

Populist Government and Constitutional Democracy: Radical Incompatibility or Possible Coexistence?

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Abstract

Until the first decade of the 21th century, scholars and reporters have identified contemporary populism as an element of anti-systemic revolt; furthermore, they have also recognized an incompatibility between populist phenomenon and government function. However, some recent cases of populist parties in power seem to be able to put into crisis more than one certainty regarding the nature and scope of the populist phenomenon. This observation raises the questions of this work: what harmful effects does populism in government produce on liberal institutions, pluralism, and representation in constitutional democracies? Do these effects merely erode the liberal component, or do they extend to produce a degeneration of democracy as a whole? And finally: what are the risks for democracy? The article corroborates the diarchic theories of democracy and aims to demonstrate the lack of compatibility between the principles of liberal democracy and populist principles, which have a negative impact not only on the liberal component, but also on the quality of democracy in its entirety.

Keywords

Populism; Government; Democracy; Liberalism; Representation

Introduction

The relationship between populism and democracy is problematic. Although the two concepts have different elements in common, starting from the roots — *Demos* and *Populus* that refer to the same object (although, as we shall see, they do not express the same thing) — the two phenomena seem to be mutually exclusive: when democracy is healthy, populism shrinks; conversely, when the democratic system seems unable to provide adequate responses to the crises of the legitimacy of the actors that compose it, the populist push becomes impetuous. Populism, therefore, grasps the ontological gap that exists between ideal democracy and real democracy and inserts itself in the incessant struggle to make the abstract people and the concrete people coincide. Several scholars (among others see: Tännsjö 1992; Kazin 1995; Canovan 1999; Arditì 2004; Laclau 2005; Urbinati 2019) have underlined the ambivalent nature of the relationship between the two factors. The explicit connection between populism and democracy is the motor of what Nadia Urbinati has defined as “maximal theory of populism” (Urbinati 2019, 116-17), which offers not only a conception of it based on the characteristics consubstantial with the phenomenon (rhetorical style; Manichean division, ideological core) but extends to the analysis of the relations it promotes within the democratic system and the effects that populist government produces on liberal constitutional democracy.

Examining the existing literature on the subject, there is no convergence line: some authors have described populism as an opportunity to relaunch the delegitimized democratic institutions (Taylor 2016), otherwise, the rest have spoken of populism as the purest form of democracy (Tännsjö 1992) or as a counter-democratic demonstration that pushes the main actors of democracy to improve policies (Rosanvallon 2017a). Despite this, it is possible to find a majority tendency: that of the authors (Diamond 1999; Zakaria 1997; Mudde and Kaltwasser 2012) who identify populism as a problem for constitutional democracy. My concern is the relationship between populism in government and democracy, i.e., examining whether the populists, from the government, negatively affect pluralism and liberal institutions (or, as Blokker 2018 argues, democratic constitutions) and how populists in power transform constitutional democracy. If these risks exist, which institutions, rules, practices, and actors do they address?

This paper, using a methodology focused on conceptual analysis developed by comparing the various approaches and answers provided by various authors, aims to draw some theoretical coordinates on the relationship between populism in power and democracy. The purpose of the article is, therefore, to take into account the existing theories and provide some new conceptualizations useful to evaluate the relationship between populist principles and principles of modern liberal democracy, i.e. that system which guarantees individual freedoms, pluralism of

representation, free elections, respect for third party powers, and guarantee of minority (Sartori 1987). In the first section, I retrace the main scholarly contributions focused on the theme of populists in government; the second section concentrates on the two main interpretations of the relationship between democracy and liberalism: the diarchic and the dualistic one. Furthermore, I examine the transformation of one of the pillars of modern liberal democracy that is the principle of representation and dwell on the essential characteristics of populist democracy as a disfigurement of the principles and norms of the democratic system. Finally, I underline the risks of this transformation. There are several limits to an analysis of this kind: some generalizations could be contradicted by empirical observations and the absence of non-Western perspectives could negatively affect the completeness of the conclusions. Despite these weaknesses, a comprehensive theoretical framework could guide future empirical studies and will be specifically useful for scholars approaching the topic of populism in power with greater awareness of the salient issues that are at the center of the debate.

Theories of the Populists in Power

Until recently, contemporary populism has been interpreted as an “element of anti-systemic revolt” (Falter and Schuhmann 1993; Schedler 1996; Tismaneanu 2000; Engler, et al. 2019), that is, it has been postulated that between the populist phenomenon and the function of government there is a high degree of incompatibility and that populism is a charismatic phenomenon and therefore difficult to institutionalize. This trade-off would entail the inability of populists to reach power or, even when they succeed in doing so, to manage the institutions of democratic politics. However, some recent cases of new populist parties, such as the *Five Star Movement*, *Podemos*, *Syriza*, or of parties whose leadership has been renewed in a populist sense (such as the Trump-led conservative party, the Renzi-led PD, and Salvini's League) who came to the government, seem to be able to undermine more than one conviction concerning the nature and scope of the populist phenomenon, outlining an unprecedented “institutional populism”. As challengers, populist parties have shown, in various countries, that they can carry out a real rise to power, an element that, starting from 2008, required greater attention to the behavior of populist actors once came to power, as well as towards the potential effects that these actors could produce on democratic and liberal institutions with government action. The populist parties in power no longer seem to be confined to some countries of the world with an underdeveloped economy but have become a impetuous phenomenon that challenges even the advanced democracies of the developed world from within.

Despite reaching prominent positions in different countries, populist parties for several reasons face challenges on their journey to the government. Firstly, their programs are designed

to attract the widest possible part of the heterogeneous audience of discontent, by channeling disparate claims within them. Secondly, to acquire increasing shares of trust from the opposition and undermine the political system, populist parties often propose overpromising programs (Mény and Surel 2000; Aslanidis 2017) that amplify the direct and indirect costs of their potential implementation. Another central problem can be found in the strong deinstitutionalization (Tormey 2018) towards other political actors (channeled above all towards the mainstream parties), and in the codes of political relations based on one's moral superiority, elements that make the formation of governments of a post-electoral coalition. Finally, the most difficult element to reconcile is the anti-elitist rhetoric and political identity defined by contrast and opposition (Laclau 2005), which loses its position with the passage from the opposition to the government.

Against this backdrop, Morlino and Raniolo (2018, 140) pointed out the dilemmas of populist parties in the transition from opposition to government: a) the strategic one that refers to the choice between short-term and long-term responsiveness (or, to use a distinction proposed by Sartori (1967), between personal responsibility, influenced by the political/electoral cycle, and functional responsibility, based instead on the realization of long-term interests taking into account systemic constraints); b) that of identity, which refers to the preference between economic and political responsiveness; c) the divergence between the aims declared in the electoral campaign and the concrete possibility of realizing the operational aims, that is the tension between the radicalism of the discourse (political propaganda) and the moderation of government practice (political action); d) the organizational one that derives from the constraints deriving from the transition from light, post-bureaucratic and network-based on organizational models to institutionalization; e) the difference between anti-establishment propaganda that has a unifying effect when they are in opposition and the need to make specific decisions that have exclusive effects when they are in government; f) the absence of a professional political class, and the consequent need to rely on the old bureaucratic staff often in close relationship and continuity with the previous leaders (Morlino and Raniolo 2018, 181-82); g) having to deal with the spontaneous centralistic tendency of the national government that collides with their peripheral representation.

According to some studies, the populist parties in power would follow the same dynamics as the other radical parties, reaching a growing political maturity following their entry into the institutions which would produce a normalizing effect on them. Peter Mair (2016) argued that in the transition from opposition to the government, populists try — at least strategically — to moderate their excesses to build an image of *salonfähig*, that is of “respectable ones” (Morlino and Raniolo 2018, 52). Berman (2008) traced this dynamic back to the phase of approaching government, that is, to attempts to build political links with other actors to form potential

government coalitions. Similarly, according to Krause and Wagner (2019), a responsible and pragmatic approach takes over when these parties are called upon to demonstrate the ability to manage and resolve problems concerning public affairs, thus gaining credibility through acting. The transition from protest to institutional representation (with the consequent increase in institutional relevance) and, even more so, from opposition to the government (which involves a prior search for offices) could therefore lead to the reduction of the anti-establishment position and favor an adaptation behavioral to parliamentary procedures and customs (Akkerman et al. 2016), or remodeling of the character and intensity of their rhetoric. Ivaldi (2016) spoke in this regard of the external packaging of the message. Other authors, instead, have argued that, by the commitment of these parties to appear reliable in the eyes of public opinion and other parties, the transformation could even extend beyond the communication style and behavior to transform even ideology and the content of programs and positions (Heinisch 2003).

An opposite line of thinking is that which sees populism as the potential for the creation of a new post-democratic or alter-democratic regime, and a specific type of government in the populists in power. A contrary line of thought (Müller 2017; Pappas 2019; Levitsky and Ziblatt 2019) is the one that sees in populism the potential for the creation of a new post-democratic or alter-democratic regime, and in populists in power a specific type of government. Takis Pappas (2019) identified the following elements to isolate some characteristics of “populism in office”: a) the strengthening of an extraordinary leadership compared to an ordinary / legal-bureaucratic one in the Weberian sense (charismatic leadership); b) the relentless strategic search for political polarization. In this case, however, it is a question of competitive polarization without ideological polarization (political polarization); c) the adoption of a political program based on the hoarding of the main State institutions, on the strengthening of the executive and the consequent weakening of liberal check and balances and the imposition of illiberal constitutions (institutional onslaught); d) the strategic use of patronage tools, aimed at rewarding their supporters at the expense of the opposition and their supporters (patronage politics), is also useful as a rooting strategy.

According to Müller (2017), through the argument that they are the only morally legitimized representatives of the people, populists justify three main ways of managing power: a sort of colonization of the state; mass cronyism, also called “discriminatory legalism” and the systemic repression of civil society. Blokker (2013) argues that, in some cases, populism to reify the principle of majority in majority power (see the distinction between majority principle and majority rule that we owe to Sartori, 2007) could cross the distinction between ordinary legislative activity and constitutional, giving rise to a series of constitutional reforms indicated under the name of populist constitutionalism. According to Levitsky and Ziblatt (2019), whose work focuses

particularly on the experience of the Trump government, the modern populist government would be characterized by the production of a slow democratic decalage organized in two phases: initially, a legal (and nonviolent) subversion of conventional rules of behavior and political habits, and subsequently the implementation of structural changes to liberal institutions and even to the Constitutional Charters aimed at creating a new system of authority.

Undemocratic or Illiberal? The Dilemma of the Populists in Government

Within the theories that describe populism in terms of risk to democracy, it is possible to distinguish two approaches. The first is the one that theorizes the possibility of a theoretical disjunction between democracy and liberalism and sees in populism a phenomenon that negatively impacts liberal values: norms, procedures, inter-institutional accountability, and therefore respect for the balance of powers and principles of constitutionalism. To understand the theoretical basis of the distinction between the two traditions, we can take up the words of a staunch supporter of left populism, Chantal Mouffe (2000, 2-3), who maintained: “On one hand we have the liberal tradition constituted by the reign of law, from the defense of human rights and respect for individual freedom; on the other hand, the democratic tradition, whose main ideas are those of equality, of the identity between rulers and the governed and of popular sovereignty. There is no necessary articulation between these two different traditions, but only a contingent historical articulation”. According to this binary distinction, populism in power would give life, not to a new political regime, but the transformation of the form of state: from liberal democracy one would pass to illiberal/populist democracy, characterized by the ontological and irreducible opposition between the neat people represented by its leader and the corrupt elite; by the dominance of direct popular expression - filtered by the conviction of the leader or the party – on the law and by the replacement of party representation with a type of direct bond between leader and electorate (Urbinati 2019).

Already Robert Dahl, in 1956, proposed a distinction between the Madisonian form and the populist form of democracy. While in the first version, the emphasis is placed on the limitations of the power of government and of democratic power itself, populist democracy accentuates the antagonism with the liberal principle of limitation to theorize the potential limitlessness of the power of the people. Yasha Mounk (2018) took up this distinction - redefining the terms, respectively, the Madisonian form and the Rousseauian form of democracy - to advance a comparison between two excluding models: democracy without rights (which would coincide with populist democracy) and rights without democracy (what the author calls undemocratic liberalism which characterizes, for example, the new European governance with the growing importance of non-majoritarian institutions). The various theorists of democratic dualism (Zakaria 1997;

Diamond 1999; Mudde 2004; Mudde and Kaltwasser 2012) therefore distinguished between democracy and liberal-democracy, defining the latter not as the only possible form of democracy, but only as one of the possible combinations. Fared Zakaria (1997) was the first to use the expression “illiberal democracy” to indicate regimes in which there is a combination of free elections and authoritarianism, in which the rulers “are democratically elected (only to ignore) the limits imposed on their power from the constitution (and depriving) citizens of fundamental rights” (Zakaria 1997, 111). It could be said, in summary, that populist leaders accept electoral democracy but not liberal constraints (Sartori 1987) on the exercise of political power: “If liberalism is a culture of delimitation and control of political power, the populist leaders who have emerged in recent years are knowingly anti-liberal or illiberal. They use their electoral legitimacy to question the liberal constraints of the rule of law” (Fabbrini, preface to Levitsky and Ziblatt 2018, X).

The second approach offers a different reading of modern democracies and consequently a different diagnosis of the effects that government populism has on the democratic system. One of the first authors to question the classic contrast between populist democracy and liberal democracy was Margaret Canovan (1999), who rejected the theories of total separation between the two terms and defined the liberal component as the mechanism that preserves the democratic system from prevarication by the tyranny of the majority (Baldini 2014). Liberalism, therefore, would not be one of the many sets of values that can accompany democracy, but the one that makes it possible in its complete form. Modern democracies, according to Canovan, are characterized by a “double face”, by a constant tension between the redemptive face and the pragmatic face. As Baldini summarizes (2014, 12) “The two faces should not be seen as superimposable on the alternative liberalism/populism: in every country, politics alternates these phases, and populist waves present themselves as one of the clearest symptoms of the prevalence of redemptive face”. Therefore, according to Baldini (2014), there is no crystallized gap between the two moments, the popular one and the constitutional one, but there is a continuous tension in which an interpenetration alternates followed by an imbalance, and vice versa an imbalance followed by a rebalancing. More clearly, Müller (2017) underlined the subversive and undemocratic potential that lies within the conceptual core of populism, the distinctive elements of which would produce a democratic disfigurement and the affirmation of an undemocratic principle of democracy. The interpretation offered by Müller (2017) is the following: the rights of freedom of speech and assembly, pluralism and freedom of expression of the mass media, the protection of minorities, are not only values that fall within the sphere of competence of liberalism, but have to do with democracy itself. The rule of law and democracy are intertwined, and you can't have one

without the other. The populist refusal of the delimitation of power, argues the author, is not reduced only to a formal element but ends up by affecting the democratic substance itself, because the same imbalance between the rule of the majority and the rule of law in favor of the former produces a loss of importance of minority rights and the guarantee of a balance of powers, undermining the very democratic substance itself.

Recently, Nadia Urbinati (2019) examined in depth the relationship between populism and democracy and the potential outcomes that populism can produce when it governs. Urbinati (2019) found a tendency to distort the procedures (and, hence, the substance) of democracy in radical majoritarianism and in the effort to tolerate divisions of powers, an independent judiciary, and the statute of fundamental rights. In controversy with the theorists of democratic dualism, she argued that democracy cannot be reduced to the recurrence of electoral practices. The liberal components, such as the limitation of power, the existence of checks and balances, free information, guaranteed civil liberties, and legitimate multi-partism must be also considered integral characteristics of democracy, both in its procedures and its substance. Moreover, it is precisely the institutional brakes and counterweights that are classified by the populists as obstacles that prevent the unfolding of the pure will of the people — one synthesized by a leader who embodies it. If we define democracy as that system that guarantees “the protection of fundamental civil and political rights by limiting the power of the governing majority” through pluralism, the separation of powers, and the independence of the judicial system (Urbinati 2019, 16), populism according to the author, seems to transform this three pillars of modern constitutional democracy through three factors: the direct relationship between the leader and the part — considered just — of the people, the supreme authority of the audience and public opinion (Manin 2014), and the intolerance shown towards opponents and democratic impediments.

Populism and Representation: the “Inner Periphery” of Democracy

A point that partially unites these analyses, and that differentiates them from others that identify the populist government with a post-democratic government or as a prodromal step towards the establishment of an authoritarian system (we have seen Pappas 2019; see also Kellner 2016), is that both do not identify the populists in power with a leak from democracy, but as an extreme limit or as an “internal periphery” (Arditi 2004) of democracy. The populist challenge, therefore, is not aimed at replacing representative democracy with direct democracy, but aims at establishing a direct representation of the people by the leader, translating the popular mandate into a plebiscitary sense. As for the theme of the transformation of representation, populism would distance itself from the principle of acting for (Pitkin 1967) to address itself not towards direct democracy, but towards a “democracy of incarnation” (Zanatta 2004) in which the direct link is

that between people and party/leader. As in private law, direct representation promoted by populists differs from indirect representation based on the action of the representative which takes place not only “on behalf” but also “in the name” of the person represented. Acting “in the name” as well as “on behalf” is one of the many stratagems used by populists to facilitate identification between them and the evoked people and suspend the latter's judgment of their activity. Taking up the expression of Decker (2003, quoted in Giraudi 2017, 124-25): “Populism postulates that the classic intermediary institution should be eliminated and replaced by a direct link between the government and the electorate”.

According to these theories, populism in government disfigures democracy through incremental “process innovations” (Schumpeter 1943) which unbalance institutional mechanisms and introduce new limit-tensions that alter institutional functioning and produce a subversion of the indices of the quality of democracy. According to Morlino and Raniolo (2018) the populist challenge intertwines with other critical factors both external (economic crises, international crises, migratory flows) and internal (corruption, decline of traditional channels of representation, lack of alternation, and dissatisfaction with the activities of governments) and hence puts democratic regimes under pressure. In fact, “The impact of the populist challenge [...] extends to all the main dimensions of democratic quality, even if not all the relevant dimensions and their secondary dimensions they are involved in the same way and with the same intensity. The result of the populist challenge can be a subversion of democratic quality, rather than the improvement or deepening of democracy” (Morlino and Raniolo 2018, 178). Populist democracy is identified with a precise form of democracy that is based on a specific type of representation, which however is characterized by some limit-tensions which, contrary to the expressed intent to achieve democracy at its best, obtain democracy at its worst. As stated by Weyland (2013), the populists in the government direct formulas that promote political disintermediation and simultaneously require a plebiscitary approval, making democracy no longer radically democratic but less democratic.

Modern democracy is based on the irreducible and necessary gap between the immediate will of the various popular sectors and the - mediated - political translation of the demands from below. This void, in a constitutional democracy, can be partially filled thanks to two mechanisms. Firstly, the *factio juris* of the majority as unanimity, which presents itself as the guarantor of the interests of all, also in light of the acceptance of the result by the opposition. Secondly, the constant work of representation and mediation carried out by the parties reduces the distance between the institutions and the portions of the people they represent, between inside and outside. In this way, representative democracy, which unlike direct democracy does not collapse the moment of will and judgment in the very act of elections (or of the decision through deliberation arising from a

direct consultation), keeps the political process open. Populism, for its part, proposes a new mixed regime characterized by the oxymoronic formula of direct representation (Urbinati 2019). In other words, there is a substitution of representation through parties with the incarnation of the part of the people deemed worthy by the leader. The direct component of populist parties, therefore, does not refer so much to the modalities of decision-making but the disintermediated relationship between the leader and his people. The aim is to obtain a “full” that resolves the original defect affecting representation, consisting of the distance between the political principle and sociological reality (Rosanvallon 2006).

The consequence of this interpretation of political authority which he believes he has based on popular legitimacy is that “with him, the evocative power of the incarnation prevails over the rationalized principle of representation” (Diamanti and Lazar 2018, 28). While according to classical democratic theory (Kelsen 1981; Dahl 1956; Sartori 1967) this distance makes it possible to maintain the political space as a field that is always open to the reformulation of preferences, the populists demand - through instruments that reinforce the idea of a perfect coincidence between the univocal popular will and populist representation — to seal it definitively. Here lies the forcing of constitutional democracy to its extreme limit: populism does not inaugurate a new type of political regime but transforms the democratic system it uses to assert itself by presenting itself as an actor provided with a higher moral legitimacy than that of its competitors (united, in a single frame of discredit, under the discrediting label of elite or establishment), guilty of disfiguring the moral and political integrity of the one-people (Tronconi 2018). Therefore, it does not escape from representative democracy but transmutes its essence, verticalizing it; that is, replacing representation through parties with the incarnation of the part of the people deemed “deserving” by the leader.

The interpretation of populism as a new type of representative government starts from the diarchic conception of democracy (Canovan 1999), which is based on the idea of democracy as a mixed government of decision (i.e., political will and from which the decision-making process originates) and opinion (the sphere of extra-institutional political judgments). The aversion towards the culture of delimitation and control of political power, the change in the tenor of the institutional discourse, the continuous inter-institutional tensions, and the modification of behavioral, regulatory codes and consolidated traditional practices do not only produce a disfiguring impact on liberal institutions and do not damage only the liberal system, but also deeply affect the democratic system itself in its broad conception, producing a democracy of low quality (or, as Ardeni (2020, 67) defined it, a “form degraded of democracy”). But paradoxically, by limiting themselves to contesting the traditional actors and forms of representation, by not

extending the critique of the legitimacy of the regime itself, and by not proposing to radically change the system of government, the populists manage to present themselves as the only interpreters of the popular will and therefore as the only authentic democrats who oppose the factions and the privileged castes who hold, officially or secretly, the power, and intend to win power legally.

Also in this case, however, there is an element of friction to underline. Populists tend to conceive the electoral process as revealing a truth that already exists (Revelli 2018) and to consider themselves not a majority among the many possible, but the only just majority. By doing so, they drift away from sociological reality as a source of legitimacy (descriptive representation) to arrive at a type of symbolic representation, aimed at overcoming the interests' part out to identify elements that transcend divisions and place the accent on concepts capable of uniting the social body. The populist challenge, therefore, fits into the ontological gap left empty by representation and takes advantage of the distance that separates representatives from represented. In that sense too, populism emphasizes the ideological and principled distance from the liberal tradition. Hans Kelsen (1981) argued in fact that the correspondence between the parliamentary majority and the popular will was impossible, a metapolitical illusion just like the identification of a precise popular will. People can never be grasped in its entirety; the identification of a single popular will is an act of pure fantasy (Achen and Bartels 2017). Furthermore, while liberal democracy, particularly in the light of recent war conflicts, aimed to fragment power and distribute it among non-elected institutions (constitutional courts, tribunals, etc.), placed above electoral responsibility, to prevent recurrence of the risk of tyranny of the majority, populism interrupts this tradition and tries to re-aggregate the lost power. This interpretation of political competition and government activity can therefore lead populism to clash with constitutional democracy, even if its fundamental principles are incorporated into the democratic universe. In summary, when the principles that populism presents are translated into acts of government — and even more so when the interpretation of them exasperates them — they can collide with the principles of constitutional democracy.

From Dr. Jekyll to Mr. Hyde: A Variant of Democracy

From what has been said so far, populism in power seems to establish a specific form of democracy, which differs from classical constitutional democracy to bring some transformations to democratic practices and substance while not escaping the system. Like the figure of Mr. Hyde in Stevenson's novel, populist democracy appears to be the alter-ego of liberal democracy. Populism, therefore, has a democratic derivation that acts as a genetic relationship: if it were to escape from the democratic order, it would renounce most of its founding principles (primarily horizontality and free consultation) and would turn into authoritarianism. For this reason,

populism is described in terms of a particular interpretation of democracy, mainly centered on one of the elements that characterize modern democracy (the principle of popular sovereignty), which becomes overwhelming for the other principles and traditional institutional forms. According to Mastropaolo (2005), the problematic aspect concerns the relations with democracy in speeches and the practice of government in the light of the contempt for minorities, for the opposition, for the diversity of ideas, disregard for human rights, and intolerance towards the pluralism that populism manifests from the government. It is a “democratic fundamentalism” on which populism relies, which gives democracy a plebiscitary twist and empties it (Mastropaolo 2005, 76): when the populist parties win the elections and consider it a pronouncement of the people in their unity, and on these assumptions, they question the caution and uncertainty of the democratic regime, erode some fundamental principles at the basis of constitutional democracy.

The myth of immediate democracy, in which the space - which allows the “distance” essential for elaboration and judgment - between the people and the leader is cancelled, substantially alters real democracy. The loss of distance in the name of identity and co-presence between leaders and voters has the aim of suspending judgment on the quality of the representation, the decisions taken and the policies promoted in defense of specific interests. Since according to the populists all power emanates from the people and condenses in the figure of the leader who exercises it in their name, the discretionary space of it extends beyond measure, overwhelming the powers that do not depend directly on the judgment or the will of the people and the leader. The delegation is therefore rejected by the populists both in its principles (since any mediation would distort the integral and already formed will of the people) as in its effects (when it, favoring the creation of a political elite, represents the origin of every evil of contemporary democracy, the failures to which are all attributed to the degeneration of political elites). In the very construction of the people, then, the populist version of democracy challenges proceduralism and produces a distortion of the principle of democratic representation. The same people to which populism is addressed is not the result of the political/theoretical construction promoted by social actors based on a specific vision of the conflicts that cross society, but is a pre-existing monolithic entity, which is built outside - and against - a political practice traditionally understood and recognizes itself as a unitary subject. With Blokker (as cited in Anselmi et al. 2018, 54) we could argue that with populism “the people are made identical to a populist, self-built majority”. However, the identification of the people “once and for all”, as well as the theorization of oneself as the only authentic and deserving representatives of it, is profoundly incompatible with the principle that informs the democratic space, which, to use the expression of Pierre Rosanvallon (2006, 83-84): “it always allows us to reopen and even put the question of the people

in completely new terms (...) in this sense, it could also be said that democracy suffers from a permanent crisis of representation”.

The populists, on the other hand, tend to propose an overlap between their enemies and enemies of the whole people, as well as the indisputable equivalence between the reforms they propose and the popular will. To question an action by the populist government is to question the will of the people. This is the main method that populists in power use to justify their decisions and it is precisely the logic that distinguishes the populists from other parties critical of the liberal system: the other party is decreed to be non-part of popular sovereignty, an illegitimate part and morally unworthy to govern. The coincidence between popular will and government activity distinguishes the populist governmental form from that of representative democracy: in the second, in fact, “the people” can appear only in an institutionalized way, that is, as a majority in Parliament, while for populism the majority coincides with the integral people, therefore it is possible to speak in their name. Representative democracy not only considers the fallibility of the decisions taken by the rulers but is willing to question the conformity of the will of the representatives concerning the political translation expressed in the form of a decision by the rulers, for which it accepts its contestability. For the populists, on the other hand, the general will they appeal to is an abstract will, not empirically verifiable; a sort of Jacobin claim for the protection of a natural right independent of the actual will of the people. What populists consider the popular will is predetermined: its direction is not formed through the mediation between opposing heterogeneous wills nor does it derive from the inter-party political dialectic that occurs within the institutions of representation. The law loses its sovereignty in the presence of the general will that immediately manifests itself and unfolds all its hubris, refusing to control or limit.

These acts and attitudes of the governing populists have become evident in several more or less mature democracies of Europe and even in the archetype of Democracy: the USA. In the “Imperfect democracies” (see Democracy Index) of Eastern Europe these attacks have gone to the extreme, reaching a compromise with the weak resistance of non-majoritarian institutions. In Hungary, for instance, President Viktor Orbán has fostered ongoing institutional tensions by denouncing the judiciary and other independent agencies, creating a “constitutional blitzkrieg” that weakens the separation of powers. Kaczyński in Poland has made consistent attacks on the Constitutional Tribunal and purged the Supreme Court by compelling rules on the designation of judges. Former Prime Minister Fico and his Smer managed to fill the Slovak Constitutional Court with loyal judges, *de facto* immunizing the Smer’s policies from judicial control. Likewise in the Czech Republic, Prime Minister Babiš has envisioned a series of measures that decrease checks on the executive and weaken the separation of powers; he has also attempted to weaken Parliament

(by abolishing the upper house and reducing the number of MPs in the lower house) to encourage greater centralization of power, with the support of President Miloš Zeman. In Western mature democracies, however, these attempts have often been controlled by guarantee institutions and have been reduced to a “war of words” (Levitsky and Ziblatt 2019). In the Italian example, for instance, the threats of filing magistrates guilty of rejecting the orders of the Minister of the Interior addressed by Salvini to the courts and magistrates who opposed his decisions on landings and migrant control are paradigmatic. Even in the USA, Donald Trump has launched a heavy institutional game by pushing his presidential prerogatives to the limit and violating established practices through the appointment of two judges of the US Supreme Court (SCOTUS) (Hawkins et al. 2019).

In light of these assessments, we could affirm that modern populist parties distort the institutional rules of the State and rewrite the geometry of the powers within the state. In other words, they offer a peculiar interpretation of democracy interpreting the tension between the two poles as an antinomy between two incompatible principles: the liberal one which intends to weaken popular power and its discretion, and the democratic one which they interpret as a boundless increase in the power of the sovereign people. By merging democracy and representation, it establishes a form of democracy that is based on a direct relationship between the leader and the people and on the celebration of a subset of the people that fundamentally disfigures, without formally denying them, democratic principles. It is in this sense that Nadia Urbinati (2014) speaks of “disfigured democracy”: a conception of politics that introduces a fierce but internal tension and contestation to democracy stretches some principles, and unravels some rules of the democratic regime while continuing to formally operate in it. It is therefore an internal transformation of democracy that, however, facilitates the risk of authoritarian drift. In populism, the primacy of the interests of the majority overshadows the liberal guarantee of the rights of minorities and the balance of powers. Hence the rejection of the legitimacy of those inherited rules and therefore not directly approved by the people: only popular ratification puts the seal on a decision. Such an interpretation of the subject holding the decision-making legitimacy produces a distortion of the role of Parliament and lays the foundations for a general rethinking of the delegation: it shows a preference for direct democracy instruments or for monitoring instruments of popular will. Citizens’ preferences are translated into political measures which, precisely because they are in line with the wishes of the people, Parliament must limit itself to ratifying. For instance, the 5 Star Movement promoted a series of institutional reforms from the government that, in addition to lowering the quorum for the validation of popular bills, erected the propositional referendum to a primary legislative source, binding the parliament to decide based on the

indications provided by the outcome of the consultation. This risked an extra-parliamentarisation of decision-making and a transformation of the formal architecture of powers that the Constitution designs.

Modern representative democracy assumes and cultivates the constant tension between the functional principle and the plebiscitary principle (Bendix 1964), and tries to propose a decision-making synthesis that safeguards the division of constitutional powers (legislative, executive, and judicial power). In this dialectic, the formal abstraction of some principles subtracted from the discretion of the expression of the will of the majority is realized, which therefore limit it and act as a barrier to the potential drifts of arbitrary power, and the substantial dependence of the decision on the source of the will of the majority verified through the electoral mechanism. But this dualism is never transparent, for the fact that the immediate will of the people must always be contaminated with the democratic principles of the protection of minorities, pluralism, and the fundamental freedoms of the individual. We are within the concept of democracy as an empty and unbridgeable space, if not partially and using substitutes, proposed by Lefort (1986). The indeterminacy of democracy depends on the impossibility of identifying once and for all the main agent of sovereign legitimacy: the people. Populism tries to escape the necessary distance between pure will and representation, solidifying and absolutizing the concept of people which, instead, in the liberal-democratic conception remains mediated, open to re-identification, and never definitive. The means that populism uses, however, derive from the conception of popular involvement as individual involvement, without a previous work of the parties that organizes it in a stable and continuous form. The use of these means by a populist party, responds to the intention to unite inside and outside and overlap the moment of decision and that of opinion and risks to violate the need for the democratic game to always remain open, also through the self-limitation of government forces. This attempt can have the effect of compromising the indirect and representative form of democratic government in which distance and difference are regulated by representation and elections.

Conclusions: Sand in the Gears

Although it is possible to find empirical confirmation of the theories according to which populism in power does not establish a regime on its own and therefore does not change the democratic regime, its style of government changes the tenor of public discourse and the nature of relations between citizens and institutions. It is characterized by unscrupulous management of power that risks changing both the style and the content of public discourse, even when the Constitution does not change. Government populism when it does not deny the modern constitutional order tout court (favoring alternative constitutional projects supported by “legal

skepticism” or “legal resentment” (Blokker 2003), establishes an opportunistic relationship with constitutionalism and instrumental, often by reforming or abusing existing constitutional structures. In power, populists establish a problematic relationship with constitutionalism as an expression of the legal-liberal doctrine. Blokker (cited in Anselmi et al. 2018, 50) argues, re-reading Corrias (2016), that populist constitutionalism can be linked to the distortion of the tradition of radical constitutionalism, in which the constituent power of the people is understood in an absolute sense, and by affirming the superiority of politics over the law it insists on refounding the political system negating the liberal limitations that have the function of “taming politics” (Corrias 2016, 15). By arguing that the rule of law and constitutionalism cannot be superior to the will of the people, constitutionalism for the populists in power “becomes [...] a tool for the populist project to rebuild the state and redefine the relationship between politics and law” (Blokker 2003, 51). But at the same time, this construction denies the emancipatory promise of constitutionalism addressed to all the forces that make up the political/constitutional body of the state, excluding those social and political realities that are not considered by populists as being included in their delimitation of the concept of people.

Although we can trace this line of orientation common to the various populist governments, it must be recognized that not all the actors defined as “populists” behave in the same way when they govern. The differences, even those minimal, could produce significant effects if we take into account the fact that some measures - institutional changes, ordinary laws, distributions of resources, regulations, and press campaigns - that seem legal and reasonable, for how they are sewn together they can give life to real “institutional monsters” (Raniolo 2019, 54). For this reason, the typological conception of populism, which distinguishes the different types of populism — in the plural (Canovan 1999; Sorice 2018) — rather than using a unitary concept of populism in the singular more account of the specific differences between different cases. A hypothesis that would require an important study of empirical confirmation, for example, could highlight that the risk of extra-democratic drift of the populist government is more accentuated in contexts in which the government is a single party led by a leader with monocratic powers, which hybridizes a populist approach with ideological elements marked by conservatism with a radical orientation (Jenne 2018). Another element to take into account would be the effect that these measures could have on the different democratic systems. In incomplete democracies, where legitimization of guarantee institutions is feeble and the culture of rights is not deeply rooted in public opinion, democratic backsliding should be more accentuated than in countries with mature democracies, where institutional respect and respect for fundamental rights have long since become part of the social culture.

In any case, the changes that populism introduces deeply affect the various indicators that constitute the indispensable elements for a “quality democracy” (Morlino 2003, 21). Populist democracy comes to be identified with a precise form of democracy that is characterized by certain limiting tensions that could produce a slide, through a gradual introduction of “sand in the gears” (Beck 2005, 375) that guarantee the proper functioning of the system, towards authoritarian forms of political management. In this case, those “sliding backward realized through the progressive marginalization of democratic processes and institution” (Raniolo 2019, 1) would therefore be favored, producing a democracy of low quality which over time may tend to transform itself into “other than itself”, favoring an authoritarian twist. The liberal components such as the limitation of power, the existence of checks and balances, free information, the guarantee of civil liberties, and the presence of other parties considered legitimate are inseparable both from form and from democratic substance. The imbalance towards some of the elements produced by the populists in government, the tension between the powers, and the extremization of some principles to the detriment of others represent a serious risk of slipping into a form of government in which the will of the people becomes refractory to institutional temperaments and can easily result in tyranny.

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