LUISS Guido Carli

LIBERA UNIVERSITÀ INTERNAZIONALE DEGLI STUDI SOCIALI

DIPARTIMENTO DI SCIENZE POLITICHE

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VOX POPULI

ON POPULAR SOVEREIGNTY AND POPULISM

RELATORE   CANDIDATO

Prof. Sebastiano Maffettone   Christian Morresi
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INTRODUCTION

Recently, many European parties have emerged asking for more popular or national sovereignty, through extreme or controversial claims. They are born in reaction to the economic and political crises of these years, for which they blame the corrupt political class of their country or some technocratic supranational authorities, which have been gaining more and more importance in domestic affairs. Many of those parties have been defined "populist", since they usually propose solutions based on the identification of scapegoats and on the appeal to the feelings of people, rather than to their reason. Nevertheless, some of them actually have managed to conquer a relevant part of consensus, mainly through markedly nationalistic campaigns, based on flagrant proposals against the European Union or the immigrants. Unfortunately, the widespread acceptance of the "populist" label helps to deprive the word of its negative meaning, which will be analyzed below.

At the same time, some of those allegedly anti-politics parties have introduced an issue that has always been part of a latent tension at the basis of liberal democracy, i.e. direct democracy. One of these parties is the Italian "Five Star Movement", which deserves a special mention. Its claims have contributed, at least theoretically or symbolically, to the creation of a renewed attention towards popular sovereignty. In any case, the fascinating myth of direct democracy raises many interesting issues, around which this paper revolves. This ancient system is based, in fact, on the conjunction of will and opinion, i.e. the law and the personal thoughts of people: the two pillars that separately support liberal democracy, by remaining always distinct from each other (Urbinati, 2014). My purpose will be to explore the reasons behind the rigorous separation they have been given under liberal democracy, but also the rationale of a system, such

as the one of the ancient Athens, where those two pillars were united. Most importantly, the study of the original aspect of democracy will prove intertwined with the examination of populist and plebiscitarian threats.

The path I will follow starts from analysis of the fundamental mechanisms regulating public opinion and the formation of consensus in a democracy. Public opinion has a vital role in democratic procedures, although it has an ambiguous nature, multifaceted expressions and there is no univocal or objective way to determine and measure it. Furthermore, the cognitive roots of individual opinions comprise also a subjective element: partisanship. No objective value will ever be attributable to it, due to the impossibility to remove the uncertainty from the future outcomes of democratic decisions, so that subjectivity shall be admissible. That is why opinion was disregarded and labelled by Plato as a "grey zone". Nonetheless, as it is easily understandable, there are many different interpretations about the nature of the voice of people, ranging from those advocating its inherent "goodness" to those exalting its imperfections and its individual origin. As a result, several different aggregation mechanisms and spaces within the democratic process may be envisaged to shape its expression, regulate its influence on actual decision-making and weight its components.

After having determined the roots of consensus, I will move to the analysis of the mechanisms of liberal democracy, which allow and regulate the expression of people's voice. Some of these mechanisms, in fact, were initially designed to prevent the unmediated opinion of people from achieving an absolute sovereignty. A brief sketch of the origins of representation may make it clear that there is a structural fear of a "tyranny of the majority" hidden inside liberal democratic rules. We should ask then whether, and to what extent, this worry is just anachronistic or is something that may raise legitimate doubts on the consequences of an unconstrained will. Indeed, the function of rule of law and of the dualistic nature of democracy is precisely that of shielding the community from the risks that the popular will would entail, if unbound from the practice of deliberation and from the substantive standards imposed by a social compact based on liberty and equality. In particular, we will examine the threat of populism, as a dangerous phenomenon that aims at polarization and simplification in the definition of issues. Simultaneously, it weakens the same democratic order and paves the way out of it.

However, if the claims for a more participatory (if not direct) democracy have been successfully carried and exploited by populist leaders, we should also think about their legitimate origin, especially when they stem from an excessive bureaucratization of power. Thus, with respect to the events I have mentioned above, we have to wonder if these liberal democratic procedures constitute a good equilibrium between participation and respect of the standards. That is to say, I will examine some proposals through which the liberal filters could be loosened without leaving any space to populism. A virtuous example of equilibrium could be Switzerland, were many instruments of direct decision-making have fostered a civic culture of individual reasoning and participation, without the need for parties or leaders claiming to voice a widespread dissatisfaction, in their attempt to get power. When the Swiss people speak, they do not need a spokesperson: they are encouraged to think individually and, then, they act collectively as another legislative chamber. A scenario that is close to the one envisaged by Rousseau in the *Social Contract*.

In sum, I will proceed as follows: in the first chapter, I will examine a tripartite definition of public opinion and show its many-sided nature. In the second chapter, I will consider the rules that have been set up to translate opinion into power and the principles that normally constrain democratic decision-making. Finally, I will devote the last chapter to the analysis of what happens when opinion is allowed to bypass all the filters and directly become power. This is the case of direct democracy, but also of populism. These two apparently similar concepts are, actually, diametrically opposed. Thus, I will point out the differences between the two, the risks of the latter and the qualities of the former.

1 PUBLIC OPINION

1.1 THREE CONCEPTIONS OF PUBLIC OPINION

Any conception of modern democracy, be it Schumpeterian, deliberative, procedural, epistemic, or any other, must acknowledge that the democratic game has always the same "dealer": public opinion. Its functions vary from the empowerment of political forces through the voting procedures, to the check of political activity and the judgment of candidates or policies. It is the compass of every politician, the real watchdog, beyond any formal architecture of checks and balances. Although it has no institutional shape but that of votes in elections or referenda, public opinion is much more than that: debates in political talk shows, the free exchange of opinions among electors, the activity of the press and the various polls are all examples and expressions of public opinion. The sum of all these activities results in a force able to drive the political game, by conferring salience to some issues or candidates and, at the same time, cast down others. However, this mighty entity seems to have been exiled by liberal democratic systems and relegated to the periphery of power: the institute of representation has always kept it separate from actual decision-making, by allowing it to have a direct material effect only from time to time (i.e., in elections and referenda). For the rest of the time, public opinion is just granted full autonomy under freedom of expression/information and the possibility to influence indirectly material decisions. An overarching definition of such a crucial actor must nonetheless take into account its ambiguous and multifaceted nature, due to the fact that there is no universally valid way to accurately and fairly represent the will of all the people in a society. That is why I will build on the tripartite definition given by Ilvo Diamanti (Diamanti, 2011) and try to

blend it with some theoretical considerations, in the attempt to find an appropriate way to describe all the possible meanings attached to this term. Public opinion, in fact, can be considered at the same time as a numerical expression of the will of a society, as the debate taking place in the public sphere and as common sense.

1.1.1 PUBLIC OPINION AS PUBLIC DEBATE

As Nadia Urbinati theorizes, opinion is one of the two pillars of modern democracy, together with the will, meant as materially effective political power (Urbinati, 2014). This double mechanism is the core of the liberal democratic system, as it enables people to disagree without resorting to violence: the majority determines the will, but minorities must be able to participate as well. They are granted the right to free speech, so that they can point out the mistakes, try to persuade other people to join their side and, maybe, become the next majority. This sort of "residual will" is opinion, meant as public debate. As deliberative interpretations of democracy remind us, this phase is not only the one in which the minority has a chance to influence decisions and to defend their positions, but it is also a crucial step for both the legitimacy of the whole system and for its effectiveness. Bernard Manin points out that the deliberative process preceding the vote, due to its inclusive character, is the only guarantee of a legitimate outcome. The mere aggregation of preferences and decision by majority is not sufficient to guarantee the unity and the efficacy of the political community for two reasons: firstly, people often have incomplete information and incoherent preferences; secondly, a decision by majority is, in itself, not taking into account in any way the point of view of the minority. Hence, the phase of deliberation is fundamental in order to have both a refinement people's preferences, through the exchange of information, and a decision that has the same force of a unanimous one, since it derives also from the contribute of the minority (Manin, On Legitimacy and Political Deliberation, 1987). The simplicity and the soundness of Manin's reasoning shall not lead us to the conclusion that the mere introduction of deliberation ensures, in itself, fairness and inclusiveness. In order to provide for these two features, in fact, the political debate must distinguish itself from the rational/philosophical debate: as we will see in the section 1.2, they shall obey to different rules.

1.1.2 PUBLIC OPINION AS VOTING

In any event, debates cannot last forever, since decisions must be taken. John Locke acknowledged that "*being necessary to that which is one body to move one way; it is necessary the body should move that way whither the greater force carries it, which is the consent of the majority*" (Locke, pp. 121-2), that is to say, the resolution by majority vote should end the debate, sooner or later. From a far more radical point of view, Rousseau put such an emphasis on vote that he completely prohibited debate before the decision. As we will see, this is part of direct democracy: it postulates the spontaneous expression of a General Will through the aggregation of individual preferences. The most evident way in which we can perceive public opinion as an aggregation of individual preferences in everyday life is, maybe, the poll. This instrument, just like the election, is a numerical picture of the sum of single partisan opinions, as expressed by votes. The vote, in turn, is the most unmistakable expression of the will of society, thus the only one that can be directly translated into a material intervention on the political scene, by assigning a weight to political forces and to possible solutions, by approving or rejecting proposals and candidates, or, in some cases, by repealing laws and removing representatives. Since the voting procedure aims more at a decision than at a confrontation, the voter has just to choose among different given options. The choice usually hinges on the intertwining of personal factors, such as a voter's beliefs, values or social position (Petrucciani, 2014, p. 201), with the addition of external influences coming from other people's opinions and of the developments in the political scene. In sum, this form of public opinion has clear advantages in practical terms, due to its power to deliver a definitive decision.

However, from a different point of view, William Riker has pointed out that the theory of social choice poses a serious challenge with respect to the validity and the fairness of voting procedures (Riker, 1988): every fair method of amalgamation of preferences delivers inconsistent results. That is to say, results are valid only with respect to the technique used, but cannot be absolutely better or truer than other results, which may be delivered by other techniques. This leads, according to social choice theory, to the necessity to give up either the equal consideration of preferences (i.e., fairness) or the possibility to consider the result of a vote as a coherent or

"superior" result (e.g., as Rousseau would try to consider the General Will). Riker goes even further and claims that this considerations result, one way or the other, in the inescapable possibility that a vote is subject to manipulation, either through strategic voting or through control of the agenda. Obviously, the social choice perspective is not the only one available when considering voting procedures, so that we may always assign a relative meaning to votes, but still having in mind that none of them has an absolute, incontestable and univocal sense.

1.1.3   PUBLIC OPINION AS COMMON SENSE

The most evident form of public opinion is, in any case, that of common sense. Unlike voting, it cannot measure consensus, but rather popularity and trust (Urbinati, 2014, p. 179). It is not the aggregation of individual preferences, but rather a unitary narrative of what the people want. The rendering of this narrative is up to media, which are responsible for its formation and interpretation. With respect to other forms of opinion, if debate leads to legitimacy and voting to decision, common sense leads to conformism. Moreover, it can be especially useful for its peculiar emotional features: since it is about popularity and trust, common sense is the instinctive element that most likely determines the outcome of plebiscites, i.e. approval/rejection votes given by the public opinion and based on confidence. Today this kind of popular judgment is mostly delivered by the media (e.g., in the so-called "trial by media"), but in the past it was evident, for instance, in the gatherings of the Roman Forum. There, the crowd became an independent and unitary actor, a "judging tribunal" whose verdict assumed greater importance than that of an election. Furthermore, it also performed the functions of a "public political theater", where political actors felt always under scrutiny (Urbinati, 2014, pp. 218-19). Nowadays, perhaps, the most suitable association I have been suggested on the political role of this form of public opinion is that it resembles an "*ocean which the government is floating on*" (Mortensen, 1995). This example perfectly expresses that, in sum, the emotional side of public opinion is as crucial as its discursive and decisive ones: it surrounds governments and political actors, makes them feel observed by millions of eyes and "unsafe", even in their privileged positions of command. However, as we will see, expert politicians may know how to tame a crowd, which, unlike single individuals, is not active, but just reactive (it can only respond by tearing down politicians). Furthermore, it judges

with aesthetical criteria and on the basis of taste, so that it is more convenient to appeal to it with ideological or attractive statements, by avoiding unpleasant discussions on technical aspects (Urbinati, 2014, p. 209).

As a result, all the three shapes I have described above represent different functions of public opinion, each with its peculiarities, strengths and weaknesses. In particular, the shortcomings I have exposed for each of the three conceptions may deserve more attention. That is why I will move on to the analysis of the processes of formation of political judgments, the roots of public opinion.

1.2 POPULAR JUDGMENT BETWEEN PARTISANSHIP AND IMPARTIALITY

Before going on to consider the room public opinion has been gaining in politics, and the one it might be given in light of the potential benefits and issues, I expose a deeper examination of the mechanisms regulating the political judgments of people and, thus, contributing to the articulation of public opinion in the three forms I have been describing.

1.2.1 REASONABLENESS AND INCLUSION

As it can be easily inferred from the above-mentioned description of public opinion, the richest and deepest formulation of it comes with deliberation. Discussion, in fact, is the step that confers legitimacy on the outcome of the final resolution, due to its inclusive properties. Moreover, practically speaking, it is also the moment in which single points of view are mixed and refined, in the attempt to find the "most reasonable" outcome. Indeed, we do not need to support the deliberative view of democracy to acknowledge the practical importance of discussion: parliamentary rules impose a debate before a vote and, more generally, all the democratic decisions, such as elections, impose such a prior confrontation. However, there are opposing views on the moral and substantial value of the outcome of a deliberation: I have said that it aims at finding the "most reasonable" solutions, not the "true" ones. This means that there is a crucial distinction to be made between a moral and a political discourse, between a moral actor and a political actor (Petrucciani, 2014, p. 141-3).

In a moral, rational or philosophical debate, all the participants try to establish a truth, by confronting their views. They must be moral actors: when two conflicting views emerge, each proponent is ready to listen to all the possible counter-arguments and, if necessary, to give up its thesis, whenever these counter-arguments prove to be objectively superior and true. This is the kind of "ethics of the discourse" Jürgen Habermas had in mind. Unfortunately, the introduction of truth in the political domain means a real danger for liberty and equality: the pursuit of truth admits no room for the toleration of dissent, which is fundamental in a democratic regime. Furthermore, this would also entail the obligation to provide for an opt-out alternative: Cicero explained that a philosopher in deep disagreement with his school could appeal himself to the

suspension of judgment, so that his ambition to avoid uncertainty and grasp truth would not be compromised (Urbinati, 2014, pp. 99-100).

On the other hand, the political debate needs to be inclusive and to give each person's views an equal weight, regardless of their rightness. The focus is displaced from truth to reasonableness, as John Rawls argues (Cohen, 2009, p. 9). This is because truth is inherently divisive: it is unique and, hence, hostile to pluralism. Truth as the final aim of political debate, in sum, may sound as preluding wars of religion and sectarian conflict, thus wasting the most important democratic innovation, i.e. the ability to disagree without resorting to violence. This point becomes even clearer if we take into account the nature of the political actor, which, unlike the moral one, is not necessarily ready to examine impartially the "goodness" of other people's reasons. S/he does not necessarily care about finding the truth, as his/her position may simply be characterized by partisanship. That is to say, since this position may descend from a particular comprehensive doctrine or from individual interests, it might not be amenable to a collective revision. That is why the result of a public discussion should always be deemed as reasonable by virtue of the justification and the arguments people have been able to provide. As a result, this can never amount to establishing a truth.

1.2.2 THE FEATURES OF PARTISAN JUDGMENT

Once the political actor has been disentangled from the legal duty to be impartial, peacefulness and a universal recognition of the outcomes of discussions are ensured, since everybody is allowed to adhere to a particular truth or comprehensive doctrine, without compromising the possibility to reach collective agreements that seem reasonable to everyone. In any case, this comes at the cost of allowing partisanship in political judgments, also in votes, where the will of the sovereign elector has a direct material effect. The issue should be clear if introduced in a juristic setting: can we imagine partisan judges always favoring, let us say, people with the same hair color they have? Of course not. Why, then, should we allow electors to express partisan judgments? The answer lies in the object of the judgments: judicial ones consider particular facts, whereas political ones are about the general interest. Moreover, the formers are

about the past, while the latters are about the future: they involve a mandate and, thus, trust, rather than truth, becomes the essential element. Finally, judicial decisions are definitive, whereas political ones are always revisable (Urbinati, 2014, pp. 122-6). Hence, the absence of impartiality seems to provide little or no harm to the rightness of political decisions, which, being general, about the future and always revisable, can be influenced by particular opinions or interests without risking to be "wrong". Indeed, in light of this, Albert Hirschman attributed to democracy the virtue of being "love of uncertainty". Finally, the fairness of the result is also ensured by the aggregation methods, which, as William Riker highlights, shall assign to the preferences of each voter the same weight (by virtue of undifferentiatedness) and treat each alternative or candidate equally (Riker, 1988).

As we have seen, the principles of democracy impose that, in public discussions, partisanship shall be allowed and impartiality shall not be required, in order to ensure inclusiveness. The same is valid for elections, where the voter is an absolute sovereign and is potentially free to choose, let us say, the most beautiful candidate, instead of the smartest one. Nevertheless, presumably to counterbalance the impossibility to impose impartiality, public opinion as expressed in debates and votes still has to pass through the filters of representation and of some objective standards that we will examine in the next chapter.

1.2.3 THE JUDGMENT OF THE CROWD

Before moving on to the examination of the steps that in the democratic procedure follow the expression of public opinion, it is necessary to examine the last possible context in which opinion can be formed: the crowd. As I have stated above, the crowd produces a type of public opinion that I have labelled as "common sense": it is a uniform narrative of the preferences of people, which is incline to conformism and approximation. If we exclude the modern developments, thanks to which the press is now entrusted with the voicing of common sense, the procedure through which this kind of judgment used to be delivered was the plebiscite. The special value of plebiscites is usually due to the fact that it involves emotions more than rationality. The crowd, in fact, delivers an emotional judgment: it expresses an outcome, which, unlike the one of a vote, is only about trust and is based on a belief, but not necessarily on

cognitive elements. This belief, in turn, is mainly based on tastes and faith. That is why common sense is, most of the time, a purely aesthetical and ideological judgment, which cannot even be mitigated by a reasonable justification (as in debates) or a fair aggregation method (as in votes). Jeffrey K. Tulis pointed out that when a President directly appeals to the masses, the quality of his/her speeches is heavily reduced with respect to those delivered to the Congress: a visionary speech has a much better effect on the crowd than just providing information or reasoned arguments, since feelings will determine the outcome (Tulis, 1987). Furthermore, a crowd is likely to fall into the so-called "groupthink" bias, i.e. in each individual participant the desire of conformity may prevail over rationality. Plebiscitarian theories, in fact, stress precisely this kind of feature: they reject individual judgment in politics, in favor of the judgment of the crowd (Urbinati, 2014, p. 191). As we will see, populist interpretations have similar theoretical grounds and share the same despise for individual judgments.

As we have seen, public opinion, in each of the three shapes it can take (though in varying degrees), is always permeated by irrationality. Be it labelled as partisanship, belief or emotional judgment. Proceduralist theories of democracy, as Nadia Urbinati explains, argue that irrational opinions are part of the democratic game, if not what propel it (Urbinati, 2014, p. 192). However, rival interpretations, such as the epistemic one, have always deemed them dangerous, thus urging that democratic procedures should aim at cleansing them. In the next chapter, my purpose is to show that a divergence on this controversial point can be found since the inception of liberal democracy, when Federalist and Anti-Federalist in the US started to discuss on how to mold their newborn state.

2 RULES OF THE GAME

2.1 THE FILTER OF REPRESENTATION

The analysis of public opinion in the previous chapter has disclosed that, actually, this foundational element of democracy is not free from debatable issues. Not only has public opinion emerged as a true "grey zone" (as Plato defined it), with many possible interpretations and shapes, but it has also revealed as founded on partisanship, as well as on instincts, interests and emotions. This issue is not new in political philosophy. Instead, it goes back up to the early liberals: in "*Of Parties in General*", for instance, Hume warned us against the dangers of factionalism, animosity and the conformist instinct of people. As Stephen Holmes argues in his "*Passions and Constraint*", the whole liberal thought might be founded on an implicit idea, which may be traced back to Hobbes (Holmes, 1995, p. 69), that the human being is irrational and, hence, has to be constrained. When modern democracy was established, in fact, no trace of the ancient systems was left: no popular assembly, no rotation, nor any assignment of offices by lot found a place in modern liberal democratic regimes (Manin, The Principles of Representative Government, 1997). This radical change may be attributed to the necessity of a legitimate authority, stemming from the Natural Law theorists' idea that no authority can be established without the consent of those subject to it (Manin, The Principles of Representative Government, 1997, p. 84). According to this interpretation, the selection by lot probably appeared as meaningless to the constitutional fathers, whereas elections assumed a crucial value, due to the "promise of obedience" contained in the free choice of a representative (Manin, The Principles of Representative Government, 1997, p. 88). In any case, representative democracy definitely prevailed over the direct one, which

used to be the distinctive feature of the ancient Athens. However, Bernard Manin demonstrated in "*The Principles of Representative Government*" that elections hide an aristocratic side. By favoring candidates able to stand out from the others and to get the attention of the electors, elections allow their unequal treatment (unlike the equal chances granted under selection by lot), due to the nature of choice, the advantages of salience in an electoral campaign and its costs. In sum, the triumph of liberalism completely redefined democracy and, perhaps, installed a latent elitism in it, maybe derived from the above-mentioned fear of an unbound public opinion or popular rule.

2.1.1 Federalists versus Anti-Federalists

My purpose here will be to show how these convictions hidden in the liberal philosophy were given vent and enshrined in modern liberal democracy, by taking as a milestone and fundamental historical turning point the debate among the constitutional fathers of the United States, when the state had to be set up after the American Revolution. In that debate, in fact, two factions confronted with each other: the Federalists and the Anti-Federalists. Having agreed on the necessity of elections, the two fronts discussed on which kind of politicians this method was supposed to bring to power. The formers were incline to accept and defend a precise paternalistic conception: representative democracy is nothing but a way to filter and refine people's preferences, thanks to the choice of politicians through the aristocratic mechanism of elections, which was meant to provide for a small number of selected citizens designated to govern, in the name of the general interest. Madison, the most prominent federalist, argued in his famous passage of the "Federalist n. 10" that a republic should be characterized by "*the delegation of the government* [...] *to a small number of citizens elected by the rest.* [...] *The effect of [which] is, on the one hand, to refine and enlarge the public views by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations*". Thus, according to Madison, representative democracy is clearly meant to give rise to a "natural aristocracy" of men of virtue, which, in his view, are better endowed to

administer society according to the common good and the general interest (Petrucciani, 2014, p. 68). The democratic guarantee came only from the recurring elections, which gave the people the power to reject bad or ineffective representatives and replace them with their competitors. Madison insisted on the exclusion of a direct influence of people also in the "Federalist n. 49", when he maintained that "*a constitutional road to the decision of the people ought to be marked out and kept open, for certain great and extraordinary occasions*", since "*the passions, and not reason, of the public would sit in judgment*".

On the other side, the Anti-Federalists had a radically different conception of representation: by following the literal meaning of the word, they thought that the elected should really resemble as much as possible to their electors. That is to say, to be like them not only in terms of political ideas, but also in terms of social and economic background. According to them, representation was not the best theoretical solution, but just the "lesser evil" to accept for practical reasons. Thus, the similarity of electors and elected constituted the real guarantee of a democratic government and representation was meant a transmission belt of people's will, rather than a filter. Indeed, in Anti-Federalists' minds, this close relation between electors and elected had to be crystallized through the introduction of the imperative mandate, i.e. the possibility for the electors to revoke the mandate whenever they feel no longer accurately represented. The difference is really marked: on the one hand, Federalists supported a conception of representatives that are able to distinguish themselves as much as possible by virtue of their capacities; on the other hand, Anti-Federalists argued that they should be as similar as possible to their electors. In light of this controversy, some apparently odd facts of the past potentially find a theoretical justification. Some examples are the existence, in some countries, of property qualifications for candidates, the exclusion of the imperative mandate, or the designing of big constituencies to make it harder for candidates to emerge. In the end, however, the Federalist won the competition, so that, even without managing to impose a property requirement for candidates, their views were enshrined in the constitution and the institutional architecture of the United States.

2.1.2 THE FEAR OF PUBLIC OPINION IN LIBERAL THOUGHT

Together with the Federalist, their elitist ideas came to permeate democracy. However, the fear of the public opinion in power and the profound distrust in its blurred epistemic foundation I have examined before have been also features of the liberal thought of the 19ᵗʰ century. For instance, Alexis de Tocqueville expressed some famous concerns about the potential event of an unlimited popular power. He labelled this scenario as the "*tyranny of the majority*": the danger is the repression of individual freedoms and a push towards conformism in the name of majority rule. Moreover, this opens to the possibility for democracy to become a sort of class government of the poor people, which often constitute the majority in a society. This objection echoes the theory by Aristotle, who conceived democracy as the only occasion for the poor to count. Unfortunately, while the fear of conformism can be justified and will be examined later, the danger of a rule of the poor seems to be just inexistent, due to the huge possibilities for the few to influence the many through the hegemony granted by their additional means (Petrucciani, 2014, p. 81-2). In addition to that, as I have argued above, the nature of elections naturally favors those in possession of social (e.g., good reputation) and economic resources.

Following Tocqueville, John Stuart Mill picked up the objection of the danger of the partiality of a majority skewed in favor of lower classes and added that decisions should be shielded against the myopia and the lack of expertise of common people. He, thus, hoped for a system of weighted vote and public ballot, where the wisest could count more and guide the rest of public opinion (i.e., what today could be labelled as *opinion leading*). Furthermore, he also proposed to take away the drafting power from the Parliament and to give it to small committees of experts, by leaving the former with a mere approval/rejection power (Petrucciani, 2014, p. 85-6). Yet, this epistemic vision of democracy is, perhaps, too radical and for sure in clear violation of the paramount principles of formal equality of citizens.

Regardless of the validity of the objections made by liberal thinkers, their "fears" have been entrenched into the many liberal constitutions, in varying degrees. As Tocqueville notes, in fact, the American constitution provides for a strong judicial power, embodied by a Supreme Court able to strike down legislation and, thus, to heavily limit the power of majorities, and also for a strong executive power, concentrated in the hands of the President.

2.1.3 REPRESENTATION AND PARTICIPATION

With hindsight, Hans Kelsen admits that this blending of liberal ideas with the principles of democracy, in its authentic and ancient meaning of direct participation of all the citizens, has inevitably wounded and weakened the latter. Moreover, he also labels representation as a pretense (Kelsen, 1985). However, he tries to justify it in terms of a division of labor, which is necessary in a big and modern society, and of the physical impossibility for everybody to gather in the same place. These assumptions may really seem anachronistic and pointless today, since the new technologies potentially allow us to overcome such physical obstacles and to "gather virtually" to decide and deliberate, even without wasting the time needed to go out and meet somewhere. The only remaining obstacle might be the potential "loss of efficiency", due to the need for each citizen to get information and come out with a position on every issue, but I would not even take into account the extension of the duty to participate that deputies have to all the citizens. In any case, let us assume for now that there is still an unsurmountable physical obstacle to direct participation: is there really no way to preserve some elements of authentic democracy? There could be several policies that are suitable to this purpose and are used today in Switzerland: tools such as popular initiatives, abrogative referenda or the possibility of recall of representatives. As far as this last feature is concerned, it may help to reintroduce some elements of the ancient democracy, even though it may both frustrate the deliberative spirit of parliamentary assemblies and contribute to exasperate partisanship, as every MP would inevitably end up being bound in each decision by the will of his/her electors (Petrucciani, 2014, p. 177). In defense of representative institutions, there is a distinction to make between the executive and the legislative power. In fact, even a supporter of popular rule such as Rousseau recognizes that the collectivity is particularly unsuitable for particular decisions, i.e. the ones pertaining to the executive. In his words: "*It is not good for him who makes the laws to execute them, nor for the body of the people to turn its attention away from general considerations to particular objects*". That is why the institution of representation can prove extremely useful and efficient for governmental activities, mainly concerned with particular decisions. Nonetheless, as Kelsen

noted, it could be a wound in democratic ideals if it constituted the only lawmaking source, hence completely supplanting the people.

Before turning my attention to the overcoming of representation for lawmaking activities, in the next paragraph I will take into account another type of restriction imposed on the people and on its lawmaking capacity: the procedural and substantial standards entrenched in constitutions. As I have explained above, the various liberal constitutions embodied the fear of public opinion hidden in liberal thought, as expressed, among others, by Tocqueville and Mill. Hence, I will analyze what kind of constraints constitutional fathers envisaged.

2.2 PROCEDURAL AND SUBSTANTIAL STANDARDS IN DECISION-MAKING

So far, we have explored the physiognomy of public opinion, as expression of the popular sovereignty at the basis of democracy, and discovered its ambiguous nature. Moreover, we have outlined how liberal thinkers have tried, openly or implicitly, to defend the community from the several dangers possibly arising from that ambiguity. Such as, for instance, irrational or inconsistent decisions, the unlimited power of a majority, the unconditional respect of natural rights, and so on and so forth… As we have seen, apart from the division of powers – which already existed in some more or less articulated forms in the regimes of the past –, the institution that embodied these fears and radically reshaped democracy on the basis of liberal thought is representation. Even if it is not glaring, the elitist character of representation clearly emerges from the dispute between Federalists and Anti-Federalists. Furthermore, some liberal thinkers, such as Tocqueville or Mill, gave their concerns about public opinion away by means of their writings. Besides representation, liberals have introduced another major innovation in democracy: constitutionalism. Historically, the modern liberal democracy emerges throughout a long path of gradual limitation of the power of absolute monarchies. Even a pre-liberal and non-democratic theorist such as Jean Bodin came to advocate the necessity of a constitution in absolute monarchies: he considered this claim as a strategic retreat of state power, in order to end religious civil wars (Holmes, 1995, pp. 100-2). That is why constitutionalism can be considered as a legacy of liberalism and of its struggle against absolute power. However, a constitution is more than a negative burden on the constituted power: as Stephen Holmes repeatedly proves in his book, the constitution can also be given a positive value. That is to say, as a set of "enabling rules" that allow democracy to exist and also to produce better results. This line of reasoning confirms that also constitutions can be meant, beyond their historical roots and significance, as another device to ensure the thoughtfulness of decisions. In the following paragraphs, I will first examine the procedural rules and, then, I will move to substantive rules. In the former I include the reviewability of decisions, the respect of minorities and the freedom of debate; whereas, in the latter I include material self-sufficiency and knowledge, as requirements for citizens to have an equal opportunity to participate and influence politics. For both the groups I will examine the negative (i.e., restrictive) and the positive (i.e., enabling) aspects of these rules, from the point of

view of the people. For my purpose, I assume here that the simultaneous existence of both the above-mentioned groups of rules is a necessary condition for democracy to hold, even if I am neither getting into the debate, nor examining the possible proceduralist counterarguments.

2.2.1 PROCEDURAL RULES

By extremely summarizing the reasoning of two major theorists of democracy, Rousseau and Hans Kelsen, we could define democracy as a condition of non-domination. That is to say, all the citizens are free and equals, thus they have an equal right to power, which results in the domination of no one. Nonetheless, due to the necessity to bring all those citizens under the same coercive order, they will have to participate to the creation of such an order, which will be the only legitimate restriction of the two above-mentioned basic principles, i.e. freedom and equality (Petrucciani, 2014, p. 112-3). The modalities of this participation must obviously pay respect to those basic principles, which represent the only natural law. As I have argued above when describing the formation and expression of public opinion, the democratic processes must cope with the practical impossibility to have a unanimous consent on coercive dispositions, so that it must rely on the practice that intuitively represents the best solution: majority rule. In order to counterbalance such a limitation, the modern liberal democracy provides for three main guarantees: the freedom of debate, the respect of minorities and the reviewability of decisions. As for the first, I have already argued that a correct deliberation constitutes the main source of legitimacy of collectively coercive decisions. Moreover, the philosopher Guido Calogero explains that the freedom of debate, unlike freedom in general or equality, can be imposed in an irrefutable way, and not as a postulate: it is not possible, in fact, to support its denial without engaging in a debate (Petrucciani, 2014, p. 121). That is why, from a proceduralist point of view, the freedom of debate can be assumed as preceding and containing the two postulates of freedom – in its generic meaning – and equality. It is not by chance that the founding principle of the ancient Athenian democracy was *isegoria*, i.e. the equal opportunity to speak and be heard by the assembly. Hence, in a broader meaning, this amounts to what today is the equal opportunity to influence the political will ("one person, one vote") (Urbinati, 2014, p. 28). Needless to say, the

enabling character of this rule is, clearly, the enrichment and refinement of the final decisions. For this reason, all the truly democratic states take action to defend a free public sphere, in the sense of media pluralism and diversity, and design policies to foster it such as financial subsidies or antitrust legislation (Urbinati, 2014, p. 70). Together with the freedom of debate comes another strong guarantee of peace and freedom: the respect of minorities. It descends from the former, since minorities are protected from exclusion precisely with the guarantee of a freedom to express its opinions. No majority can prevent the minority from expressing its views and, possibly, gain enough consensus to become the next majority. This limit on the power of a majority is intuitively vital for the preservation of democracy, as it helps maintaining the individual freedom even beyond the resolution by vote. Furthermore, it is essential in order to ensure the social peace: through the perspective of an always-possible democratic alternation, in fact, it is possible to channel disagreement towards the arena of public discussion, rather than let it give rise to violence, as it regularly happened in the civil wars of the past. Also the reviewability of decisions points to the same direction: from a practical point of view, since all the democratic decisions are approximations of the truth and of the future, none of them can be considered irrepealable or eternally valid. This point is even more intuitive if we take into account the previous description of the "imperfect" nature of public opinion. However, this limit on majorities is more than a protection against mistakes: it could be interpreted as an extension of the natural right of "children not to be bound by their fathers" and, in the words of the American Declaration of Independence, of the natural freedom of people to "*abolish or alter their governments as to them shall seem most likely to effect their safety and happiness*" (otherwise called "right to rebellion") (Holmes, 1995, pp. 137-8).

2.2.2 SUBSTANTIVE RULES

We could say that all the procedural rules, in the end, aim at limiting the power of majorities in favor of the affirmation of an unconditional freedom of debate and opinion. If this fundamental freedom, as I have argued, can be extended to the right to an equal opportunity to participate and influence political decisions (i.e., a reformulation of the ancient *isegoria*), then

this equal opportunity could become the main reference point for a further substantive restriction of the majoritarian lawmaking capacity. Thus, in order to classify a regime as democratic, every citizen should be in a position that gives him/her the opportunity to exercise an influence on the political power. As pointed out before, the contribution of the individual to public opinion can be given through vote, participation in the public debate or adhesion to the common sense. In each of the three cases, the individual has to formulate a personal judgment. When he analyzed the formation and expression of the individual opinions in the Athenian assembly, Aristotle argued that a truly independent judgment could only come with a full economic and material self-sufficiency. Free and responsible choices, in fact, are individual: no ready-made one is available, not even those suggested by common sense. Hence, that kind of choices should require each citizen to act individually in getting firsthand knowledge and formulating a personal opinion (Urbinati, 2014, pp. 62-3). Clearly, we can infer that each citizen lacking material self-sufficiency represents a wound for the democratic regime. The consequence of the imposition of a generalized self-sufficiency, in turn, is necessarily the introduction of a substantial constraint on the lawmaking power of majorities: each fellow citizen must be kept economically self-sufficient. In my view, it is not by chance that a milestone of liberal thought such as the Theory of Justice by John Rawls takes as a second fundamental principle of justice the combination of fair equality of opportunity and difference principle. The starting point is different, since Rawls does not depart from the assumption that social justice is instrumental to the fulfillment of a real democratic regime. Anyway, the line of reasoning goes like this: if inequalities shall exist, then they must have a justification in relation to positions that are "*open to all under conditions of fair equality of opportunity*" (Rawls, 1999). This means, among all the possible solutions, an education system accessible to every citizen, regardless of his/her conditions (Maffettone, 2010, p. 80). Even if it is proposed in a frame of distributive justice, this could match, in terms of practical effects, the requirement of knowledge advocated by Aristotle: the only difference is that Rawls offers knowledge as an opportunity and, implicitly, a mean to get influential or major positions in society. However, maybe most importantly, Rawls attaches another condition to this principle of justice: the difference principle, which states that inequalities of all sorts have to be "*to the greatest benefit of the least advantaged members of society*" (Rawls, 1999). The object of such a strong distributive condition may be better specified in order to understand why he felt the

necessity to formulate it in that way: Rawls, in fact, referred to "social primary goods", which he defines as "*what persons need in their status of free and equal citizens*" (Rawls, 1999). Once again, the full exercise of citizenship comes paired with the sufficiency of certain basic resources. To sum up my point, little has changed from the ancient times to nowadays: two theorists very distant in time from each other, such as Aristotle and Rawls, have both argued, though for different purposes and in different ways, that a certain level of knowledge and material self-sufficiency are substantive requirements to fully enjoy citizenship. Both from a social justice perspective and from the one of this paper, which aims at the analysis of how the liberal limitation on the power of majorities, in the form of constitutional rules, enable the fulfillment of the democratic conditions of freedom and equality of sovereign individuals.

2.2.3 BEHIND THE RULES

In the end, this chapter has tried to outline the main constraints that have been added to the original functioning of democracy, through its encounter with liberalism. Furthermore, since they may seem unreasonable in relation with the correct functioning of direct democracy in ancient Athens, I have tried to find a rationale for each, especially in terms of the mistrust towards public opinion. Lacking *isegoria* (i.e. the possibility for each citizen to participate and be heard by the assembly), the drawing by lot and the rotation of offices, which were all substituted by more aristocratic systems (such as election and representation), liberals had to find also counterweights to these anti-democratic mechanisms. The compromise came with constitutionalism: a set of rules imposed on the same representative and legitimate majority in power, in order to ensure the protection of minorities, the reviewability of decisions and the freedom of debate. Moreover, as I have argued, the enforcement of those provisions required also substantive constraints, such as fair equality of opportunity (to get educated and get influential positions) and material self-sufficiency (at least to formulate and express a judgment), which are usually entrenched as programmatic rights in liberal constitutions. Finally, in my opinion, the overall examination of these limits discloses that, due to their nature of "enabling rules", they express another clue of the liberal mistrust towards public opinion, since they hide an invite to accuracy and thoughtfulness. Up to this point, however, this fear may appear as excessive in

relation with the only charge towards public opinion: that of being vague, unpredictable and possibly irrational. Thus, in the third and final chapter I turn to the investigation of one of the worst threats that may emerge from the inconsistent nature of public opinion, and maybe the one that can justify the liberal fears of a "tyranny of the majority": populism.

3 THE PEOPLE TAKES OVER

3.1 DEMAGOGUERY IN THE ANCIENT ATHENS

Originally, in the "pure" Athenian democracy, all the citizens could speak in the meetings of the Assembly and take a magistracy. Lot assigned the latter, so that nobody could be favored over another, regardless of any potential reason for that. Accountability was granted by the rotation of offices, so that nobody would ever abuse of his/her power if s/he had the perspective of being forced to hand it over, eventually. Moreover, political trials could be held against inefficient or dishonest magistrates. The one that emerges from the study by Bernard Manin is a regime that functioned smoothly (Manin, The Principles of Representative Government, 1997). Nevertheless, a threat was hidden also there: demagoguery. From time to time, in fact, charismatic leaders appeared and appealed to the people en masse, by advocating its unification against an enemy or a threat. In the name of common people, they seized power. For example, Pisistratus followed exactly this strategy, but, unfortunately, he turned out to be only a tyrant and, especially, a flatterer of the people. For this reason, Plato used to label all the demagogues as tyrants: he characterized them all as just cunning orators, with the only intention to exploit people's consent (Urbinati, 2014, pp. 137-9).

Aristotle, by contrast, offered a much richer description of the phenomenon: first of all, in his view, demagoguery could also lead to good revolutions, such as Cleisthenes' one, when he gave "*a constitution more democratic than that of Solon*" (Aristotle). Second, demagoguery was not just a bottom-up process, i.e. a spontaneous mobilization of common people, but rather it was

the unification of common people under the figure of a strong leader, so that it was actually a top-down process. Demagoguery, as a matter of fact, could not be headless. Finally, it aimed at getting an unrestrained power, in order to bring a radical change or eradicate a threat. That is why, to unify a very large majority of citizens, demagoguery needed a huge political simplification and polarization, e.g. the well off against the poor. However, the presence of a large middle class would intuitively make this project hard to fulfill, since it represented, according to one of the most relevant thoughts of Aristotle with respect to today's democracy, an "antibody" for demagoguery (Urbinati, 2014, pp. 137-9).

3.2 THE POPULIST THREAT

The example of demagoguery is, maybe, one of the most useful to introduce its modern declination: populism. Having many features in common with demagoguery, populism is one of the most complex political phenomena of our period. Through an extremely concise definition, I would describe it as a unification of people by means of political simplification. Its main purpose, in fact, is to establish an ideological unity of the people – by overcoming the many partisan differences that naturally exist in a democratic society – and to make it the supreme authority. Populism has five fundamental features that I am going to examine: unification, simplification, polarization, hostility to liberal constraints and a Caesarist leadership (Urbinati, 2014, pp. 128-31).

First, as the definition entails, it has as main aim the unification of all the people into an ideologically compact unit, so that the largest possible majority is its natural ambition. As a result, populism is anti-individualist, since, contrarily to the liberal values, the voice of the single citizen is deprived of any importance, in favor of that of the people as a whole.

Second, such a unifying ambition cannot be realized by leaving the many existing partisan cleavages untouched, so that it has to resort to a heavy political simplification, in order to create an ideology that is so vague or inconsistent to be able to appeal to any citizen. The pillars of such an ideology would be the sanctification of the unity of the people (against pluralism), the consequent discrimination of the "outsiders" (i.e., the minority that refuses to join that homogeneous will) and the dogmatic equivalence of majority decisions with truth (Urbinati, 2014, p. 151).

The reduction of partisan differences, inevitably leads, in a populist view, to polarization, i.e. the reduction of the political spectrum and of the parties in competition to two extremes: the many against the few. If the party of the "many" aspires to becoming the party of the people, the other one should forcibly be a "bad" party. That is why, populism usually resorts also to scapegoating, in order to stigmatize the other party and invite all the people to unify against it. In Machiavelli's words, this is tantamount to saying that the minority undergoes a transformation from partisan-friend (i.e., a rival party in the political competition for the good of all the citizens), to partisan-enemy (i.e., an obstacle for the good of the winning party) (Urbinati, 2014, p. 143).

Some examples of scapegoats used by populist parties in European countries may be the corrupt political class, the immigrants, Muslim people, the technocratic European institutions, and so on and so forth…

Unlike demagoguery in ancient direct democracy, populism also has to cope with the liberal constraints that I have presented in the second chapter: representation and constitutionalism. In order to effectively attain its goal, in fact, it has to make the people as a whole seize power and make it the only legitimate source of authority. This means, obviously, to displace the constitution, with all the constraints included in it, and to propose a radically different conception of representation. Indeed, it would categorically oppose an interpretation such as the one I have proposed above (i.e., as a filter for public opinion), since populism assumes the people as being always right (Urbinati, 2014, pp. 134-5). Furthermore, it would also find pointless to use representation as a mean to give voice to partisan interests, which should be relinquished in favor of the collective interest. Representation, according to the populist conception, is just a mean to affirm the popular will. As a result, the only compatible conception of representation is the Anti-Federalist one, which judged the representatives by virtue of their similarity with their electors and made them a sort of trustees, bound by an imperative mandate.

Nonetheless, populism is radically different from direct democracy, since its tendency to disintermediation is only apparent. Actually, the real unifying element around which people are expected to converge is not just the general ideology, but rather a Caesarist leader, with a strong and charismatic personality. For instance, notorious populist leaders of the past were Napoleon and Benito Mussolini (Urbinati, 2014, p. 148). Today another example could be the Hungarian Prime Minister Viktor Orbán, whohas spoken out against the liberal principles and, with his impressive majority, has engaged in a brazen constitutional revision (Dyer, 2015). Just like the demagogue, the leader supports a regeneration of the unity of the people only to concentrate that consent and power in his/her hands. For this reason, the apparent populist longing for direct democracy is just an illusion to mask the real purpose: to convey the consent of the crowd towards a charismatic leader (Urbinati, 2014, p. 131).

As Aristotle's study tells us, this concentration may not unavoidably lead to tyranny, not even, in the context of modern democracy, this would mean a per se breaking of the fundamental "rules of the game". Nevertheless, as the experience of the totalitarianisms in the 20th century

reminds us, there is no solution to protect democracy definitively, and populism paves a way out of it when it turns into a plebiscite to crown a leader. Aristotle also makes another interesting point: social distress and the narrowing of the middle class represent key facilitating factors to nurture populism. Social pluralism, in fact, helps preventing polarization and simplification, the structural conditions for the growth of populist movements (Urbinati, 2014, p. 139).

Due to the striving for the affirmation of the popular will and to the conception of representation, populism can be considered as descending from Rousseau's idea of democracy, as expressed in the Social Contract. In the assembly of all the people the individual opinions should merge, in order to make the crowd act as an indistinct unit and as a sovereign, whose will is the General Will. Nonetheless, there is a critical difference between Rousseau's theory and the practice of populism: it lies precisely in the mechanism through which the public opinion is formed. Indeed, in the former, each individual is supposed to go to the assembly and vote without talking with the others, so that the opinion can only be justified in relation with the individual reasoning. The sum of all these individually reasoned opinions is the *opinion générale*, which immediately after the vote becomes the true and legitimate *volonté générale*. This provision, known as Rousseau's injunction of silence, is the guarantee that the choices of the assembly adhere to reason and, thus, to the common interest. Instead, the populist unification of people happens by virtue of the refined rhetorical skills of a cunning orator, the charismatic leader (Urbinati, 2014, p. 140). As it can be easily inferred, the populist strategy is in clear violation of the injunction of silence, so that neither reason nor any other liberal provision added to make up for its lack can ensure the legitimacy or the thoughtfulness of future decisions.

In any case, who can accuse of bad faith a leader that proposes him/herself as the spokesperson of the people? In the end, if s/he manages to persuade the majority of the goodness of his/her cause, maybe it is one of the cases of "good" revolution described by Aristotle. However, the populist exploitation of public opinion as a Trojan horse to get into and control democratic institutions is easier to understand if we consider that it is not only vulnerable to persuasion, but also subject to manipulation. The inquiry of the first chapter, in fact, has revealed that the expression of public opinion can never be defined with certainty. The outcome of the procedures used to give a precise account of public opinion, such as polls or votes, heavily depends on the chosen method. Once again, it is worthwhile to remember that William Riker, by adopting the

social choice perspective, has demonstrated that a fair method of amalgamation of preferences (i.e., giving an equal weight to all of them and to all the possible outcomes) cannot deliver also a meaningful result. In other words, if the amalgamation methods is not biased, it can provide for the winning choice among the proposed ones, but no one can say if that winner would have still won in case the collective will was provided with an unlimited range of alternatives (Riker, 1988). The issue may be exemplified in a metaphorical way as follows: let us imagine that all the peoples of the world get together, though they speak different languages. In such a situation, they have no language (i.e., method) through which they can speak as a whole: the English people, for instance, would express their decision in English, but it would take into account only their preferences. On the other hand, by putting together all the sentences in all the languages through which people communicate their preferences, nothing meaningful would come out. Hence, it is necessary that the most skilled translators meet and decide some alternatives that will be translated in each language with equivalent meanings and, then, submitted to all the people. This is, obviously, a good solution. In reality, however, this is consistent with democratic rules only insofar as legitimate representatives determine the alternatives by following strict procedural rules. In any case, no voting procedure could ever be deemed to be delivering the "will of the people": it will always deliver an outcome with respect to a procedure, an answer to a question. Therefore, the issue arises when a charismatic populist leader pretends to be the only legitimate interpreter of the will of the people, since no such thing actually exists out of an interpretative frame. That is why the social choice point of view interestingly shows populists for what they really are: just ambitious and cunning orators.

3.3 A DEMOCRATIC REVOLUTION

Following in Aristotle's footsteps, Antonio Gramsci thought that leadership politics could prove useful in order to escape from a social deadlock (*equilibrio catastrofico*): a Caesarist leader, in fact, could help the victory of progressive forces by guiding a revolution (in Gramsci's terms, a "war of movement"). However, it is important to note that the role of the leader should forcefully end in the transition between war of movement and war of position. That is to say, when the revolution ended and a cultural hegemony had to do the rest. Indeed, the blending of a cultural hegemony with a charismatic personality would represent a deadly threat of personalization, since the leader would find him/herself with the opportunity to seize and exploit a surprising concentration of power. Hence, the progressive value of the revolution could only be inversely proportional to the degree of personalization achieved by the movement (Urbinati, 2014, pp. 154-6).

The logical consequence of the reasoning is that a unification of the people is not negative in itself. Instead, the way in which it is achieved will determine the value judgment on the final outcome. In fact, we can make a distinction between a "degenerative" populist unification, where the process converges on a Caesarist leader and completely devalues the individual in the name of the people en masse, and a "good" Rousseauian unification, where the value of the collectivity depends on the value added by the single citizens. That is why, contrarily to what the populist ideology suggests, democracy can actually take advantage of the liberal constraints, insofar as they give value to the individual citizen and encourage him/her to participate with his/her independent reasoning, without giving in to conformist tendencies. After having understood the individualist message of liberal theories, people could really open new perspectives of direct influence within the liberal democratic constitutional framework. If the first proviso is sincerely satisfied, this could be done by reducing those provisions that were designed to act as a filter for public opinion, in order to avoid conformist and manipulative tendencies, which, as we have seen, might lead to insane concentrations of power.

In the following conclusion, I will briefly examine some of these possibilities in light of today's trends. That is to say, the return of direct democracy to the political scene.

Conclusion: the genuine expression of popular will

Before drawing the conclusions, let me recap the stages of our journey. First, we have looked at public opinion, whose expressions are multiple and often summary, inconsistent or subject to interpretation. Subsequently, we have analyzed the roots of liberal democracy and found out that the constitutional fathers or the liberal thinkers of the time had a more or less emphasized mistrust towards that multi-faceted entity of public opinion. Afterwards, we have explored what, in my opinion, could have been the worst threat to democracy, coming precisely from within public opinion: populism. By using opinion as a leverage, populist movements aim at scattering democracy, through the creation of an artificial, anomalous and instrumental concentration of power, to the benefit of a charismatic leader. This plan is disguised under a mythology of the people in power, so that populism is easily confused with the truly democratic project explained by Rousseau in his *Social Contract*.

The reason for which, in my view, it is important to talk about populism today is that the current situation of economic crisis and of a resulting narrowing of the middle class naturally exposes the people to the flattering capacities of crafty politicians. Furthermore, this combines with the European tendency to raise the decision-making level for hot issues up to unelected, bureaucratized and distant bodies, so that people now feel a greater need to count and be heard. The vital task for politics is, thus, to satisfy this need before the many populist movements sweeping across Europe manage to provide their illusory solutions.

In my opinion, a good way to do that would be to focus on the topic of direct democracy, which has revived thanks to the Internet. Indeed, the biggest invention of our time has greatly

empowered common people, by helping them to overcome the classical obstacle for big modern states: the physical impossibility to meet in a single place. Hence, people now may meet in virtual communities to discuss and, most surprisingly, to vote on issues. This is the case of the Italian "Five Star Movement", which often relies on the verdicts of online –though unofficial– consultations of its members. Nevertheless, it is necessary to note that Internet just proposes in a different way the issue of a "correct" unification of people. As Peter Dahlgren pointed out, the huge heterogeneity that we find on it could give rise to a system of "*disparate islands of political communication*" (Dahlgren, 2005), i.e. self-referential niches that may constitute a fertile ground for polarization and, consequently, to populism. That is why a democratic amalgamation of opinions shall always pass through the fostering of an individual reasoning and, then, a collective confrontation.

By looking at the various examples of direct participation in democratic states, I have personally found interesting the kind of interaction that takes place in Switzerland between the people and the institutions. In that case, many clues suggest that such a correct amalgamation may take place and that it may be beneficial to the quality of the laws. Indeed, Switzerland has a "double" system, where representative institutions coexist with a wide lawmaking capacity of the citizens, who are able to repeal laws/resolutions they disagree with, propose to the lawmaking assemblies their bills, ratify the laws subject to mandatory referendum and, finally, approve laws by popular vote (Zaquini, 2015, p. 30-1). Some of these democratic tools are available also in Italy, but the differences are highly remarkable. First, while a popular initiative in Italy has to pass through the quagmire of Parliament, where it is most likely to die, the Swiss citizens can also try to approve a law by popular vote, hence acting as an autonomous chamber. The easiness through which common citizens can "defy" lawmaking bodies constitutes one of the main factors of accountability for politicians, who do not have the possibility to count on the "forgetfulness" of citizens to be reelected, as their action or inaction can be challenged in any moment with little effort (Zaquini, 2015, p. 33, 56). A second key difference with the Italian system is that there is no *quorum* favoring the *status quo*, so that abstention has a really neutral value. In his recent book on Swiss democracy, Leonello Zaquini highlights that abstention is always high, but this does not represent a negative fact or an index of skepticism: the renounce to vote in Switzerland is usually interpreted as a frank suspension of judgment, due to the lack of enough information

or interest to form a pondered opinion (Zaquini, 2015). The reflective character of participation, in my opinion, is one of the most relevant ingredients of this successful experience. In 2013, the Swiss people decided not to directly elect the Federal Government: the reason of such an astonishing decision is that they did not feel suitable to choose somebody without knowing his/her or having any concrete data to judge. They were afraid that politics could turn into a show and they declined (Zaquini, 2015, p. 53). This episode demonstrates that the Swiss are familiar with the conception of individually reasoned decisions I have expressed above. Moreover, it is fundamental to note that this conception is supported by the voting procedure, which provides for the free delivery to each voter of an informative booklet containing a neutral description of the issue, the arguments in favor and against the proposal and the possible counter-proposal made by the legislative institution involved (Zaquini, 2015, p. 27). This "culture of thoughtfulness" is particularly useful to reduce partisanship in political decisions, so that parties lose their dangerous grip on society and on citizens, which usually decide to vote against the suggestions of their party (Zaquini, 2015, p. 87). As a result, the many cultural and linguistic differences that make Switzerland up are transformed from an obstacle to governing capacities, as it would typically be seen, into an opportunity for individual reasoning. Furthermore, there are also examples of the efficiency of such an exercise of popular sovereignty. Indeed, in confirmation of Daron Acemoglu's and James Robinson's famous claim on the importance of institutions for good economic performances (Acemoglu & Robinson, 2013), in 2001 the Swiss people have adopted by popular vote a law imposing anti-cyclical economic policies (i.e., spending during recession and saving during growth), which has managed to reduce by 13 points the debt-to-GDP ratio between 2005 and 2010 (Zaquini, 2015, p. 102). Finally, direct democracy is a great weapon against corruption. The most intuitive example is the comparison made by Zaquini between direct democracy and the Internet, which was developed starting from the DARPA project, an American defense program pursuing the creation of a communication network able to resist even to an atomic attack. A centralized network, the researchers thought, could be easily spoiled by damaging the coordination point. However, a decentralized network would be able to survive as long as there are some active end-points. The strength of the decentralized network is comparable to the resilience shown by the Swiss democracy towards corruption: the more the lawmaking power is diffused, the less external agents can exert their pressure on it (Zaquini, 2015, p. 54).

The Swiss case proves the many virtues of direct democracy, which, as my reasoning has tried to show, must always be accompanied by some pre-requisites that I will briefly list below. First, in accordance with what Rousseau had already prescribed in his *Social Contract*, the empowering of people requires also that they engage in individual and impartial reasoning before they take any decision. Second, direct democracy is not an alternative to representation, but rather a tool to assist and improve the quality of the latter. Conversely, representation should not be intended as a way to limit people, but rather as a device to reduce the exposure of popular sovereignty to degenerations such as populism. In fact, the third pre-requisite is the avoidance or, better, the aversion to personalization, which appears to be the main driver of the populist degeneration. A fourth pre-requisite is the respect for the constitutional framework. If democracy has to be preserved, a majority cannot overthrow the basic limits that have been imposed on it, also in the interest of the same majority. Leonello Zaquini acknowledges, actually, that one of the shortcomings of the Swiss system is the lack of an impartial body assessing the acceptability of referenda in light of the above-mentioned constitutional provisions, i.e. an institution such as the Italian constitutional court (Zaquini, 2015, p. 140). Finally, the fifth pre-requisite is that of the transparency and regulation of the financing of the campaigns for the initiatives, in order to avoid an undue interference of economic powers.

When these five conditions are satisfied, the empowerment of people could be highly beneficial to democracy and to the efficiency of the state, without risking to facilitate the anti-democratic degenerations, whose threat has predictably led to the rarefaction of the possibilities of direct influence.

RIASSUNTO

I recenti sviluppi in Europa hanno reintrodotto nella scena politica un fenomeno tanto interessante quanto pericoloso: il populismo. L'elaborato ha come obiettivo lo studio di tale fenomeno, tracciandone gli aspetti, le peculiarità e le radici storiche. In particolare, è possibile definire il concetto di populismo come un progetto di governo basato sull'unificazione dell'opinione pubblica, attraverso un'estrema semplificazione politica e ad opera di un leader carismatico. Non dovrebbe sorprendere, in effetti, che esso venga associato spesso ad una promessa di maggiore influenza da parte del popolo, fino ad arrivare alla recente introduzione nel dibattito politico del tema della democrazia diretta. Lo stesso Aristotele, a suo tempo, smentì la ben nota equivalenza proposta da Platone tra demagogia e tirannia, spiegando che alcuni demagoghi, come Clistene, riuscirono ad apportare cambiamenti positivi nella società dell'antica Grecia. Al fine di poter esprimere un giudizio complessivo sulle cause e sugli effetti del populismo, nonché di riuscire a discernere tra le reali esigenze di cambiamento che esso indica e i suoi effetti antidemocratici, l'elaborato procederà come di seguito: nel primo capitolo viene esaminata l'opinione pubblica, nel secondo le regole del "gioco" democratico e, nel terzo, le potenziali minacce insite nel populismo. La prima, infatti, rappresenta il terreno fertile su cui il populismo riesce a dispiegare i propri effetti, mentre le regole della democrazia liberale equivalgono, per certi versi, a un freno posto ad essa dai padri costituenti, poiché uno stato democratico interamente basato sull'opinione pubblica sarebbe pericolosamente esposto a degenerazioni populistiche. A conclusione di questo percorso, infine, vengono indicate soluzioni per maggiori possibilità di una sana partecipazione diretta dei cittadini, sulla base dei risultati normativi del ragionamento svolto e in relazione alle pratiche di democrazia diretta in Svizzera, dove queste

sono previste dalla costituzione e spesso utilizzate con successo dai cittadini. Di seguito descriverò i contenuti di ogni capitolo.

Capitolo 1 – L'opinione pubblica

Il primo capitolo è dedicato all'analisi dell'opinione pubblica, come forza trainante dello stato democratico, in concorrenza con il potere esercitato dagli organi costituzionali. Essa costituisce un concetto controverso e discusso: Platone, ad esempio, la etichettava come "zona grigia". Le cause di questo appellativo possono essere ricondotte alla sua stessa natura, che è multiforme e, spesso, indefinita. Lo studio proposto nell'elaborato segue lo schema teorizzato da Ilvo Diamanti, secondo cui è possibile distinguere tre forme di opinione pubblica: quella del dibattito pubblico, quella del voto e quella del senso comune.

Nella forma del dibattito, l'opinione diviene elemento cruciale della democrazia, per via della sua funzione stabilizzante e di legittimazione. La più grande innovazione del sistema democratico-liberale, infatti, consiste nel porre fine alla storica espressione del disaccordo tramite la violenza, per sostituirvi il diritto delle minoranze ad esprimere la propria opinione, per poi avere l'opportunità di diventare future maggioranze. Questa forma residua di partecipazione al potere è costituita unicamente dalla possibilità di discussione. Inoltre, come evidenzia Bernard Manin nel suo saggio "*On legitimacy and political deliberation*", la discussione, piuttosto che la risoluzione a maggioranza, è il momento in cui il risultato finale del processo decisionale acquisisce legittimità, al pari di una risoluzione unanime. Questo è possibile grazie allo scambio di vedute e all'apporto fondamentale della minoranza alla decisione finale. A condizione, ovviamente, che siano adottati gli standard del dibattito politico, ovvero che sia assicurata l'inclusione di tutte le vedute, a prescindere dalla loro correttezza, e che si ricerchi la ragionevolezza piuttosto che la verità.

Una seconda forma di opinione pubblica è quella resa dall'esito di una votazione, che si rende indispensabile per via della necessità pratica di raggiungere una decisione collettiva in tempi limitati. Malgrado la netta superiorità del voto in termini di utilità pratica, esso presenta comunque delle criticità, esposte da William Riker in "*Liberalism against populism*". Dal suo

punto di vista, ovvero quello della teoria della scelta sociale, ogni procedura di voto capace di amalgamare correttamente le preferenze individuali sembra restituire risultati logicamente incoerenti. In altre parole, tali risultati non possono essere considerati, come qualche populista vorrebbe, "il volere del popolo", bensì possono essere ritenuti validi solo in relazione alla procedura utilizzata e alle scelte proposte, che quindi influenzano inevitabilmente la lettura finale del dato e ne inficiano la validità universale. Da ciò, prosegue Riker, consegue che si è posti davanti a una dura scelta: lasciare che un'autorità oligarchica predetermini delle opzioni da sottoporre ad un voto popolare a maggioranza semplice (l'unico che non presenta i difetti di cui sopra) o ammettere la possibilità che l'esito non sia esattamente "il volere del popolo", ma semplicemente una delle possibili interpretazioni delle preferenze dei cittadini. Queste ultime, infine, sono necessariamente esposte al rischio di parzialità. Esso non può essere eliminato, per via del carattere soggettivo delle decisioni politiche, che sono generali, riguardano il futuro e, quindi, sempre aperte a eventuali revisioni.

La terza ed ultima variante dell'opinione pubblica è costituita dal senso comune, ovvero una narrativa unitaria del volere popolare, sulla base dell'opinione prevalente. Questo tipo di opinione opera soprattutto nella determinazione degli esiti dei plebisciti o, più in generale, dei giudizi delle masse. L'importanza del senso comune è dovuta principalmente alla capacità che esso ha di esprimere un giudizio popolare uniforme, che abbia una grande valenza emotiva e simbolica nell'accordare o meno fiducia ad un leader o rappresentante.

Complessivamente, quindi, l'opinione pubblica emerge come una vera "zona grigia", a cui non si può attribuire un valore sostanziale. Tuttavia, la sua centralità nella democrazia è dovuta alla sua compatibilità con i postulati democratici di libertà e uguaglianza dei cittadini.

CAPITOLO 2 – LE REGOLE DEL GIOCO

Nel secondo capitolo vengono esaminati i limiti posti all'opinione pubblica ad opera del pensiero liberale, che è storicamente e prevalentemente apparso diffidente nei confronti della prima. In particolare, viene proposta una lettura della rappresentanza come filtro dell'opinione pubblica, sulla base dell'interpretazione fornita da Madison e dai Federalisti nel dibattito sulla costituzione degli Stati Uniti. Essi, infatti, la concepivano come un modo per "rifinire e allargare" le vedute del popolo, attraverso l'intermediazione di cittadini selezionati per la loro saggezza.

Questo trova riscontro nello studio di Manin "*The principles of representative government*", che evidenzia come, diversamente dal sistema di sorteggio adottato nella democrazia ateniese, il meccanismo dell'elezione nasconda in sé degli aspetti aristocratici. Esso, infatti, dà maggiori opportunità ai candidati che, grazie alle loro doti, riescono ad attirare l'attenzione degli elettori. L'asimmetria nella distribuzione delle probabilità di elezione va poi aggiunta alla sovranità assoluta dell'elettore, che può adottare arbitrariamente il suo metodo di scelta, e a fattori come il costo dell'acquisizione di un rilievo (ovvero della campagna elettorale), nonché la distribuzione asimmetrica iniziale anche di quest'ultimo (alcuni candidati, infatti, potrebbero essere già noti al pubblico). Tuttavia, Manin ritiene che la preferenza accordata all'elezione dai padri costituenti sia da giustificare con la "promessa d'obbedienza" che essa contiene.

A riprova della diffusione nella filosofia liberale di una sfiducia nei confronti dell'opinione pubblica, altri suoi autorevoli portavoce, come Tocqueville e Mill, espressero posizioni simili a quelle federaliste, nonché preoccupazioni in merito al rischio di una "tirannia della maggioranza", soprattutto qualora questa dovesse corrispondere solamente al ceto più popoloso. Inoltre, è possibile rintracciare nelle loro teorie degli aspetti chiaramente epistemici: la miopia e la mancanza di competenza dei comuni cittadini vengono additate come possibili pericoli, a cui rimediare con l'introduzione di organi oligarchici o tecnici, come la Corte Suprema statunitense, dotata del potere di annullare le leggi.

Un'ulteriore limitazione aggiunta in seguito all'incontro tra democrazia e liberalismo fu il costituzionalismo, la cui utilità pratica è però dimostrata dalla trattazione di Stephen Holmes "*Passions and constraint*". Una costituzione, infatti, pone dei limiti procedurali e sostanziali, senza

i quali le decisioni avrebbero una qualità inferiore e rischierebbero di dimostrarsi addirittura disastrose. Tra i primi troviamo la libertà di parola, il rispetto delle minoranze e la rivedibilità delle decisioni. Essi sono fondamentali per la protezione dell'opinione, che, come detto in precedenza, racchiude lo spirito della democrazia. Tra i secondi, invece, troviamo l'autosufficienza materiale dei cittadini e l'uguale opportunità di istruzione, entrambi intesi come prerequisiti necessari per poter formulare una propria opinione e ambire ad acquisire influenza sul processo decisionale.

CAPITOLO 3 – IL POPOLO AL COMANDO

Il terzo capitolo è dedicato alla descrizione del populismo, che costituisce un pericolo storicamente insito nella sovranità popolare e fu probabilmente uno dei più temuti dagli intellettuali liberali sopracitati. L'analisi inizia dalle lontane origini del fenomeno, individuabili nei demagoghi dell'antica Atene. L'esperienza ateniese, infatti, è utile a dedurre la prima caratteristica fondamentale del populismo: la guida di un leader carismatico dalle notevoli abilità oratorie.

Il fenomeno ha, però, altre quattro peculiarità. Innanzitutto, esso aspira a un'innaturale unificazione del popolo, a discapito delle posizioni individuali, che vengono invece salvaguardate nel sistema liberal-democratico. Inoltre, per realizzare tale unificazione, il populismo propone un'estrema semplificazione delle questioni politiche, ad opera di un'ideologia quanto più vaga possibile. La semplificazione implicherebbe la riduzione del pluralismo e, di conseguenza, una polarizzazione nella competizione politica, con conseguente stigmatizzazione della parte avversaria o minoritaria. Infine, il populismo contiene una naturale avversione alle limitazioni liberali, poiché, ponendo fine al dominio esclusivo che l'opinione pubblica aveva nella democrazia antica, esse rappresentano un ostacolo per il progetto populista. Quest'ultimo tenta, infatti, di padroneggiare la prima, per poi attribuirle un valore sostanziale che non le appartiene, al solo fine di farne uno strumento di governo ad uso di un leader.

La figura stessa del leader è un fattore determinante per un'eventuale deriva anti-democratica: qualsiasi abile oratore si definisca portavoce della volontà popolare opera

necessariamente un inganno, poiché, come Riker ha avuto modo di dimostrare, non esiste un metodo per determinare in maniera univoca i contenuti di tale idea. L'esistenza di un leader carismatico, inoltre, sancisce la differenza radicale tra populismo e democrazia diretta: l'unificazione del popolo tramite la retorica e la personificazione del suo potere in un "portavoce" sono ciò che Rousseau proibiva categoricamente nel suo "*Contratto Sociale*", secondo cui ogni cittadino aveva l'obbligo di recarsi a votare in silenzio, facendo affidamento esclusivo sulla sua sensibilità e razionalità. La disintermediazione e l'individualità della scelta sono, quindi, elementi fondamentali della democrazia diretta, la cui mancanza può solamente costituire una strumentalizzazione di questo concetto.

CONCLUSIONE

Il nuovo vigore dei populismi, congiuntamente con il successo del tema della democrazia diretta, può indicare la ricerca di una maggiore influenza da parte dei cittadini sulla politica. L'elaborato si conclude formulando delle proposte basate sul modello svizzero, in cui i cittadini hanno la possibilità di operare come una sorta di "parlamento rivale", senza però bisogno di intermediari carismatici, il cui dominio dell'opinione pubblica si rivelerebbe fatale.

Inoltre, tenendo in considerazione l'obbligo del silenzio imposto da Rousseau ai cittadini nell'esercizio delle loro prerogative legislative, un grande pregio del sistema svizzero è costituito dall'incoraggiamento della riflessione individuale, tramite l'invio di un opuscolo gratuito contenente pro e contro di ogni proposta legislativa popolare.

Le svariate possibilità che i cittadini hanno di esercitare direttamente il potere legislativo e, dunque, di "sfidare" gli organi costituzionali agiscono come un fattore responsabilizzante e stimolante nei confronti dei rappresentanti politici. Viceversa, i cittadini svizzeri hanno anche saputo inserire queste prerogative in una cultura di riflessività, secondo cui l'astensione viene interpretata come una saggia rinuncia a giudicare, in mancanza di sufficienti elementi.

Ulteriori dimostrazioni del cauto esercizio del potere legislativo da parte dei cittadini provengono dall'approvazione nel 2001 del cosiddetto "freno all'indebitamento", ovvero una regola di spesa pubblica anticiclica che ha mostrato ampi effetti benefici negli anni successivi, o

dalla rinuncia nel 2013 ad eleggere direttamente l'esecutivo federale, ritenendo, data la "lontananza" tra cittadini e candidati, che la scelta di questi ultimi si sarebbe potuta ridurre a una spettacolarizzazione.

Per tutte queste ragioni, l'immagine complessiva del caso svizzero prova che l'introduzione di elementi di democrazia diretta può contribuire al rafforzamento della democrazia moderna in termini di legittimità, stabilità ed efficienza. Ovviamente, essi devono essere accompagnati da precauzioni culturali e legali, come la propensione al ragionamento individuale, l'accettazione della coesistenza tra meccanismi rappresentativi ed esercizio diretto della sovranità popolare, l'avversione alla personalizzazione in politica, il rispetto per i limiti costituzionali (difesi, come in Italia, da una Corte Costituzionale) e la totale trasparenza nel finanziamento o nell'organizzazione delle iniziative popolari.

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