

NATIONAL REPRESENTATIONS.

Representation of Interests? The Law of Indigenous Rights. An intersection point of view¹

Adrian Gimate-Welsh²

Abstract.

On July 2000 a new political regime comes into being in Mexico with the electoral victory of Vicente Fox and on December of the same year the president of Mexico sends his first political initiative to the Senate: the proposal of a new law of indigenous rights. The composition of the LVIII Legislature is plural; it is a space of partisan contestation. Having in mind the political indicators proposed by different scholars, whether thick or thin, Mexico in the year 2000 is a representative democracy. Within this new political circumstances, a new Law of Indigenous Rights is approved in April 2001. This new law generated a constitutional controversy, the indigenous groups were unsatisfied. The purpose in this research project is to examine the legislative process regarding this initiative taking into account not only the deliberation within the legislative body but also the deliberation within institutions. The basic question that I pose myself is the following, what kind of political representation do legislators project in the process of producing this new law? Do they approach the issue from an integrationist point of view or do they exhibit an alternative view which reflects a new cognitive frame of reference? These initial considerations take up a discussion of the basic questions regarding representation-mandate, representation-responsiveness and accountability as well as the central hypothesis concerning the research. And, since my approach is interdisciplinary, the research will rely upon the tools provided by language sciences: linguistics, semiotics and argumentation. The development of these ideas will take place in the various chapters that will follow.

0. Introduction.

If we place ourselves in the field of the humanities³ and the social sciences⁴, the concept of representation can be seen from an interdisciplinary perspective. Generally, and without stopping for the moment in the discussion of the concept in any particular discipline, the term suggests the meaning “to make present something which is absent,

¹ Part of this paper was presented as a talk at the Helen Kellogg Institute for International Studies of the University of Notre Dame on September 20, 2005. The writing of this article was concluded at this institution. I want to express my gratitude to Scott Mainwaring, Director and the Faculty members for having me as a Guest Scholar in the fall of 2005.

² Professor at Universidad Autónoma Metropolitana, Mexico. Vicepresident of the International Association for Semiotic Studies (IASS-AIS).

³ Aristotle in his book *Poetics* defines artistic creation as *imitation*: imitation of objects or representation of reality. See *Poética*. Editorial Colofón. Madrid. 2001, page 69.

⁴ See Denise Jodelet, *Les représentations sociales*. PUF. 1989.

something that is in place of another thing”. This meaning has been present since classical times as “*aliquid stat pro aliquo*”. What is absent can be represented by an image, a sign or a symbol.

Bringing to a halt at the etymological origin, to represent comes from “*repraesentare*” which refers to the idea of putting a person⁵ or a thing in place of the other (Hanna Fenichel, 1972:242)⁶ which in medieval times came to be “*repraesentat unam personam*” to allude to the idea of personification. Now comes the question, under what circumstances can a thing or a person represent another? The theoretical basis is the principle of similarity or substitution, principles which are fundamental both in political science as well as in language sciences. And I shall return to this point further down.

From the perspective just pointed out, the Catholic Church as an institution is conceived as a body, visible and invisible of Christ. Christ’s body is the plurality of the bodies in one single body. The institutional discourse of the church draws us an imagined representation which has its fundamental expression in the Trinitarian conception: Father, Son and Holy Spirit. It is the unity in the plurality which in a political context it becomes a juridical construct: the institutional design which characterizes a nation: the national constitution; the sovereignty of a nation. In the framework of these ideas, let us remember Hobbes’s metaphor:

A multitude of men become a person when it is represented by a man or a person, so that this person can act with the authorization of each one of those who constitute particular multitude. It is actually the unity of the representative, not the unity of the represented which makes the unity of the person (2003:135)⁷

What is important to me is the idea that representation appears in what Hobbes calls the “unity of the representative”, not the represented which is a plurality. Furthermore, I want to point out that Hobbes conceives representation also as an act of imagination: “a person is that whose words or actions are considered his or hers, or representing the words or actions of another man, or of something else to which it is attributed whether it

⁵ In latin the word “person” means “disguise or external appearance of a man”, says Hobbes in Leviathan. But the word comes from theater so that the person is the same as the actor. To personify then is to represent oneself or another person.

⁶ My reference is to the first paper edition *The Concept of Representation*. Los Angeles. The University of California Press. 1972.

⁷ Thomas Hobbes. *Leviatan o la materia, forma y poder de una república eclesiástica y civil*. México. FCE.

is by truth or by fiction”⁸ (2003:132). To personify says Hobbes, is to act or represent oneself or another.

Here is the point of intersection between political science and semiotics. In terms of Charles Sanders Peirce, processes of signification are processes of intuition. I quote:

All representations have (...) their object and the object may become object of another representation. The manifestations are the only objects that are presented to us immediately; and what relates them to the object is what we know as intuition. But these manifestations are not things in themselves; they are only representations which in turn have their objects...⁹

I should point out also that Hobbes introduces the notion of an authorization which is limited. But he also introduces the idea of a representation which is unlimited; its basis lies in the principle of the competence of the representative, idea which is central in the mind of the founders of democracy of the elites (Bernard Manin, 1997:132-160). In the case of the unlimited representation, the political actor is the owner of his actions; his (her) representation is the result of an interpretation process; that is, what he or she considers that is the will of the people. It is the action of the political actor with an autonomous voice in a representative and deliberative democracy (Michael Rabinder James, 2004).

These ideas become the threads that interconnect the analysis of an object like the one I propose to study: the construction of political representation in the Mexican Congress, taking as object of study the issue of the law of indigenous rights as it was approved in the LVIII Legislature of the Mexican Congress in April 2001.

1. Political representation.

Having defined representation in general terms, we now ask the question, what we mean by political representation. Acknowledging that there is not a unified consensus regarding its meaning or that there are different lines of interpretation depending on the point of view, I shall begin by pointing that the various outlines of approach can be reduced to three, if we subscribe Fenichel’s seminal work on representation, which I do for the most part.

1.1 The formal view or accountability-representation.

⁸ The relation fiction-representation places the imaginary before us as if representation were an act of creation, imagination. This idea, of course, takes us back to the idea that representation does not pre-exist, it is created according to the various scenarios that intervene in the legislative process, if we think in terms of political representation in the congress.

⁹ Cf. Karin Wens. “Representations and Self-reference. Peirce’s Sign and its Implications to the Computer”. *Semiotica* 143-1/4, 2000. p. 200. Mouton de Gruyter. Berlin-New York.

Despite the criticism that Hobbes is subjected to by contemporary scholars who study political representation, his views can not be dismissed as a whole, for in his conception one can find still rich suggestions which continue to be relevant in contemporary discussions, recognizing of course that there are certain points that are susceptible of criticism.

If we define representation in terms of embodiment of an authority given by someone, then representation places us in the most contemporary studies of democratic processes that have taken place in the world in the last 35 years, beginning with the fall of the dictatorship in Portugal in 1974; it places us in the current scholarly studies regarding transition to democracy, the quality of democracy and, above all, in the discussions of representation and accountability (Scott Mainwaring and Christopher Welna, 1997).¹⁰

In this line of research the substantive feature is that the representative has been authorized to act on behalf of someone else; it is the principle of authorization. But also the invested authority is upon someone who is competent, that is, the principle of competence, idea that takes us back to John Stuart Mill and his *Considerations on Representative Government*.¹¹ Defined in these terms, representation has as one of its fundamental criterion the electoral dimension, indicator that is used to measure democracy as defined by Robert Dahl (1971)¹² or Michael Coppedge (2005).¹³ Elections, like rituals, become an embodying ceremony; furthermore, a public ceremony. However, to satisfy the democratic requirements recognized by liberal tradition, there must be the appropriate institutional design and the necessary procedimental requirements.

1.2 Descriptive representation.

This type of representation is based on the principle of similarity. In certain manner, the representative is a miniature of the people at large; it is the reflex or mirror notion of representation. This kind of representation can be expressed in semiotic terms: it is iconic or pictographic representation; it is a rendering of the original which is known as the principal. Descriptive representation contrasts with formal representation in that it is not autonomous. Descriptive representation is a kind of organic relationship where the

¹⁰ *Democratic Accountability in Latin America*. Edited by Scott Mainwaring and Christopher Welna. Oxford. Oxford University Press.

¹¹ See *John Stuart Mill and Representative Government*. Dennis F. Thompson. 1976. Princeton. Princeton University Press.

¹² *Polyarchy. Participation and Opposition*. Yale University Press.

¹³ Working Papers # 2. International Political Science Association. Centro de Investigación y Docencia Economicas.

significance of the part is determined by the significance within the whole and for the entirety of the whole: it is like a figure of speech, a metonymic figure.

Descriptive representation becomes the bases for the advocate of proportional representation which contrasts with majority representation. Though there is a great controversy between the advocates of one or the other kind of representation, there is strong argument in favor of descriptive representation, particularly if we take seriously the recent discussions concerning democracy in the context of multiethnic nations or nations with heterogeneous races (Cf. Katherine Tate, 2003).¹⁴

The critics of descriptive representation is multiple and varied. One of the strong arguments is that proportional representation weakens government, it prevents government from governing. However, recent studies demonstrate that it is not necessarily so (cf. K. Tate, 2003:79); recent data of the 104 US Congress shows that legislative activity is almost the same with black legislators as with white representatives.

1.3 Representation an acting

Representation as an act is perhaps closer to the meaning of the substance of representation. Without disregarding the nature of “standing for” or “the symbolic” or the iconic representation, to focus on the act of representing takes us into the content of representing. From my perspective, this is what I call *dialogical*¹⁵ *representation*¹⁶, for the main question that is offered is the following: what sort of ties do appear between the representative and it’s represented? It is obvious that the process of representing implies the establishment of some kind of correspondences between the legislature and the represented; it is a process of reading and interpreting signs in their multiples expressions.

Representation as an act, if it is to be authentic, not a simulation as may happen in authoritarian regimes, as was the case in Mexico at least up to the year 2000 (Frances

¹⁴ *Black faces in the mirror. African Americans and their Representatives in the U.S. Congress.* Princeton. Princeton University Press.

¹⁵ I use the term within the perspective initially formulated by Mikhail Bahktin and his followers: Julia Kristeva, Gerard Genette, Michael Riffaterre. I extend this notion to deliberative democracy, particularly if we bring to mind Habermas’s ideas (cf. *Between Facts and Norms. Contributions to a Discourse Theory of Law and Democracy.* MIT Press. 1996.

¹⁶ See chapter II for an explanation of this notion whose origin goes back the aesthetic consideration by Bahktin, Kristeva, Genette, Riffaterre, etc.

Hagopian and Scott Mainwaring, 2005:3)¹⁷, requires of a democratic context which stimulates deliberation; in other words, presupposes a authentic deliberative democracy. This is why I subscribe the idea that representation does no pre-exist, representation is built in the legislative process, which implies institutional interaction, interaction among political actors, horizontal and vertical interaction if we re-introduce the idea of representation as “standing for” as it is proposed by scholars of accountability, whose point of view rests on the pairs “representation-mandate” and “representation-accountability” (cf. Mainwaring, 1997; and Guillermo O’Donnell, 1997). This approach may be expressed through the following figure 1.

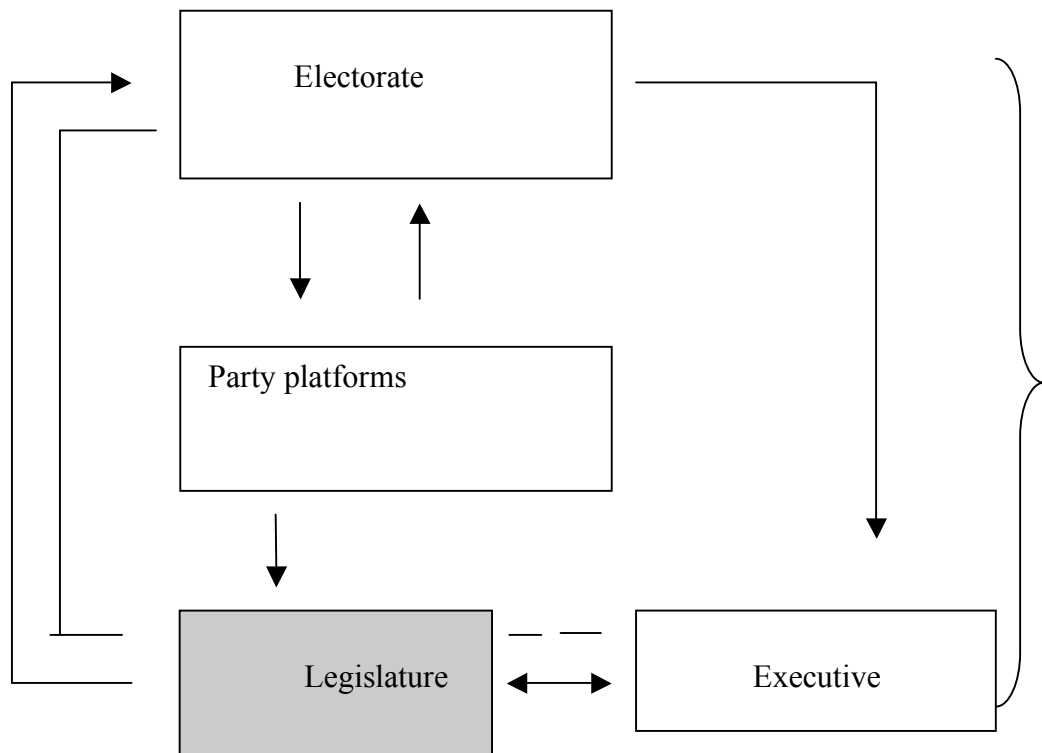
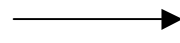
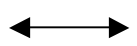
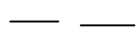


Figure 1: Relations electorate-parties-legislative-executive

————— The arrow represents the ties that are established between the electorate and political parties; one in terms of interest or preferences; the other in terms of political propositions or

¹⁷*The third Wave of Democratization in Latin America*. Advances and setbacks. Cambridge. Cambridge University Press.

political agenda expressed either in the party platform or in the campaign proposition. It is representation as mandate-representation: responsiveness (Przeworski, et al, 1999)

- 
 The arrow represents representation-accountability. It represents the signals that the electorate sends to the government regarding the approval or disapproval of the government's past actions (Mainwaring y Welna, 1997).
- 
 The double arrow represents horizontal accountability between institutions: Legislative and the Executive representations
- 
 The broken line represents the institutional interaction or deliberation between institutions (cf. Jeffrey K. Tulis, 2003: 200-224)¹⁸.

If we come back to the idea of representation as an act of imagination, then representation becomes mental construction which makes possible the pragmatic function. It is the pragmatic dimension that allows me to come to the intersection with representation in political science. It is within the pragmatic perspective that the processes of identification take place between political actors and other actors, whether political or social. This process is a sort of *renvoi*, which is not necessarily a concrete object; it can also be a cultural pre-constructed object. Pre-constructed objects trigger network relations which are of three types: a) representational: 1) mental representations that take us to mental mappings: pre-existing mental frames which can be expressed through verbal or non-verbal embodiment of conceptual or abstract thoughts; 2) verbal and non-verbal, 3) iconographic or symbolic; b) schemes, which point to world views, ideologies or systems of ideas; and c) intentional.

Now, if representation-mandate is channeled through parties in the legislative body, then party representation becomes the representation of interests (Macpherson, 1993) or preferences; furthermore, if the system of parties softens the conflicts of class and of interest, then you would expect greater parliamentary unity. However, legislative behavior shows another face. What we see instead is lack of cohesion which often is due to leadership struggles within parties. The legislative body, if we recall Hobbes's metaphoric definition, becomes plural representation within plural representations. This is what I think happened in the discussion of the law of indigenous rights. In other

¹⁸ Tulis' argument on institutional deliberation coincides in certain way with my proposal of dialogical interaction, particularly since he also calls to the attention of the importance of intertextuality. I will take up this discussion in the section dedicated to representative and deliberative democracy. See *Debating Deliberative Democracy*. James S. Fishkin and Peter Laslett (eds.) Oxford. Blackwell Publishing.

words, the legislative body became the space of multiple arenas of political interaction. Was legislative behavior autonomous (Manin, 1997:6) or was it non-autonomous? This is what I propose to analyze in my research project: *“National representations. Representation of Interests? The Law of Indigenous Rights. An intersection Point of View”*.

2. Problematic.

It would seem that the proposal of research “National Representations” would be a contradiction if we subscribe Downs theory of democracy (1957); specially if one adheres to the idea that party representation as it is expressed in party platforms is only a means to win an election.¹⁹ Examples of this type of situations we have many. The presidential elections in Venezuela when Andrés Pérez promised salary raise to the workers; but, once in office he meets with the business men to assure them that there would be no increase (cf. Susan Stokes, 2001); also the presidential elections in Argentina in 1989 won by Carlos Saul Menem. During the electoral process he promised to negotiate a moratorium of the debt, but once in office he sends a representative to Washington to negotiate the debt. The Argentine president reneges of mandate-representation as did Carlos Andres Pérez.

However, Downs’ model has another face; it is the idea that every government desires to maximize its political support. Public policies, therefore, should in some way respond to the electors’ expectations. If the objective of the opposing parties is to win power; for the party in office it is to preserve power which means that the government should discover some form of relationship with the electorate in order for the government to retain power.

Within this perspective, one can ask, how is political representation integrated in the preferences of the electorate? Are political platforms permeated of ideological or pragmatic dimensions? Research concerning the political platforms in the case of Mexico Has already been done for the 2000 presidential election (Kathleen Bruhn, 2004:123-156)²⁰ Do they respond to party or group interests? If so, what kind of interests? Under what conditions is discourse concerning electoral platform modified?

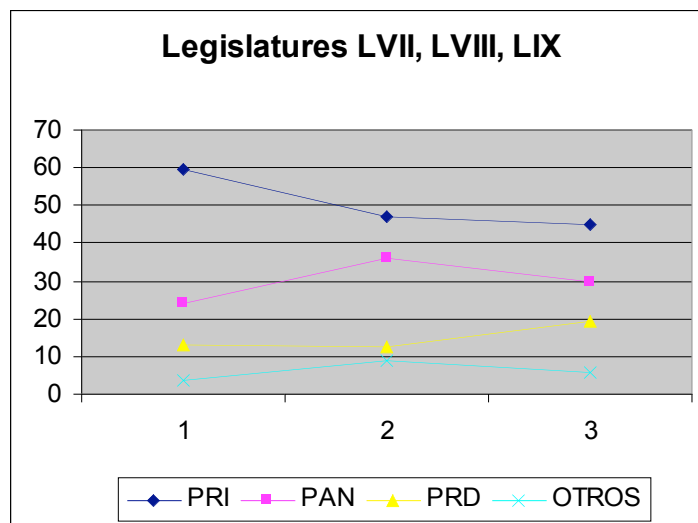
The possible answers to these questions will provide me with elements to establish a correlation between political representation as it is underlined in the electoral

¹⁹ Of course, I do not subscribe this idea. I am only pointing out the argument that is put forward by the defenders of Anthony Downs’ theory.

²⁰ Cf. “The Making of the Mexican President, 2000: Parties, Candidates, and Campaign Strategy”. Jorge Domínguez (ed.). Stanford. University of California Press.

process and political representation as it is built verbally in the legislative process with relation to the law of indigenous peoples.

However, to be able to study the kind of correspondences that are established, if any, between the represented and the representative, it is necessary to examine closely the congressional organization of a system like the one that characterizes the Mexican political system. The question is, do we have a partisan congressional organization,²¹ a delegation model or a distributive model? It is true, we have a presidential system and as such it shares features with other presidential systems, but, as Cox and McCubbins (2001:2-63) have brought to light, each nation selects its institutions and rules and procedures to solve its basic political problems. Moreover, it is necessary to outline the political context in which the law of indigenous peoples was approved. This I shall do it in later section. For the moment, let me point out that in the year 2001 Mexico has undergone a change in political regime, it has moved from an authoritarian regime to democratic one. The congressional composition has also dramatically changed from the LVII Legislature to the present, as can be seen in the following graphic representation.



As can be seen, the Institutional Revolutionary Party (PRI) evolves from a clear majority in the Lower Chamber in 1997 to a situation where it needs to set up coalitions to promote party agenda. But at the same time, the other two main opposition parties — the National Action Party (PAN) and the Democratic Revolution Party (PRD) need to create a coalition with the PRI in order to push any political initiative. What we have

²¹ I am referring to the congressional organization. This discussion will be taken up in detail further down in chapter II.

now is political representation of three different electoral platforms, three different electoral preferences. In the case of law of indigenous rights, the coalition was established between the PRI and the PAN. Furthermore, legislators from the PRD showed signs of division, particularly between the Senate and the Lower Chamber.

This means that the study of representation in an issue like the law of indigenous rights needs to take into account not only the institutional organization and its procedures, but also legislative behavior within the party and inter party relations, for we conceive the legislative process as a scenario of multiple interactions.

However, while it is true that the institutional and procedural dimension are fundamental in the analysis of political representation as has been outlined by various scholars (Trzeworski et al, 1999; Scott Mainwaring, 2003:3-33; or Guillermo O'Donnell, 2003:34-54), it seems to me that it is vital to examine what happens in the process of generating the public policies; namely, it is important to study the *substantive content of the deliberative process* which assigns or does not assign legitimacy to the public policy. Consequently, besides studying the institutional and procedural dimension, I shall also study the deliberative process hoping to give an insight of this process in the commissions of both chambers, and also of the plenary sessions. In other words, did the legislators exhibit a descriptive representation, a standing for representation, or acting for representation? Once again, the study of these aspects, seen from the deliberative point of view, will reinforce my intersection point of view.

3. Working hypothesis.

If we ensue from the premise that political representation does not pre-exist; rather, it results from the multiple interactions in which political actors participate in the different scenarios of the legislative process, we shall embrace the idea that political representation is a dialogical²² representation, specially if we also latch on to the supposition that party opposition in the legislature, in strategic cases, establishes coalitions thinking prospectively; that is, in terms of electoral platforms of future electoral processes. In other words, there is a latent vertical accountability. But also, horizontal accountability (Cf. Scott Mainwaring, 1997; Guillermo O'Donnell, 1997), particularly in the legislative spaces where the leaders have agenda power; or in situations where there exist other dimensions of representation (Cf. Gary Cox, 2004:14)

²² Although I shall discuss this notion in detail in a section further down, let say for the moment that I use the concept of dialogic as it is used initially by M. Bakhtin and his followers who have developed a theory of intertextuality; in particular, G. Genette (1989), J. Kristeva (1969) y M. Riffaterre (1984).

such as in the sister chamber and both chambers engage in deliberative process. This is what we call deliberation between institutions. This was the case of the law of indigenous rights.

Having defined a working hypothesis of representation, we can now put forward that the idea that the notion of autonomy was not unitary among the indigenous peoples. This is precisely one of the basic arguments of the mixed commissions in the formulation of the bill sent to the Lower Chamber. This is perhaps the latent reason why the proposal of the Commission of Harmony and Pacification did show conceptual gaps concerning self determination and autonomy; this is perhaps the motive behind Soberanes'²³ insistence in the need of defining notions such as "indigenous woman", "territory", "self determination" and "autonomy". In other words, the 52 ethnic indigenous groups did not have a unitary concept of political representation.

But then, how can 52 existing ethnic indigenous groups in Mexico arrive at a unitary point of view? How is it possible to integrate this multiple world visions into a unified vision? The underlying supposition is that of a uniform indigenous identity above the differences (cf. D. Ivision P. Patton and W. Sanders, 2005:5-21).²⁴ In these circumstances, we pose the question, how to generate a law for all the ethnic groups of Mexico? According to the experiences in various countries, there three basic logics of incorporating the indigenous law, but often times it is the case that the states incorporate more than one mode. In the USA, it is the self-government mode, as well as in Canada; in Australia, the emphasizes is placed on the common law; and in Africa it is the customary model of incorporation (Jacob T. Levy, 2000:298).²⁵

Of these three logics, where does the new Mexican Law of Indigenous Peoples stand? It would appear that President Vicente Fox, acting in compliance of his mandate representation, he promoted autonomy and self-determination. However, the arguments that he used to head the proposal of the Agreements of San Andres, known as COCOPA Law, showed signs of customary incorporation in some aspects, but in others it seemed to fall on the side of the common law. The argument for this is that while the indigenous law was recognized, the proposal was that it is to be subordinated to the law for all citizens. I quote:

²³ José Luis Soberanes is the Mexican President for the National Commission of Human Rights.

²⁴ *Political Theory and the Rights of Indigenous Peoples*. Cambridge. Cambridge University Press.

²⁵ *Citizenship in Diverse Societies*. Will Kymlicka and Wayne Norman (eds.) Oxford. Oxford University Press.

The principle of self-determination of the indigenous peoples must be read in accordance with the content of the articles 40 and 41 which establish the republican nature, its representative federal character of the Mexican State (...) Likewise it must be clear that in proposing a fraction II to the article 4° we are not creating special indigenous privileges, for it is foreseen that all indigenous resolutions must be ratified by the jurisdictional authorities of the State.²⁶

In plain language, the new law means translating the indigenous law to the national law; it means integrating the indigenous law into a national code, for indigenous law has to pass through an interpretation process done by the jurisdictional judges of the national law, despite the fact that Mexico claims to have subscribed the 169 agreement.

Given these considerations, and taking into account that the legislators were confronted with multiple political scenarios in the discussion of the different initiatives of law, my general question is the following, what kind of representation was drawn up by the representatives in the legislative process?

Before discussing how I can test my working hypothesis, it seems convenient at this moment to respond to possible questions regarding the relevance of studying the law of indigenous rights. Why study this law and not another one in the study of political representation? Why not study, for example, the budget law of the year 2004 and its consequential constitutional controversy between the Executive and the Legislative? Both institutions offered a political representation argument. To the potential questions I outline the following four answers.

Firstly, let us recall that Vicente Fox, among his multiple campaign promises, he also pledged to endorse the COCOPA Law. If we look at it from the perspective of the electoral processes, Fox's campaign promise was understood as a mandate. How did he arrive at this electoral promise or how does he assume this responsibility? One way of explaining this process is by recalling the concept of "exomologēsis". It is defined as an act (an act of language) that fills the act with a dimension of truth, but it is

²⁶ The Spanish version of the text sent by Vicente Fox is the following: "el principio propuesto de libre determinación de los pueblos indígenas debe leerse en consonancia con el contenido de los artículos 40 y 41 constitucionales, que establecen el carácter republicano, representativo y federal del Estado Mexicano y que señalan los Poderes supremos de nuestra Unión (...)"

Igualmente, debe aclararse que con la propuesta de fracción II del artículo 4° , no se pretende crear fueros indígenas especiales, toda vez que se prevé la convalidación de las resoluciones indígenas por las autoridades jurisdiccionales del Estado".

simultaneously a bond of the subject of speech to that truth. In other words, an exomologēsis act is an affirmation of a belief; which one makes with relation to oneself, but also with relation to others. It is an act of affirmation of an object and thus an adherence to that object, in relation with others. In a way, this is a representational process, a mental mapping process by which one manipulates oneself and manipulates the other. In greimasian terms, it is the instauration of various competences in the subjects: being, knowing, wanting, being able to; it is a cognitive process that has to take place before performance. These ideas can be expressed graphically through the following figure:

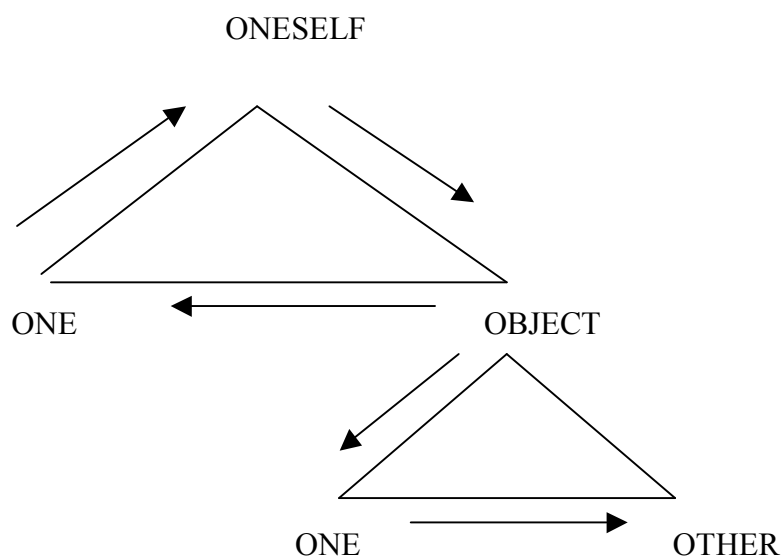


Figure 2: Representational process

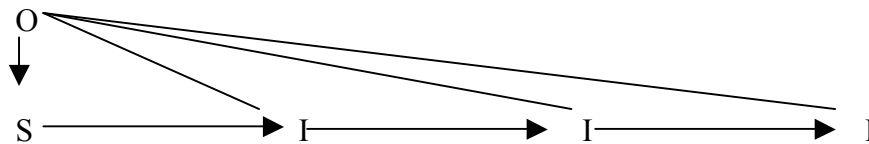
What the diagram reflects is the building of images which allows that representation becomes a visible image²⁷ in the speaker as well as the listener. Thus, we have three

²⁷ MITCHELL, W.J.T. 1994. *The Picture Theory*. Chicago. The University of Chicago Press.

types of representation: 1) the representational frame which establishes the relation between the subjects with the objects of desire and among them; 2) the frame of the cognitive mapping and 3) the intentional frame (for both the political actor and the electorate).

We can go a bit further and hold the idea that an act of exomologēsis has ethical-religious implications for it becomes an act of faith, an act of hope. We know an act of faith is not only an adherence to a belief —an adherence to an object of longing —, but it is also an observance to another object — the obligations that it implies: the compliance, which in political terms means not only responsiveness but also mandate representation. If the subject fails in his compliance, there comes the sanction: he is accountable for his actions. This type of object relations or correspondences can be represented in the following triadic terms:

Figure 3: Representational Chain According the Triadic Model



O=object

S= sign or symbol

I= Interpretant (which, as we know, is another sign)

Or, if we think in terms of mental mapping, we can have the following chain of predicates originating from a basic predicate (Fauconnier, 1994). Put in linguistic terms, an utterance may point to a kind of mental representation, but it may also trigger other kinds of representation. This is what allows a political actor to establish identities, particularly when the interaction is done with an audience which is not homogenous.

T (Basic Mental Space)

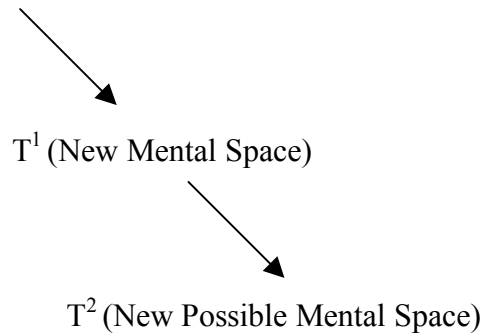


Figure 4: Mental predicates²⁸

We can now postulate that the basic mental space would correspond to the establishing of identities, a sort of responsiveness. The new mental space would be generated from the first in the sense that it would produce a predicate of a mandate-representation; and the third new possible mental space will have its consequent mandate-accountability predication. These are the processes that I plan to examine in the analysis of the deliberative process in both the Senate and the Lower Chamber. How much of this possible predicates in fact do express themselves in the deliberative process?

And this is precisely the space where theories of political representation, semiotics, and linguistics and deliberation analysis intersect; this is why I propose to examine political representation from these various angles, because, in my opinion, representation can not be seen only from the procedural view, though it is completely legitimate. These aspects are taken up in the first chapter of the research that I am now developing.

And, as a matter of fact, Vicente Fox did fulfill his promise by sending the initiative to the Senate on December 7, 2000. It was the first government action of his political agenda. It was a symbolic act and as such it had symbolic representation. However, his own party, the National Action Party (PAN), also presents an initiative on the same issue. Why this discrepancy between the Executive and the party leaders both in Congress and outside Congress? Are there party division or different conceptions of party lines between President Fox and the leaders of National Action?

Second, having in mind that the Harmony and Peace Commission was integrated by representatives of the various political parties in congress of both

²⁸ See FAUCCONNIER, Gilles. 1994. *Mental Spaces*, Cambridge, Cambridge University Press.

chambers, we can assume that its members had the trust and the representation of their parties. Furthermore, its conformation was the result of a law decree of the Senate of the 8 of March, 1995. Consequently, if the COCOPA members had signed the San Andres Agreements with the Zapatista Representation and also the government representation, then there was a political pledge with the indigenous peoples but also with the Mexican society. However, as we shall see in the in discussion of the political context of the presidential initiative, the Commission had a fragile situation, despite the fact that its origin came out of a proposal made by President Zedillo on the 15 of December of 1994. The Commission had difficulties with the government of Zedillo but also with the leaders of the Zapatistas. The government reneged of the agreements, mainly on the dangers that represented the principle of autonomy (Ernesto Zedillo, April, 18, 1998)²⁹; some members of the Commission also had fundamental discrepancies with the Zapatistas. As an example, let us recall the words of a distinguished party member of the Democratic Revolution Party (PRD), Heberto Castillo: “Definitely, the national political reform can not come from San Andres Larrainzar, or have the Zapatistas forgotten the existence of parties?”³⁰ There was no doubt a critical point of controversy: the problem of representation. Let us recall Marco Antonio Bernal’s words, president Zedillo’s representative, “there was not a question (in the national consultation) that asked if the citizens regarded the Zapatistas as representative of the nation” (September, 6, 1995).

Third, seen from the theoretical point of view, the topic on itself has implications in present day discussions on the presidential system, specially if we think of the initial critique put forward by Juan Linz (1994)³¹ and the subsequent discussions by Matthew Shugart and Scott Mainwaring (1997:12-54)³² who, first of all, characterize the presidential regime as concisely as possible in order to compare it with other systems and from there engage in a debate regarding the efficacy of the presidential system in preserving democracy. Needless to say, the Mexican presidential regime shares features with other presidential systems but, as Sobberg Shugart and Mainwaring

²⁹ On July, 1997, The PRI loses for the first time its absolute majority in the Lower Chamber. See above graphic 1.

³⁰ A rough translation of the textual fragment: “Definitivamente desde San Andrés Larráinzar no se puede concretar la reforma política nacional, o ¿Ya se les olvidó a los zapatistas que existen los partidos?” (Heberto Castillo, 17 de junio, 1995).

³¹ The Failure of Presidential Democracy: The Case of Latin America. Juan Linz and Arturo Valenzuela (eds.). Baltimore. John Hopkins University Press.

³² Presidentialism and Democracy in Latin America. Scott Mainwaring and Matthew Soberg Shugart (eds.). Cambridge. Cambridge University Press

have pointed out, to assess the efficacy you have to take into account the variations, for the regime as a whole is not homogenous in the various countries. The constitutional authority and the party system in Mexico is not necessarily the same as the one existing in countries like Brazil or Chile, for example. We have to keep in mind also that the situation in Mexico is quite distinct, for it is an incipient democracy. There is a transition from an authoritarian regime to a democratic one; but, has the authoritarian mentality changed? In conformity with Linz and Stepan's ideas (1996)³³, before the Mexican democracy becomes a consolidated state, the political actors in Congress as well as the Executive have to change their authoritarian habits; they too, in other words, have to create new mental mappings: create a democratic habit expressed not only in the political acts but also in their political speech or in the deliberative process within the context of deliberative democracy.

Fourth, and perhaps this is most important, how to integrate the indigenous representation in the national representation if we think in terms of the San Andres Agreements? The San Andres Agreements are the following:

In these agreements the Federal Government commits itself to recognize the indigenous peoples in the General Constitution, to expand their participation and political representation, to guarantee full access to justice, to promote cultural manifestations of the indigenous peoples, to ensure education and capacitating, to guarantee the basic needs, to promote production and jobs; and as a result of all this emerges the need of a new juridical frame, nationally as well as in the different state entities so as to guarantee: the political rights, strengthening their political representation, their jurisdictional rights, accepting their own procedures to designate authorities and their normative systems, their social rights so as to guarantee their forms of social organization, their economic rights in order to develop alternative forms of organization for work and production, their cultural rights to preserve their identities and creativity. And recognizing in the national legislation the indigenous communities as entities of public right and their capability to organize themselves autonomously (February 16, 1996).³⁴

³³ LINZ, Juan, STEPAN, Alfred. 1996. Problems of Democratic Transition and Consolidation. Southern Europe, South America, and Post-communist Europe. Baltimore and London. The John Hopkins University.

³⁴ This is a translation of the Spanish version: "En estos acuerdos el gobierno federal se compromete a reconocer a los pueblos indígenas en la Constitución General, a ampliar su participación y representación política, a garantizar el acceso pleno a la justicia, a promover las manifestaciones culturales de los pueblos indígenas, a asegurar la educación y capacitación, a garantizar las necesidades básicas, a impulsar la producción y el empleo y como conclusión de todo esto se plantea la necesidad de un nuevo marco jurídico, tanto nacional como en las diversas entidades, que garanticen: los derechos políticos, fortaleciendo su representación política (el subrayado es mío), sus derechos jurisdiccionales aceptando sus propios procedimientos para designar autoridades y sus sistemas normativos, sus derechos sociales para que se garanticen sus formas de organización social, sus derechos económicos para que se

To solve the demands of the indigenous peoples in the circumstances of armed conflict, of mutual accusations and in the context of a shaky dialogue between the government and the Zapatistas was more than impossible. Moreover, even if the conditions were ideal, to pretend solving the crucial aspects like autonomy and self-determination would have been a complete disregard of the institutional design of the Mexican political system. We have already quoted the government spokesman. Let us retake President Zedillo's declaration: "The limit of the negotiation with the EZLN (Zapatista Army of National Liberation) is the territorial integrity of Mexico" (La Jornada, April, 18, 1998).

In addition, solving it in the LVIII Legislature would have meant re-discussing the constitutional design.³⁵ Since the San Andres Agreements underline the political representation at the national level as well as the state level, how can political representation be expressed in both levels? It would mean a full State Reform and a deeper constitutional reform, not just additions or simple modifications to the existing constitution. This is why I consider that the debate of the indigenous rights has greater constitutional implications than any other issue. It would mean re-discussing the existing liberal model of democracy; it would mean re-discussing the existing federative model. Perhaps we would have to look more closely at the experiences in countries like Australia where recent decisions of the High Court have had implications on the Australian constitutionalism and its general framework as well as its general presumptions (Jeremy Webber, 2000:60-88).³⁶

4. Methodological Approach³⁷.

How can I go about to provide evidence for the hypothesis just outlined? Considering that this study is interdisciplinary, I will say that there are two ways: a) the institutional and procedural and b) the inferential.

desarrollen sus alternativas de organización para el trabajo y la producción, y sus derechos culturales para que preserven sus identidades y su creatividad. Reconociendo en la legislación nacional a las comunidades indígenas como entidades de derecho público y su capacidad para organizarse autónomamente" (16 de febrero de 1996).

³⁵ It Would be interesting, for example, to see how the notions of autonomy and self-determination are understood in countries like Venezuela (articles 119-126), Paraguay (articles 62-67), Peru (articles 88-89) and other countries like Canada, Australia the USA.

³⁶ "Beyond Regret: Mabo's Implications for Australian Constitutionalism." Political Theory and the Rights of Indigenous Peoples. Duncan Ivison, Paul Patton, and Will Sanders (eds.). Cambridge. Cambridge University Press.

³⁷ What I propose here is only a very rough description of my methodological tools. In Chapter II of my study I shall present in detail my view of representation from the signification sciences, but also the basic concepts that I will use in the analysis of the various kinds of texts: parliamentary, political and narrative.

4.1 The institutional and procedural look.

This approach entails first of all an analysis of the congressional organization to characterize the Mexican Congressional design. This means taking a close look at the type of organization: a) is it organized around a partisan theory. If this is the case, how is it organized to facilitate the passage of partisan legislation and the rules that are used for the protection of the resolutions coming from commissions to avoid hostile floor amendments (Binder, 1997); b) is it organized around the model of delegation of powers and the promotion of specialization? This model is also known as the information model. And c) Is it organized about the distributive model? This kind of organization will give precedence to the exchange dimension; it is the “pork-barrel” form of organization which promotes legislators to positions where they can best serve their constituents. Or d) is it a combination of them?

Before going into this type of analysis I will examine the general composition of the LVIII Legislature in both the Senate and the Lower Chamber: the partisan composition in general and the composition of the commissions that had a decisive role in the resolution of the law of indigenous rights: a) The Commission for Constitutional Reforms; b) the Commission for Indigenous Issues; and c) the Commission for Legislative Studies. Also, I will look into the way the legislators were postulated to become a candidate, their political trajectory and their professional background. This information will shed light into their professional and political competences as well as the orientation of their loyalties, especially when it comes to voting behavior in situations of highly conflicting positions. Particular attention will be placed at the institutional subunits for they are the spaces where vital decisions are made: partisan conferences, meetings of the party leaders with their legislators, public meetings within congress. In sum, I will look into deliberation within the institution but also between institutions: a) deliberation between the Senate and the Lower Chamber and between the Congress as a whole and the Executive.

4.2 The Inferencial Approach or Deliberative Analysis.

If we proceed from the fundamental premise that a representative democracy has deliberation as one of its core features, then we have to ask why we do assign such a central role to this dimension. If we hold that the legislative body is a plural representation, then its composition is diverse; its collective identities must come together in order to solve issues of common concern or work out problems which are the source of conflict. In other words, the legislative groups in so far they represent

interest groups have to arrive at collective decision. But this decision has to be legitimate. This implies that before a resolution is taken the members of the legislative body have to engage in a democratic process which is known as deliberation, to deem the process as fair. It is true; the fairness of a legislative process might be an ideal, but if procedural rules are knitted with substantive accomplishments among legislators in the form of specific competences, dispositions and processes of interpretations, then the collective decision will be fair and legitimate.

Moreover, plural deliberation installs a critical dimension which causes participants to reflect upon their interest, their preferences, their world views and their mandates. This is a central idea in Carlos Nino's *Constitution of Deliberative Democracy*³⁸ : "The first virtue of deliberative democracy is to <<transform people's interest and preferences>> through the mechanisms of collective deliberation" (J. Waldron, 1999:210). The more an institution is infused of deliberation and of fairness, a collective decision is more legitimate, but to achieve this, certain requirements must be fulfilled (Michael Rabinder James, 2004:52).³⁹

But, how does criticism function in the deliberative process? How can we account for this process and what is its relevance to fairness and legitimacy? How can the legislators' interest, opinions and preferences be transformed? To strive for fairness the deliberative process has to be such that it allows a wide range of deliberation. It entails that there are no limitations previous to deliberations; it requires of the necessary space for all sorts of critical contributions, for opinions as well as interests will have to be justified in some way: either justify them as a common interest or as national interest. Furthermore, when dealing with perspectives and world views, the process of understanding requires of a process of reflection necessary for comprehension and for interpretation; otherwise the danger is to fall on the side of stereotypes or pre-conceived ideas. In addition, the relation between deliberation and decision making posits the possibility of establishing connections between the public sphere and the institutions. In other words, creates the conditions for interactions between the legislature as an institution and the expression of civil society noticeable through manifestations, opinion

³⁸ Political adviser to Raul Alfonsin, philosopher, died in 1993. See the article by Owen Fiss, "The death of a Public Intellectual" and *Deliberation, Disagreement, and voting*, by Jeremy Waldron in *Deliberative Democracy and Human Rights*. Harold Hongju Koh and Ronald C. Slye. New Haven. Yale University Press. 1999.

³⁹ *Deliberative Democracy and the Plural Polity*. Kansas. University Press of Kansas.

polls. In sum, creates the conditions for interaction between the electorate and the representatives.

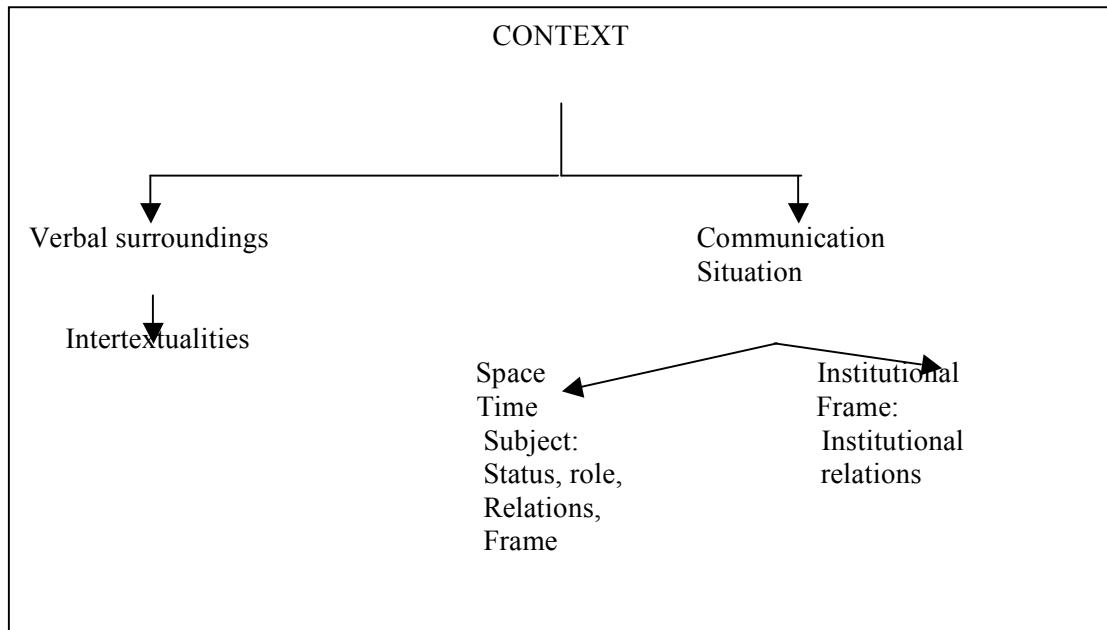
Contrary to A. Przeworski (2001:184)⁴⁰, deliberations is not restricted to the “means”, it concerns also the “goals”. Przeworski’s alternative model, for refuting the deliberative model, rests on the spatial model of voting. However, we can ask now, how is it that preferences are made to coincide? Pointing to the affinities between in the process of deliberation. And this is content manifested through the means. In terms familiar to literary criticism, the form or the means is the content; we can not divorce the content from the form. And this was much the case in the deliberative process regarding the law of indigenous peoples as I will try to demonstrate in the analysis of the debate itself. Consequently, the analysis of the deliberative process is not limited to a typology of the argumentative strategies for each parliamentary group, it is this but it is also an analysis of transforming opinions, interests, preferences, perspectives and world views into a collective decision, into a public policy.

However, to do this I have to rely upon a combination of tools offered by textual linguistics, argumentative theory and semiotics. This is not the place for discussing in detail these tools; I shall say for the moment that these disciplines have as their object of study verbal production and above all the production of meaning. To get to the bottom of meaning I will take the notions of **text** and **discourse** as the pair of units of analysis, seeing them as two complementary faces of the same object: the structural organization,⁴¹ on the one hand, and its pragmatic dimension; that is, the context of the deliberative interaction. The notion of context requires an explanation, however. From my perspective, I shall take the notion to mean: a) linguistic or textual context and b) communication situation. These ideas can best be seen in the following figure.

Figure 5: Contextual frameworks.

⁴⁰ La democracia deliberativa. Jon elster (comp.). Barcelona. Gedisa. English version Deliberative Democracy. Cambridge. Cambridge University Press. I share his idea, however, that deliberation leads to a decision that has support, deliberation enlightens the decision and this strategy in itself contributes to the content, without denying the importance of the vote. Of course, do not subscribe either Cohen’s distinction between “deliberation” and “discussion”. See Przeworski, page 185.

⁴¹ This is textual linguistics which refers to the structural organization. Within this perspective we can also see the text from the intertextual point of view. This approach will allow me to see the figurative dimension as well as the textual interaction.



This notion of text will allow me to have a close look at the textual organization, as has already been underlined by Quintilian in his *Institutione Oratoriae*⁴² (Book IX) where he highlights the invention, the elocution and the disposition, but he also points to the idea of openness of a text, to a sort of infinite semiosis (Book IX, 2, 17). This idea allows me relate it with logical semiotics as was formulated by Charles Sander Peirce. We have here then an integration of linguistics, rhetoric and semiotics for the analysis of political representation. The discussion of representation from the sciences of meaning will be taken up in the second chapter of this study.

⁴² *Institutiones Oratorias*, M. Fabio Quintiliano. Direct translation from latin by Ignacio Rodríguez y Pedro Sandier, tomo I, Biblioteca Clásica, Librería de la Vda., de Hernando y Compañía, Madrid, 1887, p. 1.

BIBLIOGRAPHIC REFERENCES

- ARISTOTLE. 2001. *Poética*. Madrid. Editorial Colofón.
- MIJAIL, Bajtín. 1990. *Estética de la creación verbal*. México. Siglo XXI
- DAHL, Robert. 1971. *Polyarchy. Participation and Opposition*. New Haven. Yale University Press.
- DOWNS, Anthony. 1957. *Economic Theory of Democracy*. Boston. Harvard University Press.
- COX, Gary. 2004. "The Organization of Democratic Legislatures". Prepared for the Oxford Handbook of Political Economy. Oxford. Oxford University Press (2005)
- COX, Gary, MCCUBBINS, Mathew. 2001. "The Institutional Determinants of Economic Policy". *Presidents, Parliaments and Policy*. Samuel Haggard and Mathew McCubbins (eds.). New York. Cambridge University Press.
- COPPEDGE, Michael. 2005. *Measuring Democracy*. Working Paper number 2. Mexico. International Political Science Association. Centro de Investigación y Docencia Económicas (CIDE).
- FENICHEL, Hanna. 1972. *The Concept of Representation*. First Paperback edition. Los Angeles. University of California Press
- GENETTE. Gérard. 1989. *Palimpsestos. La literatura de Segundo grado*. Madrid. Taurus.
- HABERMAS, Jurgen. 1996. *Between Facts and Norms. Contributions to a Discourse Theory of Law and Democracy*. Cambridge. Cambridge University Press.
- HAGOPIAN, Frances, MAINWARING, Scott. 2005. "Introduction". *In The Third Wave of Democratization in Latin America. Advances and Setbacks*. Cambridge. Cambridge University Press.
- HOBBS, Thomas. *Leviathan*. English version taken from the web <http://darkwing.uoregon.edu/~rbear/hobbes/leviathan.html>, chapter XVI (first and twelve paragraphs).
- JODELET, Denise. 1989. *Les représentations sociales*. Paris. PUF

- KARIN, Wens. 2000. « Representations and self-Reference. Peirce's Sign and its Implications to the Computer ». *Semiotica* 143-1/4. Berlin-New York. Mouton de Gruyter.
- KRISTEVA, Julia. 1969. "Problèmes de la structuration du texte". *Linguistique et Littérature*. Paris. N° 12.
- MACPHERSON, C.B. 1993. *La democracia liberal y su época*. Madrid. Alianza Editorial.
- MAINWARING, Scott. 2003. "Introduction. Democratic Accountability". In *Democratic Accountability in Latin America*. Mainwaring, Scott and Christopher Welna (eds). 1997 Oxford. Oxford University Press.
- MAINWARING, Scott, Sobberg Shugart, Mathew. 1997. *Presidentialism and Democracy in Latin America*. Cambridge. Cambridge University Press.
- MANIN, Bernard. 1997. *The Principles of Representative Democracy*. Cambridge. Cambridge University Press.
- O'DONNELL, Guillermo. 1997. "Horizontal Accountability: The Legal Institutionalization of Mistrust". *Democratic Accountability in Latin America*. Oxford. Oxford University Press.
- RABINDER, J., Michael. 2004. *Deliberative Democracy and the Plural Polity*. Kansas. University Press of Kansas.
- RIFFATERRE, Michael. 1984. *Semiotics of poetry*. Bloomington. Indiana University Press.
- TATE, Katherine. 2003. *Black Faces in the Mirror. African Americans and their Representatives in the U.S. Congress*. Princeton. Princeton University Press.
- THOMPSON, Dennis. 1976. *John Stuart Mill and Representative Government*. Princeton. Princeton University Press.
- PRZEWORSKI, Adam, STOKES, Susan, MANIN, Bernard. 1999. *Democracy, Accountability and Representation*. Cambridge. Cambridge University Press.
- TULIS, K. Geoffrey. 2003. "Deliberation between Institutions" in *Deliberative Democracy*. James S. Fishkin and Peter Laslet (eds.). Oxford. Oxford University Press.