CHAPTER 2

Leaders and Masses in the Roman Republic

While no Roman ever disputed that power belonged to the *populus*, it does not necessarily follow that the Roman assemblies were conceived of or intended as vehicles of direct popular influence. As argued above, their peculiar structures hint at a formalistic, almost ritualised notion of legitimacy in Rome. The *res publica* may, as Schofield argued, have belonged to the *populus* but it was always managed by leaders to whom the people had entrusted its care. The question is how this paradoxical construction worked in practice, and in this section we will look more closely at the influence the people exercised after the *res publica* had been handed over to its chosen leaders. The highly formalised structure of the assemblies in principle does not exclude the possibility that they could have served the interests of the *populus*, thereby making the constitution more 'democratic' than it might otherwise appear. If so, that might explain the broad social and political stability which scholars have identified as a defining feature of the 'classic' middle republic.

Confronted with these issues historians have in recent years increasingly turned from traditional constitutional history towards the study of 'political culture', a concept which also comprises the attitudes and beliefs that inform and give meaning to the political process. Thus the ideology, 'style' and self-representation of the elite as well as its interaction with the *populus* have been widely identified as key elements in forging the apparent consensus, which impressed even Polybius. In addition, there is now much greater awareness of the symbolic and 'performative' aspects of politics – monuments, spectacles, processions, and festivals – as factors contributing to civic inclusion and a shared sense of community. This approach has greatly advanced our understanding of the Roman republic, and we will return to some of the new insights it has generated later in the chapter.

It is vital, however, that the 'nuts-and-bolts' of Roman politics are not forgotten; indeed one might argue that it is through a combination of 'hard' and 'soft' political history that further progress may be made. Let us

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therefore start by considering politics at its most basic: how many people took part, who were they, why had they turned up, and how did they vote? When looking at the popular assemblies from this perspective, one is struck by two remarkable features: first, the small scale of the proceedings which automatically limited participation to a tiny minority of the electorate; and second, the fact that those who did take part virtually never rejected any of the proposals they were asked to decide upon. These two aspects are intimately connected, and looking more closely at the scale of participation may help to explain the voting patterns.

Popular Participation

Ancient authors provide no hard figures for voter turnout or go beyond even the vaguest indication of scale. This is itself unsurprising given that turnouts were irrelevant to the question of political legitimacy. But it means that the issue of participation will have to be approached indirectly through the venues used and the procedures followed. While these may give us a broad sense of voting capacity, we should bear in mind that the figures, themselves mere guesstimates, all indicate *maximum* attendance.

The Romans voted in a number of different locations: the tribally organised assemblies, which passed most laws and elected the tribunes and lower magistrates, convened in the Comitium, in the Forum by the Temple of Castor, and on the Capitol, while the centuries, responsible for declarations of war and peace and the election of praetors, consuls, and censors, gathered in the Saepta on the Campus Martius. Some of these venues allow us to assess their scale and capacity.

The Comitium, the ancient meeting place of the Roman citizens, was located in the north-eastern corner of the Forum Romanum and incorporated the speaker's platform, the Rostra, as well as other structures. Little remains of this building but the surviving fragments seem compatible with a roughly circular structure consisting of a central open space surrounded by a stepped *cavea*, perhaps similar to the Comitia that have been uncovered in Latin colonies across Italy.[1] The Comitium probably covered an area of around 46 metres in diameter but since the available meeting space was reduced by various structures we are left with *c.* 1300 square metres. If we assume a crowd density of four per square metre, we get a maximum capacity of 5200 citizens. However, since they also had to be organised into

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[1] Cf. Mouritsen 2001. On the archaeological remains most recently, Amici 2005. On Comitia in Latin colonies, see Mouritsen 2004.

voting groups and be able to move around when called forward, an estimate nearer 3900 is probably more realistic, a figure far below that of the male citizen population of Rome, even during the middle republic. In 145, the tribune C. Licinius Crassus proposed a law on popular election of priests without senatorial backing, on which occasion he 'was the first to lead the people, for the hearing of laws, from the Comitium to the voting area (or expanse) of the Forum'.[2] Rather than a response to space constraints in the old venue, this move appears to have been a political gesture of defiance towards the senate, whose building, the Curia, visually and symbolically dominated the 'people's' meeting space.

Irrespective of the turnout normally expected, it obviously made good practical sense to organise the voters in the larger open space that was available in the Forum Romanum, and in the later republic that became the norm for legislative assemblies; tribal elections, on the other hand, were transferred to the Saepta on the Campus Martius. Although voters were now lined up in the Forum, the votes still had to be cast within an inaugurated space, a so-called *templum*, and for that purpose the Temple of Castor was used. The space in front of the temple might have been able to hold a substantial crowd of around 15,000 to 20,000 people, but that tells us little about actual participation. A closer look at the procedures followed and the space where the voting took place may be more instructive. We are reasonably well-informed about the size and layout of the republican Castor temple, allowing some cautious estimates of its capacity.[3] Even on the most optimistic assumptions a figure of 10,000 voters becomes quite unrealistic given the length of time it would have taken for a crowd of that size to complete the vote. Indeed, Cicero hints that attendance could be much lower; in an attack on Clodius he refers to the practice by which members of other *tribus* would be transferred to the empty ones where no one had turned up.[4]

Although this chapter will mostly be concerned with legislative assemblies, we may for the sake of comparison briefly consider the Saepta and its capacity. This extensive structure is known to us almost exclusively from fragments of the Severan plan of the city of Rome, the

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[2] Var. *R* 1.2.9: 'primus populum ad leges accipiendas in septem [saepta?] iugera forensia e comitio eduxit', cf. Cic. *Amic.* 96.

[3] See Nielsen and Poulsen 1992.

[4] Cic. *Sest.* 109; cf. Mouritsen 2001; Jehne 2013a: 134; 2013b: 150. Kaster 2006: 334–5 dismisses the passage as rhetorical hyperbole. But although Cicero obviously tried to portray the assembly that exiled him as wholly unrepresentative, not least when compared to the one that recalled him, the reference to voters transferred from one *tribus* to another makes sense only if such a mechanism existed to cope with low turnouts – and if his audience were familiar with the procedure.

Forma Urbis, which depicted Caesar's monumentalised version of the voting enclosure, the Saepta Iulia. The location and scale are therefore reasonably certain. It was shaped as a rectangular enclosure measuring 310 by 120 metres, making it substantially larger than the facilities available in the Forum. The internal structure, on the other hand, is entirely a matter of conjecture. Taylor envisaged a single open space divided into thirty-five long aisles (one for each *tribus*), which at one end led to a platform where the votes would be cast, and suggested that it might hold 70,000 voters. This reconstruction is not based on any concrete evidence, leaving it open to doubt.[5] When MacMullen reconsidered the *Forma Urbis* fragments he noted that part of the space must have been taken up by a substantial forecourt. Procedurally, it follows that the crowd would have assembled here before being called to vote and separated into their various units. In that case we are dealing with a considerably lower capacity of perhaps just around 20,000.[6]

All the indications we have for the scale of political participation suggest that only a tiny proportion of the citizen population could ever be present on these occasions. In principle this tells us little about the political role of the *populus*, since in any participatory system there is bound to be a disparity between those entitled to vote and the ones making use of this right. Even in modern democracies, where voting is decentralised and easily accessible, not all citizens cast their vote – without the democratic nature of the process thereby being called into question. There are fundamental differences, however; nowadays non-participation is 1) purely a matter of personal choice since all citizens can cast their vote in both theory and practice, and 2) generally considered unfortunate and at variance with prevailing democratic ideals. In Rome, on the other hand, the discrepancy between *populus* and voters appears to have been an integral and, it would seem, intended feature of the political system. There is no recorded attempt to allow the assemblies to become more representative – in fact the opposite rather seems to have been the case. Venues were not expanded to accommodate the growing electorate

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[5] Taylor 1966: 47–58. The internal layout, including the long aisles and the platform envisaged to the south, is little more than conjecture and many other configurations are possible: indeed, the features on the *Forma Urbis* fragments that have been interpreted as the corners of the platform are placed off-centre.

[6] MacMullen 1980; Mouritsen 2001; Jehne 2013a: 115–16. Phillips 2004 questioned the idea of a separate space for the waiting citizens, referring to recorded instances of interaction between candidates and voters. The argument is not compelling, however, and none of the examples are incompatible with a forecourt structure, Var. *R* 3.2.1; Val. Max. 4.5.3; 8.15.4.

and the arcane and time-consuming procedures remained in place despite the huge increase in the number of citizens. No effort was made to encourage *rustici* to take part; decentralised voting was never considered and the market days, on which they might have visited the capital, were explicitly designated as non-comitial.[7]

The limited turnout did not give rise to concerns about the validity of any given law or appointment, which may be explained by the particular Roman conceptualisation of popular legitimacy, explored in the previous chapter. As we saw, the people's involvement carried a unique element of abstraction, which subsumed individual votes into blocks and effectively eliminated conventional quantification of turnouts. In doing so it also removed any incentive to increase participation or promote popular representation. Since it was an abstract version of the *populus Romanus* that granted its consent on these occasions, mass participation was practically, as well as ideologically, irrelevant. For that reason the situation we encounter in the late republic should not be seen as a 'degeneration' of a system that had once aimed at greater representation or an inadvertent side-effect of expansion and population growth.[8] There is no reason to believe that Roman assemblies were ever intended as political fora for the citizen body in a concrete physical sense. We must therefore distinguish between the *populus* as a constitutional concept and source of public legitimacy and the actual people who took part in voting. Indeed this separation seems fundamental to understanding Roman politics and may offer a basic structural framework for analysing the assemblies and their voting patterns.

'Saying Yes': Voting in the Popular Assemblies

Our next question concerns the – small number of – people who did turn up for the assemblies. Did their behaviour conform to the 'ritual' interpretation of the assemblies suggested above? Or put differently, did the political reality differ from the constitutional theory of leadership and 'entrustment'? Since the people's constitutional powers, at least in terms of legislation, were purely 'responsive', the only way they could influence the political process was by withholding formal consent. A simple but effective means of measuring the degree to which the assemblies displayed any independence and functioned as decision-making bodies is therefore to look at the frequency with which that happened.

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[7] Taylor 1966: 18, 118.   [8] Cf. Flaig 2003: 158–64; *contra* e.g. Bleicken 1975a.

Egon Flaig investigated comitial rejections in the greatest detail and his list of recorded instances forms a useful starting point.[9] Livy mentions four instances from the fourth century but given their doubtful historicity they will not be considered here.[10] That leaves us with the following five (possibly six) cases, dating to the period between 209 and 104. In 209 the tribune C. Publicius Bibulus attempted to have the *imperium* of M. Claudius Marcellus abrogated, attacking not just the general himself but also the entire nobility for its inability to drive Hannibal out of Italy.[11] Marcellus defended himself vigorously and the assembly rejected Bibulus' proposal, 'rogatio . . . antiquaretur'. The most famous instance followed in 200 when the declaration of war against Macedon was rejected by the *comitia centuriata*. The consul, however, strongly urged by fellow senators, called a *contio* at which he addressed the centuries, before asking them to repeat the vote. At the second attempt the motion was approved.[12] Almost half a century passes before another unsuccessful *rogatio* is recorded; in 149 a proposal to set up an extraordinary court to try Ser. Sulpicius Galba was rejected.[13] It was followed by two bills which according to Cicero were defeated by Laelius and Scipio Aemilianus (*Amic.* 96). The first, in 145, was the aforementioned proposal of C. Licinius Crassus to transfer the election of *pontifices* to the people; the second was C. Papirius Carbo's attempt to allow the re-election of tribunes in 131/30, which Aemilianus is said to have thwarted, albeit without explicitly stating that it was formally rejected. Finally, in 104 an agrarian law of the tribune L. Marcius Philippus was voted down by the tribes.[14]

When these instances are looked at more closely certain patterns emerge. In 209 and 149 we are dealing with *ad hominem* measures which used the assembly to settle personal scores. As such they are directly comparable to the attempt to block Aemilius Paullus' triumph in 167, when the tribune Ser. Sulpicius Galba, supposedly driven by personal *inimicitia*, stirred up

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[9] Flaig 2003: 175–80; cf. Bleicken 1975b: 273–9; Nippel 1988: 55; Eder 1991: 179; Jehne 2001: 104; Tiersch 2009: 40–1.

[10] Liv. 5.30.7; 5.55.2; 6.39.2; 8.37.11. These also predate the *lex Hortensia* of 287, by which plebiscites first gained the status of law.

[11] Liv. 27.21.1–4; Plu. *Marc.* 27.1–3.

[12] Liv. 31.6–8.1. cf. Rich 1976: 75–87; Warrior 1996: 37–89; Vishnia 1998.

[13] Liv. *Per.* 49; Cic. *Brut.* 90, cf. *Mur.* 59; Val. Max. 8.1.2. Gruen 1968: 12–13.

[14] Crassus: Cic. *Amic.* 96, *Brut.* 83, Var. *R* 1.2.9. Carbo: Cic. *Amic.* 96, Liv. *Per.* 59; Philippus: Cic. *Off.* 2.73. Flaig 2003: 176 suggests all three rogations were withdrawn in the face of opposition rather than defeated, but Cicero explicitly says about Carbo's bill: 'suffragiis populi repudiata est', 'rejected by the people's votes', *Amic.* 96, and uses the term 'antiquari' about Philippus': *Off.* 2.73, cf. Ferrary 2012: 20 n.63. Hiebel 2009: 152–4 argues that other rejections happened in 119 and 62 but the evidence is weak.

discontent among disgruntled soldiers and persuaded them to vote the motion down (Liv. 45.35–9). The attempt eventually failed, but only because of the last-minute intervention by leading senators. Similar methods appear to have been used in 200, when we are told that the initial rejection was instigated by a tribune, who exploited widespread disaffection over the prospect of another major war. This particular bill stands out as the only one that enjoyed the full backing of the senate and whose rejection, unsurprisingly, was quickly reversed. The other proposals were all presented by 'maverick' tribunes, who apparently acted without elite support. During this period it would therefore seem that bills enjoying the senate's approval were virtually certain of becoming law, while those without on rare occasions might suffer defeat.

A fragment of C. Titius' speech on the *lex Fannia* from 161, which regulated public and private banquets and distributions, mentions boys who apparently were being sent to the Forum to inquire: 'who speaks for it, who argues against it, how many tribes support it, how many reject it'. The implication is that the outcome, at least in this instance, was considered in the balance and that the tribes realistically could have turned the proposal down.[15] The situation may well be untypical, however. The law was highly controversial, directly affecting the lifestyle of the propertied classes and probably generating considerable debate and agitation on both sides. Opposition to the measure is therefore plausible both within the political class and among affluent voters in general (who may have dominated the assembly on this as well as most other occasions, see further, below pp. 70–72). It was in other words, a prime example of a bill likely to split the assembly.

This brief survey suggests that laws were rejected extremely rarely and usually as a result of exceptional circumstances. Some scholars have argued that there may have been many unrecorded instances of proposals failing to get onto the statute book supposedly not making it into the history books either.[16] The logical implication is that rejections happened so frequently that they attracted little or no attention. However, the instances we do hear of all appear to have been highly contentious and caused considerable stir at the time. The rejection of a bill, especially one that carried the senate's *auctoritas*, can hardly have been a trivial matter. As the examples show, it typically happened as the result of internal divisions within the elite when

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[15] *Suasio legis Fanniae* 161 (Malcovati *ORF* I.51): 'qui suaserint, qui dissuaserint, quot tribus iusserint, quot vetuerint'.
[16] Bleckmann 2002: 228–9 n.4.

dissenting factions and individuals mobilised opposition in advance. Ideologically, they represented glaring exceptions to the dominant *concordia* ideal and in practical terms the disputes would often have produced their own written record, with speeches being delivered – and published – by both sides. If rejections had been a regular occurrence, we would expect far more passing references to failed bills, not least during the late republic when the record is exceptionally rich and detailed. The fact that no securely documented rejection has reached us from the entire first century therefore suggests that we are not dealing with an accident of transmission but a genuine feature of Roman politics.

The inescapable conclusion is that the Roman *comitia* cannot be understood in conventional terms as decision-making bodies. Following the example of Keith Hopkins, Flaig therefore argued that legislative assemblies functioned as what he called *Konsensorgane*, suggesting that instead of making decisions they provided political legitimacy on a purely symbolic level.[17] No actual preferences were expressed, since the role of the assembly was to confirm the *rogatio* put before it. On this interpretation the people's involvement in legislation directly matches the constitutional model explored above, since the contribution of the *populus* was reduced to ratifying proposals put forward by magistrates and tribunes, who usually – but not always – acted on behalf of the senate. As such the proceedings seem to reflect a peculiarly Roman constitutional mentality that perceived the *populus* as a vital but also essentially passive source of public legitimacy.

From *Comitia* to *Contiones*: the Rise of a New Paradigm

Although the small scale of the popular assemblies as well as their habit of passing virtually every bill placed before them have been widely accepted, that has – perhaps surprisingly – done little to settle the long-running debate about the 'power of the people', let alone put the notion of a Roman 'democracy' to rest. Indeed, the most common response has been to shift the popular 'input' into the political process from the assemblies onto the *contiones*, the public meetings which preceded them.[18] As a result there is now an overwhelming emphasis in modern scholarship on the communication and direct face-to-face interaction that took place between politicians and *populus*. Paradoxically, the public meetings, which were long

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[17] Hopkins 1991; Flaig 2003: 167.
[18] Pina Polo 1996 remains fundamental on the *contio*. See also Mouritsen 2001; Morstein-Marx 2004; and the papers in Steel and Van der Blom 2013. For an overview of recent literature, see e.g. Tiersch 2009: 40.

treated as secondary precisely because they took no decisions, have after the 'communicative turn' become the primary, indeed pivotal, political fora.[19]

In accordance with this new paradigm, *contiones* are identified as the crucial testing grounds for new ideas, as any proposal that proved unpopular when presented to the public was supposedly quietly withdrawn before it could be put to a potentially disastrous vote, especially if popular feeling appeared openly hostile. In this way, the meetings tested the 'will of the people', or 'Volkswille' as Flaig put it, and the ongoing consultation process ensured that leaders and people remained in broad agreement and affirmative comitial votes stayed the norm. The 'power of the people' was, in other words, both real and tangible, even if it was expressed informally through spontaneous responses to politicians at *contiones* rather than through formal votes in the assemblies. On this line of reasoning the effectiveness of the consultation is demonstrated precisely by the rarity of comitial rejections. Almost through the backdoor the argument thus restores the status of the *populus* to that of an active and decisive player in republican politics: at *contiones* the people exercised a power, which no magistrate could afford to ignore.[20]

The new understanding of *contiones* as focal points of the political process has become so entrenched that it is fast turning into a new 'orthodoxy'. And *prima facie* it is not without plausibility, explaining as it does not just the compliance of the *comitia* but also the remarkable frequency of *contiones*, especially during the late republic, and the attention they seem to have attracted. But as soon as we consider how this 'consultation' might have worked in practice doubts start mounting and we have to ask whether *contiones* were really suited to serve as fora for political debate. A *contio* was a public meeting called by an official with *potestas contionandi*. He retained total control over proceedings and could decide who was allowed to speak and on what topic. In principle, any issue could be discussed. Some were linked to legislation and hence part of the statutory process, by which proposals had to be presented at three separate meetings over a period of three market days, *trinum nundinum*, before being voted upon.[21] These assemblies were preceded by a final *contio* at which both sides could argue their case, and as we shall see, this meeting differed in nature from 'ordinary' *contiones*. Many *contiones*, it should be noted, were unrelated to legislation and simply served as a platform for attacks on

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[19] Cf. Jehne 2006c: 90–5.
[20] Flaig 2003; Morstein-Marx 2004; Tiersch 2009; Yakobson 2010: 298; Ferrary 2012: 20.
[21] It was formally introduced in 98 by the *lex Caecilia Didia, Schol. Bob.* 140 St. (*Sest.* 135), but as Bleicken 1975b: 446 suggested, similar rules had probably applied also before.

political opponents, who might respond by calling counter meetings of their own. Finally, some *contiones* were used to make routine public announcements and hence entirely uncontroversial.

The audiences were there to listen – and only to listen. Formally, they played no active role in the proceedings, where their input was reduced to shouting and cheering. As a means of testing 'popular opinion' these occasions would have been less than perfect.[22] What would a prospective legislator, for example, do if the message from the crowd was mixed? Or if the audience seemed indifferent, would he then abandon his carefully prepared plans? His dilemma went deeper, however, since the logistical and practical constraints meant that only a minute proportion of the electorate could be present at a *contio*.[23] There was no guarantee therefore that the audience a politician addressed at one *contio* would necessarily be the same as the one that would turn up for the following meetings and, crucially, for the decisive vote in the *comitia*.

The 'consultation' model assumes that the people who had first listened to the arguments presented at *contiones* would later pass the bill in the *comitia*. But since these were separate events, held several weeks apart, and each accommodated only small subsections of the voters, there was no direct or necessary identity between the crowds attending them. In other words, the crowd that turned up for the *comitia* might have been quite different from the one that had given the bill an upbeat reception at the *contiones*. To restore the link between *contiones* and *comitia* we would therefore have to revive Mommsen's theory of the '*plebs contionalis*', a group of shopkeepers and craftsmen active around the Forum who regularly turned up for meetings and assemblies and de facto impersonated the *populus Romanus* on these occasions.[24] The evidence for this hypothesis is limited, however, and it also implies that a few hundred traders, belonging to a class for which the Roman elite normally had nothing but disdain, effectively were allowed to control the legislative process.[25]

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[22] As Moreau 2003 showed, the examples from the late republic of audiences being encouraged to respond to rhetorical questions put by the speakers were departures from the norm, since this type of *rogatio* rightfully belonged to the *comitia*.

[23] We have no concrete evidence for the scale of attendance at *contiones* but the venues used were all relatively small and, crucially, acoustically quite difficult spaces with obvious implications for audibility. Cf. Betts 2011: 124–9.

[24] Mommsen 1854–5: 2.94; Meier 1980: 114; Eder 1996: 443; Jehne 2006a; 2013d; 2014b: 127–8.

[25] If such small, compact groups really did control Roman legislation, we might also wonder why the opponents of a bill never mobilised counter crowds, which should have been a relatively easy task given the scale of the urban population.

The closer one looks at these meetings the more problematic the notion of *contiones* as foci of popular power becomes. Wilfried Nippel, for example, accepted that 'The composition of the assembly was different every time', but explained the largely affirmative role of the assembly by suggesting that 'the supporters of a particular proposal were likely to appear in numbers, with the result that the tribune taking the initiative has a very good chance of obtaining the majority of the tribes' votes'.[26] However, the opponents of a given measure held counter *contiones* of their own, which in principle would neutralise the efforts of those in favour. With competing meetings being held – usually for different but equally supportive crowds – it would have been impossible to tell who would prevail at the final vote. This situation is illustrated by the struggle over the *rogatio Servilia* in 63, when both Rullus and Cicero organised separate meetings, apparently with similarly positive responses. Conversely, it could be argued that a negative reception did not exclude the possibility that among the vast Roman electorate other citizens might be more sympathetic; it could simply be a question of failed mobilisation which could be improved next time round.

The feedback received from a *contio* was, in other words, an uncertain guide to 'popular opinion' – if such a thing ever existed. The underlying assumption seems to be that the *contio* served as a Roman equivalent of modern focus groups, which are used by politicians and marketers to test the waters before launching new policies, products or advertisements. The parallel does not work, however, for whereas participants of focus groups are carefully selected to ensure that they are representative, based on sophisticated models and demographic profiling, Roman *contiones* were filled with self-selecting, in principle unpredictable, crowds. They were potentially also unstable and fluctuating, with different people turning out for different meetings and in different numbers. Persuading a *contio* to support a given bill would therefore not have guaranteed its smooth passage through the final assembly.

Some scholars have tackled the logistical problem by envisaging the existence of a single, measurable 'popular opinion' or 'will of the people', which would render the question of turnouts obsolete since most citizens held broadly similar views on most issues.[27] The notion of 'the People' as a monolithic entity seems indebted to the constitutional fiction which

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[26] Nippel 1995: 47. Tiersch 2009: 48 assumes greater attendance at *comitia* than at *contiones*, which would be odd since the former almost invariably said yes.
[27] Flaig 2003: 155–231; Morstein-Marx 2004.

defined the *populus* in abstract terms, e.g. in the famous pairing with *senatus*. Needless to say, however, the social and demographic landscape of republican Rome must have been far too complex and varied to be reduced to a simple model of 'senate' and 'people'. The degree of unanimity implied in the concept of the 'popular will' seems unrealistic given the size and diversity of the non-senatorial population. Speakers always addressed a symbolic *populus* as well as a concrete audience, and whichever opinion may have been expressed by the latter is by definition unlikely to have been that of the *populus Romanus*. At the heart of the Roman *contio* lies a fundamental ambiguity – between the *populus* and the actual crowds present at the meeting – which will have to be disentangled if we are to understand the communication that took place there.

The notion of a 'popular will' expressed at *contiones* and assemblies has paradoxical political implications. If we assume that the 'People' voted for proposals they liked and had been persuaded to endorse, we find ourselves confronted with a remarkable degree of inconsistency, given the wide range of laws and measures that were passed, pursuing very different aims and policies. The assembly, as Morstein-Marx noted, approved numerous laws opposed by most of the senate and its leaders.[28] But on other occasions it abrogated these very same measures or passed laws seemingly contrary to the people's own interest.[29] Brennan, for example, identified 'a volte face on the part of the people', when the assembly first deprived the disgraced C. Hostilius Mancinus of his citizenship in 135, only to restore him again shortly afterwards.[30] Does the fact that the assembly adopted measures diametrically opposed to each other imply that the 'People' had suddenly changed its mind on Mancinus' culpability? We are left with a strikingly fluid and malleable 'will of the people', for which the small, self-selecting crowds at *contiones* nevertheless managed to provide such an effective barometer that not a single proposal failed in the *comitia* during the late republic. This is all the more surprising since contional crowds, as far as we can judge from the first-century evidence, were generally favourable towards those who had called the meetings. If the audiences supported the organisers – who consulted them precisely in order to gauge public opinion – that would have undermined their ability to act as 'focus groups' even further.

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[28] Morstein-Marx 2013 listed thirty laws passed against senatorial opposition between 140 and 50.
[29] E.g. the abrogation of C. Gracchus' grain law, Cic. *Brut.* 222. The assembly also gave Sulla's *voluntas* the force of law, *Ver.* 2.3.82, cf. App. *BC* 1.99; Plu. *Sull.* 33.1. Cf. Vervaet 2004.
[30] Brennan 2014: 41.

Taking account of this feature, Robert Morstein-Marx gave the '*contio*-model' a new twist, since he interpreted the acquiescent crowds as a sign of asymmetrical communication taking place at *contiones*, where speakers always held the upper hand and were able to shape opinion through their superior knowledge and skill.[31] The argument seems to overlook the fact that in the competitive world of Roman politics different *contiones* would have sent different messages, in theory cancelling each other out. This affects Morstein-Marx' 'pars pro toto' model of participation, which implies that small groups attended the *contiones* and then through a seemingly osmotic process spread the message to the rest of the population, thereby shaping the 'popular will'. But if the messages they received at *contiones* were mixed, so was their input into 'public opinion'.

Recently, the examples of laws passed against 'significant senatorial resistance' led Morstein-Marx to modify his earlier thesis of an aristocratic 'cultural hegemony', partly based on *contiones*.[32] However, instead of seeing these bills as 'successful assertions of popular sovereignty' one could argue that the assembly simply conformed to established norms and ratified all measures put before it. What we observe in the later republic may be a growing willingness of tribunes to defy the senate and go ahead with proposals opposed by its majority, rather than any shift in voting behaviour. Viewed from that perspective the assembly remained entirely consistent, even when they, as in the Mancinus case, ratified bills that contradicted each other.

In formal and ideological terms the *contio* formed an essential part of the 'inclusive' construction of the *res publica*, its procedures reflecting the ideals of popular rights and 'sovereignty' combined with magisterial leadership and aristocratic oversight. But as a practical means of consulting the electorate it was not a viable institution, especially during the later republic when Rome had far outgrown the 'village-format' on which the model relies. In that period the small-scale meetings can hardly have performed the role which they have been accorded in the recent debate. Finally, and perhaps most detrimental to the theory, there is in fact no solid evidence that proposals were ever withdrawn in the face of contional discontent. And given the rarity of comitial rejections it is indeed hard to see why any would-be legislator would abandon his bill for that reason; during the first century the possibility was largely hypothetical, few Romans being able to remember when it had last occurred. Many proposals failed to become law, but that happened for a variety of reasons, popular hostility at *contiones* not

[31] Morstein-Marx 2004.   [32] Morstein-Marx 2013.

being one of them. The most common factors were tribunician veto and physical obstruction, but peer pressure and general elite opposition probably also played an important part.

If *contiones* are unlikely to have generated such all-embracing popular consensus that ratification became the standard outcome, we are back where we started with regard to the *comitia* and their apparent rubber-stamping of laws, which still requires an explanation. Moreover, we will also have to ask why Roman magistrates kept calling public meetings if their impact on the success and failure of bills remained so limited.

Comitia as 'Civic Rituals'

Confronted with a procedure that formally represented an act of decision-making but in practice functioned as an expression of consensus we may follow the example of Keith Hopkins, who first approached the comitial procedures as 'rituals', i.e. highly formalised actions, performed according to strict rules and invested with a significance that extended beyond the acts themselves.[33] Through their regular performance rituals have the potential to become essential and necessary elements of the collective identity of a community. They do, however, have to be accepted as such by the participants, especially in cases such as this, where the assembled citizens were presented with an open question that in principle could have been answered negatively. The fact they largely abstained from exercising the choice put to them implies that the participants agreed to the formal terms of the ritual. How that happened must remain conjecture. Still, some possible factors may be identified, including the strong sense of hierarchy which characterised these occasions. The presiding official exercised full authority over the assembled crowd, literally there at his personal request. When he asked for its sanction, the logical response was one of compliance and conformity; in formal terms the *comitia* had one and only one function and that was to express the consent of the *populus*. Crowds gathered for a *comitia* adopted the mantle of 'the People' and in doing so became participants in a highly formalised and carefully choreographed ritual which had as its expected, almost inevitable, outcome the ratification of the proposal.

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[33] Hopkins 1991. The approach was further developed by Flaig 1995a; 2003; Jehne 2001; 2013a: 118; cf. Timmer 2008: 313–14. Flaig's suggestion that they served as means of 'Sozialdisziplinierung' is doubtful, however, since attendance would have been so limited that most citizens never experienced the ritual first-hand.

The shaping and conditioning of participant behaviour through institutional structures and social conventions are not specific to Rome but can be encountered also in modern societies. John North noted, for example, that while the Council at British universities formally has the final say on all important matters, in reality its hands are tied by the logic of the decision-making process; for when a proposal reaches the Council – after long planning and several committee stages etc. – it is generally considered too late to change course and reverse the policy.[34] The process has at that point gained a momentum which in effect neutralises the choice that is supposed to be exercised on that occasion. Similarly, the Annual General Meeting of large corporations in theory offers shareholders the opportunity to hold the board and executives to account, but in practice tends to be a mere formality; when annual reports and proposals reach the AGM they are virtually certain of approval, since the crucial negotiations with major shareholders have already taken place beforehand. In fact, it is generally seen as inappropriate to let internal divisions surface in public or to use the shareholder meeting for actual decision-making. Tellingly, when smaller shareholders try to do that, it is often presented as a 'revolt' rather than the exercise of legitimate voting rights.

The Roman assemblies appear to have been imbued with similar expectations of consent which only concerted outside campaigning could reverse. It might even have been considered improper to use these 'ritual' occasions for 'political' ends, although from an ideological point of view it remained hugely important that the vote *could* go against the organiser; otherwise the meaning of the event – and the popular legitimacy derived from it – would be lost. Still, the voting patterns we can observe suggest this was a largely theoretical possibility – and intentionally so. In fact, it is a moot point whether the assembly had ever functioned as a decision-making body. Since the assembly in effect was *some* people symbolically representing *the* People, it could hardly have been allowed to behave as if it were the *populus Romanus*. Regular rejection of bills would have exposed the gap between the two, undermined its role as a formal representation of the *populus* and made the assembly a focus of contention rather than consensus.

The ritual status of the assembly was challenged only in exceptional instances, when dissident members of the elite brought their disagreements into a realm that was normally insulated from political strife. In those instances it was a question of politics 'spilling over' into the ratification

[34] North 2002.

procedure, which was usually kept separate. The taboo associated with such behaviour is underlined not just by the rarity with which it happened but also by the consternation it appears to have caused. The implication is that opponents of a bill generally accepted that when it finally – even after much debate, perhaps even acrimony – was put before the assembly the battle to prevent it becoming law was over – and effectively lost. Despite the small numbers required to change the outcome there seem to have been virtually no attempts to mobilise counter-crowds to block contentious bills. Even during the turbulent – and exceptionally well-documented – first century there are no recorded rejections, suggesting the assemblies retained their traditional role as purely affirmative bodies, passing laws of widely different political colouration and intent with almost mechanical predictability.[35]

In 58, Cicero wrote several letters to Atticus from his exile, discussing the campaign for his recall and the obstacles it faced. Among them were the *sanctio* clauses included in Clodius' law, which sought to prevent even the discussion of Cicero's restoration, as well as the risk of a tribunician veto, which appears to have been his primary source of concern.[36] What is strikingly absent from these deliberations is any worry that the assembly might turn the bill down.[37] Similarly, a few years later in 56, Cicero discussed the various proposals to restore King Ptolemy of Egypt in letters to Lentulus Spinther, noting that 'As for the role of the people [i.e. the assembly], I think we have so managed that no proceedings in that quarter are possible without violation of the auspices and the laws, in fact without violence', which suggests that the preferences of the 'people' were entirely marginal to the discussion.[38] The question was which proposal managed to get before the assembly, not what the assembly thought about them.

Violence and disruption, along with tribunician intervention, became the common means of preventing proposals from becoming law – rather than comitial rejections. An imaginative alternative to this strategy is recorded in 61, when the senate compelled the consul Pupius Piso, despite his support for Clodius, to put forward a bill regarding the latter's trial for sacrilege, which suspended normal rules for juror selection. To sabotage

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[35] *Pace* Morstein-Marx 2013.

[36] *Att.* 3.15.6 (SB 60), Cicero wondered whether the abrogation could go through without the unanimous approval of the tribunes, 'ac si per populum, poteritne nisi de omnium tribunorum pl. sententia?'. Cf. 3.23.1–5 (SB 68); 3.24.1 (SB 69).

[37] Cf. Cic. *Q. fr.* 1.4.3 (SB 4), where he expresses concerns about Clodius' gangs and a possible tribunician veto, but not about getting the bill through the *comitia*.

[38] *Fam.* 1.2.4 (SB 13): 'Quod ad popularem rationem attinet, hoc videmur esse consecuti, ut ne quid agi cum populo aut salvis auspiciis aut salvis legibus aut denique sine vi posset', cf. *Fam.* 1.4.3 (SB 14).

his own bill Piso allegedly distributed voting ballots without any yes signs (or only no-ballots), suggesting this was the safest, perhaps the only, way to prevent its routine ratification in the assembly. As it happened, leading senators intervened before it came to a vote.[39]

But if legislative assemblies were civic rituals invested with an intrinsic logic that was hardly ever challenged by those taking part, the question is why anyone took the trouble to turn up. What was the point of investing time and effort, if, as it seems, the result was entirely predictable? The issue must be put into perspective, since numbers are likely to have been quite small, for practical as well as political reasons. As we saw, there are indications that attendance might be extremely low, so low that some *tribus* might not even be represented (Cic. *Sest*. 109). Nevertheless, some citizens obviously did turn up, and although their motivation can only be conjectured, we cannot exclude the possibility that participation in civic rituals of this kind may have conveyed a sense of community and shared citizenship.[40] Performing one's role as a Roman citizen made sense as a re-enactment of the basic values of the *res publica*, providing a collective, civic experience, irrespective of the outcome. Still, whatever attraction the assemblies may have held, comitial attendance never became a regular part of daily life in the capital, or one that attracted large sections of the populace; for the bulk of the city's inhabitants the assemblies must have remained outside their normal field of experience.

If those who voted in assemblies by necessity represented a small sub-section of the urban population, the question is who they were. In formal terms the assembled crowds always represented the *populus Romanus* and the sources consistently describe them as such, which means we have little concrete evidence to go by. Still, the fact that Roman assemblies were both frequent and time-consuming, and no effort was ever made to encourage mass participation, practically, politically or financially, would *a priori* militate against substantial 'working-class' turnouts.[41] In many cases, participation would have meant personal sacrifices of time and income, for which the celebration of citizenship and *libertas* is unlikely to have provided adequate compensation.

It follows that the politically active section of the population was most likely the one with sufficient time and resources, which should come as no surprise since typically that has been the case in most polities. Rome was,

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[39] *Att*. 1.14.5 (SB 14): 'operae Clodianae pontis occuparent; tabellae ministrabantur ita ut nulla daretur "uti rogas"', cf. Luisi 1995; Flaig 2003: 188–91. Nicolet 1970: 125 suggests that voters received two ballots, one for and one against, and Piso failed to distribute any of the latter.
[40] As suggested by Jehne 2013a: 119–21.   [41] *Pace* Jehne 2006a; 2013a.

like other pre-modern societies, characterised by a vast distance between rich and poor, and the existence of a substantial, middling group of 'ordinary Romans' somewhere between these extremes cannot be taken for granted.[42] Roman society was not just deeply polarised but also in many respects divided and layered along lines very different from those of later Western societies. The extensive use of slaves and freedmen in all parts of the economy would have prevented the emergence of an educated, professional, urban class comparable to those constituting the middle classes of the early modern period.[43] At the same time, large-scale population movements – and the absence of any social safety net – must have provided fertile ground for the emergence of a substantial underclass.[44]

In the city of Rome the differentiation would have been particularly complex. Economically, we must envisage a social scale which included the structurally poor, who lacked stable income and/or residence; dependent as well as independent skilled workers; residents with modest businesses that relieved them of manual work; and finally more substantial property owners ranging from the affluent to the super-rich. The economic scale was intersected by legal distinctions (citizens/non-citizens, free/unfree, freed/freeborn), and ethnic descriptors (native Romans, Romans of Italian origin and provincials). Residency also played a role, given the likely scale of immigration, where we must distinguish between seasonal workers, immigrants and long-term residents. Finally, there were questions of social relationship and connections, since some Romans enjoyed elite patronage, while others did not; some were embedded in local social networks, whereas others, perhaps recent arrivals, were socially more isolated. Given these multiple social, economic, legal, and ethnic subdivisions of the Roman population the search for the elusive 'man in the street' faces insurmountable obstacles. Certainly, the simple equation of 'ordinary Romans' with independent and reasonably comfortable shopkeepers and artisans will no longer do.[45]

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[42] Scobie's 1986 study of poverty in Rome remains a classic. Scheidel and Friesen 2009: 62 suggested a wide gap between rich and poor, concluding that: ' . . . the vast majority of the population lived close to subsistence . . . '. They also identify a separate 'middling group', distinct from the elite, but such a category is likely to have been quite fluid, economically as well as socially, cf. Mouritsen 2015b.

[43] As already Finley 1983: 11 observed: ' . . . we must sedulously avoid the modern corollary of a substantial middle class with its own defined interests'. For the recent attempts to invent such a class, e.g. Veyne 2000 (whose 'plebs media' is adopted by Courrier 2014: 299–421) and Mayer 2012, see Mouritsen 2012; Wallace-Hadrill 2013. On the impact of slavery on Roman social structure, see Mouritsen 2011b; 2015b; 2017.

[44] Morley 2009; Scheidel and Friesen 2009; Holleran 2011.   [45] See also Holleran 2012.

Politics would logically have been the preserve of the *boni*, who enjoyed the leisure, interest, and information required to take part. As John North observed: 'All theories have to reckon with the possibility that the voters were in fact only a slightly wider section of the political elite than the senatorial class, and that the whole political process had little or nothing to do with the poorer classes in Roman society.'[46] Most likely, comitial participation was considered a natural part of the lifestyle of the Roman gentlemen who frequented the Forum on a regular basis.[47] When a bill was to be ratified, they probably obligingly performed their civic duty and spent some hours in the voting pens, conversing with their fellow *tribules*.[48] The attendance of these groups must have contributed to the conformity of the *comitia*, since the participants broadly belonged to the same propertied classes as the politicians themselves, with whom many would have been personally acquainted. They were, in other words, not just those with the greatest ability and motivation to be there; they probably also were those with the least inclination to assert themselves against the office-holding class. A broad community of interest would have linked politicians and voters.

This understanding of the *comitia* as political and to some extent social rituals brings us back to the role of the *contiones*. The centrality of these meetings is well documented, although their connection with the legislative process has turned out to be tenuous at best. There is little evidence that they served as crucial testing grounds for new policies, whose fate depended on a positive reception at the preceding *contiones*. We may therefore look for their significance elsewhere.

Audience and Communication at *Contiones*

The Roman *contio* presents us with a fundamental paradox: their importance to the political process seems beyond doubt, but we cannot pinpoint precisely what made them so important. They were held with great frequency and treated as occasions of genuine significance. Indeed, politicians addressed the small, in principle arbitrary, audiences as if they really

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[46] North 2007: 274–5.
[47] On the clearing of the Forum of traders and its transformation into a formal, representative space during the republic see Morel 1987; Hölscher 2001: 190–202. On the remaining trades, see Papi 2002.
[48] Paradoxically, the Roman elite were expected to know their *tribules* personally, despite the fact that each *tribus* counted thousands of widely-dispersed members, cf. e.g. Cic. *Att.* 1.18.4 (SB 18); 1.19.5 (SB 19); *Fam.* 13.23.1 (SB 289); 13.58.1 (SB 140); *Comm. pet.* 17, 24. Most likely, however, they were directly acquainted only with the small circle of prominent *tribules* that regularly participated in *comitia*.

mattered – despite the fact that they took no decisions. In recent years the *contio* has taken centre stage in discussions about the nature of Roman politics and has, depending on approach, come to represent either democracy in action or – less commonly – democracy subverted. For many historians, *contiones* stand as incontrovertible manifestations of basic democratic principles expressed through regular communication between leaders and masses and the public testing of political arguments.[49] As we saw, modern interpretations of the *contio* have tended to focus narrowly on the link between *contiones* and legislative assemblies. This connection is, of course, irrefutable, at least at a strictly procedural level, but it could be argued that the two types of meetings were essentially different in nature and served very different purposes.

As a starting point for exploring the *contio* we may consider the simple questions: 'who was talking to whom – and why?' Recent scholarship has paid relatively little attention to practical issues of attendance, concentrating more on the communicative process itself, the rhetorical strategies and the debates performed in front of this audience. Most often the Romans' own definition of political crowds as the *populus* has been accepted at face value.[50] In formal terms, that is, of course, perfectly true; any gathering of people, no matter how small and unrepresentative, convened by a magistrate according to the established rules, *did* represent the *populus*. However, as a description of the actual crowds, their social composition and economic profile, it is evidently of little use. The challenge is therefore to move beyond this constitutional fiction, which is so pervasive in our sources that we have almost nothing to go by when trying to discern who were actually there. Still, the scarcity of evidence does not allow us to ignore the issue, let alone to reduce the complex social reality of republican Rome to a binary division of leaders and masses, mirroring the constitutional duality of *senatus populusque Romanus*.

There are good reasons for doubting the conventional image of socially inclusive events filled with crowds of 'ordinary Romans', or at least a broad cross-section of all classes and orders. Already by the middle republic Rome had become a metropolis where the Forum Romanum no longer

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[49] The extent of this communication should not be overstated. Most senators never addressed a *contio*, and many reached high office with minimal contional experience, cf. Mouritsen 2013.

[50] E.g. Flaig 2003; Tiersch 2009: 58, who referred to 'Kommunikation zwischen Senat und Volk'; Yakobson 2010. Beness and Hillard 2012: 279 described the crowd as 'a broad cross-section'. Even Hölkeskamp 2010: 72 refers to participants as 'the mass of ordinary citizens', and suggests that the 'audience represented . . . the *populus Romanus* and its *res* – and by no means only in an abstract and detached ideological sense'.

functioned as the local village green. As Rome outgrew the boundaries of a simple, face-to-face society, the notion of the Forum as a shared space where high and low mingled with each other becomes increasingly anachronistic. Not only were there fundamental logistical obstacles, but the socio-economic logic of Rome's growth also led to spatial differentiation and a concentration of elite activities in and around the central square, including court proceedings, financial transactions, high-end shopping and, of course, politics.

It should come as no surprise therefore if it was the leisured classes, with time, interest and resources, who attended the *contiones* as well as the *comitia*. This would conform to a typical pattern observed in many societies across time; as Kostas Vlassopoulos noted: ' … Athens was exceptional in the degree it decided to use communal resources to enhance the participation of ordinary citizens. For most other political communities, from antiquity until modern times, the fact that the largest part of the population had to devote their time to making a living, provided a natural justification for confining the "political nation" to an elite of leisure and wealth, which was able to devote itself to public affairs.'[51] In Rome, no steps were ever taken to promote participation, neither were any financial rewards offered as compensation to the working population. It is therefore not obvious why Rome, uniquely among known polities, should have bucked what otherwise appears to be a universal trend.

The notion of diverse crowds with a substantial 'popular' presence raises a number of practical and political issues. How did the small plebeian minority that might have attended a given *contio* constitute itself? Were they simply passing by the Forum and somehow lingered to listen to speeches? Or did they go there specifically to hear more about a political issue that interested them? As we saw, Nippel suggested they were 'supporters of a particular proposal'. But how would they know about the proposal when the topics of *contiones* were not advertised in advance? And what about the meetings that were held by opponents of a proposal or dealt with quite uncontroversial issues? Moreover, if people generally turned up to endorse a politician, the character of *contiones* becomes more akin to partisan gatherings than the open communication between leaders and masses envisaged by modern historians.

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[51] Vlassopoulos 2010: 81. Among Roman historians the new paradigm is now so well established that my own attempt (2001) to restate what used to be the conventional position has been described as 'the most controversial contribution to the discussion', Beness and Hillard 2012: 279. Cf. e.g. Tiersch 2009: 46–7 n.42.

Alternatively, as we saw, it has been suggested that the meetings were filled by a regular '*plebs contionalis*', composed of shopkeepers and artisans from around the Forum. Such a crowd would not, of course, have represented the '*populus*' any more than the men of leisure, who tend to dominate participatory politics, and the theory also raises issues of practical and economic feasibility. Some *tabernarii*, as Jehne noted, may have been able to put slaves and relatives in charge when they wished to attend *contiones*.[52] However, the notion of a distinct '*plebs contionalis*' implies regular participation in events held almost daily over extended periods. In that case their political activity becomes a full-time occupation rather than an occasional pastime. The '*plebs contionalis*' presents an insuperable paradox; not only would these small traders seem to be those with the least time to spare, but the theory also implies that the Forum was largely empty apart from them. But in reality they would, of course, at any time have been outnumbered by the affluent customers who frequented their shops and by all those who came to do business and politics in and around the Forum. In his speech for Flaccus, Cicero noted the difference between Greek and Roman assemblies, the latter being characterised by a more elevated social profile; indeed the Forum was 'full of courts, full of magistrates, full of the most eminent men and citizens'.[53] Did these crowds suddenly vanish from the Forum whenever a *contio* was called, leaving the political centre to small traders and craftsmen who rushed to take their place?

A further question concerns the motivation of the putative '*plebs contionalis*'. What would have induced these relatively humble citizens to spend so much time at meetings where their role was limited to that of passive listeners? It has been suggested that members of the lower classes might have been drawn to *contiones* by the attraction of hearing aristocratic leaders of state addressing them in elevated terms as the *populus* and pleading for their support.[54] It is not difficult to imagine how such performances, however formalised, of the basic tenets of the *res publica* – and the reversal of social hierarchies it involved – may have appealed to disadvantaged Roman citizens who otherwise had little to feel proud of in their lives. But in that case we are dealing with a general motivation, in

[52] Jehne 2013a: 121. Cf. p. 63 above.
[53] *Flac.* 57: 'plenum iudiciorum, plenum magistratuum, plenum optimorum virorum et civium'. There are plenty of references to politicians and their followers occupying the Forum, e.g. Cic. *Div. Caec.* 50; *Mur.* 21, 44; *Att.* 1.18.1 (SB 18); 2.1.5 (21); *Comm. pet.* 2, 54, and to wealthy businessmen filling the space, Cic. *Man.* 19; *Comm. pet.* 29.
[54] Jehne 2013a; 2013b; 2013d.

principle shared by most Roman citizens, which only a very small minority acted upon – and indeed did so with remarkable frequency. If people generally enjoyed listening to their social superiors extolling the greatness of the *populus Romanus*, why did only members of the '*plebs contionalis*' turn up? There seems to be an incongruity between the universality of the impulse and the very limited response it triggered, effectively restricted to those running small businesses within short walking distance. And while the theory may explain popular participation from a psychological per-spective (if not its localised nature), it leaves other questions open; why did the elite attach such importance to the events if they merely involved addressing the same (humble) crowd of regular meeting-goers? What was it about these traders that made the elite invest such time and effort into persuading them of their case?

Studies of (published) speeches delivered at *contiones* have concluded that they assume a surprisingly detailed knowledge of a wide variety of subjects ranging from history to law and politics.[55] When reading Cicero's surviving contional addresses one is struck not just by their considerable length but also by the complexity of the arguments and the scope of their cultural references. This takes them well beyond the rousing 'pep talks' one might have expected if he had been addressing a heterogeneous crowd composed of people from all walks of life. Most Romans had probably received little formal education and enjoyed limited access to reliable information about politics and current affairs.[56] The preserved speeches therefore suggest an audience belong-ing to the relatively narrow social stratum whose background and social connections enabled them to grasp their content and implication. Most historians nevertheless assume relatively broad popular involvement in Roman politics, albeit on a paradoxically small scale. The suspension of the class distinctions and economic constraints that normally govern political participation places Rome in a unique historical position. The departure from the norm which that represents would seem to put the onus of proof on the proponents of this theory. However, looking more closely at the evidence reveals remarkably little support for the idea of widespread lower-class participation.

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[55] Morstein-Marx 2004: 117 concluded that: ' . . . the audiences of public speeches were expected to be quite aware of the Roman past and present, and were treated as involved and regular participants in political affairs', which hardly sounds like a description of the urban masses of a pre-modern metropolis. Cf. Williamson 1990: 271; Van der Blom 2010: 118; Jehne 2011: 123 n.25.

[56] On literacy, Harris 1989 is fundamental, cf. Mouritsen 2015c. On political information, see Laurence 1994.

The most famous reference to the social profile of contional crowds comes from July 61, when Cicero pondered the benefits of friendship with Pompey. Among the advantages was the support of – or at least peace with – the crowd that adored the great general, which Cicero dismissed as 'that miserable and starving mob that goes to *contiones* and sucks the treasury dry'. In the same context he even called them 'sordem urbis et faecem'.[57] While this passage would at the very least suggest a socially diverse crowd, there are also occasions where the audiences at *contiones* are associated with the elite. Thus, when describing Pompey's troubles in 56, Cicero mentions that the 'contionarius populus' was practically estranged from him, the nobility hostile, the senate unfair and the youth wicked.[58] The close link between the 'contionarius populus', the *nobilitas*, the senate, and the *iuventus*, a term normally used to describe younger members of the aristocracy, suggests we are here dealing with a far more elevated section of the *populus* than the mob dismissed by Cicero in 61.[59] His comments on the whole-hearted support for Bibulus and Curio in their stand against Caesar in 59 also suggest a Forum crowd dominated by the well-to-do. For example, he notes the popularity of Curio in the Forum, where Caesar's man Fufius is pursued by the *boni* with shouts and hisses, while also stressing the popularity of Bibulus, whose edicts and *contiones* are written down and read by the Forum crowd.[60]

Given the scarcity of ancient evidence, the theory of broad popular participation ultimately seems to rely on the assumption that contional crowds would not have been described as the *populus Romanus* unless they bore some relation to the populace as a whole. But here we have to bear in mind that in Roman political discourse any formal gathering automatically assumed the status of the *populus*. Although it would have been evident to

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[57] *Att.* 1.16.11 (SB 16): '. . . illa contionalis hirudo aerari, misera ac ieiuna plebecula'. Cicero's reference to 'imperitissimi' attending *contiones* is not a generalisation about contional crowds but a hypothetical scenario where 'even the most ignorant' are able to see through the populism of some speakers, *Amic.* 95: 'contio quae ex imperitissimis constat'. Cicero therefore never characterises contional crowds in general terms as 'imperiti', *pace* Jehne 2011: 115; 2013a: 121; 2014b: 130. The oratory aimed at 'auribus imperitorum', mentioned in *Brut.* 223, relates specifically to *contiones* of *seditiosi*, whose crowds are often denounced as such. Moreover, even jurors, all belonging to the elite, could be described as 'imperiti' in some contexts, Cic. *Fin.* 4.74, and in *Brut.* 184–9 Cicero distinguishes between 'imperiti' and 'docti', the latter being experts in oratory.

[58] *Q. fr.* 2.3.4: 'contionario illo populo a se prope alienato, nobilitate inimica, non aequo senatu, iuventute improba'.

[59] *Pace* Wiseman 2009: 2, who took these two passages as proof of the plebeian profile of political crowds. He also invoked Cicero's reference to 'turba et barbaria forensis', *De orat.* 1.118, which describes rowdy crowds attending trials and therefore is unrelated to the question of political participation, cf. Mouritsen 2013.

[60] *Att.* 2.18.1 (SB 38); 2.20.4 (SB 40); 2.21.4 (SB 41).

any observer that speakers in the Forum did not address 'the people' but 'some people', the Romans consistently used the abstract term *populus* to describe them. Cicero could, for example, publicly declare that in 63 'populus Romanus universus' had been present at the *contio* which unanimously approved his actions (*Pis.* 7). Despite the obvious hyperbole it was from a constitutional perspective perfectly true. The problem arises when this convention is taken at face value as a description of the actual crowds.

The willingness to accept the constitutional fiction of the *populus* is in many respects puzzling and may deserve closer consideration. It probably reflects the new emphasis on the 'power of the people' in Rome, which can itself be seen as part of a broader cultural shift in Western academia over recent generations. There is now much greater interest in writing history 'from below', focusing on the lives of 'ordinary' people, with a view to recovering their experiences and voices. In the study of ancient Rome this trend has revived the study of, for example, slavery and gender, while in the field of republican political history we have seen a reaction against the attitudes prevalent in much older scholarship and expressed, for example, in concerns about the dangerous urban 'mob'. Following this change in outlook historians have become more inclined to present 'the people' as a valued and responsible participant in the political process, no longer an apathetic, let alone irresponsible, underclass, but informed agents with views and interests actively pursued in public fora. This retrospective 'empowering' of the Roman plebs raises some historical as well as ethical issues, however. Attributing to the masses an influence they did not have adds little to our understanding of Roman politics, and there is a further risk that by 'rehabilitating' the plebs in this way we may end up downplaying the poverty and deprivation which large parts of the urban population must have suffered.

The picture of an almost modern 'middle class' attending the Roman assemblies – broadly educated, financially comfortable, politically engaged – may be an understandable response to the 'fickle mob' stereotype that once dominated modern historiography. Restoring the dignity of the much-maligned Roman masses has indeed been long overdue but we should at the same time not overlook the abject destitution many of them experienced. The social landscape of the metropolis must have been dominated by a wide gap between rich and poor, and the former's extensive reliance on unfree and tied labour probably left little room for an independent and secure, 'middling' social category to emerge. Viewed from this perspective it may be more realistic to assume that the bulk of the urban citizens were absent from political events. Their very poverty alienated

them from the world of the governing classes, for whom they remained a marginal and largely undifferentiated mass, usually described in generic, derogatory terms as the *vulgus* or *multitudo*. This marginality was only in part due to aristocratic snobbery, although that, of course, was manifest; the main reason the masses – as opposed to the abstract *populus* or the hugely important *boni* – feature so little in elite discourse was precisely their limited ability to shape political events through the formal channels.

Doubting how much real power the Roman plebs exercised is therefore no different from acknowledging the limited influence of other under-privileged classes throughout history. These may well develop rich 'political cultures' of their own, but we rarely hear about them, and by necessity they tended to remain separate from the world of official politics. Accepting the political marginalisation of the plebs does not, in other words, make them 'apolitical'; it merely implies that their interests and concerns were distinct from those of the elite and probably pursued through different means. These means were primarily direct action, informal gatherings and riots, their strength lying in superior numbers and in the latent threat that posed to the elite. As Finley rightly observed: ' . . . it would not be far from the truth to say that the Roman *populus* exercised influence not through participation in the formal machinery of government, through its voting power, but by taking to the streets, by agitation, demonstrations and riots, and this long before the days of the gangs and private armies of the civil-war century'.[61] The fact that the people lacked effective constitutional representation did not entail that the people had no objective political interests or that power in the Roman state was not being constantly negotiated; but their part in this negotiation took place largely outside the official framework.[62]

Why Did the Romans Hold *Contiones*?

This conclusion takes us back to the purpose and function of *contiones*. Understanding Roman *contiones* presents modern historians with a very particular challenge, since they operated on a symbolic/ideological level while at the same time fulfilling an important practical role in the political process. The two sides are closely entwined and any interpretation must seek to accommodate both. *Contiones* were an essential part of Roman

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[61] Finley 1983: 91.
[62] In *Ver.* 2.5.143, Cicero stresses that the people exercise its influence through *existimatio* (public opinion) and *frequentia* (numbers).

political life, which no politician could entirely ignore. They were not simply instruments of persuasion used to prepare new legislation. The *contio* embodied the fundamental principles of the free *res publica*, founded on *libertas* and popular 'sovereignty'. This premise automatically lent the political process a strong public aspect, since the *populus* formally had to be consulted and informed on all issues, and the ideological significance of the *contio* lay precisely in the fact that it represented the public side of the political process. It could therefore be hailed as one of the basic institutions safeguarding the republic against tyranny. In Cicero's long letter to Quintus on provincial governorship it is, for example, the *contio* rather than the *comitia* that features among the pillars of freedom and security.[63]

The *res publica* as a political system based on the sharing and devolving of power was entirely dependent on the observance of open, transparent procedures. The senate, for all its influence on foreign and domestic policy, did not function as a parliament and could never do so. Not only did it have limited formal powers, but it was also an exclusive body whose proceedings remained inaccessible to the *populus*. Roman politics, on the other hand, was by definition public in the sense that it had to take place in the open and in principle be available to all citizens. For that reason, debates could never be confined to the Curia, and it was the *contio* that formally constituted the principal guarantor of the people's *libertas*. All matters of state, including routine transactions, had to be announced before the *populus* (however notional) in order to gain validity, and all new initiatives had to be presented to successive *contiones* before they could be ratified in the *comitia*. *Senatus consulta* were read out at *contiones*, and in 59 the candidates were obliged to pronounce a curse clause, *exsecratio*, at a *contio* for the simple reason that otherwise it would not have been public.[64] Cicero therefore also renounced his province at a *contio* and could refer to a letter read out in a *contio* in the sense of being brought to the public's attention.[65]

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[63] *Q. fr.* 1.1.22 (SB 1), on the situation in the provinces where governors rule supreme, and 'nullum auxilium est, nulla conquestio, nullus senatus, nulla contio'. Similarly, the famous fragment of Fannius' speech against the extension of citizenship to the Latins, Malcovati *ORF* 1.32.3 = Iul. Vict. 41.26, warned that the old citizens would be crowded out of the *contiones* (not the formally much more important *comitia*) and their games and festivals, presenting the public meetings as one of their essential civic privileges.

[64] Cic. *Att.* 2.18.2 (SB 38). In *Att.* 2.24.3 (SB 44) he also mentions that Vettius was presented at a *contio* to give his version of the nebulous affair named after him, cf. *Sest.* 132; *Vat.* 24.

[65] *Fam.* 5.2.3 (SB 2); *Att.* 8.9.2 (SB 188). In *Att.* 15.15.2 (SB 393) fit for being 'read out in a *contio*' ('in contione dicere auderem') means suitable for public knowledge. For that reason Cicero could also mention a letter that contained nothing that could not have been read out at a *contio*, i.e. cause any embarrassment, *Fam.* 7.18.4 (SB 37).

Some *contiones* famously became the scene of heated exchanges and confrontations, but by focusing too closely on these incidents we may miss the real significance of the *contio* as the public face of the political process in general, providing a stage for all kinds of events ranging from humdrum announcements to dramatic debates. The convention that public actions must take place in full view of the *populus* was vital not just to the ideological construction of the *res publica*, but also to the political process itself, which required openness and consultation with groups outside the office-holding class. Thus, if we move beyond the simple equation of the constitutional *populus* with the actual people, it becomes apparent that outside the ranks of the senate there existed a substantial affluent stratum, which in many respects constituted the senators' political 'hinterland'. As already noted, Roman society had become far too complex and stratified to be captured by the simple duality *senatus populusque Romanus*. The senators were not identical with the elite; neither did they exist in a social vacuum. The politically active section of the elite was embedded in a broader class of the well-off, whose opinions could not be ignored.

Alongside the senators we find *equites*, whose wealth often exceeded that of their formal superiors, and even below the two highest *ordines* there would have been many with considerable means that relieved them of the need to work. Our sources typically refer to them as the *boni*, that is, respectable well-to-do pillars of society who commanded the respect and attention of the rulers of the Empire. These were people who mattered to the political class. Many of them had personal contacts with those in power, and through their domination of the first census class they held a controlling stake in the distribution of the highest offices. They probably also represented an important constituency in what might vaguely be called 'public opinion(s)', the sentiments and views heard when people met in the Forum, at morning receptions and at private social gatherings.[66] Communication between office holders and *principes* and this social and political 'hinterland' remained vital, and it may partly be the need for winning their hearts and minds that gave the *contio* its key role in Roman politics. As Cicero's speeches make clear, 'consensio omnium bonorum' remained a central value in political arguments, and it was above all at *contiones* that it was solicited and claimed.

Contiones were essential parts of an ongoing public dialogue about state affairs and policy, but they also served an important function in regulating

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[66] For example, in *Att.* 7.13.3 (SB 136) Cicero expresses his concerns about 'opiniones' in Rome, in this case clearly those of the *boni*.

the legislative process. 'Public opinion' (however socially restricted) was a powerful tool in political negotiations and manoeuvrings, not necessarily because opposition might lead to rejection in the assembly (virtually unheard of, as we saw), but because it put real pressure on the key players. The Roman practice, by which the assemblies gave almost automatic approval to new proposals, may have succeeded in limiting direct popular input into decision-making, but it also left the magistrates with dangerous amounts of personal power. To prevent officials from making laws at will, a range of safeguards were developed, including the convention that proposals be approved by the senate beforehand, the principle of magisterial collegiality and the ability of tribunes to block each other's bills. Finally, when all these instruments had failed, the possibility remained that the law might be subsequently annulled on procedural grounds. Ideally, however, proposals that proved controversial and unacceptable to substantial sections of the elite would be quietly dropped. It is in this context that public speeches become significant as means of shaping 'public opinion' on any given issue.

The statutory, pre-comitial *contiones* held over a period of three market days were important because they offered a breathing space which allowed opponents to intervene and mobilise 'public opinion' against a bill. But rather than the mechanical scenario of audiences rejecting proposals that were then withdrawn to avoid defeat, we may envisage a more subtle process where meetings were called in order to build up momentum in public opinion for or against a proposal. Ideally, the magistrate would abandon the idea when faced with sufficiently strong opposition. Alternatively, a tribune might be persuaded to intervene and bring a swift end to the initiative, as happened in 63 when Cicero opposed Rullus' agrarian bill. Both sides made their case at competing *contiones*, and eventually the tribune L. Caecilius threatened a veto that forced Rullus to withdraw.[67] Whether Caecilius had been so impressed by Cicero's arguments that he felt compelled to intercede we cannot tell. But if Cicero's alarmist revelation of hidden dangers in Rullus' scheme had swayed opinion among important sections of society, it might well have encouraged the tribune to act. Much of the politicking would undoubtedly have taken place behind closed doors; still, the *contio* was where these issues were officially brought to the attention of wider sections of the elite.

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[67] Cic. *Sul.* 65. Despite the doubts of Jehne 2013d: 51, it is difficult to see why Rullus otherwise should have withdrawn his carefully prepared *rogatio*, which – like any other bill – must have been virtually certain of ratification had it reached the *comitia*.

The potential link between *contiones* and tribunes draws attention to the intriguing pre-comitial debate known in modern literature as the *suasio-dissuasio*.[68] This was a formalised debate for and against a proposal held just before the *comitia* was about to vote. Some ancient authors, above all Livy, present it as a constituent part of the legislative process, the final opportunity for opponents and supporters of a bill to make their points before the assembled voters. The institution poses interesting questions given the voting patterns observed above, which imply that counter-arguments invariably failed. However, if this debate was merely another part of the 'ratification ritual', and in effect a piece of political theatre, the decision of opponents to speak up, sometimes with great fervour, becomes inexplicable. It suggests that despite the absence of comitial rejections they may have been politically significant at a different level.

The so-called *loca intercessionis* are particularly interesting in this context, since they indicate a connection between the *suasio-dissuasio* debate and the tribunician veto.[69] This rule referred to the particular moment in the proceedings when a tribune could legally submit his veto.[70] The sources indicate that a tribune had to wait until the formal debate had come to an end and all interested parties had had the chance to make their case. The implication is that the tribunes were a primary – and entirely logical – target of the arguments presented; at this late stage the fate of a bill effectively lay in the hands of these officials who decided whether to withdraw or maintain a veto.[71] For that reason tribunes were required to wait and listen to both sides before blocking a proposal or allowing it to become law. This function explains the apparent urgency of some reported debates, which may have been less about swaying the minds of voters than persuading tribunes one way or the other. Rhetorically, they were, of course, shaped as addresses to the *populus Romanus*, to whom all public oratory in principle was directed.

One of the fullest accounts of a *suasio-dissuasio* debate comes from Livy's description of the repeal of the *lex Oppia* in 195 (Liv. 34.1–8). The speeches

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[68] Mommsen 1887: 3.394–6.
[69] As already noted by Mommsen 1887: 394 n.3. The pivotal role of the tribunician veto is illustrated by Cicero's comment that one can always find a compliant tribune to obstruct a bill, 'quod enim est tam desperatum collegium, in quo nemo e decem sana mente sit?', *Leg.* 3.24.
[70] In 169, tribunes blocked the praetor who tried to declare war on Rhodes without the senate's approval but violated the *loca intercessionis* rules by interceding too early in the proceedings, Liv. 45.21.6–8. The issue was also raised at the trial of C. Cornelius, Asc. *Corn.* 71C. Meier 1968; Rilinger 1989.
[71] Illustrated by the case from 137 when Scipio Aemilianus persuaded a tribune, M. Antius Briso, to abstain from vetoing the *lex Cassia tabellaria* on secret balloting at trials, Cic. *Brut.* 97, cf. *Leg.* 3.37.

may be Livy's own invention, but they adhere to the format and conventions followed on such occasions.[72] Two tribunes, M. and P. Iunius Brutus, had announced their intention to veto the bill. Nevertheless, both sides of the debate ostensibly sought to persuade the *populus* to endorse or reject the repeal, despite the fact that their voting intentions would have been irrelevant if the interceding tribunes persisted. Therefore, whatever form the argument may have taken, the real target must have been the tribunes who decided the outcome. A similar subtext is apparent in one of the best recorded debates of the late republic, which concerned the *lex Manilia* of 66. In Cicero's *suasio*, he explicitly warned any tribune contemplating a veto against Pompey's appointment, suggesting that they may have been the actual focus of the heated exchanges, rather than the large crowd which had clearly turned up to demonstrate their support for the popular general (*Man.* 58).

Although it may be possible to construe these debates as events of real political import, it does not follow that they were always part of the proceedings. If a proposal was uncontroversial, there was no obvious reason to go through the motions of a formal debate. And while they feature with some regularity in our sources, they are not nearly as common as one might expect. The *lex Oppia* episode belongs to the second century, from which most recorded instances seem to derive. Despite ample evidence from the first century, accounts of *suasio-dissuasio* debates are comparatively rare. A few attracted considerable attention, such as the passing of the *lex Gabinia* in 67 and the *lex Manilia* in 66, mentioned above. But the latter was also the only known occasion where Cicero, the pre-eminent orator of his day, appeared at such an event. The question is therefore how common the debates really were during this period. For example, *suasiones* and *dissuasiones* seem strangely absent from the surviving rhetorical literature as well as from the record of published speeches, fragmentary as well as complete.[73] Moreover, on several occasions during the first century no debate appears to have been held.[74] Most strikingly, in 58 it seems clear from our detailed record that the passing of Clodius' bill sending Cicero into exile was not preceded by formal interventions on his behalf; had that been the case, Cicero would undoubtedly have mentioned it along with the speakers on either side.[75]

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[72] Interestingly, in the entire corpus of Cato's rhetorical fragments there is no trace of his speech against the repeal of *lex Oppia*, cf. Perl and El-Qalqili 2002.

[73] *Contra* Russell 2013: 107. Exceptions include *Rhet. Her.* 3.4, 6; Cic. *Part.* 85.

[74] Hiebel 2009: 150–6 lists *suasiones-dissuasiones* in the late republic but fails to distinguish between 'ordinary' *contiones* and the final debate preceding the vote.

[75] Mommsen 1887: 395 n.4. *Pace* Hiebel 2009: 155.

So what had happened to this – supposedly essential – part of the political process? The powers of persuasion of the 'great and the good' may have become less effective in regulating tribunician activities than they used to be. The rise of the dynasts also upset traditional patterns of negotiation, providing a counter-weight to the authority of the *principes*. A veto, if submitted, was also less decisive than before, since the tribune in question could be deposed or his intervention ignored. At the same time, controversial bills might now be accompanied by violence and intimidation, rendering the safe conduct of formal debates more difficult. Presumably, it was now accepted that unless a bill could be prevented by force or religious obstruction it was destined to become law – which left annulment or repeal as the only remaining options.[76]

The *Contio* in the Late Republic

The political changes of the late republic did not leave the *contiones* unaffected. The works of Cicero allow little doubt as to the continued importance of public meetings, which were held with great frequency, sometimes daily. It is evident too that they were general talking points and objects of considerable attention in political circles. Their value was two-fold: providing vital public exposure for politicians, including young aspiring tribunes who wished to raise their profile, and mobilising 'public opinion' for or against new legislation. By garnering public goodwill among the wider political class, momentum could be created behind – or against – an initiative which would further or impede its progress. Finally, the ability to claim the full support of a contional audience, formally representing the entire *populus Romanus*, was intrinsically valuable and provided a considerable political boost.

As competition intensified in the late republic and political conflicts became more embittered, the senate's ability to maintain consensus gradually weakened. The effect on the *contiones* was probably a growing tendency towards more 'managed' meetings along with an attendant 'disintegration' of the institution as a political factor. In order to ensure a positive reception and a constructive outcome, organisers seem to have relied more and more on supportive crowds organised in advance. Public appearances could propel careers and programmes, while failure meant embarrassment or even humiliation. *Contiones* also became practical tools in the political struggles of the late republic when office holders would

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[76] See Heikkilä 1993.

summon opponents to *contiones* and interrogate them in front of hostile audiences. Politicians therefore preferred holding their own *contiones*, rather than turning up for those of their opponents. A rare glimpse of this dynamic comes from the speeches which Cicero delivered in 63 on Rullus' land reform. Rullus had first presented his complex and detailed bill to a *contio* towards the end of 64, the initial reception apparently being quite positive.[77] Cicero, however, denounced the plans, first in the senate and then at his first consular address to the 'people'. Rullus responded by calling another *contio*, to which he invited Cicero. The consul understandably declined, preferring instead to organise a meeting of his own, which he used to launch another attack on Rullus' proposal.

Therefore, despite the large number of meetings reported during this period we paradoxically find very few examples of open dissent or disagreement; audiences by and large seem to have endorsed the magistrate who had called the *contio*.[78] A large turnout could therefore be emphasised as a source of pride, since it indicated a strong level of support.[79] The political significance attached to the scale of meetings underlines this presumption; it also poses a problem for the theory of a *plebs contionalis*, which assumes the same regular crowd turned up for most meetings, irrespective of organiser.[80] Only in a few instances do we hear of *contiones* that failed in their aims, which, given the antagonistic climate of the late republic, suggests that they were indeed very rare. And even then it was more a case of crowds that remained lukewarm rather than turned against the organiser. For example, in 90 the audience of the tribune C. Curio simply deserted him in the Forum, while in 59 Caesar failed to rouse his audience to march on Bibulus' house.[81] Cicero (admittedly not an unbiased source) also claims that when Clodius addressed his brother Appius' *contio* even the *infimi* laughed at him.[82]

While these instances stand out for their rarity, it is nevertheless clear that *contiones* retained an element of unpredictability. However supportive the crowds may have been, much still hinged on the speaker's performance

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[77] As implied e.g. by Cicero's comment that they had not understood what the bill was about, *Agr.* 2.13.
[78] Walter 2009: 48 noted that after the Ides of March 44 popular expressions were 'alles anders als einheitlich' and following Morstein-Marx 2004: 151 he assumes a 'fundamental indeterminacy of the Popular Will'. Still, contional crowds, while politically inconsistent, were entirely dependable in their support for whoever had called the meeting.
[79] *Fam.* 11.6.2 (SB 356); *Phil.* 1.32; 4.1; 6.18; 14.16; *Agr.* 2.103; *De orat.* 1.225; *Sul.* 34.
[80] In *Agr.* 3.2, Cicero seems to imply that his audience had also attended Rullus' latest *contio* and been swayed by his arguments. Most likely, that is a rhetorical trope playing on the notional *populus Romanus* which all speakers formally addressed at *contiones*.
[81] Cic. *Brut.* 192, 305; *Att.* 2.21.5 (SB 41).   [82] *Att.* 4.2.3 (SB 74); *Har.* 8.

on the day. Speeches were carefully designed to elicit vocal support and to rouse the crowd to full enthusiasm, and what had been said at *contiones* and how individual speakers had fared were topics of general interest.[83] A successful appearance could enhance one's reputation, whereas a less glittering performance became an embarrassing talking point, as famously happened to Pompey at his first *contio* after his return from the East.[84] It showed that the strategy was not without risk – and explains the temptation to organise supportive crowds in advance.

How crowds assembled for *contiones* in the late republic can only be conjectured. Most likely we should envisage a range of different scenarios and types of mobilisation, from the tightly stage-managed to the purely spontaneous. Since Cicero is our main source we know more about the former, particularly those organised by his opponent Clodius and other so-called *seditiosi*. Cicero describes in detail how Clodius brought crowds into the Forum which had been raised in the neighbourhoods of Rome, the *vici*, through a network of local associations with intermediate leaders. This allowed him to call up followers at short notice and establish himself as a powerful presence in Roman politics, even as a mere *privatus*. It is in this context that we hear of working people being drawn onto the political scene, as happened when Clodius ordered the *tabernae* to be closed in 58.[85] The need for such radical measures to ensure wider popular participation is a striking reminder of their general absence.[86]

A well-known passage of Cicero's *Lucullus* also indicates that the masses had to be mobilised and drawn into the world of official politics. The speaker first asks: 'Why then, Lucullus, do you bring me into public disfavour and summon me before a *contio*, so to speak, and actually imitate seditious tribunes and order the *tabernae* to be shut?' He then goes on to accuse Lucullus of trying to stir up the craftsmen but warns that 'if they come together from every quarter, it will be easy to stir them on to attack your side'.[87] The description of this imaginary *contio* suggests it was not

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[83] Cf. Mouritsen 2013.   [84] *Att.* 1.14.1 (SB 14), cf. 2.21.3 (SB 41).

[85] *Dom.* 54, cf. 89–90. Similar steps were considered in 52 when the verdict in Milo's murder trial was to be announced, Asc. *Mil.* 52C, cf. 41C. It deprived traders and craftsmen of a day's income and can therefore hardly have been well received among members of this class.

[86] References to overcrowding at public meetings are extremely rare, the notable exception being Cicero's description of the passing of the *leges Gabinia* and *Manilia*, when Pompey's personal popularity undoubtedly played a part, *Man.* 44, 69.

[87] *Ac.* 2.144 (*Luc.*): 'Quid me igitur, Luculle, in invidiam et tamquam in contionem vocas, et quidem, ut seditiosi tribuni solent, occludi tabernas iubes?'; 'Qui si undique omnes convenerint, facile contra vos incitabuntur'.

a question of swaying the minds of a crowd of *opifices* who routinely turned up for meetings. Rather it indicates that they took part when politicians targeted them directly and encouraged them to do so.[88]

The rhetorical tropes associated with *contiones* are typically couched in dramatic language that gives the impression of lively mass events attended by broad sections of the population. This creates a peculiar dissonance between the ancient accounts of the meetings and the structural and socio-economic framework we are able to reconstruct. Cicero is fond of stressing the stormy and unpredictable nature of *contiones*, but again things may not always be what they seem.[89] For example, in the *Pro Cluentio* Cicero dwells on the *contiones* of the 'seditious' tribune Quinctius, who stirred up crowds against C. Iunius, notorious for his involvement in judicial corruption in 74. We are told that Quinctius, after reviving the *contio* in the aftermath of Sulla, became popular with 'a certain type of people', 'cuidam hominum generi', whose goodwill he later forfeited. The scale and force of these crowds are repeatedly stressed, but Cicero at the same time consistently describes them as 'stirred up'.[90] The political context also suggests 'top-down' organisation in this case; for the target of all this activity was the senate's control over the courts, an issue unlikely to be a major concern of the urban plebs, who were probably relatively unaffected by the senatorial juries. So, while Quinctius' *contiones* may have been rowdy and 'popular', they also appear to have been more or less staged-managed demonstrations aimed at intimidating political opponents.

How one organised a contional crowd must remain a matter of speculation. Clodius' local networks of personal supporters were clearly exceptional, but we do have scattered references to men who acted as semi-professional organisers of contional crowds. In the *Commentariolum petitionis*, Quintus Cicero mentions an intriguing group of people who 'contiones tenent', 'control *contiones*', probably individuals with a network of contacts that allowed them to influence the turn-out for meetings. Later, in his speech for Sestius, Cicero also refers to 'contionum

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[88] Cf. the designation of Clodius' man L. Sergius as 'concitator tabernariorum', *Dom.* 13. The same verb is used by Cicero to describe politicians who stir up *opifices* and *tabernarii, Flac.* 18.

[89] The broadly supportive crowds, noted above, are difficult to reconcile with the rhetorical trope of the orator calming and controlling the excited *populus*, e.g. Cic. *De orat* 1.31; *Mur.* 24. In practice, such a situation is highly unlikely, given the problems a speaker would have faced trying to make himself heard against a hostile audience. The unpredictability is implied in e.g. *De orat.* 2.339, on the avoidance of negative reactions.

[90] *Clu.* 110, cf. 'contiones cotidianas seditiose ac populariter concitatas', 93, 'incursionem potius seditionis', 'vim multitudinis', 103, 'per multitudinem concitatam', 108.

moderatores', who appear to have had a hand in managing crowds.[91] Sallust mentions 'organisers of crowds who were used to disturb the community for pay'.[92] Apparently, this was not a new phenomenon; already Scipio Aemilianus had been accused of using political organisers who loitered in the Forum and were able to drum up supportive crowds when called upon (Plu. *Aem.* 38.2–4).

The pre-organised – or even hired – crowds which we sometimes hear about probably belong at the extreme end of the scale. Most likely they were used predominantly by politicians who cultivated a more radical image that might alienate them from the usual Forum crowds. Thus at the opposite end of the continuum there may still have been *contiones* which conformed to conventional patterns and addressed anyone who happened to be present in the Forum. That would, as argued above, typically have been politicians, candidates and their retinues, businessmen and those with time and leisure to shop, socialise and watch court cases. The latter must have provided a primary source of entertainment for this constituency, supplemented by the regular *contiones* that offered a different type of oratory and the occasional taste of political drama. Given their ability to spend time in the Forum, these audiences probably shared a basic commonality of interest with the political class, which may have ensured a relatively sympathetic hearing for most speakers. Here the concept of 'weak preferences', which Flaig used to explain the general compliance of the *comitia*, may be most relevant, although it does not necessarily mean crowds were always calm and placid.[93] As Cicero noted in the *Pro Flacco*, Roman *contiones* were not free of rowdiness despite the elevated social standing of their audiences, and the crowds making up the *corona* at trials were also known for their unruliness, reminding us that the Roman elite did not always follow modern middle-class norms of polite public conduct.[94]

Even speakers appealing to these broadly 'friendly' crowds may therefore have done so with a degree of trepidation; it is perhaps not by chance that Cicero capitalised on the opportunity offered by his inaugural consular address to deliver his long speech against Rullus before an influential and

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[91] *Comm. pet.* 51; cf. *Sest.* 125: 'Ubi erant tum illi contionum moderatores, legum domini, civium expulsores? Aliusne est aliquis improbis civibus peculiaris populus, cui nos offensi invisique fuerimus?' The existence of such organisers is also difficult to reconcile to the idea of a '*plebs contionalis*'. If the crowd was a relatively constant group of local *tabernarii*, what would be the role of these middlemen?

[92] *Cat.* 50.1: ' . . . duces multitudinum qui pretio rem publicam vexare soliti erant'.

[93] Flaig 2003: 173; inspired by Veyne 1990: 223–8.   [94] *Flac.* 57; cf. *Att.* 2.19.2 (SB 39).

sympathetic audience which had turned up specifically to celebrate his accession. On other occasions, speakers may have instructed friends and clients in advance, asking them to offer vocal support should the reception be less warm than hoped for or should opponents try to hijack the meeting. Still, *contiones* never became entirely predictable. In principle, anyone could turn up and speeches might fall flat or even backfire, giving every *contio* an element of uncertainty. The trend in the late republic therefore appears to have been for political battles to be fought through separate, competing *contiones*, in order to enhance the positive effect and minimise the risk of failure.

The general polarisation of late republican politics affected the ability of the *contio* to fulfil its traditional role in the regulatory system that kept office holders in check. If, as it seems, organised – perhaps even paid – crowds often filled the meetings, from which opponents stayed away, the opportunity for real debates and communication must have been much reduced. As a result, the Roman elite, defined broadly as the propertied classes, in a sense lost the public space where ideas were tested, popularity measured – and troublemakers reined in. And as 'public opinion' (among those whose views carried weight with the political class) became more elusive and difficult to gauge, so it also became less politically effective.

As the public aspect of Roman politics became more distorted, the logistical context also changed profoundly. With Rome outgrowing the format of a city-state and reaching an unprecedented scale and degree of complexity, many of those who mattered politically became unable to attend public meetings, either because they resided outside the capital, for instance the municipal elites, or had temporarily retreated to country estates, served in the provinces or were away on business. In response to this increasingly diffuse elite, speeches delivered at *contiones* began to circulate in written form as a means of reaching those who had not been present – whether deliberately because of political opposition, or due to practical obstacles. The importance of the meeting itself was thereby relativised along with the traditional face-to-face character of Roman politics.[95] In the end we are faced with yet another paradox; for as the *contiones* became more and more frequent and turbulent, they may also have become less efficient in terms of shaping political events. In fact, Cicero's repeated comments about how one captures the views of 'the people' can be seen as symptomatic of the fundamental elusiveness of

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[95] For a discussion of this phenomenon, see Mouritsen 2013.

'public opinion' in a large-scale society without print media, opinion polls or effective general elections (see further below pp. 153–54).

As regards lower-class participation, there can be little doubt that the changes to the *contio* drew wider sections into the world of official politics. The question is whether that also caused a 'politicisation' of the plebs. As noted above, our references to the 'common people' at *contiones* suggest it usually happened as a result of prior (elite) mobilisation, which even included the enforced closure of their business premises. But whatever the driving forces were, it probably involved at least some of them more closely with individual politicians than had previously been the case. Morstein-Marx argued that meetings served as an instrument of control, small crowds turning up, listening to speeches by their social superiors and returning to their neighbourhoods with messages that shaped opinion among wider sections of society.[96] The model assumes a kind of politicisation by 'osmosis', which also presupposes that messages received at *contiones* were clear and unambiguous. But not only did politicians hold competing meetings, the use of mobilisation also implies that crowds were broadly sympathetic when they turned up and therefore had little need of further persuasion. Finally, we find ourselves confronted with the basic question of whether 'politics', as practised by the office-holding class, held such popular attraction to members of the wider population that they were prepared to spend a day in the Forum listening to speeches, most of which dealt with issues of limited relevance.[97]

In their influential work *The Civic Culture*, the political scientists Almond and Verba identified three ideal types describing the relationship between citizens and the world of government and politics: 1) 'participant', in which citizens understand and take part in politics, 2) 'subject', where citizens are largely compliant but participate little, and finally 3) 'parochial', in which citizens have little awareness of or interest in politics.[98] Applying this taxonomy to the Roman republic would suggest we are dealing with a mix of 'parochial' and 'subject' relationships. For the large majority of citizens, politics probably represented a remote and separate sphere which had little bearing on their daily lives, while the minority that did take part seem to have displayed what can only be described as 'subject' behaviour, largely conforming to the agenda set by the political class.

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[96] Morstein-Marx 2004; cf. Mouritsen 2005.
[97] As Wiseman, 1985a: 2 rightly noted: 'Politics was a subject of absorbing interest, at one particular social level. But it was not the only one, and for most of the population of Rome probably not the most interesting'.
[98] Almond and Verba 1963.

The fundamental paradox is that the institutional and ideological struc-
tures were in place for a 'participant' relationship between citizens and
government to have evolved in Rome, as illustrated by the public discourse,
which was entirely predicated on the people as a participant. But the
practical constraints as well as the intrinsic limitations to the scope of
politics meant that these potentials were never realised.

The events of the late republic offer one important lesson: they vividly
illustrate the ability of small, dedicated crowds to capture the political
process and dominate the public stage. It was possible at any moment for
a group of citizens to turn up and spontaneously make their views heard in
front of members of the ruling class. What is striking therefore is the rarity
with which that seems to have happened. An exceptional instance that
proves the rule is recorded in Cicero's *Pro Flacco*, where we are told that
'Jewish crowds on occasions set our public meetings ablaze', clearly to
assert their collective interests.[99] It shows how susceptible to any concerted
popular initiative the system was, and the real question is why the dis-
affected masses of Rome did not exploit this feature to a greater extent.
Riots may, as already noted, have been more frequent than often assumed,
but importantly they never seem to have 'spilled over' into the world of
official politics. Usually, they were triggered by specific complaints, often
linked to material concerns, and at no point do we hear of crowds calling
for substantive social and political change; the politics of the street – like
Roman politics in general – appears to have been entirely issue related,
which is perhaps less surprising when we consider the ideological context;
how could demands for a more 'democratic' system be formulated when
the 'people' formally already held the power? Still, the extent to which the
official political process appears to have been divorced from any genuinely
popular agenda is remarkable. Most glaringly, the urban masses even
allowed measures to be passed that were directly detrimental to their
own interests. For example, C. Gracchus' grain law was abrogated by
a vote of the *populus*, seemingly without the beneficiaries of the scheme
making any attempt to prevent its repeal; Cicero even stresses the popular
backing it enjoyed.[100] Such compliance is surprising, not because

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[99] *Flac.* 67: ' ... multitudinem Iudaeorum flagrantem non numquam in contionibus ... '.
In a puzzling passage of the same speech, 17, Cicero refers to Phrygians and Mysians interrupting
contiones, presumably with the implication that they are former slaves.

[100] Cicero claims the *lex Octavia* was passed 'populi frequentis suffragiis', Cic. *Brut.* 222, cf. *Off.* 2.72.
The law is generally dated to the 90s, Schovánek 1972; Garnsey 1988: 198; Ungern-Sternberg
1991: 39; Bleicken 1981: 101–5. Conversely the *comitia* rejected Philippus' agrarian law, which
presumably supported the *commoda populi*, Cic. *Off.* 2.73.

populations necessarily rise up against their rulers, but because the political institutions and procedures in Rome allowed any group with a modicum of organisation to assume control. Examples such as Paullus' troops, who almost succeeded in blocking their general's triumph would, however unusual the circumstances, have demonstrated the ease with which the political initiative could be seized by relatively small numbers. That, however, happened only at the instigation of dissenting members of the elite, be they office holders or *privati*.

How do we explain the apparent consensus and general acquiescence displayed by the mass of the Roman population? Polybius, as we saw, was in no doubt that the secret of Rome's stability lay in its 'mixed constitution', which offered the people a share of power and ensured that their interests were accommodated. However, given the general absence of the '*populus*' from political proceedings and its inability to set – or even influence – the agenda, we might ask whether there were other channels through which the masses could feel represented. Alongside the popular assemblies, Polybius listed the tribunate as part of the 'democratic' foundations of the People's power, thereby adding a 'representational' element to Rome's political system, which was otherwise based on direct participation (6.16.5). In formal terms, however, tribunes were not defined as 'representatives' any more than other Roman magistrates were. They may historically have presented themselves as 'defenders of the plebs', but with the plebeio-patrician settlement this polarity became obsolete and thereafter the tribunes were no longer associated with any specific social group.[101] And while some tribunes may have proposed bills which furthered the interests of the poor, most of them did not – or even obstructed those who did. Moreover, since tribunes and other magistrates were not appointed on the basis of particular programmes or promises for which they could later be held accountable, there was in effect no political choice and very little opportunity for voicing popular concerns at elections. Still, we should not lose sight of the symbolic dimension of the tribunate, which endured long after the 'Struggle' had been settled and a new aristocracy had come to power; for while it hardly justifies Polybian notions of a 'mixed constitution', the tribunate, with its rich historical baggage, may still be significant as part of a particular Roman identity which encompassed rulers as well as ruled and shaped their mutual

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[101] Cicero could describe their responsibilities in vague terms as subservience to 'voluntas civitatis', *De orat.* 2.167. Elsewhere he famously declared that it was the duty of the consuls to protect the *salus populi, Leg.* 3.8.

relations. Thus the remarkably stable political order we find especially
during the so-called classic republic can only be properly understood if
we broaden our perspective and go beyond the realm of conventional
politics.[102] The political system was embedded in, and reflected, wider
socio-economic as well as ideological structures, which all contributed to
the formation of a long-term accommodation – one might almost say
'social contract' – between masses and elite.

Leaders and Masses: the 'Political Culture' of the Republic

Attempts to explain the political stability of the middle republic in social
rather than political terms have a long and distinguished history, beginning
with Gelzer's identification of clientelistic networks as a central feature of
Roman society.[103] Through a dense web of personal ties and obligations
the ruling class was supposedly able to keep the masses in check, in effect
turning the 'democratic' institutions into instruments of aristocratic con-
trol. The theory, long dominant in Roman historiography, has in recent
decades been challenged by historians who have pointed out the scarcity of
concrete evidence to support it.[104] On a basic logistical level the idea of an
all-encompassing system of *clientela*, linking top and bottom of society, is
difficult to reconcile with the scale of republican Rome, especially during
the later periods. Moreover, the fact that most members of the plebs never
could be politically active removes the political imperative for the elite to
maintain comprehensive social networks in order to stay in power. Given
the fluidity of the urban population, that would also have been extremely
difficult to achieve. *Clientela* was undoubtedly important as a distinct type
of reciprocal, while at the same time asymmetrical, social relationship that
revolved around an ongoing exchange of favours and obligations. It is
unlikely, however, to have translated into a solid structure of social and
political control underpinning the elite's ascendancy. Clients were appre-
ciated and cultivated but not indiscriminately so, and it remains doubtful

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[102] The concept of a 'classic' republic is, of course, partly the result of hindsight, cf. below pp. 106–8,
but the period nevertheless appears to have been largely free of major social disruption.
A considerable degree of acceptance of the prevailing social and political order seems likely,
especially since the absence of armed forces to control the masses left the ruling class highly exposed
to collective popular action; despite the presence of guards and attendants, the Roman elite
ultimately depended for its personal safety on the existence of a broad social consensus.

[103] Gelzer 1912.

[104] Sceptical Meier 1980: 24–45; Beard and Crawford 1999: 68; Develin 1985: 127–31; Brunt 1988: 30–2,
382–442; Morstein-Marx 1998; Wallace-Hadrill 1989; Johnson and Dandeker 1989; Mouritsen
2001. *Contra* Eder 1996: 443; cf. Deniaux 1993. A balanced assessment in Garnsey 2010.

how often the poor were admitted to the *clientelae* of the rich and powerful; after all, we have no evidence that Cicero personally knew a single poor person.[105]

With the realisation that *clientela* may not have been the *arcana imperii* previously envisaged, the focus of recent scholarship has shifted onto what has become known as the 'political culture' of the republic.[106] The concept, originally inspired by political science, represents an attempt to capture the manifold aspects of the political process usually not covered in traditional accounts of constitutional and institutional history despite their importance in shaping political mentality and behaviour. They include issues of identity, ideology, rhetoric, and what might be called 'style of government'. It also comprises the various forms of interaction that took place between politicians and citizens, ranging from direct personal contact to symbolic, 'performative', and 'monumental' communication.[107] These innovative approaches, particularly fertile in German academia, have added an important dimension to our understanding of republican politics and have also laid the basis for a new understanding of the middle republic and its social and political stability.

The self-image of the political class and the way it formally constituted itself are essential components of this 'culture' and key to understanding the particular relationships that developed between leaders and masses.[108] After the plebeio-patrician settlement in the fourth century the ruling elite ceased to be hereditary, with the exception of certain priesthoods still reserved for patricians. As the old families lost their birth-right to power and prestige, they were forced to compete with plebeian newcomers who joined the new plebeio-patrician ruling class that became known as the *nobilitas*. As Hölkeskamp noted, the creation of the *nobilitas* was more than a quantitative expansion of the elite; it involved the formation of a new type of ruling class with a distinct ideology and identity and a different kind of relationship with the *populus*.[109]

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[105] It is telling that Cicero noted that no man known to his *nomenclator* of any *ordo* had not come to greet him on his return from exile – apart from his enemies, *Att.* 4.1.5 (SB 73). The reference to *ordo* and *nomenclator* suggests we are dealing with affluent *boni*. Goldbeck 2010: 90–7 seems to over-estimate the scale of *salutationes* and the numbers attending them.

[106] As Stemmler 2001 observed, this trend continues a shift away from Mommsen's legal positivism, which identified the formal structures of the state as the solid framework which maintained Roman society. Gelzer 1912 challenged that model by introducing informal power relations and explaining social stability by reference to the elite's value system, especially the elite's cardinal virtues of *virtus, pietas, fides*, and *dignitas*, which in turn underpinned the *clientela* networks.

[107] Hölkeskamp 2006 gives a broad overview of this 'school'.   [108] Hölscher 1978.

[109] Hölkeskamp 1993; 2010.

Public office, defined as *honos*, became the source and measure of *dignitas* and *auctoritas*, and crucially it was the *populus* that assumed the role of external arbiter in the elite's ongoing contest over power and influence, dispensing the vital *honores*. The Roman elite could therefore justify its ascendancy in meritocratic terms by reference to popular mandates and services to the community, rather than conventional aristocratic claims to birth right or innate superiority. Public honours thus conferred not just legitimacy and status but also obligations, which went far beyond the 'noblesse oblige' of later aristocracies.[110] A striking illustration of the link between status and duty comes from the famous *laudatio* of L. Caecilius Metellus (cos. 251, 247), which lists his numerous achievements and personal qualities while maintaining a 'civic' reference point and perspective, by stressing his bravery, public honours, and great services to the *res publica* (Plin. *Nat* 7.139–140). The community dimension is even more pronounced in the Scipionic *elogia*. The two LL. Scipiones Barbati, father and son (cos. 298 and 259 respectively), are described in their epitaphs as having been consul, censor, aedile 'apud vos', 'among you', i.e. the Roman people, thus directly invoking the audience which had granted their honours.[111]

The elite's focus on 'office-holding as the decisive criterion for high rank' shaped its outlook and encouraged regular interaction with the public.[112] Since the power of the ruling elite was not defined in contrast to the *populus* but derived from it, we look in vain for a Roman oligarchic discourse – in sharp contrast to the Greek world. Instead we find a consensual construction of the state as identical with the *populus* and the elite as its dutiful guardian. This unique definition of the elite was not without contradictions, however. The elevated status and renown associated with the *nobilitas* soon became a hereditary quality, specifically claimed by those who could count a consul among their ancestors.[113] It always remained an informal status, never recognised in law, but by widening the concept of merit beyond the individual and applying it to entire family lines an important new distinction between *nobiles* and *novi* was created, which was to become a source of considerable tension within

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[110] Cf. e.g. Cic. *Off.* 1.124. Walter 2014b: 101.
[111] *CIL* I² 6.7 = *CLE* 7 = *ILLRP* 309; *CIL* I² 8–9 = *CLE* 6 = *ILLRP* 310. Kruschwitz 2002: 32–57, esp. 44, and 58–70. Cf. Hölkeskamp 1993: 30; 1995: 32; 2010: 122 on the ideology expressed in the *elogia*.
[112] Hölkeskamp 2010 31.
[113] The precise definition of *nobilis* is long debated; cf. Gelzer 1912; Burckhardt 1990; Shackleton Bailey 1986; Goldmann 2002. A good overview in Van der Blom 2010: 34–59, who noted that it was not an absolute or precisely defined category but apparently negotiable and to some extent relative. It also follows that *nobilitas* and *novitas* were not binary distinctions.

the elite. But although parts of one's *dignitas* could now be passed on to descendants, it did not carry any formal entitlement as much as a vaguely defined moral advantage over competitors who were unable to boast of a similar family record of public service.

As importantly, the concept of *nobilitas* left the role of the *populus* as the ultimate source of *honor* and *dignitas* unchallenged. Indeed, it could be argued that the definition of *nobilitas* bound the elite even more tightly to the aristocratic code of public service and obligation, since every noble invoking illustrious ancestry would invariably be measured against the achievements of his *maiores*. For example, the elogium for Cn. Cornelius Scipio (Hispanus?) proudly states that 'I upheld the praise of my ancestors, so that they rejoice that I was born to them. My (public) honour ennobled my family'.[114] Conversely, failure to match these expectations became a source of shame. In the elogium for the early-deceased P. Cornelius P. f. Scipio we are therefore assured that ' . . . you would easily have outshone the glory of your ancestors', thus pre-empting any criticism.[115] The claims implicit in the concept of *nobilitas* thus laid its members open to accusations of falling below the high standards expected of them, and in some contexts '*nobilis*' could be used almost derogatively as a reproach implying unearned privilege and arrogance. But although many fared poorly in this comparison, voters nevertheless seem by and large to have accepted their claim to preferment. As the *fasti* reveal, members of the same noble families kept being returned to the highest offices, presumably on the assumption that these over time had developed a particularly strong ethos of service as well as a degree of practical leadership experience that made them the safest choice.[116]

The fact that membership of the ruling class was now determined solely by a vote of the *populus* had a profound impact on the political 'culture' of the republic. The conceptualisation of the *res publica* as founded on the partnership of *senatus populusque Romanus* created an ideological bond between the masses and their leaders, who adopted a style and demeanour which contrasts with that of most other aristocracies. Respect for the *populus*, even deference, became hard-wired into rhetorical strategies and political arguments. And the elite were not just deferential to the abstract concept of the *populus Romanus* but also seem to have displayed

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[114] 'Maiorum optenui laudem, ut sibei me esse creatum laetentur. Stirpem nobilitavit honor', *CIL* I² 15 = *CLE* 958 = *ILLRP* 316.

[115] *CIL* I² 10 = *CLE* 8 = *ILLRP* 311, cf. Kruschwitz 2002: 70–89, esp. 86–9. Cf. *CIL* I² 11 = *CLE* 9 = *ILLRP* 312; Kruschwitz 2002: 90–107.

[116] Badian 1990c on the nobility's near monopoly on the consulship.

a remarkable degree of restraint in their direct dealings with social inferiors. In an important study Martin Jehne drew attention to the many anecdotes and stories which exemplified the ideal conduct of a Roman *nobilis* and noted the particular 'jovial' stance expected of him in those situations.[117] Appearing haughty or superior to the 'common man' was considered a social faux-pas, as illustrated by the oft-cited anecdote about P. Scipio Nasica, cos. 138, who failed in his attempt at the aedileship after he had jokingly asked a *rusticus* with rough hands whether he walked on them. The comment spread to bystanders, and members of the rural tribes felt they were being taunted with poverty.[118]

The unique identity of the Roman elite did not, of course, obliterate class divisions but it probably softened the edges of oligarchic rule by presenting a consistent image of selfless dedication and duty – even a degree of mutuality between elite and masses. These values were widely advertised and reinforced in public rituals and gestures which emphasised the elite's devotion to the common good.[119] Collectively the political class demonstrated its contribution to society through a variety of media, including public manifestations such as funerary orations and processions, the so-called *pompae funebres*.[120] Rome also witnessed a remarkable growth in aristocratic monumentalisation of public spaces, with the erection of columns, statues, and other structures commemorating the deeds of great men, past as well as present.[121] The triumphal route became lined with votive temples, which showed Rome's piety and success while also providing lasting memorials to the victorious generals.[122] In parallel, the private houses of great families were also turned into memorials to the ancestors, displaying trophies and other *monumenta*. During the middle republic, numerous statues of *maiores* were put up in public, eventually causing such overcrowding that the Forum had to be cleared in 158, when statues put up without public sanction were removed (Plin. *Nat.* 34.30).

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[117] Jehne 2000b defined 'Jovialität' as a particular friendly stance and approachable demeanour by superiors towards commoners.

[118] Val. Max. 7.5.2, cf. Jehne 2000b: 216–17. Significantly, the other voters took offence at Nasica's implication that they were poor and worked with their hands. The story therefore does not indicate that poor *rustici* filled the *comitia*, as much as the code of polite conduct which candidates were expected to observe.

[119] During the earlier and middle republic the message may have been further underpinned by the elite's relatively modest lifestyle, which gave the impression of a more egalitarian society than the distribution of power indicates.

[120] Flaig 1995b; Stemmler 2001: 233–9; Hölkeskamp 1996; 2008. Polybius 6.53 linked aristocratic funerals to the canonical stories of great men of the past, the so-called *exempla* tradition.

[121] Gruen 1996; Hölscher 2001; Walter 2001; 2004.

[122] Ziolkowski 1992; Hölscher 2001: 194–201.

The beginning of this process coincided with the end to the 'Struggle' and the creation of the new 'meritocratic' nobility, and, as Tonio Hölscher observed, the monumentalised *exempla* served to demonstrate that the commitment to public service was not just an abstract ideal but was actually practised.[123] In the end the citizens of Rome became literally surrounded by the elite's monumental and performative celebration of themselves and their ancestors. The influence on the wider population is, of course, difficult to gauge; the sheer volume and monotony of the message conveyed may well have weakened the impact. Nevertheless, the fact that the ruling class presented itself in this particular mode remains significant, and even more so when we consider that the process of memorialisation took off at the very moment when Rome started to expand beyond the confines of the city-state in the late fourth and early third centuries. Not by chance were the services rendered to the *res publica* – and so extensively celebrated – overwhelmingly of a martial nature. When searching for the structural causes of the relative stability of the middle republic one should not lose sight of the fact that this was also a period of extraordinary military success. The continuous engagements abroad played a vital role in shaping the relations and attitudes between elite and masses, while also transforming the character of the Roman state itself along with its citizenship.

Epilogue: Politics and Military Expansion

It is impossible to grasp the nature of the middle republic without factoring in the expansion of Roman power and territory during this period. This is not the place to discuss the origins and character of the process by which Rome grew from medium-sized city-state to world power, but the profound militarisation of Roman society which accompanied this transformation must have played an important part. The relentless drive towards further conquest became integral to her civic structures, many of which were shaped around continuous warfare, and apart from the ritual distinction between *domi* and *militiae* there was no clear separation of military and civilian spheres.[124] The soldier-citizen identity affected all aspects of Roman society, the ethos of the elite, the attitudes of the serving population, and not least the interaction between leaders and masses.

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[123] Hölscher 2001: 199: 'Das Exemplum hat die Aufgabe, die Konvergenz von ideal und Wirklichkeit zu demonstrieren'.
[124] Harris 1979; North 1981; Rüpke 1990. On popular support for expansion, see Gabba 1984.

With the exception of the very poorest, male citizens became habituated to prolonged military service, and at elite level the militarisation was equally profound. Extended service became part of the public career structure, the pinnacle of which was the intensely coveted triumph.[125] Military values were thus firmly embedded in the lives and outlook of the Roman aristocracy, which has often been described as a 'warrior elite'.[126] Competition gained a strong martial aspect and claims to military prowess became a fundamental factor underpinning the power of the elite. As Hölkeskamp has shown, it is no coincidence that it was during the period of rapid Italian conquest that the *nobilitas* established itself so decisively as Rome's ruling class. It drew immense prestige and authority from its successful management of Rome's external wars, thereby strengthening its political claim. In the early period after the 'compromise' the rise of plebeian leaders was closely linked to personal ability in the field against Rome's Italian opponents, as was e.g. M. Popillius Laenas and C. Marcius Rutilus, while military prowess was also instrumental in the rise of patricians such as Q. Fabius Maximus Rullianus and P. Decius Mus.[127] These men embodied the ideals of sacrifice and competence which helped entrench the position of the new elite at home.

As noted earlier, military success became the object of extensive memorialisation, to the extent that part of Rome's cityscape was reshaped as more and more votive temples and other victory monuments were being built. They served as permanent reminders to the public that the remarkable expansion of Roman power took place under their auspices and leadership. The elite's extensive self-celebration defined the bond between *populus* and nobility in military terms as one of soldiers and commanders, with all the attendant values of loyalty and obedience. Thus the expansion did not just strengthen the elite through the prestige and 'proven record of success' it conferred upon them; the extensive conscription and prolonged military service may also have imbued Roman society with a military ethos that shaped relations between leaders and masses in the field as well as in the civilian sphere.

Rome's militarisation led Moses Finley to suggest that 'obedience to the authorities became so deeply embedded in the psyche of the ordinary

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[125] Military service: Brunt 1971; Hopkins 1978.
[126] At least until the late republic when, according to Blösel 2011, the elite underwent a remarkable 'demilitarisation'. Still, despite fewer opportunities for conquest and military glory, the elite nevertheless retained its ideological attachment to martial values, cf. Walter 2014b: 103.
[127] Hölkeskamp 1993: 22.

Roman citizen that it carried over into his explicitly political behaviour'.[128] While there can be little doubt that warfare had a pervasive impact on Roman mentality and social dynamics, the shared military experiences may have encouraged not just respect for superiors but also recognition among the elite that men under arms must be treated equitably and rewarded for their service. The military offered by far the most intense social contact between citizens from all backgrounds. During extended campaigns, soldiers, officers and generals faced the same hardship and dangers, which may have helped forge bonds across class boundaries. Such bonds might be carried over into the civilian sphere, instilling military values of discipline, leadership and common purpose into Rome's political culture. Among the ruling class this mentality seems to have expressed itself in a particular approachable style, and the 'joviality' mentioned above had a distinctly military aspect to it. Thus, while a friendly demeanour might not disguise manifest inequalities of power and resources, it should nevertheless be recognised as a contributing factor towards generating political consent.

Military expansion changed Roman society beyond recognition. Rome grew into a territorial state, albeit one which paradoxically retained the political structure of a city-state. A unique policy of incorporating defeated peoples and granting them formal political rights was adopted, which was possible because in practice they had little chance of exercising them. The remarkable growth of her citizen body, to which the enfranchisement of freed slaves also contributed, reinforced the non-political definition of the Roman citizenship. The 'non-participatory' nature of the People's constitutional role became further entrenched by the fact that only a vanishingly small proportion of the citizen body could now take part in the proceedings. Collective political activity was never a unifying factor in the new territorial state. That function was instead performed by military service, which, as Jehne demonstrated, remained the single most cohesive element in the Roman republic.[129] It did so by generating a shared soldier-citizen identity but also more practically by bringing together citizens from different parts of the country. Military units were deliberately composed of soldiers drawn from a cross-section of the tribes, thereby creating a regional mix which encouraged integration and militated against the formation of strong local identities and the separatism to which that might give rise.

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[128] Finley 1983: 130; cf. Schofield 1995: 65; Raaflaub 1991: 580. The political implications of the soldiers' subjection to military discipline is illustrated by the Roman recognition that a serving soldier could not act politically while under oath to his commander, cf. the controversial cases when laws were passed in the field, e.g. Liv. 7.16.7–8.

[129] Jehne 2006b.

The militarisation of the Roman republic not only created a social environment conducive to promoting internal stability on a number of levels; as importantly, expansion also provided the opportunities which allowed the elite to claim that its leadership brought concrete benefits for the soldier class. The most obvious reward came in the form of spoils distributed among the soldiers, and in continuation of this practice the senate also carried out an extensive programme of colonial foundations on conquered territory across Italy and Cisalpine Gaul. Large numbers of Roman citizens were settled on confiscated land through a variety of colonial and viritane schemes, which were usually drawn up and approved by the senate rather than the tribunes.[130] Rome's victories abroad also led to huge imports of war captives, and, in a move that cannot have been unrelated to the newly abundant manpower resources, the *lex Poetilia de nexis* was passed in 326, abolishing debt bondage.[131] Later examples of grain provision from the provinces for the urban poor are also recorded, presumably aimed at defusing social tension and preventing unrest (e.g. Liv. 31.50.1).

Expansion brought access to resources which, at least during certain periods, were remarkably evenly shared, although differences in rank and status were scrupulously observed in the distribution process. It allowed social problems to be, at least in part, 'exported', which may have further entrenched the position of the ruling class. Political stability may therefore not have been, as Polybius insisted, the precondition for Rome's external success; rather it was her military expansion that laid the foundations for the political consensus and created the conditions for the relative social peace that seems to have characterised the period. It may explain why the *populus*, despite its circumscribed political role and limited means of expressing its views and preferences (apart from the riots which were usually sparked by specific grievances), nevertheless appears to have accepted the status quo.

The formation of the *nobilitas* as a martially defined elite may, directly and indirectly, have strengthened civic cohesion through the pursuit of continuous expansion combined with broadly inclusive social policies

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[130] Harris 1979: 60–5. The politically sensitive land schemes were generally initiated by the senate rather than tribunes, Hölkeskamp 2011: 33, 155–62, 172–82, 184, 200–3. For example, in 200 (Liv. 31.49.5) veterans were settled on land with no reported dispute, cf. Liv. 38.36.7–9. The opposition to Flaminius' scheme in 232 represents a rare exception. For the scale of population movements entailed by this policy, see Brunt 1971: 28–32, 53–5, 190–3; Scheidel 2004; De Ligt 2012: 150–4.

[131] Liv. 8.28; Var. *L.* 7.105; Cic. *Rep.* 2.59; Dion. Hal. *Ant. Rom.* 16.5.2–3. On war captives, see e.g. Oakley 1993: 22–8.

which it encouraged and facilitated. Its emphasis on personal merit rather than birth helped justifying the elite's overall position in relation to the people. In addition, the formal openness it entailed allowed the admission of gifted newcomers to its ranks. The composition of the republican senate has been much debated and traditional notions of a closed, almost hereditary, aristocracy shown to be unsubstantiated. At no point were the highest offices simply passed on from fathers to sons – partly for purely demographic reasons, although that does not mean that the pool of families occupying these posts was not highly restricted.[132] At the lower rungs of the senate the turnover of families is likely to have been greater; after all, what made the careers of men like Marius and Cicero so exceptional was their attainment of the consulship, not their entry into the senate. The dynamic structure of the ruling class ensured that the senate at any time encompassed those capable of and interested in pursuing public careers and attaining power and status, thereby preventing the emergence of oppositional groups outside the established elite; in other words, it produced an elite with an extraordinary ideological and structural cohesiveness.

Since personal ability can never be passed on, a 'meritocratic' aristocracy is also a contradiction in terms. As a class the elite justified their position on merit and service, but to maintain internal stability it was paramount that all nobles formally be considered equally qualified.[133] Otherwise the system of power sharing – and the delicate balancing act on which it relied – could not be sustained. If meritocratic ideals were to prevail in full, unacceptable concentration of power in the hands of a few individuals of outstanding ability would ensue, threatening the very foundations of the aristocratic republic. Individual talent poses a problem to any system predicated on power being divided evenly among a number of persons and families with equal entitlement. But in Rome, this quandary was aggravated by two factors: on the one hand, the nobility's self-definition as an open, office-based elite, and, on the other hand, the historically strong powers of the executive. The latter entailed that tenure be restricted as far as possible in order to maintain equilibrium; the most able could never be allowed to dominate the chief offices at the expense of their less gifted peers. This concern became particularly pressing in relation to military commands because of their superior prestige and potential to destabilise

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[132] Hopkins and Burton 1983 ch. 2; cf. Beck 2005. Badian 1990c analysed the consuls in considerable detail. A project to produce a digital prosopography of the Roman republic currently under way at King's College London seeks to refine our picture of the Roman elite even further.
[133] Cf. Rosenstein 1990b: 255–6.

not just the elite but the entire *res publica*.[134] It follows that, while the ascendancy of the *nobilitas* as a whole may have been relatively secure, it remained vulnerable to challenges from within. The meritocratic ethos it espoused and which in many respects was one of the secrets of its success made it more difficult to contain the power of 'great men', as would become apparent during the later republic.

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[134] Already in 342, the first attempt to regulate iteration of the consulship was made, albeit flexibly implemented, Liv. 7.42.2; Zon. 7.25.9. The relationship between military ability and office holding has been much debated; cf. Rosenstein 1990a; 1990b; Hölkeskamp 1994; Cavaggioni 2010; Waller 2011; Rich 2012.