



CHAPTER ONE



The Labyrinth of Representation: Structures, Systems, and Institutions

Ours is a government formed of representative democracy. Its central tenet is one of rule with the consent of the governed. This is accomplished in a large-scale democracy through representative devices. People grant their approval to government by democratic structures and arrangements designed to ensure they are “represented” in the actions that government takes. The ultimate task of this endeavor is to consider legal responses to the challenges of representation in a pluralist democracy. The goal of those efforts is a group-constituted political system that better represents individual citizens. To assess the soundness of the alternative legal remedies necessitates a review of principles of political representation. We cannot judge their merits without first clarifying what they seek to accomplish (or whether they are clear in what they seek to accomplish).

The phrase “political representation” is plagued by an ambiguity that impedes meaningful discussions of its shortcomings and possible remedies. The term has numerous connotations and implications that frame the arguments, whether one is considering the “representation” of individual, local, or national interests, or the “representative” responsibilities imposed on a legislator or the legislative body as a whole, or what it means to be effectively “represented.” Representation means different things to different people, and different things in different contexts. Yet students of

representation fall into the habit of speaking without defining, assuming that what is being discussed is clear to all. The failure to acknowledge the variety of concepts falling within the rubric of representation, or to elucidate what is meant by representation, precludes a common basis of understanding to facilitate debate.¹

The objectives of this chapter are twofold. The first is to survey the multitude of concepts, understandings, modes, and processes that must be incorporated into any study of political representation. We do not seek some universal definition for representation, but operate from the premise that a host of interpretations surround representation that are perfectly legitimate, depending on the context in which they are invoked. This review should broaden our perspective of the range of possible connotations of representation, and illuminate the multitude of issues and considerations implicated by such discussions.

A subtext within this discussion is to consider the systematic role of various political actors in a representative democracy. In particular, political parties and interest groups are key players in the pluralist account. The discussion will examine the case for parties and groups, respectively, as critical representative components of pluralist democracy.

The second objective is to distill from the review a paradigm of representation. That paradigm should encompass the principles that form a confluence leading to the most efficacious political representation. It ought to incorporate competing notions, which will yield a richer, more balanced understanding of political representation. It is ultimately the tool for framing the remainder of our discussion, and for assessing legal efforts to cultivate the representative capacity of our political processes.

MODES AND CONCEPTS OF REPRESENTATION

This study begins with the general modes of representation.² Political representation exists in and flows from four essential sources: (1) *formal* representation generated by the forms and processes of the electoral system; (2) *descriptive* representation from representatives who embody the characteristics, values, and mindset of the represented; (3) representation dwelling in the *relationship* between the representative and the represented; and (4) representative *activity* on behalf of the represented.

Formalistic Representation

The first set of representative ideas emphasizes the formal structures and arrangements responsible for generating a representative government. These are the institutional forms that allow a democracy to properly call itself representative. Formalistic concepts presuppose that, provided the proper forms and processes are in place, representation is a given. If the appropriate democratic operations from which representation flows have been implemented, we need not worry about the actual legislative activity under the system those forms produce. The formalistic conceptualization of representation consists of two parts. One is that point at which the representative is given *authority* to act for the represented, when he is "authorized to act in place of others."³ Once the requisite grant of authority is given, all that follows necessarily constitutes representation.

Elections are the critical structural arrangements for accomplishing this. For the representative to act he must be granted authority in advance, in the form of elections. Elections bind the represented to the future actions of those whom they elect. Voters, in whom sovereignty ultimately dwells, commit themselves through elections to the acts of those they choose.⁴

The second prong of formal representation theory similarly relies on elections, but from a different vantage point. It views representation as the *accountability* of the representative to those he represents.⁵ Representatives are answerable and responsible to those who elected them. Again, the prescribed means by which people hold their representatives to account are periodic elections. The electorate as a sovereign body gives or withholds its consent by approving or rejecting the past actions of the representative. The prospect of elections, combined with the representative's desire to continue in office, furnishes the basis for ensuring that he acts representatively. As John Dewey stated, "one is held responsible in order that he may become responsible, that is, responsive to the needs and claims of others."⁶ Elections, then, are the formal guarantee of representation, initiating representation by bestowing authority and equipping the electorate to terminate that representation when dissatisfied.

Reflective Representation

Few would accept the formal mode of representation as sufficient, in itself, to provide effective political representation.⁷ While the

formal apparatus may be a prerequisite to achieving representation, most agree upon the need to move beyond formalistic explanations. A second set of considerations view representation as satisfied when the representative is *reflective* of those represented. Representation exists to the degree that the people represented are "present" in their representative, when he embodies or mirrors those he represents.

Reflective representation may be achieved in two ways. First, it is realized through the actual reflection of the relevant physical characteristics of those represented. Second, it includes symbolic or expressive acts engaged in by the representative, which the represented perceive as a fundamental reflection of who they are, their values and beliefs. The first idea is grounded in the belief that the representative assembly should be a miniature of society at large. A legislature that personifies the tangible, physical characteristics of the nation is sure to encapsulate the public's thoughts and opinions, and the social forces present in society.⁸ Representation is a question of *representativeness*, and depends on whether those who rule bear a resemblance to the governed in those traits that are politically pertinent.⁹

Two assumptions underly this mode of representation. First, representativeness of the vital physical properties is assumed to be accompanied by a similarity of opinions and preferences on political issues. The representative who shares one's personal traits must share one's political views, and can be relied upon to advance those views in the assembly. This, standing alone, will not produce a representative assembly. Rather, it anticipates a second assumption, namely that legislative bodies are deliberative in character. The legislative embodiment of a multiplicity of physical attributes matters only if the legislature operates deliberatively. A properly deliberative assembly need only have all relevant interests voiced to ensure proper action. It need not be concerned with the size or magnitude of different interests represented, only that the array of societal characteristics are reflected physically so that the corollary interests will be present and accounted for.¹⁰ Representation is satisfied by a diverse body of legislators, because (1) legislators who "look" like their constituents will act like them, and (2) this will ensure full deliberation resulting in the right action.

The second type of reflective representation, symbolic representation, is the attempt by the representative to create the perception in her constituents' minds that she shares and stands for

that which is essential to them.¹¹ The representative symbolizes to the people the feelings, expressions, and actions that they wish to see represented. It is an arbitrary concept, a frame of mind, existing in the people's beliefs and "the extent that those subject to his rule accept him, believe in him as a symbol."¹² It is gauged by the level of satisfaction in the minds of the represented.

This amorphous representation does not result from persuasion or rational argument, or even from reacting in response to the people's substantive preferences. It dwells in the emotional, affective, and psychological responses of the represented. The representative's manipulation and use of ceremonial and expressive functions create the proper psychological responses in the represented.¹³ In short, representation arises out of that activity which fosters feelings of loyalty, satisfaction, and trust between leaders and the citizenry. It is a perception in the minds of the people that the representative mirrors them. How does one know if this nebulous perception exists? It is whether the representative is believed in and accepted by the people as a symbol.¹⁴

In the realm of symbolic representation, elections are simply one device, and not an especially important one, for creating the invisible bonds of popular acceptance in the minds of the public. Elections perpetuate the symbolic dimension of representation by enabling the people to "identify themselves, as the ruled, with their representatives, as the rulers."¹⁵ But elections may be much less significant than the representative's appearing at the local parade, holding a town hall meeting, and the like. Like formal accounts of representation, symbolic representation does not account for substantive, policy-oriented representation. It implicates representative activity only to the extent that the representative acts push the right buttons and perform those functions that create the necessary emotive bond.

Representation as Relationship

A third view of representation emphasizes the special relationship between legislator and constituent. Representation is the affinity for the representative that stems from the realization that he is the one through whom the represented affects government. That personal relationship gives the individual entry into the political arena. It furnishes the citizen with a channel for expressing her positions and preferences and for pursuing real input into government. Hence the attempts by the legislator to cultivate a personal relationship with the constituent. The representative (or

someone in his office) can be counted on to read and respond to letters, to take constituents' phone calls, and to carry out the other activities attendant to constituency service. The greater the sense of empowerment and political significance imparted to the constituent, the greater the sense of representation. In short, it is through the representative relationship that the individual is made to feel that she counts for something, that she is actually recognized by the system.

Representation as Activity

The forms, reflection, and relationships all fail to capture the core of political representation, which is its substantive dimension. Contemporary concepts of representation are pinned on the substantive activity which is the fulfillment of one's official duties. The legislator "represents" those whose substantive preferences he discerns and pursues.¹⁶ Representation as activity explains those actions one undertakes in office to advance the substantive interests of his constituents. It creates standards to which the representative must conform, providing normative criteria for assessing what the representative is doing in office to further the interests of those he represents.¹⁷

The meaning of representation as activity is not always clear. An assortment of phrases and tags are invoked to express representation as activity.¹⁸ Depending on the context, each has distinct ramifications for what is expected of the representative in the active fulfillment of his duties.¹⁹ This brief survey does not permit an exhaustive examination of the subtle complexities of representation as activity. A closer look at several of the more prominent questions, however, illustrates the broad implications. One such question is the central controversy in political representation, that which weighs the representative's role as delegate against that of trustee. Is the agent to carry out the mandate of the represented or exercise his judgment as independent actor in order to decide what is best for the subjects?²⁰ Does representation compel reliance on the representative's independent wisdom and exercise of his detached judgment? Or does it require obedience to the express wishes of those represented, even if contrary to their long-term interests? Or is it on a continuum somewhere between these positions? Or is it an amalgamation of the two? Pitkin sees the representative's obligation as neither to blindly follow his constituents' wishes nor to decide independently, but to act on what is objectively in their interests.²¹ As she puts it:

The representative must act in such a way that, although he is independent, and his constituents are capable of action and judgment, no conflict arises between them. He must act in their interest, and this means that he must not normally come into conflict with their wishes.²²

This does little to resolve the dilemma when there are legitimate differences over what course of action best serves constituents' interests. Who is most competent to decide raises another entire set of considerations, involving the nature of the interests and preferences implicated, the complexities of the issues involved, the respective wisdom and abilities of representative and the represented, and the context in which the decision must be made. The point is not to definitively answer how the representative should act. It is to demonstrate that, provided the representative acts within the two extremes, "there is room for a variety of views on what a good representative should and should not do."²³ Within the framework of the representative's obligations as established by the competing theories, representation permits a wide range of alternative actions.

THE INDIVIDUALIST AND COLLECTIVIST CHARACTER OF REPRESENTATION

Overlaid upon the modes of representation are considerations pertaining to the individualist and collectivist dimensions of representation. The goal of effective political representation has ramifications for the individual, the state, and the countless groups in between. Competing themes of individualism and collectivism exist on both sides of the representation equation; who is being represented, and who is doing the representing. They suggest discordant conclusions regarding (1) the feasibility and advisability of forming structures of representation around individuals versus collectively held interests, and (2) the capacity of individuals compared to collectivities to adequately discharge representative responsibilities. An examination of these contradictory themes reveals the complexity of the task of weaving together a coherent ideal of political representation.

The Representative Relationship: Individual or Corporate?

The modes of representation yield different understandings of the nature and practical operation of representation, and the levels on which it operates. An example is the effort to identify the focus

of the representative relationship. To be more precise, does representation dwell primarily in the individual relationship between citizen and the legislator from his district? Or does it consist of the relationship between the citizen and the legislative body that passes laws and administers government resources? The answer hinges on one's understanding of what representation is designed to accomplish.

One such aim is to provide assistance to citizens who have specific needs that require the services of someone in government to resolve. For those entangled in the federal bureaucracy, or in need of help in solving a particular problem, the representative provides that service. Constituency service is a purely individual relationship between constituent and representative.

Another aim is the more nebulous goal of satisfying the citizen's need to feel represented by government. Representational arrangements seek to avoid the alienation resulting from a government seemingly oblivious to one's political existence or interests. Representation on one level should instill confidence in the citizen that he and his interests are acknowledged and accounted for. It provides some reassurance to the citizen that there are means by which to speak and be heard.

This end likewise favors representation as a personal, individual relationship between constituent and representative. One will feel represented when there is a person to whom he can point as his representative, whose office he can call to express his opinions. He will feel represented when he participates in choosing who will serve in Congress and represent his district. He will feel represented by encountering his representative at parades or town meetings, or by enjoying localized benefits acquired for the district. In short, the representative relationship exists on an individual level, between legislator and constituent.

Individualism, then, implicates both the relational and the reflective modes of representation. Symbolic or expressive words or deeds are intended to impart feelings of representation, even without discernible concrete benefits to the constituent.²⁴ Through racial, ethnic, educational, religious, or occupational bonds, the representative is expected to share the preferences, values, and outlooks of the individuals he is representing. One's sense of being represented is not activated just by observing the representative act in more palpable ways to wield power on one's behalf. It also comes from seeing someone within the power-wielding body who is "like" the constituent and has his defining characteristics.

Representation in this individualistic light has practical ramifications for representative structures. First, the size of the constituency takes on obvious importance, affecting the ability of the legislator to individually represent those within it. Second, it heightens the importance of having electoral choices available to the constituency. It requires that citizens have substantial influence in selecting their personal representative, and that the formal institutions of representation be in place to satisfy them. Finally, it implicates the level of homogeneity of interests and characteristics of the constituents. The representative can only mirror group norms or qualities within his geographic district. A highly homogeneous constituency with fewer distinct traits will be better able to select a representative who reflects that. This is likely to increase the degree of satisfaction felt by individual constituents with their perceived representation. Moreover, the narrower the constituency can be defined in opinions and interests, the greater their control over the representative. To the extent constituents share well-defined interests, the less likely the representative will be to act contrary to those interests. The represented, better able to maintain corporate control over their representative, should individually enjoy a sense of enhanced representation.²⁵

Representational Activity as Collective Response

An alternative view of representation focuses on the activity of the representative body responsible for governing, and generates a different set of implications. Unlike the individualistic relational and reflective modes of representation, legislative output requires corporate representation by the entire legislature.²⁶ The representative operates not in isolation, but within a network of other people and political institutions. Representation of constituents occurs within a framework of influences and constraints from one's legislative colleagues, one's party, and one's desire for re-election.

Representative activity as the collective acts of the legislative body presupposes different objectives. It measures representation by tangible policy outcomes, which are generated in response to the needs of the represented. Representation is more than the detection of the preferences of the represented. It also judges the representatives by their ability to produce results that actually satisfy those preferences. The essence of representative government is its capacity to respond to constituent needs and wants.

Representation in this light bears little relation to descriptive criteria of what a representative looks like or what he expresses

in symbolic activity. The focus is simply on what is actually accomplished. Representation is the responsiveness of the government as a whole, as reflected in the policies it pursues and the outcomes that result.²⁷ The essential acts of representing are when the ruling body "defines priorities, collects and distributes resources, and otherwise manages the affairs of the community in a manner responsive to the interests of its citizens."²⁸ The single representative, then, cannot satisfy the representative needs of the governed. That requires a broader set of institutional structures and relationships. Pitkin describes it as:

a public, institutional arrangement involving many people and groups, and operating in the complex ways of large-scale social arrangements. *What makes it representation is not any single action by any one participant, but the overall structure and functioning of the system, the patterns emerging from the multiple activities of many people.* It is representation if the people (or a constituency) are present in governmental action.²⁹

Limiting representation to the relationship between legislator and constituent falls far short. Reflective representation is one component, but it is an incomplete standard for evaluating representation. The "representativeness" of the legislator provides no real criteria for assessing whether he is acting in constituents' interests.³⁰ It requires only that he properly reflect the spectrum of characteristics present in his district.³¹

In contrast, an emphasis on legislative activity permits a reasonable means of assessing the representative's responsiveness to his constituents. It establishes behavioral norms and standards against which performance can be measured, thus allowing for the turning-out of the governors if they fail to adhere to those standards.³² It permits empirical inquiry into the actions of the leaders to determine if the citizenry's interests are being advanced in perceptible ways.³³ Representative activity, therefore, is the benchmark for enforcing legislative accountability.

Representation as corporate activity does not abandon the importance of representative relationships. It does put them in a markedly different light. The focus is shifted from before election day, as a means of choosing representatives, to a post-election device to judge whether the chosen are acting responsively. The focus becomes one of responsiveness, "how governors behave after they have been chosen and after they have been exposed to the preferences of the public."³⁴

This suggests a complex, multifaceted vision of representation which is absent from descriptive or symbolic concepts. It encompasses a variety of activities in which people and groups are involved within the political community.³⁵ It envisions a governing body attempting to weave countless strands of opinion and preference into substantive policies acceptable to those demanding action. Eulau and Prewitt describe it as "the myriad activities, behaviors, and perceptions which link the governors and the governed, and not just in those more specialized activities which have to do with selection and petitioning."³⁶

Finally, representation as activity implicates the internal workings of the groups responsible for that activity. To this point, our examination of collective political activity has focused on how individuals seek political influence through groups. Representation lodged in the corporate governing body raises group considerations pertaining to the ways in which the official, institutionalized group arrives at its decisions. A full comprehension of representation requires a scrutiny of the dynamics and forces at work as the legislature, congressional committee, or appellate panel of judges goes about its business.³⁷

Who is Represented?: Local vs. National Interests

The individualist and corporatist dimensions of representation exist on a parallel level with respect to the question of who is to be represented. Representation is less a question of identifying the interests of the constituent than of identifying the constituency to be represented in a particular context. For example, the interest to be represented may be held by individuals living in the same locale, or it may be a national interest or one that relates to the good of the whole. The "classic controversy in the literature of political representation" is whether a representative should respond to specific constituents, through specific mandates or instructions, or should act independently in the country's interests.³⁸ An individualistic representative vision focuses on local or regional interests; collectivist representation manifested in governmental outcomes suggests a focus on the general welfare.

In the Burkean approach, the legislature is required to act for the nation as a whole, with each member judging for himself what is for the good of the nation. To Burke:

Parliament is not a congress of ambassadors from different and hostile interests, which interests each must maintain, as

an agent and advocate, against other agents and advocates; but Parliament is a deliberative assembly of one nation, with one interest, that of the whole—where not local prejudices ought to guide, but the general good resulting from the general reason of the whole.³⁹

This leaves little room for an individual relationship between the representative and the constituent. It exists between the entire nation and the individual legislator (and between nation and legislature). This raises the representative above the role of pure agent or delegate.⁴⁰ If each representative is bound by the requirement that he precisely mirror the interests of his local constituency, government action becomes a mere reflex of majority will. Representation of the interest of the whole assumes that the public interest is greater than the sum of individual or local interests. It demands that legislators armed with information provided by local constituencies engage in dialogue and deliberation, and reason their way toward the good of the nation.⁴¹

This has implications for the role and composition of the legislature. It reinstates the idea of the legislature as primarily deliberative in character. The legislators only need information from those they represent. Provided that there is at least one person in the assembly voicing each interest in society, rational deliberation will inevitably reveal the national interest.⁴² Legislative action is more than nose counting and majorities prevailing over minorities, but entails deliberation until consensus and agreement are reached. It matters not how many representatives of an interest are present in Congress, only that:

all the facts and arguments be accurately and wisely set forth. . . . If [a group's] interest has even a single competent member in Parliament, it will be looked after, because it is not his vote but his arguments that matter.⁴³

Burke asserted that even those without a member in Congress "have an equal representation, because you have men equally interested in the prosperity of the whole, who are involved in the general interest and the general sympathy."⁴⁴ The primary objective of elections from this perspective was to ensure that those most capable of governing were elected. Elections should result in the selection of the most judicious and capable people, those able to engage in full deliberation and to discern the good of society.

The classic liberal emphasis on the individual conjures up a wholly different set of representative responsibilities. Representa-

tion consists of activity on behalf of individual constituents, grouped together by district or region.⁴⁵ Citizens are assumed to be rational, independent, and autonomous, capable of political sophistication and of communicating their preferences to their representatives. Hence, it is their interests that matter, and not those of collectives or associations.⁴⁶

This presents considerable challenges. As a practical matter, the representative is capable only of acting for groups of individuals. Those groupings cannot be identified by a single interest. Hence, individuals are grouped into local or geographic categories on the assumption that they share a set of roughly similar interests which are distinct from those of other regional groups. Therefore, the liberal individualistic approach compels that the representative concentrate on a local rather than national constituency.⁴⁷ The challenge is to identify from the multitude of constituents that "constituency" which he is to represent.

THE PARADOXICAL GOALS OF REPRESENTATION: UNITY AND DIVERSITY

Representation presents itself in a variety of modes. These in turn generate a set of criss-crossing activities that touch upon and involve individualistic and communal political actors, depending on the context. These multiple representative devices and theories likewise flow from a variety of specific goals and objectives. Underlying each of these sets of considerations is the paradox that is perhaps the central obstacle to a coherent model of representation. The primary challenge to sound representative structures is how to satisfy the contradictory themes of unity and diversity. On the broadest level, representation is expected to accomplish two seemingly irreconcilable concepts. On one hand, it ought to generate a commonality amongst the citizenry, a spirit of shared identity and a willingness to subordinate the purely personal to public interests. At the same time, it is expected to make government responsive to the individual. It must recognize, accommodate, and address the interests of individual citizens.

Representative structures are burdened with informing citizens of those values which they hold together.⁴⁸ If representation is expected to garner the consent of the governed, it must identify those interests common to all citizens, and yield specific governmental behavior consistent with them. Structures of representation should cultivate consensus and commonality in society,

which in turn compel the citizenry's compliance with and conformity to governmental action. The corporate dimensions of representation lead to *unity*.

But representation is simultaneously trained on satisfying the diverse interests of the individuals who comprise the public. The divisions within society have increased exponentially as it has moved inexorably toward greater specialization, social diversity, and economic complexity. Countless new social interests beget a new set of political interests demanding to be heard. Not only are these interests often adverse to each other, they are often in conflict with community interests. Yet representative structures are measured by their "practical capacity for giving to the persons involved in a particular issue a due voice in the decision."⁴⁹

Unfortunately, the attention to specific individual desires makes attainment of the common good more difficult. The challenge for democratic theorists is to strike the balance between the modes and devices of representation that will generally address these countervailing considerations. Any scheme of representation will be judged on how it performs this tightrope act; whether it is successful in composing a settlement across society of what is in the interest of the community as a whole, while concurrently enabling government to conduct those specialized activities that satisfy individual needs.⁵⁰

The task of cultivating unity and commonality while respecting and protecting diversity dictates the need for intermediate mechanisms through which both can be achieved. Representative devices structured to pursue one goal directly or exclusively will do so only at the expense of the other. Hence the need for institutional political buffers between the individual and the national. These *subsystems of representation* are essential to mute and soften the demands of interests, and to distance them from extreme, absolutist positions to a position where they can coexist in the same space.

PARTY SYSTEMS AND GROUPS AS SUBSYSTEMS OF REPRESENTATION: THE INSTITUTIONAL LINKAGES

The need for intermediate channels in representative democracy points directly to politically active groups and organizations. Effective political representation depends on an appropriate role being assigned to, and a balance maintained between, the twin pillars of political parties and organized political interest groups.

Parties and groups are institutional structures that resolve, or at least ameliorate, the tensions between unity and diversity. As such, they are effective systematic tools of political empowerment for individuals in a large-scale democracy.

Representation theory is integrally bound up in and interwoven with the subsystems of political parties and group politics. Groups act as representative linkages within, and are overlain upon, the responsible two-party system, while the party system is pluralist in its nature and operation. Both political parties and groups are essential to fulfilling the mediating functions in democratic government.

Groups and parties serve as the primary linkages between individual citizens and the government in a *dual system of representation*. As instrumentalities of governance, they are the "effective agent[s] of political destinies."⁵¹ Groups and political parties are two sides of the coin of representation, through which the governors and governed are bound. They are critical building blocks in:

how the institutions of representative democracy work, and especially inquiry into the conditions under which the governors and governed are linked so that political responsiveness and responsibility are obtained.⁵²

In short, politically active organizations are the requisite subsystems of representation that link citizens to their rulers.

The dual system of representation is useful in organizing and melding together the representational modes and concepts that have been discussed. It consists, on one hand, of the devices by which those who represent are chosen, and on the other, of the ways in which they are petitioned once in office.⁵³ Formal representation is realized through the first prong, as representative authority is granted and representative accountability assured through *elections*. Similarly, elections allow for descriptive or reflective representation, as voters choose their "type" of representative. Representation as activity, in contrast, is assured through the second prong. As citizens *petition* government, those interests, preferences, and opinions that drive representative activity are made known to the representative.

These two elements of the dual system of representation are best understood by the essential distinctions that set them apart. First, they differ as *process*. Representation in the selection of those who will govern is accomplished primarily through the electoral processes, through caucuses and nominating conventions,

primaries, campaigns, and the election itself. Those institutional arrangements present in the electoral system are constitutive linkages, determining the extent to which the consent of the governed is realized through selection of the governors.⁵⁴

Petitioning one's representative occurs via a different, largely informal, set of processes which include lobbying, letter writing, petition drives, and calling the legislator's office. It takes place in whatever processes are available for constituents to inform or influence elected officials. Editorializing, attending meetings, protesting, and demonstrating all give substantive shape to the linkages that connect citizens to government between elections.⁵⁵ It is important that one have avenues by which to bring concerns, complaints, requests, and expression of opinions to one's representative. Through these channels the governors are informed about the governed and are subjected to their consent.⁵⁶

A second distinction is one of *timing*. The selection of leaders through elections occurs periodically. Every second or fourth year, citizens decide who will fulfill the representative function, reelecting representatives or rejecting them in favor of new ones. In contrast, the petitioning of one's elected officials is ongoing. Efforts to influence the actions of one's representative continue through that official's term. The periodic, cyclical exercise of elections suggests a static, formal representation. Petitioning of leaders recognizes the dynamic nature of the process, as the interests and opinions that drive representative activity are fluid, changing and evolving. Representation that takes place between the formal structures of elections is necessary to inform and educate legislators so that their representative activity adequately captures the shifting preferences of the represented.

Finally, the dual system of representation is delineated by considering *who is acting as representative*. To this point, we have simply assumed the representatives to be those with formal, official representative responsibilities. These are the legislators who occupy public office and are responsible, individually and corporately, for pursuing and implementing government policy. The dual system of electing and petitioning exposes a second set of representatives operating apart from the official representative relationship between legislator and constituent. These subsystems of representation are the parties and groups that mediate between the public and the elected.⁵⁷ They allow individuals to participate and gain significance through association, while simultaneously narrowing, focusing, and defining the multiplicity of interests into

discernible policy positions, which ultimately shape and guide governance.

In this matrix, political parties are central to the task of leader selection. They organize and direct the electoral process, recruiting candidates, eliciting grassroots support monetary and otherwise, conducting caucuses, primaries, and conventions, consulting on campaigns, and more. Meanwhile, other political associations and organizations primarily carry out the second task of petitioning. Through the assortment of tactics that comprise pressure politics, groups present their claims to official representatives. Thus, parties and other organizations play a vitally important role in the dual representative system; parties structuring the choice of representatives, and groups representing and accommodating the vast diversity of interests in society.⁵⁸

The respective roles of parties and pressure groups in the dual representative system are not mutually exclusive. While parties are the primary shapers of campaigns and elections, political associations and groups also carry significant clout. They weigh in on platforms, throw their support behind their favored candidate, and engage in campaign efforts. Likewise, party systems furnish an alternative route for petitioning government. Party organizations impact the behavior of public officials who belong to that party. Through the organization, party members work between elections to inform and influence party leaders and others in their party holding office.

THE REPRESENTATIONAL PARADIGM

The complexities of contemporary political representation should be apparent from this discussion. As Hannah Pitkin states, "the modern representative acts within an elaborate network of pressures, demands, and obligations."⁵⁹ The task of legislating is one of daunting complexity, in which a number of determinants are at work and must be factored into legislative decisions. Those considerations are reflected as follows:

Themes of Representation

A. Representational Definitions

1. An ordering of political relations
2. A system of electoral devices and procedures
3. A condition when the acts of one vested with public functions are in accord with those to whom they are important

B. Representational Modes and Concepts

1. Formal
2. Reflective
3. Relational
4. Active

C. Representational Goals/Aims/Purposes

1. Unity/Popular control
 - Impose majority rule
 - Garner consent of the governed
 - Institutionalize values
 - Inculcate sense of common values
 - Channel opinions and preferences into policy
 - Collectively responsive government
 - Governmental accountability
2. Diversity/Liberal Values
 - Protect individual rights
 - Political equality
 - Admit and protect special values
 - Constituent service
 - Individually responsive government

In sum, a variety of concepts are associated with representation, of which there is no consensus or uniform acceptance. Each has relevancy and validity, depending on the context in which representation is being discussed. For example, there are situations in which representation as activity may be implausible because of irreconcilable differences between legislator and constituent or among the constituents themselves. Yet descriptive representation may still exist in a legislator who shares a constituent's values and commitments, even if they may disagree on a particular issue. Or the represented may find comfort in symbolic representation and the emotional bonds that exist despite policy differences. Finally, the citizen may take consolation in the right to ultimately participate in the removal of that legislator for failing to heed constituency wishes.

Errors arise when each concept is treated as the entirety of representation, as if it alone can provide an adequate account of representation. Each notion has something to contribute to the understanding of representation. None of the ideas discussed herein are necessarily inaccurate or mistaken, but each is insufficient when standing alone.⁶⁰ As Pitkin notes:

Political representation is as wide and varied in range as representation itself will allow. The most that we can hope to do when confronted by such multiplicity is to be clear on what view of representation a particular writer is using, and whether that view, its assumptions and implications, really fit the case to which he is trying to apply them.⁶¹

Thus the need for a more inclusive comprehension of representation. When considering practical problems of representation, often neglected concepts may round out our understanding of effective representation. The greater the number of ideas that come into play at a practical level, the more fruitful the structures of political representation are likely to be. Notions of formal structures and deliberative legislative bodies strike us as idealistic or outmoded. Yet they are important to achieving effective representation. When we drop them from our dialogue, or give them up as pie-in-the-sky, the aspiration of real representation suffers. Attempts to fortify representative structures require a theoretical analysis that incorporates all aspects of representation. But it must especially incorporate the systematic institutional arrangements that are the framework for formal, descriptive, and symbolic representation. Then it must scrutinize with equal care the functioning of those systems and the representative activity which flows from them.

Moreover, theories of representation must make adequate allowance for the full roster of players needed to fill the representative team. They must recognize the individualist and collectivist dimensions of representation, both in terms of who is being represented and who is doing the representing.

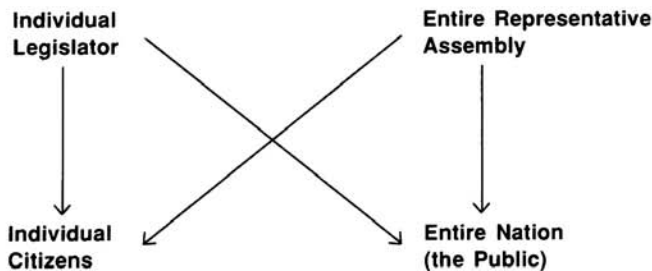


Figure 1. Representative Responsibilities

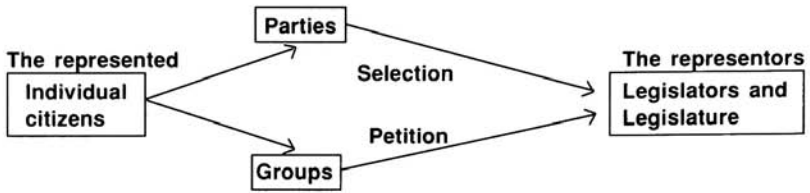


Figure 2. The Subsystems (represented and representatives)

Finally, do the individualistic and corporate aspects of representation acknowledge the critical importance of the subsystems of representation? Do they leave sufficient room for parties and interest groups, as institutional forms of representation, to serve simultaneously as representatives (of the people) and as the represented (to whom representatives are responsive)? Do they acknowledge the symbiotic relationship between parties and groups as mutually supportive of each other? And do they appreciate the representative opportunities available to groups and parties in the dual system of selection and petition?

These themes frame the remainder of this book. A host of practical problems afflict the American system of representation, which the political science and legal communities have attempted to address. This project is primarily concerned with the U.S. Supreme Court's efforts to confront and resolve the issues and dilemmas of representation. As we consider those efforts, we will repeatedly return to the theoretical and conceptual demands made upon our representative systems. To what extent have the multiple concepts of representation worked their way into constitutional jurisprudence? When faced with issues that implicate our representative system of government, has the Court demonstrated an understanding of the complexities and various forms of representation? And does it appreciate the unique role of the subsystems and linkages between state and individual through which representation is realized?