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WITHER DEMOCRACY?

A NOTE

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***Abstract:** Globalization provokes a split between the economic dimension (dynamic) and the legal dimension (static). The first one is increasingly mobile across different jurisdictions while the latter lags behind as far as it is still produced at domestic level, or is delegated to supranational administrative bodies. This creates problems of political accounting of public decisions through the weakening of nation state sovereignty. As a consequence, it nourishes the feeling that democratic control itself is undermined. In this setting democracy seems to become controversial, swinging between a technocratic model and a demagogic one. Are these the only alternative possible?*

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§ 1. Ever since the origin of political science the problem of the nature, the definition and conditions of democracy took center stage. Once again, the problem is currently arising a lively debate because of the spreading of globalization and technological development that appear to put democracy in perils once more. Two phenomena are mostly debated in this field. On the one hand the fact of the increasing distribution of political power at different levels, the proliferation of administrative authorities and the shifting of national power towards international levels of governance seem to weaken the link between *the people*, upon which sovereignty is entrusted in democratic systems, and the exercise of effective power. The most visible outcome of this redistribution of political power is the progressive decline of the role of national Parliaments which were considered for long as the core of democratic process. On the other hand, the spreading of so called populist movements aiming at regaining control by the people over the decisional process (a kind of cooperative or participatory form of democracy) arouse as a reaction a debate about the limits of democratic process itself to make a selection of the ruling class based on competence (which may be called the meritocratic view of democracy).

A common feature of these phenomena is the perception of the inability of the voting process to implement democracy in full. The difference between them is to be found in the conception of democracy underlying the different interpretations. The idea of what democracy is (or should be) changed through time but a single interpretation emerged as dominant for long. Today conflicting views are fighting in order to be recognized as the true interpretation of what democracy should be. This process tends to radicalize pushing on one side towards more extreme forms of direct democracy and on the other side towards technocracy.

Why such a situation has developed? What is the possible solution of the dilemma (if there is any?). In the following pages I'll try to analyze this phenomenon in its main lines starting from the notion of democracy in its plurality of meanings ending up with some considerations on the current state of affairs.

§2. One step back. According to Aristotle, democracy is a deviation-form of the Polity Constitution which is a kind of middle class meritocracy. In democracy, to the contrary, a propertyless mob is the ruler¹. This distinction, that can be considered to be the classical philosophical position on democracy, marks to some extent the debate on vices and virtues of democracy from that moment on. The reaction to meritocratic view of democracy is sometimes called populism, with two different meanings attached to it, one positive and the other negative. According to the first one populism is intended to restore people's sovereignty over what is perceived as a system of fake democracy, a system in which the real power is entrusted upon an oligarchy, and voting is just a way to legitimate it in a formal way and as far as the outcome of the elections is in line with goals proper to the same oligarchy: populism is true democracy. As for the other interpretation, populism is a reactionary attitude aiming at subverting institutional stability and downgrading political representation towards low levels of competence. Quality and universality seem to be in conflict within the same concept.

Such clash of visions, although to some extent intrinsic to the very notion of democracy, has been exacerbated by the growth of globalization and the rapid development of technology, after a period in which a unique meaning of democracy had unanimous consent, reinforced after world war II by the experience of totalitarian systems. The difference between democratic and totalitarian systems was pretty easy to understand, democracy was defined mostly in a negative way and was to some extent made equal to freedom.

The different views of democracy mentioned above, arising at a time when democracy is taken for granted, have at least two features in common. First, the belief that other's position is incompatible with true democracy, so that should be totally rejected without any possible compromise. Second, the idea that sovereignty is entrusted upon the people and this is the necessary requisite of democracy.

In order to analyze the decline of the democratic idea as traditionally understood is important to stress the close relationship between democracy and sovereignty

¹ Copleston S.J., F., 1985, *"A History of Philosophy"*, Image Books Doubleday: New York, volume 1, pg.355.

so that the crisis of democracy is in some way linked to the crisis of the very idea of sovereignty.

The relationship between democracy and sovereignty therefore should be the starting point for a meaningful discussion on this topic.

§ 3. What the source of political authority is defines the concept of sovereignty. The first stage of development of the idea of sovereignty can be detected in the middle ages clash between the emperor and the pope in order to establish which is the supreme head in the temporal sphere. According to Ockham "*the authority of the emperor derives, not from the pope, but from his election, the electors standing in the place of the people*"². The reference to the people it does not mean that the people is the very ultimate source of power, which is always believed to be God, but that the political power is not derived from the pope. Electors, at the same time, are but delegated by the people. Even within these limits the concept of *people* is strictly linked to the concept of sovereignty.

A somewhat different approach is that of Saint Thomas Aquinas. According to him, in democracy "*the heads can be chosen from the ranks of the people and ... the choosing of the heads belongs to the people*"³. The requirements to be a ruler in democracy are twofold, then: both the origin of the ruler and the means of selection belongs to the people as a natural right.

This attitude is typical of the medieval way of thinking. The medieval interpretation derives in some way from the roman law stating that what "*principi placuit legis habet vigorem*"⁴ but always remembering that the power of the prince derives from the people since "*omnis potestas a populo*". This means that there is a *translation imperii* from the people to the prince which in fact may deprive the people from effective power⁵. This can be considered to be a clear definition of the principle of delegation of political power with all the problems that will arise afterwards.

² Coplestone S.J. F., 1953, "A History of Philosophy. Ockham to Suarez", The Newman Press: Westminster, MD, pg. 117.

³ Summa Theologiae I-II, 105, 1, quoted by Gilson E. 1994, "*The Christian Philosophy of St. Thomas Aquinas*", Notre Dame, Ind.: University of Notre Dame Press, pg. 330.

⁴ Digesto I,4,1.

⁵ Sartori G., 2011, "*Democrazia. Cosa è*", Bur: Milano, pp. 27-28.

It is agreed that directly or indirectly in democracy the people chooses a sovereign and doing so “*the people have agreed, explicitly or implicitly, to some other way of transmitting political authority*”⁶. Consent by the people is assumed, then, but it is assumed to be necessary anyway.

The problem of delegation of power, its nature and extent, most of all whether it is reversible or not, will be one of the main problems in the discussion about substantial democracy as compared to formal democracy.

The turning point in the evolution of the idea of the source of political authority and its legitimacy is Machiavelli’s work according to which principles of scientific inquiry are employed in order to work out what we may call a *pure theory of politics*.

The reference to *people* in Machiavelli’s analysis has no link with a specific form of government though, since it can even be compatible with tyranny. This attitude in fact is in line with the Aristotelian view⁷. In any event, in Machiavelli’s analysis the *people* is different from the *multitude* or *rabble* so that this difference, so important in current discussion about populism, emerges already in political theory analysis with Machiavelli. The difference between *people* and *multitude* is usually based on the different (and better) economic condition of the *people* from that of all the rest of the society. But this is not all. The lower levels of society are soon labeled as *mass* which is not just the low income class but also the undifferentiated one, which as a consequence is unable to rule. The ability to rule is not linked to some personal attitude or competence, then, but seems to be derived by the attitude of the *people* to be a definite class.

As soon as the evolution of the economic structure of society reaches the stage of the industrial revolution, the first class will be identified with the middle class or the bourgeoisie, while the latter will be soon qualified as proletariat. Democracy in this setting will be linked to the widening of the right to vote without any requirement of wealth and to the acknowledgement of proletariat as a political actor. The mass is not any more an undifferentiated group of

⁶ Coplestone S.J. F., 1953, cit., pg. 118.

⁷ Burnham J., 2020 [1943], “*The Machiavellians. Defenders of Freedom*”,

persons but a well-defined class clashing with the bourgeoisie⁸. In order to classify the nature of democracy, the stress is now on the real possibility and enlargement of political participation.

Apart from the well-known idea according to which the prince should not abide by any principle of morality in his action of preserving the security and welfare of the State, i.e. the principle of *indifference* of morality (not praise of immoral conduct anyway), two main consequences stem from Machiavelli's work. The first one is the proto-positivist interpretation of the legitimacy of power. Since any means is legitimate to the prince "*in establishing and maintaining his authority*"⁹, power is a sufficient justification for itself. This is a radical switch from the former logic of medieval natural right basis of power. The second one is the introduction of the idea that there is a difference between a minority which is fit for becoming a ruler and all the other components of society deprived of this quality. This is at the roots of the elitist conception of politics (and of society in general) which will be later developed mostly by Gaetano Mosca, Robert Michels and Vilfredo Pareto based upon the belief of the necessary existence and distinction between a ruling class and a ruled class. The first one is an organized minority which is able to command over a majority of individuals without coordination. Organization is then recognized as an essential component of social power. According to this interpretation, the distinction between the dominant class and the dominated one is a constant law of any human association and even democratic systems are so characterized. This is another problematic step in the evolution of the concept. It means that a pure (direct) democracy is not possible by definition, if pure democracy is understood as the collective exercise of power and not just that rulers belongs to the people and are chosen by the people. This turn implies that some degree of delegation of power and of coercion is unavoidable. The point will be stressed by the whole tradition of political sociological theories of public finance¹⁰. The question

⁸ it is impossible here to analyze Marxian interpretation of democracy. For such analysis see for example Springborg P., 1984, "Karl Marx on Democracy, Participation, Voting and Equality", *Political Theory*, nov. vol.12 no.4, pp. 537-556.

⁹ Coplestone S.J. F., 1953, cit., pg.315.

¹⁰ Boccaccio M., De Bonis V., 2003, "Political sociological theories in italian tradition of public finance", Fabrizio Serra Editore: Pisa-Roma, vol. 11 (1), pages 75-97.

becomes: to what extent delegation of power remains compatible with a democratic government?

The delegation of power in order to render it effective has two possible consequences. For Thomas Hobbes the transfer of power from individuals to government is irreversible. Sovereign is the State and this is the only way of leaving the original situation of war of all against all. In the Lockean version, people retain sovereignty so that the delegation of power can be revoked at any time in the logic of a contract between people (which is still sovereign) and government. This is the foundation of the liberal idea of democracy which is bound to become dominant in political philosophy.

As for Rousseau, on the contrary, the only kind of democracy is the direct one, since he refuses to admit any kind of representation. The social contract in this case is among individuals and not between them and the king.

In the first model since sovereignty is transferred completely to the State it can be exercised in principle without limits by the government as Jean Bodin stressed in his classical work. In the second model sovereignty is still allocated to the people but it is handled by delegates. In the third one, it is both retained and exercised by the people. While the second becomes the dominant model which connotes liberal democracies, the influence of others two keeps on affecting the debate over the sovereignty in a democratic system. They can be considered as possible remedies to the deficiencies of the classical model (the intermediate one) if not alternatives once the last enter a crisis and is not recognized as the legitimate one. The Rousseau-kind version of democracy is again taken into consideration nowadays as a reaction to technocracy and since it seems possible to implement it thanks to the digital revolution. It is usually associated to the populist view, with a negative sound.

The Lockean version, as it has been said, tends to become the dominant one from the ninety century on. The Hobbesian model may be considered to be as a remedy in situations in which a paralysis of the democratic mechanism arises. In any event, the liberal approach assumes that the power of the government tends by its nature to become a Leviathan with the risk of expropriating the

people shifting to an absolutist. This problem is usually faced by setting up constitutional rules¹¹.

The individualistic content of this construction puts voting at the core of democratic process intended as a technique of translating individual preferences in coherent collective choices. But this proves soon to be problematic, if not impossible¹², even outside the political sociological approach that use it as an assumption. Such *impossibility* is strictly dependent upon the alleged procedural nature of democratic process¹³. In fact, the very majoritarian rule is as such just a technique without a specific substantial content, legitimating any possible outcome if only procedural rules are complied.

This means, on the contrary, that consent of the majority is a necessary but not a sufficient condition in a democratic environment if it should be value based, since majorities swing over time. If the technical aspect of democracy is prevailing, then, the legitimacy of democratic procedures tends to blur. The legitimacy is to be found elsewhere than number, but in a society deprived of a common ground of substantial values this problem seems to be unsolvable.

In this setting the relationship between democracy and individual freedom is put under pressure. Liberal democracy risks to be an oxymoron.

An additional remark can be done in order to complete this framework of analysis. With the growth of nation-states, sovereignty has been associated to a territory, so that the political authority in a democracy resides in the people belonging to a specific territory. This is a crucial point in order to understand the alleged crisis of democracy in times of globalization when the traditional concept of sovereignty is questioned since governments are not the unique normative power over a particular territory.

Summing up, the scheme that prevailed for long has been that of representative democracy (which tends soon to be identified with the rule of majority) within

¹¹ This is the core of James Buchanan's analysis.

¹² The well-known Arrow's impossibility theorem. Arrow K.J., 1951, "*Social Choice and Individual Values*", New Haven CT.: Yale University Press.

¹³ Arrow K. J., 1950, "A difficulty in the concept of social welfare", *The Journal of Political Economy*, vo. 58, no. 4, pp. 328-346-

a nation state in which sovereignty is accordingly strictly linked to a specific territory sharing common values.

With globalization and rapid technological development this equilibrium has been put under stress and entered a crisis which seems irreversible. The link between a specific people, a well-defined territory and unique political authority has been weakened if not totally broken. At the same time, globalization has changed the structure of societies which are more and more made up by groups sharing different, often very different if not incompatible, set of values. This makes almost impossible to find a common ground between these groups.

What place, if any, has a traditional meaning of democracy in this environment? Has sovereignty any meaning in a democratic setting without the link to a territory? Is there any change that can be implemented in order to avoid a breakdown of the whole system? In order to face these problems a previous even if brief analysis of the nature of sovereignty is appropriate.

§4. Sovereignty is the power to decide. Absolutely, in the original sense when it was considered to be a God's prerogative. Jacques Maritain suggested to abandon the very concept of sovereignty as soon as it is associated to human power, whether king's power or people's one¹⁴, in order to avoid legitimating absolutism through equating human sovereign to God.

In the current language, though, sovereignty is assumed to mean in a more neutral way the highest level of human power, whether absolute or not, and in democratic systems it should be granted that is not absolute. At the same time is not disputed that it is a unitary power, indivisible (there cannot exist two sovereigns at the same time), though limited in its exercise. These limits may be of two kinds: formal ones and substantial ones. The first ones are procedural. The clearer example is majority rule. The second ones reflect the basic values of a community, and are embodied in Constitutions whose task is that of providing stability to the same community and secure against abuse of power on part of the specific persons exercising supreme authority. Relying only to formal rules is not adequate as a guarantee (think about the so called *dictatorship of the majority*). But, at the same time, Constitutions themselves

¹⁴ Maritain J., 1951, *"Man and the State"*, Chicago: The University of Chicago Press.

may become just a set of formal rules if there are no common values keep together a society to be embodied in the Constitution itself.

Being in its essence the power to take decisions, sovereignty is strictly associated with politics, since the very characteristic of politics is the ability of taking decisions involving the whole community¹⁵. This is a crucial point even if an underrated one. The weakening of the importance of politics and the related limitation of the role of sovereignty has been clearly caught by Carl Schmit¹⁶. According to him sovereignty is the power of deciding in extraordinary situations. This limitation of the room for sovereignty attests the growing role that today has acquired the act of *managing* and *administering* at the expense of that of *deciding*. One major consequence is the idea that so called technical governments are preferable to political governments. These changes are closely related to the importance assigned to the principle of efficiency in modern societies. Politics becomes a technique.

Why in a global world the traditional elements (representative democracy- sovereignty- common values - territory) have been separated and confused? Globalization is the final step of a process that began long ago but took form in the last period of time, let's say from the nineties on. This process is based on the ideology of change and the means to implement it is the abolition of *limits and borders* in every field.

One of the main consequences of the process of dismantling legal and technical frontiers to movement of economic inputs, most of all capital assets but also labor force, has been the divorce between the economic (dynamic) and the legal (static) dimensions. Since economic resources move, most rapidly thanks to technological development, multiple legal systems are applied to the same economic value, creating inefficiency. In order to remedy this situation, rules such as those against double taxation were adopted which at the same time created a new problem: governments increasingly lost power to control movable tax bases. Taxing power is at the core of sovereignty so that undermining that power meant to weaken sovereignty itself.

¹⁵ De Benoist A., 2011, "*The Problem of Democracy*", Arktos Media

¹⁶ Schmitt C., 1933, "*Politische Theologie. Vier Kapitel zur Lehre von der Soveränität*" [tr. It. In "*Le categorie del politico*", Bologna: Il Mulino]

The economic dimension becomes eradicated from the territorial dimension and, more important, from the values traditionally prevailing in one specific territory. Since political economy has two main pillars, one being allocative efficiency and the other equity based on values, the eradication of the economic sphere from a specific community living in one territory shifted in the background the value dimension of economics since ethical values are different for people belonging to different communities.

The focus on economic efficiency pushed further reductions of legal barriers to the circulation of economic resources, while the equitable aspect has been confined to the limitation of economic disparities, to be implemented ex post by redistribution of wealth, based on procedural rules without any consideration of value judgments which are the roots of distributive justice.

Efficiency, which is supposed to be a value free (*wertfrei*), *objective* and *neutral* standard, is considered to be the driver of political and legal integration. As much as markets are integrated, this is more or less the underlying reasoning, the more will be felt the need to make changes in the legal and institutional systems in order to adapt them to the new economic landscape. Political divergences and nationalism resisting to integration will be overcome when it will be clear to the majority of people that coordination is necessary in order to reap the benefits of market integration. This for example is the spirit of the Schuman declaration in 1950 which started the process towards the European union¹⁷ and is at the roots of all the projects of globalization. First economics, then politics. This forecast has proved to be mistaken. Spread of so called populism as a reaction witnesses the limits of this approach.

As already stressed, the decline of the political nature of public decision process opened the door to an increasing role of management in the public fields, assigning increasing importance to administrative powers (independent authorities at national level, European commission, European central bank etc. at supranational level...). Governance is the new paradigm for the public

¹⁷ "Declaration of the 9th may 1950 delivered by Robert Schuman", <https://www.robert-schuman.eu/en/doc/questions-d-europe/qs-204-en.pdf>

sphere¹⁸. Governance, like efficiency, has the advantage of being neutral, value-free, while politics is by definition associated to a community linked by common values and historical heritage. In a globalized world it is no wonder that so called self-determination of peoples loses much of its meaning since it is clearly depending upon movements rooted in national values.

This state of affairs with its contradictions has boosted a reaction, that of a centrifugal movement based on local forces, and localism have spread and to some extent radicalized. The weakening of the link with a territorial community arises a feeling of being expropriated of the sovereignty, the feeling that there is a sort of *democratic deficit*, even if at the roots of the pyramid of power it can still be found a vote by the people. This vote appears to be void of real content, though.

Values tend to be confined at the level of small groups. Societies, then, come to be just combinations of small groups, or event tribes, taken together by conventional rules that can be reshaped at will, according to the existence of a new majority or through force.

§ 5. Most of the pillars of the prevalent concept of sovereignty associated to democracy have been thus shaken.

Indivisibility is not any more a characteristic of sovereignty since there are multiple levels of government. Differently from a situation of local decentralization within a unitary State, in the current state of affairs higher (supranational) levels of government are not the core of the democratic system any more, as it is for Parliaments in a nation State, but they hold a derivative power which they exercise without direct control of national governments (rather, is the other way around). Emerges here one important virtue of democracy which is often underestimated: democracy allows people not only to choose their rulers, but also to *fire* them without having to resort to revolution

Decision process is more and more distant from the people and is often delegated to administrative authorities which, by definitions, are not voted and go beyond the pure task of execution of decision taken in a different place. The

¹⁸ Deneault A., 2013, "*Gouvernance. Le management totalitaire*", Lux éditeur [tr. It. "*Governance. Il management totalitario*", Vicenza: Neri Pozza.

traditional distinction between legislative, executive and jurisdictional powers tends to blur. Moreover, if political power turns into an administrative power, the possibility of people to change rulers is drastically reduced and this important feature of democracy is injured.

Pluralistic societies are no more societies in which different views are debated within the frame of common values. Common values in a setting like this have to be created time after time when consent is reached. And consent sometimes is presumed by the diffusion, for example, through the systems of so called *socials*. Majority rule in this setting loses its original meaning. The new democracy is a democracy of minorities, reinforcing each other in a log-rolling process that changes all the time.

This creates a feeling of instability.

A temporary conclusion of this analysis, and a possible starting point for further ones, is that in order to avoid the crumbling down of the whole system it should be taken into account that democracy cannot but be based on common values that cannot be established simply by formal consent. Otherwise, the system will swing between two extreme: technocracy and demagogy. Is there an optimal dimension for a State reflecting common values different from traditional nation states? Moreover, if the delegation of power (i.e. representative democracy) is not avoidable because of the complexity of modern societies, it should be limited as much as possible the number of layers of the decision process in order to avoid to make it too distant from the people. The delegation of normative, decisional and enforcement powers to administrative bodies whose members cannot be revoked by public consent and that are exempt from effective (not just procedural) external control, should be limited as well as much as possible.