

# 人民主權與民主： 卡爾·施密特對議會式民主的批判\*

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「公民投票」在現行的議會式民主制中乃被視為強化民主正當性的設置之一，它的實施是置外於議會的立法，是實現直接民主的一種方式。既是如此，它的理念必然跟議會式民主的有所抵觸。如何闡明兩者之間的矛盾？針對此問題，本文嘗試說明卡爾·施密特在德國威瑪共和期間，如何反思批判議會式民主在因應「群眾民主」的挑戰所遭遇的困境，並闡釋他如何形塑民主的同一性與同質性的理論。以這個解釋脈絡，本文進一步說明他闡發威瑪憲法的「公民投票」與「公民複決」的基本觀點。施密特對議會式民主的批判指出，此民主制不但無法正視人民主權乃構成民主正當性的基源，也忽略了民主本身的政治鬥爭性格。依據這種批判觀點，施密特一方面分離了自由主義與民主，另一方面則形塑以同質性為前提的民主同一性的理論。同時強調唯有這種民主才能構成一個政治共同體或國家的常態性的具體秩序，唯有在這種常態性的民主秩序中，自由主義的程序性法治才有實施的可能，政黨政治才不致於導向社會的分裂。但任何常態性的民主秩序皆有能出現「非常態性」（或異常）的處境，因應這種狀態，施密特基於他所揭櫫的政治性的概念，肯定政治領導者對於「非常態」處境所下的政治決斷，並啟動公民投票與複決，藉此維繫領導者的權威與人民的信任，以及鞏固民主的具體秩序。

關鍵字：卡爾·施密特、議會式民主、人民主權、民主的同一性與同質性、主權者的政治決斷、公民投票

# Popular Sovereignty and Democracy: An Interpretation of Carl Schmitt's Theory of Democracy

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## ABSTRACT

A plebiscite, or referendum, in modern parliamentary democracy is usually considered a device to strengthen the legitimacy of democracy. However, its practice may serve as a check upon parliamentary legislature, and is a form of participatory democracy. Viewed from that angle, there is a tension between these two modes of democracy. To illustrate this, the present article tries to explicate how Carl Schmitt fashions his theory of democratic identity and homogeneity in the context of his critical reflection on the predicaments of parliamentary democracy in the period of the crisis of the Weimar Republic. In his diagnosis of that predicament, Schmitt points out that parliamentary democracy in its response to the challenge of "mass democracy" is unable to recognize popular sovereignty as the legitimate foundation of democracy, and is blind to the political conflict existing in democracy. On the basis of that criticism, Schmitt reconstructs a theory of democracy, the basic presupposition of which lies in the formation of the political identity of democratic leadership and the people, as well as the construction of the homogeneity of democratic society. Concerning Schmitt's theory of democracy, this article tries to argue that Schmitt does not totally reject parliamentary democracy and its constitution. What he endeavors to do is to establish its foundation on political unity and homogeneity by which a concrete and ordinary order of democracy can be built. In the same vein, Schmitt interprets the significance of the referendum for consolidating

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the authority of leadership and the trust of the people. However, such a democratic theory is susceptible to a lapse into democratic dictatorship.

**Key Words:** Carl Schmitt, parliamentary democracy, popular sovereignty, democratic unity and homogeneity, sovereign's political decision, plebiscite