first place, change over time, whether they need to be formally acknowledge as such, and how, in the absence of formal rule changes, we come to know that they have changed at all. These are critical issues though I do not think there is anything special about these rules of recognition for any other set of institutional rules. In any case, I cannot pursue this more complicated issue here.

more generally can be explained without reference to any normative argument even though these rules appeal to “qualifications” “validity” and “appropriateness.” These sound suspiciously like normative terms. It is time, then, to take on the objections to this account I raised earlier: the “Rules of Recognition” are just a smoke screen for some substantive idea of *legitimacy*.

The simplest way to address the objection is to repeat that the Rules of Recognition are meant to be descriptive only of how an audience decides whether this person *but not that one* is the Representative, and the terms (appropriate, qualified, and valid) are completely context dependent. In any particular case, an Audience must view the claimant as a member of the qualified set; that in *this* particular circumstance they view some decision rules, but not others, as valid; and that in this particular case, they accept *that* group of individuals, *but not others* as the appropriate ones to decide. These need not be final judgments derived from a theory of right, but may instead be judgments of political expediency given the way things are.

Consider, for example, that in 2005 the United States Government accepted Pervez Musharef as the political representative of Pakistan, likely by reference to these rules:

Qualified Set: Any person or group who is likely able to control the military of Pakistan  
is qualified *given the context*.

Decision Rule: “Whoever, in fact, controls the military of Pakistan,” is a valid decision rule,  
*given the context*.

Selection Agent: Whoever, in fact, took control of the military, is the appropriate selection  
agent *given the context*.

Representation thus depends only on an Audience recognizing *that* a particular claimant matches a person denoted by these rules, whatever these rules happen to be. As such, despite using the terms “qualified,” “valid,” and “appropriate,” this account stands no matter what the content of these rules turns out to be. The fact that in this context we use prudential rules to recognize that the

commander of the Pakistani army is the political representative of that country does not mean that these rules are just or legitimate, though they may be. (Indeed, we may well believe other rules, more democratically legitimate rules, are morally preferable and work to change the context so that these will also be prudential ones to follow.) Nor does this account require that the Audience use any particular normative theory to establish the content of their own rules. To figure out who the Iraqi representative to the United Nations was from 1979 to 2003, an Audience may for very practical reasons choose to view “Whomever Saddam selected” as the *valid* decision rule. In short, the Audience merely judges *that* a claimant is a *member* of a qualified set, etc., without judging *whether* the qualifications, etc, established are legitimate or just.

The 2000 US Presidential election provides a further example of how the three rules need not confer legitimacy onto a political representative despite their reference to “validity,” “appropriateness” and “qualification.” Here, I want to show how an audience could come to view these rules of recognition as having been met, even in a reasonably high functioning democracy, without conferring legitimacy on the representative.

To see this, I want to walk through a stylized example of the 2000 US Presidential election using these four premises:

- P1) Albert Gore, Jr. received a majority of the popular vote in the United States;
- P2) The legitimate winner of an election is the candidate who receives the most popular votes;
- P3) Gore was therefore the legitimate winner of the 2000 US Presidential election;
- P4) Bush is (nevertheless) accepted as a political representative, without error, by people who believe that premises P1-3 are true.<sup>33</sup>

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<sup>33</sup> This is a simplified and stylized account. The claim that Bush is illegitimate more often (and more plausibly) rests on the nature of the US Supreme Court’s intervention than it does on the popular vote. The

I want to explain how the model here makes sense of “P4” given P1-P3. For the sake of the example, I want to assume the hard case: the audience before whom Bush is claiming to be a political representative is comprised exclusively of people who believe that premises P1-P3 are true. In other words, these are people believe Gore won the most votes, believe he was the legitimate winner, *and* believe that Bush is the representative of the United States. Again, the point is to show how a group of people could accept the conditions of representation as obtaining without acquiescing in the legitimacy of the case.

First, George W. Bush must have been a member of a *qualified set* (R2), though membership in the qualified set changed over time. Before election day, the qualified set included anyone who met the US Constitutional requirements. After election day, as the returns were contested, the “qualified” set was reduced to two people: Bush and Gore. After that date, *only* one of these two would have been considered qualified to be the Representative. Imagine, for example, that in their decision that determined the outcome of the election, the US Supreme Court ruled that Ralph Nader (a third party candidate who received a small but strategically significant portion of the vote) was the victor. Even though Nader was part of the qualified set prior to election-day, after the election he was no longer viewed as qualified *given the context*. In such a case, I believe most of those who can accept P1-P4 above, would reject that Nader could be the representative at all.

Second, to accept P4, an audience arguably had to view the Supreme Court as the appropriate selection agent to select the Representative (i.e., Bush).<sup>34</sup> This judgment of

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fact that the US Constitution permits the election of the loser of the popular vote through the institution of the electoral college creates an even more complicated case.

<sup>34</sup> I am simplifying the case. Since the Supreme Court’s ruling in *Bush v. Gore* concerned whether certain ballots could or could not count, the Supreme Court more precisely served as the valid arbiter of the rules of recognition. This raises again the question of how rules of recognition for political representation get established and maintained, a subject beyond the scope of this article.



“appropriateness” describes whom the Audience accepted as the selection agent and does not necessarily confer legitimacy, although accounts of legitimacy often specify whom the Audience should or should not deem as appropriate. Before the election, the appropriate selection agents were the registered populations of each state, and this, it turns out, also plausibly rendered the winner legitimate.<sup>35</sup> After Election Day the situation changed and audiences would probably have deemed a number of selection agents as appropriate, only a subset of which they would have deemed legitimate. Candidates for appropriate selection agents might have been: the Florida Legislature, the US House of Representatives, the US Supreme Court, and the Florida State Supreme Court.<sup>36</sup> None necessarily confers legitimacy on a candidate, but all would probably have been deemed as “appropriate” in the eyes of most audiences. By contrast, consider some “inappropriate” selection agents, including Barbara Bush (the President’s mother), the Texas State Legislature, or The Members of the British House of Commons. If any of these people or groups announced *its* choice of Bush over Gore, most audiences would have rejected this fact as irrelevant to whether they should recognize Bush as the President of the United States.

Finally, for anyone to accept P4, the Audience must have deemed the decision rule that the selection agent used to select George W. Bush to be “valid,” that is, valid in this case. Before the election, that decision rule was just “Following the constitutionally mandated rules” by which a

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<sup>35</sup> Consistent with my claims, it is a commonplace to argue that low voter turnout renders the result suspect in terms of legitimacy. That’s the point: we don’t normally deny John’s claim to be our political representative because of low voter turnout, we dispute his legitimacy instead.

<sup>36</sup> In the case of the 2000 US Presidential election, the political battle hinged on who the “appropriate” selection agents would be, and all parties focused on the state of Florida and a few other states where the popular vote was very close. At various points in the 5 week saga, the Florida state legislature, state popular vote, the intentions of those who voted, and the state Supreme Court all were claimed to be the proper selection agents. Because of the democratic norms of the United States, “proper” mapped closely to procedural and substantive accounts of legitimacy.

variant of majority rule elected the president. *After* the election, assuming the Supreme Court was taken to be the appropriate selection agent, the valid decision rule appears to have been “a set of reasoned arguments supported by a majority of the court.” Had the Supreme Court *merely* announced, “Bush is President because we like him better,” I suspect that Bush’s very claim to the Presidency would have been seriously questioned (and not merely the legitimacy of their decision) because *in this context* “we like him better” would not have been taken to be a valid decision rule. (Note that “we (the majority) like him better” is taken to be perfectly valid in other contexts, particularly when candidates are selected by popular vote.) Validity thus functions similarly to its technical role in philosophical analysis, as a check on internal consistency: something may be valid (internally consistent) but still false. Similarly, the audience might even view the decision as a reasonable attempt at legitimacy (well intended and plausible) but one that in the end was wrong. But again, validity merely expresses a pragmatic consequence. Few would accept “hereditary rule” as a selection rule that confers legitimacy, yet many accept it as valid to determine who represents the Jordanian people on the world stage.

## 6. The two dimensions of political representation: Being versus Activity

If the account I have offered of political representation is descriptively correct it explains how it is we can determine *whether* a person is a political representative or not. But this account has (so far) failed to explain the activity of political representation. Another way to say this is that while the account explains how representatives as nouns or beings are created by a set of beliefs that audiences have, we have given no account of what representation as a verb or activity is. And this gives rise to the first of two very important objections: without reference to activity there appears to be no way of distinguishing between being a “political representative” and “holding a political

office” more generally.<sup>37</sup> Here I would answer by saying that any particular case of representation is always context limited: it is defined by the Function towards which it aims, and that Function always specifies that “The Representative *stands for* the Represented in order to do X.” When “holding a political office” does not entail *standing for* anyone else, but merely enforcing orders, executing law, or some other thing, we can reject this as not a case of representation at all.

But this raises a second more serious problem. By separating the *fact of being* a representative from the *activity* representation, the general theory of political representation does not appear to admit of degree: It explains *whether* this is a case of representation but not *how well* that representative is doing her job.<sup>38</sup> This is a problem because we regularly and understandably say “John did a poor job representing his community” and yet there is no way to account for this judgment in the explanation of representation I have given thus far. Indeed, it might even appear that we are finally forced into accepting a substantive standard of legitimacy, as if the activity of representation were somehow necessarily connected to “looking out for another’s interests.” I do not deny that these are meaningful statements for which any description of representation must account. But I think a better explanation of these evaluations is made by reference to the stated Function of a particular case. In this way we could think of the “role” of representative as having very separable descriptive and performative features: the general account explains how a person comes to be a representative, and also how the performative (and evaluative) features of representation arise and are differentiated case by case. But it is the particular function or purpose for which representation is used that

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<sup>37</sup> I am grateful to an anonymous reviewer at the *Journal of Politics* for raising this objection.

<sup>38</sup> Hanna Pitkin puts the problem this way, “In each of the views discussed so far, a theorist attempts to draw conclusions about the proper conduct for a representative, or the proper way of institutionalizing representative government. Yet the definitions we have examined do not lend themselves to the drawing of such conclusions; they are not suitable for telling a representative what to do, or for telling us how to judge his performance.” Pitkin 1967, 112.

establishes what “representation as activity” is. Similarly, it is a normative standard of judgment that we employ about what it means to do that particular function well against which we judge whether a representative performed well or poorly. Formally, then, “representation” is a dichotomous variable: either one has it by having a Representative or one does not have it.<sup>39</sup> I will try to explain this complicated point briefly.

To begin with, we can separate the insight that representation admits degree (i.e., we evaluate a representative’s activity as good or bad representation), from any judgment concerning the substantive activity that we should judge or the standard we should use in making our judgment. For representation to admit degree assumes only a prior commitment to some specified function or goal, but not any *particular* goal, let alone a particular normative standard on the basis of which we should evaluate the achievement of that goal. *The acknowledgment that representation will always admit degree—that we can say John was a bad representative relative to some goal and using some normative standard—is a separate matter from specifying the particular goal or standard that he will have to uphold.* These standards are thus not part of the *formal concept* of representation, any more than “going really fast” is part of the *formal concept* of “automobile.” Rather, these standards constitute a second *substantive* dimension of representation, the ends at which any particular instance of representation is aiming but not actually part of what it means to represent.

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<sup>39</sup> I acknowledge that if representation is a dichotomous variable then our ordinary language use of the terms “over-“ and “under-represented” are imprecise. Indeed, I think when we say a constituency is over or underrepresented we are imprecisely conjoining these two different ideas: *having* representation *and either* i) the power that that representative has relative to other representatives or ii) the relative value of an individual’s preferences compared to the preferences of other people who chose a different representative. A constituency is thus not actually *over* or *under* represented per se, although that is what we say. Rather, some representatives and selection agents have more power than others. All of which is suggestive; a full defense of this claim requires far more elaboration.

As I said earlier, the Function of representation takes the form, “a Representative “stands for” the Represented *in order to do X*” and thus specifies its own activity that will differ depending on context. Thus the descriptor “good” or “bad” is not modifying the *activity* of representation per se, it is modifying a particular case of it. Representation always involves *standing for* the Represented, but what it means to stand for the Represented will vary dramatically depending on *the purpose* of the case. When we critique a representative’s activity we are making a judgment about how well or poorly she is acting relative to the goal as stated by the Function. We are not actually passing a judgment about “the quality of representation” itself, but the quality of representation *given a goal and given a normative theory about how representatives should act*. The ends specify *what* the representative will *do*, the Function of the case of representation, and thus imply the goal *we will* judge.

Usually when representation is established, the conditions are spelled out by context and with enough specificity that we can tell who the Audience is or is supposed to be. We don’t normally have the aim of “pursuing the interests of the Fifth District” in some vacuum. The need for Representation generates its ends, and is often generated by the individuals who will later be the Audience. If a television producer says to her assistant, “get me someone to represent the views of the fifth district voters (a large number of whom are Russian immigrants) on the outcome of the election in Russia,” we can tell that the Audience will be the set of people that includes the Producer and a good number of viewers of the show. If, to use an example from Pitkin, and we are in the visitor’s gallery of the House of Representatives and we ask, “Who looks out for the oil interests?,” we know we’re not asking about OPEC, but about who in the US Congress is closely tied to oil interests. Again, Representation assumes a high level of contextual background, enough so that a specified function picks with a fair degree of clarity which Audience matters.<sup>40</sup>

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<sup>40</sup> Again, this follows (Searle 1991) very closely.

So the first thing is to realize that Function determines who counts as the relevant parties and what activity should be done to accomplish a particular representational aim. This means that our judgments about the quality of representation are in fact judgments about the quality of a particular activity specified by the function given a particular context. And this judgment will depend on a normative theory quite apart from “representation.” So, for example, what it means to represent “well” or be a “good representative” in, say, a legislature will likely refer to democratic norms of autonomy, equality and respect: a representative ought to consider the views of all his constituents not *because* he is a representative, but *because he “stands for” in order to democratically make law*. By contrast, we will presumably judge whether a political advocate was a good or bad representative by reference to a normative account of advocacy in the context of a pluralist society: a representative of an interest group ought to push as hard as she can to get the laws favorable to her group not *because* she is a representative, but *because she “stands for” in order to advocate within a pluralist society*.

We can now give an account of why previous theories of political representation have been so closely aligned with theories of legitimacy. Historically, the study of political representation has been done within the context of democratic (or increasingly democratic) regimes. This means that the rules of recognition that democratic audiences use are closely related to, if not identical with, the internal conditions required for legitimacy (free and fair elections, etc.) And similarly, in terms of our evaluations of political representatives, they have historically been done against a democratic context, in which the Function of representation has meant *standing for in order to democratically make law*. This has made it hard to ask what representation is apart from the democratic contexts in which it has been studied.

We can now connect the formal and substantive dimensions of representation. Reading from left to right in Figure 1 below, once the aims of the relationship are specified (Function) the

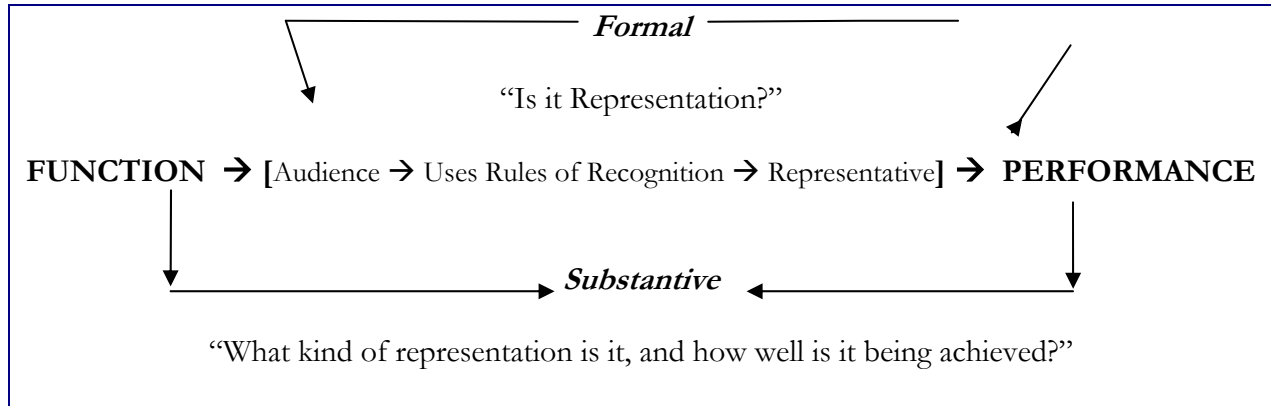
Audience is determined. The Audience then must judge whether a particular claimant meets its three rules of recognition; if so, she becomes a Representative. Assuming she accepts her charge, the Representative then goes about doing her job (labeled “Performance”), as specified by the Function.

**Figure 1:  
Sequence of Political Representation**

<b>Function</b> → [Audience → Who Uses Rules of Recognition to Recognize a Claimant → Representative] → <b>Performance</b>
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Figure 2 below describes how the formal and substantive dimensions of representation relate to each other, and thus explain how representation might admit degree. The formal relationship obtains in the bracketed space between “FUNCTION” and “PERFORMANCE.” Representation occurs (or fails to occur) in this middle area, if you will. The substantive dimension—the ends of representation and whether or not they are achieved—address the relationship between the Function of the case and the Performance of the job by the representative. One cannot step into the formal dimension of representation until one specifies the function of the (yet to be created) relationship and thus has a standard by which to judge. Yet one cannot get to the substantive matter of representation, in which a representative performs some function, until one goes through the formal steps. The question, “is *this* a case of representation,” refers only to the conditions specified by the bracketed terms in the middle. And thus, the substantive question, “how well did John represent his constituents?” can only be understood as a question about the relationship between Function and Performance. The two dimensions go hand in hand, even as neither determines the other.

**Figure 2**  
**Connecting the Formal and Substantive Dimensions of Political Representation**



To illustrate this formal structure, we can now reconsider the example with which this article began: Libya’s representation in the World Trade Organization (WTO). This illustration is schematic and incomplete, but should help flesh out and summarize the general theory.

First, we must specify the Function of this case. Arguably, the Function here is, “To stand for Libya *in order to express policy preferences before the voting members of the WTO.*” As stated, the Function indicates the Audience and it is here the WTO, who in turn must accept that Al-Hajjaji, but not someone else, is the representative of Libya. Further, the activity or performance of representation in this case is also indicated by its Function: “to express policy preferences of Libya before the voting members of the WTO.”

The WTO uses rules of recognition to determine that Al-Hajjaji is the representative of Libya. It decides whether the selection agents (*Araba Jamahiriya* and Qadhafi) were the appropriate ones and given the authority of these bodies, the WTO accepts them as appropriate. They decide whether the decision rule used by these agents were valid. And in this case the WTO probably uses very broad standards of validity, including “whomever Qadhafi likes.” But there are some important limits. For example, the WTO would probably reject as invalid the decision rule, “whoever sits in the Oval Office in Washington D.C. is the representative of Libya” even if the other conditions



were met, that is, even if Qadhafi were to approve of the US President as his nation’s representative. Finally, the WTO decides whether the claimant is a member of the Qualified Set in this case. Here, again, their judgment will be very broad, perhaps no more than a judgment of mental competency. This explains why the WTO might not accept someone with severe mental retardation as the Libyan representative even if other rules of recognition were met.

Importantly, at no point in this process does the WTO have to appeal to facts about the legitimacy of the representative (let alone elections, accountability or proper activity) for representation to occur. But the account does allow us to see where norms enter politics and political institutions. Here, for example, Najat Mehdi Al-Hajjaji job is “To stand for Libya *and express policy preferences before the voting members of the WTO*.” A normative theory of the good, right or just, will specify what counts as praiseworthy activity given this context. For example, we might say she was a good representative if, among other things, she *accurately* expressed the policy preferences of Libya. Importantly, we’d have to also say something about what constitutes a “policy preference of Libya”: is it what Qadhafii wants, his legislature desires, or the general good of the people? That would have to be specified in order to evaluate how well or poorly she did her job.

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### **Conclusion**

Standard, contemporary accounts beginning with Hanna Pitkin’s analysis are useful in explaining the conditions under which political representation becomes legitimate. Consider how this is done, in this case by Ronald Rogowski endorsing Pitkin’s enmeshment.

On the one hand, as Pitkin has pointed out, representation cannot mean mere agency: the lawyer who does only what I, in my ignorance of the law, would do in her place does not represent me well. On the other hand, and crucially, B’s claim to represent A is always rebuttable: if, in some relevant domain, a client researches the facts and the law thoroughly

and finds that, so informed, he would have acted very differently from his lawyer, he has strong reason to claim that he has been badly represented. (Rogowski, 1981 396-97)

Rogowski, like Pitkin, can only argue that “representation” does not mean mere agency (a claim regarding the formal dimension) only by saying the lawyer did a bad job (a claim regarding the substantive dimension). Of course, that lawyer will represent you just in case a court (the relevant party here) recognizes that she meets their rules of recognition (she has the right license, etc.). And if “acting like you in all your ignorance” does not disqualify the lawyer according to these rules, she’ll even represent you acting in that way. Yes, we want to say “the lawyer only represents me formally.” That is precisely the point.

To the extent that contemporary accounts collapse these two dimensions of representation they lose a fair amount of clarity in the process. Given the rise of global institutions that rely on non-democratic representatives, the need for an account of political representation that does not depend on democratic norms, institutions, or activity is particularly important. Doing so allows us to see that arguments about political representation are most often either: i) arguments about the content of the rules of recognition that audiences use, or should use, to determine whether *this* person, but not that one, is a political representative; or ii) what is the morally preferable way to achieve the goals of a particular case of representation. Far from claiming that political representation in practice is “value free,” a general theory of political representation becomes a useful tool for political analysis and a way to specify precisely how normative arguments play out in the political world.

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