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ISSN 2611-2914 (online)
ISSN 2611-4216 (print)
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Abstract

The aim of this paper is twofold. Firstly, there is an attempt to provide a detailed description of the political manifestos of the new parties, which have emerged in Tunisia since the breakdown of the authoritarian regime and the establishment of democracy. The array of policies dealt with by the party manifestos is surprisingly wide and the secular-confessional dimension is present together with others. Secondly, the structuring of the party cleavages is addressed. It is argued that it could be hardly reduced to the classic cleavage theory formulated by Lipset and Rokkan. The re-alignment of the Tunisian party system has taken the form of two opposing coalitions although deep regional and socio-economic cleavages have not helped political integration. Three regions are identified in terms of political continuity and socio-economic development, Sahel and Tunis, the South (Sfax and Kairouan), finally the Western underdeveloped areas at the border with Algeria. The current development of the Tunisian party system is described, referring to its dynamics and the general perspective of the democratization process.

Keywords

Party System, Cleavages, Elections, Democratization, Tunisia

Sistema partitico, fratture, elezioni, democratizzazione, Tunisia
Introduction

After the fall of authoritarian regime in 2011, Tunisia started a transition to democracy which has been largely deemed as successful. Three subsequent elections have been held at the national level so far, namely the elections to the Constituent Assembly (Assemblée Nationale Constituante, ANC) in October 2011, and the Parliamentary and Presidential elections in 2014.1 At the 2011 elections to the Constituent Assembly the center-right and Islamist Ennahdha (EN, Renaissance) gained 37% of the vote and a relative majority in the Assembly, while most of the remaining seats were divided among a variety of secular, mostly center-left parties, and some personal parties characterized by charismatic leadership and/or led by businessmen. The 2014 Parliamentary showed a different picture, since the new secular party Nidaa Tounes (NT, Tunisia Call) resulted as the winner and conquered also the Presidency in the same year. The Tunisian party system seemed to align around two major poles, orbiting around NT on the centre-left and EN on the centre-right. Nonetheless, there could not be said to be the establishment of a true bi-polar or two-party system working according to the Western Government-Opposition pattern. NT and EN have been the two major parties in the country during 2011-14, but at the moment EN is more likely to establish itself as a major player on the Tunisian political scene. Notwithstanding the fact that these two main parties dominate respectively the secular and the Islamist camp, the Tunisian party system persists in its high levels of fragmentation and polarization, both revealed by the profound ideological differences between the two parties and also by their regional rooting. If the secular-confessional cleavage shapes the Tunisian political party system, other social and political cleavages enter into the picture and affect the alignment of the parties on the political space.

After a brief examination of the context which led to the breakdown of the authoritarian regime in 2011 and the subsequent democratization phase, we focus on the elections to the ANC and the subsequent political elections in 2014. We aim at providing an insight over the Tunisian secular-confessional cleavage through a content analysis of the manifestos of the three major parties which entered the 2011 elections, namely EN, the Congrès pour la République (CPR) and Ettakatol (FDTL), and of NT which eventually established itself as a pivotal actor and replaced FDTL as a reference point for the progressive electorate in the aftermath of the transition to democracy. FDTL represented initially the ideological field of the secular forces in Tunisia, which was subsequently occupied in 2014 by NT. We therefore use the content analysis on the

---

1 Local elections were held in May 2018 that are not included in the present analysis although considered in the conclusive chapter to interpret the general trend of the Tunisian party system.
parties’ programmes as proxy of the secular-ideological political spectrum in Tunisia. In this way, we are able to have a relatively homogeneous picture referring to the initial phase of the Tunisian democratization, which culminates with the elections of the ANC and the 2014 elections.

From a theoretical point of view, it is argued that the classic Rokkan approach to the analysis of the spatial party alignment suffers because of its eurocentricity. The manifestos show indeed a much more complex matrix of themes, that cannot easily be reduced to the functional and territorial axis which have shaped the European political landscape according to Rokkan (1967). The compromise reached by EN with a wide spectrum of secular parties between 2011 and 2014 favoured the adoption of the new democratic constitution and hastened the reorganization of the secular camp anticipating the 2014 electoral outcome. The re-alignment of the party system took the form of two opposing coalitions although deep regional and socio-economic cleavages have not helped political integration. Three areas are identified in terms of political continuity and socio-economic development, Sahel and Tunis, the South, Sfax and Kairouan, and finally the Western underdeveloped areas at the border with Algeria. Notwithstanding the fact that the parties in the secular camp changed labelling over time, their appeal in these three areas did not decline in 2011-2014. As has been pointed out (Van Hamme, Gana and Ben Rebbah 2014), the North-South cleavage emerged during the state-building process in the post-colonial phase and it is connected to the different socio-economic levels of development.

The Breakdown of the Authoritarian Regime in 2011 and the Elections to the Constituent Assembly

As has already been pointed out (Battera 2012, Ieraci 2013a, Ieraci 2013b), the political stability of Tunisia after the declaration of independence in 1956 was very much guaranteed by the ability of the regime to channel a relatively low level of mobilization through a party organization (the Rassemblement constitutionnel démocratique, RCD).² The party became an instrument of state control and managed various aspects of society, from access to the state bureaucracy via patronage to the control of market sectors and of the national economic system. Tunisia held political elections but they were not free and fair, because the oppositions were excluded, while the Parliament played a symbolic function of ratification of the decision of the autocrat. This func-

² RCD was constituted in 1988 by cadres of the former bourguibist Parti Socialiste destourien (PSD) in support of president Ben Ali.
tion was symbolic because of the position of the Parliaments and their irrelevance in decision-making, and because of the presence of a dominant party. In Tunisia, 20% of the seats were formally reserved for the opposition, but the RCD of President Ben Ali assured more than 80%, thanks to an electoral system which attributed to the majority party in each constituency all the available seats (Ieraci 2013b: 19).

When Ben Ali fled and a new government was announced on January 17th, 2011 this government included twelve members of the ruling RCD. Mass protests continued leading to a reshuffle of the government and the dismissal of all the RCD members with the exclusion of the Prime minister. In April 2011 an electoral commission was instituted to design a new electoral system, which turned out to be a PR with party lists and individual seats distributed between lists in constituencies using the largest remainder method. According to this method, the lists are closed, a voter can only choose between lists, and not individual candidates, and is required to alternate between men and women. The 2011 reform is of crucial relevance, in that it established the electoral system to be used in Tunisia ever since.

Elections for the ANC were held on the following October 23rd, 2011. The primary issue of controversy during the campaign opposed the role of secularism and Islam in public life and their place in the Constitution. While EN tried to spread the image of a party which was marked by pluralistic principles such as civil freedoms and equality, most of the secular elite worried about the likelihood that once in power the party would endanger achieved civil rights, and in particular women rights. The public was indeed well conscious that it would be summoned to vote not only for the ANC but, more important, also for a new government. From the results (see Tab. 1), two main political tendencies emerged. The confessional and pro-Islam side of the political spectrum was coherent and dominated by EN. On the opposite side, the secularist ‘lib-lab’ camp was divided by different conceptions of the economy, ranging from the liberal (Afek Tounes) to ‘labour’ approach (Parti démocrate progressiste, PDP; Ettakatol, FDTL; Pôle démocratique moderniste, PDM), and by different degrees of commitment with the former regime. A third party, the CPR (Congrès pour la République), emerged as standing between the two recalled confessional-secular tendencies. There was the communist PCOT (Parti communiste des ouvriers de Tunisie), which refused to join the secular ‘lib-lab’ camp, and finally the partisans of the former regime were allowed to run for elections and they gathered around al-Moubadara (‘The Initiative’).

In total, 4,308,888 Tunisians turned out (52%), and about 4 million of votes were declared valid. Ennahdha obtained 37.0% of the votes and was able to gain 89 seats out of the 217 of the ANC (see Tab. 1). It is noteworthy that the third most voted party there was the PP (Pétition populaire), a personalist and populist party founded by a businessman (Hechmi Hamdi). About 20% of the electorate voted for the sec-
Tab. 1 – 2011 Constituent Assembly Election (Turn out 52.0%)

<table>
<thead>
<tr>
<th>PARTY</th>
<th>SEATS</th>
<th>VOTES</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>EN</td>
<td>89</td>
<td>1,502,000</td>
<td>37.0</td>
</tr>
<tr>
<td>CPR</td>
<td>29</td>
<td>354,000</td>
<td>8.7</td>
</tr>
<tr>
<td>PÉTITION POPULAIRE</td>
<td>26</td>
<td>274,000</td>
<td>6.7</td>
</tr>
<tr>
<td>FDTL (ETTAKATOL)</td>
<td>20</td>
<td>285,000</td>
<td>7.0</td>
</tr>
<tr>
<td>PDP</td>
<td>16</td>
<td>160,000</td>
<td>3.9</td>
</tr>
<tr>
<td>AL-MOUBADARA</td>
<td>5</td>
<td>130,000</td>
<td>3.2</td>
</tr>
<tr>
<td>PDM</td>
<td>5</td>
<td>113,000</td>
<td>2.8</td>
</tr>
<tr>
<td>AFEK TOUNES</td>
<td>4</td>
<td>77,000</td>
<td>1.9</td>
</tr>
<tr>
<td>PdT</td>
<td>3</td>
<td>64,000</td>
<td>1.6</td>
</tr>
<tr>
<td>Others</td>
<td>20</td>
<td>1,095,000</td>
<td>27.2</td>
</tr>
<tr>
<td>Total Valid</td>
<td>217</td>
<td>4,054,000</td>
<td>100.0</td>
</tr>
</tbody>
</table>

[Source: ISIE 2011]

Tab. 2 – Distribution of the Vote for EN in the Constituencies of Three Areas in the 2011 Political Elections

<table>
<thead>
<tr>
<th>Sahel and Tunis</th>
<th>%</th>
<th>South, Sfax and Kairouan</th>
<th>%</th>
<th>West</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>TUNIS 1</td>
<td>46.3</td>
<td>KAIROUAN</td>
<td>43.0</td>
<td>BEJA</td>
<td>31.1</td>
</tr>
<tr>
<td>TUNIS 2</td>
<td>30.3</td>
<td>SFAX 1</td>
<td>44.1</td>
<td>JENDOUBA</td>
<td>28.0</td>
</tr>
<tr>
<td>ARIANA</td>
<td>36.1</td>
<td>SFAX 2</td>
<td>37.8</td>
<td>LE KEF</td>
<td>26.7</td>
</tr>
<tr>
<td>BEN AROUS</td>
<td>42.3</td>
<td>GABES</td>
<td>53.0</td>
<td>SILIANA</td>
<td>28.5</td>
</tr>
<tr>
<td>LA MANOUBA</td>
<td>40.7</td>
<td>MÉDENINE</td>
<td>47.7</td>
<td>KASSERINE</td>
<td>31.8</td>
</tr>
<tr>
<td>BIZERTE</td>
<td>41.0</td>
<td>TOZEUR</td>
<td>43.1</td>
<td>SIDI BOU ZID</td>
<td>15.6</td>
</tr>
<tr>
<td>NABEUL 1</td>
<td>31.3</td>
<td>KEBILI</td>
<td>40.5</td>
<td>GAFSA</td>
<td>40.4</td>
</tr>
<tr>
<td>NABEUL 2</td>
<td>29.6</td>
<td>TATAOUINE</td>
<td>59.4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ZAGHOUAN</td>
<td>34.6</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SOUSSE</td>
<td>35.8</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>MONASTIR</td>
<td>32.5</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>MAHDIA</td>
<td>31.1</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

[Source: ISIE 2011]
ular parties (al-Moubadara and the communists included). About 9% of votes went to CPR and the rest were dispersed among other 17 parties for a total of 27.2% of the votes. These other minor parties were all characterized by weak ideological profiles and personalism.

As above recalled, if the Tunisian socio-economic and demographic development in the post-colonial phase is taken into account, three areas could be identified (Sahel and Tunis, the South, and the West). Tab. 2 reports the electoral results of EN in the constituencies of the three areas, as a proxy of the confessional vote. EN performed at its best in the southern electoral constituencies, particularly Gabes, Médenine and Tataouine, while its lower scores were recorded in three western electoral constituencies, and particularly in Sidi Bou Zid. It should be considered that the revolt against the regime spread from the western districts of Sidi Bou Zid, Le Kef and Jendouba, characterized by economic underdevelopment in comparison with the coastal north.

Unable to form a government alone, EN started talks with the other parties in search for a coalition arrangement and an agreement on the distribution of the political offices. The CPR, having no prejudices against EN, was prompt to join the coalition government. Ettakatol followed, although this move generated much disappointment among its cadres and electors. By the end of October Hamadi Jbeli (Ennahdha) was elected Prime minister. A month later Mustapha Ben Jaafar, leader of Ettakatol, was elected as President of the ANC, and on the 12th December Moncef Marzouki was elected as President of the Republic with 75% of votes. The outcome of the Tunisian elections to the ANC had an immediate worldwide impact and it was positively welcomed by comments and analysis. Some factors, such as the degree of urbanization, the establishment of large cross-class coalition, and the absence of communal cleavages, were considered conducive for democratic transition in the Tunisian case (Brumberg 2013; Hinnebush 2015).

Political Struggle and party competition in the Early Democratization Phase. Party Manifestos and the 2011 Elections

Our aim is to identify the main party cleavages that have occurred in Tunisia after the collapse of authoritarianism. Despite some inter-party conflicts (Yardimci-Geyikçi and Tür 2018), the Tunisian transition still stands out as a case of success among the countries of the Arab spring. We can assume as in the classic interpretation of Lipset and Rokkan that a political party is at the same time an agent of conflict and an instrument of integration. The parties integrate the components of a society because
“they have served as essential agencies of mobilization” (Lipset and Rokkan 1967: 4). But at the same time, the parties “help to crystallize and make explicit the conflicting interests” Lipset and Rokkan (1967: 5). This dual function of the parties is always evident in politics and becomes even more crucial in the phases of democratic transition, when the problem of reconciliation and the organization of the first open and competitive elections arises. The general assumption of Lipset and Rokkan is that “the crucial cleavages and their political expressions can be ordered within […] a territorial dimension of the national cleavage structure and […] a functional dimension” (Lipset and Rokkan 1967: 10). This scheme is general enough to be conveniently adapted to various contexts. Moreover, it seems to grasp with considerable appropriateness the main causes of party conflict within a state. In fact, the territorial dimension refers to the possibility that reactions of peripheral regions, linguistic minorities, and culturally threatened population to the pressures of the central elites emerge in the formation of the state, or following a regime transition and the attempt of new elites to seize the power. The functional dimension, for its part, is useful to identify “the typical conflict over short-term or long-term allocations of resources, products, and benefits in the economy” (Lipset and Rokkan 1967: 10). An explicit “territorial question” is not present in the post-authoritarian phase of Tunisia, which as a post-independence state has not suffered from conflicts with linguistic and territorial minorities. However, the socio-political development of Tunisia cannot be defined as balanced, because the areas of the Mediterranean coast enjoy a higher level of wealth and economic progress than those of the south and west of the country.

The functional dimension and the territorial dimension are therefore connected in the Tunisian case and it is for this reason that the Lipset-Rokkan scheme can be fruitful. Nonetheless, the “critical junctures” (Lipset and Rokkan 1967: 47) that impacted on the functional and territorial-cultural axes and generated the center-periphery, church-state, land-industry and owner-worker fractures are specific to Europe and have no equivalent in the short history of post-colonial Tunisia. We must therefore see how in the Tunisian case contingent cleavages have emerged on the functional and territorial axes. To do this, two research strategies could be followed. One would imply the systematic study of territorial, cultural and class heterogeneities. It would be a question of applying an extensive research strategy to the Tunisian case, analogous for example to that applied by Bartolini (2000) to the study of the mobilization of the European left between 1860 and 1980. However, this perspective goes beyond the limits of this research, which mainly aims to assess the reactions of the new party system following the democratic transition. Therefore, we needed to adopt a less ambitious research strategy, but which would promise to lead more directly to the answers of some basic questions. What are the main parties that appeared on the Tunisian polit-
ical scene after the transition? How did they fit into the political space? What are the main dividing lines in this space?

For this second research strategy, the solution consisted in searching for a proxy variable of the parties’ positions on the «space of competition» which is conceived as party-defined space (Budge and Farlie 1977). The Manifesto Research Group (Budge 2001) offered an insight, that suggested submitting the party manifestos to a content analysis in order to detect the positioning of the parties on the “left-to-right” political continuum. In a first stage, the researcher is supposed to identify and classify ex-ante the political issues according to their “leftist” or “rightist” features. Subsequently, a content analysis on some text is run, through which: “The percentages of sentences coded into each category constitute the data used in further statistical analysis, such as the Left-Right scales [...] these identified certain categories as belonging theoretically to the right (‘free enterprise’, for example) and certain to the left (such as ‘economic planning’)” (Budge 2001: 78).

With respect to this solution, we have adopted some variants. The first and most important one was the renunciation of defining ex-ante left and right. Not only do these categories apply with difficulty to non-European countries, they also limit the analysis of the competition space in a one-dimensional sense. Although ‘left’ and ‘right’ may have universal character (for example, left may be associated with ‘eager for equality’, whilst right may be associated with ‘preservation of traditions’), their contents are necessarily historically (during which time?) and spatially (in which context or even country?) determined, something which makes cross-time and cross-national comparison rather unreliable. There is the risk not to measure ‘objective’ party positions but rather ‘subjective’ (the researcher’s) reactions to certain stimuli. Secondly, the cleavages that emerge along the two assumed territorial-cultural and functional dimensions are contingent, that is, they result from the political manifestos of the parties as direct and spontaneous manifestations of the positions.

As we have said (see Tab. 1), the 2011 elections for the ANC signaled three main parties of the post-authoritarian phase, namely EN (Ennahdha), the Congrès pour la République (CPR) and Ettakatol (FDTL). Our analysis was conducted on the manifestos of these three parties, and on the manifesto of Nidaa Tounes (NT) which was founded in 2012 and soon became a point of reference of the moderate and progressive camp. EN and FDTL are particularly significant, because they constitute the reference points of the political debate along the confessional (EN) and secular (FDTL) axis. Furthermore, FDTL can rightly be considered the precursor of NT, which became a pivotal party after its success in the 2014 general elections. FDTL stand at the origin of the networks of the secularists and the old regime forces, which eventually led to the foundation of NT (Boubekeur 2016). The case of CPR can be considered intermediate with respect to
these two. In fact, CPR stems from the historical opposition to Ben Ali’s regime and combines references to the values of Western democracy and to the Tunisian identity. In its founding declaration (which dates 2001), CPR declared as its goal to establish for the first time in Tunisia a republican regime, guaranteeing freedom of speech, of organization and expression as well as the holding of free and fair elections. CPR also calls for the enactment of a new constitution establishing a strict separation of powers, the respect for human rights and gender equality. In addition, CPR calls for a “renegotiation” of Tunisian commitments to the European Union and support the right to the self-determination of peoples, particularly in support of the Palestinian cause.

The methodology here employed aims at a content analysis of the official political programs of the three parties, that is of their “political manifestos”. The frequencies of the themes or issues presented in these programs have been recorded, but care has been taken to distinguish between “axial symbols” and “connected symbols”. The axial symbols are those that appear in each sentence of the program as the subject or the main object of the sentence itself. The connected symbols are those subordinate to the axial symbols. For example, in the hypothetical phrase “The Tunisian identity must be the reference point for the development of the political community”, “Tunisian identity” will be registered as an axial symbol and “development of the Tunisian community” as a symbol connected to it. In general, the syntactic structure of these programs is elementary (subject, verb, predicate) and although there may be differences in the connection between verbs and predicates, or even if the same subject can be connected to the object or objects with multiple predicates, these differences have not been recorded. Indeed, our aim is not a linguistic analysis, but a substantial one. When an axial symbol is linked to several connected symbols, we have counted the frequencies by associating them with the axial symbol, as shown in the tables in the Appendix.

We can briefly characterize the four parties (see the tables in the Appendix). EN presents itself as a traditionalist party linked to the affirmation of Muslim identity. “Arab identity” is the most frequent axial symbol. “Tunisian society” is another important axial symbol, but it is often connected to a symbol such as “Arab-Muslim identity” and also “independent from the state”. “Youth” and “Women” are important axial symbols, but often connected to symbols that recall a traditionalist vision, such as “family”, “freedom against clothing style” (which emphasizes freedom from western styles), “mother (breastfeeding)” and “as rural economic worker”. In the program of EN we also find constant references to “Development” (axial symbol), which is frequently connected to “local, regional, balanced”, “agricultural”, “Tunisian production”. Finally, there is no procedural conception of democracy and the axial symbol “People” is frequently connected to that of “sovereignty (of the people)”. Ultimately, EN could
be seen as a traditionalist party, with a local and regional vision of economic development and ultimately linked to a populist conception of democracy.

In the case of FDTL we find a more secular view of politics and also a more modern conception of social and political development. “State” is the most common axial symbol. Other axial symbols make it clear that FDTL adheres to a procedural and rational-legal vision of politics, for example “Constitution”, “Parliament”, “Rights”, “Judiciary and justice”, “Administration”. All these axial symbols are actually absent in the EN program. Economic development is conceived in capitalist terms, as shown by the frequency of the axial symbol “Investments” and its connection to “Infrastructure”, “Bank orientation to investment”, “Private investment”, “Business culture” and the like. FDTL also places great emphasis on “Training and education”. We find among the axial symbols references to the territorial dimension but a “statist” perspective is privileged. “Regional and municipal administrative structures” is an axial symbol associated with “Autonomy”, “Decentralization”, “Support for regions and municipalities”. The very conception of “Administration” (axial symbol) is modern, as it is shown by its connection to symbols such as “Transparency”, “Neutrality” and “Objective assessment”. “Family” appears as an axial symbol but in connection with current themes such as “Parental leave”, “Protection of minors”, and “Fighting domestic sexual violence”. Ultimately, FDTL presents itself as a modern and secularized party, which addresses its appeal to the most advanced social and economic strata of Tunisia, such as those found in urban centers or more exposed to Western influence.

The case of CPR is interesting because it is a party founded abroad in 2001 by opponents of the Ben Ali regime. The references to “Development” and “economic growth” are central to the CPR program, but in connection with the “regional” dimension, the “development of the Maghreb”, “integration” and “cooperation”. CPR greatly emphasizes the cultural dimension of its action, as the symbols related to “culture” show, such as “Arabic-Islamic Ministry”, “Superior Council of Culture” and “cultural freedom”. CPR is the party that mostly addresses the state establishment and in particular the magistrates and the “Judicial system” (axial symbol). This inclination can probably be explained as an attempt of the CPR to secure the support of the magistrates and of part of the state apparatus. We can similarly interpret the attention to the “Military” and to the “National defense” (axial symbols) to which the symbols “military formation”, “strategy”, “industry” and “military courts” are connected. The defense of the “Arab identity” is underlined, also in connection with “Arab-Islamic origins” and “Arab revival”. Ultimately, CPR is a party that proposes itself as a political guide in the hypothesis of a transplacement (Huntington 1991: 151-161) within the regime. For this reason, in its program there is an attempt to balance references to modernization and
political transition with aspects of continuity of the Tunisian regime and state, as well as the re-establishment of the Islamic tradition.

Finally NT, founded in 2012 by the then Prime Minister Beji Caid Essebsi, presents itself as a political party with a secular matrix, with obvious references in its program to the social-democratic tradition and to the issues of the welfare state (see the relative table in the Appendix). The most recurrent axial symbol is “development”, which is often found in connection with “research and innovation”, “modernization”, according to the typical appeal of parties of the social-democratic tradition. However, the social-democratic vision of NT is very attentive to the theme of Tunisian identity (“Tunisia, Tunisian nation”, 53 occurrences), which is found with the connected symbols “economic development”, “Tunisian history and culture”, “tourism”, occasionally also with “Revolution and Freedom”. The axial symbols “Employment” (44 occurrences), “Enterprise” (57), “training and education” (36), “Youth” (35) are among the most common. It should be noted that the NT program reports specific references to some issues related to the development of a welfare system, as shown by the references to the “National Health System” (14 occurrences) and to the “House policy” (18). Any reference to the religious dimension is absent, while NT is the party that pays more attention to the gender issue (“Women and gender equality”, “and maternity leave” appear with 13 occurrences). Finally, references to the Constitution and human rights are almost absent, perhaps a sign that at this stage of post-democratization fundamental rights no longer seem threatened. In essence, NT offers itself as a progressive party, with an explicit social-democratic matrix, which addresses its appeal to the middle, educated and urbanized classes of Tunisia.

Figs. 1-2 provide a summary view of the “party-defined space” as emerges from the analysis of the contents of the manifestos of the four parties and their qualitative comparison. In Fig. 1 the parties are positioned in a two-dimensional space defined according to the scheme of Lipset and Rokkan, crossing the territorial dimension with the functional one. After the Tunisian transition to democracy, the territorial dimension manifests itself as an opposition between the vision of the state as a rational-legal institution and the tendency to reaffirm the basic communities and the regions. The first vision is clearly a legacy of the French post-colonial tradition, while the second is affected by the attempt to recover local identities and above all the ethnic components. Along the functional dimension, there is a “universal” vision that accepts the effects of the modernization and globalization of the markets and a “particular” vision, still linked to the local dimension and the value of solidarity. Looking at the symbolic content of the programs of the four parties (see Appendix), there is clearly a contrast between the vision of an “integrated” Tunisia proposed by FDTL and the “insular” vision defended by EN. This last, along the territorial dimension, underlines...
Fig. 1 – EN, FDTL, CPR, and NT on the territorial-functional axis

![Territorial-functional axis diagram]

Fig. 2 – EN, FDTL, CPR, and NT on the democracy-confessional/secular axis

![Democracy-confessional/secular axis diagram]
the geographical and community composition of Tunisia, almost never proposing a state perspective. Along the functional dimension, EN continually refers to local and regional economic development, which is balanced and takes into account the needs of civil society. Finally, the references to the global economic dimension are absent. FDTL instead presents a vision that we could define as “Integrated” Tunisia. FDTL places the maximum emphasis on the “rational-legal” character of the new Tunisian state, which must be democratic, guarantee freedom and be endowed with an efficient central administration. For this reason, in the FDTL program we also find significant references to the importance of training and higher and university education. The concept of society and the economy of FDTL, along the functional dimension, is clearly inspired by globalization, as shown in the program by the frequent referrals to the levels of investments and infrastructure, to the economic development linked to international markets, to innovation and business competition. CPR instead places itself in an intermediate position between these, because it accepts the secular vision of the state (territorial dimension), but from the functional point of view it underlines both the aspects of the cooperation of Tunisia with its Arab neighbors and the emerging countries, and with the EU. Ultimately, the vision of CPR along the economic-functional dimension is suspended between a cautious adhesion to globalization and the will to preserve the Tunisian matrix of development. Finally, as we have said, NT presents itself in 2012 with a clear secular, progressive and social-democratic vision, in fact launching an open challenge to the confessional vision of EN.

In Fig. 2 the democratic dimension has been crossed with the societal dimension. Indeed, party programs present different perspectives in the conception of democracy and the social community. A counterpoint between the procedural or madisonian conception of democracy and a populistic one (Dahl 1956) is clearly evident, while the confessional-secular cleavage appears on the societal axis. Also in this party-defined space the contrast between EN and FDTL appears clear. The former, welcomes the populist vision of democracy and makes itself the defender of the Arab-Muslim identity, and it places the traditional family at the center of its program. In EN’s program we also find the only explicit references to God and the idea that Tunisian society must be declined in the Arab-Muslim identity. Nonetheless, EN can be considered among the “religiously oriented parties” as a conservative type, which acquired at least some features of catch-all parties appealing to all voters except convinced anti-clericals (Ozzano 2013). Ultimately, EN defends the idea of a “Traditional Tunisia” and our findings are consistent with Cavatorota and Merone (2013), who argued that EN moved from its extreme anti-systemic position of the 1970s to become a mainstream conservative party. EN was originally part of the Tunisian Islamist movement developed from the early 1970s as a critical approach to Bourguiba’s attempt to mod-
ernize the country according to a model that would follow the secular tradition of France. The analysis of the political manifesto of EN shows that it “has moved away progressively from its anti-democratic and illiberal position to become a much more traditional religiously oriented political party” (Cavatorta and Merone 2013: 873). On the contrary, FDTL emphasizes the role of political institutions that represent procedural and representative democracy, such as the parliament, the elected president, the constitution and the courts that must defend it. In the FDTL program there are no confessional references. CPR in this two-dimensional space does not differ much from FDTL and also inclines towards a conception of “Modernized Tunisia”. FDTL and other secular parties constitute the political base on which eventually a new rally of the secular camp was possible with the foundation of NT. From December 2011 three subsequent governments followed, and they were supported in the ANC by the same coalition. The first two governments were led by leaders of EN while the third government was a caretaker one led by Mehdi Jomaa (January 2014 – February 2015). The latter enjoyed an even wider support in the ANC including some smaller parties. Under the leadership of Mehdi Jomaa, the Tunisian government tackled some issues related to the economic situation and left the assembly free to focus on the organization of the new political elections. Moreover, Mehdi Jomaa’s government managed a sort of national reconciliation after the former controversial leadership of Ali Laarayedh during whose service in office several leftist activists were murdered. Meanwhile, the group composition of the ANC underwent some remarkable changes. With the exception of EN, between 2011 and 2014 both the CPR and FDTL suffered from floor crossing and splits. A number of new secularist split groups were generated, notably Alliance démocratique, Groupe démocratique and Transition démocratique. Pétition populaire, the populist and personal party of Hechmi Hamdi, disappeared from the ANC as an autonomous group.

This reconfiguration of groups in the ANC was also the effect of the birth of NT as the new rally of the secular camp. Although NT does not directly address the constitutional and democratic question in its program, the constant reference to social rights is a clear indication that the political conception of NT is very close to the liberal-democratic one. Contrary to expectations, the fragmentation and the following re-configuration of the assembly before the 2014 elections helped to reach mediation

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3 These political crimes cast a negative shade on Ali Laarayedh and brought about unprecedented political tensions after the transition of 2011. Ali Laarayedh was indeed considered by the secular camp as a hardliner among Ennahdha. He was forced to resign in January 2014.

4 Twelve of its MPs resigned from the party already in November 2011 by declaring themselves independent, others quitted the party thereafter. In 2014 the party managed to gain two parliamentary seats.
on the most delicate issues such as the place of secularism in the Constitution and the form of government.

The 2014 parliamentary and presidential elections. Cleavages and the regional dimension

The analysis previously carried out on the manifestos of the four major Tunisian political parties of the transitional phase has served to design a “party-defined space”, which allows the identification of the main cleavages and issues that have guided the political struggle in Tunisia up to the first parliamentary elections of 2014. Now let us turn our attention to this post transition phase. To what extent have the cleavages of the post-transition phase been maintained and how far have they guided the 2014 political electoral campaign? What are the prospects for the 2019 elections?

Under the national dialogue promoted by the civil society and as a result of the new favorable political climate, a new constitution was finally adopted on January 26th 2014. As part of the same deal a new government was selected under the leadership of Mehdi Jomaa, which led the country in the transitional period to new elections. On 26th October 2014 parliamentary elections were held, followed at the end of November by the first round of presidential elections. As recalled above, the main novelty of this phase is the birth of the new secularist party NT in 2012, which can be effectively considered the “political heir” of FDTL and of other secularist parties. The electorate of NT is secularized and it coincides with the electorate that in 2011 had supported FDTL. Moreover, as illustrated above, NT’s program may be labeled as “social-democrat” and it presents many points of contact with that of FDTL. The 2014 Parliamentary elections significantly gave to NT a relative majority of 86 seats, while EN gained 69 of the overall 217 seats in the Assembly of Representatives of the People (see Tab. 3).

By the end of November, the first round of the presidential election was held. Unexpectedly, EN refused to present its own candidate and decided to support the incumbent president Moncef Marzouki, notwithstanding that Marzouki’s party (CPR) had almost disappeared from the ARP. Therefore, support by EN was crucial for Marzouki but not enough to guarantee him the Presidency, which was won by Caid Essebsi of

\footnote{The parliament is elected for a 5-year term, but can be dissolved earlier by the President following a failure to form a government, or a failed confidence vote. The country was divided into 27 multi-member constituencies (mostly coinciding with governorates) for 199 seats (between four and 10 seats each) plus 18 seats distributed among six constituencies abroad for a total of 217 MPs.}

\footnote{We can assume that in 2014 CPR’s voters turned largely to EN, as seems evident observing the data of the second presidential run.}
NT with about 56% of votes at the second turn. Discussions followed between the two main parties over the formation of the new government which was eventually led by Habib Essid (February 2015 – August 2016), an independent politician, who had served as Home Affairs Minister in the interlude government of Caid Essebsi in 2011 after the demise of the Ben Ali’s regime. Essid’s government was supported by a large coalition of NT, EN, the UPL (Union Patriotique Libre) and Afek Tounes.

The presidential elections showed a country roughly divided into two political areas: in the North, the secularist Caid Essebsi largely prevailed, while in the South the pro-Ennahdha Marzouki resulted as the most voted candidate. Two core-opposed areas could be observed. Tunis and the Sahel were pro-Essebsi and NT, whilst the South, Sfax and Kairouan, were largely pro-EN. However in the underdeveloped West, some leftist anti-government parties, particularly the Front populaire (FP), drew many of their votes. This electoral result at the first round of the Presidential elections is coherent with the result of the parliamentarian elections, which in the West marked the affirmation of some small personal parties (see Tabb. 4-5). Presumably, the leftist anti-government voters of the West opted for Essebsi at the second round of the Presidential elections.8

7 Founded by the Tunisian businessman Slim Riahi, UPL is a “liberal” and secularist party, however marked by the personality of its founder. It was the third largest group in the ARP.
8 The West is the Tunisian region with the lowest pro-capita income (Boughzala & Tlili Hamdi 2014: 10). About a dozen parties compose the FP. A large part of its members were originally members of the PCOT (Parti communiste des ouvriers de Tunisie) and Hamma Hammami, former leader of the PCOT, is its spokesperson. Notwithstanding that FP is a party which rallies many political fractions, it has not

<table>
<thead>
<tr>
<th>PARTY</th>
<th>SEATS</th>
<th>VOTES</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>NIDAA TOUNES</td>
<td>86</td>
<td>1,280,000</td>
<td>37.6</td>
</tr>
<tr>
<td>ENNAHDA</td>
<td>69</td>
<td>948,000</td>
<td>27.8</td>
</tr>
<tr>
<td>UNION PATRIOTIQUE LIBRE</td>
<td>16</td>
<td>141,000</td>
<td>4.0</td>
</tr>
<tr>
<td>FRONT POPULAIRE</td>
<td>15</td>
<td>125,000</td>
<td>3.7</td>
</tr>
<tr>
<td>AFEK TOUNES</td>
<td>8</td>
<td>103,000</td>
<td>3.0</td>
</tr>
<tr>
<td>OTHERS (CPR)</td>
<td>23(4)</td>
<td>(70,000)</td>
<td>23.9</td>
</tr>
<tr>
<td>TOTAL VALID</td>
<td>217</td>
<td>3,580,000</td>
<td>100.0</td>
</tr>
</tbody>
</table>

[Source: ISIE 2014]
Rallying the secularist forces behind NT was a key strategy to win a majority of votes in the country, yet the cohabitation between the secularists and the Islamists became very demanding for both the components behind the government. However, party cohesion in EN was no match for that of the parties rallied in the secular camp, where towards the end of 2015 a split appeared between a faction that hardly tolerated any cohabitation with the Islamists and one that was rather more disposed to compromise with EN. In December 2015, these divisions exploded and Mohsen Marzouk,

been marred by any defection among its MP’s since 2014. FP obtained in 2014 about 125,000 votes (3.7% of the total cast), 1/3 of which were casted in the underdeveloped West. Consequently, six out of the fifteen MPs of FP were elected in the West districts, where the votes for the FP were about 1/5 of those for NT and about 1/3 of the votes for EN. The rooting of FP in the West (particularly in the district of Sidi Bouzid) and the economic backwardness of this area might provide an explanation of the outburst of protests in 2011 and more recently in January 2018 against the government.
co-founder and secretary of NT resigned after clashing with the faction led by Hafedh Caid Essebsi, son of the president of the Republic. More than twenty MPs followed him, and in March 2016 Mohsen Marzouk founded a new political party, Machrouu Tounes (“Tunisia project”). As a consequence, the parliamentary group of NT started to decline in number, counting in July 2017 56 MPs from the original 86, and as a consequence EN became the largest parliamentary group. The MPs of Machrouu Tounes in the APR joined the Bloc al Horra (BH), while other eight members of NT merged in May 2017 in a newly constituted Bloc National (BN).  

In October 2016, another group was formed – Bloc Démocrate – made of different parties, mostly members of CPR and of MDP (Mouvement du Peuple). Bloc Démocrate decided to remain in opposition, while BH and BN offered parliamentary support to the newly formed coalition government under the leadership of Youssef Chahed (since August 2016). The cabinet portfolios were allocated mainly to no-party and independent members, some of whom had already served as ministers in the previous cabinet. The dynamic of the secularist camp seems therefore incoherent, the secularist forces rallied against EN but they were subsequently incapable of coherent action and they split again. Thanks to these splits and divisions in the secular camp, EN acquired a new central position in the APR (Assemblée des Representants du Peuple), the Tunisian single chamber parliament, where it is now the main group (see Tab. 6). EN was able to maintain a greater cohesion and avoid floor-crossing and lost only one MP. Discipline in the party is very strong and differences about political strategies, which regard mostly whether or not to support any coalitional government with secular forces, have been always minimized in order to avoid splits.

9 Differences between those who adhered to BN and BH are difficult to ascertain. Members of BN have been for the most members also of BH. Almost all the MPs of BN (six out of eight) were elected in the constituencies of the Great Tunis. The MPs of BH are for their part more representative of the regional differences in the country, although most of them come from the North. The party composition of both BN and BH is made of former “second rank members” of NT.

10 The MDP is a Nasserist party, which elected three MPs in the APR.

11 Youssef Chahed’s government received formal investiture by the APR with 167 votes out of 194. Votes of confidence were cast by EN, NT, al Horra, UPL and AT. Curiously, two abstention votes came from two NT parliamentarians who have nonetheless remained in the party.

12 Discipline is high in the Assembly where participation by EN members is on average higher than the other parties, but is also managed by an executive bureau – Bureau Exécutif (BE) – made of 25 members and approved by the Choura during July 2016. Democracy in the party is ruled by the Choura which is a consultative council, which also is supposed to approve most of the decisions of the BE. The Choura is made of 150 members, 100 of them elected by the Congress with a secret ballot and the others designated by those elected in order to ensure a regional/gender equilibrium as well as representation of professions and a minimum number of MPs.
The Future of the Tunisian party system from 2014 to the Municipal elections of 2018

In 2016 EN held its 10th Congress, the first after its legalization in March 2011. The Congress broadcasted the moderate and responsible profile of the party. It marked the transition of the movement into a real party by “separating” the religious and the political activities. This evolution started when the party rapidly learned lessons from the changes in the international setting after the overthrow of the Brotherhood in Egypt by the Sisi coup in 2013. Since then the short momentum of religious parties in the Islamic world, which had commenced with the Arab spring of 2011, has ended. The civil war in Syria, the mounting of terrorism, and most recently the crisis between Saudi Arabia and Qatar, the major sponsor of movements affiliated or related to the Brotherhood, have also impacted on EN, moving the party towards a strategy which is more conceivable as “conservative” rather than “Islamic”, therefore following a similar pattern as the Turkish AKP during the 2000’s (Özbudun, 2006; Bayat, 2013; Wolf 2013). This should imply the acceptance of pluralism, the value of national unity against Islamic internationalism and the centrality of Islamic values in

Tab. 6 – Distributions of Seats in the House of Representatives

<table>
<thead>
<tr>
<th>PARTY</th>
<th>Seats as July 2018</th>
<th>Difference with respect to the initial allocation (2014)</th>
</tr>
</thead>
<tbody>
<tr>
<td>ENNAHDA</td>
<td>68</td>
<td>-1</td>
</tr>
<tr>
<td>NIDAA TOUNES</td>
<td>55</td>
<td>-31</td>
</tr>
<tr>
<td>BLOC AL HORRA¹</td>
<td>19</td>
<td>+19</td>
</tr>
<tr>
<td>FRONT POPULAIRE</td>
<td>15</td>
<td>=</td>
</tr>
<tr>
<td>UNION PATRIOTIQUE LIBRE</td>
<td>12</td>
<td>-4</td>
</tr>
<tr>
<td>BLOC DÉMOCRATÈ²</td>
<td>12</td>
<td>+12</td>
</tr>
<tr>
<td>ALLEGEANCE À LA PATRIE³</td>
<td>10</td>
<td>+10</td>
</tr>
<tr>
<td>BLOC NATIONAL¹</td>
<td>10</td>
<td>+10</td>
</tr>
<tr>
<td>OTHERS</td>
<td>14</td>
<td>-9</td>
</tr>
</tbody>
</table>

¹ Made by former NT members.
² Mostly formed by ex CPR members plus panarabists from Mouvement du Peuple.
³ Group made for the most by former AT and NT members.
Fig. 3 – 2014 Political Elections: Mapping the Electoral Results of NT and EN by Electoral Districts

Tunisian society. It could be that the acceptance of pluralism was a camouflage and an opportunistic tactical move by EN, as implied by the parties of the secular camp. Whatever the case, it is a matter of fact that, at the moment, EN does not enjoy an absolute majority in parliament or in the country. While the 2011 elections marked the best result for EN (37% of the votes), the 2014 elections show a flowing back. The hope of the party is therefore to regain political centrality by exploiting the divisions in the secular camp, by enlarging towards the right its core support, while maintaining at the same time a social profile which could appeal to the lower classes. The emergence of a new generation of young MPs and cadres has been also crucial in improving the party profile, although EN still results “older” by age composition if compared with NT and its split parties.
The electorate of EN could be put into two groups: the emerging urban middle class and the rural poor classes. Therefore, it could be classified as a conservative and class-cutting party. This is consistent with the picture outlined by the “party-defined space” (Figs. 1-2 above), which as we have seen identifies as the main characteristics of EN the local-regional vision, attentive to the religious identity of Tunisia, and the propensity to favor a populist conception of democracy. As the electoral results show, the support for EN is much wider in the poor Southern regions than in the underdeveloped West (see Fig. 3), where its diffusion is hindered by a political culture and attitudes characterized by protest and resentment which are typical of the lower social strata. EN is also well represented in urban areas, in big conurbations such as Greater Tunis. There are also no significant differences in social and regional origins between the emerging urban middle class and rural poor classes, since the former are often of the same origins as the latter, representing the most successful strata of the older exodus. In a country where poor classes are ample, and rural exodus is relevant, patronage has maintained a crucial role for party legitimacy. From this point of view, EN has filled, or aims at filling the vacuum left by the RCD.

The distribution of the MPs in the 2014 political elections obviously reflected the vote distribution of EN as represented in Fig. 3. The EN MPs coming from the South (including the district of Kairouan) prevail over those coming from the other regions, although conurbations like Tunis or Sfax are also well-represented. This predominance of Southerners in EN against Sahelians in NT is also marked by the regional origin of some EN MPs elected in Greater Tunis such as Ali Laarayedh, Sahbi Atig, Jamila Debbech and others, not considering those elected abroad, a great part of whom are from the South by family origin. Out of the 68 MPs of EN, 27 are women and several among them are engaged in Islamic oriented civil society organizations. If we compare EN with NT MPs according to their profession (percentage), the results not only reflect their social roots but also their potential constituencies, with liberal professions and the top positions in the private sector still dominated by secularist representatives, while the public sector, in particular education is growingly dominated by the religious party. Therefore, employees of lower educational levels are found among EN MPs (20.6% out of the total) and less among NT MPs (5.3%), whilst entrepreneurs or

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13 The percentage of population living below the national poverty line was estimated to be about 15.2 in 2015 (https://data.worldbank.org/country/Tunisia).
14 According to the geographic distribution, 39.3% of EN MPs out of the total were elected in the South, Kairouan and Sfax constituencies. Only 11.8% of NT MPs were elected in the same area. On the contrary, 58.9% of NT MPs were elected in the area which include Sahel and the Greater Tunis area against 42.7% for EN.
15 All these and the following data are available on https://majles.marsad.tn/2014/fr/assemblee.
managers of the private sector are more likely found in NT (26.8%) than in EN (11.8%). This professional background of the MPs of NT reflects the attitude and preferences of the secular electors.

Once again (see Appendix and the related discussion above), the party manifestos of 2011 highlighted these differences. The secular camp party in that phase, that is FDTL, declared its commitment to a constitutional structure with elective presidential and powers to dissolve parliament. EN, on the other hand, frequently emphasized the principle of popular sovereignty and republican values, with an obviously more populist accent. We are in the presence of the opposition between the procedural and Madisonian conception of democracy, on the one hand, and the populistic one, on the other (see Fig. 2). As EN accepted to maintain a diluted form of division between religion and politics, a compromise was reached between the secular camp, which favored presidentialism, and EN, which favored parliamentarism. The result was a mixed form of government where the president is directly elected as head of the state for a maximum of two terms and a prime minister is the head of the government. The

16 After several drafts, the new constitution was approved in January 2014. The most delicate issues regarded the place of religion and the relations between Islam and the state. The constitutional debate attracted attention and it is well discussed in literature (Marks 2014; Netterstrøm 2015). For a reconstruction of the Tunisian constitutional process, see Carter Center (2014).

17 Among the most important powers attributed to the President is the power to dissolve the parliament (see above, footnote 6).
major problem for the secular camp is therefore to create a cohesive party which could represent those interests. Personalisms in NT badly impacted on its cohesion (see Tab. 7). In other words, while EN has established itself as a cohesive party and it is capable of appealing to the most conservative sectors of Tunisian society, NT has failed to become a stronghold of the secular camp, lacking party cohesion and being subject to fragmentation and floor-crossing.

Conclusion. Democracy, Personal Power and Party System in Tunisia

Waiting for the next political elections scheduled in 2019, the municipal elections held on the May, 6th 2018 came as a shock. The turnout was lower than expected – about 35.6% – and organized parties managed to obtain less than 68% of votes, since more than 52% went to independent lists. EN obtained 28.6% and NT 20.9% of the votes. NT, as expected, lost about 800,000 votes in comparison to the 2014 elections, confirming its crisis. EN obtained a little more than half million votes, half the votes obtained in 2014, and one third of its result in 2011.

Given the high fragmentation of lists and parties, the interpretation of these electoral results is not easy. However, it is possible to identify some general trends, which are partially consistent with previous ones. EN still has its major electoral strongholds in the South and in some areas of the Greater Tunis. Moreover, EN has resulted the most voted party in the majority of the municipalities of the South. EN has also been able to win in 11 out of 18 municipalities in the Bizerte governorship. NT has maintained its strength in the Northern areas and in the Sahel, although losing important positions at the expense of independent lists in major towns. NT has also obtained good results in some districts of the West regions.

What has been the impact of the 2018 local elections on the party system and on the government? Could we consider them as a test for the coming general elections 2019? In terms of absolute votes and relative percentages, EN has been in the 2018 local election very far from equalizing the success registered in 2011. Nonetheless, there has at least been a confirmation of the result obtained in 2014 (which was 27.8% of the votes). EN remains, therefore, the largest and most resilient party in the Tunisian system, and it is well rooted in the South and in the conurbations. EN maintains an important leverage in terms of patronage and influence for future governments, by means of controlling some major municipalities. NT, on the other hand, has collapsed

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18 NT was the second most voted party in Tunis (after EN), and in Monastir (after an independent list). It was confirmed as first party In Nabeul and Sousse, although only by relative majority (23%).
from 37.6% of the votes obtained in 2014 to 20.9% in 2018. It is still the second largest Tunisian party, it is moreover relatively well consolidated in the Sahel and in the West, but it has now lost about 800,000 votes that have swung to various independent lists and partially got lost because of abstention from voting. In other words, vote dispersion has affected the secular camp more than the confessional one and that explains why EN with a loss of more than 400,000 votes in the 2018 local election, compared to the 2014 results, can still claim to be the major Tunisian party.

Nonetheless the haemorrhage of votes suffered by NT has not favoured any of its challengers in the secular camp, because of the before mentioned success and fragmentation of independent lists. NT was created as a secularist rally behind Beji Caid Essebsi, but it is hard to predict that he might be successful again in 2019 using the same political programme adopted at the debut of the party in 2012 (see above the discussion of the party manifesto). In this perspective, the 2018 municipal elections resemble those for the Constituent Assembly in 2011, when the secular camp was deeply divided and EN won a majority of votes and seats. If divisions among the secular camp persist, it could be argued that the 2018 local elections provided a reliable test for the forthcoming 2019 political elections. The 2019 elections remain therefore uncertain and the perspective of a new rally of the secular forces against EN is probably doomed to failure. The 2018 local elections also revealed the inability of a secular party to take root because of the patronage and factionalism which are still dominating Tunisian politics.

The democratization in Tunisia after 2011 has certainly produced social tensions, following the growth of new expectations in the classes that in the past were marginal (Weilandt 2019). Compared to the uncertainties of the first phase of democratization, when one wondered if democracy would take root (Landolt and Kubicek 2014), today the prospects appear less gloomy. Firstly, it should be emphasized that in Tunisia “secularists and Islamists tried to adopt more conciliatory policies vis-à-vis each other in order to prevent an Egyptian-style coup and the possibility of collapsing the Tunisian state via internal strife” (Somer 2017: 1037). Many studies have shown that this compromise was favored by the pluralism of Tunisian society and the relative strength of the organizations of interests and the working class (Allinson 2015). Secondly, as we have already implied, in the Tunisian case EN constitutes an exception with respect to the affirmation of religious parties in recently democratizing Muslim countries. In general, the immoderation of incumbent Islamic parties must be observed, for example in Turkey and Egypt. However, EN is the exception to these more uncertain developments, due to its availability to compromise with the opposition parties and civil society organizations (Kirdiş 2018; Torelli, Merone and Cavatorta 2012; Wolf 2013). These moderating tendencies have also been favored
by the new Constitution of 2014, which “creates a political system with many veto players with a thin line between consensus and deadlock” (Pickard 2014: 259). In this way, destructive conflicts have been prevented and the political process is forced to compromise. As a result, the current Tunisian regime consists of a bargaining system between Islamists and old regime elites, which seek to legitimize each other despite a fierce competition over political resources. These trade-offs involve the Islamists of EN and the networks of the secularists and the old regime, in particular NT as the heir of FDTL (Boubekeur 2016).

Finally, from a systemic point of view, the Tunisian party alignment, although extremely fluid, at the moment resembles what has been labelled as «multilateral distribution with dominant party». EN is the dominant party, and its relative decline is compensated by the current difficulties of the secular forces to rally in a stable and cohesive party. We are indeed observing a relatively fluid party system, which could easily be moving to a new structure and dynamics of «multilateral distribution with no dominant party» (Ieraci 2012). This potential evolution is highlighted by the composition of the coalition governments, that have included over time parties from the confessional and the secular camps. This type of party system, as has been proved by the experience of the democratic transition in Eastern and Central Europe after the collapse of the Communist regimes, tends to be highly fragmented and lacking in any anchor points. The newly born political parties lacked any clear ideological identity and they were appealing both to the left and right electorate, from different social strata, sometimes as a result of large electoral alliances.
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## Appendix

### Content Analysis of the Parties’ Manifestos

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[Source: www.ennahdha.tn (2013)]
Ettakatol (FDTL)

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[Source: www.ettakatol.org (2013)]
## Congrès pour la République (CPR)

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<td>- and profit</td>
<td>2</td>
</tr>
</tbody>
</table>

[Source: www.ettakatol.org (2013)]
### Nidaa Tounes (NT)

<table>
<thead>
<tr>
<th>Axial symbols</th>
<th>Connected symbols</th>
<th>n.</th>
</tr>
</thead>
</table>
| **Development**                | Research and innovation  
- and renewable energy  
- and national resources  
Technology, innovative and competitive industries  
- and finance  
- and infrastructure  
regional and industrial areas  
Modernization                   | 88 |
| **Tunisia, Tunisian nation**   | - and economic development  
International system and the EU  
Tunisian history and culture  
Revolution and liberty  
- and science  
- and tourisme                | 53 |
| **Employment**                 | - and youth  
- and women  
protection of the employment | 44 |
| **Enterprise**                 | - and economic growth  
private and free                  | 37 |
| **Training and education**     | Compulsory education  
Reform of secondary education  
Contrast of early school leaving  
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- and entreprise  
- and Tunisia  
- and education  
- and "Corp de la Jeunesse"  
- and access to property  
- and agriculture                  | 35 |
| **Regions**                    | Internal regions  
Decentralization  
Regional banks  
- and municipalities  
Support for regions  
- and development                  | 33 |
| Investments | - and tourisme  
|             | Foreign investiments  
|             | - and regional development  
|             | Private investments and growth  
|             | 24  
| State       | Authority of the -  
|             | - and the private sector  
|             | - and development  
|             | - and security  
|             | and rule of law  
|             | Guarantee of social rights  
|             | Equality and social justice  
|             | - and the private sector  
|             | - and consolidation of the republican institutions  
|             | - and efficient administration  
|             | 22  
| Natural resources | water  
|             | Fishery and water resources  
|             | 21  
| Agriculture and farmers | as a strategic sector  
|             | - and handicraft  
|             | Financing agriculture  
|             | 20  
| Housing     | Guarantee of –  
|             | House policy  
|             | 18  
| Social-democracy | 18  
| Public Administration | Efficacy of the -  
|             | Transparency of procedures  
|             | Administration neutrality  
|             | Struggle against fiscal elusion and fraud  
|             | 17  
| Tourism     | 16  
| National Health System | reform of the -  
|             | - opened to everyone  
|             | 14  
| Women       | - and gender equality  
|             | - and maternity leave  
|             | 13  
| Social economy and solidarity | Struggle against poverty abd disadvantage  
|             | social aid  
|             | 9  
| Social promotion | 7  
| Finance     | Reform of the financial system  
|             | Regional banking system  
|             | 6  
| Urban and interurban transport | 6  
| Employment  | 5  
| Pension schema | reform of the -  
|             | 3  

<table>
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<tr>
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<td>Public ethic</td>
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<tr>
<td>Constitution</td>
<td>1</td>
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<tr>
<td>Human rights</td>
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</tr>
</tbody>
</table>

[Source: Nidaa Tounes, Commission économique et sociale, Notre programme pour un développement ambitieux au service de tous les Tunisiens, 15 août 2014]
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Governability, Fragmentation and Normative Production: A Comparative Analysis of Six European Democracies*

Governabilità, frammentazione e produzione legislativa: un’analisi comparata di sei democrazie europee

Chiara De Micheli and Vito Fragnelli

Abstract

In two previous papers (De Micheli and Fragnelli 2016, 2018), we analyzed the legislative procedures in Italy, United Kingdom, France and Spain focusing on their strength, correlating it with the strength of the government and of the Parliament, measured through two parameters, the governability and the fragmentation. Here, we extend the analysis to two other European democracies: Belgium and Germany.

Nei due precedenti lavori (De Micheli and Fragnelli 2016, 2018), sono state analizzate le procedure legislative in Italia, Regno Unito, Francia e Spagna, focalizzando l’attenzione sulla loro robustezza e correlandola alla forza del governo e del Parlamento, che sono state misurate utilizzando la governabilità e la frammentazione. In questo lavoro l’analisi viene estesa a due altre democrazie europee: Belgio e Germania.

Keywords

Legislative procedures, Governability, Fragmentation, Procedural Robustness
Procedure legislative, governabilità, frammentazione, robustezza procedurale

* Although this article is a joint effort of the two Authors, the paragraphs titled ‘The Dependent Variables: Decision-making Procedures’ and ‘Legislative Procedures’ were written by Chiara De Micheli, while those titled ‘The Independent Variables: Indices of Governability and Fragmentation’ and ‘Governability and Fragmentation’ by Vito Fragnelli. The other parts of the article are to be considered as jointly written by the two Authors.
Introduction

In De Micheli and Fragnelli (2016), we hypothesized and empirically verified that law-makers are able to guide decision-making processes towards the maximization of their utility through the strategic use of procedural tools, referring to the Italian situation, thanks to high quantity and quality of data in our availability. The Italian case shows that often the government balances the weak control of its parliamentary majority using particular decision-making procedures. The executive extends both quantitatively (e.g. using frequently the decentralized commission procedure) and/or qualitatively (e.g. stretching the concepts of necessity and urgency) the application of some regulatory procedures when the uncertainty about the behaviour of the majority is over a reasonable threshold. By these means the executive strengthens its ability to impose on the Parliament. Then in De Micheli and Fragnelli (2018) the research was extended to other European countries, namely United Kingdom (UK), France and Spain, carrying out a comparative analysis.¹

As far as this article is concerned, the comparative analysis is extended to six countries: Italy, UK, France, Spain, Belgium and Germany. We recall that the English democracy is the most consolidated and its process of democratization has never been interrupted. It is characterized by a highly organized and institutionalized party system. Conversely, France experienced a more discontinuous democratization process and its party system is composed by weakly organized and poorly rooted parties at the territorial level. Among those investigated, Spanish democracy is the youngest and the less consolidated (Huntington 1993). In the Spanish party system there are many regional political formations, strongly organized at the territorial level, which, in many cases, negotiate and give their parliamentary support to governments. The main characteristic of Belgium is the high degree of fragmentation based on the language, Flemish and French, that faces the consolidated democratic federal system. Germany reached the current territorial configuration at the end of the previous century (1989), integrating in a consolidated democratic system, that of the former West Germany, some features of the former East Germany.

We want to make clear that, as in De Micheli and Fragnelli (2016) and De Micheli and Fragnelli (2018), this article will follow a theoretical and empirical comparative approach.² More particularly, the article is a preliminary assessment looking at the evidence of when and how the different procedures were adopted in the legislative

¹ The distinctive work of Doring (1995) is a well-integrated addition to the scholarly literature dealing with comparative legislatures and see Martin, Saalfeld and Strøm (2014).
² For Italy, see Pedrazzani (2017).
process in the various legislatures and comparing it with the robustness of the government and of the Parliament measured via the governability and the fragmentation. The paper is organized as follows: in Section 2, we recall the governability and the fragmentation indices used for measuring the strength of the Government and of the Parliament; Section 3 is devoted to a description of the standard and non-standard procedures in the six countries; in Section 4, we discuss the hypotheses; in section 5, we present the tables with the data of the independent and dependent variables for each country; in Section 6, we perform a comparative analysis of the data and verify the hypotheses; Section 7 concludes.

The Independent Variables:
Indices of Governability and Fragmentation

In this section we shortly recall the governability and the fragmentation indices (independent variables) that allow evaluating the robustness of the Government and of the Parliament, addressing to De Micheli and Fragnelli (2016) for further details. The governability of the Parliament is the capability of the parties to form a strong majority. It is inversely related to the number of parties and directly related to the number of seats of the majority.

The first governability index (Fragnelli and Ortona 2006) considers the number of critical parties, i.e. those parties that may destroy the majority withdrawing, and the number of seats of the majority, $f$.

The formula for the governability index $g_1$ is:

$$g_1 = \frac{1}{m + 1} + \frac{1}{m(m + 1)} \left( f - \frac{T}{2} \right) \frac{T}{2}$$

where $T$ is the total number of seats.

It is possible to remark that for each value of $m$ we have

$$\frac{1}{m + 1} \leq g_1 \leq \frac{1}{m}.$$

For instance, if the government is supported by just one critical party, $g_1$ is in between 0.5 and 1; if it is supported by two parties, then $g_1$ is in between 0.333 and 0.5, and so on. The value of $g_1$ in the range determined by $m$ depends on the number of seats of the majority coalition and on the total number of seats.
In order to increase the importance of the number of seats of the majority coalition, we consider a second governability index $g_2$ in which we take into account the percentage of seats of the majority divided by the number of parties in the majority (Migheli and Ortona 2009):

$$g_2 = \frac{f}{T}$$

where $f$ and $T$ are the same as above and $p$ is the number of parties in the majority.

The fragmentation of the Parliament is a measure that accounts not only the number of parties, or groups, or factions that compose the Parliament, but also their number of seats.

In order to analyze the role of factions, i.e. the fragmentation, we refer to the classical index of Rae-Taylor (Rae and Taylor 1970), defined as:

$$I_{RT} = 1 - \sum_{i \in \mathbb{N}} s_i^2$$

where $N = \{1, \ldots, n\}$ is the set of parties and $s_i$ is the percentage of seats of party $i \in \mathbb{N}$.

It assumes values in the range $[0, 1]$, and the value mainly depends on large parties, i.e. very small parties do not affect too much the fragmentation.

The following example shows the behaviour of the indices $g_1$, $g_2$ and $I_{RT}$ (De Micheli and Fragnelli 2016). Consider a Parliament of 100 seats; suppose that the majority includes parties P1; P2; P3 and P4; consider three situations S1, S2 and S3 in which the seats of these parties are distributed according to the following table (critical parties are in bold), where we compute also the three indices we are interested in:

<table>
<thead>
<tr>
<th></th>
<th>P1</th>
<th>P2</th>
<th>P3</th>
<th>P4</th>
<th>F</th>
<th>m</th>
<th>$g_1$</th>
<th>$g_2$</th>
<th>$I_{RT}$</th>
</tr>
</thead>
<tbody>
<tr>
<td>S1</td>
<td>20</td>
<td>16</td>
<td>14</td>
<td>13</td>
<td>63</td>
<td>4</td>
<td>0.213</td>
<td>0.1575</td>
<td>0.7428</td>
</tr>
<tr>
<td>S2</td>
<td>17</td>
<td>17</td>
<td>17</td>
<td>11</td>
<td>62</td>
<td>3</td>
<td>0.270</td>
<td>0.1550</td>
<td>0.7430</td>
</tr>
<tr>
<td>S3</td>
<td>49</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>55</td>
<td>1</td>
<td>0.550</td>
<td>0.1375</td>
<td>0.2023</td>
</tr>
</tbody>
</table>

$g_1$ and $g_2$ behave in opposite ways, the former increases, the latter decreases, while $I_{RT}$ first increases and then decreases.
The Dependent Variables: Decision-making Procedures

In this section, we analyze the decision-making procedures (dependent variable) used in the six countries. De Micheli and Fragnelli (2016) and De Micheli and Fragnelli (2018) provide with the necessary information for Italy, United Kingdom, France and Spain and we address the reader to these papers for further details. The aim is to verify if, how and to what extent governments make use of the opportunities offered by the different institutional instruments to produce laws. Each country is examined following descriptive criteria.

Italy

The Parliament is formed by two chambers the *Senato della Repubblica* (Upper chamber) and the *Camera dei Deputati* (Lower chamber) with equal role in this matter. According to the Italian standard procedure, any member of the Parliament can propose a bill, not only the Government; a committee (referral commission), often integrated with an executive’s representative as observer, discusses and amends it. Eventually, the two chambers examine the bill and vote it article by article and in full; the two chambers have to approve the same text. It can be used to approve all types of bill but, for some of them, a special quorum is required. If compared with the other democracies, the Italian Constitution provides a greater number of procedures to legislate. The most important, both quantitatively and qualitatively, are the following.

In the period of democratic establishment and consolidation, there was an exasperated use of the *procedura decentrata* (decentralized procedure, art. 72, c. 2) according to which the legislative process (final approval included) takes place only in a Committee, if there is consensus among political actors, otherwise the bill will return to the ordinary procedure (Shane 2014; Zucchini and Curini 2015). The Italian constitution, such as the Spanish one, although with differences (see above) also allows the decreto legge (decree law, art. 77, c. 2) that enables the Executive issuing a decree in “extraordinary cases of necessity and urgency”. The Executive’s decree becomes law immediately and remains in effect for 60 days without any parliamentary approval. If after this period the Parliament has not converted the decree into a perfect law, then previous status quo is re-established. The unique procedure to convert a decree law is the ordinary legislative procedure, so due to the deadline of 60 days, the members of the Parliament often bargain with the Executive in order to add new normative contents. After the sentence of the Constitutional Court in 1996, a new decree may reiterate a decayed decree only if the following conditions occur: the government founds the reiteration.
of the decree on new arguments about his extraordinary necessity and urgency; the
government characterizes the contents of the reiterated decree with different regulat-
tory arrangements.

During the so-called Second Republic (since 1994) a procedure provided by the
Constitution obtains centrality: the legge delega (delegating law, art. 76 and art. 77,
1). The delegating law is approved by the standard procedure. This type of bill has at
least a section delegating to the Executive the power to promulgate the legislative
decrees according to some general framework voted in the delegating law, and within
a limited period of time. The legislative decree approved by the Council of Ministers is
sent to the President of the Republic, at least 20 days before the deadline required by
the delegating law, so that the President can check it and, if necessary, send it back to
the Chambers.

Finally, there is a strategic use on the confidence vote in order to force the fast
approval of a law, possibly without modification or with a unique amendment, the so-
called maxi-emendamento, reducing the vulnerability of a law approved article by ar-
ticle. The confidence vote is an extreme and effective attempt to protect the content of
a Government bill. It is worth mentioning that the government remains in office until
enjoys the confidence of the parliamentary majority, whose existence can be verified
at any time.

**United Kingdom**

The UK parliamentary system in articulated in two chambers, the House of Lords
(Upper chamber) and the House of Commons (Lower chamber). A law has to be ap-
proved by the two chambers, but the Lower chamber is more important; in fact, it is
the sole that has to approve the financial laws; moreover, the House of Commons can
override the objections of the House of Lords and pass a law without the consent of the
latter. The Standing Committees have the role of examining and amending the propos-
als. The fundamental normative instruments used by the government are the so-called
statutory instruments. The Statutory Instruments Act of 1946 enables UK members
of government to enact a sort of delegated legislation grouping different procedures,
e.g. partially similar to the delegating laws in the Italian Constitution. Those proce-
dures may provide substantive regulatory acts (as the Regulation or the Deregulation
Orders) or, in other cases, may provide formal regulatory acts (as the Commencement
Orders) through which the government, delegated by the Parliament, establishes when
a certain legislative act comes in force. All those legislative instruments have to be ap-
proved by the individual ministers, in their turn delegated by a parliamentary enabling
act. In essence, the procedure runs as follows: a statutory instrument is approved and presented by a minister and will be effective after 40 days, within which a parliamentary control could be activated and the instrument could be annulled by a negative resolution of the Parliament. It can be observed that, if compared with those contemplated by the Italian Constitution, the UK governmental legislative instruments lack the urgency requirement.

Nevertheless, when an urgency has to be faced, the statutory instrument runs immediately in force before its presentation, after communication to the Lord Speaker and to the Speaker of the Commons, and the parliamentary control could be considered as a following act. In this case, the statutory instrument could lose its force if a negative resolution is enacted by the Parliament within 40 days; if no resolution is adopted, it maintains its force. In few cases an opposite situation is expected: when the enabling act expressly establishes that the statutory instrument is in force if the Parliament votes an affirmative resolution within a certain time limit (Palici Di Suni Prat 1988).

France

The French parliamentary system is articulated in two chambers, the Senat (Upper chamber) that is less important than the Assemblee Nationale (Lower chamber) as the government may ask for its final vote in case of disagreement, after two rounds (art. 45). In some cases, it is possible a faster procedure with just one round in each chamber. The laws are discussed only in the permanent committees (presently 8), apart from the financial law, the constitutional revisions and the financial supports to the social security. We have investigated the use of the so-called ordonnances (ordinances) that can be adopted according to art. 38 of the French Constitution. More precisely, an ordonnance is a normative act of the Government that was introduced in the Constitution in 1958 and is very similar to a legislative delegation (with some

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3 Until 2005, the president of the House of Lords was Lord Chancellor, and was the person to whom statutory instruments were communicated.

4 “With a view to carrying out its program, the Government may seek the authorization of Parliament, for a limited period of time, to issue ordinances regulating matters normally falling within the field of law-making. The ordinances are made in the Council of Ministers after consultation with the Council of State. They come into force upon publication, but cease to be effective if the Bill ratifying them is not laid in front of Parliament by the date fixed by the enabling Act. At the expiration of the period mentioned in paragraph 1 of this article, the ordinances may be modified only by law, as regards matters falling within the field of law.”
features of the decree law). Another kind of procedure is the confidence vote, used by the French government to force the favorable vote of the parliamentary majority on a given issue. As art. 49 paragraph 3 of the French Constitution states: The Prime Minister may, after deliberation by the Council of Ministers, make the passing of a Finance Bill or Social Security Financing Bill an issue of a confidence vote of the National Assembly. In that event, the Bill shall be considered passed unless a resolution of no-confidence, scheduled within the subsequent twenty-four hours, is carried out as provided for in the foregoing paragraph. In addition, the Prime Minister may use the above procedure for one other Government or Private Members’ Bill per session (Palici Di Suni Prat 1993).

Spain

The Parliament (Cortes Generales) includes the Senado (Upper chamber) and the Congreso de los Diputados (Lower chamber) (art. 66). The Lower chamber is more important as the role of the Upper chamber is limited to the possibility of a veto, that requires an absolute majority, or amending a law. The Lower chamber may delegate the committees (art. 75), but it is possible to take back upon itself the discussion and the approval of any law, in any moment (art. 78). The 1978 Spanish Constitution disciplines both delegacion legislativa (legislative delegation, art. 82) and decreto-ley (decree law, art. 86) procedures. The remarkable use of the decree laws became, in certain periods,
a feature of Spanish law-making, partially due to a particular constitutional discipline (art. 86) providing the prolongation of effectiveness of the decree law, even if a parliamentary vote of conversion (the so-called convalidacion) does not occur (Naranjo De La Cruz 1998). The vote of conversion has to take place within 30 days.\textsuperscript{9} Usually, less than 50\% of Spanish laws have been converted.\textsuperscript{10} For this reason, all the enacted decree laws, even if not converted are taken into account here.

\textbf{Belgium}

The country has a federal structure, due to several institutional reforms, namely in 1965, 1970 and 1993-94, that aimed at making easier the role of the Government in a state characterized, from the origins in 1830, by two contrasting and separated language communities.\textsuperscript{11} It includes a Lower Chamber (House of Representatives) and an Upper Chamber (Senate). The ordinary legislative procedure requires that a law is approved by the Lower Chamber, in some cases also by the Upper Chamber, and finally the law is ratified and issued by the King, after the countersignature of the Government. The procedure starts with a proposal of the King to the Parliament or to the related minister of elaborating a project on a specific topic. The non-standard legislative procedures include:

- the \textit{speciale wetten} (special law) that is approved by a qualified majority both in the Lower Chamber and in the Upper Chamber and by the King; it refers to assignment of duties to the different ministries and the functioning of the public institutions;

- the royal decree (art.108) and the ministerial decree (after a royal delegation to a minister with specific responsibility) that are norms issued by the Government;

- the \textit{decreet} (regional decree and ordinances of the Brussels area) that confirms the norm issued by a Parliament of a region or of a community; it has the same power decision on their ratification or repeal in the said period, for which purpose the Standing Orders shall provide a special summary procedure. During the period referred to in the foregoing subsection, the Cortes may process them as Government bills by means of the urgency procedure.

\textsuperscript{9} For instance, the decree law n. 5 of 24 May 2002 was cancelled, as no necessity and urgency reasons hold.

\textsuperscript{10} For instance, the decree laws were the 27\% of the activity in the V legislature and the 28\% in the V legislature.

\textsuperscript{11} The French community in the South and the Flemish community in the North; there exists also a very small German community (Horowitz 1990; Leton and Mirioir 1991; Lijphart 1981).
of a federal law; these norms are related to the responsibilities of the regions, e.g. agriculture, fishing, land management, economics, energy, public transport and so on).

**Germany**

The Parliament includes the Bundesrat (Upper chamber) and the Bundestag (Lower chamber). The bicameral system of the German federal democracy is characterized by the variable number of members of the Bundestag. The Fundamental Law fixes a minimal number of 598 deputies, that may raise up to 900, according to the electoral result; the seats in the Bundesrat passed from 68 to 69 in 1996. The legislative process is started by the federal government, by the Bundesrat or by the members of the Bundestag (art. 76, par. 1 of Grundgesetz): the proposals of the Parliament have to be subscribed by at least 5% of the members of the Bundestag or by a parliamentary group (Fraktion). The bills of the government, before being submitted to the Bundestag, have to be submitted at Bundesrat that has to give its opinion in six weeks (the deadline may be extended to nine weeks on a request of the Bundesrat, or reduced to three weeks when the government requires the urgency). The bills of the Bundesrat have to be submitted to the federal government, that in its turn submits to Bundestag, jointly with its opinion in six weeks; also in this case, the deadline may be extended to nine weeks on a request of the Bundesrat, or reduced to three weeks when the government requires the urgency (art. 76).

There are two main legislative processes:\footnote{When the Bundestag and the Bundesrat do not agree on the legislative process, the Bundesrat may file an appeal to the Federal Constitutional Court, for the conflict in attribution or for a check of the constitutionality of the law. Usually, the Court favors the role of the Bundesrat, with a prevailing criterion: it is sufficient that just one regulation is considered as consensus law, so that the approval of the Bundesrat is mandatory. Due to this, in recent times the normative removal was used, isolating the part of the proposal that requires the approval of the Federal Council.}

- ordinary laws (Zustimmungsgesetze) or consensus laws, for which the approval of the Bundesrat is mandatory in order to adopt them;

- opposition laws (Einspruchsgesetze) or “Bundestag prevailing”, that require the approval of the Bundesrat for being issued. The Bundesrat may only express a suspensive veto, that may be overpassed with a second approval vote that requires a more qualified majority the higher is the level of opposition of the Bundesrat (art. 77 of Fundamental Law). If the bill does not receive the approval in the
Bundesrat, this chamber may ask for the summon of the Conciliation Commission (Vermittlungsausschuss) in three weeks from receiving the bill; the commission is composed by an equal number of members from each Chamber. For the subjects on which the legislative jurisdiction is the same for the two Chambers, the bill is approved only is the Commission reaches an agreement on a text accepted by the representatives of the two Chambers.\footnote{After the reform in 2006, the decisional rights of the Bundesrat were reduced, enlarging the subjects of the laws that do not require the consensus.}

Another interesting legislative procedure is the legislative decree\footnote{A right of the Bundesrat is to submit to the federal government proposals for issuing legislative decrees, that in the following require its consensus.} whose draft has to be approved before submitting it to the federal Council; in case of disagreement among the ministers, they should try to unify the draft or ask for a mediation of the federal Chancellor, in order to solve the question.

**Hypotheses and Data**

Our empirical analysis aims to verify the following hypotheses:

- **Hypothesis 1**: In conditions of high fragmentation and low governability, the government can try to increase its decision-making capacity by strategically using specific procedures that constrain the behaviour of groups and parties of the majority.

- **Hypothesis 2** (as a corollary of the previous one): The range, intensity and configuration of procedural tools vary according to the different degree of fragmentation and governability.

In this section, we present the data we used for measuring the trend of the independent and dependent variables referring to both qualitative and quantitative data. First, in each country the robustness of the Parliament and the government (the independent variables) is assessed through the two governability indices and the fragmentation index. Then, the law making procedures used in the legislative processes of the four countries (the dependent variables) are analyzed. The terminus *ad quem* of the analysis is 2016 for all the four countries, while the terminus a quo is different for each democracy: 1974 for UK, 1958 for France, 1993 for Spain, 1988 for Belgium, 1990 for Germany, and 1948 for Italy.
**Governability and Fragmentation**

In this section a diachronic analysis of each country and a comparative analysis of the four countries will be conducted regarding the governability degree and the fragmentation degree of their government-Parliament sub-system. The data for the Italian, Belgian and German Parliaments represent the average value among the two chambers,\(^{15}\) while for the other countries they refer to the Lower Chamber that is the most important among the two. For each country, we report the number of the legislature (Leg), the starting year (year), the two governability indices \((g_1 \text{ and } g_2)\) and the fragmentation index \((I_{RT})\).

### Italy

<table>
<thead>
<tr>
<th>Leg</th>
<th>I</th>
<th>II</th>
<th>III</th>
<th>IV</th>
<th>V</th>
<th>VI</th>
<th>VII</th>
<th>VIII</th>
<th>IX</th>
<th>X</th>
<th>XI</th>
<th>XII</th>
<th>XIII</th>
<th>XIV</th>
<th>XV</th>
<th>XVI</th>
<th>XVII</th>
</tr>
</thead>
<tbody>
<tr>
<td>(g_1)</td>
<td>0.613</td>
<td>0.469</td>
<td>0.478</td>
<td>0.383</td>
<td>0.378</td>
<td>0.390</td>
<td>0.534</td>
<td>0.421</td>
<td>0.365</td>
<td>0.364</td>
<td>0.559</td>
<td>0.522</td>
<td>0.416</td>
<td>0.242</td>
<td>0.260</td>
<td>0.645</td>
<td>0.440</td>
</tr>
<tr>
<td>(g_2)</td>
<td>0.158</td>
<td>0.238</td>
<td>0.130</td>
<td>0.181</td>
<td>0.187</td>
<td>0.095</td>
<td>0.131</td>
<td>0.097</td>
<td>0.179</td>
<td>0.088</td>
<td>0.087</td>
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<td>0.087</td>
<td>0.067</td>
<td>0.131</td>
<td>0.074</td>
</tr>
<tr>
<td>(I_{RT})</td>
<td>0.704</td>
<td>0.708</td>
<td>0.692</td>
<td>0.731</td>
<td>0.736</td>
<td>0.735</td>
<td>0.701</td>
<td>0.716</td>
<td>0.762</td>
<td>0.762</td>
<td>0.824</td>
<td>0.857</td>
<td>0.846</td>
<td>0.838</td>
<td>0.826</td>
<td>0.711</td>
<td>0.770</td>
</tr>
</tbody>
</table>

The Parliaments of other countries, except Belgium, are less fragmented than the Italian Parliament, whose fragmentation is steadily over 0.7, and from the XI to the XV legislatures stands over 0.8. Moreover, in UK, France and Spain the level of governability is higher than in Italy, where governability rarely exceeds the value of 0.6 for each legislature. These values are very similar to those of the Belgium that is considered an instable country.

\(^{15}\) We decided to choose the average value because according to the Constitutions of these countries the two chambers have equal roles. On the other hand, in particular cases possibly depending on temporary situations, one of the two chambers may assume a higher relevance; in these cases, the worst datum among the two chambers may lead to wrong considerations.
UK

<table>
<thead>
<tr>
<th>Leg</th>
<th>XLVII</th>
<th>XLVIII</th>
<th>I</th>
<th>II</th>
<th>III</th>
<th>IV</th>
<th>V</th>
<th>VI</th>
<th>VII</th>
<th>VIII</th>
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<th>X</th>
<th>XI</th>
<th>XII</th>
<th>XIII</th>
<th>XIV</th>
</tr>
</thead>
<tbody>
<tr>
<td>$g_1$</td>
<td>0.503</td>
<td>0.534</td>
<td>0.611</td>
<td>0.577</td>
<td>0.516</td>
<td>0.636</td>
<td>0.627</td>
<td>0.552</td>
<td>0.353</td>
<td>0.508</td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>$g_2$</td>
<td>0.503</td>
<td>0.534</td>
<td>0.611</td>
<td>0.577</td>
<td>0.516</td>
<td>0.636</td>
<td>0.627</td>
<td>0.552</td>
<td>0.280</td>
<td>0.508</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$l_{sf}$</td>
<td>0.555</td>
<td>0.534</td>
<td>0.521</td>
<td>0.541</td>
<td>0.558</td>
<td>0.526</td>
<td>0.535</td>
<td>0.591</td>
<td>0.611</td>
<td>0.599</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The English Parliament appears to be the less fragmented (jointly with the German one), while the governability degree of the UK governments is, in general, the highest. However, we can observe that the last three elections have produced a more fragmented Parliament and less governable cabinets (as an example, from 2010 to 2015, a coalition cabinet is formed, an extraordinary event for the English political system).

France

<table>
<thead>
<tr>
<th>Leg</th>
<th>I</th>
<th>II</th>
<th>III</th>
<th>IV</th>
<th>V</th>
<th>VI</th>
<th>VII</th>
<th>VIII</th>
<th>IX</th>
<th>X</th>
<th>XI</th>
<th>XII</th>
<th>XIII</th>
<th>XIV</th>
</tr>
</thead>
<tbody>
<tr>
<td>$g_1$</td>
<td>0.426</td>
<td>0.198</td>
<td>0.332</td>
<td>0.772</td>
<td>0.334</td>
<td>0.355</td>
<td>0.625</td>
<td>0.332</td>
<td>0.471</td>
<td>0.440</td>
<td>0.259</td>
<td>0.629</td>
<td>0.580</td>
<td>0.548</td>
</tr>
<tr>
<td>$g_2$</td>
<td>0.185</td>
<td>0.279</td>
<td>0.249</td>
<td>0.298</td>
<td>0.266</td>
<td>0.283</td>
<td>0.458</td>
<td>0.248</td>
<td>0.477</td>
<td>0.409</td>
<td>0.184</td>
<td>0.628</td>
<td>0.290</td>
<td>0.431</td>
</tr>
<tr>
<td>$l_{sf}$</td>
<td>0.718</td>
<td>0.715</td>
<td>0.660</td>
<td>0.431</td>
<td>0.682</td>
<td>0.770</td>
<td>0.650</td>
<td>0.753</td>
<td>0.700</td>
<td>0.672</td>
<td>0.738</td>
<td>0.566</td>
<td>0.596</td>
<td>0.644</td>
</tr>
</tbody>
</table>

The fragmentation degree of the French Fifth Republic (from 1958 to 2016) maintains high values more than 0.7 until 1993 (five legislatures), while it decreases in the following legislatures to values lower than 0.6. The governability of French cabinets varies between 0.4 and 0.6 and is lower than both UK and Spanish governability. In particular, the governability is affected by the so-called cohabitation, i.e. when presidential and parliamentary majorities are different; this happened during the VIII and XI legislatures characterized and for part of the X legislature.\(^{16}\)

\(^{16}\) During 1986-1988, the cohabitation involved the socialist President Francois Mitterrand and the neo-Gaullist Premier Jacques Chirac; during 1993-1995, the cohabitation involved the socialist President Francois Mitterrand and the neo-Gaullist Premier Edouard Balladur; during 1997-2002, the cohabitation involved the neo-Gaullist President Jacques Chirac and the socialist Premier Lionel Jospin.
Spain

For Spain (including the Constituent assembly, COS), we can observe a certain stability of fragmentation (in general 0.6) and governability (in general 0.5) until the X legislature, and a sharp change in the last two legislatures (2015 and 2016 general elections), when fragmentation increases over 0.7 and governability decreases below 0.4. We recall that the last Government by Gonzales (1993-1996) and the first Government by Aznar (1996-2000) assigned more power to the Catalunya, in order to guarantee the support of the nationalistic party. In the following, Spain represented again an example of the Westminster model.

Belgium

For Belgium, we can observe a stable level of the fragmentation, higher than in the other countries taken into account. The governability is low with respect to the other countries, especially looking at the first index. In the LIII legislature there are the minimal governability and the maximal fragmentation, but the situation is a little bit better in the following legislature. We remind that there was a serious crisis after the “affaire Dutroux” in 1996. This crisis, that has some elements in common with the

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17 In 2016 for the first time, the Spanish Parliament was dissolved due to the impossibility of forming a majority; according to the Constitution, the King dissolves the Parliament if the designated Premier does not obtain the confidence vote in two months.
Italian crisis of the Nineties, leads some observers, mainly in the France, with Duverger among them (Costa, Kerrouche et Magnette 2004) to perceive the Belgian regime as instable and, sometimes, with a low degree of democracy. Belgium has a proportional electoral system with a high number of parties, that continuously grows, and a high level of instability, so that it is often compared with the situation of France during the IV Republic and of Italy during the I Republic. On a different position there is Lijphart, that considers Belgium the archetype of a model of parliamentary democracy more suitable than the Westminster model for a complex and fragmented social situation.

**Germany**

<table>
<thead>
<tr>
<th>Leg</th>
<th>XII</th>
<th>XIII</th>
<th>XIV</th>
<th>XV</th>
<th>XVI</th>
<th>XVII</th>
<th>XVIII</th>
</tr>
</thead>
<tbody>
<tr>
<td>$g_1$</td>
<td>0.624</td>
<td>0.342</td>
<td>0.362</td>
<td>0.343</td>
<td>0.401</td>
<td>0.362</td>
<td>0.430</td>
</tr>
<tr>
<td>$g_2$</td>
<td>0.370</td>
<td>0.263</td>
<td>0.246</td>
<td>0.264</td>
<td>0.352</td>
<td>0.292</td>
<td>0.395</td>
</tr>
<tr>
<td>$I_{rt}$</td>
<td>0.637</td>
<td>0.674</td>
<td>0.685</td>
<td>0.679</td>
<td>0.683</td>
<td>0.660</td>
<td>0.823</td>
</tr>
</tbody>
</table>

The particular feature of this democracy is the steady degree of governability (both $g_1$ and $g_2$),\textsuperscript{18} with a peak in the XII legislature, just after the unification of the former West and East Germany. Differently, from other countries, as Italy and Belgium, the governability is high also when the fragmentation is high too; a possible reason is the discipline of the members of the Parliament.

**Legislative Procedures**

In this subsection, the ordinary legislation and parliamentary originated legislation are quantitatively examined and compared with the other forms of normative production. Due to the high difference of durations of the legislatures, the data are reported per month, so we added also the number of months of each legislature (#m).

\textsuperscript{18} In the case of Germany, we computed the governability and the fragmentation as the average among the two chambers, in view of the role of both.
Italy

Ordinary laws (SP), decentralized procedures (PD), decree law (DL), delegating law (LD) and confidence vote (F) per month.
Source: http://www.camera.it and http://www.senato.it

The common feature of all the Italian legislatures is the decreasing of the legislative production including all the instruments, the number of laws goes down from about 35 per month to about 5 per month. The decentralized procedures are frequently used until the VIII legislature, when the decree laws became more used, until the XIII legislature, when the sentence of the Constitutional Court in 1996 made difficult to reissue a decree law, increasing the use of the confidence vote, possibly adding a maxi-amendment.

UK

Ordinary laws (SP) and statutory instruments (SI) per month.
Source: http://www.legislation.gov.uk/uksi

In UK, the ordinary legislative production, during the period 1972-2016, consists of 4.2 laws per month, falling down from 1997 onward; as in the other countries the most recent legislatures are characterized by a strong reduction. Parliamentary originated legislation amounts in general to 16%. From 1993 to 2008 the statutory instruments enacted by the government remain constantly on 2000 per year, reaching a peak of
2285 in 2001. As far as the use of statutory instruments is concerned, from 2010 onward, during the Cameron cabinet, increased until 2014, when they reached their maximum number of 266.42 per month then falling down at 173.50 per month in the LVI legislature.

It is worthwhile to remark that a greater independence of the backbenchers, as indicated by the negative votes to proposals from the majority by members of the majority, appeared during the conservative governments led by Margaret Thatcher and by John Major, in the legislatures from XLVII to LI. The governments led by Major were highly vulnerable due to their low majorities \( g_1 = g_2 = 0.516 \). In 1986, the bill on commerce for legalizing the Sunday openings was rejected in the second reading: it was the third time in a century that a proposal of the government was rejected at this stage. It is just in these years that the use of the statutory instruments largely increases.

Before 1970, the loyalty of the parties and the submission of the deputies to their leaders, was at a level that, for instance, during the legislature with conservative majority of the years 1955-1959 only 2% of the votes of the members of the Lower Chamber were not in accordance with their parties. The short Labour government of 1964-1966 registered a 0.5% only of negative votes of its own members. In the following, during LXVII legislature, the disagreement grew up to 28%, corresponding to 420 negative votes in 5 years. In the United Kingdom, more than in other countries, the use of non-standard legislative procedures should be interpreted in the light of party discipline that characterizes the coalitions, that does not influence the fragmentation index we used.

### France

<table>
<thead>
<tr>
<th>Leg</th>
<th>I</th>
<th>II</th>
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<th>VI</th>
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<th>VIII</th>
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<th>X</th>
<th>XI</th>
<th>XII</th>
<th>XIII</th>
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</tr>
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<tbody>
<tr>
<td>#m</td>
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<td>48</td>
<td>52</td>
<td>15</td>
<td>57</td>
<td>60</td>
<td>39</td>
<td>57</td>
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<td>57</td>
<td>51</td>
<td>60</td>
<td>60</td>
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</tr>
<tr>
<td>SP</td>
<td>9.00</td>
<td>7.73</td>
<td>8.48</td>
<td>5.90</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ord</td>
<td>0.89</td>
<td>0.10</td>
<td>0.67</td>
<td>0.93</td>
<td>0.32</td>
<td>0.53</td>
<td>1.03</td>
<td>0.14</td>
<td>1.07</td>
<td>0.16</td>
<td>1.61</td>
<td>2.58</td>
<td>2.08</td>
<td>2.92</td>
</tr>
<tr>
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<td>0.08</td>
<td>0.14</td>
<td>0.10</td>
<td>0.13</td>
<td>0.56</td>
<td>0.56</td>
<td>0</td>
<td>0.02</td>
<td>0.03</td>
<td>0</td>
<td>0.07</td>
<td></td>
</tr>
</tbody>
</table>

Ordinary laws (SP) Ordinances (Ord), and confidence vote (Con) per month.

The use of the ordinances shows a cyclical trend; it reaches the top in the last three legislatures when, on average, more than two ordinances per month were issued. This
procedure has been used as a preferential lane to legislate on specific policy areas, such as the transposition of the EU laws; the regulation of local authorities and, more recently, regulatory simplification. The ordinary laws enacted by the Assemblée Nationale, for which data are available only for the last four legislatures, fall down steadily, from an average of 9.00 to 5.90. Parliamentary originated legislation has varied between a minimum of 9% and a maximum of 21%, placing yearly on an average of 17%.

Putting into play, the responsibility of the government asking for a confidence vote is unusual in the institutional operations. The Fifth Republic used extensively this instrument in the VIII legislature, that was characterized by the first and most conflictual cohabitation, when the confidence vote possibly became a tool for producing cogent norms. Also in the IX legislature the confidence vote was often used, in coincidence with a high use of ordinances, probably favored by a high cohesion of the government.

Clearly, putting into play the ministerial responsibility in the Chambers is, in the French system, an exception in the highest institutional operations and rarely leads to instability of the government.

**Spain**

<table>
<thead>
<tr>
<th>Leg</th>
<th>COS</th>
<th>I</th>
<th>II</th>
<th>III</th>
<th>IV</th>
<th>V</th>
<th>VI</th>
<th>VII</th>
<th>VIII</th>
<th>IX</th>
<th>X</th>
<th>XI</th>
<th>XII</th>
</tr>
</thead>
<tbody>
<tr>
<td>#m</td>
<td>20</td>
<td>32</td>
<td>44</td>
<td>28</td>
<td>44</td>
<td>33</td>
<td>48</td>
<td>48</td>
<td>48</td>
<td>44</td>
<td>49</td>
<td>6</td>
<td>17</td>
</tr>
<tr>
<td>SP</td>
<td>5.00</td>
<td>5.56</td>
<td>4.59</td>
<td>3.18</td>
<td>2.75</td>
<td>4.39</td>
<td>4.63</td>
<td>4.19</td>
<td>3.48</td>
<td>2.07</td>
<td>3.16</td>
<td>10.67</td>
<td>0.53</td>
</tr>
<tr>
<td>LD</td>
<td>2.80</td>
<td>1.78</td>
<td>1.32</td>
<td>0.61</td>
<td>0.55</td>
<td>1.42</td>
<td>1.63</td>
<td>0.90</td>
<td>1.06</td>
<td>0.86</td>
<td>1.55</td>
<td>0.17</td>
<td>1.47</td>
</tr>
<tr>
<td>DL</td>
<td>0</td>
<td>0.09</td>
<td>0.02</td>
<td>0.64</td>
<td>0.11</td>
<td>0.12</td>
<td>0.04</td>
<td>0.15</td>
<td>0.23</td>
<td>0.07</td>
<td>0.08</td>
<td>0.00</td>
<td>0.06</td>
</tr>
</tbody>
</table>

Ordinary laws (SP), legislative decree (LD) and decree law (DL) per month.
Source: http://www.congreso.es/portal/page/portal/Congreso/Congreso

On average ordinary legislation counts 3.4 laws per month, although there is a strong actuation over the years: 5.56 in the I legislature, 2.07 in the IX legislature and 0.53 in the XII legislature. About 10% of this ordinary legislation originates in the Parliament. Consequently, the Parliament seems to play a role in the legislative process more subordinate than in the United Kingdom, amounting to a more majoritarian democracy. Decree laws vary during the legislatures, never going over 1 per month. Also delegating laws are increasing after VIII legislature. Urgent laws represent 27% and 28% of the legislative production in the V and VI legislatures, respectively.
Starting from 1919, all the Governments were formed by majority coalitions. Their birth was often long and arduous, their life was unstable, mainly due to the contrasts among communist and extreme left parties (Costa, Kerrouche et Magnette 2004). After World War II, the political situation went through various stages of stabilization.

From 1958 to 1999, Belgium experienced a partial center alternation regime, among liberal and socialist parties, sometimes both. In 1999, a new coalition including socialist, liberal and ecologist parties formed and it lasted until 2003. In 2004, a new party, namely New Flemish Alliance (N-VA) leaded by Bart De Wever, emerged in the regional majority coalitions; it was the expression of the independentist Flemish groups that aimed to create an independent state. The following success at a federal level made the formation of a coaltional majority more difficult than in the past, when the parties in the majority, even if from different inspirations, shared a unitary ideal. In 2010, it became hard to think to a majority including a secessionist party and a Wallon one; it could represent an obstacle for pursuing the political aims of De Wever. On the other hand, it was not possible to think, even if it was feasible, of a government that excluded the party that received more votes from the Belgian citizens. The two governments leaded by Leterme, in 2007 and 2009, and the one leaded by Van Rompuy, in 2008, formed after an agreement of the Christian democrats and the liberals, both Flemishes and Wallons, and the Wallons socialists. In the following LIII legislature the presence of the secessionist party broke the equilibrium. Waiting for an agreement, the outgoing government maintained its role with ordinary administrative duties; in fact, the King Albert II conferred an ad interim proxy to Leterme himself. During the 546 days of the crisis, legislated, dealing with no main topic, limiting to issue 77 technical norms.
After 78 consultations with the King, with the aim of seeking for a majority coalition, the question was solved in October 2011, when Elio di Rupo, the leader of the socialist party, succeeded in forming a majority based on an agreement on the federal system and the surrender to nuclear power. After further negotiations,\textsuperscript{19} swears in as Prime Minister on 6 December 2011. On the other hand, the parliamentary opposition is often small as the governents, as it is well-known, often have a large parliamentary majority.\textsuperscript{20} The fragmentation of the Parliament seems not to influence the ordinary legislative process, referring to the number of issued laws; on the other hand, this parameter remain stable on high values from XLIX legislature onward, when it had a relevant increase. In fact, it is important to remark that the strong discipline of the parties makes useless the dilatory behaviour of the opposition, moreover, the government has some instruments for directing the parliamentary job, as the priority of discussing its own proposals in the commissions. The Belgian governments have also the possibility of limiting the parliamentary discussions. It is possible to remark that the ministerial decrees increase, but less than the royal decrees, when the legislative provisions decrease, as it happened in the LI legislature. In fact, from 2003 to 2007, the second experience of transversal government” (Costa, Kerrouche and Magnette 2004) shows up, this time it was formed by liberal and socialist parties only, without the ecologist party that took part in the majority coalition of the previous legislature, forming the government with the smallest degree of governability ($g_1 = 0.25; g_2 = 0.16$).

\textit{Germany}

\begin{table}[h]
\centering
\begin{tabular}{|c|c|c|c|c|c|c|c|}
\hline
Leg & XII & XIII & XIV & XV & XVI & XVII & XVIII \\
\hline
#m & 47 & 47 & 48 & 36 & 48 & 47 & 48 \\
\hline
CL & 5.94 & 6.98 & 6.23 & 5.44 & 5.33 & 4.43 & 4.08 \\
\hline
OL & 4.55 & 4.74 & 5.19 & 5.28 & 7.44 & 7.13 & 7.33 \\
\hline
LD & 0.66 & 0.91 & 0.85 & 0.64 & 0.83 & 0.94 & 0.81 \\
\hline
\end{tabular}
\caption{Consensus laws (CL), opposition laws (OL), legislative decrees (LD) per month. Source: http://www.bundestag.de}
\end{table}

\textsuperscript{19} On 21 November 2011, the new prime minister resigned, due to the impossibility of reaching an agreement on the national balance for 2012, but he went back five days later.

\textsuperscript{20} Governments Verhofstadt III, Leterme I and II and van Rompuy had a parliamentary majority larger than 65%.
The Bundesrat has a decisional power on about 35% of the issued laws. After 2006, when the legislative reform enlarged the subjects of laws not requiring the consensus in both chambers, the statistical data show an increasing of the number of opposition laws.

<table>
<thead>
<tr>
<th>Leg</th>
<th>XII</th>
<th>XIII</th>
<th>XIV</th>
<th>XV</th>
<th>XVI</th>
<th>XVII</th>
<th>XVIII</th>
</tr>
</thead>
<tbody>
<tr>
<td>%OL</td>
<td>43.4</td>
<td>40.6</td>
<td>45.5</td>
<td>49.1</td>
<td>58.2</td>
<td>61.7</td>
<td>64.2</td>
</tr>
</tbody>
</table>

It is worthwhile to remark that from XVI legislature onward, when the ratio among the two types of laws reverses, the opposition in the Bundesrat reduces. In the XV legislature there were issued 22 laws then rejected by the Bundesrat; after 2005 there is a smaller number of laws vetoed by the Bundesrat and a smaller number of laws with suspensive veto (they were 0 in the XVII legislature) that was always overpassed by the Bundestag. The formation of the Grand Coalition seems to favor wide and homogeneous political majorities in the two chambers, discouraging the adoption of contesting instruments available to the Bundesrat.

The legislative decrees were frequently used from XIII legislature onward: on average circa one decree per month, with the exception of the XV legislature. It seems not to be by chance that it happened when the government leaded by Schoeder (supported by the coalition formed by SPD and B90) was so weak that a negative confidence vote caused the anticipated end of the legislature in November 2005, an unusual situation for the German Parliament. From 2005 to 2017, the use of legislative decrees reverted to the previous trend, showing that this instrument is widely used by the recent federal governments.

Comparative Analysis and Hypotheses Check

In this section, our aim is to verify through a comparative analysis of the four countries if, how and to what extent governments use the opportunities given by different institutional instruments to orient and/or control decision-making, balancing their weak control of the parliamentary majority. For each country, the use of the different procedures of law-making already discussed in Subsection 4.2 are compared with the levels of both governability and fragmentation discussed in Subsection 4.1. The first remark is the confirmation of the reduction of the legislative production via ordinary procedures in Italy, Spain, France and United Kingdom, mainly in Italy. The average number of issued laws in the period under investigation does not show relevant variations. Nonetheless, the low averages (see previous section) enforce the idea that the
governments expropriated the Parliaments of their normative duties, as in happened after World War II. Belgium and Germany continue the normative production following the standard legislative procedures.

These data seem to contradict the hypothesis of a transformation of the Parliaments that give up their legislative duties delegating them to supranational assemblies (European Parliament) or subnational assemblies (regional Parliaments). In fact, the situation in Belgium and Germany denies this conjecture as they continued to widely legislate. The use of ordinary procedures seems to confirm our hypotheses, that is the choice of the standard procedures, when alternative procedures are available, mainly depends from the decisional capacity of the political actors.

More precisely, the French Fifth Republic registered a reduction with respect to the Fourth Republic (Rose 1984). In the UK, the decreasing of the laws approved with the standard procedure, started at the beginning of the XX century, continues in the period under investigation, from 5.38 laws per month to less than three laws per month (Van Mechelen and Rose 1986). From the quantitative point of view, the legislative production in Spain is relatively more stable than in the other countries, with the exception of the current legislature that started only 17 months ago (at December 2017), so that this datum is not comparable with the others. In Italy, the reduction is more evident only in the last legislatures.21 In Belgium, even if it is not possible to evidence a decreasing trend in the quantity of issued laws, it is worthwhile to remark that the Belgian Parliament transferred, with the recent reforms, some duties to the regional governments, reducing its own area of interest. The German democracy is the most productive, i.e. the closest to the Italian situation (Di Porto 2007). The average number of issued laws is steady stable, about 10-12 laws per month, with a peak in XVI legislature, when the grand coalition with CDU/CSU and SPD forms, resulting in a Government very active from the legislative point of view despite the heterogeneous majority, that could have been locked by a series of reciprocal vetoes.

Italy

As far as the Italian democracy is concerned, previous empirical analysis (De Micheli 2014; De Micheli and Fragnelli 2016) showed that robust correlations exist between the following phenomena: a) the extensive use of the decentralized deliberating

21 Other legislative systems, even if they are enough different, as Germany, Japan, Norway and USA, show a decreasing in the legislative production after World War II (Rose 1984), but the Italian democracy remains one of the most productive among the Western ones (Camera dei Deputati 2010; Pasquino and Pelizzo 2016).
procedure and a medium fragmentation degree; this procedure tended to decline when fragmentation increased; b) the wide use of decree laws, in particular since the VII legislature, growing when the fragmentation increases; c) although remarkable, a more discontinuous use of delegating laws starting from X legislature and growing during the so-called Second Republic, when fragmentation increased; d) the confidence vote is widely used since IX legislature onward, and is strongly correlated with the increasing of fragmentation.

**UK**

There are few formal limits to the decisional capacity of the government when it is supported by a cohesive one-party majority. This was an unchanging feature of the English political system until the 2001-2005 legislature,\(^22\) when the number of members of the Parliament who rebelled to the party discipline was the highest since 1945. Furthermore, the average degree of fragmentation remained constant till 2015, while the average degree of governability remained constant till 2010, then decreased (from 2010 to 2015 UK was governed by an unusual coalition between the Tories and the Liberal-democrats) and the use of statutory instruments sharply increased (with the highest production per month, more than 266); on the other hand, the use of the standard procedure further decreases. It is possible to suppose that the decreasing is, at least for the most recent governments, due to the lack of a cohesive and disciplined majority. Although this clear relationship between variables occurs only in the LV and LVI legislatures (those elected in 2010 and 2015) the link appears strong and empirically sustainable.

**France**

The degree of fragmentation is high, although lower than in Italy, and partially explains the use of confidence vote by the governments: it increases when parliamentary majorities are more fragmented or tight. Moreover, the confidence vote recurs more frequently when the high parliamentary fragmentation coexists with low governability (as in the V, VI and VII legislatures) or with high fragmentation of parliamentary

\(^{22}\) There was an exception with the Callaghan government (1976-1979) during the XLVII legislature, when for most part of the term the government lacked a majority and had to rely on minor parties to govern.
majorities, and/or with minority governments (as it were the cases of socialist governments in the VI and IX legislatures). The use of the confidence vote tends to decrease in recent years, though it should be emphasized that constitutional amendments of 2008 strictly narrowed its application to the financial laws and to the laws on social security financing. During the XIV legislature, this procedure has been resumed and this may suggest the emergence of a new practice in the use of the confidence vote for legislative purposes. The use of ordinances increases when ordinary laws decrease, likewise the contrary occurs as in the XIII and XIV legislatures, jointly with the reduction of the use of confidence vote. It is also plausible for the ordinances, the hypothesis that their use increases when it is difficult for the majority to enact laws through ordinary legislation, as during I, VII IX, XI and XIV legislatures, when the Parliament had a high degree of fragmentation. Even in this country, where the government, in the dual figure of the Prime minister and the President of the Republic, has broad chances to impose its own political agenda, in times of high fragmentation and low governability, the government itself adopts more frequently different procedures to control the recalcitrant parliamentary majority.

**Spain**

The degrees of fragmentation and governability are generally stable and placed around intermediate values till the X legislature. As a consequence, decree laws place steadily around intermediate values. It is worthwhile to remark that during the Constituency assembly, due to the urgency of building a new state there was a very high number of laws. This correlation is validated by the events that took place in the XI and XII legislature: increasing in the fragmentation and decreasing in the governability occurred simultaneously, making difficult a highest use of both decree laws and delegating legislation; this matter may be connected to the larger difficulties in making any agreement on basic interventions, leading to hard application of whatever procedure. In the VIII legislature, the government made an extensive use of legislative decrees, and from this legislature onward ordinary legislation has been difficult to be enacted by all the governments.

**Belgium**

The Belgian democracy does not present evidences of our hypothesis, as we already noticed. In fact, the use of non-standard procedures seems not to be correlated with...
the indices of governability and/or fragmentation of the sub-system Government-Parliament. On the other hand, the results of this analysis confirm that the lack of the Government does not significantly modify the operating way of the democracy, as it happened during the long institutional crisis. In the particular situation of Belgium, the élite was able to guarantee the basic normative production required for maintaining the system, without relevant differences with the ordinary situation, when the Government is supported by wide majority coalitions.

Germany

Despite the continuous decrease of the number of seats obtained by the two greater parties, CDU and SPD, that confirms the growth of new parties (Poguntke 2014), the parliamentary fragmentation decreases in the last legislatures. Even the governability seems to be influenced by the changes in the voters’ choices that led to new coalitions. Referring to the suspensive veto, the formation of the Grand Coalition seems to discourage the use of this instrument. Following our hypothesis, there are positive evidences about the governability and the fragmentation, that even if they are not so high, seem to generate a more difficult legislative process during the XV legislature, when the fragmentation of Parliament was higher and the governability lower. In fact, in this period the government hardly imposed its decrees and the chambers were more hostile in reaching an agreement for issuing new laws, as proved by the norm on the laws requiring the approval of the two chambers.

On the other hand, the German government is the main actor in the normative production process, even if it has weak rights in the legislative process. Its legislative policy is carried out mainly thanks to its own majority in the Parliament, following the various Fraktions.

For a better analysis of the starting hypothesis, it seems necessary to survey the characteristics of the legislative process of the current legislature that presents two new aspects: First, the success of AfD (Alternative für Deutschland), the first extreme right party entering the Bundestag from several decades; second, the extremely long time and the uncertainty that, for the first time, was observed in the formation of the government.

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23 The recent elections, that are out of this analysis, confirm the decreasing of the interest of the voters for the traditional parties.

24 The relevance of the Fraktions is witnessed by the rules of the Bundestag that, referring to the role of the Commissions, say that the members that change their parliamentary group may no longer vote, but only take part as consultants, reaffirming how the membership in a group is a mandatory requirement for fully working as a member of the Parliament.
Concluding Remarks

The first comment concerns the continuous decline of ordinary legislation enacted in all examined countries, except Belgium. Albeit with some differences, in all these democracies law making processes are characterized by an increasing of the governmental normative instruments use, which substitute ordinary legislation when fragmentation increases and/or governability decreases. This trend is particularly evident in the Italian situation, that may be viewed as a good ground for testing the existence of connections among our independent and dependent variables. The comparative analysis allows deepening if a relation could be hypothesized between institutional and political weaknesses. The use of particular tools and decision-making procedures causes significant effects on the decision-making capacity of governments.

The “shortcut” of the procedures is, in the short term, the most attractive and probably more profitable strategy to increase the decision-making capacity of governments, if the outcomes of the ordinary legislative process are endangered by a high degree of fragmentation or low governability. However, this is a short-term strategy that has only a marginal impact on the real crucial issue of parliamentary systems, which is the behaviour and discipline of parties within the Parliament.

Finally, it is possible to suppose that this behaviour of the governments for monopolizing the legislative process is becoming a specific and permanent characteristic of how the subsystem government-Parliament works in this new century.

Acknowledgement

The authors gratefully acknowledge two anonymous reviewers for their useful suggestions.
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Interest Groups.  
An Updated Survey of the Literature

I gruppi di interesse.  
Una rassegna aggiornata della letteratura

Liborio Mattina

Abstract

Interest groups are among the most relevant social actors who inhabit liberal-democracies. Yet, despite their relevance, they are poorly studied. This review explains the reasons for the minor attention that scholars reserve to interest groups. The first part examines the problems faced by scholars of United States (USA) and European Union (EU) groups systems when they study interest groups. The second part is dedicated to the way researchers overcome the problems related to measuring group influence on decision makers. Then is reviewed the literature dedicated to the most important subject addressed by this sub-field of political science, namely the investigation over the biased – or unbiased – character of the system of interests in the USA and EU political systems. The impact of globalization on the group systems is highlighted in the last part of the survey. A final comment is dedicated to the pluralist or elitist nature of the group systems in our democracies.

I gruppi di interesse sono tra gli attori sociali più rilevanti che abitano le democrazie liberali. Eppure, nonostante la loro rilevanza, sono mal studiati. Questa rassegna spiega le ragioni per cui gli studiosi si riservano ai gruppi di interesse così scarsa attenzione. Nella prima parte si esaminano i problemi affrontati dagli studiosi dei sistemi dei gruppi d’interesse negli Stati Uniti (USA) e nell’Unione europea (UE). La seconda parte è dedicata al modo in cui i ricercatori superano i problemi relativi alla misurazione dell’influenza dei gruppi sui decisori. Quindi viene presa in considerazione la letteratura dedicata al tema più importante affrontato da questo campo delle scienze politiche, vale a dire l’indagine sul carattere prevenuto – o imparziale – del sistema di interessi nei sistemi politici degli USA e dell’UE. L’impatto della globalizzazione sul sistema dei gruppi è evidenziato nell’ultima parte dell’indagine. Un commento finale è dedicato alla natura pluralista o elitaria dei sistemi dei gruppi nelle nostre democrazie.

Keywords

Lobbying, Interest Groups, Business groups, Neo-institutionalism, Pluralism vs elitism

Lobbying, gruppi d’interesse, gruppi economici, neo-istituzionalismo, pluralismo ed elitismo
Introduction

Interest groups are the most outstanding social actors who inhabit liberal-democracies. And those who, even more than political parties, concur to creating a useful network of links between civil society and the economic world on the one hand and democratic institutions on the other. Interest groups represent the society that organizes itself to present its preferences to public institutions asking for answers.

Yet, despite their relevance, interest groups are less studied than parties or other classic sub-fields of political science. The reasons for the minor attention that scholars reserve to groups derive from the conceptual difficulties inherent in the definition of the object of their research and from the methodological problems related to the need to measure the activity of groups and to assess their impact on the functioning of democratic regimes. These difficulties often discourage political scientists from devoting their efforts to the study of interest groups (Beyers 2008).

The first part of this contribution will examine the problems scholars of United States (USA) and European Union (EU) groups systems face when they study interest groups and the solutions adopted to overcome them. The second part will be dedicated to the way researchers meet the conceptual and practical problems related to group influence on decision makers. Then we will test the qualitative results of the research on interest groups by examining the most important subject addressed by this sub-field of political science, namely the investigation over the biased – or unbiased – character of the system of interests in the USA and EU political systems. The impact of globalization on worsening some permanent distortions of the group systems will be highlighted in the last part of the essay. A final comment will be dedicated to the pluralist or elitist nature of the group systems in our democracies.

Interest groups research in USA and EU

European and American studies on interest groups followed a different path in previous decades. Europeans scholars were mostly interested in policy systems whereas USA researchers studied the tactics of lobbying, the role of money in the political system, or the incentives to collective action. The two scholarly communities operated substantially in separate spheres from the 1970s until the 1990s.

However, in the USA the literature on interest groups marked substantial progress in several areas. The most prominent results have included studies on the biases of mobilization; the collective-action dilemma; the tactics of lobbying; the effects of contextual factors such as laws, government subsidies and institutions on groups mo-
bibilization. Closer attention has also been dedicated to roles played by groups in elections and their commitment to campaign finance. Moreover new attention has been given to the dominant role that institutions (cities, regions, universities, etc) have achieved in some interest systems and the competitive dynamics between haves and have nots or between traditional business and social interests (Baumgartner and Leech 1998; Lowery and Gray 2004).

In more recent years research on groups has gained new momentum thanks to an increased methodological awareness on the way searches are carried out, to the greater availability of official-institutional data (relative to the USA and the EU) concerning the population of groups that crowd the decision-making arenas, to more systematic comparative analyses, to the contamination with policy analysis and to the greater attention paid to the institutional context in which groups play their games.

Moreover, recent developments suggest that the European and American studies on interest groups have begun to converge on some common research programs (Mahoney and Baumgartner 2008). Today scholars are more likely to share their research through publication in international journals and participating in international networks, and these networks increasingly incorporate USA as well as European scholars. This increased convergence of research on interest groups is evidenced by the common assumption, shared by scholars studying groups both in Washington and in Brussels-Strasbourg, that a co-evolution of groups and the state activity exists. Looking both over time and across issue-domains, groups are more active when and where the state is more active. A significant amount of research from the USA confirms that groups and the state co-evolve at the national level and with important implications at lower levels of government as well. Similar patterns have been detected in the EU. As the EU’s competencies expanded the number of groups increased as well.

A second point of convergence concerns the impact of government structures on the locus of advocacy. Originally explored in the USA context, multi-level governance structures in European settings have led to consideration of the concept of venue-shopping elaborated by Baumgartner and Jones (1993). The EU interest group literature looks explicitly at interest group activity at multiple tiers of governance, while the USA literature considers advocacy at the federal, state and local levels. In both cases researchers investigate which groups seek out and engage with levels of governance that are more favorable to their cause, and try to detect the difficulties that could arise in moving from one tier to the other as consequence of the assets of resources held by each group.

The third point of convergence is related to the impact of government structures on groups behavior. Research both in USA and in the EU show how groups in both systems adjust their lobbying strategies to their political context. Scholars have in-
creasingly recognized that lobbying behavior varies not just by organization but that the same organization will behave differently in different contexts as determined by the institutional structure and by the characteristics of a particular issue (Mahoney and Baumgartner 2008: 16). Whether operating in a centralized system or the highest tier of a multi-level system, the tactics and argumentation of advocates will differ from those employed at lower levels of governance. Similarly, the nature of the issue – its degree of political salience and conflict potential – is central to the decision-making of lobbyists when they devise their lobbying strategy.

Scholars across Europe and the USA are increasingly sensitive to the questions discussed above. This awareness could advance more convergence of research on interests groups and improve the chances for well qualified comparative studies. However there are some obstacles that need to be overcome before transforming the convergent perspectives into a factual collaboration between the two sides of the Atlantic. This is particularly true for European researchers.

**Limits and perspectives of research on interest groups in EU**

The scholarship on EU interest groups is published in few specialized journals. The authors constitute a rather larger community of scholars, but prefer single authorship over collaborative work. Research is mostly conducted by European scholars, with few American scholars interested in the field. This result confirms that, despite the convergent perspectives (*supra*), the two communities have developed for most of the time in parallel without any consistent transatlantic dialogue (Bunea and Baumgartner 2014). Research is strongly embedded in the EU policy-making context and characterized by descriptive analyses and qualitative case studies. Moreover, it shows some shortcomings in methodology and theory building; and in the exiguity of issues investigated. Despite these limitations research on EU interest groups has made some important steps forward in recent years thanks to the links established with concepts such as multi-level governance and Europeanization that have fed back into the comparative study of domestic politics as well as to the general comparative study of interest groups (Beyers, Eising and Maloney 2008).

Therefore, it is worth joining the wish expressed by Bunea and Baumgartner at the end of their demanding examination of the limits found in the studies on interest groups at EU level. “The very recent scholarship suggests that there is an increased and serious interest and commitment on behalf of scholars to engage significantly much more into systematic, theory testing, large research projects of EU lobbying” (2014: 1430).
Indeed, this is the goal that a group of European scholars is trying to pursue by promoting greater coordination of research and by collecting basic data on interest groups operating in several European countries. To this purpose they launched in 2016 a Comparative Interest Group Survey for mapping and surveying the interest groups associations operative in various European countries. The research work is going on with some first results available on their web site www.cigsurvey.eu. It is desirable that this initiative, together with others of the same kind, could help to build comparative projects that will allow to overcome the methodological weaknesses of the past and promote the cumulativeness of knowledge.

**Conceptual and practical problems in the study of interest groups**

Interest groups are organizations of individuals who may come from homogeneous social sectors, (for example, employees of metalworking companies), or from heterogeneous social realities, as is the case with citizen associations that pursue diffuse interests. Associations of banks that try to influence policy-makers who regulate the financial sector are also considered interest groups, as are university consortia asking governments for more investments to support higher education. Neither should be neglected those single industrial or financial companies asking policy-makers for specific measures in favor of their individual business. Interest group is, in other words, a label that can be applied to a large and heterogeneous population of social and economic actors; and to institutions. The abundance of contents strives to be included within the same concept of interest group, so much so that it is expressed in a wide range of words. Besides, many of these words are “‘tied’ to specific areas of research going hand-in-hand with specific approaches and normative assessments” (Beyers, Eising and Maloney 2008: 1106). The heterogeneity of nouns and objectives hinders the cumulability of results. This often results in a fragmentation of research into non-communicating niches that produce several non-comparable case studies (*ibidem*).

To overcome these limits, the literature on interest groups needs a definition able to circumscribe its field of application, but taking into account the many diversifications that the object of research may assume. The task is not easy because there are, as we have seen, significant differences between the groups. Among the most important differences, the one that cuts the population of interest groups longitudinally is the distinction between organizations with membership and those without membership. The first includes those interest groups that are real associations formed by individuals or organizations (local authorities, churches, universities, hospitals, companies) in
which members argue for reaching common positions to be presented to their counterparts. To this kind of associations the literature on interest groups has paid much attention, developing some of its classic topics as those referred to the recruitment of potential membership and its aggregation on shared objectives, to the organization as a vehicle for political participation, to the long-term political alliances established by groups with political parties, and to lobbying activities. The interests that fall into the second category are not associations of individuals or organizations. They are single organizations that in some situations play lobbying, but to which are unknown all the other activities concerning interest groups with membership.

This, however, does not mean that this second type of interests – which can be labeled as organized interests to distinguish them from interest groups with membership – may be overlooked, because they usually consist of municipalities, regions and states (the latter in federal systems). In addition, the business community is part of this category of interests, as well as all other organizations that are usually more present and active in the most important policy networks.

To better define and limit the scope of research on groups, it is also necessary to distinguish interest groups from political parties, to identify their customary ways of political initiative and their political targets. To this end it may be useful to propose the following definition: “Interest groups are formal organizations, usually based on individual voluntary membership, which seek to influence public policies without assuming government responsibility” (Mattina 2011: 1219-20).

This definition states that interest groups, unlike political parties, do not try to acquire the direct control of the public offices through electoral competition. Instead, interest groups limit their commitment to influence policy-makers. The main purpose that interest groups try to achieve is that the policies approved by public actors are in tune with their preferences. It is worth emphasizing that the approval of favorable public policies is the main objective of the groups activity, because in this way it is possible to limit the scope of action of the groups in a sectoral, or sub-sectoral, dimension. This makes it easier to delimit the number of groups to be considered from time to time in relation to the specific issue that is under examination. This definition also encourages linking the study of groups’ political behavior to the sub-field of policy analysis. Moreover, it suggests not to limit research to the mobilization process and the lobbying activities of groups but to give attention also to the groups’ conduct during the implementation of policy making.
Interest groups influence

The above definition points out that group activity is exercised through influence. This is the most important qualification of interest groups and at the same time is their most controversial distinctive feature because it is difficult to make a reliable empirical measurement of the degree of influence that each group can exercise within the decision-making process. This problem discourages research on groups because it is never fully ascertained how really effective groups are in the policy-making. Research on groups tries to circumvent the obstacle inherent in measuring influence by focusing attention on access and lobbying in the attempt to give credibility to the sub-field by presenting convincing empirical evidence.

Influence is a form of indirect power, exercised through persuasion, which aims to change the conduct of individuals without apparent external signs. Influence is difficult to distinguish clearly from political power because the latter can also be exercised through persuasion (Friedrich 1950) Political scholars, therefore, run into the difficulty of neatly circumscribing the perimeter of these two political processes. Moreover, it is difficult to measure now the influence now the power because neither one nor the other are easily measurable (Baumgartner and Leech 1998: 58-61). With regard to influence, in particular, it seems impossible to quantify a political process involving certain groups and the behavior of rival groups, politicians, public authorities, bureaucracy and public opinion (ibidem: 13-14). In fact, any attempt to identify the real impact of the influence exerted by groups is unsatisfactory (Dür 2008: 1216-19) because the observation of negotiations among the relevant actors in the policy-making does not allow to identify with certainty all the really important issues at stake (Mc Farland 1987). Often certain items are not even included in the political agenda (Bachrach and Baratz 1962). Other factors, for example other legislators, party leaders, the legislators personal convictions, the media, can influence to an even greater extent the policy choices of policy-makers (Kingdon 1981; Schlozman and Tierney 1986).

Access and Lobbying

Faced with the problem of measuring influence, scholars on interest groups shifted their attention to access and lobbying. Both became a proxy of influence for investigating the groups’ impact in the policy-making.

Access is the attempt made by groups to come close to or inside the public venues where relevant decisions of their interest are taken. However, “whenever they have a ‘seat at the table’, access does not necessarily translate into influence. Opposing
groups may have equal access and political actors can reject the demands made by interest groups. Public actors may even use access as an instrument to co-opt societal interests. Taking access as a proxy for influence thus is likely to lead to erroneous results” (Dür 2008: 1213-14). Moreover, access to one governmental body could not be enough for exercising a real influence in a decision-making process that requires the intervention of several institutional bodies, as is the case of the Federal government in USA and in the EU.

Lobbying is generally “understood as one or more face-to-face meetings between representatives of an interest group and legislators, sought by the former so as to influence the decisions of the latter in a way that benefits the group's preferences. [...] In its broader form lobbying involves a wide range of initiatives including contacts with bureaucratic bodies, the premier's office, the courts and parliament, the use of mass media, preparation of memorandums, the forging of links with individual functionaries and so forth” (Mattina 2011: 1226).

Researches on lobbying suffer the same methodological weaknesses found on the study of access. Scholars often tend to use their own methods for measuring the impact of lobbying without any comparison with instruments used by their colleagues. Moreover, scholars often start their research with the optimistic assumption, derived from the pluralistic literature (Dahl 1956), that lobbying would always have some real impact on public decisions, underestimating the fact that in the real world groups face several obstacles derived by the peculiarities of the political contest in which lobbyists operate as the predispositions – receptive or resistant – of the public decision-makers or the political salience – more or less conflictual – of the issues on which lobbyists concentrate their efforts. This optimistic bias inevitably leads to overestimating the effectiveness of lobbying. Finally, scholars usually identify lobbying with a proactive action of pressure, while it is a fact that lobbyists spend most of their time monitoring the work of different policy actors (Heinz, Laumann, Nelson and Salisbury 1993: 380), to try to obtain the inclusion of their proposals on the political agenda.

More generally, lobbying studies suffer from the absence of a shared theoretical basis, while narrow analytical perspectives have been adopted that have led scholars to not to build on the results obtained from the work of others colleagues and, accordingly, to make little use of comparisons (Baumgartner and Leech 1998: 126-137).
Lobbying in Washington and Brussels: A biased group system

Several limits found in the research on lobbying were surmounted by a new wave of studies carried out in the United States since the second half of the eighties. Those researches have been able to count on a better quantity and quality of institutional data, on a greater methodological awareness, as well as on a higher attention by scholars to the political-institutional context in which groups decide to favor a lobbying strategy rather than another.

These changes allowed the pursuit of important research on lobbying at the federal level and in the states of the federation that increased the knowledge of the way in which lobbying is made (Berry 1999; Gray and Lowery 2000; Schlozman, Verba, Bravy, Jones and Burch 2008). However, despite this progress, researchers were not able to find an effective assessment of lobbying, accepted by the entire community of scholars.

The methodological and analytical problems encountered by USA scholars have been more evident among European scholars of interest groups. Research on lobbying is less developed in Europe than in USA because European scholars have displayed less interest in the topic, due to the importance attributed in interest group literature to the neo-corporatist approach. Neo-corporatist scholars take for granted that there is an inertial collusion between policy-makers and the representatives of the main economic interests while they largely ignore the lobbying activities of non-economic groups. However, a downturn occurred over the last two decades mainly generated by the greater political importance assumed by the EU and its institutional system, based on multilevel governance, which offers many direct access points for individual groups and national associations. The greater powers acquired by the EU imposed on national interests the need to promote their causes by working both on the domestic and on the supra-national arenas. And the research on interest groups increased accordingly by recording steady growth in the quantity of surveys devoted to investigating lobbying in the EU.

An intriguing exemplification of the difficulties faced by scholars in detecting groups influence and of progress found in overcoming them is given by researches dedicated to the study of the system of interests in the USA and the EU, to which we will now turn our attention. The issue concerning the functioning of group systems presents important normative implications because it calls into question the quality of liberal democracies and raises the question of their legitimacy. It is therefore a topic that imposes a serious challenge to scholarship, whose good reputation depends to a large extent on the ability to give an empirically based answer to the following question: Does the group system favor a balanced access within institutions?
to interests operating in society and an equal ability to influence policy-making, or are institutions more attentive to the demands of the few at the expense of the interests of the many?

The issue of the functioning of the group system has been addressed by several researches dedicated to access and lobbying in the USA and in the EU. The results of research on access indicate which are the dominant groups in a certain political arena, ie the groups that are physically and permanently present in a given policy network. The results of the research on lobbying aim to go one step further because they do not take for granted that the dominant groups are also the most influential. Several factors, as we have seen above, can prevent even the groups permanently present in the policy-making venues from exercising real influence on policy-makers. Studies on lobbying must therefore be considered as the attempt closest to the identification of influence that the research on groups has so far managed to devise. So let’s see what the groups most present in Washington and Brussels are and then move onto the examination of results obtained from groups who lobby elected representatives and bureaucrats.

Privileged access in Washington

The literature on groups dedicated to the USA case registers a bias of access in favor of business and professional groups. The vitality of civil society in the USA, which in recent decades showed signs of contraction (Putnam 2000; Skocpol 2003), does not move mechanically into the sphere of political society. As we know from Olson (1965), groups representing diffuse interests meet more problems in mobilizing than economic groups. The latter are able to access federal and state institutions more easily than the former. In particular, the predominant presence of the business community groups in Washington was already asserted by Elmer Schattschneider, in the late fifties of the last century with scathing irony addressed to the then prevailing pluralist approach.1 Later researches by Walker (1983) and Schlozman and Tierney (1986) showed that about three-quarters of the groups represented in the mid-eighties in Washington were associated with economic and professional interests. Particularly, in the twenty years between 1960s and 1980s, the presence of large individual companies in Washington grew tenfold (Ryan, Swanson and Bucholz

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1 “The system is skewed, loaded and unbalanced in favor of a fraction of a minority.....The flaw in the pluralist heaven is that the heavenly chorus sings with a strong upper-class accent” (Schattschneider 1960: 55).
1987); and increased significantly even at the state level (Gray and Lowery 2000; Nownes and Freeman, 1998).

The subsequent surveys, related to the first decade of the 2000s, carried out by Schlozman, Verba, Brady, Jones and Burch (2008) on data concerning nearly 14,000 organizations registered in the 2006 Washington Representative Directory, found a significant increase in the total number of interest groups accredited at the Congress in comparison to the previous two decades. But they confirmed the persistence of a bias in favor of business and professional groups, although the presence of institutions also increased, especially representatives of state and local governments, universities and hospitals. Public interest groups, unions and groups representing the poor were the most penalized. In the last 25 years their modest capacity for access to Congress has been stagnant or worsened. Regarding the difficulties of access by USA unions, they depend on the more general weakening of the organizations of USA workers whose membership in the private sector fell between 1981 and 2006, from 20.1 to 7.8 percent (ibidem: 34). Resuming Schattschneider, the persistence of the bias led Scholzman et al. to the conclusion that, although in Washington the pluralist choir became larger, neither its accent nor the assortment of the voices that composed it changed (ibidem: 40).

**Dominant groups in Brussels**

The findings derived from research carried out in the USA are confirmed to a large extent also for groups active in the EU. In fact, the results of available research indicate that business and professional associations are those who benefit the most from the opening of accesses by the EU (Schneider and Baltz 2003; Rasmussen and Carrol 2013). The increased presence of these associations – which represent around 80% of the organizations present in Brussels (Eising 2007: 393) derives from the type of legislation passed by the EU that favors the economic actors that have interests at stake in cross-border transactions (trade, investment, production, distribution) (Stone Sweet and Sandholtz 1998). In other terms, the development of the EU’s regulatory activity and the presence in Brussels of economic interest groups go hand in hand. This trend took root to the detriment of diffuse interests that often turn to the European Parliament to politicize certain issues (environment, health, consumption). On the contrary, business groups prefer to deal with these issues through an exclusively technical approach within the committees that support the work of the European Commission and the Council (Beyers 2004; Shepard 1999). A survey carried out on the components of a sample of 124 expert committees assisting the work of the European
Commission found that 72% of the representatives of the groups participating in the activity of the committees were representatives of business and professional associations (Mahoney 2004: 450).

Among the business groups, multinational companies took a dominant position within the euro-groups, i.e. the European associations that group and represent the highest cross-sectorial national associations; without however renouncing individual access (Coen 1998; Eising 2007). The considerable availability of organizational and financial resources, as well as international experience and expertise, have enabled multinational companies to gain an advantage over euro-groups and national trade associations representing similar interests (van Schendelen 2002: 193; European Parliament 2003: 13-16). Multinationals have therefore become the privileged referent of the Commission to which they offer “good” information for the preparation of legislation, which is preferred to the other generated in recent years by the increase in the number of groups present in Brussels (Broscheid and Coen 2007: 25-29).

The bias over access in favor of large business groups is not, however, uniformly spread across all policy arenas. It is greater in some but less pronounced in others because the disjointed nature of the EU decision-making process does not create a cumulative advantage for the groups that prevail in some policy networks and leaves open the opportunity to many others to find the proper venue to promote their causes (Mazey and Richardson 2001: 234). The imbalance in access would therefore be mitigated by the pluralism of the institutional system of EU.

Who lobby in Washington and Brussels

Are dominant groups present in the most important policy arenas also the most influential? To answer the question, the literature on groups concentrated its efforts, as we have seen, on the study of lobbying. Now we will examine the work of USA and European scholars that carried out the most accurate researches by the number of cases examined, comparative references to the works already available, and statistical accuracy.

Washington

With regard to the USA, the important researches by Baumgartner and Leech (2001), Baumgartner, Berry, Hojnacki, Kimball and Leech (2009), Drutman (2015), carried out on a vast series of empirical data (referring to the last twenty years), allow a
satisfactory answer to the question of the possible correspondence between the dominance of certain groups in policy arenas and their influence. The accurate research by Baumgartner and Leech (2001) on the quarterly reports that companies involved in lobbying must submit to Congress in accordance with the law, allowed the detecting of the greater presence in Washington of the entrepreneurial and professional groups that together represent 65% of the total compared to 10% represented by non-profit groups, citizens’ associations and trade unions. The examination of the reports also allowed Baumgartner and Leech to distinguish between a limited number of conflicting subjects discussed in some policy-networks that attract a large number of groups and more than 50% of the total issues examined that are not contentious and on which is focused merely 3% of lobbying. The entrepreneurial and professional groups were active both in the crowded and contentious policy-networks as well as in the non-contentious ones, where it is sufficient to suggest the inclusion of a few lines to exert a substantial effect on the outcome of the policy. In contrast, trade unions and groups representing widespread interests were active mainly in the first type of policy-network. Moreover, the significant position of the business and professional groups in the Congress policy-making was confirmed by the amount of money spent on lobbying. The data collected by Baumgartner and Leech (2001: 1197) show that entrepreneurial groups and professional associations spent nine times more than non-profit groups and citizen associations, for an amount equal to 85% of total expenditure in the time span considered by the research. In particular, large companies alone spent more than half of the total money invested on lobbying.

In conclusion, the research by Baumgartner and Leech (2001) shows that entrepreneurial and professional groups are the most present and active in the Congress, where they have the most contacts with the decision-makers. Moreover, they invest much more financial resources than the other groups on lobbying, they are the best distributed in the policy-networks, they enjoy the advantage of protected positions within different “niches”, and they find in the status quo a powerful ally for the protection of their interests (Baumgartner, Berry, Hojnacki, Kimball and Leech 2009). Finally, these data may not be exhaustive to establish unequivocally the greater influence of the business community in decision making in Washington although they show clear evidence of that.

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**Brussels**

The results of research on the EU offer more discordant indications than those reported by research carried out in the USA. Some authors believe that in Brussels,
much more than in Strasbourg, the business community exerts a significant influence on the institutions of the EU. Others cast doubt on this greater ability to influence.

With regard to the first, since the beginning of the 1990s, several authors have asserted that the EU decision-making system favored business interests. More recent researches confirm the evaluations of the authors of the previous generation (Bunea 2014; Hermasson 2016). And they identify in the expert groups that assist the European Commission in the preparation of legislative proposals an effective vehicle through which the business groups, in most cases, have more opportunities to see their preferences reported in the final text of the policy proposals (Chalmers 2014). The bias in favor of the effectiveness of business groups in the decision making process through expert groups seems confirmed to some extent by the results of a recent European Parliament inquiry concerning the censurable omissions of the European Commission, exploited to their advantage by the automotive companies, in monitoring the implementation of European regulations aimed at reducing harmful emissions of carbonic acid gas into the atmosphere (European Parliament 2017).

Other authors, also belonging to the new generation of scholars who examine the activity of interest groups in the EU, propose, as we have said above, a more problematic assessment of the ability to influence Brussels and Strasbourg by business groups. According to some, business groups can play an important role in drafting the reports that the European Parliament sends to the Council only when the European business federations present unitary positions to the most important parliamentary committees, and on issues that have little political salience (Rasmussen 2015). In any case, business groups often face coalitions of interests that include groups representing diffuse interests, the European Commission and the European Parliament while businesses find alongside them as allies most of the member states. The outcome of such confrontations is usually a compromise that is often beneficial to the coalition to which diffuse interests belong (Dür, Bernhagen and Marshall 2013).

Therefore, the most recent research on the influence of interest groups on EU policy-making is dissonant on the assumption that the business groups have a decisive influence on European legislation. How to explain the divergent interpretations? Certainly, in the case of the EU there are greater difficulties than in the United States for the collection of large and well-documented data sets. These difficulties in the USA – as regards the federal level – have largely been overcome thanks to the mandatory registration of lobbying activities. Scholars of groups active in the EU must instead rely on inadequate data sets to produce shared results. On the other hand, scholars still tend to use different methodologies for data processing. The time series used are also different.
Without ignoring the divergent evaluations that come from the most recent research on the influence exerted by business groups on the EU institutions, it is perhaps possible to consider them as discordant interpretations of a relationship that evolved over time and that presents dynamic characteristics. This assessment can be proposed by elaborating the statement of Scharpf (2001) according to which business groups were among the main protagonists of the institutional evolution of the EU, which took place with the adoption of the Single Act (1986) and the Maastricht Treaty; and those who benefited most. However, the regulatory process through which the EU after Maastricht established the ways of regulating the business groups – particularly in relation to consumer rights and environmental protection – involve costs for the business community that it often refuses, at least in part, to support. It is therefore not infrequent that attempts to obtain approval of its requests are frustrated.

To conclude, there is a bias, both in Washington and in Brussels, in the system of interests that derives from the dominant position held by the economic groups neighboring on the institutional places relevant for policy-making. This position frequently translates into greater ability of the business community to influence the decisions taken by political actors. This trend is more pronounced in Washington and less in Brussels.

The privileged position of business groups in democratic regimes

Moving from the results of empirical analysis to the theoretical contributions, the literature on interest groups explains the causes of the bias in the group system distinguishing between political and structural power of the business community.

The first discloses itself through greater availability of money, expertise, and financial and organizational resources, that make easier both access and lobbying. The structural power of business groups is, instead, their ability to decide when and where to invest. For this reason, according to Lindblom, political authorities strive with all the means at their disposal to support large companies, with the consequence of guaranteeing them a privileged position within the policy-making (Lindblom 1977). Claus Offe (1977) also comes to similar conclusions, although he adopts a neo-Marxist approach that is alien to the liberal tradition to which Lindblom belongs. According to the German scholar political actors can enjoy substantial autonomy from the domi-

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2 However, the privileged status of business groups appears to Lindblom incongruent with the founding principles of liberal-democracies: “The large private corporation fits oddly into democratic theory and vision. Indeed, it does not fit” (Lindblom 1977: 356).
nant economic groups, but are forced to establish privileged relations with the capitalists because, not having their own resources, they have an interest in supporting the economic conditions of reproduction of capital which constitutes the material basis of public finances.

The strength of structural conditioning exercised by business groups on political actors risks causing serious consequences on the functioning and legitimacy of liberal democracies. According to Dahl and Lindblom, “Businessmen play a distinctive role in polyarchial politics that is qualitatively different from that of any interest group. It is much more than an interest group” (1976: xxxvi). Going further into speculation, Dahl (1985) concludes that the influence entrepreneurial groups exert on public institutions affects the outcomes of the democratic process, creating social and political inequalities that nurture one another, reduces the possibilities for citizen participation, and prevents implementation of redistributive policies while renewing the influence of the business community on political life.

The drastic judgments of Dahl, echoed by Lindblom and Offe’s observations, are linked by the idea that public institutions have little chance of countering business groups’ preferences. Indeed, these groups and the entrepreneurs may threaten to suspend investments, in protest against high taxation or restrictive regulatory policies of the free enterprise. However, these positions are questioned by scholars who refer to the neo-institutionalist approach to the study of interest groups, and on which it is therefore appropriate to focus attention in the next section.

Groups and institutions

The main assumption of historical institutionalism is that institutions are over-ordered to interest groups and shape their ability to exercise influence on the policy-making (Hall and Taylor 1996; Immergut and Anderson 2008). For example, Coen and Richardson (2009) argue that EU institutions substantially shape the patterns of lobbying. This tendency derives from the fact that institutions can impose institutional constraints, more or less relevant, deriving from their history and their practices settled over time (the path dependency of Paul Pierson), from their internal articulation (the more or less large number of veto institutional players involved in the decision-making) and, last but not least, by the greater public legitimacy they enjoy compared to the interest groups. Based on these assumptions, historical institutionalism distances itself from a certain indeterminacy with which pluralists often describe the characteristics of the state in liberal-democracies and rejects the assumption of neo-marxists who classify the state as an instrument at the service
of the ruling class. The state is instead conceived as an actor who can operate in a totally autonomous way in the decision-making process (Skocpol 1985) and who is able to adopt independent choices in times of economic crisis to react to a negative conjuncture (Gourevith 1986).

Therefore, when important institutional changes occur within a political system, interest groups adapt their strategies to the new conditions deriving from institutional transformations (Steinmo 2008). Instead, norms and institutions are particularly permeable to the influence of groups when they are not adequately equipped to regulate sectorial pressures. This is the case, according to Hacker and Pierson (2010) of the United States institutional system that discourages the formation of disciplined political parties at federal level, offers many channels of access to public institutions, is articulated in autonomous central institutions which often compete with each other. The institutional system also allows an endemic parliamentary obstructionism. The combination of these institutional characteristics allowed the groups of the business community, better organized and endowed with considerable financial resources, to engage successfully in promoting a highly unequal tax legislation for the benefit of 0.1% of the population while preventing the approval of laws that effectively would protect workers in the workplace and savers from the risks of stock market speculation. Otherwise, in other cases (France and Sweden), when institutions favor the formation of autonomous governments from the conditioning of interest groups, they can encourage the launch of important reforms – such as health care reform – which, despite the opposition of medical associations, create a public service that benefits the entire population (Immergut 1992).

Finally, according to historical institutionalism, institutions have different characteristics from one case to another, but always influence the behavior of interest groups. The general assumptions of historical institutionalism seem, however, inadequate to grasp the adaptation paths that the business community groups made in the recent past, in various national contexts following the transformations introduced by globalization. Let’s take a closer look at this topic in the next section.

**How the international environment feeds the structural bias**

Globalization has now reduced the powers of the territorial state in contemporary democracies and increased the conditioning powers of the business community towards governments. In particular, the integration of financial markets generated a huge increase in funds raised on the international capital market and increased the ability of companies to collect and transfer capital across national borders. For territorial states
it has become a priority to prevent, by providing incentives and facilities to the business community, private investments from migrating to more attractive shores. As a result, while firms’ ability to influence governments has increased greatly, national states have increasingly been forced to promote tax and labor policies that benefit companies and penalize large sectors of the population (Crouch and Streeck 1996; Strange 1986).

Therefore it seems appropriate to reconsider the relationship between state and groups overcoming the rigidity of the neo-institutionalist assumptions. To this end, it is worth mentioning Wolfgang Streeck (2010), according to whom the weakness of the neo-institutionalist approach derives from a static vision of political change, which is imagined as a set of occasional fluctuations that leave unchanged the institutions and the relationships between them and the protagonists of capitalist development. On the contrary, Streeck encourages the idea that the change fueled by the transformations induced by contemporary capitalism can generate radical changes.

Streeck’s criticism of the neo-institutionalist approach finds an empirical foundation in the research that has critically controlled the assumptions of the literature dedicated to the “variety of capitalism”. As is well known, this literature pays special attention to the various institutional solutions adopted by liberal democracies to structure economic policy (Hall and Soskice 2001). Nonetheless the empirical findings of the comparative research made by Baccaro and Howell (2011) showed that the permanent divergence in existing institutional solutions, in different countries, in the relationship between capital and labor, proved to be perfectly compatible with the increase of discretionary choices by entrepreneurs in the workplace. In other words, the business community everywhere gained power over salaried workers, regardless of the institutional set-up existing in the different countries while governments have not been able to play their traditional role as a “neutral” actor promoting balanced labor policies, compatible with the preferences of the various stakeholders.

It remains to be noted that the greater indulgence of political actors towards business groups risks causing the overthrow of a basic principle of democracy according to which people have acquired the right to welfare benefits (establishment of public services in several sectors such as health care, transport, water, health, and schools) by virtue of their status as citizens and not because they could buy them on the market (Crouch 2004).
Is the interest groups system pluralist?

Do the conclusions reached by the most recent social research allow us to believe that the pluralist structure of the group system has been replaced by a system with a strong elitist connotation?

The results of several researches carried out by scholars who identify themselves with the neo-pluralist approach do not authorize such a drastic statement because they show that the interest system in advanced democracies offers many opportunities for groups to organize; and institutions still offer many places to access (Berry 1999; Goldstein 1999; Lowery and Gray 2004). Furthermore, the associations of diffuse interests and trade unions show a good capacity for mobilization when the issues on the table present a strong political salience because they concern issues that affect large sectors of the community and arouse strong passions based on opposing ideological preferences.

However, the pluralism of the group system presents a clear elitist inclination because the most important decision-making arenas (industry, finance, technology, international trade, agriculture, and so on) are poorly populated by associations who represent diffuse interests. Moreover, the elitist tendency, as we have seen, has increased in the last three decades following the weakening of the state’s prerogatives vis-à-vis multinationals and large financial groups. On the whole, the logic of pluralistic competition helps the dispersion of power together with the opening of the political system but it cannot guarantee for all groups equal opportunities to influence public decisions.

The possibilities of successfully influencing public policies depend to a large extent on the different endowments of resources – economic, organizational, educational, expertise, prestige – which citizens possess before entering the circuit of pluralistic competition. The problem had already been highlighted by Dahl and Lindblom many years ago: “We cannot move closer to greater equality in political resources without greater equality in the distribution of, between other things, wealth and income” (1976: xxxii). In other words, democracies should offer all citizens some form of substantive equality, because mere equality of opportunities offers only the equal opportunity to become unequal (Scharr 1967).
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Abstract

The article analyzes the free, prior and informed consultation, as a device of intercultural dialog linked to the right of indigenous peoples to the territory and to self-determination. Prior consultation is a mechanism of legal participation. It requires that, before assuming any administrative measure, the State unveils the implementation of its projects of exploitation of natural resources that may affect directly indigenous peoples. The article focuses on the content of the Convention 169 of the ILO, which offers the legal framework for the implementation of prior consultation in Latin America. However, from the point of view of any government, it is the State that holds the sovereignty and the imperium, on the base of the argument that there would be a supremacy of the national interest over local and territorial claims. Therefore, the “reason of State” enters in conflict with right of indigenous peoples to the territory and to self-determination. In the conclusion, it is underlined that this approach of the State administration accentuates the ideological and political fracture between the State, the transnational capital and the indigenous peoples.

La consulta previa, libre e informada en un contexto de fractura ideológico-política latinoamericana

Free, Prior and Informed Consultation in a Context of Latin American Ideological and Political Fracture

María José Narváez Álvarez y Iván Narváez

Keywords

Territorial rights, Prior Consultation, Ideological-political Fracture

Diritti territoriali, Consultazione preventiva, Frattura ideologico-politica
Aproximación histórica

El antecedente crucial de la consulta previa, libre e informada (CPLI) data de 1921, cuando la Organización Internacional del Trabajo (OIT) abordó los derechos de los trabajadores indígenas primero en un contexto de orden colonial (Aylwin 2010: 9), y después en países independientes. En una segunda fase los derechos colectivos indígenas fueron catalogados como derechos humanos y el hecho generativo fue la Carta de Naciones Unidas emitida en la ciudad de San Francisco, Estados Unidos, el 26 de junio de 1945, y su contenido establece el principio de igualdad de derechos y de libre determinación de los pueblos (ONU 1945); el 10 de diciembre de 1948 la Asamblea General de Naciones Unidas los prescribió en la Declaración Universal de Derechos Humanos (ONU 1948).

Hacia 1957 y a pedido de la ONU, la Organización Internacional del Trabajo adoptó el Convenio 107 relacionado con la protección e integración de las poblaciones indígenas, pero no mencionó el término pueblo. Puso énfasis en el carácter integracionista, y acorde a los criterios de la época sugería que aquellas poblaciones desaparecerían culturalmente. Los artículos 11, 12.1 y 14 del Convenio 107 contemplan disposiciones relativas a las tierras, territorios, recursos naturales, reconocimiento de los indígenas como sujetos de derechos y su protección por parte del Estado (OIT 1957).

En términos de James Anaya, alto comisionado de Naciones Unidas para tratar los asuntos relativos a los pueblos indígenas, la filosofía indigenista reflejada en el Convenio 107 ya se manifestaba en los programas integracionistas del Instituto Indigenista Interamericano, creado en 1940 y con sede en México.

Históricamente, el indigenismo asumió muchos rostros, y han sido agrupados en dos etapas: la de integración y la de participación. En el primer caso se trató de un indigenismo incorporativista, cuyo lema central fue la asimilación de las comunidades indígenas a la cultura nacional. Posteriormente, convencidos de la limitación de mantener una política de corte culturalista y de que fueran únicamente funcionarios mestizos quienes diseñaran las políticas indígenistas, los órganos estatales evolucionaron asumiendo lo que se conoció como indigenismo de participación. “El objetivo era lograr que las comunidades indígenas participaran en el diseño de programas gubernamentales dirigidos hacia ellas, avanzando a lo que se conoció como etno-desarrollo. De forma que, con matices, el indigenismo nunca dejó de ser una política de Estado, diseñada por mestizos y con la finalidad de que los indígenas dejaran de ser tales y se incorporaran a la vida nacional” (López y Espinoza 2017: 13).

El Convenio 107 y los programas fueron implementados dentro del esquema de los derechos humanos de mitad del siglo XX, y seriamente rechazados debido a sus contenidos asimilacionistas o integracionistas (Anaya 2005: 91).
Anaya argumentó que las normas de descolonización desarrolladas y promovidas por el Sistema Internacional, ignoraron las formas indígenas de asociación y organización política anteriores al contacto con la colonización europea; considerando que la unidad beneficiaria del régimen de descolonización era la población de un territorio colonial entendido como un todo, sin tomar en cuenta los patrones culturales y políticos existentes antes de la colonización: “En consecuencia, la implementación del régimen de descolonización basado en la Carta de las Naciones Unidas no supuso una vuelta al status quo del orden político y social anterior a los procesos históricos que culminaron en la colonización.” (Anaya 2005: 85-86). Por su parte Willemsen Díaz denunciaba que en los hechos de la vida diaria la integración correspondía más a ideas y prácticas de asimilación, y que:

(...) la protección sería con toda probabilidad, una continuación del tutelaje colonialista de los Estados-nación entre cuyas poblaciones se veían incluidos estos pueblos, ya que seguían asentados en sus territorios ancestrales, ahora colocados bajo la jurisdicción de aquellos Estados independientes. Estas eran ideas contrarias a lo que buscaban los pueblos indígenas que conocía de cerca (Willemsen Díaz 2010).

En 1966 la ONU expidió el Pacto Internacional de Derechos Civiles y Políticos (PIDCP), y el Pacto Internacional de Derechos Económicos, Sociales y Culturales (PIDESC) (ONU 1966) y que entraron en vigor en 1976. Del propio texto de las dos normas referidas se desprende que éstas se mantienen en el paradigma de los derechos individuales, limitando su aplicación a los individuos y excluyendo de ella a los pueblos indígenas como sujetos de derechos. Su enfoque jurídico – político resultó limitado, porque si en muchos países los pueblos indígenas constituyen sectores étnicos minoritarios de la población, en otros, como Bolivia y Guatemala, constituyen sectores mayoritarios.

Los dos Pactos regulan de manera obligatoria derechos y principios enunciados en la Declaración Universal de los Derechos Humanos, pero su diferencia tiene relación con el derecho de “libre determinación de los pueblos” prescrita en el Art. 1.1 del PIDESC. Se trata de un derecho que no estaba destinado a ser aplicado a los pueblos indígenas, sino a los pueblos que a esa época se encontraban en proceso de descolonización, y que derivaron en la creación de los Estados africanos.

En 1971 la ONU a través de la Subcomisión de Lucha Contra Medidas Discriminatorias y por la Protección de las Minorías (Resolución 8 –XXIV del 18 de agosto del mismo año), nombró como Relator Especial al ecuatoriano José Ricardo Martínez Cobo y le solicitó un “Estudio sobre el problema de la discriminación contra las poblaciones indígenas”, el mismo que fue presentado a la Subcomisión de Derechos Humanos en 1984, con cambios conceptuales y de propuesta de los derechos de los pueblos indígenas, que
sirvieron de base para la entrada de estos pueblos a la ONU. Entre los más relevantes constan los derechos al territorio y autodeterminación, pero la consulta previa, libre e informada fue soslayada.

Hacia 1985 la Organización Internacional del Trabajo (OIT) profundizó el debate sobre el contenido del Convenio 107 y reconoció que su enfoque integracionista era perjudicial para los pueblos indígenas. En 1986 acordó la revisión parcial de dicho Convenio y en 1988 desarrolló un proceso de discusión, con la participación de los pueblos afectados.

En 1989 la OIT adoptó el Convenio 169 y entró en vigor en 1991. Del estado del arte sobre el tema se deduce que el Convenio 169 acotó el alcance del término “pueblos”, de tal manera que conforme al Art. 1.3 no deberá interpretarse en el sentido de que tenga implicación alguna en lo que atañe a los derechos que pueda conferirse a dicho término en el Derecho internacional (OIT 2014).

Esta redacción fue adoptada luego de que diversos Estados impugnarán la aplicación a los pueblos indígenas del derecho a la libre determinación reconocido en términos genéricos a los pueblos en otros tratados internacionales de derechos humanos de Naciones Unidas, por temor a que ello implicase el reconocimiento de un derecho de secesión. La redacción finalmente adoptada en la materia dejó abierta la cuestión, pues la propia OIT declaró que excedía su ámbito de competencia pronunciarse respecto a la libre determinación de los pueblos indígenas (Aylwin 2010).

Sobre el Convenio 169, Anaya insistió que no era suficientemente coercitivo a la hora de regular la conducta de los gobiernos en relación con los intereses de los pueblos indígenas; la crítica fue dirigida a numerosas disposiciones que contenían salvaguardas y tomaban la forma de recomendaciones, así como a la asunción subyacente de la autonomía del Estado sobre los pueblos indígenas (Anaya 2005: 99). Este autor reiteró que:

La conceptualización y articulación de dichos derechos se enfrentan con la dicotomía individuo/Estado que todavía perdura en las concepciones dominantes sobre la sociedad humana e influye en la elaboración de estándares internacionales. Los derechos colectivos -insiste Anaya- suponen además un cuestionamiento a algunos de los elementos claves de la soberanía estatal, especialmente celosa en cuestiones relativas a la organización social y política, aspectos que se supone pertenecen al ámbito de la autoridad estatal (Anaya 2005: 99-100).

Estados y gobiernos se resistieron al concepto “pueblos” al correlacionarlo con la libre determinación o derechos iguales de cada pueblo a formar un Estado independiente en términos de la Carta de las Naciones Unidas, y se tornó más compleja la situación cuando los pueblos indígenas invocaron el derecho a la “autodeterminación” para ex-
presar su voluntad de existir como comunidades diferenciadas y libres de opresión. Pero los pueblos indígenas no connotaron ninguna idea de formar estados independientes; y la controversia fue superada cuando se asumió el término “pueblos” con la salvaguarda del Art. 1.3 del Convenio 169 de la OIT.

Este Convenio consolidó el concepto pueblos indígenas sin modificar el carácter político liberal asignado por el Estado-nación, ello significa que no coadyuva a superar aspectos socio-económicos y jurídico-políticos generados por la discriminación, la injusticia cultural e injusticia distributiva. El Convenio 169 está en el rango del “soft law” y no alcanza el nivel político que demanda el territorio indígena en cinco dimensiones básicas: a) jurisdicción de control político; b) espacios geográficos; c) hábitat y conjunto sistémicos de recursos naturales; d) biodiversidad y conocimientos; e) relación histórica y simbólica (etno-territorialidad) desde la particular circunstancia de cada pueblo.

Una visión crítica del enfoque de Naciones Unidas sobre los derechos humanos y derechos de los pueblos indígenas, que coadyuva a comprender su complejidad, ha sido desarrollada por Boaventura de Sousa Santos (2009).

La dimensión garantista de la consulta previa del Convenio 169 de la OIT

El fundamento de la consulta previa se expresa en el derecho que tienen los pueblos para decidir, en libertad, sus prioridades; en principio es un mecanismo de participación constitucionalmente establecido como derecho colectivo, y es un proceso de carácter público especial y obligatorio que debe realizarse previo a adoptar, decidir o ejecutar alguna medida administrativa; algún proyecto extractivo público o privado o de orden legislativo, susceptibles de afectar directamente las formas de vida de los pueblos originarios en los aspectos socio-ambientales, culturales, económicos, o de otro tipo, que puedan alterar su integridad étnica.

La consulta previa en el contexto de la gobernabilidad indígena y el diálogo intercultural comprende: a) informar sobre las características del proyecto o actividad que se pretende implementar en territorio indígena; b) conocer el punto de vista y las expectativas de participación de los pueblos indígenas; c) concertar los términos de ejecución de los proyectos garantizando la participación en el monitoreo de los impactos ambientales y sociales, y de los beneficios económicos; d) identificar la representación legítima de la comunidad para la vinculación al proceso considerando el sistema de autoridad y liderazgo; e) respetar el manejo de los tiempos, los mecanismos propios de consulta interna y externa y la toma de decisiones entre las comunidades; y, f) consi-
La consulta previa, libre e informada

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La dimensión política del Convenio 169 y de la Declaración de la Asamblea General de la ONU sobre los Derechos de los Pueblos indígenas – 2007

Desde antiguo se tiene conciencia que los pueblos indígenas fueron ignorados históricamente y que los sistemas de derechos humanos se elaboraron sin pensar siquiera en ellos; más aún, se asumió que los derechos de los pueblos indígenas debían protegerse a través de un sistema centrado en los derechos del individuo, y no en los de grupos o entidades culturales y diversas, ya que estos se verían tutelados si se protegían eficientemente los derechos individuales. Esta era una posición integracionista que ignoraba la “otredad” y el derecho de los pueblos a ser tratados como diferentes, como iguales entre pueblos iguales, es decir, aceptando que los beneficiarios de tales derechos son los pueblos y no los miembros individuales de cada colectivo diferenciado.

Actualmente estos pueblos pueden ejercer derechos humanos inherentes al individuo, y ello rompe la lógica jurídica del ordenamiento convencional, por tanto, los pueblos indígenas tienen derecho a su identidad cultural, a los territorios ancestrales y autodeterminación; garantizados por instrumentos jurídicos internacionales y por el ordenamiento interno y la Constitución de cada Estado.

El reconocimiento de estos derechos tiene como antecedente sucesos socio-políticos dramáticos como la masacre de grupos y la muerte de líderes indígenas, y a la vez, los levantamientos emancipatorios que han servido para consolidar sus proyectos políticos. Por ello es que de 1990 en adelante América Latina siente la irrupción de los pueblos indígena como actores políticos relevantes, y este es un fenómeno que marca el fin de un ciclo e inicio de otro en la trayectoria de los conflictos etno-políticos, en un escenario marcado por la resistencia a la geopolítica neoliberal y la lucha por la libre determinación como pueblos. En esto consiste la re-emergencia de las identidades que enfrentó cuatro grandes tipos de conflictos y problemas: a) disputa del poder y control del Estado; b) conflictos separatistas cuyos movimientos etno-nacionalistas estaban orientados a una estatalidad independiente; c) conflictos y movimientos de minorías étnicas migrantes en países desarrollados; y, d) los conflictos y contiendas por los derechos de los pueblos indígenas (Toledo 2005: 3).

Todos estos conflictos han sido expresión del pluralismo étnico y cultural y abordados desde el Derecho internacional consuetudinario y desde el Derecho interno, de tal forma que actualmente la cuestión indígena está parcialmente inserta en la...
agenda pública e institucional de los países y en la del sistema multilateral, vinculada a asuntos de derechos humanos, democratización, paz social, medioambiente y desarrollo social.

De lo expuesto se infiere que los “derechos territoriales indígenas” no expresan una univocidad conceptual, sino una pluralidad temática que abarca: transformación de las relaciones de poder, consolidación identitaria y cultural, legalización de la tenencia de la tierra, recursos naturales, preservación de la biodiversidad, cuidado del medioambiente, organización social del espacio, jurisdicción indígena y control político, soberanía plurinacional, consulta previa libre e informada, etc. Todo ello en el marco de la unidad de un sentido histórico que va más allá del alcance conceptual establecido por el sistema internacional de Naciones Unidas, y está relacionado con el control del hábitat necesario para la supervivencia de los pueblos, la reproducción de su cultura y la emancipación socio-económico-política plurinacional.

Respecto a la Declaración de las Naciones Unidas sobre los Derechos de los Pueblos Indígenas (ONU 2007) tales derechos constan en los artículos: 1, 2, 3, 4, 5, 10, 25, 26, 29, 30, 32. En concordancia con Clavero, esta Declaración viene a significar la superación más avanzada de aquella polarización entre un derecho oficial basado en una sola cultura, y una sociedad jurídicamente pluralista dada la presencia de pueblos indígenas, comunidades afroamericanas y otros colectivos que portan consigo culturas y costumbres diversas: al margen de que el Estado (derecho constitucional autista) ha venido esforzándose por imponer la cancelación del multiculturalismo jurídico (...) y especialmente por el intento de disolución de los pueblos y comunidades indígenas (...). Pero el multiculturalismo jurídico es una situación de hecho desde sus orígenes hasta hoy (Clavero 2010: 366-368).

La relevancia de esta Declaración radica en asumir la perspectiva del nuevo constitucionalismo social latinoamericano, que: “(...) ha excluido cualquier rezago segregacionista propio del constitucionalismo decimonónico, cuya premisa respecto a la presencia indígena había sido la de disolución tanto de los pueblos mediante la pérdida de sus culturas, cuanto de las comunidades por medio de la reducción de su territorio a propiedad privada de los indígenas mismos y de los colonos invasores (Clavero 2010: 370)”.

El instrumento internacional referido expresa el catálogo de derechos de los pueblos indígenas. Hay quienes consideran que esta Declaración para América Latina representa la conclusión del colonialismo, al que han estado sometidos los pueblos indígenas aún en la etapa republicana. No obstante, en la actualidad siguen vigentes las tesis sustentadas por Anaya y Clavero, respecto a que el “supremacismo” cultural continúa vivo y agresivo entre amplios sectores sociales, entre los poderes fácticos de la región y de los propios Estados que se resisten a tomar los derechos de los pueblos...
indígenas en serio, es decir, a la concreción del Estado plurinacional, a la transformación de las relaciones de poder y el cambio del modelo de desarrollo: “La propia Organización de Naciones Unidas enfatiza que la libre determinación se opone, especialmente, a modelos imperiales y de conquista y exige hacer frente y revertir los legados del imperialismo, de la discriminación y de la opresión de las culturas” (Anaya 2010: 207).

El discurso contra-hegemónico indígena: línea de fractura ideológico-política

Téngase en cuenta que ya desde la década de los años 1970 se produjo un giro hacia el reconocimiento de algún tipo de autogobierno indígena sobre su territorio tradicional. Esto se reflejó en un amplio conjunto de demandas territoriales aceptadas y de acuerdos de autogobierno y, en algunos casos, un cierto grado de pluralismo jurídico, por ejemplo, el reconocimiento de las normas consuetudinarias. Hacia los años 1990 la atención internacional aún se centraba en las “viejas minorías históricas”, consideradas cuestión prioritaria de supervisión, al margen de que no todos los tipos de diversidad étnica mostraban el mismo potencial desestabilizador ni la misma tendencia a desembocar en un conflicto violento (Kimlicka 2009: 190).

Las demandas referidas constituían formas sólidas del pluriculturalismo y requerían de una reestructuración sustancial del Estado y redistribución del poder político, en función de superar la injusticia cultural arraigada durante siglos de colonialismo y dominio del Estado-nación. Kymlicka ya argumentó que estos cambios suscitaron una gran polémica inicial en la mayor parte de las democracias occidentales (Kimlicka 2009: 191). En América Latina, y en el Estado andino-amazónico en particular, significó una toma de conciencia para desenmascarar la satrapía de la ideología dominante, y la incapacidad del Estado para dar respuestas viables a los problemas sociales históricamente postergados; de ahí la adopción del constitucionalismo social latinoamericano del que enfatiza Ávila (2016).

De forma que el discurso anti-sistémico indígena es una contrapropuesta ideológica que contrarresta el modelo político de Estado y el modelo de desarrollo dominante, y connota el sentido histórico que emana de la plurinacionalidad e interculturalidad y de las luchas sociales en contra del sistema liberal capitalista. Más aún, se opone a toda práctica etnocida y formas de devaluación simbólica que empujen hacia la auto-negación indígena a través de las políticas liquidacionistas y segregacionistas aplicadas por el Estado durante siglos, por ejemplo, la incorporación masiva de mano de obra indígena a las faenas agrícolas, textiles y extractivistas que han alimentado el poder de las
elites del poder, mediante mecanismos de dominación como la encomienda, la mita, los servicios personales, el aparcerismo, o el trabajo forzado y la esclavitud.

La estrategia anti-sistémica indígena cuestiona al colonialismo y el neocolonialismo establecidos como un orden social jerarquizado, en el que indígenas y negros ocupan los más bajos lugares de la pirámide social, bajo el argumento espurio de una supuesta inferioridad indígena y negra frente al no indígena, hasta el punto de discutir conforme al imaginario dominante de esa época, respecto a si los indígenas tenían alma o si eran seres humanos. Por ello la lucha emancipatoria de los pueblos ancestrales connota la recuperación de la categoría “indio” por fuera del contexto de la dominación colonial, y más allá de sus diferencias y especificidades culturales y sociales su propuesta política ha desencadenado poderes y saberes equiparables a los de cualquier actor político contemporáneo.

El discurso indígena es universalista, defiende el derecho a la vida y rechaza el desarrollo de tendencia etno-genocida. Es un discurso ético que irrumpe en el campo socio-político y convoca y articula alianzas estratégicas obrero-campesinas con organizaciones ambientalistas y conservacionistas (Fontaine 2001: 19).

El contenido esencial de la etnicidad ha producido un discurso renovado sobre la legitimidad social en el campo político, y la reivindicación de derechos culturales específicos como la consulta previa, libre e informada cuando se trate de la explotación de recursos naturales no renovables en sus territorios o áreas aledañas.

En el 2001, Fontaine planteó que desde la década de los años 1990 la relación de los indígenas con el territorio y el manejo de los recursos naturales renovables y no renovables constituían el núcleo de sentido del discurso de la etnicidad, opuesto a la lógica y racionalidad anti-natura sobre la que se erige el modelo de desarrollo moderno. No obstante, al interior de los movimientos indígenas surgieron tensiones que marcaron una línea de fractura entre dos grandes orientaciones ideológicas de los movimientos indígenas: a) la lucha de clases y b) la etnicidad (Fontaine 2001: 60). El autor en cita enfatizó que no se podía entender la formación e institucionalización de los movimientos sociales identitarios, sin considerar la diferencia que separa a los grupos étnicos de la Región amazónica con los de los pueblos indígenas de los Andes, o de nuevas áreas de colonización (emergentes):

Los grupos amazónicos, homogéneos y más pequeños quedaron al margen del contacto duradero hasta hace un período reciente; los andinos, generalmente producto del desplazamiento de poblaciones y por lo tanto a menudo recapturados desde la época moderna, son tradicionalmente integrados a la economía de mercado. Esta diferencia económica tiene ante todo consecuencias en la definición del concepto de territorio. Además, se traduce por modalidades distintas del cambio social (Fontaine 2001: 60).
Esta tesis no ha cambiado en lo sustancial, y actualmente los pueblos indígenas amazónicos continúan siendo integrados al sistema en la medida que sus tierras se vuelven estratégicas para el Estado, sea para la colonización agrícola y la explotación de recursos naturales no renovables (hidrocarburos, minerales) por parte del capital transnacional, o por la presencia de una frontera nacional. Por estas razones se deduce que los pueblos indígenas amazónicos están en constante cambio, que son objeto de negociaciones debido a requerimientos estatales, etc., de tal suerte que su práctica socio-organizativa parece no responder a una lógica monólitica, y ello evidencia un grave debilitamiento organizacional.

Esta línea de fractura de los movimientos indígenas amazónicos tiene relación, a que su afirmación identitaria parece menos vinculada a la pérdida de tierras con la pérdida de la cultura, y además de expresarse en términos de opciones ideológicas (etnicidad y lucha de clases), incentiva la disputa por los derechos al territorio, la autodeterminación y por la consulta previa. En la medida en que los partidarios de la lucha de clases consideraban el monopolio de la tierra y las relaciones capitalistas como la traba del problema indígena, su análisis desembocaba en una concepción de la lucha orientada hacia una “reforma agraria democrática”.

En cambio, los partidarios de la etnicidad consideran que el problema de la tierra es a la vez económico y cultural, que esta constituye no sólo un medio de producción y supervivencia sino también un espacio territorial que asegura la reproducción cultural. Por consiguiente, reivindican una “reforma agraria integral”, en la cual la recuperación de los territorios es vinculada con la defensa de la organización social y la protección del medio ambiente (Fontaine 2001: 61).

La consecuencia de estos procesos es que los movimientos identitarios (indígenas) ubicados en las dos corrientes ideológicas consiguieron importantes espacios de participación política a partir del año 1990, debido a la inflexión del discurso de clase y la moralización del discurso de la etnicidad. Así evitaron mostrar debilidad organizativa y aparecían unidos frente al Estado. Sin embargo, lo de fondo es que la línea de fractura está latente hasta ahora, lo que trae consecuencias sobre la resolución de los conflictos sociales relacionados a la tierra (territorios y autodeterminación), agua, biodiversidad, minería, manejo de cuencas hidrográficas y de los recursos del subsuelo, consulta previa, libre e informada, transformación de las relaciones de poder y cambio del modelo de desarrollo.

Actualmente los factores socio-políticos, externos e internos, han modificado sustancialmente la correlación de fuerzas para el debate entre actores hegemónicos y subalternos. El Estado ha re-pensado y re-definido la “política integracionista” y
la “política indigenista” desde el enfoque multiculturalista,\(^1\) pero en los regímenes del nacionalismo radical como Venezuela, Ecuador y Bolivia, no se abrió el espacio institucional a las organizaciones indígenas, y en Ecuador tampoco se ha respaldado el proyecto de sociedad intercultural y plurinacional, no obstante regir el Estado Constitucional de derechos.

En el caso ecuatoriano a partir de la finalización del gobierno de Rafael Correa en mayo del 2017, la institucionalización de la etnicidad se reconstituye, el marco legal y la política pública indígenas son menos controversiales, pero no coadyuvan a alterar la estructura de las relaciones de poder.

Instituciones promotoras de los derechos sostienen que a nivel latinoamericano la reforma constitucional planteada por los pueblos indígenas ha dejado una impronta histórica que ha incidido en los procesos de cambios y transformaciones jurídicas e institucionales (Defensoría del Pueblo de Perú 2017), sin embargo, en los países donde ha gobernado y gobierna el socialismo del siglo XXI la proclama indígena fue y continúa siendo objeto de apropiación por parte de los gobernantes, que además de neutralizarla pretendieron vaciarla su contenido emancipatorio, pero las Constituciones aún mantienen las premisas del nuevo constitucionalismo social andino (Ávila 2016), así como los derechos colectivos indígenas al territorio y autodeterminación y la consulta previa.

Otro problema no superado en América Latina es que sigue vigente la explotación de recursos naturales no renovables en territorios indígenas o áreas circundantes, y concomitante a ello, perduran las secuelas de los “ismos”: asimilacionismo, indigenismo, etnicismo (neo-indigenismo) o (etno-populismo) convertidos en política de Estado, y que al final resultan ser expresión de la integración al modelo socio-económico-político y cultural hegemónico. Al respecto y parafraseando a Díaz-Polanco, los liberales (panegiristas del neoliberalismo):

> en la materia que nos ocupa, son enormemente sofisticados y abiertos a cierto grado de tolerancia frente a lo diverso. Esto no significa que el liberalismo haya resuelto su histórica relación conflictiva con la diversidad, y en especial con los derechos colectivos (...).

Dado el profundo arraigo individualista y universalista del liberalismo, más probable

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\(^1\) Desde el enfoque crítico, el multiculturalismo expresa el carácter homogeneizador que demanda la globalización y pretende neutralizar las diferencias, sobre todo aquellas que amenazan la estabilidad del sistema capitalista. De ahí la incidencia de los organismos multilaterales de crédito para impulsar proyectos integracionistas que neutralicen la resistencia al modelo de Estado y modelo de desarrollo. Actualmente está en boga el binomio nacionalidad – ciudadanía, apoyado en la conjunción de la democracia formal y de la racionalidad del mercado y del capital. Lo que alerta sobre la formación de una “identidad regresiva” insuflada por la aversión hacia la diversidad y el irespeto por la diferencia. Esta sintomatología ha estado presente en América Latina y es un fardo para la consolidación del Estado plurinacional y la democracia sustancial (Narváez 2017).
es que el pluralismo requiera situarse en un horizonte “post-neoliberal” (Díaz-Polanco 2003: 44).

Corroborando la tesis de este autor, al momento actual, la defensa de la diversidad étnica (cultural) debe concebirse como un puntal de lo mejor del pensamiento emancipatorio, en tanto utopía que busca armonizar la diferencia con la igualdad, la democracia con la libertad, la unidad con la diversidad. En el mismo sentido continúa vigente la tesis leffsiana respecto a que la política de la diferencia y la ética de la otredad, trascienden el espacio teórico y práctico del materialismo histórico y de la dialéctica (ecologizada) de la naturaleza, para llegar a comprender las relaciones entre ecología, cultura y producción en la construcción de sociedades sustentables, equitativas y justas, dentro de un nuevo orden mundial y en la perspectiva de la racionalidad ambiental (Leff 2006: 98).

Así es como los pueblos indígenas continúan bregando por el diálogo de los saberes diversos, el respeto por las diferencias, el ejercicio del poder indígena en los territorios ancestrales, sin excluirse de la necesaria y contingente interconexión con un mundo que ha roto las fronteras del dominio soberano. Ellos están más próximos a un Estado postnacional que no desconozca las vicisitudes cotidianas, y enfrenta la injusticia cultural y la injusticia distributiva (Narváez 2017: 170-174).

Sinopsis analítica

El cambio del diseño constitucional articulado con el cambio del modelo político de Estado y de las relaciones de poder, ha tenido lugar en contextos de vulnerabilidad étnica y de crisis socio-ambiental. Por tanto, la innovación constitucional implica la consolidación del nuevo orden jurídico donde la Constitución es ley de obligatoria e inmediata aplicación, de ello se infiere que cuando cambia la naturaleza de la ley, también cambia la naturaleza de la democracia y de la política.

En el orden de las ideas expuestas, la Constitución material en el Estado constitucional hace prevalecer los derechos fundamentales, entre otros los derechos colectivos indígenas que incluyen la consulta previa, libre e informada; de ello se deduce que la relación entre el Estado y los pueblos indígenas ya no tiene la misma dimensión jurídico-política que la establecida entre el Estado y la sociedad considerada como un conjunto de individuos. En el Estado constitucional prevalecen los derechos colectivos y a estos les es inherente la dimensión territorial y de autoridad indígena que ejerce cada pueblo o nacionalidad, es decir, ahí radica la legalidad y legitimidad de la representación indígena para el ejercicio de su poder en los territorios ancestrales.
La constitucionalización de los derechos, además, ha coadyuvado a posicionar al movimiento indígena como un legítimo interpelante del poder y del Estado. Este nuevo rol del movimiento indígena evidencia el proceso de *etnización* de la política, colmada de saberes alternativos y utopías políticamente re-significadas que tornaron diferente al nuevo Pacto Constitucional.\(^2\)

Los cambios y transformaciones jurídico-constitucionales connotan la prevalencia de los derechos, entre otros los derechos territoriales y la consulta previa, sin embargo, en los regímenes andino amazónicos con débil institucionalidad y gobernados por el nacionalismo radical, los derechos son transgredidos y esta transgresión está articulada a los procesos de acumulación capitalista, transnacional.

En este contexto, la estrategia indígena no está dirigida a que el Estado asuma una posición neutral a la usanza liberal jurídico-positivista, sino que adopte el pluralismo en sus diversas expresiones, promoviendo los cambios y transformaciones socio-económico-políticas con base en la participación social. Corroborando a Walzer, esta sería una forma de practicar la tolerancia en la compleja sociedad latinoamericana pluricultural que boga por la inmediatez de la diferencia, del encuentro de lo cotidiano con la *Otredad* que demanda, no esa tolerancia política entre contendores por el poder (Walzer 1998: 16), sino aquella para saldar la ausencia de la *Otredad* por más de 500 años.

Efectivamente, el movimiento indígena persiste en su afán emancipatorio con enfoque pacifista, en el marco de la tolerancia y de lo que ella hace posible, es decir: la coexistencia pacífica de grupos humanos con diferentes historias, culturas e identidades, es fundamental, no aquella entre amos y esclavos determinados por relaciones de poder. Este es un hecho del mundo moral, al menos en el sentido limitado de que la carga de la prueba caería del lado de quienes rechacen estos valores. “Son los practicantes de la persecución religiosa, de la asimilación forzosa, de la guerra de cruzadas y de la limpieza étnica quienes necesitan auto justificarse, y normalmente no lo hacen defendiendo lo que están haciendo, sino negando lo que hacen (Walzer 1998: 20).

El movimiento indígena insiste que la CPLI no es un mero requisito que el Estado ha de cumplir para extender licencias ambientales y consumar la ejecución de proyectos decididos *a priori*, en regiones con bosques húmedos tropicales, páramos y otros ecosistemas sensibles ecológicamente y socialmente vulnerables, o con yacimientos mineros, petroleros, fuentes de agua y alta biodiversidad apetecidos por el Estado y el capital transnacional.

Del estado del arte sobre el tema se colige que el proceso de CPLI generalmente es inadecuado, porque el informe de la autoridad pública responsable no toma en consi-

deración, de forma integral, los criterios del pueblo involucrado, y lo que es tan grave, genera serias desavenencias en la(s) comunidad(es) afectada(s).

De lo expuesto se infiere que la diversa y hasta contradictoria conceptualización de la consulta previa, la insuficiente producción regulatoria y de protocolos adecuados, la falta de buena fe para su aplicación por parte de la autoridad pública competente, son causas que invalidan todo el procedimiento; no obstante, los gobiernos lo enmascaran argumentando que los proyectos extractivos sirven al bien común y al interés general. Luego sobreviene la captura del Estado por parte de los capitales extractivos transnacionales, como las denominadas empresas trans-latinas, que han dado pábulo a la ilegalidad y la corrupción, como instrumentos expeditos para consumar sus objetivos eminentemente crematísticos.

Finalmente, el Estado, además del doble rol que ejerce como juez y parte en estas controversias, adolece de una conducta esquizofrénica porque no actúa con sindéresis en calidad de garante de los derechos colectivos indígenas, y como promotor del extractivismo radial de recursos naturales no renovables en espacios ecológicamente sensibles y socialmente vulnerables. El Estado decide con base en normas indeterminadas si ejecutar o no la CPLI, para el efecto apela a resoluciones motivadas por la instancia administrativa delegada y subordinada a sus designios.

También es plausible afirmar que los conflictos generados en tales condiciones son un problema inexpugnable, y entre otros elementos causales constan la Norma Supraordenada y el Convenio 169 de la OIT, porque no establecen de forma explícita el derecho al veto. Pero en cambio, la Constitución determina que el Estado es soberano y con potestad de imperium para decidir la explotación de recursos naturales en su territorio, aduciendo que es de su responsabilidad precautelar el interés general, la seguridad nacional o la razón de Estado, y amparado en las condiciones antes señaladas asume que el derecho al veto no es compatible con el desarrollo nacional.

Finalmente, si una decisión comunitaria es opuesta a la ejecución del proyecto extractivo, la autoridad califica de ilegal dicha decisión, pero la CPLI no se plantea para “consultar” si se acata o no la ley, sino para evitar que por coerción legal se transgredan los derechos fundamentales del pueblo ancestral consultado. En otras palabras, por la forma en que está concebida la CPLI, es ineficaz, porque la regulación específica y los procedimientos técnicos generados para el efecto son difusos, más aun, las fuentes jurídicas que la generan: el Convenio 169 de la OIT y la Constitución de la República adolecen de indeterminación normativa e indeterminación lingüística, y si se da el caso de que un juez tenga que fallar frente a una demanda de inconstitucionalidad de la CPLI, se vale de dicha indeterminación para interpretar las normas y decidir su fallo, acomodándolo a los designios del gobierno, de los poderes económico-políticos o a la razón de Estado. En Guatemala, por ejemplo: ante la
omisión de la consulta por el Estado, los pueblos han tomado dos acciones: (i) celebrar consultas comunitarias como un derecho ancestral; (ii) acudir al sistema de justicia a denunciar la falta de consulta previa, libre e informada (Coordinación y Convergencia Nacional Maya 2017: 7).

**Conclusiones**

En Ecuador, el atropello de los derechos indígenas y de los derechos de la naturaleza, así como la frustración de los pueblos ancestrales por el incumplimiento de los acuerdos suscritos con el Estado y con las empresas, han dado lugar a sendos levantamientos emancipatorios, y actualmente son el detonante de las “Marchas por el agua, la vida y contra la corrupción”, lideradas por la organización indígena Ecuaranuri en el 2015 y entre el 4 y 14 de noviembre del 2018. Estas marchas si bien continúan expresando signos emancipatorios, han actualizado el debate público y la conflictividad socio-ambiental, connotando su oposición al extractivismo hidrocarburífero y minero-metalico a gran escala y a cielo abierto, en áreas naturales protegidas, otros ecosistemas sensibles o sus territorios, y específicamente calificaron el incumplimiento de la CPLI como una violación flagrante de los derechos humanos.

La movilización de septiembre de 2018 implicó el desplazamiento a pie, de miles de hombres y mujeres indígenas por cerca de 700 Km, priorizó la entrega a la Asamblea Nacional, de un proyecto de ley que prohíba la explotación minera metálica en territorio ecuatoriano. La propuesta se inscribió en un contexto político que condenó la acción represiva del gobierno de la Revolución Ciudadana, y rechazó los informes de consulta previa, dirigidos por los entes públicos de entonces, redactados a criterio del funcionario delegado y respaldados por grupos promovidos para que objeten la propuesta asumida orgánicamente por los pueblos indígenas.

Esta movilización reveló que en Ecuador se registran aproximadamente 6.190 derechos mineros y un alto porcentaje de ellos con insuficiencia formal, y enfatizó su oposición a la explotación petrolera en el campo Ishpingo, ubicado en el área de amortiguamiento de la Zona Intangible al interior del Parque Nacional Yasuní, creada para salvaguarda de los pueblos no contactados: Tagaeri y Taromenani, y alertó sobre la perforación de 73 pozos en el área Tiputini de la misma localización hidrocarburífera, de los cuales el gobierno espera extraer 1.400 millones de barriles de petróleo.

El doctor Yacu Pérez, líder de la Ecuaranuri y de las movilizaciones indígenas centró la eco-polémica en los puntos acotados, y en el repudio la política neo-extractivista heredada del gobierno anterior. Todo ello, afirmó: “es realmente preocupante porque no hay futuro sin agua ni selva” e insistió que: “el movimiento indígena es un mo-
vimiento de los de abajo, de los que buscan liberarse de los de izquierda y de los de derecha” (Pérez 2018).³

Del análisis se deduce que la relación entre el Estado y los pueblos indígenas no puede examinarse únicamente desde los mecanismos normativos e institucionales que dispone el Estado para el ejercicio del poder, sino desde un campo relacional plural y abierto o de gobernanza interactiva en clave socio-cultural. Cabe considerar que los procesos emancipatorios o los estrictamente políticos, se desarrollan en torno a dinámicas de conflicto y polarizantes que evidencian contradicciones ideológicas y de carácter estructural, donde los actores sociales disputan el sentido de la práctica política desde perspectivas etno-políticas y de lucha de clases.

Con base en el enfoque analítico contextual se infiere que los regímenes políticos jerárquicos andino-amazónicos han incentivado el extractivismo, sustentados en el autoritarismo y el secretismo de Estado, para disponer de ingentes rentas y tomar decisiones unilaterales que favorezcan su estrategia de mantenerse en el poder; y tratando de anular la fuerza emancipatoria indígena con la criminalización de la protesta social, el encarcelamiento de líderes indígenas y la desmovilización, han creado redes de confianza que lo respalden.

No obstante, la insurgencia emancipatoria indígena ha (re)posicionado la fractura ideológico-política en el contexto regional, y connota su repudio al autoritarismo y toda conducta represiva, así como reivindica la Constitución garantista del plurilateralismo. Este hecho político marca la sustancial diferencia del bloque emancipatorio, frente al nacionalismo radical y los factores reales del poder, empeñados en denostarla y preguntar que el constitucionalismo social latinoamericano⁴ no funciona, poniendo en evidencia que para el polo hegemónico es prioritario reconstituir el ancien régime jurídico-político, acelerar la (re)apropiación del poder, la captura del Estado y el extractivismo intensivo como soportes de una acumulación capitalista, que atenta cada vez más a los derechos colectivos indígenas y a los derechos de la naturaleza.

³ El 24 de febrero de 2019 Yacu Pérez, fue elegido Prefecto de la provincia del Azuay – Ecuador, liderando una consulta popular sobre la minería en Quimsacocha, donde se concesionó el proyecto minero Loma Larga, a la firma canadiense INV Metales. Tras su actividad exploratoria, se halló un cuerpo mineral de oro, plata y cobre.

⁴ En términos de la corriente crítica del Derecho, y que adhieren Wolkmer y Radaelli (2017): el nuevo constitucionalismo latinoamericano se caracteriza por generar constituciones que, son originatoras de un cambio paradigmático en el campo de la política (Estado plurinacional) y del Derecho (pluralismo jurídico), favoreciendo una tendencia intercultural y descolonizadora y, por ello, una ruptura con el antiguo constitucionalismo elitista.
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FORUM

Cambiamento tecnologico e disuguaglianze: una conversazione con Fabrizio Barca sulle proposte del Forum Disuguaglianze Diversità

[Il 18 aprile 2019, il CASIP (Centro interuniversitario di Analisi dei Simboli e delle Istituzioni Politiche – “Mario Stoppino”) e l’Istituto Jacques Maritain hanno organizzato un seminario dedicato alle proposte del Forum Disuguaglianze Diversità (FDD), che si è svolto presso il DiSPeS (Dipartimento di Scienze Politiche e Sociali) dell’Università di Trieste, con la partecipazione di Fabrizio Barca in rappresentanza del FDD. Fabrizio Barca, statistico ed economist, è stato dirigente in Banca d’Italia e nel Ministero Economia e Finanze, Ministro per la coesione territoriale, ha avuto incarichi nell’OCSE e nella Commissione Europea. Ha diretto progetti di ricerca (assetti proprietari delle imprese, concorrenza, politica di coesione europea, disuguaglianza), si è occupato di strategie di politica economica e di programmazione economica. È autore di saggi e libri ed opera come volontario in progetti territoriali, che intersecano le sfere pubblica, privata e sociale. In questo FORUM di Poliarchie/Polyarchies Gabriele Blasutig, Simone Arnaldi e Giovanni Carrosio, che hanno coordinato il seminario, presentano le tesi del FDD illustrate da Fabrizio Barca e la discussione che ne è seguita.]
Taking the Reins of the technological change.
The proposals for Italy by the Inequality Diversity Forum

Riprendere le redini del cambiamento tecnologico.
Le proposte per l’Italia del Forum Disuguaglianze Diversità

Gabriele Blasutig, Simone Arnaldi e Giovanni Carrosio

Abstract

The Diversity Inequality Forum (FDD) is an action research laboratory in which eight organizations of active citizenship participate (Fondazione Basso, ActionAid, Caritas Italiana, Cittadinanzattiva, Dedalus Social Cooperative, Community Foundation of Messina, Legambiente, Uisp), in coordination with a group of committed researchers and academics. The aim of the FDD is the study of inequality and of its negative consequences on development. Through the meeting and collaboration between researchers and associations, FDD intends to produce, promote and influence proposals for collective action and public action that favor the reduction of inequalities and social justice, according to the address of Article 3 of the Constitution of the Italian Republic. The proposals drawn up by the FDD focus on private and common wealth inequalities and have been inspired by the Anthony Atkinson action program. They aim at modifying the main mechanisms that determine the formation and distribution of wealth, such as technological change, the relationship between workers and those who control businesses, the generational passage of wealth itself.

Il Forum Disuguaglianze Diversità (FDD) è un laboratorio di ricerca-azione al quale partecipano otto organizzazioni di cittadinanza attiva (Fondazione Basso, ActionAid, Caritas Italiana, Cittadinanzattiva, Dedalus Cooperativa sociale, Fondazione di Comunità di Messina, Legambiente, Uisp) e un gruppo di ricercatori e accademici impegnati nello studio della disuguaglianza e delle sue negative conseguenze sullo sviluppo. Attraverso l’incontro e la collaborazione tra ricerca e associazionismo intende produrre, promuovere e influenzare proposte per l’azione collettiva e per l’azione pubblica che favoriscano la riduzione delle disuguaglianze e la giustizia sociale, secondo l’indirizzo dell’articolo 3 della Costituzione Italiana. Le proposte elaborate dal FDD, ispirate dal programma di azione Anthony Atkinson, si concentrano sulle disuguaglianze di ricchezza, privata e comune. Esse mirano a modificare i principali meccanismi che determinano la formazione e la distribuzione della ricchezza: il cambiamento tecnologico, la relazione fra lavoratori e lavoratrici e chi controlla le imprese, il passaggio generazionale della ricchezza stessa.

Keywords

Inequality, Diversity, Technological Change, Social Justice, Development, Governance

Ineguaglianza, diversità, cambiamento tecnologico, giustizia sociale, sviluppo, governance
Giustizia sociale e disuguaglianze

L’ingiustizia sociale e la percezione della sua ineluttabilità sono all’origine dei sentimenti di rabbia e di risentimento dei ceti deboli verso i ceti forti e della “dynamica autoritaria” in atto. Il Forum Disuguaglianze e Diversità ritiene che non ci sia nulla di ineluttabile nelle disuguaglianze: se i poteri, le opportunità e i risultati non vengono riequilibrati, è perché si è scelto di non farlo. Un’alternativa esiste, ed esistono le condizioni per trasformare i sentimenti di rabbia nella leva di una nuova stagione di emancipazione che accresca la giustizia sociale.

Per “giustizia sociale” il FDD intende “la capacità di ciascuno di fare le cose alle quali assegna un valore” e di “non compromettere la possibilità delle future generazioni di avere la stessa o più libertà”. È il concetto di “pieno sviluppo della persona umana” utilizzato dalla Costituzione italiana e al cui conseguimento essa indirizza l’azione della Repubblica, quindi di tutti noi. Questo concetto si integra, come scrive Sen (2010), con l’equità del processo attraverso cui otteniamo quelle opportunità e con la libertà da ogni dipendenza o interferenza. Disuguaglianze, fra persone e territori, e senso di ingiustizia sociale sono il segno di questa fase, in Italia come nell’intero Occidente. Le disuguaglianze dipendono sempre più dall’accesso e dall’uso della conoscenza e riguardano tutte le dimensioni del nostro vivere: quella economica e del lavoro; quella sociale, attraverso l’accesso ai servizi fondamentali e alla ricchezza comune (ambiente, paesaggio, risorse naturali, spazi urbani e conoscenza) e la loro qualità; quella del consumo (di beni primari, credito e assicurazioni, mobilità, servizi digitali); e quella dell’informazione e della politica. Su questi molteplici piani di vita, si manifestano anche profonde disuguaglianze di riconoscimento, legate alla percezione che i nostri valori e le nostre norme siano riconosciuti o piuttosto trascurati o disprezzati, e che i nostri bisogni e aspirazioni personali siano compresi o piuttosto ignorati. Negli ultimi trent’anni la tendenza alla riduzione delle disuguaglianze, osservata a partire dal secondo dopo guerra, si è interrotta o invertita; è accaduto ad esempio per il reddito. Sono cresciute le disuguaglianze di ricchezza, in modo non riconducibile ai “meriti”. Le retribuzioni si sono polarizzate e lo stesso è accaduto alle condizioni lavorative, e l’automazione ha spesso prodotto per molte lavoratrici e lavoratori un declino del senso di sé. Nonostante alcuni miglioramenti, persistono le disuguaglianze di genere e molte donne subiscono violenze economiche e fisiche che ne inibiscono l’autostima e la piena realizzazione di sé. I ceti deboli avvertono maggiormente la preoccupazio-

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ne di un peggioramento dei servizi essenziali, legati alla salute, all’assistenza sociale, all’istruzione e alla mobilità. Nelle aree interne o rurali, nelle periferie o nei “territori di mezzo” colpiti dalla de-industrializzazione, ma non solo, molte e molti hanno percepito che, di fronte a profonde trasformazioni (come il cambiamento tecnologico e climatico, le migrazioni e la globalizzazione), le proprie aspirazioni e i propri valori venivano trascurati dalle classi dirigenziali, politiche ed economiche; e hanno ascoltato dalle classi dirigenziali politiche (degli Stati nazionali, dell’Unione Europea, dei centri della cooperazione internazionale) messaggi di impotenza e soprattutto una frase, continuamente ripetuta per scoraggiare ogni pretesa: “non ci sono alternative”. Per tutte queste ragioni le disuguaglianze oggi pesano di più.

Si è allora prodotta una lacerazione profonda, anche culturale e politica, fra ceti deboli e ceti forti. Spesso la frattura corre anche all’interno di queste ampie categorie, secondo una mappa sociale sempre più granulare che si fatica a catturare in modo rigoroso. Ispirandoci alla soluzione pragmatica utilizzata molti anni or sono dal movimento del community organizing statunitense, abbiamo comunque trovato utile operare almeno una distinzione: dei ceti deboli in ultimi, penultimi e vulnerabili; dei ceti forti in resilienti e primi. In mancanza di un progetto convincente di emancipazione, l’insieme di disuguaglianze economiche, sociali e di riconoscimento ha prodotto un fascio di reazioni convergenti: il rigetto delle diversità e l’aspirazione all’omogeneità dentro comunità ristrette (su base etnica, religiosa, nazionale o di confini anche più ristretti); la sfiducia e spesso l’avversione per le autorità e gli esperti; una domanda di autorità intransigenti che sanzionino comportamenti “devianti”. La studiosa americana Karen Sennert, già nel 2005, le aveva viste arrivare, raccogliendole nell’espressione “dynamica autoritaria”, che il FDD fa sua (Sennert 2005). Oggi, quando questa dinamica investe gli interessi delle classi dirigenti economiche e politiche, tutti (o quasi) ne sono consapevoli. Tutti (o quasi) affermano che le accresciute disuguaglianze ne sono la causa. Ma la risposta è esile, se non assente. Ovvero, nel caso di una parte del pensiero liberale, la risposta è corpora e anche radicale, ma si volge solo all’indietro, a ripristinare “un po’ di socialdemocrazia”: redistribuzione e più forte concorrenza in tutti i mercati, “perché altrimenti le disuguaglianze faranno saltare il sistema”. Il FDD invece pensa che le disuguaglianze devono essere ridotte perché è giusto, perché esse toccano il nostro “senso di giustizia”. Pensa che possono essere ridotte perché sono il frutto di scelte. Pensa che a questo scopo, oltre a recuperare strumenti messi erroneamente da parte nell’ultimo trentennio, vadano sfruttate le nuove opportunità, tecnologiche e di partecipazione, di questa fase, per guardare in avanti. Pensa che si debba mirare a modificare non solo i meccanismi che determinano le opportunità, ma anche i meccanismi che determini-
nano i risultati. È nella nostra natura umana badare a che nessuno abbia troppo e soprattutto a che nessuno abbia troppo poco: e allora è bene preoccuparsi in anticipo che non vi sia eccessivo divario di risultato a seconda che nella vita “ti vada bene o ti vada male”.

**Esiste una alternativa**

Un’alternativa, un avvenire di maggiore giustizia sociale, è possibile. È possibile con le nuove tecnologie dell’informazione e con l’attuale riduzione di distanza fra luoghi e persone (l’essenza tecnica della globalizzazione): l’uso che ne è stato fatto ha prodotto una forte concentrazione di potere e forti disuguaglianze; sta a noi rovesciare questa tendenza, e accrescere così la giustizia sociale. Come sta a noi far sì che l’impellente reazione al cambiamento climatico avvenga prima di tutto a vantaggio di vulnerabili, penultiimi e ultimi. È possibile tratteggiare questo avvenire più giusto, perché dietro ogni minaccia per i ceti deboli si intravede un’opportunità. Dietro la messa in discussione di valori e norme di vita da parte di globalizzazione e migrazioni, sta la possibilità di rigenerare valori grazie alla contaminazione reciproca di culture e norme (come ripetutamente accaduto nella nostra storia). Dietro la pressione al ribasso sulle retribuzioni che viene dall’automazione e dall’ offerta di lavoro dell’Asia sta la possibilità di affidare alle macchine lavori ripetitivi e rischiosi, liberando tempo per i lavori migliori e per la cura e il godimento degli altri e della natura, e riequilibrando il divario di genere nei compiti svolti senza retribuzione. Dietro il senso di impotenza di fronte a decisioni discriminatorie prese da poteri impersonali come gli algoritmi di apprendimento automatico gestiti da pochi, sta la possibilità di usare quegli algoritmi sotto il nostro controllo per soddisfare bisogni collettivi e ridurre discriminazioni. Dietro a rischi ambientali e a politiche ambientali che sfavorecono i ceti deboli, sta la possibilità di una transizione energetica mirata in primo luogo a favore dei ceti deboli. Queste e altre opportunità configurano uno scenario di emancipazione sociale. Ma è uno scenario credibile?

**Tre ragioni per avere fiducia**

Il FDD risponde in modo affermativo, traendo questa convinzione da tre considerazioni. In primo luogo, osserva con Anthony Atkinson che in altri momenti della storia tecnologie e aperture dei mercati che potevano prestarsi all’obiettivo di asservire i ceti deboli sono stati volti a obiettivi di emancipazione sociale e sono stati accom-
pagnati da interventi sociali di grande scala, producendo significative riduzioni delle disuguaglianze. La forza del capitalismo sta proprio nell’estrema capacità di adattarsi e anche di accomodare al proprio interno forme diverse di organizzazione della produzione, che invertono la sua implicita tendenza alla concentrazione della ricchezza e del potere. Ma servono idee e forza per aprire quegli spazi. In secondo luogo, sono davanti a noi, ben visibili, le scelte errate del neoliberalismo dell’ultimo trentennio, responsabili per l’attuale stato delle cose. Sul piano delle politiche: lo sbilanciamento degli accordi internazionali (in tema di movimenti di capitale e di protezione della proprietà intellettuale); la sistematica rimozione degli obiettivi di stabilizzazione del ciclo economico e della piena occupazione; l’indebolimento della regolazione dei mercati e della leva delle imprese pubbliche; la deriva iper-razionalista di riforme cieche alla diversità dei contesti e alle conoscenze/preferenze delle persone nei luoghi (le due sindromi del New Public Management: one-size-fits all e best-practice); la rinunzia degli Stati a fissare obiettivi strategici per lo sviluppo urbano e territoriale, affidandosi e assecondando le scelte delle mega- e grandi imprese; i tagli di bilancio sulle spese per welfare, istruzione, cultura e investimenti; e poi, per compensare i danni economici e sociali prodotti da tutti ciò, trasferimenti compensativi ai territori in difficoltà, che hanno incentivato passività, posizioni di rendita e illegalità. C’è di più. La riduzione del potere di negoziazione e di partecipazione del lavoro nelle imprese non è solo il frutto della frammentazione dei processi produttivi e dell’apertura al vasto mercato del lavoro asiatico: a questi fattori si è aggiunta la scelta di indebolire i sindacati, anziché di spingerli al rinnovamento richiesto da quei cambiamenti. E ancora, assieme a questi processi, è cambiato il senso comune, l’immagine che istintivamente associamo alle parole chiave del nostro vivere in società. Si pensi al “merito” che non è più visto come il frutto tangibile dell’impegno per raggiungere un obiettivo, ma viene assai spesso misurato in termini patrimoniali, anche indipendentemente da giudizi di valore. O alla “povertà”, sempre più considerata il risultato di scarso impegno che verrebbe assecondato e aggravato da eventuali interventi di cura e riequilibrio, invece che l’effetto di circostanze avverse che invitano alla cura della persona e al riequilibrio delle sue capacità: quasi che il problema non sia più la povertà, ma i poveri. E allora, se la situazione in cui ci troviamo dipende in forte misura da scelte politiche e culturali, possiamo ben cambiarla se invertiamo quelle scelte, se cambiamo rotta. Questa conclusione è rafforzata dalla terza considerazione: il “fattore Italia”. L’Italia presenta alcuni tratti specifici che spiegano i risultati particolarmente negativi degli ultimi anni, anche in termini di livello medio dei nostri redditi, non solo della loro distribuzione. Fra quelli più attinenti ai temi che trattiamo, spiccano lo stato della Pubblica Amministrazione (PA) e il forte peso delle piccole e medie imprese. Il primo di questi tratti è da sempre un problema: si è aggravato quando l’approccio amministrativistico dominante
ha cercato di accomodare le innovazioni del New Public Management e quando frettolose privatizzazioni hanno disperso i quadri tecnici dell’IRI o dell’Agenzia per il Mezzogiorno e di altre imprese ancora, che avevano a lungo compensato le debolezze della PA. Quanto alle piccole e medie imprese (PMI) e alla loro organizzazione in nuvole o distretti, esse sono state a lungo un punto di forza del paese e di diffusione di benessere, ma le nuove forme della conoscenza e del suo controllo le hanno messe in difficoltà. Esistono, dunque, spazi di iniziativa specifici del nostro paese per invertire le tendenze in atto.

**Tre processi di formazione e distribuzione della ricchezza**

Il FDD ha puntato l’attenzione su tre processi da cui dipendono la formazione e la distribuzione della ricchezza: il cambiamento tecnologico; la relazione fra lavoro e impresa; il passaggio generazionale. Sono i meccanismi che governano questi processi ad allocare poteri e a segnare le opportunità della nostra vita, influenzando così la giustizia sociale. Non a caso, proprio su questi processi si concentrano le preoccupazioni sul futuro da parte dei ceti deboli, ossia dei gruppi sociali che meno influenzano le scelte di volta in volta compiute. Il cambiamento tecnologico può avere impatti positivi o negativi sulla giustizia sociale, può diffondere o concentrare il controllo sulla conoscenza. E così influenzare: la distribuzione fra profitti e salari; l’occupazione; la dignità e l’autonomia del lavoro; l’equilibrio fra tempo di lavoro e non-lavoro; l’equilibrio uomo-donna in merito ai tempi di cura e assistenza; l’accesso dei ceti deboli ai servizi di mercato; la capacità di essere informati e di confrontare opinioni diverse; gli effetti sociali della transizione energetica; l’uso che viene fatto della massa di dati personali che immettiamo in rete. A ogni passaggio del cambiamento tecnologico si aprono biforcazioni fra scenari dove si riduce e scenari dove cresce la giustizia sociale. Le proposte del FDD agiscono sui meccanismi da cui dipende la scelta a ogni biforazione. La relazione fra lavoro e impresa, fra lavoratrici e lavoratori, da una parte, e chi esercita il controllo sull’impresa, dall’altra, ha un ruolo decisivo nel determinare la distribuzione della ricchezza, i divari retributivi e di condizioni di vita e la stessa natura del cambiamento tecnologico. Accrescere il potere negoziale e di indirizzo del lavoro è un requisito irrinunciabile per accrescere la giustizia sociale. Richiede oggi la combinazione di antiche e nuove tutele e un nuovo dialogo fra lavoro e cittadinanza attiva. Sono l’oggetto delle nostre proposte. Il passaggio generazionale, quando i giovani e le giovani iniziano a costruire un piano di vita, è il momento in cui al lascito insito nel contesto familiare e sociale e nell’istruzione ricevuta si aggiunge il lascito di ricchezza. Può essere il passaggio in cui si accentua la disuguaglianza di opportunità,
indipendentemente da ogni merito, e si accelera la concentrazione della ricchezza; o viceversa dove si mescolano le carte, ossia la ricchezza trasferita da una generazione a quella successiva viene redistribuita, accrescendo la libertà sostanziale dei giovani e delle giovani appartenenti ai ceti deboli.

**Re-distribuire e Pre-distribuire**

Per rendere più equa la distribuzione della ricchezza e dare stabilità a questo risultato bisogna intervenire su quei tre meccanismi. I primi due, cambiamento tecnologico e relazione lavoro-impresa, incidono sul processo di accumulazione e formazione della ricchezza privata e di impiego, consumo e tutela della ricchezza comune. Riguardano, in altre parole, la fase che precede e culmina con la distribuzione del reddito e delle opportunità. Per questa ragione, gli interventi su questi meccanismi vengono detti pre-distributivi. Si tratta di interventi indispensabili, perché capaci di cambiare in modo non temporaneo il modo in cui ricchezza privata e comune si formano e in cui la prima viene distribuita e la seconda diventa accessibile. Insomma, redistribuiscono la ricchezza mentre si forma. In assenza di interventi pre-distributivi, l’intero onere dell’aggiustamento sarebbe caricato sugli interventi re-distributivi, che attraverso imposte progressive e servizi pubblici universali spostano reddito, ricchezza e costo dei servizi da alcune persone ad altre. Si tratta di interventi indispensabili per correggere la polarizzazione di reddito e ricchezza insita nel capitalismo. Ma se la polarizzazione è troppo forte il riequilibrio redistributivo diventa difficilmente sostenibile. Lo si tocca con mano in Italia, non solo nella diffusa resistenza a ogni revisione al rialzo della leva fiscale (che la vastità dell’evasione rende particolarmente pesante per chi paga regolarmente le imposte), ma nella “secessione dei ricchi” che si va prefigurando se a singole Regioni verrà concesso di fissare i “propri” livelli essenziali di servizio e di trattenere i “propri” introiti fiscali per finanziarli. Oltre, ancora una volta, a gravi errori politici, dietro questa ipotesi sta la resistenza dei cittadini di Regioni a più alto reddito medio ad assicurare in modo stabile una redistribuzione a favore dei cittadini delle Regioni a più basso reddito medio. Invece, in presenza degli interventi pre-distributivi che noi proponiamo, diventa sostenibile uno specifico intervento redistributivo. Che ha il pregio di essere rapidamente attuabile. E che è indispensabile per correggere il meccanismo del passaggio generazionale. Nel passaggio generazionale, infatti, non si forma ricchezza, ma avviene un suo trasferimento fra persone, appunto da una generazione all’altra; in questo caso solo un’azione re-distributiva può ottenere un riequilibrio, spostando risorse a favore di chi è nato in una famiglia (o in un contesto) dove il trasferimento generazionale atteso è modesto o nullo grazie soprattutto al
contributo di chi è nato in una famiglia (o in un contesto) dove questo trasferimento è significativo o cospicuo. Le nostre proposte dunque sono in larga misura di tipo pre-distributivo. Ma sono integrate da una necessaria proposta redistributiva relativa proprio al passaggio generazionale, oltre che da alcuni interventi redistributivi insiti in proposte pre-distributive (Proposte nn. 8, 9, 10 che verranno esposte in sintesi nelle prossime pagine).

**Politiche pubbliche e azioni collettive. Scala europea, nazionale e locale**

Le proposte che avanza il FDD configurano sia politiche pubbliche, sia azioni collettive. Le politiche pubbliche riguardano il disegno istituzionale, per via legislativa o regolamentare (Proposte nn. 1, 8), o le modalità di attuazione di un disegno istituzionale dato (Proposte nn. 2, 3, 4, 5, 6, 7, 9). Per azioni collettive intendiamo azioni di sindacati, reti di lavoratori, organizzazioni di cittadinanza attiva, comunità di innovatori, studenti, movimenti che redistribuiscono direttamente potere decisionale o che promuovono, pretendono o accompagnano l’attuazione di politiche pubbliche. Vogliamo intendere per azioni collettive anche quelle che sono svolte da amministratori pubblici nell’esercizio della propria autonomia, all’interno delle norme e degli atti di indirizzo politico esistenti. Azioni collettive sono necessarie sia perché le politiche pubbliche proposte siano prese in considerazione, sia, in molti casi, perché esse possano comunque essere sperimentate. Quale è la scala delle azioni collettive e pubbliche proposte? Ci sono azioni che richiedono una scala internazionale (Proposta n.1) e/o Europea (Proposte nn. 1, 2). Anche in questi casi è comunque possibile e doveroso immaginare un contributo propulsivo italiano che sfruti il potenziale economico e culturale del paese, oggi sottoutilizzato. Si dovrebbe muovere da azioni collettive che costruiscono reti e alleanze con altri soggetti sociali europei già attivi sullo stesso terreno. Sarebbe un contributo a quell’urgente inversione di marcia dell’Unione Europea che deve toccare tutti i campi di intervento, anche oltre lo spazio di azione di questo Rapporto. Le altre azioni hanno invece una scala nazionale o locale; basta infatti scorre le proposte per comprendere quanto ampi siano gli spazi di intervento a regole internazionali ed europee date e assai spesso a livelli di spesa dati. E quanto il contesto internazionale e soprattutto le “regole europee”, al di là dei loro evidenti e gravi limiti e dell’insostenibilità di un’Unione monetaria senza Unione politica, siano stati usati come alibi per giustificare l’inazione o scelte sbagliate, talora volutamente sbagliate. Alcune di queste

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2 Si tratta della proposta 15, che però non è stata trattata in modo sistematico nel seminario.
azioni a scala nazionale e locale potrebbero peraltro trovare in un’Unione riformata un forte punto di appoggio (in particolare, le Proposte nn. 3 e 5), ovvero sono oggi già rafforzate dal contesto Europeo (Proposte nn. 4, 7, 8, 9). Le proposte mirano a orizzonti temporali diversi: dal breve al medio-lungo periodo. Le due politiche pubbliche che coinvolgono l’Unione Europea o anche organismi internazionali hanno l’orizzonte temporale di attuazione più lungo. Gran parte delle politiche pubbliche che toccano l’intero sistema nazionale hanno un orizzonte di attuazione di medio periodo, segnato soprattutto dai tempi necessari per attrezzare le pubbliche amministrazioni coinvolte ai nuovi obiettivi: un passo assai spesso omesso e affrontato dal FDD con la Proposta n. 11. Ma queste stesse azioni pubbliche e altre azioni pubbliche e collettive possono essere anticipate a livello territoriale in modo sperimentale o prototipale, a opera di Comuni, Municipi, Università, gruppi di amministratori pubblici, gruppi di imprese e relative organizzazioni aziendali e territoriali del lavoro, alleanze di organizzazioni di cittadinanza, reti di comunità di innovatori e culturali (in particolare, per le Proposte nn. 4, 5, 6, 7, 8, 9, 10).

Proposta n. 1 La conoscenza come bene pubblico globale: modificare gli accordi internazionali e intanto farmaci più accessibili

Si propongono tre azioni che mirano ad accrescere l’accesso alla conoscenza. La prima azione riguarda la promozione, attraverso l’UE, di una modifica di due principi dell’Accordo TRIPS che incentivano la produzione e l’utilizzo della conoscenza come bene pubblico globale. Le altre due azioni riguardano il campo farmaceutico e biomedico; si propone, sempre attraverso l’UE, di arrivare a un nuovo accordo per la Ricerca e Sviluppo, in sede di Organizzazione Mondiale della Sanità, che consenta di soddisfare l’obiettivo del “più alto livello di salute raggiungibile” e, contemporaneamente di rafforzare l’iniziativa negoziale e strategica affinché i prezzi dei farmaci siano alla portata dei sistemi sanitari nazionali e venga assicurata la produzione di quelli per le malattie negate.

Proposta n. 2. Il “modello Ginevra” per un’Europa più giusta

Si propone di promuovere a livello europeo degli “hub tecnologici sovranazionali di imprese” che si occupino di produrre beni e servizi che mirino al benessere collettivo, partendo dalle infrastrutture pubbliche di ricerca esistenti ed estendendo il loro ambito di azione dalla fase iniziale della catena di creazione di valore a quelle successive. L’obiettivo è quello di sfruttare il successo di forme complesse e autonome di organizzazione per rendere accessibili a tutti i frutti del progresso scientifico e affrontare il
paradosso attuale per cui un patrimonio di open science prodotto con fondi pubblici viene di fatto appropriato privatamente da pochi grandi monopoli.

**Proposta n. 3 Missioni di medio-lungo termine per le imprese pubbliche italiane**

Si propone di assegnare alle imprese pubbliche italiane missioni strategiche di medio lungo periodo che ne orientino le scelte, in particolare tecnologiche, verso obiettivi di competitività, giustizia ambientale e giustizia sociale. I punti di forza della proposta sono: l’identificazione di un presidio tecnico; la trasparenza della responsabilità politica; il monitoraggio dei risultati; la garanzia della natura di medio-lungo termine degli obiettivi; e il rafforzamento delle regole a tutela dell’autonomia del management.

**Proposta n. 4 Promuovere la giustizia sociale nelle missioni delle Università italiane**

Si propongono quattro interventi integrati per riequilibrare gli attuali meccanismi che inducono le Università a essere disattente all’impatto della ricerca e dell’insegnamento sulla giustizia sociale: introdurre la giustizia sociale nella valutazione della terza missione delle Università; istituire un premio per progetti di ricerca che accrescono la giustizia sociale; indire un bando per progetti di ricerca che mirano a obiettivi di giustizia sociale; valutare gli effetti dell’insegnamento universitario sulla forbice di competenze generali delle giovani e dei giovani osservata all’inizio del percorso universitario.

**Proposta n. 5 Promuovere la giustizia sociale nella ricerca privata**

Si propone di introdurre, nei criteri per l’allocazione dei finanziamenti pubblici alla ricerca privata, parametri che inducano le imprese a tener conto degli effetti delle loro scelte sulla giustizia sociale e che le sollecitino a promuoverla.

**Proposta n. 6 Collaborazione fra Università, centri di competenze e piccole e medie imprese per generare conoscenza**

Si propone di valorizzare, sviluppare e diffondere in modo sistematico le esperienze in corso in alcune parti del territorio italiano, che vedono reti di PMI collaborare con le Università e con altri centri di competenza per superare gli attuali ostacoli derivanti
dalla concentrazione della conoscenza e produrre conoscenza condivisa che consenta un recupero della loro competitività.

**Proposta n. 7. Costruire una sovranità collettiva sui dati personali e algoritmi**

Si propone che l’Italia compia un salto nell’affrontare i rischi che derivano dalla concentrazione in poche mani del controllo di dati personali e dalle sistematiche distorsioni insite nell’uso degli algoritmi di apprendimento automatico in tutti i campi di vita. La strada è segnata dalle esperienze e dalla mobilitazione che altri paesi stanno realizzando su questo tema: mettere alla prova il Regolamento Europeo per la Protezione dei Dati che fissa principi all’avanguardia sul piano internazionale; realizzare un ampio insieme di azioni, specie attorno ai servizi urbani, che vanno da una pressione crescente sui giganti del web alla sperimentazioni di piattaforme digitali comuni; rimuovere gli ostacoli allo sviluppo delle comunità di innovatori in rete.

**Proposta n. 8 Strategie di sviluppo rivolte ai luoghi**

Si propone di disegnare e attuare nelle aree fragili del paese e nelle periferie strategie di sviluppo “rivolte ai luoghi” che traggano indirizzi e lezioni di metodo dalla Strategia nazionale per le aree interne; strategie che, attraverso una forte partecipazione degli abitanti, combinino il miglioramento dei servizi fondamentali con la creazione delle opportunità per un utilizzo giusto e sostenibile delle nuove tecnologie.

**Proposta n. 9 Gli appalti innovativi per servizi a misura delle persone**

Si propone di promuovere con diversi strumenti il ricorso da parte delle amministrazioni, soprattutto locali, agli appalti innovativi per l’acquisto di beni e servizi, che consentono (come mostrano le poche ma positive esperienze italiane) di orientare le innovazioni tecnologiche ai bisogni delle persone e dei ceti deboli. In particolare, gli strumenti proposti sono: formazione dei funzionari pubblici; rimozione degli ostacoli alla partecipazione; campagna pubblica di informazione; ricorso a consultazioni pubbliche per il disegno del bando.

**Proposta n. 10 Orientare gli strumenti per la sostenibilità ambientale a favore dei ceti deboli**

Si propongono tre linee d’azione che possono orientare gli interventi per la sostenibilità ambientale e il contrasto al cambiamento climatico a favore della giustizia
ambientale, condizione perché quegli stessi interventi possano essere attuati: rimodu-
lazione dei canoni di concessione del demanio e interventi fiscali attenti all’impatto
sociale; rimozione degli ostacoli ai processi di decentramento energetico e cura degli
impatti sociali dei processi di smantellamento delle centrali; modifiche dell’Ecobonus
per l’incentivazione delle riqualificazioni energetiche degli edifici ed interventi sulla
mobilità sostenibile in modo favorevole alle persone con reddito modesto.

Proposta n. 11 Reclutamento, cura e discrezionalità del personale delle PA
Si propone che in tutti i livelli amministrativi coinvolti dalle singole strategie di
giustizia sociale proposte nel Rapporto venga attuata la seguente agenda di interventi:
a) forte e mirato rinnovamento (anche disciplinare) delle risorse umane; b) politica
del personale che elimini gli incentivi monetari legati ai risultati e li sostituisca con
meccanismi legati alle competenze organizzative; c) restituzione della funzione di
strumento di confronto fra politica, amministrazione e cittadini alla valutazione dei
risultati; d) forme sperimentali di autonomia finanziaria della dirigenza; e) interventi
che incentivino gli amministratori a prendere decisioni mirate sui risultati, non sulle
procedure.

Gli interventi dei discussanti:
Simone Arnaldi, Gabriele Blasutig, Luca Bertolussi

Simone Arnaldi

La Terza Missione (TM) descrive l’insieme delle “attività relative alla produzio-
ne, utilizzo, applicazione e valorizzazione della conoscenza e delle altre risorse delle
università al di fuori dell’ambito accademico, attraverso la costruzione di interazioni
dirette fra le università e il resto della società” (Molas-Gallart, Salter, Patel, Scott e
Duran 2002: 2). Le attività di TM affiancano le missioni tradizionali di insegnamento e
di ricerca, nell’ambito delle quali le università interagiscono, rispettivamente, con gli
studenti e la comunità scientifica.

Commentando la situazione italiana, il Forum Disuguaglianze Diversità osserva
come la TM sia definita dalle linee guida dell’Agenzia Nazionale di Valutazione del
Sistema Universitario e della Ricerca (ANVUR) principalmente in termini di valoriz-
azione economica della conoscenza scientifica, includendo fra gli indicatori di valu-
tazione attività come la creazione di spin-off, il volume dei finanziamenti esterni e la gestione della proprietà intellettuale, mentre alle iniziative di divulgazione scientifica e animazione culturale viene attribuito uno spazio residuale\(^3\). Questo approccio, rimprovera il Forum, riduce la finalità sociale della TM alla crescita economica, senza introdurre un riferimento alle nuove diseguaglianze che l’applicazione della conoscenza scientifica e l’innovazione tecnologica possono produrre o a quelle, esistenti, che scienza e tecnologia possono contribuire a ridurre o eliminare. Detto in altri termini, il Forum ritiene che l’istituzionalizzazione della TM e della sua valutazione in Italia dimentichi la giustizia sociale. Per ovviare a questa situazione viene proposta l’introduzione di un meccanismo di ricompense (fondi, premi) per i ricercatori e i progetti di ricerca che si pongono l’obiettivo di accrescere la giustizia sociale, e l’adozione di misure per esplicitare e sviluppare in modo consapevole i contenuti di giustizia sociale nell’insegnamento universitario. Secondo questo approccio, dunque, TM, ricerca e didattica convergono intorno all’obiettivo di ridurre le disuguaglianze per creare una società più giusta.

Se guardiamo alla possibilità di tradurre in realtà questa prospettiva normativa, dobbiamo innanzitutto notare come le politiche della scienza a livello internazionale pongano una crescente enfasi sulla responsabilità sociale della ricerca e dell’innovazione, definendo quindi un contesto favorevole alla ridefinizione in questa direzione della TM dell’Università. Per esempio, a livello di Unione europea, il concetto di Responsible Research and Innovation (RRI) sottolinea l’importanza di orientare ricerca e innovazione verso obiettivi socialmente desiderabili ed eticamente accettabili (Von Schomberg 2013). Negli Stati Uniti, la National Science Foundation (NSF), che è la principale agenzia federale per il finanziamento della ricerca scientifica, ha ampliato i propri criteri di valutazione includendo aspetti come: i vantaggi che la società potrà ricavare dai risultati della ricerca per cui viene richiesto il finanziamento, la misura in cui il progetto di ricerca contribuisce all’inclusione sociale dei gruppi sociali svantaggiati, l’apporto del progetto al miglioramento della comprensione, da parte dei cittadini, della scienza e della conoscenza scientifica (Davis e Laas 2014). In Australia, l’idea di “social license to operate” richiede di coinvolgere le comunità locali nella valutazione dei costi e dei benefici derivanti dall’utilizzo di tecnologie e innovazioni nei processi economico-produttivi (Hall, Lacey, Carr-Cornish e Dowd 2015). In tutti questi modelli, ricerca scientifica, didattica e TM trovano la loro giustificazione nel rispondere, in modo integrato, ai bisogni e alle sfide sociali.

\(^3\) Si veda l’Allegato E del Decreto del Ministro dell’Università, istruzione e ricerca n. 47/2013 che definisce il sistema di indicatori.
Fare “ricerca giusta”, nel senso di produrre conoscenza utile a rispondere alle sfide della società, tuttavia, non esaurisce però la responsabilità civica e sociale della scienza, in generale, e delle università, in particolare. Oltre a conseguire obiettivi di giustizia a partire dai risultati di ricerca, questa responsabilità si traduce anche nel fare “ricerca in modo giusto”, ovvero nel ridefinire i processi della ricerca e dell’innovazione in modo da renderli maggiormente ricettivi delle aspettative e dei bisogni espressi dagli attori sociali che non fanno direttamente parte del sistema della ricerca e dell’innovazione. È da questo punto di vista che il public engagement (PE), ovverosia l’insieme di attività mirate a coinvolgere i cittadini e la società civile nella co-determinazione degli obiettivi della ricerca e nella co-produzione dei suoi risultati (Wilsdon e Willis 2004), diventa di importanza cruciale per strutturare le “interazioni dirette fra le università e il resto della società” che caratterizzano la TM⁴.

Quali strade si possono percorrere, oltre a quelle identificate dal Forum Disuguaglianze Diversità per integrare ricerca, didattica e TM per fare ricerca “giusta” e “in modo giusto” nel modo che è stato brevemente descritto? Proviamo a fare alcune sintetiche valutazioni. In primo luogo, appare utile la modifica degli attuali sistemi di valutazione del sistema universitario in modo coerente con questo obiettivo, bilanciando gli indicatori legati alla produttività scientifica con altri che evidenzino l’impegno dei docenti in attività di TM, in particolare, nel PE, che siano diverse dalla valorizzazione economica della ricerca. In Italia, a questo proposito, esiste inoltre un disallineamento fra la valutazione della qualità della ricerca e della produttività scientifica (fatta a livello individuale) e della performance in materia di TM (fatta a livello dipartimentale)⁵. In secondo luogo, le attività di PE devono essere “prese sul serio” e non considerate come un meccanismo per creare consenso sociale intorno a soluzioni predeterminate. Molto spesso, infatti, il PE viene utilizzato come uno strumento per de-politicizzare le issue, esistenti o supposte, relative alle tecnologie e alle innovazioni, fungendo da strumenti per sterilizzare la partecipazione e legittimare decisioni già prese (Pellizzoni 2013). Al contrario, un’interpretazione “forte” di PE come co-produzione della ricerca e delle sue finalità è naturalmente politica e, quindi, mai immune da conflitti, di interessi e di obiettivi, che svolgono anzi, all’interno di una cornice deliberativa e collaborativa, un ruolo fondamentale e potenzialmente creativo.


⁵ Per un’analisi degli incentivi (e disincentivi) alle attività di PE in Italia si rimanda a Arnaldi e Neresini (2017) e Vargiu (2014).
In terzo luogo, perché questo potenziale possa essere sfruttato, è necessario rendere espliciti e trasparenti gli obiettivi che la produzione di conoscenza scientifica o i progetti della sua applicazione si pongono, evidenziandone anche incompatibilità e trade-off con più ampi quadri normativi di riferimento a livello sociale, come è stato fatto per i diritti elencati nella Carta dei diritti fondamentali dell’Unione europea (Von Schomberg 2013), oppure per gli Obiettivi di Sviluppo Sostenibile delle Nazioni Unite (Australia/Pacific 2017).

Questa rilettura della TM, normativamente orientata e integrata con le altre due missioni della didattica e della ricerca, richiede un’evoluzione culturale, organizzativa a livello di università e professionale a livello di comunità scientifica, che faccia propria un’idea di responsabilità civica della (e nella) ricerca e innovazione non riconducibile, esclusivamente, alla produzione di conoscenza scientifica “di eccellenza” secondo le norme deontologiche tradizionali della scienza istituzionalizzata. In altre parole, si richiede allo scienziato di riflettere sulle implicazioni sociali della propria attività di ricerca e di acquisirne consapevolezza, non solo nel senso di anticiparne le conseguenze indirette, secondarie e non volute, ma, al contrario, anche di considerare quale possa esserne il contributo positivo alla soluzione delle sfide della società.

Gabriele Blasutig

Nella sua relazione Fabrizio Barca, riprendendo un’ampia sezione del documento realizzato dal FDD, ha illustrato un insieme di meccanismi per i quali le innovazioni tecnologiche in corso rischiano di diventare un fattore di accentuazione delle disuguaglianze nella società contemporanea. Uno dei principali nodi critici è rappresentato dalla formazione di veri e propri monopoli privati della conoscenza, facenti capo a un novero ristretto di imprese che oggi dominano il settore delle tecnologie dell’informazione.

In questo quadro, gioca un ruolo cruciale l’uso, sempre più pervasivo, di sistemi o dispositivi di automazione dei processi e delle decisioni basati sull’intelligenza artificiale e sugli algoritmi di apprendimento automatico. Vorrei sviluppare alcune osservazioni in merito, rafforzative rispetto a quanto rilevato da Barca, guardando il fenomeno da una prospettiva socio-tecnica. In particolare, mi riferisco al crescente impatto degli algoritmi nei processi decisionali che innervano, a diversi livelli, i sistemi sociali e che, come è evidente, interagiscono con il tema delle disuguaglianze e della giustizia sociale, visto che riguardano molto spesso scelte di allocazione delle risorse.

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6 Vale ancora, a questo proposito, il riferimento classico di Merton (1973).
Si può notare che l’uso di modelli algoritmici a supporto delle decisioni è accompagnato da retoriche sociali fortemente legittimanti, in virtù delle loro riconosciute caratteristiche di performatività e di equità. In base a tali caratteristiche possono apparire superiori rispetto alle forme di decisione “naturale” che hanno connotato da sempre le società e le organizzazioni e che sono state ampiamente studiate dalla scienza della politica e dalla sociologia dell’organizzazione.

Tali modelli possono apparire più performativi rispetto a quelli affidati unicamente ai decisori umani, perché risolvono in buona parte i problemi di razionalità limitata, soprattutto in relazione ai limiti computazionali della mente umana. Sono quindi in grado di accorciare notevolmente i tempi delle decisioni e di incrementarne la qualità, potendo contare su una più ampia base informativa e su più potenti sistemi di elaborazione delle informazioni. Inoltre, si propongono e vengono vissuti come oggettivi, neutrali e, quindi, “equi”. Possono essere infatti depurati – attraverso opportune operazioni di ancoraggio a elementi e criteri oggettivi e misurabili – dai pregiudizi, dalle percezioni soggettive o dalle mediazioni (o negoziazioni) tra credenze e interessi divergenti, tipici dei processi decisionali “naturali”.

Potendo contare su un elevato grado di legittimazione, i modelli decisionali algoritmici salgono sempre più, per così dire, “ai piani alti” delle scelte socialmente rilevanti, investendo diffusamente le decisioni di rilevanza strategica, relative all’allocazione di un cospicuo e crescente ammontare di risorse: ad esempio, scelte inerenti l’indirizzo degli investimenti (sia pubblici che privati); la ripartizione delle risorse nelle organizzazioni complesse; la definizione delle strategie commerciali; la cernita dei fornitori (anche negli appalti pubblici); la selezione, programmazione e valutazione del personale; la pianificazione, programmazione e organizzazione del lavoro.

Detto ciò, rilevo almeno tre aspetti critici che inducono più di un dubbio sui supposti elevati livelli di performatività ed equità dei modelli “artificiali” di decisione.

In primo luogo, si può sostenere che quanto più i sistemi organizzativi si appoggiano in modo forte a degli algoritmi per assumere le proprie decisioni di carattere strategico, tanto più trova compimento l’immagine – che, con un termine in voga, definiremmo distopica – della “gabbia di ferro”, utilizzata da Weber per descrivere le possibili derive del modello burocratico. Secondo la lezione weberiana, ciò significa in primis la perdita di potere della politica rispetto alla tecnocrazia (che in questo caso è rappresentata da chi programma gli algoritmi o, ancor peggio, dagli algoritmi stessi che, grazie ai processi di deep learning, tendono a “liberarsi” dai loro stessi programmatori). Ma ciò significa anche che le scelte perdono il legame con il “buon senso” (cioè con la possibilità di essere sensate ed equilibrate in relazione ai valori e ai fini ultimi, spesso contrastanti e ambivalenti) e con i principi di umanità. Questo è molto rilevante rispetto al tema trattato, perché, a ben guardare, discrezionalità politica, buon senso
e principi di umanità sono gli elementi che più si pongono a salvaguardia dei criteri di giustizia nei processi decisionali.

In secondo luogo, vi sono fondate ragioni per ritenere che i sistemi di decisione automatica, vista la loro “missione” performativa, operino con la logica prevalente di evitare scelte divergenti rispetto allo status quo, ovvero siano per loro natura conservative. Per controllare in termini probabilistici i livelli di redditività nell’impiego delle risorse, tendono infatti a ridurre quanto più possibile i rischi di investimenti fondati su “scommesse”, immaginari del futuro, mondi ideali o mondi più giusti. Il modo di “ragionare” degli algoritmi appare piuttosto distante da quello dell’innovatore shumpeteriano, sia in campo economico che in campo sociale, a maggior ragione se questi si ispirasse anche a criteri di giustizia sociale.

In terzo luogo, quando i processi decisionali si appoggiano in maniera forte agli algoritmi è molto probabile che si inneschino cicli di feedback che producono comportamenti sempre più stereotipati rispetto a quanto è previsto dal modello. È paradigmatico, a questo proposito, l’esempio delle logiche di acquisto sulla piattaforma Amazon. I cicli di feedback determinano una forte e crescente concentrazione degli acquisti sulla Amazon best choice che l’algoritmo seleziona e propone agli acquirenti, incrociando quantità vendute, prezzi e recensioni dei clienti. Il comportamento “deviante”, o, ancora peggio, il pensiero divergente, non conforme al modello, viene penalizzato, o addirittura escluso, da questi meccanismi decisionali. Il non standard soccombe molto facilmente rispetto allo standard. Anche qui si possono rilevare dei problemi rispetto al depotenziamento delle spinte di innovazione, spesso provenienti dai soggetti marginali o devianti, come indica la classica lezione di Sombart (1967). Le conseguenze rispetto al tema della disuguaglianza sono evidenti.

In conclusione, ritengo che siano particolarmente rilevanti i passaggi del documento del Forum in cui si rimarca la necessità di rinforzare le competenze richieste per una robusta interazione con i sistemi di decisione automatica, sia nella fase di elaborazione che in fase di esecuzione degli algoritmi. Si tratta di competenze che non possono essere ristrette a saperi tecnici e che, al contrario, richiedono necessariamente approcci di tipo multi e inter-disciplinare.

Chiudo il mio intervento con una telegrafica domanda relativa a un elemento che mi sarei aspettato di trovare nel documento oggetto di discussione. Non ho infatti riscontrato dei riferimenti al funzionamento e agli effetti dei mercati finanziari. La cosa è sorprendente, visto che molti osservatori (penso, ad esempio al libro di Franzini e Pianta (2016) o alle opere più recenti di Gallino (2013)) vedono nel sistema finanziario il fattore chiave a cui si può attribuire la crescita delle disuguaglianze nell’ultimo trentennio. Se il programma è quello di affrontare organicamente i meccanismi gene-
rativi delle disuguaglianze, e non semplicemente di porre dei rimedi ex post attraverso misure redistributive, credo sia difficile lasciare fuori dall’alveo degli interventi quelli diretti a rifondare radicalmente tale settore.

Luca Bortolussi

Il periodo storico che stiamo vivendo è caratterizzato da un grande impatto trasformazionale dell’informatica, ed in particolare di metodologie di intelligenza artificiale basate su algoritmi di apprendimento automatico e disponibilità di grandi moli di dati.

Queste tecnologie stanno diventando pervasive non solo in tutti i settori dell’economia, ma anche nel tessuto stesso della società. Basti pensare come smartphone, social network ed entertainment on demand stanno cambiando la quotidianità delle nostre vite ed i nostri rapporti sociali.

Queste grandi trasformazioni, forse anche per la loro rapidità, sono però accompagnate da una scarsa comprensione dei loro effetti e della tecnologia soggiacente, in particolare degli algoritmi di intelligenza artificiale, e da una ancor più scarsa consapevolezza della loro pervasività e dei loro limiti. Questo non solo a livello di “uomo di strada”, ma anche all’interno della stessa accademia.

Questo vuoto di cultura digitale è grave, perché senza un minimo di comprensione della tecnologia soggiacente a questi fenomeni non è possibile capirne a fondo la loro portata, con il rischio di travisare o sottovalutare certe trasformazioni in corso.

L’università, che per sua natura dovrebbe essere il luogo ideale dove trasmettere queste conoscenze, latita. L’insegnamento dell’informatica in lauree non tecniche è sottovalutato, e spesso si riduce a saper usare applicativi per ufficio o a qualche nozione elementare di cosa sia un calcolatore, ma non tocca nemmeno lontanamente i concetti fondamentali alla base delle trasformazioni in corso. Così studenti con una formazione umanistica o sociologica, che dovrebbero essere capaci di ragionare sul mondo e le sue trasformazioni, rimangono privi di tasselli fondamentali su cui fondare i loro ragionamenti. È quindi urgente procedere ad una revisione dei curricula universitari, anche in ambito umanistico e sociale, in modo da fornire a tutti gli studenti chiavi di lettura profonde delle trasformazioni digitali in corso.

Allo stesso modo, l’insegnamento delle tecnologie informatiche in ambito tecnico e scientifico è spesso asettico, tutto focalizzato sul funzionamento e sulla matematica degli algoritmi, senza mai porsi il problema di quale sia l’impatto etico e sociale di queste tecnologie, né di come questo si estrinsechi nella quotidianità.

Questa è una limitazione altrettanto grave, in quanto la ricerca scientifica e lo sviluppo tecnologico in questo ambito sono lunghi dall’essere neutrali. Scelte che sem-
brano squisitamente tecniche nella costruzione di questi algoritmi possono avere importanti ripercussioni sociali. Un esempio sono le distorsioni, o bias, che vengono introdotti in modo esplicito o implicito nelle fasi di apprendimento, piuttosto che i criteri stessi di performance che l’apprendimento cerca di ottimizzare. Gli effetti di queste scelte possono essere macroscopici, basti pensare a come i software usati nelle corti americane come supporto ai giudici tendano a dichiarare persone di colore più pericolose di imputati bianchi, solo per il colore della pelle o perché sono cresciute in quartieri più a rischio.

Sottovalutare questi fenomeni è grave; tecnici e scienziati dovrebbero sentirsi coinvolti ed essere responsabilizzati. È quindi necessario introdurre nelle discipline tecniche insegnamenti, o almeno momenti di riflessione, su etica ed impatto sociale. Anche perché, se è vero che l’algoritmo risultato dell’apprendimento è difficile da comprendere, è vero anche che ci sono molti modi per controllare ed indirizzare l’apprendimento stesso. È questo va fatto seguendo precise regole etiche e valutando l’impatto sociale.

La responsabilizzazione di tecnici e scienziati deve quindi concretizzarsi anche nella ricerca e sviluppo di queste tecnologie. Al momento la ricerca scientifica in ambito di intelligenza artificiale è fortemente influenzata dalle mode del momento, mode che vengono in varia misura create o indirizzate dai centri di ricerca e dai ricercatori più prestigiosi. Ma in questo ambito, buona parte dei centri di ricerca più prestigiosi non sono pubblici, bensì privati, di proprietà delle aziende che dominano il settore, le nuove sette sorelle.

Queste sono le stesse aziende che stanno contribuendo a creare un clima di eccitazione sulle potenzialità delle tecnologie correnti, un overselling che contribuisce ad aumentare il loro giro di affari ed i loro profitti. Ma lasciare che siano queste aziende a guidare la ricerca in intelligenza artificiale, anche per quanto attiene aspetti etici o di impatto sociale, è un errore: l’obiettivo di queste aziende è il profitto, non il bene collettivo.

È quindi necessario riportare l’agenda dell’intelligenza artificiale sotto il controllo pubblico, aumentando le risorse pubbliche a disposizione dei ricercatori, vincolandole a temi di interesse collettivo e magari dando loro più tempo, rilassando la rincorsa alla pubblicazione e alla citazione scatenata dai correnti meccanismi di valutazione.

Ma è altrettanto necessario che informatici e tecnici inizino ad interagire in modo profondo con sociologi ed umanisti, perché un ragionamento efficace sugli impatti sociali ed etici di queste tecnologie non può che nascere in un contesto di contaminazione multidisciplinare.

L’auspicio è quindi non solo quello di una maggiore presenza del pubblico nella ricerca in intelligenza artificiale, ma anche la nascita di movimenti scientifici e di
pensiero che affrontino questi temi mescolando competenze tecniche, sociologiche ed umanistiche, in modo da costruire una comprensione più precisa del presente e da indirizzare in senso socialmente giusto il loro sviluppo, anche per ciò che attiene gli aspetti tecnici. E questo può accadere solo nelle università, dove tutte le competenze necessarie sono già presenti. Basta solo che inizino a parlarsi!

_Gli interventi liberi:_

_Giuseppe Ieraci, Giorgio Osti, Giulia Caccamo, Giuliana Parotto, Paolo Tomasin_

**GIUSEPPE IERACI**

Fabrizio Barca ha introdotto la sua relazione dicendo che le proposte del FDD non sono di natura classicamente redistributiva, se non per quanto riguarda la proposta sulla successione, che è stata appena accennata ma non illustrata nel pacchetto di proposte presentato oggi. Per inciso, in un bel libro del 1916 (*Principles of Social Reconstruction*), Bertrand Russell, che ragionava su come ricostruire il mondo dopo la prima guerra mondiale, sostiene l’abolizione della successione: questo per dire come nella storia del pensiero sociale e politico siano diffuse idee anche radicali rispetto al tema di che cosa sia la giustizia connessa alla disponibilità di ricchezza. E il problema che voglio porre è quello della giustizia. Il FDD si rifà alla concezione di giustizia sociale di Sen, per cui ognuno deve potere vivere la vita che vuole vivere. Ma qualcuno deve dire a queste persone che vita vogliono vivere, o meglio Sen dice che se non si aumentano le capabilities delle persone, queste probabilmente non sapranno che vita vogliono vivere realmente. Anche se spostiamo il problema sulla distribuzione e redistribuzione delle capabilities, il problema della ricchezza ritorna. Mi è perciò difficile capire come si possa affrontare il problema della disuguaglianza senza ritornare al tema classico della redistribuzione della ricchezza. Rawls (1971) si chiede che cosa farebbe una persona se non sapesse di chi è figlio e che cosa gli capiterà nella vita: probabilmente questa persona sceglierebbe di dividere la torta in fette uguali. Ma se invece egli avesse più informazioni, dividerebbe la torta in base ai propri interessi, ovvero in base alla massimizzazione della propria condizione possibile. Il tema della redistribuzione è molto connesso al tema del potere. Mi pare che il potere sia il convitato di pietra che viene eluso. La domanda è: chi si prende carico e chi attua le proposte elaborate dal FDD? Dove risiede il potere politico che è in grado di assumere sulle proprie spalle queste proposte?
GIORGIO Osti

Mi pare che il documento del FDD abbia un taglio un po’ tecnocratico. Si è parlato soprattutto di conoscenza che è appropriabile, brevettabile. Esiste però una grande fetta di conoscenza difficilmente appropriabile, la conoscenza tacita, che risiede nei luoghi e si scambia grazie ai sistemi di relazione. Per il FDD mi sembra importante tenere presente questo: non esiste solo una disuguaglianza che viene prodotta dalla conoscenza appropriabile, sulla quale possiamo agire attraverso nuove forme di pubblicizzazione e di apertura dei brevetti. Esiste poi la disuguaglianza relazionale, per cui non è tanto la ricchezza che possiedi o il potere che puoi esercitare ad essere dirimente, ma è come ti collochi in un contesto di relazioni che possono sopprimere ad alcuni fabbisogni oppure no. Il FDD prende in considerazione questi aspetti?

GIULIA Caccamo

C’è una parte dell’intervento su cui Fabrizio Barca si è soffermato brevemente che ho trovato molto interessante. Fabrizio Barca ha fatto riferimento a una cosa che stiamo discutendo molto in Università, ovvero la varianza tra come lo studente entra e come lo studente esce dal percorso universitario, e alla riduzione della forbice tra chi ha meno competenze in entrata e chi ne ha di più. Come possiamo misurarlo concretamente? L’Università è ormai pervasa dall’ansia di misurare ogni cosa e di misurare ciò che misurabile non è, senza più porci l’interrogativo che dovrebbe essere alla base dell’attività di ogni docente e del sistema universitario: che tipo di individui contribuiamo a formare?

GIULIANA Parotto

Mi pare che le proposte relative all’Università siano orientate soprattutto a creare una sorta di consenso attorno al concetto di giustizia sociale. Ci sarebbero però delle vie molto semplici per intervenire incrementando l’uguaglianza di accesso al sistema universitario. La via più semplice è detassare. In Germania non esistono le tasse universitarie. Inoltre, aumentare le strutture di accoglienza e le borse di studio. Mi pare invece una misura poco sensata quella di dare a tutti i diciottenni, indipendentemente da tutto, una dote di 15 mila euro. Esistono capacità di spesa diverse tra i giovani e condizioni di partenza diverse. Sul tema degli algoritmi, vedo la necessità di un percorso di scambio, di reciproca formazione tra dimensioni tecniche e dimensioni socio-politico-

**Paolo Tomasin**

Mi chiedo se nel documento è presente una riflessione sui sistemi contabili. Negli ultimi decenni sono stati fatti importanti passi avanti, con l’introduzione del BES e dei bilanci sociali e ambientali. Ma non ne vedo le conseguenze sul livello macro. Mi pare però importante perseguire una riflessione sulla contabilizzazione tenendo la barra sulla giustizia sociale e ambientale, come forme di contabilizzazione che devono entrare a pieno diritto nei bilanci delle amministrazioni e delle imprese. Come possiamo fare per renderle più pervasive ed efficaci?

*Le repliche di Fabrizio Barca*

**Su potere economico e potere politico**

L’analisi che ha costruito il Forum mette insieme potere politico ed economico. Come argomentano Acemoglu e Robinson (2012), le élite economiche e politiche si tengono una con l’altra. Il FDD si è interrogato su come l’innovazione tecnologica abbia favorito l’incremento delle disuguaglianze, in relazione alle scelte che negli ultimi trent’anni la classe politica ed economica, in modo abbastanza coeso, ha fatto commettendo gravissimi errori, in alcuni casi intenzionalmente – lo ha fatto per i propri interessi; in altri casi perseguendo obiettivi giusti, ma con mezzi sbagliati: la New Public Management, che ha abusato dei sistemi di misurazione e ha determinato l’indebolimento dello Stato, è stata fatta con buone intenzioni. Il ridisegno Blairiano del sistema inglese, per esempio, è stato fatto con l’idea di aumentare il benessere sociale degli inglesi, con risultati però negativi sul sistema sanitario e scolastico. Complessivamente, ciò ha concorso a determinare quel senso di abbandono di molte parti del territorio britannico di cui il voto sulla Brexit e l’attuale grave situazione sono gli esiti.
Poiché è stato citato Rawls non posso non richiamare la critica che gli è stata fatta da Amartya Sen. È vero che una parte delle nostre decisioni è presa sulla base dei nostri interessi, e che se noi non sapessimo chi siamo, quali interessi abbiamo, potremmo essere più giusti. Ma Amartya Sen sottolinea che abbiamo difficoltà a metterci d’accordo su che cosa fare anche perché abbiamo differenze di valori. Ce lo ricorda con la parabola dei tre flauti, così semplice ma altrettanto efficace. I sistemi di valori che stanno a monte della scelta della bimba a cui affidare il flauto, informano i nostri modi di pensare e costruire politiche. Per cui anche quando ci fossimo dimenticati quali interessi abbiamo, avremmo comunque buone ragioni per scontrarci. E quindi abbiamo bisogno – e anche su questo il FDD ha lavorato, per disegnare le proposte – di domandarci come arrivare a una decisione, tenuto conto che abbiamo bisogno di conciliare, non solo interessi, ma anche sistemi di valori differenti.

_Sulla proposta di eredità universale_

La parola redistribuzione nel dibattito sulla disuguaglianza si riferisce principalmente al reddito e alla ricchezza. Una sola delle nostre proposte - quella sulla eredità universale - interviene redistribuendo reddito e ricchezza. Tutte le altre proposte affrontano il tema della formazione della ricchezza. Nel linguaggio moderno della sinistra americana sta già entrando il termine pre-distribuzione, riferito a interventi che incidano sulle modalità di formazione della ricchezza. È questa la cifra radicale delle proposte del FDD. Esse sono radicali perché non hanno paura di essere nostalgiche, abbiamo buttato via strumenti che servivano – come in alcuni casi l’impresa pubblica – e ce li riprendiamo. Sono radicali perché sono moderniste, non possiamo avere paura dell’innovazione tecnologica, ma dobbiamo lavorare per orientarla verso la giu-

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7 Ci sono tre bambini, chiamiamoli Anna, Roberto e Carla, che si contendono un piccolo flauto; litigano, ma ciascuno di loro ha le sue ragioni: Anna pretende il flauto perché è l’unica dei tre che lo sa suonare, cosa di cui gli altri due sono consapevoli: vi pare giusto negare il flauto all’unica persona che lo sa adoperare? Roberto vuole il flauto perché è povero, così povero da non avere neanche un giocattolo: vi pare giusto negargli l’unico giocattolo che potrebbe avere? Carla si applicata per mesi con diligenza per costruire il flauto con le sue stesse mani: il flauto l’ha fatto lei, e ora se lo vuole tenere; vi pare giusto che gli altri due glielo portino via? A chi dare il flauto? Si vede bene che operare la scelta “giusta”, cioè operare “con giustizia”, non è facile, ma se apparteniamo a delle “scuole” etico-politiche abbiamo una risposta pronta: a Roberto “il bambino più povero, andrà il pieno appoggio dell’egualitarista (si dà un nesso forteissimo tra lavoro e proprietà, per esempio nel liberalismo lockiano). L’esponente dell’utilitarismo edonista... tenderà a tenere in maggiore considerazione il fatto che a ricavare dal flauto il maggiore piacere sarebbe Anna, l’unica in grado di suonarlo”.

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stizia sociale. Sono radicali perché devono spostare potere, riallocare il potere che si è concentrato troppo in alcune mani e in alcuni luoghi. Sono radicali, insomma, perché mirano ad utilizzare tutti gli spazi che il capitalismo può lasciare liberi. È questo il test delle nostre proposte e delle critiche che possono essere fatte alle nostre proposte: sono benvenute tutte le critiche, smontateci le proposte ma attraverso altrettante proposte che spostino potere. Se qualcuno ha trovato il modo per fare sì che una banca conceda un credito a un giovane senza garanzie, ma con idee e voglia di futuro, si faccia avanti con la sua proposta. Ai tanti ragazzi con meno di 18 anni che sono costretti ad accettare qualunque lavoro senza prospettiva non è sufficiente garantire l’accesso all’istruzione. Dobbiamo costruire loro una tutela, la ricchezza serve ad evitare di dove accettare un lavoro qualunque per sopravvivere. I ragazzi di San Siro a Milano dovranno avere potere contrattuale per poter dire di no alla criminalità organizzata. Questo potere contrattuale può essere rappresentato da un gruzzolo di soldi che consentano loro di guardare più lontano rispetto alla sopravvivenza quotidiana. i divari che si sono aperti nel nostro paese tra i 580 mila giovani che arrivano ogni anno ai 18 anni sono tali, che abbiamo bisogno di una proposta radicale. Se ci sono alternative ai 15 mila euro che propone il FDD ben venga, ma dobbiamo essere consapevoli dell’urgenza di rispondere a questo problema. E tempo per rispondere non ne abbiamo molto, vista la dinamica autoritaria in atto verso la riduzione delle libertà: è una tentazione per milioni di giovani nel nostro paese, dalla punta meridionale dell’Italia fino alle periferie delle città più ricche del Nord.

**Su disuguaglianze, conoscenza locale e relazioni**

La conoscenza dei territori è in realtà centrale nel nostro ragionamento. È evidente che una delle politiche errate dell’ultimo trentennio, che invece trova ampio spazio nel documento del FDD, va sotto il concetto semplice di *one size fits all*: una politica delle istituzioni che ha sostanzialmente immaginato che i tecnocrati nelle grandi centri (a Bruxelles, a Francoforte, a Roma, a Trieste) potessero disegnare delle istituzioni uguali per tutti, cioè che lo Stato avesse una conoscenza tale da poter disegnare un nuovo sistema della salute, una nuova riforma della scuola imponendoli ai territori. Ma nel mondo dove oggi viviamo, una larghissima parte della conoscenza risiede nei territori. La conoscenza locale però da sola non serve a niente, per produrre cambiamento e sviluppo ha bisogno di tradursi in innovazione e per fare questo deve dialogare e confliggere con la conoscenza globale. Il modo neoliberista di fare politiche, che è fortemente statale nell’utilizzo dello Stato come attore gerarchico, che impone ai territori disegni istituzionali, che si illude che si possa dire a ogni livello gerarchico
inferiore cosa e come farlo. È anche in questo delirio illuminista che ha fallito: ogni territorio, ogni luogo ha invece bisogno di istituzioni diverse ed esprime conoscenze utili per disegnarle nel modo più efficace possibile. Le politiche che noi suggeriamo, perciò, sono politiche che guardano ai luoghi e alle conoscenze che i luoghi esprimono, non tanto per cercare il consenso dei luoghi, ma per prendere decisioni migliori, per fare spesa pubblica in modo più efficace.

**Sulla terza missione dell’Università**

Le osservazioni sulla proposta relativa alla terza missione sono molto interessanti. Riprendo alcuni punti, per provare a fornire ulteriori elementi. È evidente che ci sono attività di ricerca così lontane, per le quali è difficile trovare connessioni con la giustizia sociale. Nei materiali allegati al documento del FDD, però, c’è un contributo di Roberto Aloisio, Eugenio Coccia e Alessandro Pajewski dove gli autori raccontano come anche i fisici possano porsi il problema della ricaduta sociale in termini di giustizia della propria ricerca. I fisici stanno lavorando alla comprensione di onde percepibili dallo spazio, che forse un giorno potrebbero aiutarci a capire dove e quando si stanno per verificare terremoti. Il problema è che nell’eventuale percorso verso questa scoperta – che come tutte le scoperte incede per tentativi ed errori - ci saranno momenti in cui loro crederanno di avere scoperto dove e quando sta per arrivare il sisma, ma in realtà non si verificherà, o si verificherà molto più tardi rispetto alla previsione oppure in un altro posto. Questo pone un problema etico enorme: in che modo si prenderanno il rischio di non rendere nota la previsione, perché ancora troppo incerta, ma poi magari il terremoto arriverà in quel luogo e con quella tempistica? Questo è un tema molto delicato di giustizia sociale, che ha a che fare non con il “cosa” ma con il “come”, con quale processo deliberativo adottare le decisioni in situazioni come queste. Se in anticipo, insieme ad altri studiosi di discipline diverse e a un gruppo di cittadini e di organizzazioni della società civile, si definiscono i criteri con i quali agire in questi contesti è possibile costruire un sistema più condiviso e più giusto socialmente.

Al tema della terza missione si ricollega la domanda sulla misurazione. L’ANVUR si appresta già a fare delle misurazioni che non riguardano le competenze disciplinari, ma le competenze generali. La domanda da farsi è molto semplice: i ragazzi e le ragazze nella loro permanenza dentro il sistema scolastico hanno imparato a comunicare meglio, ad esempio attraverso la scrittura? Come facciamo a discutere di algoritmi, ad alfabetizzare attorno agli algoritmi, se gli studenti hanno difficoltà a comprendere il concetto di correlazione, di causalità? Queste cose dovrebbero spettare alle scuole, ma è importante capire se nel percorso universitario la forbice si è allargata o ristretta.
L’università fornisce la competenza del problem solving, della capacità di fare fronte in modo ragionato a degli imprevisti? Senza queste competenze non riusciamo a produrre giustizia sociale, perché sono alla base del concetto di capability. Queste cose sono misurabili e la vostra Università già da domani potrebbe decidere di farlo.

Condivido il punto sulla consapevolezza attorno agli algoritmi. Le due dimensioni nelle quali dobbiamo lavorare sono quella scolastica-universitaria e quella territoriale. Scolastica perché i ragazzi sono molto sensibili agli usi impropri della rete e sono facilmente avvicinabili a questa tematica. Universitaria perché è possibile mettere insieme discipline diverse, lavorando alla dimensione filosofica, etica e socio-politica degli algoritmi insieme a chi li costruisce da un punto di vista tecnico-matematico. Territoriale perché è possibile lavorare alla dimensione sociale degli algoritmi per esempio sulla organizzazione dei servizi collettivi. A Bologna i cittadini sanno che stanno riorganizzando i servizi di mobilità e possono essere coinvolti nelle scelte. La città di Barcellona sta costruendo piattaforme collettive per la discussione degli algoritmi e in generale dell’uso dei dati personali con i cittadini.

**Contabilità e indicatori**

Come FDD stiamo cercare di fare il punto tra i nostri obiettivi e quelli posti dall’Agenda 2030 per lo Sviluppo Sostenibile. Se ci fosse qualche contributo specifico su questo, lo prenderemo certamente in considerazione perché è evidente come sia indispensabile andare a mordere anche nei sistemi di misurazione e di conseguenza nella valutazione. Pensate se Cassa Depositi e Prestiti accettasse la nostra proposta sulle imprese pubbliche. A un certo punto dovremo chiederle di darne conto e perché questo avvenga dovremo essere attrezzati per misurare il raggiungimento degli obiettivi. A proposito, infatti, proponiamo che in seno al ministero dell’economia nasca una commissione – sulla scorta di quella creata su impulso di Enrico Giovannini attorno agli obiettivi per lo sviluppo sostenibile – che partendo dal nostro insieme di obiettivi ne estragga alcuni del conseguimento dei quali poi le imprese pubbliche diano conto dei risultati ai cittadini.

**Come proveremo a mettere a terra le proposte e costruire alleanze sociali e politiche attorno ad esse?**

Intanto ci aspettiamo che succeda quello che è successo oggi: ascoltarci, mettere in discussione le proposte, discuterle. Poi abbiamo trovato dodici alleati che hanno
deciso di lavorare con noi. Non condividono necessariamente tutto, ma molto del nostro proporre. E su questo terreno comune proviamo a portare avanti sperimentazioni. Le proposte del FDD hanno scale e orizzonti temporali diversi. Alcune di esse sono immediatamente praticabili, altre hanno bisogno di entrare nell’arena politica grazie alla spinta della cittadinanza attiva, altre devono essere accolte da livelli diversi di governo. Per questo stiamo costruendo delle alleanze,8 con persone diverse e influenti, che si sono impegnate a portare avanti una o più proposte nei loro ambiti di competenza. Per alcune proposte dobbiamo lavorare a un confronto serrato con i potenziali beneficiari e attuatori. Subito dopo, o a volte in contemporanea, la strada è quella della sperimentazione. Per diverse proposte, lo abbiamo segnalato, è infatti possibile e auspicabile che le proposte siano sperimentate. Anche una alla volta. E che sia proprio la sperimentazione, magari in più punti del paese, a fornire la conoscenza che manca, a consentire di aggiustare o cambiare il tiro. È quell’approccio dello “sperimentalismo democratico” che il FDD ha fatto suo. Un metodo per cui le decisioni di sistema consistono in determinazioni generali aperte a essere riempite di contenuti attraverso l’attuazione. E in cui l’attuazione offre ai cittadini, luogo per luogo, l’opportunità di fare pesare le proprie conoscenze e le diversità dei contesti. È in questo confronto acceso, informato, aperto e ragionevole che, a partire da opinioni e preferenze diverse, si arriva a convergere su decisioni, perché quelle preferenze e quelle opinioni cambiano o perché si trovano “intersezioni” o compromessi fra le diverse soluzioni. Promuovere e attuare questo metodo è la caratteristica di tutte le nostre proposte.

Che cosa ci aspettiamo che accada ora che abbiamo confezionato e presentato le proposte? La risposta è duplice. Come è negli intenti del FDD - “produrre, promuovere e influenzare proposte per l’azione collettiva e per l’azione pubblica” - ci auguriamo che le proposte avanzate, dopo un confronto acceso quanto serve, trovino la strada dell’attuazione, aiutino a “fare le cose che servono”. A tutte le diverse scale, anche attraverso sperimentazioni locali. Ma c’è altro. Noi ci auguriamo anche che “attraverso le proposte” vengano in luce le questioni vere da affrontare, quelle, per capirsi, di cui non si parla. Ci auguriamo, cioè, che, se anche le singole proposte non convinsero, convinca la diagnosi che esse rivelano. Consegniamo perciò le proposte a chi è interessato a svolgere un ruolo, di spinta, di analisi, di indirizzo, di mobilitazione, di normazione o di attuazione per raggiungere quei due obiettivi. E dunque le diamo a chi rappresenta l’unità nazionale. Le diamo ai partiti, che la Costituzione individua come luogo primario “per concorrere con metodo democratico a determinare la politica na-

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8 Per consultare la lista degli alleati del FDD aggiornata a giugno 2019 si veda https://www.forumdisuguaglianzediversita.org/proposte-per-la-giustizia-sociale/un-impegno-comune-per-la-giustizia-sociale/
zionale” (art. 49). Le diamo a tutti i soggetti che nel mondo della cultura e del lavoro, della produzione e della cittadinanza attiva, della scuola e della salute, dell’ospitalità e della rete digitale, organizzano gli interessi e le aspirazioni che sono toccati dalle nostre proposte. Con essi contiamo di lavorare assieme e di costruire alleanze. Anche l’Università di Trieste, e le persone che vi lavorano, se ritengono di condividere alcune proposte, sono invitate ad allearsi al FDD per iniziare insieme la sperimentazione.
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