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# Direct Democracy: Past, Present and Future

The Original Concept, Comparative Analysis with Contemporary Models, and Potential Future Developments in the Age of ICTs

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**Abstract:** This study aims to determine whether the current Western representative political system can truly be considered democratic, or whether it might evolve towards more direct forms of government characterized by greater popular participation. To address this question, it was deemed necessary to start from the historical origins of democracy in the West, with the goal of identifying the fundamental elements by which a system can be considered genuinely democratic, or even a direct democracy.

The analysis begins with 5$^{th}$ and 4$^{th}$ centuries BC Athens and then extends to more recent case studies. In the second chapter, the focus shifts to 21$^{st}$-century democratic models, conducting a comparative analysis with the original concept of democracy. A qualitative analysis of cases across different dimensional scales is provided, highlighting how modern forms of democracy have abandoned the essential elements of original democracy, adopting new tools. Finally, in the third chapter, considering the significant level of popular dissatisfaction with modern representative democracy, the potential for developing new forms of popular participation is explored. Indeed, digital technologies seem to have the potential to overcome the traditional barriers that have hindered the exercise of direct democracy, giving voice and power to citizens in areas from which they have so far been effectively excluded.

**Keywords:** Assembly Democracy, Lottery Democracy, Representation, E-democracy**,** New Democratic Tools

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# Introduction

The meaning attributed to the term "democracy"—a concept that still appears to be debated and not universally agreed upon—has evidently undergone profound transformations over the centuries. Setting aside its etymology, it remains unclear what fundamental elements, both today and historically, may qualify a system of governance as democratic, or even as a direct democracy.

This study was developed with the specific aim of determining whether the current Western representative system, compared to past models, can indeed be considered democratic, or whether it could evolve towards more direct forms of governance with greater popular involvement, facilitated by the advent of innovative information and communication technologies (ICTs).

In particular, the research sought to investigate the ways and reasons that led to the establishment of representative systems, which are clearly quite distinct from the democratic models of the past. Moreover, drawing from Giuseppe Schiavone's insight that democracy exists on an evolutionary *continuum* and that representative democracy is merely one phase of this process, this study aimed to explore the potential future developments of democracy.[1] Specifically, ICTs have opened up previously unimaginable opportunities, paving the way for new forms of governance that incorporate innovative participatory mechanisms and potentially enable more horizontal decision-making processes, even in areas that were previously inaccessible to the citizenry.

To identify the fundamental elements that characterize a democratic system of governance, both historically and in contemporary contexts, a qualitative analysis of various relevant examples was conducted. Specifically, the study began with what has been cited as a model by numerous authors and which Gil Delannoi has even defined as a "shining example" of democracy: 5$^{th}$ and 4$^{th}$ centuries BC Athens.[2] Throughout the first chapter, the analysis then proceeded to more chronologically recent examples, consistently selected for their incorporation of at least one of the two fundamental elements of "primitive" democracy: the citizens' Assembly and the extensive use of sortition to assign public offices.[3]

In the second chapter, the focus shifts to 21$^{st}$-century case studies which have managed to preserve—or have sought to subsequently implement—models or tools that are, in some way, comparable to original democracy. Specifically, based precisely on the theoretical framework of the two elements

[1] G. Schiavone, "Utopia e democrazia diretta," in G. Schiavone (ed.), *La democrazia diretta. Un progetto per la società di giustizia*, Bari, Edizioni Dedalo, 1997, pp. 9-11.

[2] G. Delannoi, "On Several Kinds of Democracy," *Les Cahiers du CEVIPOF*, No. 56, April 2012, p. 6.

[3] G. Delannoi, "On Several Kinds of Democracy," pp. 5-18.

inherent to "primitive" democracy, the research sought to identify contemporary models that could incorporate citizens' assemblies or comparable discussion forums, or otherwise prominent forms of popular participation in public offices or decisions.

Indeed, throughout the first and second chapters, it becomes evident that the elements of original democracy that were the focus of the research have been lost or changed compared to the past. The use of sortition has been largely supplanted by elections and the citizens' assemblies have almost universally been replaced by representatives' assemblies. These shifts are analysed in detail throughout the first and second chapters, highlighting a variety of contributing factors and insights.

The third chapter begins with data illustrating a general and concerning level of public dissatisfaction with the current representative system, as well as with the intermediaries—namely, political parties—that mediate between power and the citizenry. Parties, described by Gian Paolo Prandstaller even as the greatest enemy of direct democracy,[4] are identified as one of the causes - though it is specified not the only one - hindering the establishment of a more direct system of governance. Indeed, it is rather evident that such a system could today be facilitated and enhanced by new ICTs.

Finally, the conclusion asserts the necessity of expanding the areas and subjects on which citizens are genuinely allowed to participate, discuss and decide. Notably, it has been observed that one of the domains where citizen input is minimal or entirely absent is international politics. Yet, even in such a realm, the potential of ICTs to enhance public information and participation in decision-making processes remains largely unexplored, thus deserving further study.

Democracy has been discussed and written about for an immemorial period, to the point where, as demonstrated throughout this study, the meaning attributed to the term appears to have undergone profound transformations—less in its etymological sense and more in its substantive interpretation. The authors who have written about systems of governance and democracy, both direct and representative, are numerous and originate from vastly different historical and social contexts. In light of this, the study could not exclude the incorporation of a range of essential secondary sources. Works such as *The Principles of Representative Government* by Bernard Manin (1998), *Direct Democracy: A Project for a Just Society* by Giuseppe Schiavone (1997), and *The History of Democracy in Europe: From the 18$^{th}$ to the 20$^{th}$ Century* by Salvo Mastellone (2004) have made it possible to reconstruct in detail the functioning—and to identify the pivotal elements—of some of the key democratic models of the past, such as the Athenian system, the republics of Florence and Venice, or the 1871 Paris Commune.

[4] G. Paolo Prandstraller, *Felicità e Società*, Torino, Edizioni di Comunità, 1978, p. 163.

Alongside these more recent sources, classic works were also considered, including those by authors who are, in many respects, milestones when theoretically addressing democracy and systems of government, such as Rousseau's *The Social Contract* (1762) and Montesquieu's *The Spirit of the Laws* (1748).

It has been interesting to observe how some of the fundamental insights of these authors—despite living in the 18th century—are, in some respects, echoed by contemporary thinkers. For instance, Rousseau's statement that the people are free only at the moment of voting - clearly viewing voting as a deficient mechanism - parallels the views of contemporary authors like David Graeber, whose work was also considered in this study.[5] Hence, in the 21stcentury, where ICTs have broken down many of the physical barriers that 18th-century thinkers such as Rousseau and Montesquieu may regard as insurmountable, new tools for popular participation – other than the vote - could potentially emerge.

In this first section, primary sources, such as statistical data on populations and the capacity for citizen engagement in past democratic systems, as well as excerpts from original constitutional texts, primarily served to contextualize and validate the insights drawn from secondary sources.

The use of primary sources was central in the second and third chapters, which focus more specifically on the present and potentially future scenarios. In analysing the today's functioning of New England town meetings, urban platforms like *Better Reykjavik* and *Decide Madrid*, and the Swiss system, it was essential to consult the original texts that established these innovative tools, as well as statistical data that could provide insights into their practical use, scale, and potential replicability in different contexts. The use of socio-political statistical data has also been essential for evaluating the actual existence and extent of the crisis of popularity and legitimacy faced by the representative system, as discussed by some of the authors considered.

From a combination of primary and secondary sources, it was observed, for instance, that assembly-based systems—resembling, in some respects, original democracy—survive today only in marginal and small-scale settings. Conversely, in larger contexts—despite the removal of physical barriers—there is no room for traditional tools, replaced by new ones like petitions and referendums. Anyway, as carefully analysed throughout the work, new tools are not always able to reflect the true democratic ideal of public participation, discussion and deliberation, and often lack the capacity to produce substantial or structural changes.

[5] J.-J. Rousseau, *Il contratto sociale*, Milano, Rizzoli, 2005.

# Chapter 1

## 1.1 The Origin of Democracy

There is no universally accepted definition of democracy, nor is there a unequivocal distinction between the various forms that democracy may assume within a political system. Certainly, the word democracy derives from the Greek *dēmokratía*, which is composed of *dêmos*, i.e. "people", and *kratéō*, i.e. "command". Beyond the etymology, over the centuries, the concept of democracy has undergone several changes, and it has today acquired a significantly different meaning from its original one.

In an attempt to delineate a clear distinction between the original meaning of democracy and its contemporary forms, French political scientist Gil Delannoi defined two different types of democracy: "primitive" and "secondary" democracy.[6] Primitive democracy consists of the original concept of democracy, often considered today as primordial or outdated. It encompasses two essential elements: 1) approval of laws by the entire body politic gathered in Assembly, without any intermediaries, and 2) direct participation of citizens in public offices, with massive use of sortition as a method of selection. On the other hand, secondary democracy is modern democracy, which has moved away from the original interpretation and is similarly characterized by two elements: 1) representation, at every level of the political process and 2) universal suffrage. Considering this, secondary democracy is also called representative or indirect, when compared to direct democracy which is sometimes referred to as assembly democracy, though it was not originally limited to that alone.

At least in the Western world, 5$^{th}$ and 4$^{th}$ centuries BC Athens is traditionally regarded as a model of democracy and direct democracy in particular. It has even been defined by Delannoi as a "shining example" of primitive democracy.[7] According to Silvio Cataldi, democracy, understood as organic popular participation, was in fact realized for the first time in Athens precisely between the 5$^{th}$ and 4$^{th}$ centuries BC.[8] However, it should be noted that democracy was not entirely an invention of Athens or of the Western world in a broader sense. Indeed, according to American anthropologist David Graeber, without Athens it could not even been argued that the Western tradition has something democratic in it.[9] For example, an institution such as the Assembly of the people as a body for the

[6] G. Delannoi, "On Several Kinds of Democracy," pp. 5-18.

[7] G. Delannoi, "On Several Kinds of Democracy," p. 6

[8] S. Cataldi, "Il modello ateniese," in G. Schiavone (ed.), *La democrazia diretta. Un progetto per la società di giustizia*, Bari, Edizioni Dedalo, 1997, pp. 16-48

[9] D. Graeber, *Critica della democrazia occidentale. Nuovi movimenti, crisi dello stato, democrazia diretta*, Milano, Elèuthera, 2012.

discussion of state matters, for the election of the king, but also with law-making and judging functions, already existed in India in the Vedic period, at least between the 9th and 8th centuries BC.[10]

The study of the Athenian model has persisted for centuries, as have the associated criticisms. Already in the 18th century, for example, Rousseau perceived 5th and 4th centuries BC Athens as dominated by orators and demagogues, preferring to use his native city of Geneva as a model.[11] As will be thoroughly examined in this chapter, a more recent scholar like Hélène Landemore has even questioned the genuinely direct nature of the Athenian system.[12] Despite criticism, it seems possible to assert that the Athenian system continues to be typically elevated as a true archetype in the study of direct democracy. Although it may not be the oldest form of direct participation, it remains a critical focus when studying direct democracy, for several reasons. First, as Graeber notes, it may be the most significant example of participatory democracy in the ancient Western world. Moreover, unlike less developed models, the Athenian model had reached a certain level of maturity and had become a guarantor of organic popular participation. The importance of classical Athens, the functioning of its civic Assembly, and the broad engagement of its citizenry are evidenced by the fact that the Athenian political system has been examined and widely referenced by a variety of authors, even in recent times, from the aforementioned Gil Delannoi (2012), Silvio Cataldi (1997), and Graeber (2012) to Andrew Chadwick (2013) and Norberto Bobbio - in his 1984 book, *The future of democracy*.

The purpose of the first part of this chapter is, therefore, to conduct a thorough examination of the classical Athens' political system, and to investigate the elements that enabled it to be ultimately elevated as a model of direct democracy in its original sense.

## 1.2 The "Shining Example" of Athens

As mentioned, Delannoi has come to define Athens as a shining example of primitive democracy, based on the two key elements of this concept, namely the presence of the citizens' Assembly and the direct participation in the government of citizens massively selected by sortition.

Starting from the first element, in Athens in the 5th and 4th centuries BC the central decision-making body was certainly the citizens' Assembly (*ekklesia*). It exercised many, though not all, of the most important public powers. All male citizens of legal age and holders of their civil rights - who were therefore not subject to the penalty of *atimìa* - had the right to participate in the Assembly. The participants then had the equal right to take the floor and speak during the discussions – according to

[10] Bhat, J. N., "Ancient Indian Democracies," *Civilisations*, Vol. 4, No. 1, 1954, pp. 51-59.

[11] J.-J. Rousseau, *Il contratto sociale*.

[12] H. Landemore, *Open Democracy: Reinventing Popular Rule for the Twenty-First Century*, Princeton, Princeton University Press, 2020.

what was called principle of *isegoria* -, possibly proposing motions. Ultimately, each one had the right to vote by show of hands or acclamation, depending on the circumstances. It must be specified that the citizens' Assembly was not the only political body in ancient Athens. Some important functions were exercised by other prominent collegial bodies such as the Council (*boulé)*, the Courts and the *nomothétai*. However, the civil servants of these bodies did not enjoy any political or decision-making power and were mostly executors of the deliberations of the Assembly, which was the key body in charge of discussing and making collective decisions. [13]

With regard to the second element, it should be mentioned that Athenian democracy entrusted to citizens selected by sortition most of the powers that were not exercised by the Assembly: all the seats of *nomothétai* were assigned by sortition, but above all those of members of the popular Courts and the five hundred seats of members of the Council.[14] The people's Courts - although many cases, including criminal ones, were resolved through arbitration - were responsible for judging important cases on the agenda. These Courts were also called upon to judge on the causes of illegitimacy of laws, which could be advanced by any individual citizen, even when the law had already been approved by the Assembly, even unanimously.[15] As for the Council, it was its task to prepare the agenda for the Assembly, implement its decisions and manage the city's affairs on a daily basis, as well as meeting foreign delegations.[16] Thus, the substantial number and significance of these offices clearly underscore that sortition was by no means a marginal mechanism in ancient Athens.

From the analysis of the Athenian system, it can be said that such a massive use of sortition was determined by three main factors. First, it reflected distrust of political professionalism; secondly, it produced an effect similar to *isegoria*, in the sense that it gave everyone the equal opportunity to participate in the public function and guaranteed a level of equality that elections did not guarantee; finally, and perhaps above all, it allowed the rotation of charges. In the light of these three elements, sortition appeared to be a completely rational method of selection of civil servants.

The Athenians were aware that sometimes technical competence and expertise were necessary to effectively perform a public function. In this regard, it should be noted that election was envisaged for those positions for which technical competence was required and considered essential: specifically, for the highest military and financial offices. However, the general presumption was the opposite: unless there was evidence and reason to think otherwise, it was believed that the political function could and should be performed by non-professionals. Technical expertise would, in fact,

[13] B. Manin, *I principi del governo rappresentativo*, n.d., Il Mulino, 2017, pp. 11-48.

[14] *Ibidem.*

[15] *Ibidem.*

[16] J. Ober, *Democracy and Knowledge*, Princeton, Princeton University Press, 2008.

have enabled certain distinguished individuals to outshine others, whereas the exclusion of experts, or at least the limitation of their roles, served to safeguard the political power of ordinary citizens.

In this regard, the Athenian model appears to align perfectly with the conclusions reached by some of the greatest thinkers of the past, despite all the inevitable differences due to chronological and contextual variations. For instance, as highlighted by Urbinati and Warren's comparative analysis (2008), Rousseau revisits some of Aristotle's insights and seems to arrive, despite the several centuries intervening, at a similar conclusion: positions that only require a common sense of justice should be accessible to all citizens, whereas positions demanding "special talents" should be occupied by a select few, preferably chosen through election.[17] Similarly, in his renowned work titled *The Spirit of the Laws* (1748), Montesquieu also posited that in a democracy the sovereign people should directly undertake all tasks they are capable of performing effectively, while delegating to ministers those functions that exceed their own capabilities.[18]

From this first analysis of the Athenian system, the reasons that led Delannoi to define Athens as an example of democracy understood in the original sense seem to have been demonstrated. Moreover, from this first examination, it seems that it was really the people, without intermediaries or representatives, who exercised the decision-making function and participated in power in the first person. The minority holding public offices were in fact largely selected by sortition, leaving no room for elites or professionals. However, there are some aspects that deserve to be explored in depth.

1) A substantial portion of the Athenian population was excluded from the Assembly. In fact, the right to participate in the Assembly belonged only to male Athenian citizens who had reached the age of eighteen and had not been subjected to the penalty of *atimìa*, i.e. the loss of their civil rights. According to a provision enacted by Athenian politician Pericles between 451 and 450 BC, only those who had both Athenian parents were considered citizens. In addition to minors, women, *meteci* (i.e. foreigners residing in Attica but without citizenship) and slaves were therefore totally excluded. With the *a priori* exclusion of these categories, there were about thirty thousand people who could actually participate in the Assembly, out of an estimated population of about two hundred and fifty thousand people. Moreover, out of these thirty thousand citizens, only a small part showed up at the assemblies. The constituent quorum for deliberations was set at six thousand units and Danish classical philologist and demographer Mogens Herman Hansen estimated between six thousand and eight thousand

[17] J.-J. Rousseau, *Il contratto sociale*; N. Urbinati, & M. E. Warren, "The Concept of Representation in Contemporary Democratic Theory," *Annual Review of Political Science*, Vol. 11, June 2008, pp. 387-412.

[18] Montesquieu, *Lo spirito delle leggi*, Torino, UTET, 2015.

the number of citizens who showed up on average at each Assembly.[19] The number of participants was however limited to the capacity of the place (which then passed from the *agora* to the larger Pnyx). In the 4th century BC, when participation began to be remunerated with an allowance, to enable the participation of individuals from lower socioeconomic backgrounds, who would otherwise forfeit a day's work, some citizens were even physically forbidden to enter, as the place had reached the maximum capacity of people. The practical difficulties of bringing together such impressive numbers of people do not therefore seem to be a prerogative of our time.

In practice, only a small percentage of those entitled to participate actually engaged in the process, and thus were able to contribute to the debates and collective deliberations. According to Hélène Landemore's interpretation, this would be precisely the representative character of the Assembly. In fact, those six or eight thousand Athenians who managed to participate in the Assembly acted in the name and on behalf of all the citizens, therefore also of those more than twenty thousand eligible citizens who did not participate, as well as of all the excluded. The possibility of participating made them assume the role of representative of the absentees and the absentees implicitly accepted to be represented in this way. Moreover, unlike modern parliaments in which representatives are chosen by election, thus selected by consensus of the represented, in Athens the *de facto* representatives were self-selected.[20]

In this regard, it must be specified that the Athenians believed the Assembly was the people (*demos*), so much so that the decisions of the Assembly were treated as decisions of the entire Athenian people, not because everyone participated but because all citizens *could* participate.[21] In addition, the composition tended to change from time to time: it was in fact unlikely that the same citizens would always show up and it is to be imagined that the composition also depended on the scheduled agenda.

Finally, it must be said that each citizen had both the possibility of participating in the Assembly and that of participating, if their names were drawn, in one of the public offices, which was equally important. For example, in his work *Politics*, Aristotle put participation in the Assembly or in the popular Courts on the same level of importance.[22]

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[19] M. Hansen, *Athenian Democracy in the Age of Demosthenes*, Norman, OK, University of Oklahoma Press, 1999.

[20] H. Landemore, *Open Democracy: Reinventing Popular Rule for the Twenty-First Century*.

[21] M. Hansen, *Athenian Democracy in the Age of Demosthenes*.

[22] S. Cataldi, "Il modello ateniese," pp. 25-26

2) It was not the Assembly that decided the agenda to be discussed, but the Council. In this regard, American historian and classical political theorist Josiah Ober has even gone so far as to define the Assembly as a rubber-stamping body, to underline its *de jure*, but *de facto* rather limited power.[23]

However, as French political scientist Bernard Manin argued, the Council did not act on its own initiative but on the basis of the requests and proposals that came from ordinary citizens and submitted to discussion the motions they proposed. Even Landemore, who is evidently a supporter of the representative character of Athenian democracy, is of the same opinion.[24] The power to make proposals was not the exclusive prerogative of either the Council or any other body but belonged to everyone: it would be appropriate to use the expression "whoever wants" or "the first comer" who was a key figure in Athenian democracy.[25] It is estimated that about half of the decisions voted by the Assembly consisted of the ratification of specific measures proposed by the Council, whereas the other half were directly sourced from the Assembly and its discussions.

Furthermore, the high frequency with which the members of the Council rotated - the duration of the office was only one year -, combined with the fact that members were selected by sortition from among ordinary citizens, rendered the Council a relatively horizontal institution. It is to be imagined that the Councillors were closely aligned with the citizenry, predisposed to accommodate their requests and present them to the general Assembly. Each Councillor was aware that their tenure would be brief and that they would soon be succeeded by another citizen. This awareness incentivized them to act in a manner they would have wished their successor to adopt once they relinquished the office.

Finally, unlike what happened in other cities, such as Sparta, where the agenda of the Assembly was controlled and scheduled by the aristocracy, it certainly cannot be said that the agenda in Athens was in the hands of the aristocracy.[26] This is partly due to the fact that Athens lacked a real natural aristocracy but above all it is due to the very nature of the Council. Indeed, a body composed of members selected by sortition from a pool of volunteers and subject to frequent rotation cannot reasonably be considered an aristocracy.

[23] J. Ober, *Democracy and Knowledge*.

[24] H. Landemore, *Open Democracy: Reinventing Popular Rule for the Twenty-First Century*.

[25] B. Manin, *I principi del governo rappresentativo,* pp. 11-48.

[26] H. Landemore, *Open Democracy: Reinventing Popular Rule for the Twenty-First Century*.

3) As mentioned above, in addition to the determination of the agenda of the Council, other powers were not in the hands of the Assembly, but of minor bodies or magistrates.[27]

   Nevertheless, the central role of the citizens' Assembly cannot be questioned. In fact, as Manin argues, the magistrates were in any case mostly administrators and executors of the decisions of the Assembly and did not enjoy political decision-making power or autonomy. It cannot be said that in Athens in the 5th and 4th centuries BC there was any form of representation, as we understand it today. In other words, there was no intermediary form of representation between the body politic and governmental authority, not even in the case of the Council.[28] As Delannoi argues, the Council was in fact representative only in the sense of descriptive representation: since its members were drawn, statistically the final composition tended to faithfully represent the whole citizenry. However, all major decisions were discussed and voted by the people gathered in the general Assembly. Finally, as demonstrated, most of the offices (including the five hundred members of the Council) were assigned by sortition from a host of volunteer citizens. Therefore, even when conducted through bodies or magistracies other than the Assembly, it was ultimately the citizens themselves, in turn and without intermediaries, who executed public functions.[29]

4) One of the fundamental principles of democratic Athens was that of *isegoria*, that is, the equal right for all to intervene in the Assembly. Indeed, unlike the Assembly of Sparta, where discussion was absent and citizens merely voted to approve or reject proposals in a referendum-style manner, in the *ekklesia* citizens had the opportunity to debate and propose motions before voting. Despite the importance of this principle, *isegoria* has often been a more formal than substantive right. Concretely, not everyone was able to intervene, making speeches or proposing motions. As the American political scientist Robert Dahl stated, only a small percentage of citizens ended up speaking, otherwise there would have been no time for any other kind of human activity besides the Assembly.[30] The vast majority of those present were content to just listen and then vote; Landemore estimates that approximately thirty individuals participated in the debate, representing about 0.5% of those present and 0.1% of the citizenry. Moreover, it was seldom the case that the ordinary citizen, the so-called "plain man," participated. Instead, self-selected professional speakers typically intervened,

[27] B. Manin, *I principi del governo rappresentativo,* pp. 11-48.

[28] *Ibidem.*

[29] G. Delannoi, "On Several Kinds of Democracy," pp. 5-18.

[30] R. Dahl, *After the Revolution*, New Haven, Yale University Press, 1970.

wielding their speeches and rhetoric to shape public opinion.[31] This represents one of the principal criticisms levelled by detractors of the Athenian system, who viewed it as being dominated by demagogues capable of manipulating the artisan populace and, consequently, the Assembly. Socrates himself contended that in a system based on rhetorical persuasion within the Assembly, popular consent invariably gravitated towards individuals who provided the audience with what they wished to hear, rather than what was genuinely beneficial for them.[32]

In this context, it is worth mentioning the work of Aitamurto and Landemore (2016), who argue that passive participation, rather than active involvement, in a collegial body such as the Assembly should not necessarily be construed as a sign of incompetence, indifference, or inability to engage. Occasionally, this represents a form of tacit consent, stemming from the perception that one's concerns have already been adequately expressed and voiced. This is particularly relevant in a context such as ancient Athens, where the opportunity for equitable participation in the decision-making process was genuinely feasible.[33]

Finally, the right to speak in the Assembly and propose motions to fellow citizens was merely one of the prerogatives afforded to Athenian citizens. Equally significant were the rights to vote, engage with members of the Council in shaping the agenda, challenge the legitimacy of a law or submit a motion of no confidence against a public official, and participate directly in the judicial process.[34]

5) As we have seen, sortition therefore played a central role in Athenian political system. Considering that all citizens who had reached the age of thirty and had not been condemned to the penalty of *atimìa* could potentially be selected to hold a public office, the risk of drawing incompetent or unsuitable individuals for key roles was significantly high. Although the more technical offices were elective, it is evident that even those assigned by sortition required a certain awareness and competence, given their centrality to Athenian political life. Socrates seemed opposed to the most democratic methods of selection such as sortition or rotation. In fact, he believed that any *techne*, including political *techne*, implies specialization and consequently cannot be possessed by everyone. Only the few individuals who possessed

[31] H. Landemore, *Open Democracy: Reinventing Popular Rule for the Twenty-First Century*.

[32] S. Cataldi, "Il modello ateniese," in G. Schiavone (ed.), *La democrazia diretta. Un progetto per la società di giustizia*, Bari, Edizioni Dedalo, 1997, p. 44.

[33] T. Aitamurto, H. Landemore, "Crowdsourced Deliberation: The Case of the Law on Off-Road Traffic in Finland," *Journal of Deliberative Democracy*, n. 1, 2016, pp. 27-42.

[34] B. Manin, *I principi del governo rappresentativo,* p. 20.

political virtue would therefore be adequate to perform a public function, whereas the people would inevitably be the victim of persuasive rhetorical techniques.[35]

However, already in the 4th century BC, Athenian politician Solon provided corrective measures to mitigate the risk of selecting incompetent or unsuitable individuals. These corrective mechanisms varied, both in the preliminary and subsequent phases of the selection process.[36]

i) A preliminary filtering process was implemented through a self-nomination mechanism: candidates could only be selected from those who voluntarily expressed their willingness to serve. Individuals who did not feel capable or prepared to assume a public role could opt out of candidacy and were indeed strongly incentivized to do so. Public officers were subject to continuous scrutiny by their fellow citizens and public opinion, as well as potentially by judges, as will be detailed in successive points. It is a judgment, albeit self-assessment, that was rendered in a preliminary manner (*ex-ante*), before the candidates were actually in charge and subjected to the public scrutiny. Similar to elections, where initial approval by others enables entry into public roles, sortition preceded by self-assessment also benefits from two forms of judgment: *ex-ante* and *ex-post*.[37]

ii) A second mechanism was the process of *dokimasia*. This procedure involved an apparently formal review of tax payments and military service records, but it was presumably rather ineffective in filtering out incompetence. However, it is not clear from the sources whether the *dokimasia* also had political implications and could potentially lead to the rejection of a citizen who had, for example, anti-democratic beliefs.[38]

iii) Any citizen could submit a vote of no confidence against any public official (even those who had been chosen thought election). The Assembly would then render its judgment; such assessments were mandatorily included on the agenda of the citizens' Assembly. Should the motion of no confidence against the public officials been approved by the Assembly, they would be promptly suspended, and their case referred

[35] S. Cataldi, "Il modello ateniese," p. 44.

[36] B. Manin, *I principi del governo rappresentativo,* p. 81.

[37] Ivi, pp. 11-48.

[38] Ivi, pp. 15-16.

to the Courts. The Courts would then render a definitive verdict, either acquitting the officials (allowing them to resume their duties) or imposing a penalty.[39]

iv) Ultimately, at the conclusion of their tenure, magistrates were required to submit a comprehensive report detailing their activities (*euthynai*).[40]

It was through these corrective measures that the risk of appointing incompetent individuals to the public roles was mitigated as effectively as possible, and a degree of accountability was also ensured. This was achieved while preserving the participatory nature of the government and upholding the rotation of offices facilitated by the method of sortition.

6) It has also been observed that even in a virtuous example of democracy such as Athens in the 5th and 4th centuries BC, there was a certain correlation between holding elected public offices and belonging to the highest socio-economic classes.

While it is accurate that the most distinguished individuals occupied the elective positions, as observed in Athens and numerous other historical examples, it is equally true that in Athens, these positions constituted only a minor portion of the overall governmental roles. As mentioned, most of the positions were assigned by sortition, due to egalitarian and anti-elitist considerations. As Manin argues, a situation arose in which the majority of the poor and old sat in the Courts. Egalitarian considerations prompted the Athenians to establish a daily allowance for participation in the Assembly, specifically to enable even those from the lower classes to participate without forfeiting a day's wages. Aristotle himself believed that remunerating political activities was one of the essential principles of democracy.[41]

### 1.2.1 Sortition as an Essential Element of Past Democracies

From the analysis of the Athenian model, it seems to have been demonstrated that direct democracy does not mean that all political powers are exercised directly by the people (*demos*) gathered in Assembly. Indeed, it is now evident that, in 5th and 4th centuries BC Athens, which was elevated as a model of direct democracy, the Assembly did not wield exclusive power. On the basis of these elements, it can be understood that the direct character of a political system derives from the fact that the central decision-making body is the Assembly. Alongside it, it is not absolutely excluded that other bodies may act, as long as they have limited political and decision-making power or in any case subordinate to the power of the citizens' Assembly.

[39] Ivi, pp. 15-16.

[40] Ivi, pp. 15-16.

[41] Ivi, pp. 21-23.

In his attempt to study in depth and explain the elements that characterize a system of direct democracy, Manin provides a further interpretation which is linked to the public officials' method of selection. The fact that the Athenian legal system is understood as a direct democracy or even that bodies such as the Council, the Courts or the *nomothetai* are considered organs of direct democracy or direct government does not depend on whether these organs identify themselves with the people (with whom, as mentioned, only the Assembly is identified). Putting aside the limited power that these bodies can hold, Manin argues that the direct character of the Athenian system derives precisely from the method of selection of the governing bodies. In any case, the Assembly must exist and be central, but it is not exhaustive. What makes a system representative would not be the fact that a minority govern or perform relevant public functions instead of the entire people. The element that rendered a system representative is that the members of the governing bodies are selected only by elections and no longer by sortition.[42] Exactly like Manin, it has been anticipated that even Delannoi attributes a fundamental character to the method of sortition, to the extent of identifying it as one of the two essential elements that characterize the original or "primitive" forms of democracy, just besides the citizens' Assembly.[43]

## 1.3 Venice and Florence

The importance of the element of sortition as a democratic tool is further corroborated by other historical examples such as the republics of Florence and Venice. Whereas, in ancient Rome sortition was employed in specific contexts, albeit likely for reasons of superstition or religious significance rather than for political or democratic purposes.[44]

Laurence Morel, along with Athens, specifically takes the 14$^{th}$ and 15$^{th}$ centuries AD Florence as a model when examining the method of sortition, as evidence of Florence's historical value. However, there are some considerations that somewhat diminish the democratic value of sortition as it was practiced in Florence, at least compared to the Athenian model. In Florence, fewer positions were assigned through sortition; compared to Athens, more roles were filled through elections. Moreover, sortition was not entirely free, in the sense that not all citizens – for examples all citizens who met a certain minimum age - could be randomly selected. Essentially, sortition was conducted among a pool of individuals selected from different groups or corporations, that dominated the Florentine political scene at that time.[45]

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[42] Ivi. p. 48.

[43] G. Delannoi, "On Several Kinds of Democracy," pp. 5-18.

[44] B. Manin, *I principi del governo rappresentativo,* pp. 51-76.

[45] L. Morel, "Sortition and Contemporary Democracy," *Les Cahiers du CEVIPOF*, No. 56, April 2012, p. 21.

Specifically, the organ known as the *Signoria*—the most important executive body of the city—was selected every two months through a hybrid system. The selection was conducted via sortition, but only from a pre-selected pool of candidates. However, this system had at least two flaws. Firstly, the pool was of limited size, making it conceivable that a particular group could eventually dominate the others; this was the case with the Medici family, which established such an extensive patronage system that it could effectively overcome the random procedure to exert effective control over the *Signoria*. Additionally, preference voting was used, in secret and without the public announcement of the results, which left room for bribery and interference.[46] Finally, the democratic ideal in Florence was considerably less pronounced compared to that in Athens. It is plausible to imagine that sortition was used primarily to avoid phenomena such as factionalism or violent conflicts between different groups, rather than genuinely in the name of democracy and equal opportunity for all to be selected and hold a public office.[47]

The case of Venice is, instead, a clear example of how the method of sortition can also be used, according to Antoine Chollet, even in more aristocratic systems. In this regard, he asserts that sortition—despite appearing in significant historical examples, most notably Athens—is not necessarily a tool used exclusively by democratic regimes; rather, it can also be employed in aristocratic ones.[48]

In Venice, it must be noted that sortition was used in a more particular manner, and perhaps with an even lower democratic value compared to Florence. Sortition was employed solely for the selection of the so-called nominators, whose task was to nominate, for each office, the candidates who would then be considered by the *Maggior Consiglio*. The names presented to the *Maggior Consiglio* were those who had received the majority of votes from the nominators. The *Maggior Consiglio* would then select the candidates from the pre-selected pool through an additional voting procedure. Thus, sortition was only a small part of a system that was predominantly elective. Furthermore, this procedure was not always followed; at times, candidates were proposed directly from above, or the Senate would handle the entire selection process. It should also be noted that the most important public offices essentially remained in the hands of the same prominent families, who formed an even more exclusive group within the *Maggior Consiglio*. A commonality with Florence is undoubtedly that, even in Venice, sortition was used more to avoid factionalism and divisive campaigns than for any genuine democratic ideal. Finally, Venice was a decidedly more aristocratic and elitist regime

[46] O. Dowen, "*Who*? And *How*? Sortition, Democracy and Good Government," *Les Cahiers du CEVIPOF*, No. 56, April 2012, pp. 81-89.

[47] L. Morel, "Sortition and Contemporary Democracy," p. 21.

[48] A. Chollet, "Direct Democracy and Party System: A Blind Spot of Swiss Institutions," *Les Cahiers du CEVIPOF*, No. 56, April 2012, pp. 73-80.

than Athens. By the mid-16th century, the *Maggior Consiglio* comprised approximately two thousand five hundred members, and they were the only ones to enjoy political rights; thus, they were the only ones who constituted the body of citizens.[49]

As has now become evident, it was a common opinion that sortition was more egalitarian than elections. However, both in Florence and in Venice, sortition was used more for practical convenience rather than for its egalitarian value. The Florentine and Venetian models, while useful for studying sortition, do not appear to offer much in terms of genuine popular participation in governance. In both Florence and even more so in Venice, the fraction of the population enjoying political rights was very limited. Based on the elements presented above, it seems truly difficult to characterize these two systems as models of direct democracy in the original sense.

## 1.3 New England Town Meetings

Following the examination of the Athenian model, which has been widely elevated to a paradigm by various scholars, the focus shifts to other case studies. Given that key features of original direct democracy include both the use of sortition and the citizens' Assembly, the search was directed towards political systems that incorporate either or both elements. Due to the near absence, in the political systems of the modern or contemporary ages, of systematic and institutionalized sortition for the assignment of significant political roles - beyond experimental uses, such as for the appointment of extraordinary committees -, the focus has been on identifying citizens' assemblies with genuine decision-making power. One such case study selected for analysis is the New England town meetings, primarily due to their historical continuity, practical feasibility and applicability, alignment with democratic ideals, and potential for broader influence.

As early as the first decades of the 17th century, New England's colonies began to organize the so-called town meetings. These were real city assemblies, in which the citizens of the different municipalities had the opportunity to meet, discuss and directly deliberate on matters of interest to the community. Specifically, during these assemblies, citizens elected their officials, approved the budget for the following year and deliberated on any other matter of public interest. From a more technical point of view, town meetings were not in fact simple public hearings or mere advisory bodies that provide a non-binding opinion. They were real deliberative bodies or legislators; in other words, they are venues where laws are deliberated and enacted, effectively rendering each citizen a legislator.[50]

[49] B. Manin, *I principi del governo rappresentativo,* pp. 72-76.
[50] J. B. Field, *Town Hall Meetings and the Death of Deliberation*, Minneapolis, University of Minnesota Press, 2019, pp. 1-75.

While treating them in this part as one of the most concrete historical examples of direct democracy, it should be noted that town meetings have survived to the present day. As in the past, they are still considered, one of the best examples of direct democracy practiced by the governments of advanced countries. Between 1831 and 1832, French political scientist and philosopher Alexis de Tocqueville had the opportunity to study this institute closely. In his book *Democracy in America*, he elevated town meetings to a model of direct democracy and wrote: “Town meetings are to freedom what schools are to science.” Whereas American philosopher Ralph Waldo Emerson believed that town meetings have come to give everyone the right weight they deserve in government.[51]

While the citizens' Assembly served as the central forum for discussion and decision-making, the element of sortition - so crucial in Athens and to some extent in Florence and Venice - was entirely absent in the New England cases. In light of this, the direct nature ascribed to these forms of government, both historically and in contemporary contexts, can be attributed solely to the presence of the citizens' Assembly and the fact that citizens had the opportunity, without any intermediaries, to deliberate and make decisions on matters affecting the community. As Jonathan Beecher Field argued, at a town meeting each citizen represents him or herself, and in this sense the town meeting functions as a direct democracy, without making any mention of the direct participation of citizens in public functions or the method of sortition.[52]

## 1.4 The 1871 Paris Commune

Another case study selected for analysis, albeit short-lived, is the 1871 Paris Commune, which emerged from the insurrection of the Parisian populace against the central government of Adolphe Thiers in the post-war context following France's devastating defeat by the Prussian army in 1870.

This choice was motivated by several factors. As previously mentioned, the absence of a systematic use of sortition required a focus on the plenary citizens’ Assembly and its functioning. In the Paris Commune, the underlying principle was that citizens could always discuss major issues in the Assembly. However, there was a class of elected public officials responsible for daily administrative matters. These officials were not free or autonomous in their decision-making; they had to strictly adhere to the popular will expressed in the Assembly, under the threat of recall and removal from office, in what can be described as a true imperative mandate. It is also due to this novel element, complementing the traditional Assembly, that the Paris Commune was included as an additional example. The imperative mandate presupposes that the Assembly makes binding decisions, and that deliberation is genuinely conducted by the citizenry.

[51] *Ibidem.*

[52] *Ibidem.*

Nevertheless, it was not the first time that the concept of imperative mandate appeared in a political system. It is believed that the imperative mandate even originated in Roman law and was also present in medieval Spain. However, with the rise of liberal thought in the 18th century, the imperative mandate gradually fell out of use. For example, it was in place in Massachusetts—precisely in that New England region examined earlier—but was abolished following the adoption of the American Constitution in 1788. Thus, the Paris Commune represents the chronologically closest experiment in the application of a proper imperative mandate.[53] Anyway, this mechanism, which is to a certain extent retained by few political systems today, will be examined in detail in the final part of this chapter.

As already anticipated, similar to the case of New England town meetings, the Paris Commune appears to diverge significantly from the historical examples of Athens, which incorporated a dual scheme involving both the citizens' Assembly and the use of sortition. The members of the *Conseil Général*, the principal organ of the Commune, were elected, and there seems to have been no provision for the use of sortition. As Engels wrote in 1891 in his postscript to Marx's *The Civil War in France*, the Paris Commune, which he defined as a "new and really democratic state," used to fill all posts by election on the basis of universal suffrage, with the right of the same electors to recall their delegate at any time.[54]

The *Conseil Général* sought to establish a democratic republic grounded in the sovereignty of the people, autonomous from both the central government and the Prussian state. The citizens of Paris, having elected the Council, would retain sovereignty at all times, never relinquishing it to an authoritarian state apparatus or a charismatic leader through a plebiscite. The idea behind it was that the people would not lose the right to discuss the most important issues in the Assembly and to always be able to renew or remove confidence in the elected representatives.[55]

Perhaps due to the brief duration of the Communard experiment (only seventy-two days), the precise functioning of the plenary Assembly, the issues on which it could consistently deliberate, and the frequency of its meetings remain unclear. What is certain, however, is that the delegates of the *Conseil Général* were obligated to report back to their electors and could be recalled by them if they deviated

[53] European Commission for Democracy through Law (Venice Commission), *Report on the Imperative Mandate and Similar Practices*, No. 488 / 2008, Strasbourg, 16 June 2009, p. 3.

[54] F. Engels, "The civil war in France – PostScript," written in 1891, *Marxists Internet Archive*. Retrieved from: The Civil War in France (marxists.org).

[55] S. Mastellone, *Storia della democrazia in Europa: dal XVIII al XX secolo*, 3rd ed., Torino, UTET libreria, 2004, pp. 127-130.

from their original mandates.[56] The Councillors of the commune were therefore conceived to all intents and purposes as mere executors of the popular will, by virtue of a real imperative mandate.

In light of this, one might come to imagine that it was precisely the imperative mandate that made the Paris Commune assume the character of direct government, even though it was based on the oligarchic method of election to select its public officials. This intuition seems to be confirmed by both French historian Alain Dalotel and German philosopher Karl Marx. The former argued that the direct character of the government of the commune had nothing to do with the direct participation of citizens in public government, as it had been in Athens in the 5th and 4th centuries BC, but precisely with the imperative mandate and the possibility of revocation of delegates.[57] Karl Marx even saw in the Paris Commune the triumph of social emancipation and the end of state machinery and parliamentarism as organs of domination of the ruling classes. Specifically, according to Marx, public affairs would be administered by a delegates' Assembly. These would have been distinct delegates from the typical representatives of bourgeois parliamentarism. In fact, the delegates would have been subject to the imperative mandate of their voters, possibly even to the revocation, and in any case deprived of political decision-making power or autonomy.[58]

Even the case of the Paris Commune seems to unequivocally confirm the fact that direct democracy does not mean that all political powers are exercised directly by the citizens' Assembly, as Manin maintains. Indeed, even the Parisian insurrectionists accepted the presence - which appears inevitable at this point - of a committee of delegates tasked with executing the decisions of the citizens and managing the city's daily affairs. The crucial insight is that these delegates would not act on their own initiative nor wield political decision-making power but would always remain subordinate to the will of the citizens' Assembly. This subordination was so absolute that delegates could be removed from their positions if they deviated from their original mandate – as prescribed by the principle of revocability.

## 1.5 Assembly Democracy and Lottery Democracy

As previously mentioned, there are currently no political systems that systematically employ the two foundational elements of original direct democracy. Efforts have been made to identify systems that at least utilize citizens' assemblies, such as the New England towns or the Paris Commune. However, it remains unclear whether these systems can truly be considered direct democracies, given the

[56] European Commission for Democracy through Law (Venice Commission), *Report on the Imperative Mandate and Similar Practices*, p. 3.

[57] Dalotel, A. *The Paris Commune 1871*. Paris, 2005.

[58] S. Mastellone, *Storia della democrazia in Europa: dal XVIII al XX secolo*, pp. 130-132

assignment of public offices only through elections - an element that, as noted, Manin considers to have a non-direct character. In any case, if these systems were to be classified as direct, their direct nature would necessarily stem from the presence of a citizens' Assembly with deliberative powers and possibly from public officials bound by the populace's directives. It is precisely due to the presence of these two elements that the American political philosopher Barbara Goodwin has wisely differentiated between the concepts of "direct democracy" - understood at this point as assembly democracy - and "lottery democracy" - which instead presupposes the use of sortition.[59]

Based on this distinction, it can then be stated that the direct character of a government system derives from the presence of the citizens' Assembly and their power to deliberate on matters of collective interest. Every citizen must be able to directly contribute to the decision-making and law-making processes and the central body is and always remains the general citizens' Assembly. Lottery democracy, in contrast, emphasizes the idea of participation in governance and aims to provide all citizens with an equal opportunity to hold public office through the method of sortition. From this perspective, both Goodwin and Landemore regard classical Athens as a form of democracy which is only partially direct; it might be more accurate to describe it as a hybrid of direct (assembly) democracy and lottery democracy. What would therefore have made Athens a model of direct democracy, albeit combined with lottery democracy, is the sovereign decision-making power (*kratos*) of the *demos* on issues which are relevant to the community. This power is to be understood as supreme authority over all things as it was in the power of the *demos* to do what it wants, as long as it does not contravene the laws.[60]

From the analysis of the cases listed above, and particularly in light of the distinction made between different types of democracy, it can be asserted that the direct character of a government does not necessarily include sortition as a constitutive and founding element. The direct character of a form of government seems to depend on the presence of a plenary Assembly capable of deliberating on the decisions central to the life of the community and on the presence of delegates who implement those decisions without the authority to deviate from them. Sortition has historically been an element that complemented direct forms of government, ensuring citizens' direct participation in public offices as well as in the law-making process. However, the absence of elements of lottery democracy in almost all contemporary forms of democracy – and direct democracy -, which were integral to the Athenian, Florentine, and Venetian models, undoubtedly represents a significant departure from the past. In the 21st century, elections have come to be considered as a method of selecting public officials almost

[59] B. Goodwin, "Direct Democracy and Lottery Democracy – Two Different Concepts?," *Les Cahiers du CEVIPOF*, No. 56, April 2012, pp. 37-50.

[60] S. Cataldi, "Il modello ateniese," p. 33.

taken for granted in "democratic" governments, if not even as a key and necessary element to distinguish between democratic and autocratic systems.

However, as it is clear in this work, elections have not always been the method used for the selection of officials, and this is not just the case of autocratic regimes or hereditary monarchies. In the same models of democracy that the Western world claims to be inspired by, the method of election was certainly not the predominant one. Moreover, this same method, considered today as absolutely democratic is not even the most democratic method among those existing or used in the past. Considering this, it is certainly compelling to investigate the reasons that led to the universal dominance of elections and the abandonment of the method of sortition, which was so highly esteemed and massively used by past democratic models.

### 1.5.1 Sortition and Elections: a Comparison

*Sortition*

After demonstrating that sortition is not an essential element for a system to possess a direct character, being better classified as an instrument of lottery democracy, it remains nevertheless true that sortition is a significantly more democratic and equitable method of selection compared to elections.

Sortition was regarded as one of the legitimate and traditional methods of assigning offices through non-hereditary means. Historical republics, from Athens to Rome, and including Florence and Venice, allocated at least some offices by sortition. In this sense, when the post-revolutionary United States and France declared themselves republics, they broke with the historical republican tradition precisely because they did not assign any offices by sortition.[61]

In various Italian municipalities between the 11$^{th}$ and 12$^{th}$ centuries, sortition was also used for the appointment of public officials. In this context, sortition was intended to prevent city politics from being dominated by factions that pressed for their members to be chosen. Indeed, sortition avoided the divisive effects of factional struggle or factionalism: making the outcome totally independent of the work of the parties, it became more acceptable and certainly less exposed to conflicts between groups.[62]

In addition to preventing factionalism, another feature of sortition was that it ensured equal opportunities for access to public office. Between the 15$^{th}$ and 16$^{th}$ centuries, Florentine writer Francesco Guicciardini precisely articulated his support for equal access to public offices. Guicciardini argued that through elections this equality would be lost, as there was a natural tendency to assign public offices to the elites. It is, nonetheless, an insight that Aristotle had already conceived

[61] B. Manin, *I principi del governo rappresentativo,* p. 49.

[62] D. Waley, *The Italian City Republics*, London, Longman, 1988.

many centuries earlier. However, neither Aristotle nor Guicciardini delved deeply into the reasons that lead to the election of prominent and atypical individuals. What is evident, however, is that the most talented individuals were selected or, as the Americans surmised, those most likely to hold superior social positions or possess greater wealth. Similarly, in his analysis of the Republic of Venice, British philosopher James Harrington observed that when elections are free, voters tend to consistently elect the same prominent individuals. Furthermore, this tendency appeared to extend well beyond the city of Venice.[63]

Already from the Greek sources of the 5th and 4th centuries BC, sortition was considered as the democratic method *par exellence* and in any case much more democratic than elections.[64] Nevertheless, over the past two centuries, representative governments have predominantly preferred the elective method and did not utilize sortition. Historically, there have been debates and proposals advocating for the use of sortition. For instance, the use of sortition was also proposed during the French Revolution, potentially in conjunction with the elective method. Nevertheless, sortition was never seriously considered by either the French Revolution or the American Revolution, despite its more democratic character compared to the more aristocratic method of election.[65]

The strengths and weaknesses of lottery democracy are certainly worthy of rigorous study. It is important to understand the reasons why sortition, which Athens originally decided to employ extensively, has been universally supplanted by the elective method in modern contexts. This work starts with the strengths:

1) Sortition guarantees compliance with the principle of rotation of offices, to which the Athenians gave great importance. Referring to the definition of freedom provided by Aristotle, it consists of two elements: living as each one wants and being governed and governing in turn.[66] The virtue of the citizen was in fact that of commanding and obeying well. The importance of the principle of rotation for the Athenians already emerges from this definition. The rotation did not dictate the content of decisions in any way, nor did it define an effective or negative decision. However, it enabled rulers to make choices with the perspective of the governed in mind, as their positions would inevitably be reversed, in what is called reversibility of political power. Overall, the principle of rotation tended to produce equal and right outcomes. In 5th and 4th centuries BC Athens, power was reversible not only in principle but also substantially, for example by prohibiting holding office consecutively or more than a

[63] B. Manin, *I principi del governo rappresentativo,* pp. 71-72.

[64] Ivi. p. 32.

[65] Ivi. p. 89.

[66] S. Cataldi, "Il modello ateniese," pp.19-48.

certain number of times (e.g. for the Council maximum twice). This allowed the effective selection of different individuals from time to time, while the order in which each one accessed the positions seemed to have no considerable weight. Precisely by virtue of the principle of rotation, sortition was a rational solution and preferable to elections. In fact, the Athenians were already aware of the fact that elections did not guarantee in any way the rotation and reversibility of political power, due to the continuous tendency to always select the same eminent individuals or anyway originating from the same socio-economic classes. In fact, in elections only those citizens who enjoy popularity and the support of other citizens tend to emerge and theoretically there would also be the possibility that they would be re-elected, even several times: this would definitely inhibit the rotation mechanism. The most obvious solution would be to prohibit re-election, but this would be a compromise between two potentially opposing principles: the principle of election and the principle of rotation of offices. In conclusion, sortition ensures the effective rotation of offices, elections do not.

2) Sortition ensured equal access to offices, or more accurately, equal probability of being selected. All citizens were on an equal level, thereby eliminating the presence of elites in this regard. A system in which offices are assigned by sortition and officials rotate frequently cannot in fact generate an aristocracy.

3) The method of sortition is immune to the phenomenon of pre-selection corruption or vote swapping. This method is also immune to any type of distortion or conditioning of the selection process, which can instead occur in the case of voting and interfere with the normal and free choice of the candidate. It is virtually impossible to predict who will be drawn, and no action can be taken that could interfere with the normal selection of the candidate.

4) When combined with the brief tenure of office and consequently high rotation, sortition mitigates issues such as personal gain-seeking, regulatory capture, or corruption once officials assume office. The official is incentivized to act in a manner they would expect from their successors, knowing they will inevitably be deposed and replaced.

5) Sortition is also immune to factionalism and political competition. As previously demonstrated in the preceding sections, this was exactly the main reason that convinced the Florentines to prefer sortition over elections. Sortition, due to its inherently unpredictable nature and complete independence from party activities, renders unnecessary and futile fierce political battles or electoral campaigns aimed at securing the dominance of one candidate over another.

6) Sortition ensures the “typicity” of the official, who will not necessarily belong to an economic or cultural elite but would rather be the "average citizen." This method also has the potential to bridge the vertical divide between rulers and the ruled, as well as the horizontal divide among different social groups. Specifically, sortition would statistically enable a more accurate representation and alignment between officials and the various social groups comprising the citizenry: Robert Dahl uses the expression “minipopulus”, i.e. a mini-public which, if large enough, would become a valid proxy – a representative sample - of a larger relevant population. Lottery democracy does not eliminate the fact that a minority still governs, but that minority will be randomly selected, rotate frequently, and ensure more specific correspondence between the rulers and the ruled.[67]

7) In certain respects, sortition could mitigate feelings of political apathy or resignation, as well as animosity towards political elites. This is also due to the fact that political elites are concretely unable to form, as widely demonstrated. Citizens may perceive a greater opportunity to either govern directly or be governed by individuals with similar socio-economic or cultural backgrounds. Additionally, sortition would offer reassurance that any official who is unpopular or whose policies diverge from public preferences would inevitably be replaced upon the expiration of their term.

8) The lack of accountability to voters and the absence of the need to seek public approval may incentivize the rulers to make decisions that are more judicious in the medium to long term. Officials do not need to opt for highly short-sighted measures aimed solely at securing popular support and appreciation for a possible re-election. Indeed, they are aware of the fact they will inevitably be replaced, and therefore there is less tendency to implement policies solely for the purpose of gaining public approval.

Alongside these strengths, a series of weaknesses have also been identified.

1) The aforementioned Francesco Guicciardini already believed that sortition should be exercised with limits: the destiny of the city could not in fact be entrusted to incompetent or unsuitable individuals. Guicciardini therefore immediately identified the principal weakness of the method of sortition, later confirmed by French philosopher Montesquieu about two centuries later: there was a risk of selecting citizens without any aptitude for government.[68]

   The Athenians were sceptical of political professionalism; they believed that any citizen was competent and qualified enough for his opinion to deserve to be heard, assuring to everyone

[67] L. Morel, “Sortition and Contemporary Democracy,” p. 27.

[68] B. Manin, *I principi del governo rappresentativo,* p. 13.

the equal right to intervene in the general Assembly (*isegoria*). However, intervening in the Assembly, among other voices and during a debate, does not have the same weight as holding a public office personally. The risk of selecting individuals who were incapable of performing a certain function was real, in 5th and 4th centuries BC Athens as in all the other historical realities that have resorted to the method of sortition. Specifically, professional politicians may have better information than the ordinary citizen: policy-motivated candidates may be better informed, for example about how the economy works, how different policies are correlated with the results, the relevant conditions for the choice of policies.

2) There is a lack of accountability. Randomly selected individuals do not have to be accountable to their voters or party. This represents the converse of the insight discussed in point 8) of the previous section. For instance, the absence of the need to garner support for re-election or party approval may lead these individuals to make rash, imprudent, or irresponsible political decisions, potentially driven by personal gain.

3) The rate of participation may be low. Although sortition is intended to enhance citizen involvement, in practice, it may reduce it. Those who are not selected - the vast majority - do not have any active role and lack even the minimal degree of consensus which is typically expressed through voting in representative democracies. While in smaller communities, such as ancient Athens or medieval Italian municipalities, it is conceivable that eventually every citizen would assume an office, in large modern nation-states, it is effectively impossible to ensure that all citizens have the opportunity to participate throughout their lives. In 5th and 4th centuries BC Athens, out of seven hundred public offices, six hundred seats were assigned by sortition. In addition to these, there were five hundred positions of members of the Council (*boulé*), always assigned by sortition. It is estimated that in the 4th century BC, excluding those disqualified due to *atimìa,* the citizens who had reached the age of thirty, and were therefore selectable for a public office, were about twenty thousand.[69] Consequently, it can be reasonably inferred that a citizen would have held an office at least once over the course of their lifetime. Thus, participation in the government was genuinely effective, rather than merely formal or theoretical. In modern and large nation-states, it is numerically implausible to conceive that all citizens will eventually hold a position. However, local and municipal contexts, where the prospect of holding an office is more tangible, would deserve further consideration and analysis.

[69] Ivi, p. 15.

4) The decisions taken by the public officials drawn by lot would not coincide with the "rule of the people." Concretely, these would be decisions taken by a minute minority which has been randomly selected from a much larger population and without any form of popular consensus or legitimacy, other than the consensus originally provided on the method of selection.

5) Sortition, especially when coupled with high charge rotation, generates a turbulent system. For instance, in ancient Athens, Councillors served only a one-year term and thus lacked sufficient time to fully comprehend the issues and refine the execution of their function and duties. Consequently, a natural aristocracy of experienced and capable individuals could never have emerged, as also emphasized by Harrington, and a principal reason for his critique of Athens.

6) Another reason seemed to be the impracticability of sortition in the large modern states, due to a series of necessary conditions that were not fulfilled, as argued to some extent also by French historian Patrice Guenifrey.[70] He specifically believed that sortition could create a feeling of political obligation only within small communities, in which everyone knows each other. Only in that case, individuals would accept such an important selection in which they only had an indirect role. Sortition would therefore no longer be suitable for complex, vast and atomized societies such as those of contemporary states. He further asserted that political functions should be straightforward and not necessitate specialized technical expertise, allowing even the average citizen without particular skills to fulfil them. Additionally, sortition would have required a degree of cultural and social homogenization and equality, ensuring that the selection could be made indifferently among all eligible individuals. It is evidently a series of conditions that could have existed in 5$^{th}$ and 4$^{th}$ centuries BC Athens or in medieval Florence, but which no longer exist in modern societies.

However, in light of the inherent weaknesses of sortition, which have been previously examined, the Athenians had already introduced effective corrective measures, particularly addressing the two principal deficiencies of this approach, presented in points 1) and 2). Montesquieu himself regarded sortition as a defective system, primarily due to the risk of selecting incompetent individuals.[71] However, he believed that this limitation could be mitigated through a range of mechanisms, such as those he considered to have been effectively implemented in Athens by Solon.

[70] P. Gueniffey & F. Furet, *Le Nombre et la Raison: la Révolution française et les élections*, Paris, Éditions de l'École des hautes études en sciences sociales, 1993.

[71] Montesquieu, *Lo spirito delle leggi*, Torino, UTET, 2015.

*Elections*

As Aristotle already intuited, elections are an aristocratic method of selection by nature. Specifically, it can be stated that elections are aristocratic for two reasons: 1) they reward eminent individuals, who possess a distinctive trait that distinguishes them from the others and which is positively evaluated by electors; 2) elections can be democratic if the elected are mere agents or delegates employed by the voters. However, modern constitutional theory understands representatives as free and independent, i.e. not bound by instructions or imperative mandate, thereby making elections an aristocratic method.[72]

As anticipated, neither of the two mentioned authors who have written about elections and their aristocratic nature, even though in completely different periods, – namely Aristotle and Guicciardini - explored in depth the reasons why voters tend to select elite members. It remains unclear which factors voters consider significant in candidate selection and whether these factors can undergo radical changes between successive electoral rounds or just in the long run. The criteria for a candidate's success are not predetermined or established abstractly in advance. While it is possible to reconstruct and partially identify the factors that voters prioritize, this can only be done retrospectively, after the results of the election have been determined. Furthermore, it is widely believed these factors can slightly vary from one election to another and are influenced by the socio-cultural context in which they occur. As elections and the consequent allocation of public offices are repeated, voters may gradually discern rational criteria for selecting competent candidates suited to their public roles. However, there is no constraint preventing voters from choosing their candidates based on entirely irrational criteria that bear no correlation to the actual competence of the candidates and effectiveness of the public functions performed by the elected. The constraint of distinction certainly introduces a degree of uncertainty, since qualities deemed favourable are never universally or unequivocally defined and may change over time. Furthermore, within a given socio-cultural context, not all individuals can expect their unique attributes to be positively assessed, particularly in the short term and without significant shifts in the social environment. Consequently, this creates a considerable disparity and inequality in individuals' opportunities to be elected and attain public office.

Ultimately, representatives must necessarily have a distinctive trait that distinguishes them from the voters and elevates them to superior individuals deserving of being elected. Thus, elections do not even guarantee “typicity” or the similarity between the elected representatives and the governed, which has been one of the most attractive and ideal elements of democracy.

[72] B. Manin, *I principi del governo rappresentativo,* pp. 169-170.

*The Triumph of Elections*

If elections have become predominant in nearly all modern democratic governments, being preferred over sortition, it is certainly worth investigating the reasons behind this shift. It cannot solely be attributed to the risk of selecting incompetent individuals. This risk exists but, as demonstrated, can be mitigated through various corrective measures, some of which were already recognized and implemented as early as the 6th century BC in Athens. It is undeniable that some of the arguments listed in the previous sections make sense when applied on a national scale, for example those relating to the impracticability of sortition in large modern states, or even the excessive complexity of the offices for the average man. However, it is curious that in modern times no one has considered to apply sortition in local or municipal contexts, in which individuals know each other, are more likely to get involved and the roles also have a lower level of complexity. In the 17th and 18th centuries, even in the small towns of New England, taken by Alexis de Tocqueville as a model of direct democracy, municipal officials were not chosen by sortition; rather, they were all elected.[73] Similarly, the French revolutionaries appeared largely disinclined to adopt this method of appointing public officials, to the extent that they seldom considered it seriously.

On closer analysis, it seems that elections were preferred to the method of sortition on the basis of the principle of consensus: it is the principle that citizens are bound only to what they have consented to. Elections clearly ensured the expression of the electorate's consent, or at least that of the majority, whereas sortition did not guarantee such consent. In the case of sortition, the only form of consensus was related to the method of selection itself, rather than an endorsement of the individuals chosen at any given time. Moreover, it would have been a consent given in only one circumstance, in the past, and in fact never requested again. Thus, in general, sortition cannot be regarded as a method of selection that implies some form of specific consensus. In contrast, in the case of elections, voters provide consent on two levels. They agree not only to the method of selection, as is the case with sortition, but also to the specific outcome - the individual candidate elected. Furthermore, this form of consent is renewed with each electoral cycle, thereby enhancing the legitimacy of the elective method. The principle of consensus gradually began to take precedence over the principle of rotation, and elections over sortition, from the Middle Ages onward, eventually becoming dominant by the late 18th century. The significance of bottom-up consent is illustrated by the emblematic slogan of the 1776 American Revolution: “No taxation without representation.” It articulated the belief of the thirteen American colonies that the election of representatives was the sole legitimate means for imposing taxes, thereby asserting the necessity of recognizing the principle of consensus. In the 1776 Declaration of Independence, it was asserted that governments derive their legitimate powers

[73] Ivi, p. 93.

exclusively from the consent of the governed.[74] This is an idea presumably inspired by the British philosopher John Locke's thinking a century earlier. In his work *Two Treatises of Government* (1689), he posited that only the consent of a sufficient number of free individuals, capable of forming a majority, can establish a legitimate government.[75] The principle of consensus took precedence over that of equity in the allocation of public offices and the principle of rotation. Public offices ceased to be conceived as scarce goods to be distributed equally among citizens. It was no longer important that offices were distributed equally among citizens or that citizens had an equal chance of accessing them, but it was important that those who governed did so with the consent of the governed people. The concept of political equality also changes: it is no longer an equal possibility of holding an office, but an equal right to consent to power. Citizens began to be considered - as they are in the 21st century - the source of political legitimacy and no longer the individuals who could in turn aspire to hold an office in the first person. Radical leaders were attached to the principle of consensus that had made it possible to undermine the inheritance of power typical of monarchical and absolutist regimes. Similarly, conservatives were content with the absence of complete distributive equity in the allocation of public offices, as the elective method would almost inevitably result in these positions being assigned to individuals from the upper social classes. As Morel also argues, elections provide a kind of filter—favouring elites and preventing certain segments of the population from accessing public positions—that sortition does not ensure.[76] In the 18th century, with large nation states beginning to emerge, the probability for a citizen to be drawn, among hundreds of thousands if not millions of his peers, was infinitely small. It was also a much less concrete probability compared to the possibility existing in Athens in the 5th or 4th centuries BC or Florence in the 15th century AD. Plausibly, this helped to convince the citizenry to give greater weight to the principle of consensus than to the remote possibility of holding a public office personally.[77]

However, sortition at least ensures equality in the distribution of probabilities, a guarantee that elections do not provide. While the probability of any individual citizen being selected may be minimal - leading the individual to place little importance on this issue, at least compared to the past -, the implications on a broader scale are more substantial. Indeed, on a broader scale, the allocation of offices and the representation of various social groups are profoundly influenced by the method of selection. Sortition appears to offer a statistically more accurate representation of the entire

[74] National Archives, *Declaration of Independence: A Transcription*, n.d. Retrieved from: Declaration of Independence: A Transcription | National Archives

[75] J. Locke, *Two Treatises of Government*, n.d., CreateSpace Independent Publishing Platform, 2014.

[76] L. Morel, "Sortition and Contemporary Democracy," pp. 22-23.

[77] B. Manin, *I principi del governo rappresentativo,* pp. 49-104.

population compared to the electoral method, which tends to favour certain privileged groups over others, as claimed by a series of key thinkers of the past analysed throughout this chapter.

*The Majority Principle*

If elections ensure a degree of consensus manifestation, which is not the case with sortition, and if this consensus is the principal reason for the preference of elections over sortition, then the methods by which this consensus is expressed and quantified assume considerable importance. The quantification of consent and the establishment of a clear criterion for understanding the expression of consent have been subjects of significant debate. The prevailing interpretation appears to be the majority principle: collective decisions are deemed valid if they receive the approval of the majority of citizens.

It is important to highlight that this principle is widely established across different democratic systems. As explained, it does not pertain to the concept of lottery democracy, but it is prevalent in both Assembly-based democracies and representative democracies. In classical Athens, for instance, decisions in the *ekklesia* were made by acclamation or a show of hands, always adhering to the majority principle. In representative democracies, besides common decisions, the election of public officials is also governed by the majority principle, whether relative or absolute, depending on the specific context.

It is useful to point out that the majority rule is not the only viable one, just as in some ways not even the most functional. Italian jurist and political scientist Norberto Bobbio analysed the alternative principles to that of the majority, specifically the principle of unanimity - in which the consent of all parties is clearly required - and the autocratic principle - in which few persons or even only one deliberate.

> The rule of the majority in relation to other rules: from the point of view of the purpose (of the quickest way to reach a collective decision) the autocratic principle is more functional, but it is inferior to it considering the system of values. From the point of view of values, freedom, equality, the rule of unanimity is superior to the majority, which however exceeds it in scope. Where total consensus of all is not possible, but only partial, the majority rule requires the consensus of the majority - *maior pars* - to be considered.[78]

As Norberto Bobbio argues, the history of the majority principle does not coincide with the history of democracy. From Roman law onwards, the majority rule has been considered only as the necessary and most suitable procedure for the formation of a collective decision. Democracy is to be understood

[78] N. Bobbio, "Democrazia e maggioranza," *Revue européenne des sciences sociales*, No. 54/55, 1981, pp. 377-388.

as the government of the majority and not as the government in which some organs are decided or decide by majority, or government by the principle of the majority. Moreover, the historically axiologically negative idea of majority rule does not derive so much from contempt for majority rule as from contempt for the masses, considered incapable of governing. As mentioned, democracy does not mean government through the principle of the majority. What characterizes a democratic system (direct or indirect) is the universal suffrage of all citizens. Rather, it is the majority principle voting but applied to votes conducted by universal suffrage. What distinguishes democracy from oligarchy is precisely the number of those who are called upon to express their consent. [79]

Based on these considerations, it is possible to add that what distinguishes a direct democracy from a representative democracy is instead whether this consensus is expressed directly by the citizenry or whether it is "mediated" by a representative. This is the case of a representative who holds his position with the express consent of the citizenry but who does not need the explicit consent of the voters in the making of collective decisions once elected, not being bound by an imperative mandate.

A final consideration that merits attention when discussing the majority principle is that it provides no insight into the manner in which consensus is expressed. It merely serves as a method for calculating the votes cast. This rule does not account for whether votes were given voluntarily, out of conviction, or under duress or coercion. Thus, the fact that a decision was made by majority vote—or that it represents the will of the majority—reveals nothing about the extent of freedom with which consent was given, and therefore, about the legitimacy of the decision-making process. The majority rule maximizes neither freedom nor consensus, but it is a compromise between them. Majorities are often formed not by the freest, but by the most conformist. It is sufficient to note that the larger the majority, the greater the potential for questioning the freedom of the vote. In certain cases, a substantial majority, which some argue should maximize freedom and consensus, can reflect the characteristics of an unfree society, as repeatedly demonstrated by historical cases and referendum-style votes.

## 1.6 Modern Representatives: from Executors to Decision-Makers

Throughout this chapter, it has widely been demonstrated that sortition was an essential element for the selection of public officials of past democracies, only to gradually diminish and to be entirely absent in historically significant cases such as the 1871 Paris Commune or the New England towns. In both these cases, the delegates in charge of managing daily affairs were elected, but the citizens' Assembly remained the central body in charge of discussing and deliberating on the major issues of collective interest. In this regard, Rousseau himself clearly distinguished between the legislative body

[79] *Ibidem.*

and the executive body. In his view, the first is the body that holds sovereignty and is responsible for making laws, which are general in nature and apply to everyone. The executive body, on the other hand, is only responsible for the application of these general and abstract laws to particular cases. These two powers must remain strictly distinct, and when they were to be unhappily exercised by the same body, then tyranny would ensue. Rousseau tolerated, and even recommended, the inclusion of representatives within the executive body. Ideally, in a democratic republic, the repositories of executive power are only people's delegates, to be appointed and dismissed at the people's discretion. The essential element is the absence of representatives within the legislative body, as Rousseau considered the enactment of general laws by representatives to be inherently illegitimate. In fact, it must be the people, as holders of sovereignty, who exercise this prerogative; in any case, it must not be a group of representatives nor a monarch as in the past. In fact, executive power can be transferred or delegated with limits. What can never be transferred, alienated, or subjected to representation is the will of the sovereign people. [80] From this perspective, the people's deputies are not endowed with autonomy and decision-making power but are instead mere commissars without the authority to make definitive decisions. In his book *The Social Contract*, Rousseau refers to the model of principal and agent: the agent (i.e. the delegate) must in no way participate in the formation of the will of the people, who are the principal. Rousseau understood political representation as an imperative mandate: there is a trust contract according to which the delegate (the agent) is granted the power to perform a certain type of specific action, without however having the power to make decisions, which inevitably remains in the hands of the people (the principal). However, the moment a people accept to be represented, delegating their own sovereignty, then they cease to be free. In a sense, this sovereign people cease to exist.[81]

In Rousseau's perspective, the people do not need the mediation of a minority of enlightened people or an elite of representatives. Representatives are only a source of moral corruption: not only can they not concretely improve the quality of a proposal, but they tend to deform or distort the popular will. Rousseau's opposition to the delegation of political authority, and therefore of sovereignty, led him to think that democracy was only practicable on a small scale, so that the direct participation and physical presence of all citizens would be possible. Rousseau does not take as a model the Athens of the 4th and 5th centuries (defined as a tyrannical aristocracy ruled by orators and educated men) but his native city of Geneva.[82]

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[80] R. Douglass, "Rousseau's Critique of Representative Sovereignty: Principled or Pragmatic?", *American Journal of Political Science*, Vol. 57, No. 3, 2013, pp. 735-747.

[81] J.-J. Rousseau, *Il contratto sociale*.

[82] H. Landemore, *Open Democracy: Reinventing Popular Rule for the Twenty-First Century*.

In feudal times, with the introduction of the figure of the representatives of the people before the king, state regimes began to incorporate the modern concept of representation.[83] In fact, never in the ancient republics, as well as in the monarchies, did the people have representatives. Originally, however, they were mostly internal representatives, spokesmen, ambassadors, without any real decision-making power.[84] Therefore, these were figures that could in any case be well reconciled with Rousseau' model.

Unlike the first forms of representation, in most of the regimes that we consider democratic in the 21st century, representatives – such as parliamentarians -, are well present in the legislative body and indeed they are the only ones who make up the legislative body (the Parliament), no longer the people. Moreover, these representatives have ceased to be mere spokesmen or executors of the popular will. In most states today there is no type of imperative mandate or rigid constraint, as was the case in the 1871 Paris Commune. Parliamentarians are endowed with political decision-making autonomy and are not bound to the electorate, except by a mere and in some ways weak relationship of political trust.

### 1.6.1 The Imperative Mandate

Since the imperative mandate is likely the principal element that differentiates modern representation from the previously explained Rousseau's conception of representation, then it is certainly worthwhile to further consider this type of constraint that binds representatives to the people. The origins of the imperative mandate are to be found even in Roman law. A first evident manifestation occurs in medieval Spain, particularly in the kingdom of Leon and Castile, where deputies were given detailed instructions from which they were not free to deviate. In the 18th century, with the advent of more liberal theories, the idea emerged that, once elected, representatives were no longer seen as merely representing their voters, but as representing the entire nation. Consequently, they were required to promote a broader national interest. In the 18th century, English philosopher Edmund Burke similarly asserted that once elected, parliamentarians no longer serve merely as spokespersons for their local community of origin or the social group to which they belong. Instead, they become members of the Parliament and representatives of the entire citizenry. The Parliament is the deliberative Assembly which has only one great interest, namely the general interest of the nation. In this view, the representative is not a mere delegate or messenger, but rather a trustee. The representative is not accountable to individual voters, as their role is to safeguard the general interest rather than the specific interests of any particular group. As a trustee, the representative is granted a degree of

[83] J.-J. Rousseau, *Il contratto sociale*.

[84] D. Graeber, *Critica della democrazia occidentale. Nuovi movimenti, crisi dello stato, democrazia diretta*.

discretion to act on behalf of the people, interpreting the general interest with a certain level of freedom.

Any form of authoritarian and binding instruction, which forced the deputy to obey even against his own judgment and conscience, thus became inappropriate. Despite this tendency, some 18th-century constitutions still retained imperative mandates or similar forms of constraints, such as the 1780 Massachusetts Constitution. Moreover, as reported by Bobbio, the debate over whether to include the imperative mandate was also one of the major discussions that took place within the French Constituent Assembly, which ultimately led to the creation of the 1791 Constitution.[85]

In the 21st century, it is mainly the communist regimes that retain the imperative mandate, even in the light of the open support it enjoyed from the fathers of communism Karl Marx and Lenin. China, Cuba, North Korea, Vietnam maintain the imperative mandate, giving citizens the opportunity to recall elected deputies. The party would also have the possibility of intervening in the light of the mandate, if a deputy deviates from it, at least in China and Cuba. In Venezuela, the constitution provides for the possibility of recall of any elected representative, including the President.

As far as the Western world is concerned, it is worth mentioning the cases of Switzerland, where in some cantons the recall procedure is provided, and the US, where some federal states allow citizens to remove and replace public officials for political reasons. Anyway, the imperative mandate is generally foreign to the Western world, and many countries expressly prohibit it in their constitutions. For instance, one of these countries is Italy, which art. 67 of the Constitution unequivocally states: "Each member of Parliament represents the Nation and exercises their functions without an imperative mandate."

Some other countries, such as Portugal and Ukraine, have introduced reforms to counter the phenomenon of political transformism and party shifts after elections. However, these reforms have raised doubts and generated more complex considerations. Once elected, representatives must first be accountable to the voters and, more broadly, to the entire populace, rather than solely to their party. The mandate is precisely assigned to deputies by the people, who hold sovereignty, and not by the party. The fact that a deputy changes parties, or is expelled from it, should not affect the relationship of the deputy with the people, leading to the expulsion from the Parliament and the loss of the representative's office. Rather than real imperative mandates, these would therefore be concrete "party administered" mandates, as Bobbio has also emphasized.[86] As the Venice Commission has

[85] N. Bobbio, *Il futuro della democrazia*, n.d., Einaudi, 2014, pp. 10-11.

[86] *Ibidem*.

argued, losing the status of elected representative due to a change of party is contrary to the principle of a free and independent mandate.[87]

Consistent with this reasoning, in a context where various relatively autonomous groups and parties compete against one another for survival and supremacy, the principle of free mandate has nonetheless been widely violated, according to Bobbio. Indeed, the dominance of particular or corporate interests over the general interest leads to the adoption of laws aimed at specific individuals or groups, rather than pursuing the collective good. Moreover, each group may, in good or bad faith, come to identify the national interest with its own particular interest or with the interests of various groups allied against others. As a result, representatives tend to advocate primarily for the particular interests of their political group, rather than those of their electorate or, as they ideally should, the interests of the entire nation.[88]

In conclusion, in the contemporary political landscape where preferences increasingly centre around individuals rather than parties or movements, and where large mass parties have widely weakened or disappeared, prioritizing the trust relationship between the voter and the party over that between the voter and the candidate seems even more inadequate than in the past. This considered, it is certainly worthwhile to examine the role of contemporary political parties and to determine whether they can still fulfil their function of integrating the electorate's demands into the political agenda and translating them into effective policy decisions, which would theoretically be the essential function for which they were born and continue to exist.

[87] European Commission for Democracy through Law (Venice Commission), *Report on the Imperative Mandate and Similar Practices*, p. 14.

[88] N. Bobbio, *Il futuro della democrazia*, pp. 10-12.

# Chapter 2

## 2.1 Direct Democracy in the 21st Century

After having examined, in the course of the previous chapter, the very definition of direct democracy and having realized the deep changes that have affected it over the centuries, this second chapter aims to explore in greater depth the concepts of democracy – and direct democracy - as they prevail in the 21st century.

In virtually all 21st-century political systems which are classified as democratic, there is an absence of any forms of direct democracy as originally conceived. In fact, both the key elements that identified the original direct democracy, namely the general citizens' Assembly and direct popular participation in government with extensive use of sortition, have widely disappeared. A new form of modern democracy has prevailed almost everywhere, entirely in line with what Delannoi has called "secondary" democracy or simply representative democracy. It is a form of democracy, based on the ritual of elections, which can also be supplemented by modern innovative instruments of direct democracy, yet it remains rather different from the models of direct democracy practiced in the past.[89]

Specifically, the purpose of this section of the study is to thoroughly investigate the factors that have contributed to the decline of the original forms of direct democracy. Additionally, it aims to ascertain whether any elements of original forms have at least partially survived the vicissitudes of history or whether new forms of direct democracy, or structures comparable to it, have emerged in opposition to the prevailing trend. Ultimately, this chapter seeks to determine whether analogous forms of democracy remain feasible and desirable in the 21st-century context, which differs significantly from the past due to a range of social, economic, demographic, and geopolitical factors.

## 2.2 The Disappearance of the Primitive Direct Democracy

In the course of the previous chapter, it has already emerged why elections have widely supplanted method of sortition, which was one of the two fundamental elements of primary or original direct democracy, as well as "lottery democracy."

However, even if direct democracy were to be interpreted solely as assembly democracy, disregarding the aspect of sortition, it is equally evident that the general citizens' assemblies have basically disappeared in most places. Indeed, citizens' assemblies, endowed with deliberative authority and to which public offices were invariably accountable, have generally been replaced by representatives'

[89] G. Delannoi, "On Several Kinds of Democracy," pp. 5-18.

assemblies with decision-making autonomy. Thus, the second constitutive element of original direct democracy also appears to have vanished.

The reasons that led to the replacement of popular assemblies - so central to traditional democratic models - with assemblies made of representatives were varied. Based on a review of the literature, these motivations can be categorized as follows:

1) A first important element that contributed to the disappearance of general citizens' assemblies, in favour of the smaller representatives' assemblies, were the technical difficulties in being able to gather such a large number of citizens. Indeed, as easily understood, direct democracy necessarily required gathering the direct participation and physical presence of all citizens, which was not easily practicable on a large scale, whether not impossible.[90] In general, this barrier is represented by the difficulties of application of popular assemblies in broader but even more complex contexts than in the past.

   Already in the 18th century, Rousseau believed that democracy was achievable and practicable only on a small scale.[91] Similarly, U.S. founding father James Madison - who served as the fourth President of the United States and was also, in part, a contemporary of Rousseau - believed that Athenian-style democracy was impossible in the modern age. As written in *The Federalist Papers*, due to the need to physically meet and exercise government in person, a direct democracy must therefore necessarily be limited to a small spot, while the "republic" – endowed with representatives and agents and to be understood as a representative system – would have been better adapted to a large nation. From this intuition derives the clear preference of the American Founding Fathers precisely for the representative system, with which the democratic republic could have extended over large territories united in a federative form.[92]

   Furthermore, even assuming it were possible to physically assemble an increasing number of citizens, it would remain illogical to expect that the entire mass could actively engage in debates and discussions. It would be more reasonable to envision a system where participation is restricted to referendum-style voting, allowing citizens only to approve or reject proposals, as was practiced in ancient Sparta.

   As discussed in the previous chapter, even in classical Athens, where public discourse was highly valued, not all individuals succeeded in speaking. In fact, only a small number of

[90] H. Landemore, *Open Democracy: Reinventing Popular Rule for the Twenty-First Century*.

[91] J.-J. Rousseau, *Il contratto sociale*.

[92] B. Manin, *I principi del governo rappresentativo,* pp. 3-9.

professional orators typically participated in the debates. Nevertheless, the right to be heard was unequivocally guaranteed to all citizens. As demonstrated by Aitamurto and Landemore, it is conceivable that many chose not to speak voluntarily and freely, perceiving that their concerns had already been voiced and articulated by others.[93]

2) Some scholars have even argued for the absolute superiority of the representative system over original direct democracy for a number of factors that extend well beyond the mere practical feasibility and applicability in large and complex contexts.

   One of the first and most authoritative thinkers who advocated the superiority of the representative system over the direct one was undoubtedly the British philosopher Jeremy Bentham in his *Constitutional Code* (1830). Bentham emphasizes that the representative system is the only one that can be practically applied across time and space, but he also provides an additional consideration. According to his interpretation, direct democracy is identified with anarchy, while representative democracy was the only form of government that has or can have as its object the happiness - which we can understand as the consent or satisfaction - of the greatest possible number of citizens.[94]

   Nearly two centuries later, an author like Dupuis-Déri (2018) sought to investigate in greater detail the reasons why the representative system is considered preferable. He argues, as will be elaborated in point 4, that the populace exhibits a series of negative traits, such as irrationality, incompetence, and a tendency towards conformism. These characteristics, he asserts, make the populace incapable of making effective collective decisions and, as a result, render the system of direct democracy fundamentally flawed. For this reason, Dupuis-Déri advocates for the superiority of the representative system. Moreover, he considers the liberal representative and electoral system to be perfectly aligned with the essence of direct democracy and popular governance, while being free from the problems that afflict direct democracy, which he believes stem from the nature of the populace itself.[95]

   However, what is arguably the most interesting insight had already been developed and discussed in a 2006 work by the Italian political scientist Nadia Urbinati, and it extends to the purely decision-making sphere. According to Urbinati, deliberation among a smaller number of representatives is not just equivalent but superior to direct deliberation among all citizens,

[93] T. Aitamurto, H. Landemore, "Crowdsourced Deliberation: The Case of the Law on Off-Road Traffic in Finland," pp. 27-42.

[94] J. Bentham, *Constitutional Code,* Oxford, Clarendon Press, 1983.

[95] F. Dupuis-Déri, "Who's Afraid of the People? The Debate between Political Agoraphobia and Political Agoraphilia," *Global Discourse*, Vol. 8, No. 2, 2018, pp. 238-256.

due to a series of reasons. First, deliberation among representatives allows for a reflexive delay between the expression of raw judgments and preferences; secondly, it allows the crafting of policy outcomes; finally, representation also allows a circular process of communication and a discursive exchange to occur over time between representatives and represented. Precisely for these reasons, representative democracy would be a more accomplished form of democracy than the direct one.[96]

3) A third pivotal element is found in the peculiar characteristics of the modern era, which differ markedly from those of past societies. Indeed, contemporary societies are significantly larger, more populous and complex; they are also increasingly interconnected and tend to exhibit a stronger orientation towards economic activity. The impracticality of a direct system in larger or otherwise more complex entities is supported by a number of scholars. Among these, Urbinati and Warren (2008) argue that modern mass society makes representation necessary.[97] Similarly, Pitkin also believes that, under modern conditions – i.e. the presence of empires or nation-states that are entities too vast and populated to be directly regulated and self-governed– only representation can make democracy possible.[98] Bobbio argues that in modern states—large and populous, where people no longer know one another and customs have become more complex—it is virtually impossible for everyone to make decisions on all matters. However, he goes further, offering an additional and interesting insight. According to him, a modern technocratic industrial society is founded on the figure of the expert, who is not the ordinary citizen. The technocratic principle, today as in the past, requires that decisions are undertaken by the few who are knowledgeable. In the past, it was believed that the common people should be kept away from power due to their ignorance; today, while the common people are certainly less ignorant, the problems of modern industrial society seem to have become more complex. The average person, even though more educated than in the past, lacks the technical and scientific expertise to address these issues and find effective solutions.[99]

The very concept of representation is fundamentally a modern concept. The legal term representation seems to originate even in Roman law, but it would only be in England between the 16$^{th}$ and 17$^{th}$ centuries that it acquired today's political meaning, in the context of the debates to limit the King's power and authority. In the 18$^{th}$ century, particularly with the 1776

[96] N. Urbinati, *Representative Democracy: Principles and Genealogy*, Chicago, University of Chicago Press, 2006.

[97] N. Urbinati & M. E. Warren, "The Concept of Representation in Contemporary Democratic Theory," pp. 387-412.

[98] H. F. Pitkin, *The Concept of Representation*, Berkeley, University of California Press, 1967.

[99] N. Bobbio, *Il futuro della democrazia*, pp. 31-57.

American Revolution, the principle of "no taxation without representation" also reached the other side of the Atlantic. This principle embodied the belief that the convening of representatives was the only legitimate means of imposing taxes.

The impossibility of applying assembly democracy to complex and large systems is also supported by Dupuis-Deri (2018). He contends that, in a geographical and demographic context such as the modern one, it is impossible to think of forms of political *agoraphilia*, better configuring forms of political *agoraphobia* - defined as "the fear and hatred of the people assembled in the *agora* to deliberate and to govern themselves." [100] As Cosimo Quarta writes, building on ideas previously articulated by Bobbio and Sartori, attempting to implement the mechanisms of assembly democracy in complex modern societies is fundamentally impractical. The governability of a social system is inversely proportional to its complexity, which increases with size. Rather than applying mechanisms suited only for less complex systems to complex large-scale entities, it could be more logical to address the size of states to render them less complex and therefore more manageable from a democratic standpoint.[101] If we were to develop this insight further, instead of altering the dimension of nation-states - a likely unfeasible endeavour in the short to medium term – it is peculiar to consider that direct democracy mechanisms have not been widely applied even within sub-national contexts, such as federal states, regions, or municipalities, to ensure a robust degree of democracy at the local level.

However, the idea that direct democracy might be unsuitable for certain types of societies, depending heavily on the political and socio-economic pattern, is not exclusive to contemporary thinkers. As early as the 17$^{th}$ and 18$^{th}$ centuries, authors such as Montesquieu and French politician Emmanuel Joseph Sieyès considered the direct system widely inappropriate in certain contexts. Specifically, Montesquieu—who did not live long enough to witness the Industrial Revolution—was perhaps the first to argue, in his *The Spirit of the Laws*, that the democratic republic, which in many respects resembles direct democracy, with its anti-mercantile spirit, is ill-suited for modern times, characterized by intense productive and commercial activity.

However, it is likely that Sieyès, who on the other hand experienced the Industrial Revolution, offered the most intriguing insight. He did not underline the impracticability of the system of

[100] F. Dupuis-Déri, "Who's Afraid of the People? The Debate between Political Agoraphobia and Political Agoraphilia," pp. 238-256.

[101] C. Quarta, "Dal piccolo stato alla cosmopoli democratica," in G. Schiavone (ed.), *La democrazia diretta. Un progetto per la società di giustizia*, Bari, Edizioni Dedalo, 1997, pp. 277-279.

assembly democracy in the vast modern systems. He even maintained the superiority of the representative system over the direct one; this superiority would not consist in the fact that the representative system guarantees the making of less instinctive decisions or with more complete information – as argued for example by Nadia Urbinati (2006) – but rather in the fact that it is the form of government most suitable for modern commercial societies. Indeed, in modern commercial societies, citizens are predominantly occupied with production and economic activities, leaving them with limited time and energy for public affairs. For this reason, they must delegate public functions to professionals who can dedicate their full time to it, which can indeed be seen as the application of the principle of division of labour to the public-political sphere. Sieyès' position becomes even clearer when considering the historical context in which he lived; as said, he spanned roughly from the mid-18th century to the mid-19th century, during the years of the First Industrial Revolution. He was essentially a contemporary of Adam Smith, the British economist who first introduced the concept of the scientific division of labour. In light of this, it may therefore seem reasonable that politics and government are interpreted as merely one segment of the broader socio-economic system, necessarily entrusted to specialized professionals responsible for their effective management. Meanwhile, other individuals would be expected to focus exclusively on their own roles and responsibilities.[102]

This insights appear particularly prescient when considering the 21st century, in which economic activities seem to have overwhelmingly dominated political life, and the public's disengagement and detachment from civic matters are increasingly pronounced and evident, potentially also due to these same factors.

4) An author like Dupuis-Déri believes that the populace is also deemed incapable and unfit for making collective decisions. This is an argument in some ways comparable to that relating to the risk of selecting individuals unsuitable for government, taken as one of the main arguments by the detractors of the method of sortition. As for the exercise of individual offices, so not even the collective deliberation of public decisions can be left to an entity like the populace considered incapable of performing such a function. For this reason, representative democracy would remain the preferable system. This perspective posits that the populace is inherently irrational, in the sense that it lacks the capacity to deliberate on the common good. Specifically, the populace is thought to be devoid of the rationality required to identify,

[102] B. Manin, *I principi del governo rappresentativo,* pp. 3-9.

advocate for, and promote the common good, which encompasses the interests of all members of the community.[103]

The factors that render the populace incapable of making effective collective decisions are multifaceted and can be catalogued as follows:

i) Firstly, the populace is inherently driven by emotions, passions and desires. Emotions can give rise to conflicting desires and may be swiftly and unpredictably altered by opposing sentiments. Demagogues could exploit these primal emotions, manipulating public opinion to influence decision-making processes. Such individuals could potentially dominate the minds of the populace, given their susceptibility to passionate impulses and irrational tendencies. This is perhaps the main reason why direct democracy is often viewed as a degeneration of the government by the people: the people would in fact be fundamentally corrupted by demagogues. In this view, the body of citizens is perceived as an uninformed and amorphous mass that passively accepts decisions imposed from above, rather than actively and conscientiously participating in them. Moreover, the risk of authoritarian drift resulting from demagogic promises had already been anticipated between the 18th and the 19th centuries by the American Founding Father James Madison. Specifically, Madison believed that direct democracy always risked leading to demagoguery or confiscation of power by some tyrant who carries promises of order. If this were the case, the government of the popular masses would have been only apparent.[104]

ii) The populace is deemed politically incompetent in the sense that the political system is too intricate for the average citizen to fully comprehend. The ordinary citizen is preoccupied with the challenges of daily life and lacks the cognitive autonomy, clarity, and resources necessary to engage meaningfully with political matters and the common good. As seen, Sieyès specifically believes that the vast majority of ordinary citizens do not have the necessary education and time to deal with the laws that govern the state. They would even prefer to appoint representatives as political professionals. This perspective aligns with the view of politics as interpreted through the lens of the division of labour. Accordingly, it suggests that the modern individual is inherently inclined towards

[103] F. Dupuis-Déri, "Who's Afraid of the People? The Debate between Political Agoraphobia and Political Agoraphilia," pp. 238-256.

[104] J. Madison, A. Hamilton & J. Jay, *The Federalist Papers*, New York, New American Library, 1788. Retrieved from: Federalist (yale.edu)

agoraphobia, preferring to delegate and to be governed rather than engaging in self-governance.[105]

Three of the most authoritative authors of the 1787 American Constitution—namely Alexander Hamilton, John Jay, and James Madison—advocated for the establishment of a federal republic based on a representative model, rejecting the notion of direct participatory democracy. Their ideas, later clearly articulated in the *Federalist Papers*, argued that representatives would be better equipped to assess the nation's broader interests and implement policies in alignment with those interests.[106]

iii) The populace exhibits a tendency towards conformism. Individuals are inclined to adhere to the will of the majority; even those few who possess rational and clear thinking are likely to succumb to peer pressure within the public sphere, thereby compromising their capacity for independent rational thought. From the agoraphobic perspective, only a few superior individuals are considered to be free from irrationality or incompetence. These individuals, distinguished by natural intellectual superiority or factors such as birth, social status, or education, would not be included among the general populace. These superior people should therefore guide irrational people, who would simply be required to "admire and obey the rulers." [107]

Nevertheless, elites do not appear to be inherently exempt from these weaknesses. Perhaps the first to study in great depth the behaviour of elites and to highlight the weaknesses and criticisms surrounding the figure of the "prince" was the Italian philosopher Niccolò Machiavelli, between the 15$^{th}$ and 16$^{th}$ centuries. Machiavelli observed that individuals in positions of power tend to become unstable and changeable. However, he noted that such instability and variability are not unique to the general populace but are also characteristic of princes - or members of the elite - who similarly exhibit these traits. On the contrary, the prince can become even more unstable, changeable, ungrateful, although considered wise.

However, other authors closer to our time have also raised doubts about the absolute superiority of elites. One such author is the American political scientist Robert Dahl, who lived between the 20$^{th}$ and 21$^{st}$ centuries. He questioned whether rulers are definitively better qualified than others to be entrusted complete and final authority over governance. If this is

[105] F. Dupuis-Déri, "Who's Afraid of the People? The Debate between Political Agoraphobia and Political Agoraphilia," pp. 238-256.

[106] S. Mastellone, *Storia della democrazia in Europa. Dal XVIII al XX secolo*, pp. 18-19.

[107] F. Dupuis-Déri, "Who's Afraid of the People? The Debate between Political Agoraphobia and Political Agoraphilia," pp. 238-256.

not the case, then they should be considered political equals, and democratic criteria should be applied.[108]

Going back to the points above, all human beings are ultimately driven by emotions. In general, it cannot be asserted that elites are intrinsically and universally more rational than the popular masses. Indeed, as will be more thoroughly analysed, authors like Matsusaka (2005) even contend that in some cases the masses may even produce better collective decisions, specifically due to more complete information than the elites.[109]

Secondly, if members of an elite may also be more rational in their decision-making process or may have a greater ability to analyse information, this rationality seems to be limited to non-political decisions. When it comes to politics and public affairs, even members of the elites make decisions in line with their own subjective point of view and feelings, which are not necessarily more logical or fair than those of ordinary citizens. Moreover, many issues require moral judgments and evaluations, and it is not necessarily the case that those of the elites are better or more equitable.

The ultimate goal of the elites is to preserve power and their dominant and privileged position. In this regard, the rationality of the elites in making decisions can be affected by the fear that the elites themselves have of the masses. In fact, the dominant position of the elites and the desire to preserve the *status quo* depend on the masses. This desire can therefore presumably lead to the making of decisions aligned with elitist interests but not beneficial to the whole community. Demagoguery is the result of the fact that the elites want to defend their dominant position and convince the masses that they are acting for the common good. The danger of demagoguery does not disappear in the case of power exercised by the elites, but also exists in the opposite direction. In fact, subordinates tend to be condescending with superiors, on whom their destiny depends, ending up compromising the vision of the superiors themselves who will not see things in their true proportion.

Thirdly, as far as conformism is concerned, members of the elite are also subject to peer pressure. In particular, they are subject to the fear of being marginalized and seek to retain their power through common solidarity. Finally, elites tend to conform to popular expectations, behave as the masses expect them to behave, and possibly make decisions that increase consensus and popularity rather than those beneficial to the community.

[108] R.A. Dahl, *On Democracy*, New Haven, Yale University Press, 1998, p. 118.

[109] J. G. Matsusaka, "The Eclipse of Legislatures: Direct Democracy in the 21st Century," *Public Choice*, 2005, p. 172.

5) In addition to the inability to make collective decisions discussed in the previous point, the masses would naturally not be predisposed to make decisions which are beneficial to the entire community and oriented to the common good. In an ideal world, the government should always opt for the collective good, not for the private interests of one person or party. In a direct democracy or lottery democracy people will decide and act for the collective well-being, regardless of the individual one, only if they are highly educated, with a civic sense and political sophistication. Anyway, the masses may not have reached that level of education and sophistication yet. The inevitable consequences would be phenomena such as the pursuit of special interests, rent-seeking behaviour, misallocation of resources or short-term focus.

   However, the risk of making decisions oriented towards the satisfaction of private interests would not exist only if the masses decided. The elites can equally be blamed for the same mistakes and weaknesses of which the popular masses may eventually be accused. In this regard, the Russian anarchist philosopher Michail Bakunin does not seem to make any distinction, convinced as he was that the risk of being compromised by power – as well as the risk of corruption – is a universal risk and even the best of men will inevitably be compromised by power.[110]

   In light of this, there would be no elites to whom it would be reasonable to assign power by virtue of some form of apparent superiority and the risks associated with the management of power by the masses would be present – if not amplified – by the management by the elites or autonomous representatives.

6) Another reason that could render original direct democracy undesirable is the masses' propensity to fragment into diverse groups with conflicting interests, thereby giving rise to the phenomenon of factionalism. Each "faction" would endeavour to advance its own specific interests, potentially at the expense of the common good. The desire to advance the interests of a certain group at the expense of others would lead the people to have poor or even non-existent morals; hence, there would be a high risk that the majority could make ineffective but also unfair and immoral decisions. The presence of an elite of superior individuals who promote good values and a higher morality would therefore be necessary. The expression "tyranny of the majority" precisely underlines the tendency of the majority in power to make decisions consistent with its own interests and in contempt of the demands of the minorities inevitably subordinated.

[110] M. Bakunin, "Power Corrupts the Best," written in 1867, *Mikhail Bakunin Archive*, from Anarchy Archives. Retrieved from: Power Corrupts the Best (marxists.org)

As authors such as Matsusaka and Bobbio argue, the majority principle is certainly the one to be considered in a democratic system. However, the choice made by the majority is not necessarily the wisest or the most effective, also because of the risk that the majority abuses its power.

Upon closer examination of historical cases, different considerations may emerge. First of all, the tyranny of the majority is certainly a valid concern, but historically there have been more significant cases in which it was the minority that has political or economic power to exercise control and dominance over the disadvantaged majority. Tyranny is certainly not desirable under any circumstances, but it could be argued that the tyranny of the minority is even less desirable than that of the majority. Seen in this light, direct democracy is certainly no worse than its representative alternative. Furthermore, critics of political elitism contend that it is inherently biased. The existence of an elite inevitably establishes a dichotomy between rulers and the ruled. In this dynamic, the rulers, despite being in the minority, wield extensive and disproportional economic, political, and military resources to perpetuate their dominance.

Finally, the elites themselves frequently exhibit a tendency to foster the formation of opposing factions and to elevate certain groups at the expense of others, which are deemed more threatening to the established order and marginalized. In this view, elitism is hardly a form of prevention of factionalism.

7) In some ways connected to the two previous points, another reason is to be found in the risk of populism and prevarication by the incompetent. In a perfectly democratic system, paradoxically, there could be an excess of equality, where the opinions of the uninformed, uneducated, and prejudiced individuals might hold equal weight to those of knowledgeable experts.[111] This concern was rigorously critiqued even in eras when freedom was interpreted in a manner entirely different from today. For example, the risk of populism and prevarication by the incompetent constitutes a reason for which Plato already criticized Athenian democracy between the 5th and 4th centuries BC.[112]

   In the 21st century, with the defence that is sought to be made of the freedom of each person and with the advent of digital social networks, there has been a serious breakdown of hierarchies and a development of opinions in an increasingly horizontal sense. Thus, the effect of equating two individuals who are at very different levels in terms of competence and experience - whose opinions should clearly carry different weight - has been exacerbated.

[111] B. Goodwin, "Direct Democracy and Lottery Democracy – Two Different Concepts?," p. 43.

[112] Plato, *Protagora*, Roma-Bari, Laterza, 1996.

Consequently, in a horizontal assembly democracy, it is challenging to achieve a rational and constructive debate on the merits that would contribute to reaching a more informed and rational collective decision.

In this regard, however, it is worth making some reasoning. First of all, the Athenian principle of *isegoria* – to be understood as equality in the right to speak – provides that everyone's opinion deserves to have voice, as everyone has sufficient intellect to be at least heard by his peers. However, the principle of *isegoria* does not seem to imply that everyone's opinions should have the same weight. It is not coincidental that inexperienced ordinary citizens rarely intervened in the Athenian assemblies, with debates primarily conducted by professionals.

Finally, while a representative democracy can mitigate the risk of populism and the influence of unfounded opinions, it is also true that such risks do not entirely vanish. Even in a reality such as modern parliaments, the opinion of each parliamentarian must be heard and may contributes to enriching – but also distorting - the discussions, depending on whether the representative is competent on a particular subject.

## 2.3 Today's Forms of Direct Democracy

As mentioned, the purpose of this chapter is also to analyse – whether existing– the realities that can still be configured in some way as forms of direct democracy. Specifically, it was decided to investigate which are the realities that still make use of the traditional citizens' Assembly or comparable discussion forums, or otherwise prominent forms of popular participation in public offices or decisions. Then, it was sought to understand what are the tools that characterize modern direct democracies.

### 2.3.1 Today’s New England Town Meetings

In light of what has been discussed in chapter 1 and given their significant democratic potential and longevity—having been practiced for more than three centuries—it was decided to re-examine the case of New England town meetings. Indeed, they are among the few instances where, even in the 21$^{st}$ century, citizens’ assemblies function as genuine popular assemblies with decision-making and legislative authority. This section, however, will focus on the functioning of these assemblies during the last decades of the 20$^{th}$ century and the 21$^{st}$ century, their practical effectiveness, and the involvement of the citizenry.

Quantifying the number of towns that currently utilize popular town meetings can be challenging, particularly given the minor variations that may exist between assemblies in towns of different sizes or within different federal states. For instance, in the state of Massachusetts alone—which, along with Connecticut, Maine, New Hampshire, Rhode Island, and Vermont, constitutes the New England

region—there are two hundred and sixty towns employing open town meetings, according to the Massachusetts Municipal Association (MMA).[113]

Regarding the functioning and competences, meetings are held at least once a year according to Frank M. Bryan (1995). Following Bryan's analysis (1995), a moderator regulates the Assembly, enforces order and procedural rules. Anyway, they are impartial moderators who do not interfere in any way with the decision-making process and do not manipulate it.[114] According to William Francis Galvin, town meetings deliberate on three main matters: the salaries of elected public officials, the imposition of taxes necessary to administer the town and the approval of local statutes.[115] The Massachusetts Municipal Association (MMA) does not diverge significantly when it states that the Assembly's powers would range from the approval of the budget and the possible issuance of new debt instruments, to the approval of fund transfers and expenditures for specific projects, from the establishment of studies and committees finally to the implementation of new laws.[116]

However, it should be noted that critical issues persist even today. If finding a suitable venue to accommodate participants has never been a significant problem, it has been due to typically rather low attendance rates; it is estimated that the average number of participants in the Assembly was only 139 citizens, compared to an average of 975 eligible voters, with only 7% actually speaking at least once.[117] Nonetheless, in many cases, the selected locations remain inadequate to physically accommodate all eligible voters if they all were to attend on the day of the Assembly. This situation mirrors the conditions in Athens during the 5th and 4th centuries BC, where access could be denied to the latest arrivals.

Additionally, it must be noted that the functioning of New England town meetings is facilitated by the fact that the towns utilizing these assemblies are, on average, very small. This aligns with the ideas discussed by the authors previously examined. If Bryan is to be believed, the average number of residents of the cities that held the 1129 town meetings between 1970 and 1992 was 1402. They are therefore local communities rather than cities, in which presumably all citizens knew each other.[118]

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[113] J. Ouellette, *Local Government 101*, Massachusetts Municipal Association (MMA), last updated 19th of September 2023. Retrieved from: Local Government 101 - Massachusetts Municipal Association (MMA)

[114] F. M. Bryan, "Direct Democracy and Civic Competence," *The Good Society*, Vol. 5, No. 3, 1995, pp. 36-44.

[115] W. F. Galvin, *Citizen's Guide to Town Meetings*, Secretary of the Commonwealth of Massachusetts, n.d., pp. 1-12.

[116] J. Ouellette, *Local Government 101*.

[117] F. M. Bryan, "Direct Democracy and Civic Competence," pp. 36-44.

[118] *Ibidem.*

Despite these criticisms, the profound and resilient democratic ideal cannot be denied, as evidenced by the Secretary of the Commonwealth of Massachusetts William Francis Galvin. With particular reference to the state of Massachusetts - but presumably extendable to other entities that practice town meetings -, he stated:

> The purest form of democratic governing is practiced in a Town Meeting. In use for over 300 years and still today, it has proven to be a valuable means for many Massachusetts taxpayers to voice their opinions and directly affect change in their communities. Here in this ancient American Assembly, you can make your voice heard as you and your neighbours decide the course of the government closest to you.[119]

*AmericaSpeaks*

With reference to town meetings, it is certainly worth mentioning the role played by the US non-profit organization *AmericaSpeaks*, specifically between 1997 and 2014. This organization had the ambitious goal of "exporting" New England's town meetings on a larger scale, through the use of new digital technologies. This would have made it possible to combine popular participation on a large scale with the benefits of debate, just as it ideally happened in classical Athens. Specifically, participants were organized into breakout rooms of approximately ten individuals each, from which ideas and proposals would be generated for subsequent consideration and voting by the entire Assembly. The voting process and the tallying of results would be conducted immediately and at minimal cost, facilitated by the application of innovative information technologies. As claimed, while clearly taking inspiration from New England assemblies, *AmericaSpeaks* aimed to spread these customs throughout the US. Indeed, its participatory meetings were eventually used to gather ideas on a range of issues and in different states, including the rebuilding of the city of New Orleans after hurricane Katrina or the reconfiguration of the World Trade Centre area in New York.[120]

### 2.3.2 The Zapatista Communities

A further illustrative example to be examined in this section is the Zapatista community located in the Chiapas region of Mexico. This selection is primarily justified by the presence of self-governance systems, specifically the use of a citizens' Assembly with supreme decision-making and deliberative authority, which these communities have employed since the 1994 uprising and continue to utilize to this day. It is a form of self-government mainly on a small and very small scale, even at the level of individual villages, difficult to replicate but no less worthy of attention.

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[119] W. F. Galvin, *Citizen's Guide to Town Meetings*.

[120] Participedia, "AmericaSpeaks," 2019. Retrieved from: https://participedia.net/en/cases/americaspeaks

In these Zapatista communities, weekly assemblies are held in which the participants have the right not only to vote but also to intervene personally and make their voices heard. The Assembly itself then elects delegates with the task of administering and coordinating the work of the community on a daily basis. However, these delegates are not endowed with decision-making autonomy and not at all free to make decisions. Conversely, these elected delegates are required to adhere strictly to the Assembly's will and may be recalled if the community perceives that they are not following its directives. To a certain extent, this arrangement effectively represents a form of imperative mandate.

No important strategic or public policy decision can be taken without the prior express consent given by the Assemblies of the different communities, so much that the most controversial or relevant decisions take up to six months to be adequately discussed and finally approved. Relevant decisions – such as those relating to war or peace –may be taken through a popular vote, that is however preceded by intense discussions and exchanges of points of view, which are considered as important as the vote itself.

As mentioned, it is evidently a model that is difficult to replicate and scalable, destined in all likelihood to remain confined to the small scale. However, from a strictly democratic point of view, it is a pure model, in many ways similar to traditional forms of democracy. This is due to a plenary Assembly in which everyone can also intervene as well as vote and due to the limited autonomy of the delegates, always subordinate to the decisions of the populace.[121]

### 2.3.4 Better Reykjavik

Between 2008 and 2010, in the midst of the economic and financial crisis of that period and in a moment of general political dissatisfaction, the Icelandic capital Reykjavik began working to equip itself with a new platform for social and democratic innovation called *Better Reykjavik*. It was decided to include *Better Reykjavik* within this work because, at least in Europe, it was the first concrete citizen empowerment initiative carried out by a city that was not very small, moreover the capital of a state. In a particularly complex socio-economic context, *Better Reykjavik*, with its ability to facilitate listening to the needs of citizens and involve them more in the policy-making process, represented a great step forward in the digital development of direct democracy.

The idea behind this platform is to reduce the vertical distance that existed between public officials and the citizenry. Specifically, the functions performed by the platform can be summarized in three categories: agenda setting, policy crowdsourcing and, starting from 2011, also participatory budgeting. Specifically, the citizens of Reykjavik have the possibility, in the first person, "to submit,

[121] A. Starr, M. E. Martínez-Torres, & P. Rosset, "Participatory Democracy in Action: Practices of the Zapatistas and the Movimento Sem Terra," *Latin American Perspectives*, Vol. 38, No. 1, 2011, pp. 102-119.

debate, and prioritize policy proposals and ideas." [122] They can debate, propose changes as if they were real amendments, give priority to certain ideas rather than others based on their levels of innovation or effectiveness. A large number of these ideas that originate directly from the citizenry are then evaluated, processed and possibly implemented by the city administration, giving the citizenry the possibility and the consequent feeling of directly participating in the city's government.

As far as participatory budgeting is concerned, a part of the city's financial resources are allocated every year to activities desired directly by the citizens. These ideas are collected over a period of a few weeks and analysed by a committee; if judged technically and economically feasible, they are actually implemented, as has already been the case with several hundred proposals.

One of the peculiarities of *Better Reykjavik* is that it allows debate, even if in telematic form. As if it were a classical Athenian Assembly, all citizens have the opportunity to intervene and make their point of view heard, as the principle of *isegoria* commanded. However, the opinions considered most relevant or the best elaborated reasoning are "rewarded" by the system, which also incorporates an up/down voting system. Each citizen can vote positively or negatively on a proposal or a specific point of the debate, bringing it out and thus giving it priority over the others. At the same time, the municipal administration itself is aware of what are the points and proposals most appreciated by citizens, as they were directly voted by them in the first person. All this, added to a committee of moderators who also make use of AI technologies, makes this digital environment functional and stimulating for everyone to intervene.

To quantify the impact of this solution in the Icelandic city of Reykjavik, it is estimated that more than 70,000 people took part in the debates, more or less actively, out of a population of about 120,000. In 2019, the platform had been visited by about 37% of the citizenry. The ideas totally proposed, since the launch, have been around 9000, of which almost 700 have been adopted by the city administration.[123]

However, some challenges and critical issues still remain open. Firstly, a primary challenge lies in engaging the maximum number of citizens, ensuring that this technology becomes a genuinely democratic tool accessible to everyone. It is crucial to prevent it from becoming an instrument that disproportionately benefits those who possess the time or skills to actively utilize it. Additionally, these are proposals or ideas that are not binding: regardless of the number of votes garnered by the

[122] D. Lackaff, "Escaping the Middleman Paradox: Better Reykjavik and Open Policy Innovation*," JeDEM - eJournal of eDemocracy and Open Government*, Vol. 7, No. 2, 2015, pp. 137-161.

[123] Observatory of Public Sector Innovation (OPSI), "Better Reykjavik," 2019. Retrieved from: Better Reykjavik - Observatory of Public Sector Innovation (oecd-opsi.org); Betri Reykjavík, *Betri Reykjavík*, n.d. Retrieved from: https://betrireykjavik.is/domain/1

proposals from the citizenry, the ultimate decision would invariably rest with the city administrators. This phenomenon is so pronounced that Magnus Jonsson refers to it as "advocacy democracy" instead of direct participation since the final decision is left to the discretion of the elites.[124] Again, the ideas proposed and voted on by the citizens were in any case proposals that concerned the city, such as the reconversion of some areas or the local education system. Citizens have never been called upon to discuss major economic, industrial, commercial or defence policy choices, and it is not certain that they will ever be. These matters remain in the hands of experts or at least professional politicians. Finally, there is no plan about the future development of the project and about the objectives it intends to pursue in the medium to long term. Given that this project originated rather spontaneously and from the grassroots level, it remains uncertain if, how and when, this initiative can be implemented on a larger scale - in a national context, for example - and to deal with broader policies. Moreover, this project may lose its initial *momentum* especially if, with the improvement of the socio-economic situation, popular discontent is likely to diminish, leading to a corresponding decrease in the demand for more direct means of participation in governance.[125]

### 2.3.5 Decide Madrid

Similar to Reykjavik, the city of Madrid also established a platform for enhanced public engagement only after the 2007-08 economic and financial crisis, which was subsequently followed by the sovereign debt crisis that severely impacted Spain, among other countries. Indeed, especially since 2011, in a context of strong distrust of institutions, the demands for a more engaging, more transparent and more accountable democracy have been accentuated. The seriousness of the situation was also evidenced by the appearance of large and transversal protest groups such as the *Indignados*, which had an estimated number of supporters of approximately fifteen million.

Therefore, in 2015, Madrid city Council launched *Decide Madrid*, an online platform which essentially facilitates the submission of proposals, deliberation, and voting, while also incorporating tools for participatory budgeting. Although in many ways similar to the Icelandic *Better Reykjavik*, *Decide Madrid* has proven that it can be applied, with the necessary adaptations, to a context of much larger dimensions. It should be noted that, in 2024, the Icelandic capital had a population of 139,849 inhabitants, in contrast to the 6,783,241 inhabitants in the Spanish capital.[126] Then, Madrid administration team has shared its platform with other governments worldwide: today more than

[124] Participedia, "Better Reykjavik: Iceland's Online Participation Platform," 2019. Retrieved from: Better Reykjavik: Iceland's Online Participation Platform – Participedia.

[125] *Ibidem.*

[126] World Population Review, "World cities," n.d. Retrieved from: World Population by Country 2024 (Live) (worldpopulationreview.com)

ninety local authorities are making use of this platform, including Barcelona, Buenos Aires, Paris, Jalisco, La Paz, Nariño, Porto Alegre, Valencia and Oviedo.[127] The decision to include *Decide Madrid* was precisely driven by its larger scale, its significant influence both within Europe and globally, and its potential for future development.

As anticipated, the platform incorporates a series of diverse tools. Basically, citizens can propose their own ideas and prioritize those proposed by other citizens. Proposals that receive support from at least 1% of *Madrileños* are compulsorily sent to the final stage of voting. However, that does not mean they will necessarily be implemented. As in the case of *Better Reykjavik*, in fact, proposals are not binding and must still pass the scrutiny of the city Council. The Council has thirty days to conduct a thorough evaluation of the proposal's legality, territorial jurisdiction, and economic and practical feasibility. Should the proposal be rejected, the Council is obliged to either propose an alternative or, at the very least, provide a detailed explanation for the denial.

The platform also allows registration for users between the ages of sixteen and eighteen, even though they have not yet reached full legal age. Their proposals could be equally valid, and it would still be the citizenry, through debate and voting, to decree their actual effectiveness or originality. Beyond engaging young people, the platform imposes no barriers for minorities or other groups, who are free to present their demands and needs.

Similar to *Better Reykjavik*, *Decide Madrid* has also managed to capture a vast involvement of citizens, with hundreds of thousands of registered users. In the first two years since its launch (2015-2017) the platform had already collected almost twenty thousand proposals and even the funds allocated to participatory budgeting works have almost doubled between 2016 and 2017 alone. The platform even earned the UN Public Service Award in 2018.[128] Nevertheless, there has been considerable criticism regarding the necessity for debates to be conducted in person and votes to be cast physically, as has traditionally been the practice. However, the platform seems to have been able to involve even the most reluctant groups, organizing live meetings, local forums and votes that would then presumably complement the online proposals.[129]

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[127] Observatory of Public Sector Innovation (OPSI), "Decide Madrid," n.d. Retrieved from: Decide Madrid - Observatory of Public Sector Innovation (oecd-opsi.org)

[128] The UN Public Service Awards […] reward the creative achievements and contributions of public administrations worldwide. (Press Release| UN Public Service Awards recognize 15 initiatives accelerating progress on the Sustainable Development Goals - United Nations Sustainable Development)

[129] Observatory of Public Sector Innovation (OPSI), "Decide Madrid;" Decide Madrid, *Decide Madrid: plataforma de participación ciudadana*, n.d. Retrieved from: Decide Madrid: plataforma de participación ciudadana

### 2.3.6 Switzerland

Another example that was considered necessary to include is that of Switzerland. This is due to the fact that, when it comes to models of direct democracy in the 21st century, Switzerland is widely recognized for the effective functioning of its direct democracy mechanisms, as noted by the World Economic Forum (WEF),[130] but even more because - with a value of 0.70 out of 1 - the country was first in the world in 2023 for the Participatory Democracy Index. It is an index that considers "the extent to which citizens can engage in regional and local government, civil society organizations, and direct democracy." [131]

Switzerland has a rather peculiar political system, divided into three levels: confederation, cantons and municipalities. In a certain sense, citizens have instruments of direct democracy at all three levels and there are basically three of them: popular initiative, optional referendum and mandatory referendum.

Through the popular initiative, Swiss citizens can propose amendments or additions to the law or even the state constitution. 100,000 consents collected within 18 months are required in order to force the Federal Council and Parliament to consider the initiative and to hold a referendum on the initiative proposal. Public officials can respond with a counterproposal to be included in the text of the referendum, and they will then let the citizens, with their vote, decide which proposal they prefer.[132] For example, it is a more democratically mature instrument than similar instruments found in the UK or Italian legal systems. 100,000 signatures are also required in Great Britain for the proposal to be discussed by Parliament, compared however to a population more than seven times greater than the Swiss one. The discussion should be mandatory when this quorum is reached; however, the petition will not be immediately discussed if the same subject has recently been debated or if a debate is going to happen soon.[133] Finally, it appears that the chances that this proposal will actually become law are limited, and this would still depend on the work of the representatives who decide on the good or bad fate of the popular proposal, therefore also on the effectiveness of the instrument itself. In Italy – although only 50,000 signatures are needed to submit a proposal for a popular initiative – the

[130] M. Lucchi, *This is how Switzerland's direct democracy works*, World Economic Forum, 2017. Retrieved from: This is how Switzerland's direct democracy works | World Economic Forum (weforum.org)

[131] Our World in Data, *Participatory democracy index*, last updated 7th of March 2024. Retrieved from: Participatory democracy index, 2023 (ourworldindata.org)

[132] Swiss Federal Department of Foreign Affairs (EDA), *Direct Democracy*, n.d., Retrieved from https://www.eda.admin.ch/aboutswitzerland/en/home/politik-geschichte/politisches-system/direkte-demokratie.html.

[133] UK Parliament, *E-Petitions*, n.d., Retrieved from: https://committees.parliament.uk/committee/326/petitions-committee/content/108746/find-out-more-about-epetitions/.

parliamentary chambers are not even obliged to express their opinion and there are no mechanisms that guarantee significant forms of procedural priority.[134]

The second important tool is the optional referendum, for which 50,000 signatures are required, to be collected within 100 days. After parliamentarians have approved a bill, citizens can ask for it to be put to a referendum, to verify the support or hostility of the citizenry towards that law.

Finally, with the mandatory referendum, the law prescribes that the obligation to call a referendum and seek the approval of citizens in a series of circumstances that can be summarized in two categories: constitutional reforms and membership in international organizations. Specifically, any constitutional amendment discussed and approved by Parliament must also be approved by the people. Then, the electorate is also asked to approve the country's entry into an organisation for collective security or a supranational organisation.[135]

With regard to the aforementioned tools, there are some considerations that deserve to be made. As far as the initiative is concerned, in addition to the direct effects – specifically the introduction of a new law or an amendment – there are also indirect effects to consider. Indeed, even in cases where the initiative does not directly result in the enactment of law, it still engenders significant attention and discussion on the issue. This discourse exerts pressure on governments to seek an effective resolution. Consequently, while the resolution to the problem identified by citizens may originate from the ruling class, it emerges as a natural outcome of the initiative itself. In view of this, however, it should be noted the extremely low number of popular initiatives that have actually become law, calling into question the very effectiveness of such an instrument: between 1891 and 2004, only fourteen popular initiatives were passed.[136]

As far as referendum instruments are concerned, citizens are asked to vote for a mere vote of approval or rejection of a bill that has been discussed and debated by the Parliament alone. Citizens are not given the opportunity to debate, as was for example the case of classical Athens. Direct discussion – so dear to the Athenians and to the direct democracies of the past – remains an exclusive prerogative of the Parliament.

Secondly, it is certainly interesting that Swiss citizens are given the opportunity to approve or reject every single reform of the constitutional text, which for example in Italy takes place only in special

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[134] Italian Ministry for Institutional Reforms and Regulatory Simplification, *L'iniziativa legislativa popolare - Art.71 della Costituzione*, n.d., Retrieved from: https://www.riformeistituzionali.gov.it/it/liniziativa-legislativa-popolare-art71-della-costituzione/.

[135] ACE Electoral Knowledge Network, *Switzerland: Swiss Direct Democracy*, n.d. Retrieved from: Switzerland: Swiss Direct Democracy — (aceproject.org)

[136] *Ibidem.*

circumstances as stated in art. 138 of the Italian Constitution. In general, the Swiss are called to the polls much more than in other countries; it is estimated that an average of four times a year to vote on approximately fifteen different Federal Popular Votes. Considering the many circumstances of applicability, since 1990 the Swiss have been called upon to vote on various issues ranging from the construction of nuclear power plants, to migration policies, from the liberalization of the energy market to the reduction of working hours.

Finally, it is absolutely interesting and worthy of further study that citizens are asked to approve the country's entry into the various international organizations. For example, Switzerland is the only country in the world whose entry into the United Nations, which took place on the 10th of September 2002, was the natural consequence of a popular referendum: 1,489,062 citizens voted in favour, while 1,237,719 citizens were against. On the contrary, in 1986 – in a tense context such as that of the Cold War – a referendum on the same issue had given a negative result, precluding Switzerland's entry into the organization.[137]

As will be better analysed in the course of chapter 3, there has rarely been any discussion of democratizing international relation and politics. Foreign and defence policy remains almost unavoidably the exclusive prerogative of public officials, on which citizens can at most form their own opinion but not directly intervene. Questioning the entry or even the already active participation in international organizations could be a first step in the process of democratization of politics and international relations, which could lead to a real popular discussion and approval of foreign policy choices.

## 2.4 Modern Direct Democracy and Assembly Democracy

With the exception of a few cases that could be considered isolated and, in some respects, marginal or of limited impact, direct democracy has also lost its assembly character, subsequent to the decline of the method of sortition. In the 21st-century democracies, direct democracy almost no longer implies that citizens gather, discuss and make collective decisions. The assembly character persists today in a few small or very small contexts, such as the Zapatista communities in Chiapas and certain towns in New England, where local town meetings are even held with relatively low participation rates. However, these are entities where self-governance remains feasible and manageable due to their limited size, and their models appear challenging to replicate on a larger scale under current conditions. The larger communities that have been examined, such as the cities of Reykjavik but above all Madrid or the cantons of Switzerland, despite having integrated their systems with

[137] Swiss Federal Department of Foreign Affairs (EDA), *Switzerland and the UN*, n.d., Retrieved from: https://www.eda.admin.ch/eda/en/fdfa/fdfa/aktuell/dossiers/15-jahre-uno-mitgliedschaft-der-schweiz/fragen-schweiz-uno.html

innovative tools with considerable democratic potential, remain very far from the implementation of a deliberative popular Assembly, and probably also from the will to implement such an Assembly.

Empirical evidence seems to show that modern direct democracy is no longer an alternative model to representative democracy; rather, it has acquired new forms compared to the past and seems to be able to complement representative legislature with new tools, such as petitions and referendums. In this sense, 21st-century direct democracy appears more like a representative democracy supplemented by consultative or para-deliberative tools. For the sake of simplicity and, above all, lexical coherence, this work will henceforth refer to it as "modern direct democracy." However, compared to the historical tradition, instead of direct democracy, it would perhaps be more appropriate to speak of representative democracy integrated by consultative or para-deliberative tools or to use the expression "advocacy democracy" as coined by Magnus Jonsson, with the intention of emphasizing the fact that the final decision essentially remains at the discretion of the ruling class.[138]

### 2.4.1 Modern Direct Democracy and its New Tools

*The Underlying Theory of Petitions and Referendums*

Modern direct democracy, with its innovative tools, and purely representative democracy are distinguished by internal and external costs. Internal costs – also called decision-making costs - are the time, resources and effort required to make public policy decisions, including the costs of information and negotiation to arrive at a common decision. External costs, on the other hand, occur when the decision taken is not the optimal or most effective one, so much that it can be harmful to the interests of the community or in any case of the majority.[139]

On a comparative analysis, modern direct democracy has higher internal costs, as it is characterized by a greater involvement of the population in the decision-making and policy-making process. Purely representative democracy is leaner and faster in decision-making and therefore cheaper and more efficient. On the contrary, representative democracy can result in a lack of accountability and political decisions that harm the interests of many; referring to the principal-agent model - already discussed by Rousseau within his *The Social Contract* and mentioned in chapter 1 - a representative would not act as a perfect agent for their principal (the electorate), whose interests they are supposed to serve. In addition, there is also the risk of phenomena such as logrolling and vote swapping.

The traditional conclusion is that, in contexts that are not very small and scarcely populated, original direct democracy has too high internal costs. Representative democracy would be preferable, considering the sum of internal and external costs. This reasoning applies to original direct democracy

[138] Participedia, "Better Reykjavik: Iceland's Online Participation Platform."

[139] J. G. Matsusaka, "The Eclipse of Legislatures: Direct Democracy in the 21st Century," pp. 168-170.

or assembly democracy, in which the time and costs for meeting, discussing and reaching an agreement can be too dilated and prohibitive. However, the conclusion would be different for new consultative or para-deliberative tools, specifically petitions and referendums. These tools would not present higher internal costs – or much higher – than representative democracy and, considering purely external costs, they would certainly be preferred to the representative model. [140]

*Reasons Behind their Rise*

The reasons behind the popular pressure for the introduction of new instruments of direct democracy, such as petitions and referendums, are worth of further examination. These are tools that, although extraneous to the direct democratic tradition, should theoretically allow a redistribution of decision-making power in an up-bottom direction. A first element that may have presumably contributed to the spread and increasingly massive use of these tools is of a political nature. It is to be understood as the inability or unwillingness of governments to listen to and take charge of popular demands. To this, the two reasons identified by Matsusaka (2005) can also be added: they are a demographic element, which would perhaps be better defined as educational, and a technological element.[141]

Starting from the first, it is an element that is strictly political-representative in nature. According to the data, the number of citizens who believe they have no voice and that governments do not care about people's needs seems to have increased inexorably over the last few decades. If in 1952 only 31% of Americans believed that the people had no voice, in 2020 the percentage almost doubled, reaching 61.2%.[142] According to the data, the U.S. government therefore seems to have been unable or reluctant to take charge of the real needs of the population. However, discontent and dissatisfaction also extend beyond the US and the mere actions of governments, affecting the legal system as a whole. According to the 2020 Global Satisfaction with Democracy report, in the US the percentage of people who feel dissatisfied with how democracy works in their country has increased from just under 25% in 1995 to over 50% in 2020. In Europe, an analysis conducted in the period 1975-2020 shows a more fluctuating trend characterized by cycles of crisis and recovery. What emerges unequivocally, however, is that Europe is going through the longest period of institutional dissatisfaction on record.[143]

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[140] *Ibidem.*

[141] Ivi, pp. 163-164.

[142] American National Electoral Studies (ANES), "The ANES Guide to Public Opinion and Electoral Behavior," n.d. Retrieved from: The Guide to Public Opinion and Electoral Behavior (electionstudies.org)

[143] R.S. Foa, A. Klassen, M. Slade, A. Rand, & R. Collins, "The Global Satisfaction with Democracy Report 2020," Cambridge, Centre for the Future of Democracy, 2020.

Dissatisfaction and distrust in the system end up producing serious crises of legitimacy and mounting demands for a more effective democracy and for greater citizen empowerment, which therefore translates in demands for new democratic tools.

As far as the demographic-educational element is concerned, the data unequivocally show that the population in many areas of the globe is on average more educated than in the past. Between 1960 and 2010, the average number of years of schooling increased almost everywhere in Europe, in the US, Canada, New Zealand and Australia.[144] In the specific case of the US examined by Matsusaka, between 1960 and 2003, the number of citizens who completed high school more than doubled, while the number of graduates more than tripled.[145]

The third element pertains to technological, communications and information progress. The digital revolution has provided to the population a quantity and quality of information at a low cost enormously more abundant than in any other era of human history. Paradoxically, citizens are nowadays exposed to too much information and find it difficult to manage, contextualize and make conscious and effective use of it for their decision-making process.

With reference to the last two elements, growth in levels of education and technological development have contributed to reducing the vertical gap between the people and the ruling class. Today, the ruling class has a more limited cognitive and information processing advantage than in the past. Citizens no longer perceive the ruling class as a group of individuals who are more educated, better-informed and able to take charge of citizens' demands. Also due to this reason, the populace is advocating for the transfer in an up-bottom direction of an increasingly substantial part of public decisions.

On the one hand, the fact that citizens are more educated and generally more informed does not mean that they are more informed about public policy strategies and that they know how to effectively process the information to which they are exposed.

On the other hand, it must be recognized that many public policy choices do not require specific skills that exceed the individual morality of each individual. The same can also be true for the allocation of public finances, which is often determined by preferences and spending priorities that are equally worth considering. In addition, each citizen can naturally be said to be able to form his or her own preference in relation to a given situation; citizens can also express a vote consistent with their interests without necessarily knowing the matter in detail, thanks to what Matsusaka (2005) calls

[144] BBVA Research, *Educational Attainment in the OECD, 1960-2010*, 2012. Retrieved from: WP_1220_tcm348-357479.pdf (bbvaresearch.com)

[145] J. G. Matsusaka, "The Eclipse of Legislatures: Direct Democracy in the 21st Century," pp. 157-177.

"information cues". Public government in a complex society like the modern one is simply too complicated and varied for a ruler to know every subject in detail. Decision-making by public officials inevitably passes through the filter of information cues, sometimes even the same ones that are available to citizens. In light of the same information cues, it is not clear whether the ruling class is better able to focus on relevant information and make more effective decisions. Certainly, the existing gap with the citizenry is shrinking.[146]

*The Effects of their Implementation*

At an intuitive level, a tool of direct democracy should encourage the voice and participation of all citizens in collective decision-making; its effectiveness inevitably depends on the level of participation and horizontality it is able to achieve. An author like Matsusaka believes that tools such as petitions and referendums have indeed been able, over time, to allow people to become increasingly active in policy and decision-making activities, to the point that today it would not seem an exaggeration to say that political innovations are as much the result of popular initiatives as of the work of legislatures and governors.[147]

In general, modern tools of direct democracy seem to be able to bring wider application of the rule of the majority, without compromising the rights of minorities. There are studies that have shown how these new tools of direct democracy can also have beneficial effects on the economy, as well as clearly on the empowerment and involvement of citizens. Feld and Savioz (1997), identified a higher productivity of the factors of production in public investment in those cantons of Switzerland that were most characterized by forms of direct democracy.[148] While Blomberg, Hess and Weerapana (2004) identified, other things being equal, a higher output per capita in the American states that made use of the popular initiative.[149] Although there is no unequivocal empirical demonstration of the fact that direct democracy, as it is understood today, leads to good policies, the connection that seems to emerge in various studies between conventional economic parameters and the use of modern democracy tools is nevertheless reassuring.

It is also not entirely clear whether today's direct democracy can lead to the making of decisions that are more or less informed than representatives' decisions. Specifically, public officials could have access to more technical and possibly complete information, also making use of experts in the field.

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[146] *Ibidem*.

[147] *Ibidem*.

[148] L.P. Feld & M.R. Savioz, "Direct Democracy Matters for Economic Performance: An Empirical Investigation," *Kyklos*, No. 50, 1997, pp. 507-538.

[149] S.B. Blomberg, G.D. Hess, & A. Weerapana, "The Impact of Voter Initiatives on Economic Activity," *European Journal of Political Economy*, n. 1, 2004, pp. 207-226.

Then, the use of binding instruments such as binding referendums could also reduce the incentive of the ruling class to be adequately informed. Information is often dispersed or widespread, socio-economic contexts are complex, and the issues are numerous and potentially interconnected; therefore, it is not reasonable to think that a small group of rulers could fully possess all the necessary information. Moreover, many decisions also require evaluations that go beyond mere information, which also involve the moral judgment and for which there may not be a political choice universally preferable to the others. In particular, when information is dispersed, public consultation tools could act as "aggregators" and produce a final decision based on more complete information. The underlying insight is that the decision produced by a large mass of individually poorly informed people can be more accurate than that produced by a small group of highly informed individuals.

Based on the points mentioned above and in light of certain empirical evidence, modern direct democracy does not seem worse than representative democracy across a wide range of factors and parameters. Modern direct democracy would be a model destined to remain, to integrate, enrich and perfect representative forms, but not to take their place. For example, Matsusaka states that the modern world would be too complex and rapidly evolving to be governed mainly or only by periodic ballots, consistent with the opinion of several authors cited in the initial part of this chapter.[150] In *The Future of Democracy*, Bobbio also contends that no complex system can operate solely with the tools of direct democracy; it is inconceivable to imagine a state governed by continual appeals to the populace.[151]

The issue of specialization, the need for experts and timely decisions will be increasingly central. However, tools such as referendums and petitions could become increasingly effective and widespread in determining the broadest political direction, in moral choices or even spending priorities; the effective implementation of the specific policy measures - already prioritized by the people - may then be left to informed professionals.

*Final Remarks and Criticism*

In the light of the more or less evident beneficial effects produced by referendums and petitions, these tools often continue to be interpreted as last resort tools; these would be tools to be applied only when the rulers were to fail to govern effectively, attributing to political systems an almost exclusively representative character.

The development of such instruments – as well as possibly of forms of direct democracy more similar to the original model – does not seem to be a gradual and progressive process. Rather, it seems to be

[150] J. G. Matsusaka, "The Eclipse of Legislatures: Direct Democracy in the 21st Century," pp. 173-174.

[151] N. Bobbio, *Il futuro della democrazia,* p. 44.

a “stepped” path, characterized by a succession of crises of legitimacy of representative institutions with consequent requests for more direct forms of democracy. The Paris Commune, *Better Reykjavik* and *Decide Madrid* platforms or the self-government of the Zapatista community in Chiapas were all the result of popular discontent and a serious crisis of power legitimacy. It is therefore reasonable to assume that the future of direct democracy, whether understood in the original or modern sense, passes precisely through the stability - or rather instability - of the geopolitical and socio-economic system.

There have been various and convincing reasons that have led to an increasingly widespread use of these tools, combined with apparently beneficial effects also on the economy. However, it is undeniable that this is a distortion of the democratic tradition. Instruments such as referendums and petitions have a deeply less direct character than the instruments of the democratic tradition, such as popular assemblies or sortition for the assignment of public offices. Rather than real tools that allow citizens to take full charge of public affairs, they seem in some ways to be concessions that are made by the ruling classes to give the public the only apparent conviction that they can actually contribute or even decide. With a few exceptions, such as the 1986 and 2002 referendums in Switzerland for entry into the United Nations or the referendum that led to Brexit in 2016, these tools of modern direct democracy are not basically used for the deliberation of major political or strategic choices. Indeed, within a representative system, even if supplemented by elements such as referendums or petitions, the populace merely elect their representatives at regular pre-established intervals or in any case can alter only limited and marginal aspects of the system, without ever fundamentally changing the system in its entirety.[152]

[152] G. Schiavone, “Utopia e democrazia diretta,” p. 12.

# Chapter 3

## 3.1 Popular Dissatisfaction and Criticism of Representative Democracy

In the modern era, representative democracy has established itself as the only legitimate and institutionalized political system. The original forms of direct democracy have been largely delegitimized, deprived of their meaning and conceived as impractical or even undesirable. All this, according to Graeber, has also led to the loss of the ability to conceive and practice assembly power, to be understood as the original and purest form of direct democracy.[153]

Despite its general affirmation, precisely to the detriment of more direct forms of power, the representative system periodically experiences worrying legitimacy crises. In recent years, there has been an increasing demand for democracy, to be translated as the request that representative democracy be flanked or replaced by a more direct power system.[154] Among others, one of the major movements challenging the political-economic system and its operational mechanisms has been the *Occupy Wall Street* protest in 2011. Although this movement, like others, originated as a protest primarily against the prevailing economic-financial regime—perceived as detrimental to the working classes—it also included demands for a purer form of democracy, where the rulers are better able to address the needs of the base and public participation is increased. As Graeber notes, within *Occupy Wall Street*, there were even genuine efforts to physically organize fully horizontal general assemblies, wherein the opinions of all participants could be heard and considered.[155]

In general, the feeling of dissatisfaction seems to be determined by the perception that the political-economic system has always carefully kept the citizens at a "safe distance" from the centres of power, depriving them of the possibility of being able to really have an impact on the decision-making processes. This could only lead citizens to ask for greater opportunities to participate in decision-making processes, more voice and greater levels of accountability of rulers. As already emerged quite clearly in the previous chapter, the number of citizens who believe they have no voice, that governments do not care about the real needs of the people or in general dissatisfied with how democracy works in their own state seems to have inexorably increased over the last few decades. As already mentioned throughout this work, the percentage of Americans who believe that the people have no voice nearly doubled between 1952 and 2020. However, perhaps the most shocking element is probably that this trend is observed, in a more or less marked way, in practically every social

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[153] D. Graeber, *Critica della democrazia occidentale. Nuovi movimenti, crisi dello stato, democrazia diretta*.

[154] N. Bobbio, *Il futuro della democrazia,* p. 31.

[155] D. Graeber, *The Democracy Project: A History, a Crisis, a Movement*, Allen Lane, 2013.

category, whether it is catalogued by a series of different criteria such as gender, political orientation, ethnic group, education, age, area of residence.[156] Moreover, in 2003, on a sample of people interviewed, two out of three believed that popular initiative laws were decidedly more oriented and suitable to satisfy the public interest, while only one in five believed that laws produced by legislatures, i.e. elected representatives, were the ones to be so.[157] A more recent study published by the Pew Research Center and focusing on the spring of 2023, reveals concerning levels of dissatisfaction with the functioning of democracy in several countries, including the United States (66% dissatisfied vs. 33% satisfied), Japan, the United Kingdom, Italy, Spain, and France, where dissatisfaction reaches up to 73%.[158] These findings indicate a pervasive and widespread sense of disillusionment and resignation regarding the functioning of contemporary democracy, which, as noted, is characterized by its representative nature and a lack of direct democratic mechanisms and tools.

Several scholars have attempted to provide various interpretations and investigate the reasons behind the widespread discontent that the data appears to confirm unequivocally. Bobbio, for instance, believes that civil society has emancipated itself, becoming an inexhaustible source of demands—ever more numerous, more rapid, and increasingly complex. No political system, however efficient, can keep pace with all these requests, and the necessity of making choices is inevitable. However, one choice excludes another, and all unmet needs generate widespread discontent.[159]

Graeber, on the other hand, believes that one of the major deficiencies of the current system—and a cause of discontent and a sense of powerlessness—is the lack of participatory mechanisms. He argues that the modern representative system is fundamentally based on electoral delegation, where equality is realized and exhausted solely in the act of voting.[160] Thus, the electoral process represents the only moment in which citizens are truly equal and free to express their will. However, there is an almost total absence of additional tools through which individuals can effectively and meaningfully articulate their preferences, leading to their will being subject to partial or approximate interpretation by the ruling class. It should be noted that, in many respects, Graeber echoes, albeit with the necessary distinctions between the two authors and the socio-political systems in which they lived, a point originally made by Rousseau. In the 18th century, Rousseau wrote in his *The Social Contract*—

[156] American National Electoral Studies (ANES), "The ANES Guide to Public Opinion and Electoral Behavior."

[157] J. G. Matsusaka, "The Eclipse of Legislatures: Direct Democracy in the 21st Century," pp. 162-163.

[158] Pew Research Center, *Satisfaction with Democracy and Ratings for Political Leaders, Parties*, n.d. Retrieved from: Satisfaction with democracy, political leaders and parties in 24 countries | Pew Research Center

[159] N. Bobbio, *Il futuro della democrazia*, pp. 23-24.

[160] D. Graeber, *Critica della democrazia occidentale. Nuovi movimenti, crisi dello stato, democrazia diretta*.

particularly with reference to the English people—that in a system centred on electoral delegation, the people are free only at the moment of choice, specifically at the moment of voting. Immediately after the vote, the people return to what Rousseau, using a strong term, describes as "slavery": they revert to being governed by the will of the ruling class.[161] It is true that the world in which Graeber lives and writes is significantly different from the England Rousseau described. Nevertheless, it is interesting to observe how both consider the electoral act as an ineffective and, above all, insufficient instrument for the real exercise of sovereignty by the people.

In line with this reasoning, within a representative electoral system, the populace effectively becomes an *ex-post* consultative electoral body, losing its true sovereignty. The electorate is engaged solely for the purpose of selecting representatives at predetermined intervals, thereby lacking any other forms of control or binding mechanisms; in this regard, it has been reduced to a merely advisory role. The electorate's only power lies in its ability to avoid re-election of a candidate whose decisions have been deemed unsatisfactory, which serves as an *ex-post* mechanism of control and is ineffective in many respects. Moreover, with the rise of mass media and opinion polling, representatives in power, in addition to being continuously informed of the electorate's preferences and sentiments, appear capable of deriving legitimacy and authority from these projections, almost bypassing the need for electoral validation except where explicitly mandated by law. [162]

As Gian Paolo Prandstraller (1978) asserts, the defining characteristic of democracy lies in its capacity to continuously transform the issues raised by the people into norms or, more broadly, into political decisions. This process distinguishes democracy from aristocratic or oligarchic systems, where decisions are imposed from above, and where there is no genuine or widespread opportunity for the citizens' demands to be incorporated into general prescriptions.[163] If the essence of a democratic regime lies in its ability and systematic approach to transforming problems into norms, it is certainly worth examining this transition more deeply. The certainty of such a transformation only exists in a direct democracy, where no intermediaries are involved between the people and the norms, allowing the populace to directly determine the content of those norms. In contrast, whenever intermediation occurs, the process is vulnerable to external influences that may disrupt the alignment between the popular will and the resulting norms. In a representative democracy, perfect alignment cannot be guaranteed, as the very presence of representatives requires interpretation, which inherently introduces the potential for deviation from the original people's will.

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[161] J.-J. Rousseau, *Il contratto sociale*.

[162] G. Schiavone, "Utopia e democrazia diretta," pp. 12-13.

[163] G. Paolo Prandstraller, *Felicità e Società*, p. 137.

Norberto Bobbio expresses a similar view when he argues that in an ideal direct democracy, there should be no intermediaries between the people—conceived as deliberative individuals—and the deliberation itself. According to Bobbio, even a revocable delegate remains an intermediary, which inherently introduces the potential for distortion in the decision-making process. Even if a delegate were strictly bound by the instructions received—an unlikely scenario in systems where the imperative mandate is prohibited such as most of the Western ones—they would still retain a degree of discretion in the day-to-day management of affairs. Moreover, the possibility of revocation, while theoretically available, cannot be exercised at any time without risking the paralysis of governance processes.[164]

Alongside these considerations about the inability of the representative system to receive needs from below and convert them into norms, Barbara Goodwin has identified and catalogued the defects of the representative system in the following way:[165]

> 1) The first concern is the limited popular participation due to both practical and institutional factors which significantly diminish opportunities for public engagement. As noted by Graeber, the electorate's principal mechanism for influence is the vote, which occurs infrequently due to the extended duration of parliamentary terms, typically lasting four to five years.[166] This infrequent exercise of voting reduces its efficacy as a tool for continuous political influence. Moreover, while the vote provides the possibility of rejecting an incumbent candidate, it does not offer a means to directly affect a representative's decisions once elected. Representatives thus retain considerable decision-making autonomy, and the electorate lacks effective mechanisms to steer or sanction their choices until the subsequent election cycle. Although referendums and petitions are increasingly integrated into various legal frameworks, these tools are often non-binding and do not compel elected officials to translate public preferences into concrete policy actions.
>
> 2) The second one is political apathy, understood as disinterest, possibly due to the lack of opportunities, disaffection, the general poor reputation of the political class, the feeling of being able to concretely affect and control little or nothing, as well as the perceived vertical distance between rulers and ruled.
>
> The ritual of elections is in fact repetitive and does not produce, if not rarely, significant changes. The impossibility of generating change tends to exacerbate voter apathy. The

[164] N. Bobbio, *Il futuro della democrazia*, p. 42.

[165] B. Goodwin, "Direct Democracy and Lottery Democracy – Two Different Concepts?," pp. 37-50.

[166] D. Graeber, *Critica della democrazia occidentale. Nuovi movimenti, crisi dello stato, democrazia diretta*.

widespread feeling of powerlessness among citizens can lead to almost complete disengagement from the electoral process, even resulting in the abandonment of voting, as already argued by Iring Fetscher in *Die Demokratie* in 1970.[167]

While recognizing the increase in voter abstention, Bobbio does not consider it as a concerning phenomenon; in fact, apathy would not be a symptom of crisis but rather a sign of the system's health, to be interpreted as benevolent indifference.[168] Despite this possible interpretation, considering that, in a representative system, it is the most important—and in many respects, the only—instrument for public participation and oversight, the phenomenon certainly cannot go unnoticed or underestimated.

3) Then, governments are unable or unwilling to intercept the real needs of citizens and convert them into concrete norms (unresponsiveness). As evidenced by the data reported above, many citizens believe that the rulers do not really care about the people's needs and that the initiatives by the legislatures are only partially able to take care of them.

4) There is a lack of accountability and control mechanisms due to the general lack of transparency and debate and the *de facto* total independence of most non-elected public officials. It is evident that only parliamentarians are directly incentivized by electoral preferences to secure re-election. Nevertheless, many other bodies – such as government agencies, ministerial bodies, and institutions like central banks, all of which wield significant influence over citizens' lives – are non-elective in nature and totally free from the mechanism of preferences; as a result, for these bodies, the mechanism of popular control is virtually non-existent.

To these first four forms of weakness, there are then two others, which are more structural:

5) The first one is the inability of representative systems to produce a legislature that is truly representative of the population and similar to it. As abundantly explained in chapter 1, representatives are in fact atypical subjects, presumably bearers of different interests and not necessarily able or predisposed to intercept those of the represented.

6) The other one is the under-representation or even exclusion of minorities, especially in majoritarian systems. If, as seen in chapter 1, it is true that the principle of consensus on a

[167] I. Fetscher, *La democrazia difficile*, Bari, Laterza, 1974, p. 103.

[168] N. Bobbio, *Il futuro della democrazia*, p. 65.

majority basis has been affirmed, it is equally true that the demands of minorities cannot be systematically neglected.

As stated by Giuseppe Schiavone in *Utopia and Direct Democracy* (1997), the current system can be characterized as an "impaired representative democracy," wherein potential corrective measures might be proposed to enhance popular participation. However, according to the author, such measures would remain fundamentally inadequate in addressing the deeper shortcomings of the system.

Schiavone emphasizes that parliamentary representation constitutes merely one phase in the ongoing process of democratic evolution, which should be viewed as a *continuum* rather than a completed development. The democratic principle, tracing back to antiquity and the Athenian model, has always aspired towards direct democracy. However, the precise trajectory of this evolutionary process remains uncertain. Given the recurrent crises of legitimacy within the representative system, it is conceivable that more direct forms of democracy may emerge in the future, albeit not necessarily aligned with the classical Athenian model. As early as 1997, Schiavone argued that we have reached a historical point in which representativeness can no longer be increased either qualitatively or quantitatively.

Simply increasing the number of representatives would result in an excess of delegation and thus a further aggravation of the condition of alienation. In this context, there have been cases where efforts were made to actually reduce the number of representatives, as also happened in Italy with the 2020 constitutional reform that almost halved the number of elected parliamentarians.

Similarly, also introducing direct elections for various institutional positions is unlikely to resolve the dimorphism that exists between civil society and politics. It refers to the gap between formal legal authority and the actual exercise of power, of which the public is increasingly aware.

He concludes by asserting his belief that representative democracy is in a state of persistent difficulty and that dissatisfaction is not merely a reflection of the current circumstances. These would be structural problems of a representative democracy that has gradually depleted, finally becoming exhausted and obsolete. Therefore, it should be succeeded by a new and more advanced form of democracy, one that addresses the new needs of the population and, most importantly, takes into account what Schiavone considers to be the higher level of historical consciousness that the people have achieved compared to the past. According to the author, at this point, such a level would even enable the populace to self-govern the *polis*. [169]

[169] G. Schiavone, "Utopia e democrazia diretta," pp. 9-11.

### 3.1.1 Political Parties and Direct Democracy

The element that perhaps more than any other differentiates a representative system from a direct one is the presence of intermediaries assigned to interpret the popular will, who are regularly elected and at least partly independent in their decisions.[170] In most cases, intermediaries are not individual elected representatives but rather collective entities that function as intermediaries. These entities are tasked with aggregating specific areas of public opinion, translating the electorate's demands into tangible political decisions and norms, and facilitating the electorate's overall contribution to shaping political direction. These intermediary bodies, which mediate between the popular will and political decisions, are the political parties.

On the basis of parties, political systems can be divided into one-party systems, hegemonic party and multi-party systems. In one-party regimes – in some ways very similar to hegemonic party regimes – representation can only be partial because the party cannot and does not intend to include all shades of thought and political orientation. In these systems, the party inevitably ends up excluding a part of the citizens - which can be more or less wide - from the possibility of influencing the laws and the decision-making process. The third system, the multi-party system, is generally considered preferable because it allows for the development of diverse political currents and ensures the presence of political opposition, thereby offering broader representation and a greater capacity to translate the concerns of a larger segment of the population into legislation. However, the multi-party system is not without its limitations. It often fosters a static and cautious approach to reform, characterized by gradual and incremental social transformations. This slow and unambitious reformism may contribute to the historical tendency of multi-party systems to shift towards authoritarian governance, as was the case in Italy and Germany during the 1920s and 1930s.[171]

The role of political parties in democracy and the functioning of the political system is currently under debate. Some scholars - such as Hans Kelsen and later Nancy Rosenblum - argue that they are essential entities, while others contend that they are even detrimental to the democratic exercise of power – as it is the case of Gian Paolo Prandstraller. Specifically, authors such as Hans Kelsen and later Nancy Rosenblum believe that political representation—and thus the proper functioning of representative democracy—is inconceivable without the key role of political parties. The latter specifically views parties as the key representative body, tasked with aggregating interests and values, and linking problems to programmatic visions in an increasingly fragmented and, in some ways,

[170] B. Manin, *I principi del governo rappresentativo,* pp. 3-9.

[171] G. P. Prandstraller, *Felicità e società*, pp. 137-147.

complex sociopolitical environment.[172] According to Luigi Ferrajoli, the role of parties should not only be to collect preferences from as many citizens as possible and not even to limit themselves to representing the interests of a group. Parties should be the concrete instrument through which citizens can fully contribute to the determination of national public policy. They should therefore be configured as social places in which the collective popular will is shaped, which is not the simple sum of individual wills, but the result of debate, confrontation and compromise.[173]

However, political parties appear to have increasingly diverged from their original function. In this regard, Di Majo unequivocally claims the existence of a crisis of parties' ability to interpret the needs of citizens and identify their answers.[174] What is evident is that this shift has not gone unnoticed by the public. The popular support enjoyed by the parties seems to be experiencing a worrying negative trend. According to an analysis by the American National Election Studies (ANES) and referring to the United States the average feeling thermometer rating toward parties – which scales from 0 to 100, where 0 indicates very cold or negative feelings and 100 represents very warm or positive feelings – measured an average of 58.8 for the two parties (Democratic and Republican) in 1978 and then fell to 44.8 in 2020.[175] Regarding Europe, an analysis by the Pew Research Center conducted in 2019 showed that, out of fifty-nine parties tested among fourteen EU member countries, only six were viewed favourably by half or more of the population.[176]

The lack of popular support for parties, which at least in the US seems to be declining over time, may be due to the fact that parties are often seen as incapable of taking charge of popular demands, but also because they are often seen as strategic organizations at the service of the elites rather than places of participation.[177] In this regard, Prandstraller even goes so far as to conceive them as the main antagonists of direct democracy and as structures that monopolize the delegation of power for purposes mainly of self-preservation rather than actualization of the people's demands.[178] Indeed, should citizenship begin to self-govern and make extensive use of direct democracy tools, political

[172] N. Rosenblum, *On the Side of the Angels: An Appreciation of Parties and Partisanship*, Princeton, Princeton University Press, 2008; H. Kelsen, *Essenza e valore della democrazia*, Torino, Giappichelli, 2004.

[173] C. F. Ferrajoli, "Come esautorare il parlamento. Un caso esemplare del declino di una democrazia rappresentativa," *Teoria Politica*, 2020, pp. 155-187.

[174] L. Di Majo, "La rappresentanza in declino: partiti politici e gruppi di pressione nelle procedure democratiche," *forumcostituzionale.it*, n. 7, 2016, p. 1.

[175] American National Electoral Studies (ANES), "The ANES Guide to Public Opinion and Electoral Behavior," n.d. Retrieved from: The Guide to Public Opinion and Electoral Behavior (electionstudies.org).

[176] Pew Research Center, *Political parties*, n.d. Retrieved from: Views on political parties across Europe.

[177] N. Urbinati, & M. E. Warren, "The Concept of Representation in Contemporary Democratic Theory," p. 400.

[178] G. P. Prandstraller, *Felicità e società*, pp. 137-167.

parties would inevitably see a significant diminution of their power, which is precisely the result of electoral delegation.

According to Prandstraller, today there would be no physical or technical limitations that would prevent the implementation of direct democracy, in large territorial contexts, such as nation states, but especially in smaller contexts, such as cities or federal states. In alignment with the preceding insight, he contends that it is precisely the political parties—driven by their self-preservation and the desire to sustain the *status quo*—that resist the advancement of direct democratic practices and the restitution of power to the citizens, who are its rightful holders. He argues that such a restitution of power is both legitimate and necessary, asserting that an effective democracy does not require the exclusive mediation of political parties.[179]

Similarly, Di Majo contends that political parties have ultimately prioritized their own survival over their original function. They have become increasingly bureaucratic, with leadership groups growing progressively distant from their grassroots base. Consequently, opportunities for participation have been significantly diminished, and a clear tendency to favour major financial backers has become increasingly apparent.[180]

Despite the evident moral deficiencies, operational shortcomings, and failure to recognize the need for change within political parties, parties survive and still retain a wide power. Prandstraller's explanation, which is for certain aspects also plausible, is that political discourse seldom addresses moral concerns. Instead, it frequently focuses on basic, trivial issues, in the viscosity of everyday life.[181]

However, hostility towards parties is not universal. For example, Hans Kelsen - who, as we have already mentioned, supports the centrality of political parties for the proper functioning of the political system - argue that hostility towards parties in general is hostility towards democracy. Being hostile to parties means in fact denying or delegitimizing the most important instrument through which citizens can participate in public life, and without which the individual citizen would in some ways be non-existent.[182] However, in all likelihood, Kelsen – who lived between the late 19$^{th}$ and the 20$^{th}$ centuries - is referring to the parties conceived in their original form and purpose, i.e. social places of debate and compromise in which the will of the represented people is formed and expressed and the

[179] G. P. Prandstraller, *Felicità e società*, pp. 137-167.

[180] L. Di Majo, "La rappresentanza in declino: partiti politici e gruppi di pressione nelle procedure democratiche," *forumcostituzionale.it*, n. 7, 2016, p. 12.

[181] G. P. Prandstraller, "Partito e movimento," in G. Schiavone (ed.), *La democrazia diretta. Un progetto per la società di giustizia*, Bari, Edizioni Dedalo, 1997, p. 249.

[182] H. Kelsen, *La democrazia*, Bologna, Il Mulino, 1981.

responsibility of the representatives is also asserted. Nevertheless, as Di Majo argues, the modern party is much more often engaged in acting on its "entrepreneurial" side - that is, in the search for consensus aimed at self-preservation - rather than exercising the original "Kelsenian functions."[183] Ilaria Rivera appears to share a similar perspective, noting that modern political parties have progressively distanced themselves from public sentiment and the genuine willingness to meet the people's needs, thereby eroding their legitimacy and popularity.[184]

In a political system where citizens exercise power only intermittently, typically every four to five years—the common duration of legislative terms—power becomes increasingly concentrated within the party system. Political parties wield significant, often disproportionate, authority over and above the three branches of government - parliament, government, and judiciary -, in a system that Arrigo Colombo terms "partitocracy." [185] This is an opinion already expressed nearly thirty years earlier by Franz Neumann. As early as 1968, Neumann wrote about how the political parties' position of power was such that they transcended the institutional and fundamental framework of the separation of powers, operating perilously as an instrument of unification and asserting their preeminence over the entire social sphere.[186] As later pointed out by Prandstraller in 1978, the dominant presence of political parties is not limited to the traditional three branches of government but extends also to what have become commonly referred to as the "fourth" and "fifth" estates: the press and broadcast media, respectively. Prandstraller explicitly writes about the extensive influence of political parties in publishing houses, newspapers, and broadcasting. Moreover, parties would have control over the intellectual sphere to such an extent that securing a position in broadcasting, such as for a debate, or even a university chair, would be complicated without the support of a political party. This difficulty would also increase in proportion to the party's influence within the social fabric.[187]

This scenario is manifestly unfavourable, and indeed, it can be described as strongly hostile to the direct exercise of power by the populace. In such a system, parties, through mechanisms such as clientelism, consensus capture, and media persuasion techniques, are able to manipulate and steer the popular will and votes.

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[183] L. Di Majo, "La rappresentanza in declino: partiti politici e gruppi di pressione nelle procedure democratiche," p. 12.

[184] I. Rivera, "Il ruolo di Internet nell'ordinamento democratico contemporaneo. Prospettive evolutive e direttrici di sviluppo," *federalismi.it*, n. 1, 2017, pp. 1-17.

[185] A. Colombo, "Principi di autogoverno politico," in G. Schiavone (ed.), *La democrazia diretta. Un progetto per la società di giustizia*, Bari, Edizioni Dedalo, 1997, p. 260.

[186] F. Neumann, "Nascita e sviluppo dei partiti politici," in G. Sivini (ed.), *Sociologia dei partiti politici*, Bologna, Il Mulino, 1972, p. 57.

[187] G. P. Prandstraller*, Felicità e Società*, p. 174.

Moreover, other forces may work behind the parties, to be identified in the pressure groups, which hold significant power, often including financial influence. This view is mainly supported by the American sociologist Charles Wright Mills, who argues that leaders of the three major sectors—politics, business, and the military—collaborate to form an elite that controls the exercise of power. Even in multi-party systems that appear democratic, there exist centres of power that are effectively external to the democratic process and have somehow remained largely unaffected by the democratization process. These centres can impose their own agendas, undermining or even rendering irrelevant the popular will.[188] In a similar vein, Prandstraller, who was familiar with Mills' work, argues that, even in Western multiparty systems, there are independent entities that may undermine the democratic order. These entities would coincide with centres of industrial and financial power, which operate based on the highly undemocratic mechanism of co-optation. Moreover, in contexts where established centres of power are in opposition, the formulation of general norms frequently emerges from negotiations between these competing entities.[189] This dynamic often leads to compromises that reflect the interests and priorities of these power structures, rather than a direct expression of the broader popular will.

Ultimately, the entities intended to uphold democratic effectiveness—namely political parties—are often overwhelmed by the pressures exerted by these centres of power. As a result, they become deviant and lose their original purpose. This pattern appears consistent even when so-called “people's parties” or popular parties ascended to power. The cases of the social democratic parties in France and Germany are particularly illustrative; despite their initial transformative potential, these parties were ultimately absorbed into the liberal system without producing any significant structural changes to the political scenario.

*The bureaucratization of parties*

As already mentioned, and despite the decline of the major mass parties, political parties have become increasingly structured and bureaucratic. Their central base committee chooses the candidates who are to be elected and encourages the training and affirmation of professional politicians. The representative system therefore becomes strongly conditioned by the parties and their mechanisms, so much that what should be configured as a prohibition of the imperative mandate for representatives becomes in many cases a real party mandate. In fact, party discipline represents an open, albeit informal, violation of the free mandate. Party members who, taking advantage of the secret ballot, vote against the choice of their party are defined sometimes as “rebels” and in some way portrayed

[188] C.W. Mills, *La élite del potere*, Milano, Feltrinelli, 1959, p. 15.

[189] G. P. Prandstraller, *Felicità e società*, pp. 137-167.

as the object of public disapproval. In this regard, Bobbio openly argues that the mandate is not free: there is a mandate constraint that is not operated by the electorate - as originally conceived and then prohibited in most places -, but by the parties. Indeed, re-election and therefore the future of the representative's career directly depend on their party's support. Parties have contributed to the emergence of a mechanical delegation system, which is not really representative and not focused on individual skills and preferences.[190]

In addition to serving as instruments through which power centres exert their influence, political parties often become vehicles for individual politicians to advance their careers. Although politicians appear to be legitimized and promoted by the electorate—and formally they are—their success or failure is largely determined by the internal dynamics and co-optation mechanisms within the parties. A similar reasoning seems to apply more generally to political decisions and proposals. In a system dominated by parties, the success of any proposal is inevitably dependent on the support of various factions, especially the majority parties.

The election of candidates, on a fixed-term basis and conceived in fact as the only means through which citizens can express their dissent, becomes a long-term charge - if not even for life - within the party, almost independently of the changing popular will. The party ceases to focus on aggregating public opinions and translating them into policy and instead prioritizes its own survival. Thus, it transitions from being an instrument of aggregation, formalization, and transmission of the popular will into a centre for conditioning—if not totally shaping—that very will.

The base that delegates and legitimizes the party, in order to be able to get its will to the top, must therefore deal with the interests and wills of the middle cadres, i.e. the party officials. When the cadres realize that the popular desires could compromise the positions they have earned or endanger the very life of the party, then they fiercely oppose them.

The party has become an accumulator and centralizer of electoral proxies and the cause of the alienation of the voters themselves. Voters miss the meaning of their actions, as this is in foreign hands, and they feel objectified by a power that ignores them. Precisely as a hoarder of proxies, Prandstraller argues that the contemporary party is the natural enemy of direct democracy.[191] If a political entity really wants to favour pluralism of opinions and government from below, it must become a stimulator of opinions and put political choices back at the base, as far as possible. Its action must be oriented towards direct democracy wherever it is practicable.

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[190] N. Bobbio, *Il futuro della democrazia,* pp. 10-12.

[191] G. P. Prandstraller, *Felicità e società*, p. 163.

*Democracy and number of parties*

In a system that were to remain representative, the desire to reduce the vertical distance between representatives and represented should not translate into the elimination of the Parliament, but on the contrary into an increase in its volume; this would mean the increase in the number of representatives in what Kelsen calls the hypertrophy of parliamentarism. Similarly, the discourse can also be extended to the party system. The political view of the different political parties would be all the closer and more in conformity with that of the individual members, the greater the number of parties and therefore the smaller the number of members per party. Taking this concept to its logical extreme, the party best equipped to address the demands of individual citizens would be one composed of a single member. In such a scenario, the number of parties would equal the number of citizens, with each representative effectively representing only themselves, thereby nullifying the intermediary function of political parties altogether. Therefore, democracy would cease to be representative and would become direct. In order for the system to remain representative, a minimum number of party members must be set, therefore the minimum size that the group must assume. The higher this minimum limit, the lower the group's ability to faithfully represent all its members' opinions and the greater the need to reach heavy compromises that can distort the original idea.

The logical consequence of the above is that a system becomes increasingly horizontal as the number of parties increases, reaching the highest degree of horizontality when the ratio between the number of parties and the number of citizens approaches one to one. At this point, however, the necessity of a party structure is rendered obsolete, as each citizen effectively represents themselves. Paradoxically, the system's degree of horizontality and representativeness is maximized when the number of parties is zero and minimized when only a single party exists.

*Political parties in the future*

To conclude, on the basis of the existing situation, it is not easy to make predictions about what the development of the party system will be in the future decades. Prandstraller argues that effective democracy does not need the exclusive filter of parties and that the people can very well govern themselves, since the technical limits for the application of direct democracy at the state and sub-state level have disappeared.[192]

What has emerged quite clearly is that the parties have abandoned their original function as social places for the formation and aggregation of opinions, ending up being omnipresent entities in the system of political power and oriented only to their own survival. It is not clear whether the democratic system as we understand it today, or even if a more direct democratic system, can actually

[192] Ivi, pp. 137-167.

work without the presence of political parties. The perception is that there is still a need for some kind of entities - whether they are called, for example, parties, committees or what Luca Di Majo defines as “pressure groups” - that act as aggregators of sectors of opinion and contribute to ordering, formalizing, prioritizing the increasingly numerous and increasingly complex requests that come from below, so that they can then be effectively converted into norms.

According to Di Majo, the challenge would remain to ensure that popular concerns systematically and swiftly reach the governing bodies, as well as to develop the discussion and make the electorate truly influential in the places where political choices are determined. Indeed, democracy cannot be the only expression of a vote, without realizing the ever-decreasing popular participation and the consequent scepticism of citizens towards the functioning of democracy and the entire political system, which the data clearly and concerningly demonstrates. [193]

## 3.2 Electronic Direct Democracy

### 3.2.1 A Matter of Definition

The expression “digital democracy” has not always been clearly interpreted. Originally, it could be ambiguous and almost limited to the simple fact of digitizing democratic processes, thus not configuring a new political regime but being an expansion of the possibilities of interaction - which from physical become also digital - between the citizens and then institutions.

One of the most influential research centres on digital democracy - the Solonian Democracy Institute (SDI) - has updated its definition of digital democracy over the years, which it defines in 2024 as: “Any process which allows citizens or residents of a country or community to meaningfully interact with their public political institutions and where that interaction results in a measurable impact on public policy.” Instead, digital democracy tools are defined as: “Software applications and/or processes which either transfer an existing democratic process online or create a new online democratic process for the purpose of either empowering the participants or seeking their input to make or validate a decision or assumption.” [194]

This is evidently a much richer concept than the simple online transfer of democratic processes. It is a concept that also implies the empowerment of citizens, their direct participation and the ability to influence public policy choices in a relevant and impactful way. Several authors seem to make no distinction between the concepts of digital democracy and e-democracy and use them

[193] L. Di Majo, “La rappresentanza in declino: partiti politici e gruppi di pressione nelle procedure democratiche,” p. 21.

[194] R.H. Fuller and M. Jakovljev, *2024 SDI Digital Democracy Report*, Solonian Democracy Institute, 2024.

interchangeably, such as Marianne Kneuer, who seems to use the expression e-democracy to refer to digital democracy in general.[195]

Similarly, the European Centre for Populism Studies (ECPS) refers indifferently of e-democracy, digital democracy and internet democracy and relies on the definition provided by Andrew Chadwick. He defines e-democracy as the use of information and communication technologies (ICT) to enhance and in some accounts replace representative democracy.[196] He therefore goes far beyond the simple concept of digitization and already introduces the dichotomy between direct and representative democracy in the definition of e-democracy. This definition presupposes the idea that ICT can compensate for the traditional limits of direct democracy, such as problems of scale, scarcity of time or the lack of opportunities for policy deliberation.

### 3.2.2 The Potential of E-Democracy

From the very definition phase, it becomes evident that new ICTs could, at least theoretically, decentralize power, bringing it closer to its ultimate possessor: the citizenry. Already in 1980, the American sociologist Alvin Toffler observed that "spectacular advances in communication technology open, for the first time, a mind-boggling array of possibilities for direct citizen participation in political decision-making." [197] Indeed, discussions regarding the potential of new technologies to facilitate new forms of direct democracy have been ongoing for decades. One of the earliest proposals for such a system dates back to 1970 and was put forth by the American philosopher Robert Paul Wolff. Wolff was already cognizant of the system's imperfections, particularly the significant disparity between passive listeners and active participants in the democratic process; in a rather visionary manner and well ahead of his time, he theorized a system of voting via television, with authentication possibly achieved through fingerprint recognition.[198]

Following the contributions of these early pioneers, the number of e-democracy advocates has expanded significantly. One of these advocates - Trevor Garrison Smith -, in a 2017 publication, asserted that "concerns of physical distance and time in an online context are not the overwhelming constraints they are in offline space." [199] This would therefore permit moving beyond the primary and most valid criticism of direct democracy, particularly when understood as assembly democracy. While

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[195] M. Kneuer, "E-democracy: A new challenge for measuring democracy," *International Political Science Review*, Vol. 37, No. 5, November 2016, pp. 666-678.

[196] European Center for Populism Studies, *E-Democracy*, n.d. Retrieved from: E-Democracy - ECPS (populismstudies.org)

[197] A. Toffler, *The Third Wave*, New York, Bantam, 1980.

[198] R.P. Wolff, *In Defense of Anarchism*, Harpercollins, 1970.

[199] T.G. Smith, *Politicizing Digital Space: Theory, the Internet, and Renewing Democracy*, University of Westminster Press, London, 2017, p. 80.

the potential is quite evident, it is also true that certain limitations persist, necessitating further progress. These limitations, however, do not seem to be as stringent as they were in the past, to the extent that they impede the implementation of new democratic tools. Indeed, the most significant barriers to citizen-led democracy today appear to be merely marginal issues that can be easily overcome. These include raising awareness about the available technological possibilities, securing sufficient resources for project implementation, and motivating both leaders and the broader public to actively engage with these new democratic tools. Therefore, according to this insight, from both a theoretical and practical standpoint, there would be no reason to believe that democracy could not develop in the direction of citizen-led democracy.

As Ilaria Rivera writes, technologies expand and enhance existing communication routes and also create new, horizontal and easily accessible ones. The network thus becomes a tool for communication and expression of the will of the individual and the group. Specifically, given their direct and horizontal nature, new technologies would make it possible to bypass the intermediate bodies traditionally in charge of representing the people in the Parliament (the parties) and to shorten the distance between the governed below and the rulers above. The network might allow people to function without relying on political parties, to directly express their will about the policies to be adopted and to finally regain possession of the sovereign power that originally belonged to them.[200]

New technologies make it possible— and according to Rivera, have already demonstrated— to create a process of circular conditioning, in the sense that citizens' participation no longer ends at the time of voting, but continues throughout the entire political mandate of the representatives. The new digital spaces seem to have in some ways already provided citizens with new tools to debate, to get in direct contact and dialogue with policymakers, to increase the accountability and responsibility of representatives or to exert some form of collective pressure. For example, social media have increasingly taken the place of venues traditionally intended for political confrontation, such as squares or party circles. The reduction of the vertical distance between the people and power should not be seen in a negative way, according to the author. In fact, in this sense, the network would provide nothing more than new innovative ways for the legitimate exercise of sovereignty, which legitimately belongs to the people and of which the institutions are only the final emanation.

In some respects, these new digital participation tools that enable citizens to feel more engaged can also serve as a valuable outlet for those segments of the population—such as young people—who, despite wanting to voice their needs, often feel unheard due to a lack of effective means for expression. Moreover, the network, unlike classical Athens, would allow the open participation of all,

[200] I. Rivera, “Il ruolo di Internet nell’ordinamento democratico contemporaneo. Prospettive evolutive e direttrici di sviluppo,” pp. 1-17.

without any differentiation, without the exclusion of minorities and even without participation in the discussion being guaranteed only to the first arrivals.

New ICTs' potential is vast, and several platforms have already demonstrated the functionalities and mechanisms that could be implemented in the future. Presently, there are digital democracy platforms operating at various levels: locally, such as *Better Reykjavik* and *Decide Madrid* – which have been widely analysed in chapter 2 –, but also *Decidim* in Barcelona; at the parliamentary level, such as Brazil's e-*Democracia* and Taiwan's *vTaiwan*; and even at the party level, like the platform *Rousseau* of Italy's anti-establishment party *Movimento 5 stelle*.

However, the risks and challenges associated with new tools and ICTs should not be underestimated. ICTs and the internet should serve solely to provide additional tools and spaces for participation, supplementing or integrating the already existing mechanisms. Under no circumstances should they eliminate existing spaces or undermine the proper functioning of democracy and the rule of law, as will be further analysed in the course of this chapter.

### 3.2.3 Criticism of E-Democracy

Given its potential as well as its risks, the following analysis will examine in detail and address the principal criticisms levelled against e-democracy.

1) Access to the online dialogue is not guaranteed to everyone. In fact, large portions of the population do not access the network regularly, due to limitations that depend mainly on economic status, level of education, age or even on geographical location, since some areas suffer from conditions of access to the network that are decidedly more disadvantaged than others. According to an analysis by the World Economic Forum, 2.6 billion people in the world are still offline. In Italy, in 2022, about 3 million people - i.e. about 5% of the population - were not connected to the internet.[201] Moreover, these were mostly weak categories, such as the elderly with little education. An Eurostat study has also shown, as expected, that among households at risk of poverty, the probability of not being able to afford an internet connection triples.[202] From a project aimed at increasing the level of democracy, and allowing the direct government of all, e-democracy would therefore end up marginalizing and excluding precisely those disadvantaged categories that would need to make their voices heard.
   Although already in 2016, the UN, by making a change to the Universal Declaration of Human Rights (UDHR), recognized access to the internet as a human right, the ways in which this

[201] Auditel & Censis, *La Transizione Digitale degli Italiani*, 2022. Retrieved from: La transizione digitale degli italiani.

[202] Eurostat, *How Many EU People Can Afford an Internet Connection?*, 2023. Retrieved from: How many EU people can afford an internet connection? - Eurostat (europa.eu)

amendment can be implemented are not obvious.[203] Even if national states were to be identified as the entity in charge of guaranteeing this right, it would not be obvious to identify the measures to be taken effectively and concretely to remove the obstacles to the exercise of that right, thus guaranteeing substantial equality alongside formal equality.

Certainly, the issue of the digital divide is an issue to consider when it comes to e-democracy, but the data seem to be reassuring in some ways. According to the World Economic Forum (WEF), between 2005 and 2022 the percentage of people connected to the internet in the world increased from 16.8% to 67% and the increase appeared more marked in underdeveloped and emerging countries.[204]

In developed countries, including Italy, older segments of the population, who were born prior to the technological revolution, remain less connected to digital networks. The right of these groups to participate must be upheld, particularly given their significant engagement in electoral processes. For instance, in the United States, individuals aged 45-59 and those 60 and older exhibited the highest voter turnout rates in presidential elections from 1988 to 2016.[205]

Undoubtedly, the number of those who were born before the technological boom and have remained *de facto* strangers to new technologies is destined to decrease with the passage of time. With the disappearance of the elderly and investments in network infrastructures, the medium-long term trend, first in developed countries and then also in emerging and underdeveloped ones, seems to be an increasingly connected population until it reaches percentages close to 100%. At that point, the possibility of actively participating in government through the network would effectively be guaranteed to everyone.

2) Another criticism that may be levelled against e-democracy is that the digital realm lacks regulatory frameworks, as there is no governing authority capable of enforcing rules. Additionally, there is a deficiency in systems for verifying the accuracy of information or protecting vulnerable and marginalized groups, such as minorities. Moreover, the digital *agora* often lacks substantive debate that is conducive to opinion formation, focusing instead on the mere presentation of proposals. Over time, the web has indeed demonstrated both its potential and its limitations. On the one hand, it offers remarkable opportunities for connecting individuals, disseminating information widely, and facilitating the exchange of diverse

[203] "The Internet as a Human Right," *Brookings*, 7th of November 2016.

[204] World Economic Forum, *These Are the Places in the World Where Internet Access Is Still an Issue – and Why*, 2023. Retrieved from: Internet access still denied to many in the developing world | World Economic Forum (weforum.org)

[205] Our World in Data, *Election Voter Turnout Rate by Age in the United States*, n.d. Retrieved from: Election voter turnout rate by age in the United States (ourworldindata.org)

perspectives. On the other hand, it often presents an anarchic environment where hate speech and radical propaganda proliferate, and where users may be inundated with an overwhelming volume of information, much of which may be false or misleading.

Nevertheless, there are notable examples where, through the use of moderators or more recently also of AI, efforts have been made to impose some structure and effective rules on online interactions. As an example, the Icelandic platform *Better Reykjavík* exemplifies how online activity can be effectively moderated to foster civil discourse. It has demonstrated an ability to stimulate constructive debate and facilitate the generation of innovative proposals, which arise from a process of deliberation, creativity, collective will, and citizen collaboration.

3) While digital direct democracy is technically feasible, it remains problematic in practice and even not desirable, according to authors like Norberto Bobbio. Citizens would need to be continuously connected to the network; as Bobbio notes with reference to the Italian legislative context, this could necessitate daily voting on a wide array of issues. The potential for excessive participation could lead to what German sociologist Ralf Dahrendorf terms the "total citizen,"[206] resulting in possible political fatigue, apathy, detachment from the political process, and even outright rejection or moral condemnation of politics. Bobbio even argues that excessive participation and an overabundance of democratic processes could ultimately undermine democracy itself rather than enhance it.[207]

   Bobbio's objection is certainly valid for some considerations. Firstly, the risk of generating apathy and indifference is undoubtedly serious, as also testified by great thinkers of the past, such as Rousseau who wrote: "as soon as the public service ceases to be the main occupation of citizens, [...] the state is close to ruin." [208]

   However, the risk of generating political apathy, disinterest, detachment and indifference is certainly not typical of the direct system. Indeed, it would be one of the major defects of the representative system. In such a system, the citizens often feels deprived of the possibility of being able to concretely influence political choices, feels disaffection for the political class, of which they have a low regard, and perceive a wide vertical distance between them and the rulers. Where the inability to effect change is most pronounced, voters' apathy tends to be more pronounced as well; in the end, they may experience such a sense of powerlessness that they forgo voting.

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[206] R. Dahrendorf & G. Sartori, *Il cittadino totale*, Einaudi, Torino, 1977.

[207] N. Bobbio, *Il futuro della democrazia*, p. 13.

[208] J.-J. Rousseau, *Il contratto sociale*.

Secondly, citizens would be required to engage more extensively—through voting, commenting, or making counter-proposals—than they currently do. This increased demand on their time and energy might dissuade some individuals from participating, potentially resulting in lower participation rates or decisions that are less considered and more impulsive, in the sense that they reflect immediate feelings rather than deep reasoning. If on the one hand not all the instruments of direct democracy are able to massively involve the citizenry – as in the case of the town meetings in New England, despite their considerable democratic scope – on the other hand there are tools that seem to arouse the enthusiasm of the masses. Platforms such as the aforementioned *Better Reykjavík* and *Decide Madrid* have had the ability to involve a considerable slice of the citizenry, even well over half in the case of the Icelandic capital. The novelty effect, the feeling of finally being able to influence political choices, but also the ease and speed of use of the tools are factors that may certainly have contributed to their popularity. In fact, a vote or feedback on a proposal launched by a fellow citizen takes only a few seconds; there is no need to set up a polling station – with the time and costs that this entails – and the constant presence of the user online is not even necessary.

Moreover, if individual citizens do not feel sufficiently prepared to be able to express an informed vote or comment on a given matter, they would certainly not be obliged to do so. In any case, it would have the possibility of leaving it to others – hopefully more informed – to decide on that particular issue, triggering a mechanism that ultimately does not differ much from what happens daily in a representative system. The fundamental difference is that in a modern representative system, citizens express themselves only once every four or five years and entrusts to the elected representative every single decision on every single matter, including those involving value or moral considerations or those in which the citizen would feel able to effectively contribute.

Finally, in a system like the modern one, representatives rarely vote consistently with what they believe to be the ultimate interest of the nation, most of the time ending up acting on the basis of the logic of party membership. In this context, during a legislature, it is very likely that the representative will vote even a significant number of times in a manner that differs from the will of the citizens who elected him or, even more seriously, in a manner aligned with the interests of their group or party, but contrary to the greater national interest. Citizens would have no space or tool to point this out, except to avoid re-electing the candidate at the end of a mandate that lasts several years, in what has already been defined as a control mechanism only *ex-post*, and in many ways insufficient.

4) Ralf Lindner and Georg Aichholzer also underscore several dystopian perspectives concerning the potential risks that new ICTs and media may pose to democracy. Specifically, they argue that digital tools might accelerate deliberation to a superficial level and fail to address a fundamental lack of political motivation among the citizenry. This concern reflects what has been described as the detachment between the virtual and the real dimensions of political engagement.[209]

The one raised by Lindner and Aichholzer is certainly one of the most worrying points and one that deserves further investigation and eventually to be resolved. The ease and speed with which votes or comments could be added to an electronic participation platform could weaken that feeling of solemnity and responsibility that citizens somehow perceive when they go to the polls. The risk would be that citizens would vote superficially, without having first delved into the subject, without really being aware of the depth and complexity of the issue and with the risk of dangerous radical drifts.

In this regard, it can be said that citizens would not vote for every single decision. As was also the case in classical Athens, highly technical subjects, for which a certain level of expertise is required, should remain in the hands of experienced officials. However, citizens would be able to make informed decisions on a number of matters on which they cannot have a say today. In fact, as already widely discussed in the previous parts, it must be recognized that many public policy choices do not require specific skills that exceed the individual morality with which each person is naturally endowed. In many situations, such as those involving the moral question, there may not be one choice that is universally preferable to the others. One can then imagine that the citizen is given the opportunity to determine binding guidelines, but then the concrete ways of implementing a certain political manoeuvre are left to experienced officials. Even a sensitive issue such as the allocation of public finances is often determined by preferences and spending priorities that are equally worth considering. Indeed, the mere fact that economic policy and the allocation of public finances are debated implies that there is often no choice universally superior to others. Frequently, there is no option that, based on economic analysis, consistently yields a higher output than all other investment choices. This considered, spending priorities determined by a popular vote are imagined to be able to express a much greater degree of democracy and distributive equity, also due to the fact that they are less susceptible to phenomena such as corruption, clientelism, regulatory capture or in general pressure from

[209] R. Lindner & G. Aichholzer, "E-Democracy: Conceptual Foundations and Recent Trends," in *European E-Democracy in Practice*, ed. by L. Hennen, I. van Keulen, I. Korthagen, G. Aichholzer, R. Lindner, & R. Øjvind Nielsen, 1st ed. 2020, Springer Nature, pp. 11-46.

groups of economic or political power. Then, citizens are naturally able to form their own opinion on a certain subject and can express a vote consistent with the interests of his peers without necessarily knowing the subject in detail, thanks also to the work of information cues. Public officials themselves resort to these tools, because it is unthinkable that in a complex society like the modern one, in which information is often dispersed and disseminated, a ruler can know every subject in detail.[210]

As evidenced by current observations, citizens are potentially capable of casting informed votes on a wide range of issues, many of which they are currently excluded from addressing. Enhanced civic education, information cues, peer influence, and public debates could help mitigate the risk of radicalism, which could be further managed through judicial and constitutional control bodies. Should public functions transition to online platforms, state authorities would gain new tools and venues for governance, yet the constitution and the rule of law would remain intact and operational.

5) The internet would even be more concentrated than traditional media and the ease of placing messages on the internet would not be matched by similar opportunities of being heard. Specifically, social media and the internet tend to create echo-chambers and filter bubbles. The algorithms of social networks and search engines show internet users information that is completely influenced and in line with previous searches or in any case with information that the algorithm believes the user may want based on his or her individual profile. In doing so, users are always and only exposed to the same information and the same points of view, excluding *a priori* different opinions or information that could call into question their point of view. This phenomenon impoverishes debate and idea sharing, produces serious radicalizations and does not give each opinion an equal chance to be read or heard. If it is true that the network annihilates debate, exposing the user only to opinions in line with their own, a public space for discussion, presentation of proposals, sending feedback and voting would restore the debate between the parties and reconnect users with the world around them. The original and deserving ideas would in fact be rewarded by the citizens themselves with an up/down voting system just as it already happens in various urban participation platforms. Ideas would be exposed to greater visibility on the basis of the quality, originality or innovation potential of the proposal and not on algorithmic calculations.

6) Connecting to the previous point, a serious threat that has been gaining special attention in connection with dramatic events of political extremism in the recent past is the increased

[210] J. G. Matsusaka, "The Eclipse of Legislatures: Direct Democracy in the 21st Century," pp. 157-177.

radicalization and mobilization potential of the internet. Echo-chambers and bubbles, but also in general the pollution of the online information system – full of fake news, hate speech, even aggressive propaganda – destroy the possibilities of civil and democratic dialogue, resulting in forms of populism, authoritarianism and generating serious threats to democracy. This is a point that is also valid in many respects for direct democracy in the traditional sense, but which is perhaps even more important in the context of e-democracy. In fact, the danger that those who possess the resources, the knowledge, the means of propaganda can pass the message that their interests are the interests of all can be amplified with the new electronic and digital tools. The functioning of democracy in mass society is not taken for granted, and even less so in the mass society characterized by the presence of ICTs. The main characteristic of mass society is indoctrination, which restricts the space left to individual consciousness, and enlarges the space for propaganda. In this regard, ICTs can undoubtedly increase the possibilities and means of indoctrination and control by cultural, political and financial elites. Therefore, technology retains its positivity if it spreads opinions and information, without however compromising the responsibility and accountability of those who disseminate them.

At this point, it is worth making some considerations. Firstly, as already written, it should not be forgotten that in any case the constitutional principles and the rule of law would remain intact, serving as a safeguard against authoritarian tendencies. Secondly, the pollution of the information system – which is certainly a problem of our time, and which could also worsen with AI technologies – represents in any case a threat, in a representative or direct system and so within an e-democracy. The problem does not revolve around the new online tools through which citizens are able to participate in power, but the way in which the propaganda tools - which already exist - can influence the individual choices of the citizen. It is difficult to say whether a system that calls on citizens to express themselves much more frequently - and in ways that are not limited to voting but also include comments, proposals, debates, possibly participation - is more or less subject to propaganda conditioning. Certainly, as has already been written in this work, it is less subject to phenomena such as regulatory capture, clientelism, corruption, external pressures and, when it is to be disseminated, it can also act as a better aggregator of information, producing a decision based on more complete information.

## 3.3 Democratic Participation in the EU and International Organisations (IOs)

As already widely written in this paper, in a representative system – even if integrated by instruments of modern direct democracy such as petitions or referendums – the people are allowed to modify only

marginal or limited elements of the pre-established political system but rarely the system in its entirety.

Bobbio observes that historically the advancement of democracy within a nation was typically measured by the expansion of suffrage, particularly the transition from restricted to universal voting rights. In contemporary democratic societies, this extension of suffrage has further progressed to include previously marginalized groups, such as women, and to extend voting rights to younger individuals than in the past, generally up to the age of eighteen. According to the author there can no longer be democratic extension in this sense.[211]

Therefore, the criterion for measuring the degree of democracy should shift from "who" to "where". Democratization does not mean focusing on "who" votes, but on "where" the citizens vote or in a broader sense decide. In this sense, the development of democracy would be seen precisely in the multiplication of representative bodies, directly elected by the people. Bobbio understands voting as the typical act of participation but does not intend, on the contrary, to limit participation to voting alone. He contends that it is not so important the number of voters, but the spaces and matters in which the citizens are actually called to vote and in general to actively participate with tools other than voting. This considered, democracy does not develop with the extension of universal suffrage – which is the expedient and not principle of democracy - but with the multiplication of institutions and spaces of self-government.[212]

In this regard, one of the areas ("where") in which the people generally have limited or absent voice is the state's foreign policy and its participation in international or supranational organizations. It is also an area whose centrality is evident. According to Bobbio, whose ideas echo those of Kant, the violence that dominates the world today is purely international violence. Several cases of internal/national violence are also the result of violence in international relations or in any case of the ambitions of major powers to assert dominance, including acts of terrorism. Domestic policy is very much conditioned by foreign policy, which often escalates into war acts. In this sense, Kantian ideal of perpetual peace can only be pursued through a progressive democratization of the international system and increasingly robust protection of human rights at a global level, transcending the dimension of single national states.

If international politics, which also depends to a large extent on the work of international organizations, has such an impact on domestic politics, on war and therefore on citizens' lives, it is

[211] N. Bobbio, *Il futuro della democrazia,* pp. 48-57.

[212] C. Quarta, "Dal piccolo stato alla cosmopoli democratica," in G. Schiavone (ed.), *La democrazia diretta. Un progetto per la società di giustizia*, Bari, Edizioni Dedalo, 1997, p. 309.

certainly worth further investigating the role that the electorate can have within this matter and the ways in which the people's role can possibly be enhanced.

Historically, there have been cases in which the people have been able to express their will extraordinarily and finally have a considerable impact on the international system, such as in the cases of referendums on Switzerland's participation in the UN or on UK's exit from the EU in 2016. However, there is no doubt that these are more historical and isolated cases than a democratic custom. Moreover, they were referendums in which citizens were asked to approve or reject simplified and preset questions, but even in those cases there was a lack of a real truly institutionalized arena for popular discussion.

In fact, as Robert Dahl also writes, even in those countries where democratic institutions and practices have existed for a long time and are today well established – such as the aforementioned Switzerland and the UK, but other European countries as well – it is difficult for citizens to exercise effective control over many key issues of international affairs and relations. Moreover, achieving this goal is particularly challenging within the realm of international organizations —such as the International Monetary Fund (IMF), the World Bank (WB), the World Trade Organization (WTO), and the United Nations (UN) which hold a wide power over the global and geopolitical agendas—where citizens typically lack direct influence over membership and decision-making processes. Despite this lack of direct participation, the decisions made by these organizations have a significant impact on individuals' lives.[213]

Even the European Union (EU) itself, although not properly configured as an international organization but as an intergovernmental supranational body, is in some ways an example of the lack of mechanisms of popular participation and control. The EU, although equipped with more democratic mechanisms compared to the other IOs - such as the direct election of the Members of the European Parliament (MEPs) - retains, in fact, a serious "democratic deficit." This derives from the fact that many of the decisions are the result of negotiations between the political and bureaucratic elites, and not of the citizens' will in the strict sense. Moreover, as evidenced by Claudia Saladin and Brennan Van (1998), decisions taken within the EU also have a more direct and relevant impact on the European citizens' lives compared to those taken within the other IOs, which, as mentioned, also have a non-negligible effect. [214]

[213] R.A. Dahl, *On Democracy*, New Haven, Yale University Press, 1998.

[214] C. Saladin & B. Van Dyke, "Implementing the Principles of the Public Participation Convention in International Organizations," *Center for International Environmental Law*, 1998, pp. 1-66.

The democratic deficit of the EU is due both to elements such as the hierarchical relationships and negotiations between political-bureaucratic elites, also considering the will of national and international markets, on the one hand and to the structural shortcomings of democratic processes on the other hand.

Financial markets, in particular, frequently exert significant influence over political decisions, and in some cases, may even determine them entirely. Emblematic cases were in Italy the fall in 2011 of the fourth Silvio Berlusconi's government replaced by Mario Monti's technocratic government, precisely with the aim of "reassuring" financial operators, or the action of the so-called *Troika* - composed of the IMF, the EU and the European Central Bank (ECB) - in Greece in the aftermath of the 2007-2008 financial crisis; at that time, the Greek government – but above all the Greek people - was in fact forced to accept the heavy austerity policies imposed from above without having the real possibility of debating or negotiating. Although to be interpreted as measures aimed at avoiding a further increase in public debt levels and averting the risk of default for the two countries, it is quite evident that popular involvement in the making of these decisions was almost nil. At the international level, but also evidently on the impact that IOs have on national public policy, democratic instruments therefore do not play a key role, except for that - which is even not always guaranteed - of formally ratifying decisions, taking them for what they are and without much opportunity to discuss or amend them.

Turning to the structural shortcomings and democratic deficiencies, the European Parliament (EP) is the only democratically elected body and the only one that meets and debates in public. It participates in the legislative power of the EU together with the Council; however, it was only in 2007 through the Treaty of Lisbon that the two bodies were given equivalent status, as the EP previously was the body with the least power, while the Council was the EU's main political and legislative body. According to a 1998 publication by Claudia Saladin and Brennan Van, true public participation in the EU's decision-making process is non-existent. While the Parliament and Commission occasionally offer spaces to receive input from below, while not being constrained, at the Council level the possibility of giving input does not exist.[215] The Council indeed limits itself to holding some of its debates publicly. Moreover, in addition to expanding some of the powers of the EP - the only elected body -, in the last twenty-five years no revolutionary tools significantly increasing the degree of popular participation in the decision-making process seem to have been introduced.[216] On the one hand, as said, greater authority has been conferred upon the Parliament, elevating it to an equal

[215] Ivi, p. 29.

[216] One of them could have been the European Citizen's Initiative (ECI), similarly introduced by the Treaty of Lisbon. However, the Commission is required to examine these initiatives, but it is not obliged to initiate a legislative proposal. In fifteen years, only one hundred eleven initiatives have been registered and only ten have reached the necessary quorum of votes, which is one million coming from seven member states.

standing with the Council, on the other hand, with the expansion of European jurisdiction, member states have ceded broader portions of sovereignty to the EU institutions. However, as their influence increased, the degree of popular participation, transparency and accountability did not seem to have increased in the same manner.

In this regard, Dahl takes precisely the EU as an example of an international organization in which a serious democratic deficit persists, although it is perhaps, among the international organizations, one of those that has at least tried to introduce corrective measures or instruments of popular control. As Di Majo writes, the process of European construction is not over and needs further evolution. These developments would lead to a transformation in the structure of the state and a reduction in national sovereignty. The national rulers, who once held exclusive regulatory power, would be reduced to little more than notaries in a decision-making process where they are participants rather than primary executors or decision-makers. As a result, the electorate would drop back by an additional position and turn into a passive observer, possibly uninformed and certainly not involved. Given the existing democratic deficit, this shift is a significant concern for those studying the functioning of democracy and cannot be overlooked.

### 3.3.1 Citizens' Decision-Making Power in the Process of European Integration

The European Union as we know it today was born in 1992 through the Treaty on European Union (TEU) or Maastricht Treaty which was evidently one of the key treaties in European history.[217] Despite the evident centrality of the TEU in the process of European integration, which inevitably also involves thorny issues of overlapping and transfer of competences and powers, only three states out of twelve called their citizenry to clearly express its preference: Ireland, France and Denmark. In the latter case the outcome was even negative, and it was not until 1993 that the Danish citizenry approved entry into the EU, albeit with a series of opt-outs. In all the other nine countries, however, it was the national parliaments, without going through the consultation of the electorate, that were totally concerned with the ratification of such an important act that would certainly change the history of their countries. Differently, other countries that later considered the idea of joining the EU, asked in advance for the opinion of their electorate through referendums, as in the cases already in 1994 of Austria, Sweden, Finland and Norway, with the latter being the only one with a negative outcome. By 2005, twenty-nine referendums had already been held on the process of European integration, so

[217] European Parliament, *Treaty on European Union (TEU) / Maastricht Treaty*, n.d. Retrieved from: Maastricht Treaty (europa.eu)

much so that it had become almost natural to expect the consultation of citizens on a subject such as European integration.[218]

However, citizen consultation has not always functioned as an automatic mechanism, and an analysis of European history may suggest that public opinion has not always been as inviolable as it ought to be. In some instances, the will of the people appears to have been circumvented, as evidenced by the approval of the Treaty of Lisbon in 2007. The Treaty of Lisbon was the response to the outcome of the two referendums held in 2005 in France and the Netherlands. They led to the rejection of the Treaty Establishing a Constitution for Europe – also known as Constitutional Treaty -, which had already been adopted by the Council and approved by the EP, as well as by nine national parliaments of member states. Especially in the Netherlands, the referendum was an event of historic importance, considering that it was the first form of popular consultation - although not binding - that was held in the country in more than two hundred years, precisely since 1797.[219]

Despite the decisive outcome against the proposal in both the Netherlands and France, only three years later the Dutch and French parliaments ratified the Treaty of Lisbon, the content of which was substantially very similar to the one of the rejected Constitutional Treaty, including the establishment of the figure of the High Representative for Foreign Affairs and Security Policy or the question of the precedence of European law over national law which should have been one of the aspects that distinguished the two treaties.[220] Evidently, the Treaty of Lisbon retained many of the substantive changes from the previous Constitutional Treaty but presented them in a less symbolic and more politically acceptable form; the similarity of content was so pronounced that Valery Giscard d'Estaing, the chair of the Constitutional Convention that drafted the text, claimed that the difference was one of approach, rather than content.[221] This time, however, the ruling classes were careful not to resort in any way to approval by referendum, making use only of parliamentary approval. Only Ireland, due to a historic ruling by its Supreme Court, was forced to hold a referendum, which had a negative outcome; however, it was repeated just over a year later, this time giving a positive result. In all the other member states, ratification took place only through parliaments. For this reason, it is widely believed that the ratification of the Treaty of Lisbon was undemocratic, as in the case of the political

[218] J. G. Matsusaka, "The Eclipse of Legislatures: Direct Democracy in the 21st Century," p. 161.

[219] Fondation Robert Schuman, *Referendum on the European Constitution in the Netherlands*, 2005. Retrieved from: EU Constitution Vote 2005 Netherlands (robert-schuman.eu)

[220] European Parliament, *The Treaty of Lisbon*, n.d. Retrieved from: The Treaty of Lisbon | Fact Sheets on the European Union | European Parliament (europa.eu)

[221] European Institute at Columbia University (EI), *After the Vote: Why the Netherlands Accepted the Lisbon Treaty*, 2022. Retrieved from: After the Vote: Why the Netherlands Accepted the Lisbon Treaty | European Institute (columbia.edu).

party The Left in the European Parliament (GUE/NGL) which defined the Lisbon Treaty as "unpopular and undemocratic." [222]

If in 2005 it had become almost natural to expect direct consultation of citizens in a matter such as European integration, the same certainly cannot be said for many matters that the EU deals with. A referendum on EU membership, or on states' withdrawal, represents a one-time expression of consensus, but it is unlikely to be revisited. This initial consent does not necessarily reflect ongoing support for the policies subsequently implemented or the legal adjustments required by national states to conform to European directives. Similarly, the initial consent granted by citizens for joining the EU or institutions like the UN— not even subject to a referendum, with the only exception of Switzerland —does not inherently signify agreement with the positions that these entities take within the international geopolitical sphere.

### 3.3.2 The Future of IOs' Democratization Process

If democratic processes are weak and ineffective in governing European institutions, the situation in IOs seems to be even more complex, and less democratic. According to Dahl, achieving a level of popular democratic control in the IOs comparable to that—albeit limited—found within nation-states would require significant modifications to the internal structures of these organizations. Specifically, it would be necessary to establish new mechanisms and spaces for political expression that facilitate citizen participation and allow for meaningful influence and oversight by the public. However, to ensure effective bottom-up control, citizens should be informed about the functioning of IOs and their policy decisions. However, this level of information would be difficult to achieve and only on the condition that the elites engage in debates, in trying to engage the public and its emotions and fighting for the assignment of public offices, just as happens in the political arena at the national level. However, the interests that elites might have in undertaking this type of initiative are not clearly defined, so it is also unlikely that they would engage in similar popular engagement activities.

Dahl concludes with a pessimistic assessment regarding the likelihood of all the necessary conditions for the democratization of international organizations emerging simultaneously, particularly in the short to medium term. If these conditions do not materialize, international decisions—within the EU and more broadly in major IOs—will continue to be determined through negotiations among political and bureaucratic elites, including diplomatic corps, ministers, chief executives, and prominent business leaders and lobbyists. Democratic mechanisms might at most ratify these elite decisions or occasionally impose constraints within which these elites can operate and negotiate. Nonetheless, it

[222] The Left in the European Parliament, *Six Reasons the Lisbon Treaty Was (and Still Is) a Bad Idea*, 2019. Retrieved from: Six reasons the Lisbon Treaty was (and still is) a bad idea – The Left

would be challenging—if not incorrect—to define such an international political system as genuinely democratic.[223]

### 3.3.3 The Role of ICTs in IOs' Democratization Process

Although there have been emblematic cases of referendums that have actually had a major impact on the political system, at least in Europe, it is also true that these were rather isolated cases and above all that these referendums were not then effectively integrated by other participatory instruments. Both at the European level and at the level of IOs, there is a lack of sufficient access to information, to the decision-making process and finally to justice, to be understood as the possibility for citizens, for the protection of their interests, to turn to an impartial judicial body with the ability to issue binding judgments.

At this juncture, the potential impact of information and communication technologies (ICT) on the safeguarding of such rights becomes evident. The facilitation of access to information, including the requirement to publish original documents, meeting summaries, or video recordings, along with the reasoning behind decisions undertaken or rejected, can be efficiently executed online at minimal cost. This argument is equally applicable to national governments as well as to international organizations and the European Union (EU), entities with which citizens may have less inherent trust and whose transparency is not always assured, particularly in the absence of direct citizen intervention in demanding compliance. As Bobbio wrote, transparency and the defeat of invisible powers that formally or substantially escape the sphere of democratic control are essential elements of democracy.[224] Quoting Immanuel Kant in *Perpetual Peace* (1795): "All actions relating to the right of other human beings are wrong if their maxim is not compatible with them being made public." [225] Therefore, any new instrument that can increase the levels of transparency should be viewed as a vital asset and a weapon at the service of democracy. Democracy was also born to eliminate invisible power and to require governments to act openly and publicly.

Regarding access to justice and the means available to individuals for self-protection, the integration of ICTs could significantly reduce the duration and costs associated with legal proceedings, which are critical factors in the realm of justice. Additionally, ICTs could facilitate easier access to legal regulations and ensure public dissemination of judgements upon their issuance.

While the benefits of using ICTs for improving access to information and justice are clear and, in some ways, already being exploited, the challenge of involving citizens in the decision-making

[223] R.A. Dahl, *On Democracy*.

[224] N. Bobbio, *Il futuro della democrazia*, pp. 15-18, 199-201.

[225] I. Kant, *Perpetual Peace*, FQ Classics, 2007.

process remains significant. This challenge arises from the historically low levels of participation and the fact that new tools have only recently started to overcome physical barriers that once seemed insurmountable. Today, it is entirely feasible to enable citizens to participate directly in public debates and meetings where decisions affecting their lives are undertaken. To this should be added a clear requirement for advance notification of meetings, allowing citizens sufficient time to prepare, engage, and contribute in a well-informed and meaningful manner. Additionally, the development of new digital platforms could be beneficial, enabling the submission of comments, analyses, and information, as well as facilitating new avenues for debate from which innovative ideas may arise. It is essential that the ideas generated from these public engagements be duly considered and incorporated into the decision-making process. In this regard, it would be both appropriate and necessary to mandate the consideration of expressed public will, particularly when specific conditions are met, such as obtaining a predetermined number of preferences for a popular initiative.

In conclusion, contemporary information and communication technologies offer capabilities that were once difficult to conceive, having dismantled physical barriers that previously seemed insurmountable. Although these technologies have already made a significant impact on the daily lives of millions and transformed production processes across various businesses and sectors, their full potential within the democratic framework remains largely untapped. While revolutionary changes may not materialize in the immediate future, it is rational to assume, as Schiavone argued, that the current system represents merely one phase in the ongoing evolution of democracy. This evolution may not culminate in a model where “everyone decides everything,” but it should certainly progress toward a model where a greater number of people make decisions on a wider range of issues, including issues on which citizenship has so far had little or no say.

# Conclusions

This study began with the aim of determining whether the current representative system prevailing in the Western world—specifically in Europe and the United States—can truly be considered democratic or whether it could evolve towards greater popular involvement and more direct forms of governance. To address this research question, the concept of democracy itself—and direct democracy in particular—was examined through a qualitative analysis of significant historical examples, starting from 5$^{th}$ and 4$^{th}$ centuries BC Athens. In the course of chapter 1, it was demonstrated that it was the citizens' general Assembly, endowed with deliberative power, that conferred the direct character to political systems. Furthermore, in models with a longer tradition, the Assembly was complemented by broad popular participation in public offices, with extensive use of sortition to provide every citizen with an equal opportunity to access them.

However, as clearly emerged in the course of chapter 2, the citizens' Assembly as an institutionalized and central body for discussion and deliberation has largely been lost over the centuries for a variety of reasons which have been clearly outlined. It has been replaced by the representatives' assembly, endowed with autonomous deliberative powers, surviving today only on small scale, marginal, and difficult-to-replicate contexts. Sortition, as a method of selection, appears to be in even steeper decline. While it has survived in certain cases as a tool for assigning specific offices or to be used in extraordinary circumstances, it has disappeared as an institutionalized method systematically used for assigning central political or administrative roles. Sortition has been widely— probably universally— replaced by elections as the ordinary method for selecting public officials, primarily based on the principle of consensus. Anyway, what has become strikingly clear is that, historically, elections—today perhaps the element which is most commonly used to define a system as democratic—are not closely aligned with the concept of democracy. On the contrary, as extensively discussed, for a long time they were considered an elitist method, significantly less democratic than sortition, which was instead considered the democratic method *par excellence*. Having lost both elements that characterized "primitive" democracy, the current representative system can only be considered democratic by embracing a new concept of democracy. This system, for example, aligns with what Delannoi has termed "secondary" democracy, characterized by representation at every stage of the decision-making process and universal suffrage for the election of candidates. However, it is clear that in the examined Western world, the process of democratic development has reached a stage where it retains little to nothing of its original features.

If the concept of democracy has undergone numerous transformations over the centuries, reaching a stage substantially different from the past, it is conceivable that further changes could occur in the

future. This insight aligns with Schiavone's idea that democracy is in a state of continuous evolution, and the current representative stage is merely one phase of this process. Anyway, it is difficult to determine the exact directions in which the democratic evolution might proceed. Given the high levels of dissatisfaction with contemporary representative democracy— evidenced by the data and often leading to protest movements—it is plausible that we may see greater popular involvement in the future. In some ways, increased involvement is already occurring through new tools, such as petitions and referendums, which have been defined as modern direct democracy tools. Nevertheless, as discussed in chapter 3, these instruments do not fully reflect the democratic spirit of the past; on the contrary, they somehow appear to be concessions granted by the ruling class. By also referring to concrete historical examples, it has been demonstrated that they are often mechanisms through which citizens express non-binding opinions or opinions on secondary issues, incapable of producing structural changes to the system. Moreover, these opinions may be circumvented by the ruling class, which frequently seems able to achieve its desired political outcomes irrespective of popular will; this appears to have been the case, for example, with the approval of the Lisbon Treaty in 2007, which was notably preceded by two historic referendums in the Netherlands and France.

If democracy's evolutionary process moves through new phases, it is entirely rational to assume that these stages will involve increased use of information and communication technologies (ICTs), given the current state of technological development, potential and extensive distribution. As has been widely discussed in chapter 3, while some challenges still remain, ICTs appear today capable of addressing several of the fundamental, concrete limitations that have historically hindered the exercise of more direct forms of popular governance. The development of more direct forms of democracy could occur both vertically and horizontally. Vertically, this would involve the elimination or significant weakening of the representative or party filter; this would grant more substantive power to the citizenry, thus reducing the vertical distance between the power and the people. Furthermore, horizontal developments may also be expected, meaning that the range of issues on which citizens would express their opinions and deliberate will likely expand; indeed, there are today several matters, such as foreign policy and state participation in international organizations, where the citizenry still has little to no voice.

While the 21$^{st}$-century world has become more complex than in the past, making the problems to be solved more numerous, intricate and expertise-demanding, the general level of education and the ability of citizens to access information has extensively improved, also aided by the online availability of low-cost information and global interactions. Finally, many of the issues on which the public is currently not permitted to debate and deliberate involve not only technical expertise but also

fundamental moral judgments, as well as having a significant impact on citizens' lives and future generations, as exemplified by the case of joining an international organization.

Hence, these are precisely the areas that should be subject to a more intensive process of democratization—which, so far, seems to have been lacking—, enabling the power to reconnect to the citizenry, its rightful and ultimate owner.

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# Italian Summary

Questo lavoro è iniziato con l'obiettivo di determinare se l'attuale sistema politico occidentale di stampo rappresentativo possa effettivamente essere considerato democratico, o se possa invece evolversi verso forme di governo più dirette e caratterizzate da un maggior coinvolgimento popolare.

Per rispondere a questa domanda, si è ritenuto di dover partire dal concetto stesso di democrazia, e di democrazia diretta nello specifico. Il significato attribuito alla parola democrazia – che ancora oggi pare per certi versi dibattuto e non universalmente riconosciuto – è infatti andato incontro a profonde trasformazioni nel corso dei secoli. Ciò che è certo è che la parola democrazia deriva dal greco e può essere intesa come "governo del popolo". Significato etimologico a parte, non è però chiaro quali siano – e quali fossero in passato - gli elementi fondamentali affinché un sistema di governo possa considerarsi democratico, o addirittura una democrazia diretta.

Per cercare di individuare questi elementi, è stata condotta un'analisi qualitativa di diversi esempi storici rilevanti. Nello specifico, si è partiti da quello che è stato preso a modello da diversi autori e che Gil Delannoi ha addirittura definito "splendente esempio" di democrazia: l'Atene del V e IV secolo AC. Dall'analisi del modello ateniese sono immediatamente emersi quelli che sono i due elementi che più di ogni altro contraddistinguono i sistemi democratici intensi in senso "originario": l'Assemblea generale dei cittadini e la loro partecipazione alle funzioni pubbliche con massiccio uso del sorteggio per l'assegnazione delle cariche. Pur escludendo una parte considerevole della popolazione – donne, minori, *meteci* e schiavi, oltre che i cittadini maschi sottoposti alla pena dell'*atimìa* – l'Assemblea permetteva formalmente a qualunque cittadino di partecipare ai dibattiti, anche intervenendo in prima persona (*isegoria*), e votare sulle questioni di interesse della collettività. L'Assemblea non era comunque l'unico corpo politico nel sistema ateniese. Esistevano altri organi rilevanti, come le corti popolari o il Consiglio. Tuttavia, gran parte delle cariche pubbliche, comprese le cinquecento del Consiglio, erano assegnate per sorteggio, garantendo quindi a chiunque un'uguale possibilità di essere selezionato. Il metodo del sorteggio - che evidentemente non è esente da debolezze, prima fra tutte il rischio di selezionare individui incompetenti - era comunque mitigato da una serie di correttivi: autocandidatura, voti di sfiducia, ma soprattutto elezione per le cariche ritenute più tecniche come quelle militari o finanziarie.

Lo studio è poi proseguito con esempi cronologicamente più vicini ai giorni nostri, ma sempre e comunque rilevanti, alla luce di quelli che sono stati individuati come i due elementi fondamentali della democrazia "originaria". Dopo l'analisi delle repubbliche di Firenze e Venezia, ci si è resi conto che il sorteggio è però andato progressivamente in disuso, fino di fatto a scomparire nei modelli più

recenti, tanto da indurre a credere che il carattere diretto di un sistema di governo sia legato proprio all'Assemblea dei cittadini più che al sorteggio.

Le comunità del New England o la Comune di Parigi del 1871 si contraddistinguevano infatti per la presenza di un'Assemblea dei cittadini con poteri deliberativi e da intendersi come l'organo politico principale. Addirittura, nel caso della Comune emerge in maniera esplicita la presenza del mandato imperativo: i funzionari pubblici, eletti e responsabili dell'amministrazione quotidiana degli affari della città, erano infatti tenuti a sottostare ai desiderata dell'Assemblea, tanto da poter essere richiamati o sostituiti. Pur originando addirittura nel diritto romano, oggi il mandato imperativo è essenzialmente estraneo al mondo occidentale, sopravvivendo in alcuni regimi di stampo socialista o comunista. In Occidente, soprattutto a partire dalla rivoluzione liberale del XVIII secolo, si è infatti ampiamente affermata l'idea che, una volta eletto, il delegato non rappresenti più soltanto gli interessi dei propri elettori ma si faccia portatore di un interesse più alto – quello dell'intera Nazione -, necessitando pertanto di una certa autonomia decisionale.

Già nel primo capitolo di questo lavoro, sembra emergere in manera piuttosto evidente che il principale motivo che ha portato alla scomparsa del metodo del sorteggio - aldilà del rischio di selezionare individui incompetenti, comunque mitigabile - è stato il principio del consenso. In base ad esso, i cittadini sono vincolati soltanto a ciò a cui hanno acconsentito. Nel caso delle elezioni, a differenza del sorteggio, il consenso è duplice: sul metodo di selezione e sull'esito particolare dell'elezione. Non va comunque trascurato il carattere aristocratico del metodo elettivo, che induce alla selezione di individui "atipici" e che funge da vero e proprio filtro, di fatto escludendo dalle cariche pubbliche le più basse fasce della popolazione.

Se i motivi che hanno spinto all'abbandono del sorteggio sono stati elucidati già nel corso del primo capitolo, quelli che hanno portato alla quasi totale scomparsa nel XXI secolo delle assemblee dei cittadini, a favore delle assemblee dei rappresentanti, sono enucleati nel secondo capitolo.

Si parte inevitabilmente dal motivo più evidente, nonché quello che sembra anche essere stato il principale argomento dei detrattori della democrazia assembleare: ci sono dei limiti fisici che impediscono ad un numero troppo vasto di persone di riunirsi e dibattere. Questo è peraltro ancora più vero in contesti sociali e territoriali di dimensioni decisamente più vaste rispetto alla *polis* di Atene, come sono gli stati nazionali, o anche solo le metropoli odierne.

Poi, i cittadini comuni non avrebbero la predisposizione naturale a prendere decisioni collettive efficaci ed orientate al perseguimento dell'interesse generale. Essi si farebbero frequentemente trasportare dalle emozioni e potrebbero facilmente essere vittima degli attrattivi discorsi dei

demagoghi. In più, ci sarebbero anche il rischio di "fazionalismo", di prevaricazione di un gruppo ai danni degli altri, come anche di derive radicali.

Infine, il XXI secolo si caratterizza per un tessuto economico-sociale decisamente più complesso e globalmente interconnesso rispetto al passato. Si tratta di un contesto che ruota per molti versi attorno alla figura del "tecnico", anche per via di problemi che sono sempre più complessi e numerosi. In società sempre più orientate alla crescita economica, poi, i cittadini spesso non hanno il tempo e le energie necessari per occuparsi della cosa pubblica, e finiscono per essere essi stessi a chiedere di poter essere rappresentanti da dei professionisti della politica.

Alla luce di questi elementi, il sistema rappresentativo ha preso il sopravvento su quello diretto, che sembra sopravvivere oggi soltanto in pochi contesti di piccole dimensioni. Oltre alle già citate cittadine del New England, che da quasi quattro secoli conservano una forma di partecipazione popolare dallo spiccato ideale democratico, questo lavoro ha preso in esame anche le comunità zapatiste del Chiapas, in Messico, che similmente vantano assemblee popolari con potere deliberativo, anche se solo dalla rivoluzione del 1994. Come anticipato, si tratta evidentemente di contesti marginali e difficilmente replicabili su vasta scala.

Esempi dal maggior potenziale – anche se non del tutto in linea con l'originale ideale democratico del passato – sono le piattaforme digitali *Better Reykjavik* e *Decide Madrid*, o gli strumenti democratici della Svizzera.

Reykjavik e Madrid si sono dotate delle proprie piattaforme digitali a seguito della grave crisi economico-finanziaria del 2007-08 che ha indotto i cittadini a chiedere a gran voce un maggior coinvolgimento in un sistema di potere politico ed economico che sembrava escluderli. *Better Reykjavik* e *Decide Madrid* hanno mostrato una considerevole capacità di coinvolgimento della cittadinanza, offrendo spazi digitali per lo scambio di opinioni, la discussione di proposte e il voto.

La Svizzera spiccava invece nel 2023 come il primo paese al mondo per *Participatory Democracy Index*. È sembrato allora del tutto ragionevole indagare i motivi, e gli strumenti, che hanno permesso al paese di raggiungere il primato. È emerso in maniera piuttosto chiara che la democrazia originariamente intesa non trova più spazio, nemmeno nel primo paese al mondo per indice di democrazia partecipativa. Essa è stata sostituita da una democrazia di stampo rappresentativo che può essere eventualmente integrata da "nuovi strumenti di democrazia diretta", quali petizioni e referendum. Tuttavia, è certamente interessante notare il fatto che agli Svizzeri venga concesso di approvare o respingere direttamente ogni singola riforma del testo costituzionale, ma anche di approvare o respingere l'ingresso nel paese nelle organizzazioni internazionali (IOs); per l'ingresso

nelle Nazioni Unite, per esempio, fu l'unico paese al mondo ad indire dei referendum popolari: il primo respinto (1986) e il secondo approvato (2002).

Il terzo capitolo parte invece dai dati che mostrano un generale e preoccupante livello di insoddisfazione popolare nei confronti del sistema rappresentativo odierno. Le cause sembrano essere diverse, dall'incapacità dei governi di farsi davvero carico delle istanze popolari, all'incapacità del voto di generare cambiamenti strutturali, dalla scarsa rappresentatività alla mancanza di *accountability*. Oltre al sistema nella sua interezza, a riscuotere scarso consenso popolare sono anche gli intermediari che si interpongono tra il potere e la cittadinanza: i partiti politici.

I partiti sembrano aver oggi abbandonato la loro funzione originale quali luoghi di confronto e compromesso, concentrandosi molto di più sul lato "imprenditoriale", vale a dire come accumulatori di deleghe elettorali. Essi sono ben presenti nei tre poteri dello stato e puntano essenzialmente ad un solo obiettivo: la propria sopravvivenza, che passa anche attraverso il mantenimento dello *status quo*. È in quest'ottica che un autore come Prandstraller ha definito esplicitamente i partiti come il più grande nemico della democrazia diretta.

Le nuove tecnologie di informazione e comunicazione (ICTs) sembrano infatti aver abbattuto i limiti fisici che in passato potevano esistere per l'instaurazione di un regime democratico più diretto. Dall'altro lato, è certamente vero che le sfide non mancano, dal *digital divide*, all'alto livello di informazione e consapevolezza che i cittadini devono necessariamente raggiungere, da *fake news* e bolle informative al rischio di radicalizzazioni. Tuttavia, molti elementi non riguardano in senso stretto il modo in cui i nuovi strumenti digitali potrebbero aumentare la partecipazione popolare, ma, più in generale, il modo in cui gli strumenti di propaganda, anche digitali, che già esistono possono condizionare le scelte individuali. Non è chiaro se un sistema che chiami i cittadini ad esprimersi più frequentemente, e con strumenti che possibilmente eccedano il solo voto, sia più o meno soggetto al condizionamento propagandistico. Ciò che è certo è che un sistema diretto sarebbe meno soggetto a fenomeni come *regulatory capture*, clientelismo, corruzione, pressioni esterne e potrebbe talvolta fungere da miglior aggregatore di informazioni.

Infine, partendo da un'intuizione di Norberto Bobbio – il quale riteneva che il processo di democratizzazione si dovesse concentrare non tanto sul "chi" quanto piuttosto sul "dove" -, si giunge alla conclusione che sia necessario ampliare gli spazi e le materie su cui ai cittadini venga effettivamente data la possibilità di decidere. In particolare, è stato osservato che una delle aree in cui la cittadinanza ha poca o nessuna possibilità di esprimersi e incidere concretamente è quella della politica internazionale, sia nel contesto dell'Unione Europea sia, e forse ancora più gravemente, all'interno delle organizzazioni internazionali. Anche in contesti simili, si ritiene che le ICTs possano

produrre un'evoluzione democratica considerevole e che il loro potenziale – nel garantire l'accesso all'informazione, alla giustizia ma soprattutto la partecipazione popolare ai processi decisionali – sia ancora ampiamente inesplorato.