

# **Resolving the Democratic Dilemma: Contestation, Anti-power and Democracy**

**BY**

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## ABSTRACT

This thesis is divided in two main parts. First, I develop the claim that current democracies are unable to properly defend what I deem the pivotal feature to evaluate the quality of a political system - namely the people's liberty - due to what I call a twofold democratic dilemma. On the one hand, common citizens are affected by biases that compromise their ability to successfully maintain forms of self-government. On the other hand, even representative forms of democracy that limit to a certain degree the people's power are threatened by an oligarchic power. That is, oligarchs are using their wealth power to sway governments towards pursuing oligarchic interests rather than common ones, thus hindering the people's liberty.

For this reason, I argue that we ought to rely on Pettit's view of liberty as non-domination to resolve the democratic dilemma. The thesis conceives these two threats as two forms of domination that must be avoided and focuses on adding a supplementary editorial and contestatory dimension of democracy to the classical participatory one. Republicanism could offer a solution to both sides of the dilemma. On the one hand, citizens' political task would be more compatible with the people's biases, since citizens would limit their participation to control that government's policies do not entail oligarchic domination. On the other hand, framing liberty as a battle between dominating masters and dominated slaves, republicanism could offer the many the institutional means to counteract elites' political domination

In this way, I conclude the first part of the thesis, but this opens the gates to the main question of the thesis, namely to how we should structure this contestatory democracy. The problem is that whereas republican scholars agree on the importance of setting freedom as non-domination at the basis of our political systems, there is no such agreement on the best way to institutionally enhance the republican ideal. I analyse this debate, maintaining that while Pettitt's ideal is the view to pursue, we should reject his editorial solution because small committees of experts are likely to increase oligarchic domination rather than to protect the people's liberty.

Rejecting Pettit's model does not yet imply refusing any editorial model, since I argue that critical scholars mistakenly identify the editorial component of democracy with Pettit's answer *only*. In this way, they neglect alternative solutions to Pettit's, such as Bellamy's and McCormick's. Having explained that Bellamy's solution does not resolve the democratic dilemma, since this scholar rejects editorial bodies, I argue that McCormick's "Machiavellian Democracy" framed on a divided conception of the populace offers instead the solution I am looking for. Institutionally recognizing the social differences among the populace, we could



create modern bodies similar to the Roman “Tribune of the Plebs” to offer the weaker part of the population a class-specific institution to use as defence from oligarchic domination.

The problem is how to implement a modern “Tribune of the plebs” making sure that these bodies are effective but popular in character at the same time. I thus explain how modern editorial tribunates could work in practice, drawing from McCormick’s “thought experiment”. I agree with most of McCormick’s ideas – lottery selection, wealth threshold exclusion, large size tribunates, etc. - but I suggest that we must review some of his suggestions with features more concerned with improving the people’s knowledge – specialization, education selection, etc. Hence, I conclude the thesis describing my thought experiment of a system of Specialized Ministerial Tribunates.

In this way, I argue that we could better resolve the democratic dilemma. On the one hand, tribunates’ editorship would be more specific and would not require members of the tribunate to analyse the operation of governments on a too broad spectrum, thus reducing the problems of the people’s biases. On the other hand, tribunates’ operation could be primarily connected to detecting oligarchic features in the policies enacted by single ministries, thus challenging more precisely any oligarchic influence over governments.

In sum, I argue that an editorial dimension could produce significant improvements to the people’s liberty. Thanks to a modern “Tribune of the plebs”, citizens could participate more meaningfully in politics, while taming more efficiently the influence oligarchs have on how modern societies are politically directed.

# 1. THE DEMOCRATIC DILEMMA

## 1. Introduction: The democratic dilemma

I divide this thesis in two parts. First, I develop the claim that current democracies are unable to properly defend what I deem the pivotal feature to evaluate the quality of a political system - namely the people's liberty - due to what I call a democratic dilemma:

- *First side, The People's Biases:* Over the last few decades, surveys have showed that citizens may be affected by diverse biases and also suffer a lack of knowledge (Oppenheimer & Edwards 2012; 39-93; Brennan 2016; 25-53). These biases are threatening for a political system founded on the *kratos* of the *demos*, one that aims to empower the people's self-government. In trying to achieve the ideal of self-government, democracies may charge individuals with too many responsibilities that either they cannot or do not want to take on.

For this side of the dilemma, the risk is that we could struggle to defend democracy when citizens are proven to be unable to perform the tasks required to govern themselves. The problem is that if the very basis of this political system is not as knowledgeable as previously thought, the strong conceptions of democratic self-government are unachievable because of the excessive demands they impose on ordinary citizens. Hence, I argue that an integral self-government by the people is no longer achievable and that we thus ought to change the way we conceive citizens' political participation, moving from a focus on direct participation (voting, referenda, etc.) towards specialized forms of contestation more compatible with the people's biases.

- *Second Side, The Oligarchic Threat:* This problem concerns the fact that the political consequences of oligarchic wealth power have always been – and are - a determinant feature of the operation of our societies and as such they cannot be overlooked. As maintained by Winters (2011), oligarchic power is grounded in material wealth and it is thus only marginally affected by nonmaterial reforms.<sup>1</sup> As a result, oligarchies have managed to persist across historical periods and the rise of democracy has not rendered them obsolete. On the contrary, oligarchies have increasingly used their wealth power to sway democratic institutions so as to have their own interests favoured over those of others. We must then be very careful regarding how we limit the people's political power. Most of our political regimes are – or claim to be – democratic, which implies that in these systems

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<sup>1</sup> In addition to Winters's book, a useful historical analysis of the role of oligarchies can be found in Higley (2006).

political power must pertain to the *demos*. Yet, when we connect this definition to oligarchic power, we are faced by a complicated conundrum: How can our societies be democratic if a small percentage of the populace possesses political and economic power disproportionately superior to that of the remainder?

This democratic dilemma seizes our political systems in a conundrum that seems to have no solution. On the one hand, we cannot rely entirely on the people's direct participation, since citizens are biased and lack the knowledge to govern themselves properly. On the other hand, any attempt to restrict the people's power is likely to result in the oligarchic threat, since oligarchs can use their wealth power to sway the operation of the political institutions and smaller and more independent bodies are more likely to be corruptible than to resemble Plato's ideal of a "Philosopher King" (Reeve 1988). To understand better this dilemma and how we could solve it, I first describe more in detail the problems raised by its two sides.

### **1.2. The first side of the dilemma: The People's Biases**

My argument that there is a popular side of the dilemma does not imply that I think that the people's biases unavoidably compromise any attempt to foster citizens' political participation. On the contrary, I maintain that a problem arises when – and if - we assume that people can defend their liberty only by realizing directly their public self-government, since I argue that the strong conceptions of democratic self-government are unachievable in contemporary political systems because of the excessive demands they impose on ordinary citizens.

To understand this argument, I must specify what I mean by democracy as self-government. By definition, democracy must entail giving a form of power to the population. Yet, disputes have always been raised in political literature about what kind of power citizens should have and how they ought to use it. The historical development of democratic theory is rich with diverse views (Held 2006; Kelsen 1949), but I suggest that we can find two main conceptions structuring the debate. The first view argues that a regime is democratic if – and only if – the people are equally given the chance to govern themselves. This is the ideal of the "ancients" (Constant 2011 (1816)) and it structured the first forms of democracy such as the Athenian one.

The second view argues that since the structural conditions that allowed the self-government ideal are no longer available, due to the development in size and complexity of our societies, modern democracies must limit the people's self-government and they must include certain forms of representation. Put simply, our societies are just too complex to grant equally each

citizen the Aristotelian requirement to “rule and be ruled in turn”, so representative systems should allow certain individuals to take decisions for others.

The ideal of democracy as self-government was pivotal in structuring ancient republics as Athens (Constant 2011 (1816); 6-7), but as I describe in the next chapter, this ideal has not disappeared in contemporary societies, since deliberative (Habermas 1996) and epistemic (Cohen 1986) views maintain that democracy can function properly only insofar as it includes a strong component of direct popular participation. That is, these views deem direct political participation as essential not only because it is an end in itself, but also because it is the best way to achieve just and stable political outcomes and to foster the people’s political education. It is in this regard that the first side of the dilemma compromises the reliability of democratic systems framed on the self-government ideal.

In order to govern themselves, citizens must be rational individuals, since they have to be at least sufficiently well-informed, they must weight policy options, use the information available to make the best political choices and their decisions should not be swayed by passions and irrationalities. However, the problem is that over the last decades, the increased development and usage of polls to study and collect citizens’ opinion has showed that citizens are unlikely to perform these tasks rationally (Achen and Bartels 2016).

We must then consider the eventuality that due to their biases, citizens may not be able to directly govern themselves, so by requiring too much effort to the populace, we could end up hindering current democracies rather than defending them. That is, if we identify democracy primarily and only with the people’s direct self-government, there is the risk that if citizens proved to be unable – or do not want – to govern themselves, democracy itself could lose its legitimacy. Citizens may be unable to participate meaningfully in democratic government because they are affected by diverse biases, among which the most important ones are (Oppenheimer & Edwards 2012; 39-93; Brennan 2016; 25-53):

- *People do not understand the key political issues*: politics is complex, and individuals do not have the ability and time to deal with it, so citizens may not be capable and/or willing to participate meaningfully to politics (Caplan 2007; 4-12).
- *False consensus bias*: individuals tend to overestimate how much their fellow citizens and/or politicians of their favourite party share their views (Taber and Lodge 2006). This problem hinders a fruitful political debate, since citizens avoid opposing views and ideas that challenge their political ideas.

- *Availability bias*: citizens tend to focus their attention on the wrong political problems because they assume that things that come easily to mind are more common than they actually are (Brennan 2016; 45). For example, Brennan argues that American citizens overestimate the actual threat represented by terrorist attacks. These events come easily to mind, whereas deaths caused by flu do not. The problem is that these biases led the US government to invest too much resources in the “War on terror” - a war that does not survive the cost-benefit analysis (Muller and Steward 2011)<sup>2</sup> – rather than investing this money on health care to resolve more important problems. This latter is an interesting point. As I discuss in more detail in the next chapter, whereas I agree that citizens may be affected by an availability bias, I do not agree with Brennan that this bias was the main factor pushing for this “War on terror”. Rather the opposite, since I think that US government was mainly swayed by oligarchic interests to exploit the people’s availability biases to justify the intention to pursue this war and not vice versa<sup>3</sup>.
- *Framing effect and Media coverage bias*: individuals evaluate information according to how it is presented, and how questions are posed influences what kind of opinions people form. Favouring the rare and spectacular over the common and mundane, media usually causes a bias toward a negative vision of the world (Althaus 2010; 196-240). In this way, media cause a problem similar to the one I just explained regarding the “availability bias”.
- *Peer pressure and authority*: regardless whether or not it is rational, we tend to conform our opinion to that of the majority, since we are group-oriented and our thought is deeply influenced by our environment (Bentley 2008).
- *A metacognition bias*: those who know the least are in the worst position to evaluate their knowledge. This is called the Dunning-Kruger effect, namely the problem that “The less you know, the less you know you do not know” (Dunning and Kruger 1999).
- *The confirmation bias*: we tend favour information that supports what we already believe, while avoiding information that contradicts our ideas (Taber and Lodge 2006).
- *“Rational irrationality”*: individuals know that their personal vote has almost no influence in the elections, so it is rational for them to avoid investing in acquiring political knowledge

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<sup>2</sup> Brennan explains that the total real monetary costs of these wars was estimated at \$3 to \$4 trillion by the Watson Institute for International and Public Affairs. In order to justify this expense, this program should prevent nearly seventeen hundred major terrorists events per year, something that well exceeds the actual number of terrorist attacks on US soil (Brennan 2016; 46).

<sup>3</sup> US “War on terror” is not the only case where oligarchic interests have affected governments on important foreign policies, since this problem can be connected to other countries’ policies as well. See (Thorne and Kouzmin 2008).

or to limit how rationally they process the information since it is something that does not pay. In this way, citizens may be pursuing the fulfilment of “private happiness” at the expense of the truth (Caplan 2001).

- *People infer a lot of things from short impressions*: to save energy, voters heavily rely on characteristics other than competence to judge politicians, as the candidates’ height, perspiration, name, etc. Yet, these latter are personal features that third parties can easily manipulate to sway the people’s vote (Oppenheimer & Edwards 2012; 39-44).
- *Electoral mechanisms*: there are many little aspects that influence people’s vote, such as the weather, the fact that people tend to vote the first name on the list, the issues of strategic voting and the fact that how you vote depends also on where you vote. For example, if the poll is held in a church, citizens’ decisions will be more focused on moral issues, while if it is held in a fire station more towards public safety (Oppenheimer & Edwards 2012; 45).

These biases suggest that the average citizen is irrational, manipulable and that her decisions may not always be focused on producing the best outcomes for the whole community. The seriousness of these problems is also expanded by the fact this lack of knowledge is not uniform among the populace, but it is correlated with individuals’ social characteristics. That is, certain kinds of political knowledge tend to be concentrated among overall better performing groups such as those who are white, male, middle-aged, etc. (Althaus 2010; 1-26)<sup>4</sup>. Ergo, there are differences in knowledge among the people that affect their ability to govern themselves.

In sum, these biases compromise the people’s ability to directly participate meaningfully to the democratic process. As I explain in detail in chapter two, the problem is that conceiving democracy only as the people’s self-government, we may have no answer to the question: “How can we defend democracy if it is the rule of the “biased many”?”

While my answer to this question is that by means of a contestatory and editorial democracy we can structure a political system where the people’s biases are compatible with a democratic system, other scholars argue that we ought to limit the people’s political participation to some degree. However, this leads to the conundrum on which I structure my thesis, since I argue that any attempt to restrict the people’s participation is likely to incur in the second side of the dilemma, the oligarchic one.

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<sup>4</sup> These social class differences will be one of the main points of debate of the second part of the thesis, where I analyse how to structure the institutions needed to contest the democratic dilemma.

### 1.3. The second side of the dilemma: The Oligarchic Threat

To clarify the argument framing the second side of the dilemma, namely that oligarchies pose significant threats to democracy, I must first define precisely what “oligarchy” and “oligarchs” are. To do so, it is helpful to consider Winters’s thesis that it is necessary to distinguish between oligarchies and elites, since the former are only those forms of minority power founded on wealth resources and whose members – the oligarchs – are: “Actors who command and control massive concentrations of material resources that can be deployed to defend or enhance their personal wealth and exclusive social position” (Winters 2011; 6).

Oligarchs must possess extreme personal wealth to be defined as such. To understand what an oligarchy is and does, it is necessary to consider the concept of wealth defence. That is, the defence of their wealth is so structural for oligarchs’ behaviour that oligarchy can be defined as: “the politics of wealth defence by materially endowed actors” (Winters 2011; 7). Wealth defence has yet never been a simple and plain task, since the concentration of wealth has always been accompanied at the social level by questions such as “why should this person own such wealth?” (Winters 2011; 1).

For long stretches of history, oligarchies found the answer in violence and in the use of armed militias, but brute force has steadily become costlier and unreliable, so oligarchs have had to find a way to peacefully defend their wealth. However, this does not imply that this task has become more difficult, since it has rather become easier and more legitimate<sup>5</sup>. Nowadays, rich people enjoy more rights to defend their property than for most of the rest of history and they do not have to use violence anymore, since they can defend their wealth by means of an “Income defence industry” that focuses on keeping as much of oligarchs’ property and income outside the hands of the state (Winters 2011; 22-24).<sup>6</sup>

Ruling might thus be vital for oligarchs to defend their wealth, but it could be irrelevant as well, since the key feature of oligarchy does not lie in whether or not a strong minority is rendered accountable, but rather in the phenomenon of concentrated economic resources. Being in power does not define an oligarchy, but only a particular kind of power, since where property is reliably defended externally (by the state or other institutions) oligarchs do not need to be

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<sup>5</sup> For example, they do not have to build a castle to defend their properties and they can increase their fortunes incredibly in a single year without fearing a direct threat to their wealth (Winters 2011; 20-22).

<sup>6</sup> This industry is composed by lawyers, lobbyists, etc. that deal with the challenges posed to oligarchs’ wealth resources. Winters takes as case study the role of these agents in defending American oligarchies.

engaged directly in political roles. That is, the greater the need of the oligarchs to defend their property directly, the more likely that oligarchy will assume the form of direct rule by oligarchs and vice-versa (Winters 2011; 9-11).

It is for this reason that we must distinguish between oligarchies and elites: the first can structure an elite government, but no elite can be an oligarchy in absence of material resources. Oligarchies have managed to persist across historical periods and the rise of democracy has not rendered them obsolete, since oligarchic power is grounded in material power and it is thus only marginally affected by nonmaterial reforms. Democracy does not have precise means to threaten oligarchies' power, since it is only when participation challenges material stratification specifically that oligarchy and participatory democracy clash. Whereas the antidote to elitism is a wider participation by society, this latter has thus no direct impact to oligarchies, since it poses only a *potential* threat to oligarchic power. Hence, the fact that political institutions can mediate or even tame oligarchy but not eliminate it, entails that:

Until the people do not use their political power to threaten the oligarchs, oligarchy and democracy can co-exist (Winters 2011; 11).

In short, the oligarchic threat implies that we can empower citizens' direct participation in several ways, but only insofar as we focus on finding a way to tame oligarchies we can find a solution to the inequality problems affecting our democracies. The problem is then that the democratic dilemma seems to seize democracies in a zero sum game, since the people's direct participation is affected by citizens' biases, but at the same time any restriction to their power opens the gates for the oligarchic threat. However, I claim that this conundrum is not unsolvable, since we can resolve this dilemma by structuring our democracies on a different ideal, the republican conception of liberty as "Non-domination" (Pettit 1997).

#### **1.4. The solution to the dilemma: A republican editorial democracy**

In order to explain why I focus on liberty as non-domination, I must first explain why I think that liberty is so important and why this aspect prevails over other features such as equality, fairness, etc. In my opinion, the best way to answer this question, namely "Why freedom?", is by introducing Sen's capability approach (1999). This conception – which is closely connected to Pettit's ideal of freedom as non-domination<sup>7</sup> - argues that centring the democratic debate on

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<sup>7</sup> For more information on the relationship between the two see Pettit (2001), Alexander (2010), Sen (2001).



freedom is essential, since this feature enhances simultaneously the individual's ability to take care of herself and her willingness to operate in society.

There are different forms of freedom, but Sen argues that the basic one is related to the chance the individuals have to choose the kind of life they want to live, and society has to be judged according to the substantial freedoms people have. There are two main concepts at the basis of Sen's "capability approach". First, that of *capability*, which reflects the individual's liberty to conduct one kind of life or another and it is defined by Sen as: "the individual's ability of achieving the kind of lives they have reasons to value" (Sen 1999; 75).

Second, that of *functioning*, which reflects the various things a person may value doing or being. These *functionings* vary from elementary ones, such as being adequately nourished, to complex ones, as having self-respect and taking part in the life of the community. Sen's thesis is that *functionings* are constitutive of a person's self and her personal capability is linked to them, since it is the array of alternative functionings that one individual can attain. Hence, we ought to shift our attention from the means to obtain freedom, as income, to the goals human beings pursue, namely to how individuals can obtain the functionings desired, or better to the freedoms that render individuals capable to reach those attainments (Sen 1995; 65-83).

Sen conceives freedom as being at the same time a form of power and a goal, since he maintains that being poor or dominated means being unable to live without shame amongst your fellow citizens and that individuals can accomplish this goal only insofar as they are granted the power to achieve the kind of life they deem valuable. How we conceive our needs is related to the fact that we believe that some situations could be prevented and that we know how to deal with them, so individuals must have the *power* to fulfil their functionings and a state can be evaluated according to how well it grants the free pursuit of these needs (Miller 1999; 203-230). The problem is then how to ensure that an individual is free in the exercise of a choice and two main features are required for this (Pettit 2012; 65-70).

First, we must ensure that any of the resources you happen to lack for your capabilities are made available to you. One individual will not be free if to get the resources needed she has to depend on the goodwill of another, since in this case the latter will dominate the relationship. Second, we must protect the citizen in the actual achievement of her functionings. That is, once the individual has the resources needed to act, we have to guard her against being subject to the will of another also in how she exercises her choices, since the fact that she possesses the means to fulfil her will does not imply that she will afterwards find no hindrances to their

fulfilment. The best way to do so is by posing an obstacle that does not block completely the others' interference, but that it will render such interference extremely unlikely to happen – with sanctions or punishments - if it entails a form of domination (Pettit 2012; 72-74).

Therefore, Sen's capability approach explains that liberty as a goal, not as a mean to obtain something else, is the structural feature to consider when analysing whether or not a state is performing well. This does not imply that features other than freedom, such as equality, fairness, etc. are not important, but that liberty is the structural point to which all the other aspects are connected. That is, to have well-functioning societies we must grant citizens the basic liberties they need to fulfil the kind of life they deem valuable, so the better a political regime defends and grants these basic liberties, the better it performs (Sen 1999; 146-250).

A political regime's main goal should thus be to ensure that no external hindrance damages the people's liberty. In this way, it becomes clearer why the democratic dilemma negatively affects not only the people's liberty, but it also unavoidably compromises the quality of our democracies. That is, if an external threat compromises the ability of our democracies to be the political regime that better protects the people's liberty, the risk is that this could lead to democratic scepticism and autocratic deviations. Yet, in this thesis I do not look for non-democratic alternatives, but rather for a solution that strengthens the defence of democracy as the best regime in protecting the people's liberty. The view on which I rely to do so is Pettit's republican liberty as non-domination. According to this scholar, political discussion on freedom has been focusing too narrowly on only a way to categorize liberty, namely Berlin's division between a "Negative liberty" and a "Positive or Organic Liberty" (Berlin 1958).

The Positive liberty requires the agent to take an active part in gaining control of themselves, since it claims that I am free to the extent that I achieve self-mastery. Positive Freedom mainly focuses on answering the question "By whom am I ruled?" (Berlin 2012; 178), so the positive desire to govern myself is connected to the belief that it is essential to determine who is taking the political decisions to assess if citizens are free or not. Hence, the main question we must assess to understand this conception of liberty is: "What does it mean to be free to govern myself?" (Berlin 2002; 175).

First, self-mastery entails that individuals must be a *subject* and not an *object*, namely a self-directed doer able to take decisions by myself and not something moved by external forces. Being a subject is important because only insofar as I am able to conceive policies and goals

of my own and I am afterwards able to realize them, I can consider myself a proper human being. Otherwise, I will just be an object, a mere thing directed by others according to their needs (Berlin 2002; 176-177). Second, a positive liberty view entails a rational conception of the individual, since it conceives her as an entity able to think by herself, with her own will and goals, that is able to act and to be responsible for her own ideas and actions (Berlin 2002; 178). In this framework, I am free to the degree that I can realize my own will, while I am enslaved to the extent that I cannot do so.

On the contrary, negative liberty is the ideal for which individuals have a sacred personal sphere that must not be constrained by any external interference and within which they can act unobstructed by others. Individuals are thus free only insofar as they can take unimpeded and uncoerced choices regarding how to dispose of their private sphere (Berlin 2002; 165-169). Conceiving freedom in terms of non-interference, it becomes essential to understand which hindrances damage personal liberty and which could instead be accepted. Negative liberty scholars' answer to this dilemma has a pivotal social component, since they maintain that citizens are unfree if others prevent them from doing what they could otherwise do.

Individuals are then politically unfree when - and only - they are prevented from attaining a goal by another human being: the wider the area where they are not hindered by other human beings in exercising their choices, the freer they are (Berlin 2002; 170). At first glance, it may seem simple to guarantee this liberty, since in a framework where all coercion is conceived as bad because it represses human desires, while non-interference, being the opposite of coercion, is conceived as good as such, we just ought to prevent any form of interference.

However, the fact that we live in social systems where we must interact one with another and where personal liberties are inevitably connected creates disputes among scholars regarding how many "bads" we ought to impose to avoid larger evils. The main point of discussion then becomes how wide each individual's personal sphere should be, since if everyone was given an unlimited freedom, we would live in a chaos where the will of the strongest would prevail on that of the weakest (Berlin 2002; 171). In short, individuals' absolute freedom must be curtailed in some way, but how and by how much? Answering this question is a matter of where we ought to draw a line between the area of private life and that of public authority.

In a negative liberty framework, the argument is that the line should be drawn to have the maximum degree of non-interference compatible with the minimum demands of social life. In this way, we could protect personal freedom even at the public and social level. It is in this

regard that their answer differs from the one given by the positive liberty ideal. As noted, whereas this latter aims to put authority directly in the hands of the citizenry, the former focuses on finding a minimum area of personal freedom that cannot be violated by anyone and they thus aim to block authority as such (Berlin 2002; 177). Hence, these two views focus on two different aspects of power: whereas positive liberty scholars focus on the *source* of the power in the hands of those ruling the social system, negative liberty scholars address the problem of the *intensity and amount* of power that rulers ought to have.

The problem with Berlin's division is that it limits other ways of conceiving freedom, as the republican one of non-domination<sup>8</sup>, whose origins can be found in Rome and later in the commonwealthman tradition (Pettit 1997; 18-21). This ideal centres around the threat of having to live at the mercy of another, since it maintains that liberty involves emancipation from any subordination as domination. This latter is the pivotal concept of the republican framework, so it is important to determine when a party A is actually dominating B. According to Pettit, the answer is that A is dominating B if – and only if – the former practises interference at will and with impunity, thus posing an arbitrary imposition on the latter's life (Pettit 1997; 3-5).

This way of conceiving freedom is best represented by the example of the relationship between the master and the slave, where the latter is dominated because the first can interfere on an arbitrary basis with the choices of the slave without having to explain her the reasons of this behaviour. This is the main bad we should aim to avoid, since the consequences for the dominated are such that they live in a manner that leaves them vulnerable to some ill that someone else is in a position to impose arbitrarily on them. This condition renders them unfree, since they live in a constant uncertainty about the other's reactions and moods and cannot do anything to block the others' arbitrary sway. Having maintained that domination is the main bad we should avoid entails that it becomes fundamental to determine when someone is just interfering in someone else's life from actual domination. According to Pettit, four features must be present to say that an individual A is dominating B (Pettit 1997; 52-61).

1. *Capability*: A must have the capacity to actually interfere on B's life, making the context of B's actions worse. The domination is virtual until the master does actually interfere, but it is the capacity itself to eventually interfere that creates domination. For this reason, B

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<sup>8</sup> This tradition goes back to Cicero (Kennedy 2014), Machiavelli (2005), Harrington (1887) and many others. Today, besides Pettit, other important scholars are Pocock (1977) and Skinner (1978), Sunstein (1990) and Braithwaite (1990). Pettit states that the most important works of this tradition are *Cato's letters* (Trenchard and Gordon 1971) and Madison's essays in the *Federalist Papers* (Hamilton, Madison and Jay 2009 (1787-1788)).

may not suffer actual domination due to the benevolence of the master, but if the benevolence ceases, A has still the power to dominate her, so the hypothesis itself of possible domination means that B is not free.

2. *Arbitrariness*: A has to interfere on an arbitrary basis in B's life, namely A's actions cannot be accidental and must not follow B's will, otherwise we are talking about a non-dominating interference. Ergo, interference must compromise specifically your free choice to be dominating and not be a generic hindrance to it.
3. *Pervasiveness*: A dominates B even if she does so only in a certain sphere of B's life without constraining her on the whole, as for example a husband that dominates his wife within the domestic sphere. The fact that the latter may not suffer husband's domination outside the household does not render her free (Pettit 1997; 57-58).
4. *Common Knowledge*: domination requires awareness of control on the part of the powerful and of vulnerability on the part of the dominated; plus, the awareness of this consciousness on each side. The enjoyment of non-domination is thus a matter of public knowledge, since when she is not dominated, the individual acquires a social power: she is somebody in relationship to the others and not a nobody (Pettit 1997; 70-73).

Republican liberty as non-domination has thus two main features. First, it always casts freedom in terms of the opposition between *liber* and *servus*: liberty is the opposite of slavery and the great evil to avoid is to live at the mercy of another, even if the master is benign. Second, if the interference is not arbitrary, but controlled by the interests and opinions of those affected, it is not a form of domination. This entails that not all interference is dominating, but also that individuals must always have a form of control over the interference themselves, since they must be able to avoid them if deemed possibly dominating (Pettit 1997; 31-35).

The republican view cannot be represented by Berlin's dichotomy, since even though it has elements in common with both the positive and the negative conceptions of liberty, it is at the same time different from both of them. For what concerns the similarities, republicanism shares with the negative liberty framework that freedom means liberty "from a certain X" and it agrees with the positive liberty claim that we ought to focus on mastery. Yet, non-domination differentiates itself from both these views on other structural features.

On the one hand, Pettit maintains that it is quite self-evident how non-domination is different from liberty as self-mastery, since the fact that I am free from the mastery of another individual has no direct connection with the achievement of my self-mastery (Pettit 1997; 21-22). On the other hand, republicanism focuses on a different X from which we should be free than the one

chosen by negative liberty scholars, since the latter think that X should be “interference”, whereas the former maintain that it ought to be “mastery”. For this reason, there are two main differences between non-domination and non-interference.

1. If one individual is subjected to a master, even though she does whatever she likes, thus enjoying non-interference, she is still a slave, since it is the opportunity to interfere at will that gives the dominating power to the master, despite whether or not she will eventually use it. More in detail, the master enjoys two kinds of power that do not require actual interference (Pettit 2012; 60-64). First, she enjoys *invigilation*: even though the master may not be actually interfering in the slave’s life, she remains in a position where she can and will interfere if she changes her disposition. Second, she enjoys *intimidation*: slaves know that the masters can exercise their power at any moment and this renders them cautious and deferential. The problem of non-interference is then that even though the master may let the slave decide freely under some conditions, the latter will never be free, since the first reserves for herself the option of swinging idea in case of an unfavourable changing in those conditions. Conversely, non-domination grants greater security to personal freedom, since the master cannot interfere with the individual in any case.
2. Interference may occur without people being rendered thereby unfree, since there is no domination if one interferes with my liberty but does so according to my will. Conversely, non-interference entails that every interference limits people’s set of choices of some degree, and as such it constrains their freedom (Pettit 1997; 21-24). Some interferences in people’s lives are thus acceptable, especially if a third party interferes in a relationship where A dominates B to defend and free the latter. This aspect is central in relationship to the rule of law, since it entails that a proper law is a non-mastering interferer if it does not compromise the people’s liberty. On the contrary, in a non-interference framework, the fact that each law is an interference creates a difficult puzzle for the state, since its actions are seen as an inevitable constraint on an individual’s set of choices.

Pettit criticizes the liberal tradition based on this view of non-interference, but this claim has raised some criticisms, since others maintain that liberalism is not necessarily connected to non-interference (Larmore 2001). This line of thought represents only the tradition based on Bentham’s (1996 (1789)) and J.S. Mill’s works (1989 (1859)), whereas others, as Locke (1988 (1689)), Constant (Biancamaria 1988) and more recently Rawls (1999), do not equate liberty with the absence of constraint. On the contrary, they acknowledge the importance of laws and they are thus closer to Pettit’s republicanism than to an integral non-interference ideal.

Deciding which scholars must be inserted in the republican framework and which instead belong to the liberal tradition is then a complicated matter, but at the same time this does not cancel the fact that there is a clear difference between non-interference and non-domination. In what follows, I will not focus further on the debate about whose scholars belong to which tradition, since this is not essential for the argument of my thesis. Rather, I consider primarily why we ought to favour non-domination over non-interference. One of the main reasons for doing so is that republicanism acknowledges that laws do not necessarily hinder the people's liberty as maintained by the non-interference view.

If laws respect the people's will, they do not *invade and compromise* their liberty, they only *vitiate and condition* it (Pettit 1997; 82-92). To understand this difference, we must take into consideration three main kinds of resources that freedom presupposes and that can be affected by the hindrances to free choice (Pettit 2012; 35-49):

- *Personal*: you must have the mental and bodily know-how required for making the choice and you must be aware of this capacity.
- *Natural*: you must have the environmental resources that are required to act.
- *Social*: you have to be aware of what an action implies in your society.

To make a free choice between options is to use these resources to satisfy your preference over them and this entails that there are two kinds of hindrances. First, there are the generic and vitiator ones that affect the use of your resources for any purpose. As such, these are *incidentally* inimical to your freedom and non-dominating, since they do not subvert the usage of your resources for the specific purpose of satisfying your will. Considering any interference as a limit on individuals' freedom of choice, negative liberty scholars thus neglect that some factors may only vitiate<sup>9</sup> – condition your options without specifically targeting your goal to satisfy your will - and not limit your freedom.

Second, only the specific interferences posed by others that are invaders of free choice and as such *inherently* inimical to it are dominating, since they affect the extent to which you can act to satisfy your will (Pettit 2012; 45-47). Therefore, subjection to the will of another is the only way in which your freedom may be invaded, but to be such, the hindrance has to be posed to block you from satisfying your will and not materialize for independent reasons. In short,

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<sup>9</sup> For example, meteorological conditions are vitiator hindrances. If I want to go for a bike ride, but I cannot because it is raining, I cannot say that I am dominated and unfree, even if the weather is interfering in my life. On the contrary, if someone points a gun at me as soon as I get close to my bike in order to prevent me from riding, it is domination, since she is specifically targeting the usage of my resources to satisfy my will.

invasive hindrances are: “those that reflect the will of another as to what you should do” (Pettit 2012; 58). Hence, someone enjoys non-domination when no one has the capacity to interfere on an arbitrary basis in her choices.

One may escape domination by luck, but this does not mean that she is free, since she has no guarantee that in the future she will be lucky again. Conversely, non-domination is itself a form of power - or better of anti-power (Pettit 1996) - since it is a form of control that a person enjoys in relation to their own destiny that they can use to prevent various ills from happening to them. As stated by Pettit (1996; 589): “antipower repels subjugating power, as antimatter and matter”, so an agent with this power is not dependent on contingences for enjoying non-interference by arbitrary power. In this way, the individual gains an immunity against arbitrary interference and she is empowered, since she can defend herself directly against domination without having to rely on external favourable events for avoiding the arbitrary interference.

The question is then how the democratic dilemma can be resolved by this anti-power. As I explain in chapter four, non-domination counteracts the democratic dilemma by conceiving its two sides as two forms of domination that must be prevented and, above all, by stressing that the democratic dilemma is an unsolvable conundrum only insofar as we consider democracy as being constituted by one dimension only and not by two. That is, I agree with Pettit that democracy must have two dimensions: the authorial and the editorial one (Pettit 2004; 60-61).

The first dimension is the *authorial* one, for which citizens ought to be given the collective authorship of public decisions. This authorial dimension includes the classic institutions, such as parliaments, parties, elections, etc., where either directly or via their representatives, the people act to create policies that pursue the best outcomes for the community. To do so, governments must perceive and implement those options that public valuation supports. My goal is not to criticize authorial democracy itself, but to stress that the democratic dilemma unavoidably compromises any ideal of democracy that relies on the authorial side only.

On the contrary, the dilemma can be solved by *adding*<sup>10</sup> a further dimension to democracy, the editorial one. This editorship recalls the review that editors of a journal do before publishing an article. Citizens – the editor – would be empowered with the opportunity to review, judge and discard policies – the article of the journal in the example – before these latter are enacted.

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<sup>10</sup> As I note here, and as I will specify frequently throughout the thesis, it is essential to understand that my argument is that the editorial democracy ought to *supplement* the authorial one, not to *replace* it.



This dimension would thus subject laws to a filtering procedure to rule out the decisions that cause domination towards certain social groups (Pettit 2000; 117-118).

Democracies should be open to citizens in their negative and contestatory expressions. Citizens should thus not only have the right to vote and to stand for office, but also the right to oppose the law, saying no to fix something already created by legislatures. By supplementing authorial democracy with specific bodies, we may then be able to resolve the democratic dilemma, as an editorial democracy can both defend the people's freedom and show that, despite its problems, democracy is still the best regime to uphold individual liberty.

On the first side, an editorial effort is a kind of political behaviour more compatible with the people's biases, since citizens ought not to create the general conditions for their liberty, but they could focus on impeding that oligarchic interferences dominate them. That is, a negative effort allows citizens to limit their participation to control that laws do not encompass oligarchic domination and this is a sort of political participation more compatible with their biases. On the second side, republicanism focuses on contrasting arbitrary interferences only and thus sets the framework to create specific institutions that help the populace contesting directly oligarchies' domination.

Having argued that republicanism may be the solution to the democratic dilemma, I will consider the first part of the thesis completed. However, this will only open the gates to the second and most challenging part, namely the analysis of how republican institutions can effectively grant citizens freedom from domination.

### **1.5. The institutional solution: a modern "Tribune of the plebs"**

I start the second part of the thesis explaining that even though Pettit's non-domination is the ideal to pursue, I reject his editorial model (Pettit 2004) framed on depoliticized committees of a few independent experts. Rather than protecting the people's liberty, depoliticized independent bodies are likely to be affected by the democratic dilemma in three regards. First, Pettit confers an instrumental legitimacy to his bodies, but if they do not perform instrumentally better than legislatures, they will not have the legitimacy required to overrule the decisions taken by parliaments (Urbinati 2010; 65-82).

Second, Pettit argues that depoliticized editorial bodies would be democratic, since using deliberative procedures they would act as if the whole people gathered together. Yet, depoliticized bodies would have a weaker connection with the people's equality and will than

actual democratic institutions. Whereas the former are isolated from external pressures and thus unlikely to follow the common will, representative systems must respond to millions of citizens, to parliamentary opposition and to other civic movements, so they better respect the people's equality and increase politicians' accountability (Waldron 2006; 1373).

Finally, Pettit's bodies are not more, but less likely to protect the people's liberty as non-domination. On the one hand, Pettit rejects veto powers (Pettit 2000; 118-120), so his editorial bodies would not have sufficient power to contest domination. On the other hand, being instruments in the hands of a few experts rather than in those of the populace, Pettit's bodies would at best provide a positive "external favourable intervention" rather than an anti-power owned by the whole populace. Therefore, the conundrum of Pettit's model is that this solution does not protect the people's liberty as non-domination.

This first editorial model is considered the institutional reference point for other republican scholars. Yet, there are contestatory republican avenues other than Pettit's, of which two are of particular interest: Bellamy's political constitutionalism (Bellamy 2007) and McCormick's Machiavellian Democracy (2011). My argument is that we ought to prefer the second, whereas I object to the former in two regards. First, Bellamy argues that existing democratic procedures are sufficient to contest domination. Yet, this is contrary to my claim that it is not possible to resolve the democratic dilemma within the authorial framework only. Second, Bellamy rejects Pettit's editorial bodies as elitist, but he neglects that there is also a popular way to enhance an editorial democracy, as the one suggested by McCormick.

This philosopher's Machiavellian Democracy suggests that we must frame the non-domination debate on a divided conception of the populace that institutionally recognizes social differences among the citizenry and that supports popular contestatory institutions that would empower the citizenry only, as was the case in Roman society. This ancient republic was socially divided between the affluent – *Nobles* – and the people – *Plebs*. I explain this debate in the sixth chapter, but the important feature to stress here is that even though the *Nobles* had superior political power, the *Plebs* were not completely disempowered.

The *Plebs* had at their disposal certain forms of legislative power – the *Concilium Plebis* (Frost 1902) – and, above all, they had at their disposal a popular institution – the "Tribune of the Plebs" – that they could use to refute the decisions taken by the senate (McCormick 2015). Therefore, I suggest that applying McCormick's idea of a modern version of the roman

tribunates could be the best way to give the populace an editorial institution that they could use to counteract the oligarchic bias of the classical authorial institutions. Yet, this claim opens the gates to a complicated question, namely to how could these editorial bodies work nowadays. McCormick suggests a “Thought Experiment” based on a modern “Tribune of the Plebs” of 51 members selected by lottery among the population (McCormick 2006).

On the one hand, a combination of sortition, wealth threshold exclusions and short-term mandate would guarantee that the tribunate remains popular in character. On the other hand, modern tribunates would rely on three main powers to be effective. First, they would have the power to put on trial those members of the oligarchy suspected of creating dominating hindrances towards the populace. Second, they would be given a veto power over those policies that entail domination towards the populace. Finally, tribunates ought to deliberate daily regarding parliamentary decisions and they also ought to have the powers to initiate referenda.

McCormick argues that these bodies would be able to improve the people’s liberty as non-domination. However, there has been a debate in the literature regarding whether or not these features are the most effective ones on which structuring the people’s editorship (Rehfeld 2011; Saxonhouse 2011; Schwartzberg 2011; Green 2011; McCormick 2012). In the last chapter, I thus describe my idea of how we could improve McCormick’s “Thought Experiment” to counteract the criticisms posed by other scholars. More in detail, I argue that rather than relying on a single tribunate, we ought to implement a system of multiple tribunates connected to government’s ministries – or cabinets - to resolve the democratic dilemma.

On the one hand, tribunates’ editorship would reduce the problems connected to the people’s biases: being more specific, a specialized editorship would require members of the modern tribunate to analyse the operation of governments only on those fields of knowledge where they are more prepared and not on a spectrum too broad for their knowledge. On the other hand, tribunates could be primarily connected to detect oligarchic features in the policies enacted by single ministries, thus challenging more precisely any oligarchic influence over governments. Before starting the proper analysis to explain these features, I conclude this introduction describing more in detail the structure of the thesis.

## **1.6. The structure of the thesis**

As noted, this thesis is divided in two main parts. The first part includes three chapters (Chapter 2, 3 and 4). In chapter two, I analyse how the people’s biases compromise any attempt to defend

the people's liberty by increasing their direct *authorial* political participation. Self-government is the conception that structured the first forms of democracy such as the Athenian one and it is based on the ideal that only insofar as the people rule themselves they can be free (Berlin 2002). Yet, this ideal is not restricted to ancient republics only, since also modern political views rely on the people's direct political participation to argue that democracy is the best operating regime. There are then different ways of defending democracy, and I analyse three main justifications connected to the ancient ideal of self-government.

First, we can argue that democracy is the best regime because its procedures better respect the people's equality and liberty. This is the view that structured Athens and that has been more recently embraced by deliberative scholars (Cohen 1989; Habermas 1996). Second, we can argue that democracy is instrumentally better than other regimes. Ober (2008) maintains that this was Athens's main quality and this was endorsed more recently by the epistemic literature (Landemore 2011). Finally, self-government could also be the best way to protect citizens from oligarchic power, since giving ownership of economic resources to the people would improve their liberty and reduce economic inequalities that hinder current democracies (Rawls 2001).

However, I argue that these attempts to re-install the ancient ideal of democracy incurs a structural problem, since individuals are too biased and lack the political knowledge to govern themselves properly. Fostering the people's direct participation is also not the best means to solve the oligarchic problem, since as noted by Winters (2011; 11), until the people do not use their political power to counteract the oligarchs, oligarchy and democracy can co-exist. The people's biases thus pose a significant challenge to democratic theory and some scholars have taken the cue from this problem to argue that we ought to restrict the people's political participation to some degree.

In chapter three, I analyse these limitations, arguing that even though citizens are biased and modern societies can no longer guarantee all citizens the chance to govern themselves, we should be careful regarding how we restrict the people's political power, since any restriction is vulnerable to the oligarchic threat. How much the people's power should be restricted is a matter of debate, since there are representative views closer to the self-government ideal, such as the pluralist view (Dryzek & Dunleavy 2009; 34-48) while others focus more on representation, such as the minimalist view (Przeworski 2010). Both these views criticise democracy as self-government, but not democracy itself, since they suggest that an alternative form of democracy would function better, not that we should replace democracy overall.

This latter is the claim pursued by alternative non-democratic avenues, such as the Epistocratic (Brennan 2016; Somin 2013) or the Neo-liberal views (Parry 2006). Yet, I argue that the oligarchic threat compromises these views' defence of liberty. Social and economic inequalities compromise the respect of the balance of interests that according to Pluralist scholars renders democracy preferable to other systems (Dahl 1961). Moreover, it compromises views connected to Schumpeter's proceduralism as well (1947), since if citizens are too biased to meaningfully use democratic procedures, the Minimalist (Przeworski 2010) defence of democracy could lose power. To conclude the third chapter, I explain why the oligarchic threat also implies that a non-democratic alternative such as the epistocratic or the neo-liberal cannot resolve the democratic conundrum (Crouch 2004).

Having described how the democratic dilemma affects the mainstream defences of democracy, in the fourth chapter I explain why non-domination can resolve the democratic dilemma (Pettit 1997). To do so, I first analyse more in detail how non-domination is connected to the editorial component of democracy and why this latter is so important to counteract the democratic dilemma. Over the last years, non-domination has increased its popularity in political theory, but it has also raised criticism regarding some of its main features, so I also analyse which are the main criticisms and why I think that non-domination can stand these problems and prove to be an effective solution.

In order to sustain an editorial democracy, it is also important to legitimate the kind of behaviour necessary to implement this dimension of democracy. Hence, I will introduce the agonist literature Mouffe (2000); Laclau (2001); Rosanvallon (2011) so as to explain that conflict can be a positive political behaviour and not only a threat that we must avoid at any cost. In this way, I will be able to conclude the first part by explaining how the republican ideal can solve the democratic dilemma. However, I argue that while Pettit's theoretical contribution is valuable, his practical suggestion is flawed.

This is the starting point of the second part of my thesis (Chapter 5, 6 and 7). As noted, the problem structuring this second part is that whereas republican scholars agree on the importance of setting freedom as non-domination at the basis of our political systems, there is no such agreement regarding what is the best way to institutionally enhance the republican ideal. In chapter five, I analyse Pettit's editorial model (Pettit 2004), arguing that his editorial solutions based on small committees of experts is only likely to increase oligarchic domination rather than to protect the people's liberty.

I thus analyse the main criticisms towards Pettit's model (Urbinati 2010; Waldron 2006; Bellamy 2007), underlining that these scholars not only criticize Pettit's thesis, but they reject as non-democratic the idea of enhancing the editorial component of democracy itself. I will explain that I agree with this criticism for which small committees of experts are too likely to pursue oligarchic interests rather than to protect citizens from domination. Yet, I conclude this chapter by explaining that I reject the criticism towards the editorial dimension of democracy, since I argue that critical scholars mistakenly identify the editorial component of democracy with Pettit's answer *only*. In this way, they neglect that there are alternative republican models, such as Bellamy's (2007) and McCormick's (2011).

In the sixth chapter, I explain why while Bellamy's solution is compromised by the democratic dilemma, McCormick's modern tribunes framed on a divided conception of the populace offers the solution I am looking for. Institutionally recognizing the social differences among the populace, these bodies can offer the weaker part of the populace the political tools needed to defend themselves from oligarchic domination. Relying on Pareto's sociology (1949 (1896)), I describe why a divided conception of the populace rather than a unitary one is essential for an editorial democracy to function. That is, as I will continuously claim throughout the thesis, the argument I defend is that:

We not only have to enhance an editorial democracy, but we also have to make sure that its contestatory operation remains democratic in character.

The main question is then how can we implement a modern "Tribune of the plebs" making sure that these bodies are effective but popular in character at the same time. In the seventh and final chapter, I explain how modern editorial tribunes could work in practice, drawing from McCormick's "Thought experiment". I will consider first the issues concerning the selection phase, analysing lottery selection, wealth threshold exclusions and the debate regarding the ideal size a tribune ought to have. I agree with most of McCormick's ideas, but I think that if we want to keep the tribune popular without hindering its effectiveness, we must integrate McCormick's ideas with an alternative solution. Hence, I will describe my idea that specializing the people's contestation could improve McCormick's model.

On the one hand, it would ease the complexity of the tribune's editorship, since members of this body would enhance their editorship only in those field of knowledge where they are capable and/or willing to do so. On the other hand, tribunes could specialize in detecting oligarchic features in the policies enacted by parliaments, thus managing to effectively tame

the oligarchic threat. The debate regarding modern tribunates would not only concern their selection, but also the powers they ought to be given. I will explain that I reject two of the powers framed by McCormick. First, I do not think that we ought to adopt popular trials, since they are too likely to foster the people's resentment and envy, thus creating a noxious class warfare rather than a positive social confrontation between diverse classes. Second, I think that referenda are affected by too many defects – oligarchic influence, neglecting minorities' interests, etc. - to work effectively. Hence, I argue that tribunates' editorship should mainly rely on their power to filter out those policies deemed to entail oligarchic domination.

To conclude, I describe my thought experiment of a system of "Specialized Ministerial Tribunates". Combining some of McCormick's ideas – lottery, veto power, class selection – with features more concerned with improving the people's knowledge – specialization, education selection, etc. I argue that we could better resolve the democratic dilemma. On the one hand, tribunates' editorship would be more specific and would not require tribunes to analyse the operation of governments on a spectrum too broad, thus reducing the problems of the people's biases. On the other hand, tribunates' operation could be primarily connected to detecting oligarchic features in the policies enacted by single ministries, thus challenging more precisely any oligarchic influence over governments.

In sum, I argue that supplementing authorial democracy with an editorial dimension, thus redressing the way political confrontation is conceived in our societies, could produce significant improvements to the people's liberty. Thanks to a modern "Tribune of the plebs", citizens could participate more meaningfully in politics, while taming more efficiently the influence wealthy have on how modern societies are politically directed. That said, let me now explain more in detail the problems created by the democratic dilemma.

**Part One: Republicanism as a solution  
to the democratic dilemma**



## 2. THE FIRST HALF OF THE DILEMMA: CITIZENS' CAPACITIES

### 2. Introduction

In this second chapter, I describe how the popular side of the democratic dilemma compromises those views that rely only on the people's direct authorial political participation to argue that democracy is the best operating regime. I start the chapter by analysing the main features structuring the positive and ancient conception of democracy, in particular of the first empirical realization of this ideal, namely the Athenian republic (2.1.). This ancient ideal is not a simple monolith, but it encompasses different dimensions that can be conceived as justifications for why a self-government ideal is preferable.

In my opinion, we can find three main justifications of this ancient ideal. First (2.2.), we can argue that democratic procedures better respect the people's equality and liberty. This is one of the main qualities scholars found in the Athenian system and this approach has more recently been embraced by Deliberative scholars (Pike 2007). These philosophers argue that citizens must be involved in the decisions that afterwards affect them, since the common good is not independent from whatever consensus emerges from fair procedures of deliberation (Mendelberg 2002; 155-157). For this reason, we should foster the people's political participation in deliberative assemblies where the better argument can emerge and be considered legitimate by citizens involved in the deliberation (Habermas 1996; 322-323).

Second, there is the epistemic justification of democracy (2.3) (Landmore 2011), for which it is not sufficient to prove that democratic procedures are just and fair, since we also have to prove that democracy is instrumentally better than other regimes. These scholars acknowledge that individuals may be affected by some biases, but they nonetheless argue that even though individuals may not be able to perform well as individuals, they could do so as groups. Hence, they argue that democracy has – and has always had since Athenian times (Ober 2008) - epistemic mechanisms able to collect the dispersed knowledge in society, such that large democratic groups may outperform small committees of experts.

Third, democracy as self-government could be justified in terms of counteracting oligarchies (2.4). Drawing on Rawls's "Property-owning democracy" (POD), some scholars (Rawls 2001; O'Neill and Thad Williamson 2012) argue that increasing the people's direct participation is not only the solution to political problems, but also the way to counteract the economic inequalities that hinder the positive functioning of our democracies. The argument of POD

scholars is thus that democratizing the ownership of capital and wealth is the only way to enhance the people's liberty and to reduce the oligarchic domination over our societies.

I conclude this chapter by explaining that these three main justifications for democracy as self-government are compromised by the transformations of modernity and by the people's biases (2.5). That is, contemporary societies are now too large and diverse to recreate an Athenian republic and the people's biases pose obstacles that unavoidably hinder the people's ability to fulfil their self-government on several regards. First, the people's lack of knowledge is unlikely to be solved by a simple improvement in education or by the usage of "informational shortcuts" (2.5.1.) (Matusaka 2004). Second, the people's biases compromise the reliability of democratic procedures (2.5.2) and the epistemic goodness of this system (2.5.3). Finally, I argue that it is unlikely that a POD system would succeed (2.5.4).

In sum, the problem is that individuals may not be knowledgeable enough to perform the tasks required by a self-government ideal and by asking too much from them, we may overburden them with tasks that they are not able and/or willing to perform. This raises the questions of "by how much" and/or "how" we ought to restrict or change this participation<sup>11</sup>, the topic I analyse in the third chapter.

## **2.1. The ancient ideal of democracy as self-government**

In this chapter, I analyse the view of democracy as self-government, maintaining that this ideal falls short of the first side of the dilemma. Self-government is an ideal that connects the people's direct participation to the governance of the political system to personal freedom: only governing themselves the people can maintain their freedom. Citizens' direct participation in the government of the city must also not be hindered by personal differences between citizens<sup>12</sup>, since only by defending the people's political equality we can preserve their liberty. In a self-government framework, the ideal democracy is then a system that fosters the people's participation, empowers their voices, facilitates their opportunities to debate political issues and does not infringe the individual's equality.

The most famous ancient republic founded on the self-government ideal was Athens, since its citizens were considered to be free only insofar as they participated directly in the making and

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<sup>11</sup> Note that I am here stressing both "how much" and "how" because my argument is that popular participation is essential for a healthy democracy, so we should change the kind of participation required – namely adding an editorial component to the authorial one – rather than limiting the people's direct participation only.

<sup>12</sup> Such as income, social class, etc.

unmaking of the laws.<sup>13</sup> This collective participation was required because it was necessary to respect two concepts at the basis of this republic's political structure, namely that of *isegoria* and that of *isonomia*. *Isegoria* meant that all citizens had to be given equal freedom to speak in the public assembly, while *isonomia* implied that all citizens - being equal and having the same *aretè* (virtue) - had to participate equally in the government of the city. The first was granted by the fact that decisions were taken according to the best argumentation that emerged in a free discussion in the assembly, while the latter was achieved thanks to the rotation in power, which made sure that rulers were ruled in turn (Held 2006; 11-27).

Athenian citizens could achieve a good life within the polis, since this latter created the right framework within which liberty, rights and equality were protected. That is, citizens could realize their freedom only by exercising publicly their sovereignty, regardless of status and income,<sup>14</sup> and only by subordinating their personal life to their public life could they have achieved free status. Moreover, the fact that the dominant self of the people was the public one entailed that citizens had to respect the laws of the republic to be free, whereas opposition to the laws would have led to a form of tyranny that would have instead restricted the people's liberty (Held 2006; 34-39).

However, it must be stressed that even in ancient republics, not all powers were directly in the hands of the people. For example, Athenian institutions included magistracies, the *kleros*, which shows that the difference between Athens and modern systems is in the way magistracies were distributed, since the former assigned them by means of lottery, whereas modern societies rely on electoral systems (Manin 1997; 8-16)<sup>15</sup>. These selected positions were essential in the Athenian political system, but this did not infringe the main value of *isegoria*, since to respect this latter it is fundamental that any citizen is sufficiently qualified to merit at least a hearing and Athens fulfilled this value.

Lotteries were considered democratic because Athenians deemed as fundamental the concept of rotation in office. The Aristotelian rule "to rule and to be ruled in turn" implies that rulers must not be ruled, and vice versa, *at the same time*. To respect the people's liberty, individuals

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<sup>13</sup> One of the main criticisms of the Athenian system is that the status of citizen was a very restricted one, so a significant part of the population was made of slaves or foreign workers without any right of citizenship. See (Held 2006; 11-27) or E. Cohen's analysis of the different forms of semi-citizenship present here (2009; 59-94).

<sup>14</sup> It is important to underline that there were important differences between these ideal requirements and how they effectively worked in practice, since wealthy individuals still dominated the assembly and the political climate of the republic was affected by many struggles between the most powerful elites (Held 2006; 35-40).

<sup>15</sup> I discuss in depth lottery selection in the last part of the thesis (chapter 7.2.1.), where I analyse which is the best way to select members of the modern "Tribune of the plebs".

did not have to obey only themselves, but they had to obey today someone in whose place one would be tomorrow. A good citizen was thus someone that both ruled well and obeyed well when they had to, since what gave the right to rule was the fact of having been once in the opposite position (Aristotle 2005 (350 BC); III, 1277a 27). *Isegoria* did not thus require giving equal political means to anyone, but only to those who wished to hold office.

Rotation in power, together with the small dimensions of the republic, the fact that Athenians thought that most political places did not require a specific specialization and they had to empower the amateurs and not the professionals explains the pivotal role played by lot selection: since at a certain point anyone has to be in power, we may as well let lot decide when. This lottery system was thus deemed legitimate because Athenians thought that there were no true experts in the domain of leadership so rather than selecting experts, it was more important to develop epistemic forms of gathering together diverse knowledge (Ober 2008; 89-92). Hence, it is the way we select offices that differentiates between a government by the people and a representative one (Manin 1997; 31-33). In the former,<sup>16</sup> offices are assigned by means of lottery, whereas in the latter by means of elections.

The Athenian self-government ideal would have structured many of the consequent democratic views, but after this republic, it is only after the formation of the national states in the XVI century, namely when stronger states allowed political rights to free themselves from the power of traditions and feudal customs, that debates on participatory democracy and personal freedom were brought back into politics<sup>17</sup>. Some scholars took an opposite direction to the Athenian one, since they focused on defending individuals from the state's interference and they developed the liberal view focused on preventing interferences on the people's personal freedom (Locke 1988 (1689)). In contrast, other scholars, among which we can find Rousseau's famous theory of the social contract (1997 (1762)), reconsidered the self-government ideal, claiming that only insofar as citizens ruled themselves could they maintain their freedom.

However, all modern views of self-government have had to face a difficult conundrum, since Athenian focus on the public sphere was tightly connected to specific economic and social features of past republics that are no longer attainable. That is, it was due to the small

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<sup>16</sup> This was the case not only in Athens, but also in other republics such as Rome, Florence, Venice, etc. even though not all these latter can be considered democracies (Manin 1997; 44-66).

<sup>17</sup> In this regard, the protestant reform played an important part, since it helped diminish the institutional support of the church and it raised important questions regarding the level of obedience that governments can require of individuals (Held 2006; 50-54).

dimensions of those communities and to the fact that slavery played an important role in the economy<sup>18</sup> that citizens' self-government was there attainable. The former allowed each citizen to participate directly in the government of the republic – the *isegoria* ideal - since in a small assembly everyone has the time, opportunity and space to have a direct say in the discussion. Slavery was instead able to give those who did not have to work the material opportunity to spend much time debating and doing politics (Constant 2011 (1816); 7).

Conversely from ancient ones, modern jobs require much effort and time from the citizenry, who have then to focus more on their private problems rather than the public ones. That is, whereas ancient polities legitimately regulated every aspect of both public and private life because they were the outcome of the collective exercise of each citizen's liberty, modern and contemporary societies may not possess the structural features necessary for the self-government ideal to be developed. Despite these problems, the ideal of democracy as self-government has not disappeared with the development of our societies.

As noted in the introduction, scholars have drawn three main dimensions from this ancient ideal to argue that self-government is still the best way to defend the people's equality and liberty. The first of these justifications is the procedural one, namely the claim for which democracy is the best regime because its procedures are just and better respect the people's equality. This justification has been developed by scholars of the deliberative democracy (Pike 2007), which I now turn to describe.

## **2.2. The procedural justification of self-government**

Deliberative scholars maintain that there is a common good, and that this is something that we all share and that is compatible with the people's sovereignty, if citizens deem politicians' decisions as legitimate and if individuals are given the opportunity to participate actively in the definition of policy issues (Habermas 1996; 320). That is, to respect the self-government requirement through the democratic process, those who claim political power must do so on the presumption that their decisions represent an impartial and common shared standpoint which is equally in the interest of all (Benhabib 1996). Ergo, deliberative scholars assign the public sphere priority over the personal one, since they argue that citizens' interests are not exogenous to the political process, but something that is shaped by it (Dahl 1989; 99-101).

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<sup>18</sup> I am here mainly considering the Athenian example, but slavery played a fundamental role in the political and economic development also of other Republics such as Sparta or the Roman Empire.

The main concern is thus how to involve the entire community of people affected by a decision in a meaningful deliberation over it, since proponents of this view maintain that the common good is not independent from whatever consensus emerges from fair procedures of deliberation (Mendelberg 2002; 155-157). These scholars' solution lies in a deliberative assembly in which individuals follow the rules of an "ideal speech situation", namely: "a cooperative game among fully informed players, in which all deliberative virtues are continuously on display and guided by reason" (Habermas 1996; 322-323).

Social institutions play an important role, since there ought to be a rational process for forming public intentions for guidance of law and government to foster this debate based on an egalitarian and reasonable exchange of reasons. The connection between deliberative procedures and the legitimacy of the political system is thus that only rational procedures can guarantee generalizable interests on which all participants agree (Habermas 1999; 184-187).

There is a large and increasing literature regarding the positive consequences that occur if the deliberative ideal is respected that cannot be described here integrally, but some of the most important surveys maintain that: citizens will become more engaged in civic affairs (Barber 1984); tolerance for opposing points of view will increase (Gutman & Thompson 1996); citizens will understand better their own needs and learn to articulate them better (Chambers 1996); they will acknowledge that their fate is linked to one another, so that the adversarial logic will be set aside (Pearce & Littlejohn 1997) and political decisions will become more informed, thus increasing the community's social capital (Fishkin 1997; Putnam 2000).

Deliberation can occur not only among the members of a group, but also between different groups in conflict to help them resolving their problems against each other (Gaertner 1999). Deliberation could thus also be a solution to the issue of the tyranny of the majority, since a minority may voice its view setting a productive conflict where they are considered (Moscovici 1985). Relying on these results, Deliberative scholars maintain that citizens are equally competent to participate in decision making, so their political power should not be restricted, but rather individuals should be encouraged to deliberate more on more political matters.

Deliberation is closely linked<sup>19</sup> to discussion - especially face-to face<sup>19</sup> - and to the formation of a public dominant self, since a positive exchange of views creates a norm of group-interest in

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<sup>19</sup> It is often taken for granted that more face-to-face communication is better and that dialogue between different views can foster democracy. However, Mutz found that although diverse political networks foster a better understanding of multiple perspectives on issues, they can discourage political participation, since individuals

which one sees their own interests as related to those of others (Mendelberg 2002; 154-158). As a result, individuals' will to maximize the common interest will increase, eventually up to the point that citizens will spontaneously change their personal self to include the groups' identity. Hence, deliberative democracy gives a primary role to democratic procedures and institutions, since only if democratic institutions operate well we can respect two main democratic requirements (Cohen 1983; 147-151):

1. Democratic citizens must be sovereign and autonomous<sup>20</sup>: if a political system wants to be legitimate, individuals must be free and equal in determining the institutions and the conditions of their own association.
2. The organized expression of political debate must be recognized as a goal of the democratic state: the individual freedoms necessary to autonomy and deliberation must be respected and there has to be a basic level of material satisfaction.

These processes all regard external and interpersonal settings, but it is also possible to conceptualize an internal and reflective form of deliberation (Goodin 2003). That is, before deciding, citizens ought to reflect deeply on what others want, taking account of the diverse beliefs and considering the impact of one own choices on those who will be affected by them. According to Goodin, human beings informally internalize and anticipate others' reactions, adjusting their own behaviour accordingly. They do so on a daily basis in their lives, so they can deal in the same way with each other also in the democratic scenario (Goodin 2003; 5-8).

Deliberative scholars are thus critics of aggregative theories that focus only on matching public policy to voter preferences, since they think that voters must actively participate in politics in an intellectually rigorous and morally legitimate way. Using Rawls's words, proponents of deliberation care more about "reasonableness" – citizens are reasonable if they "seek a social world in which they, as free and equal, can cooperate with others on terms all can accept." (Rawls 2005; 50-51) - than about "rationality" – the personal ability of the citizen to form and pursue a conception of the good intelligently (Rawls 2005; 81). Democracy is then the best political system from a "reasonableness" point of view, since its procedures are more just and better respect citizens' equality than those used by non-democratic regimes.

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dislike engaging in fights with others. The best environment for political activism is thus where people are surrounded by those who think alike, because it reinforces their beliefs bringing to more participation (Mutz 2006).  
<sup>20</sup> "Sovereignty" is equally exercised because each member of the democratic order is accorded equal weight in the public deliberation, while "Autonomy" is the exercise of self-governing capacities (Cohen 1983; 148-149).

Deliberative theory thus shares the Athenian ideal of democracy, since it only differentiates itself from the latter on small differences regarding their approach to the non-ideal world. Whereas in Athens a small citizenry and an economic system based on slavery made it possible to achieve in practice the ideal of “ruling and being ruled in turn”, deliberative scholars acknowledge that in our large societies we need to rely on a second-best, namely on indirect forms of democracy based on representative bodies constituted by elected politicians.<sup>21</sup>

Nevertheless, proponents of deliberative view argue that enhancing the people’s self-government in small deliberative committees is still the main goal democratic systems ought to pursue to defend the people’s liberty and equality. Democracy as self-government was thus not dismissed when economic and political conditions changed rendering impossible to recreate the structural basis that sustained the Athenian system. Rather, deliberative democracy can be considered as an attempt to recreate in modern deliberative committees the conditions that allowed Athenian citizens to realize their freedom in the public sphere. In this regard, it must also be specified that Athens itself could have been less deliberative than it is usually pictured, since even though speech was essential to Athenian democracy, this concerned mainly *rhetores* rather than the whole *demos*. Hence, Athenian democracy may have had more in common with modern representative systems than it is usually recognized (Cammack 2013).

Therefore, this first justification of self-government argues that the best way to protect and enhance the people’s liberty is by having have citizens participating directly and equally in the political process. Other scholars – defenders of what Cohen (1986) called the Epistemic perspective (Landemore 2013; Goodin 2003; Estlund 2008) – argue that fostering the people’s direct participation is not only preferable from the procedural point of view, but also from the instrumental one. That is, the second justification of self-government argues that citizens’ direct political participation ought to be fostered because the citizenry on the whole possesses the abilities to perform better decisions than groups of a few experts.

### **2.3. The epistemic properties of democracy**

Any society is subject to environmental pressures, both for what concerns the usage of resources and the political relations with neighbouring communities. In short, the better a community organises the surplus it produces, the better it will perform. To sustain an epistemic

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<sup>21</sup> As I describe in the next chapter, Athens had forms of representation as well, but being these latter chosen by lot, they respected the ideal of self-government, whereas elections do not.



approach, scholars must then prove that democracy has some intrinsic properties for which this regime performs better than other ones. In this regard, Ober (2008) maintains that an analysis of why Athens performed better than its rivals helps to shed light upon which are these epistemic features that render democracy preferable.

Ober's thesis is that participatory democracy brings together various forms of latent knowledge necessary to solve difficult problems (Ober 2008; 17-21). Latent knowledge is various, dispersed and difficult to identify in advance, but Athens successfully institutionalized the process of identifying sources of latent knowledge to make dispersed information available for innovation and learning, two pillars of well-functioning systems. Moreover, by standardizing these processes, it reduced the cost of participating and it educated its citizens, since individuals improved their political education by participating directly in the political process.

Democracy can thus outperform hierarchical and centralized systems, since whereas it is true that only few individuals possess specialized knowledge in many domains, society encompasses a good number of diverse experts, so by collecting the diverse knowledge spread among the populace, democracy can accumulate a greater level of knowledge than just few experts. This is true for all communities, but in politics this is even more visible, since being difficult to define and to learn, rulership is highly dependent on the context and it thus cannot be regarded as a domain of expertise (Ober 2008; 91-93). Hence, Athenian democracy was successful because it managed to transform unprocessed political knowledge into the politically knowledge needed to innovate by means of three main mechanisms (Ober 2008; 27-34):

1. *Aggregation*: a community must collect the right kind of dispersed knowledge in a timely manner for decision making. To do so, individuals who possess useful information must be willing to share it and they must not find it costly. Athens achieved this by means of institutions that offered incentives for citizens to participate and vote on the political issues affecting the republic. Inexperienced men had the chance to serve in the main institutions and the learning process they went through in the meanwhile increased society's level of knowledge and also reduced differences among the populace. Hence, learning was the main feature at the basis of aggregation of knowledge (Ober 2008; 118-167).
2. *Alignment*: allows individuals who want similar outcomes to coordinate their actions by reference to shared values. Athens managed to do so not by means of a centralized process, but assimilating elements of three main mechanisms of coordination (Ober 2008; 170-179). First, Athens used a leader-following mechanism. In each group, and for each decision,

individuals followed the lead of specially informed leaders or sub-groups of informed members. Second, Athens relied on a rule-following mechanism for which citizens' actions were coordinated thanks to knowledge of common procedural rules<sup>22</sup>. Finally, Athens relied on a commitment-following mechanism, namely on the fact that in a relatively small group where individuals' destiny is tightly connected, single participants are incentivized to cooperate because they know that if one defects, the cost for others is high. Hence, Athens managed to achieve this alignment requirement because citizens followed informed leaders, they learned a substantial body of common knowledge and procedural rules and they accepted the credibility of others' precommitments. Moreover, it was essential that these three mechanisms were publicly available. To achieve this publicity, Athens developed common institutions - the Council, the Assembly and the Athenian People's Courts – and it used public monuments<sup>23</sup>, rituals – a public oath taking - and common social experiences in the courts and assemblies (Ober 2008; 167-210]

3. *Codification*: decisions must finally become action-guiding rules that influence future social behaviour and interpersonal exchanges. Rules must be codified and balanced with the need to innovate, since rules must be significant action guides, but they must remain revisable and interpretable to allow for innovation. Athenian laws achieved so, since they both specified clearly how economic and political transaction were to be carried out and they gave individuals clear knowledge of what to expect from others in these transactions. These procedures must also be open, understandable and impartial and even though Athenian rules still discriminated according to the individuals' social status – women, non-citizens, slaves, etc., were excluded<sup>24</sup> - Athenian laws were significantly accessible and simple (Ober 2008; 213-249).

In a nutshell, Athens was successful because: “the cost of political participatory political practices was overbalanced by superior returns to social cooperation resulting from useful knowledge as it was organized and deployed in the simultaneously innovation-promoting and learning-based context of democratic institutions and culture” (Ober 2008; 37). These features allowed Athens to outperform its contemporary rivals, but the question is whether or not these mechanisms are still efficient nowadays. The epistemic answer to this question is positive, and

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<sup>22</sup> For example, you can safely drive on the right – or left in certain countries – because you know that this is a procedural rule that every driver will respect.

<sup>23</sup> Ober mentions the example of the traitors' list stele that stated “Athenians traitors are punished” to describe how monuments fostered loyalty to the republic by means of physical presence, clarity of message and historical fame (Ober 2008; 192).

<sup>24</sup> Note that this exclusion is visible for current standards, whereas comparing Athenian inclusion to its contemporary republics, the openness of the Athenian system was superior (Ober 2008; 249-254).

they rely on three assumptions to claim that democracy is instrumentally better than alternative regimes (Cohen 1986; 34):

1. *The existence of an independent standard of correct decision*: an account of justice or of the common good that is independent from the outcomes of the vote.
2. *A cognitive account of voting*: the vote must express the beliefs about what the correct policies are according to the independent standard and not to personal preferences.
3. *An account of decision making*: this ought to be a process of adjustment of beliefs thanks to the inputs of the other citizens.

The Epistemic scholars' thesis is that in each political decision there is an independent standard of correctness that must be achieved to respect the general will of the population. Individuals are deemed able to achieve this goal because epistemic scholars share Aristotle's claim that there is a "wisdom of the crowds", for which citizenry on the whole possesses the abilities to perform better decisions than the experts:

"There is this to be said for the many: each of them by himself may not be of good quality; but when they all come together it is possible that they may surpass - collectively and as a body, although not individually - the quality of the few best" (Aristotle 1995 (350 BC); III.11, 1281a43-b9).

Collective wisdom is not a personal quality related to single individuals, but rather a public one that applies to groups. Epistemic philosophers acknowledge that citizens' personal political wisdom may be insufficient to take good political decisions and that, taken individually, experts are likely to outperform any common citizen. Yet, taken on the whole, the many outperform these experts thanks to their *cognitive diversity*, namely the fact that when different points of view come together, they can foster creative thinking and produce collective decisions that are smarter than those that single individuals would have taken by themselves.

Each individual possesses a small piece of knowledge and in a group that fosters diversity and an exchange of opinions, all these small qualities can add up, eventually producing a wisdom superior to that of single experts or small groups of knowledgeable individuals (Landemore 2013; 8-10). Epistemic philosophers are thus confident that epistemic properties do not only apply to past republics, but they argue that a majority can judge the general will better than an expert minority even nowadays, thanks to three mechanisms of collective intelligence that demonstrate that the *episteme* lies in the hands of the population (Landemore 2013; 3-5):

1. *Condorcet Jury Theorem*: among large electorates voting on some “yes-no” matter, majoritarian outcomes are virtually certain to obtain the truth if three conditions are met (Goodin 2003; 91-108): voters must be better than random at choosing true propositions<sup>25</sup>; they must form beliefs independently and finally, they have to vote sincerely and not strategically. Statistically, the more numerous the group is, the more likely it is to be right.
2. *Miracle of Aggregation*: if errors are randomly distributed, then as long as there is a well-informed minority, a democracy made of ignorant voters will perform as well as a democracy made of well-informed ones, because the wrong answers will cancel each other out (Surowiecki 2004).
3. *Diversity Trumps Ability Theorem*: According to Page and Hong (2004): “Random collections of intelligent problem solvers can outperform collections of the best individual problem solver” (Page 2007; 163). The conditions for this to happen are that people must have diverse perspectives; the set of problem solvers from which we choose our collection must be large, and the group of problem solvers must not be too small. What matters the most is the cognitive diversity within the group, which is the difference in the way people will approach a question. It is often better to have a group of cognitively diverse people than a group of experts who think alike. This is because high knowledgeable ones will get stuck on their local optimum, whereas the members of the diverse group can guide each other beyond that local optimum toward the global one (Landemore 2013; 102-103).

Overall then, Epistemic scholars support the thesis that democracy is instrumentally better than the alternatives in three regards (Landemore 2013; 16-18). First, cognitive diversity deals better with the fact that politics is the domain of uncertainty. Political expertise is something that cannot be evaluated in advance, so cognitive diversity produces better outcomes because it is more flexible and adaptable to different circumstances than the fixed knowledge of a few experts. Second, relying on the many includes a threshold safety, since including more popular input would at worst not harm the decision-making process. Third, democracy is preferable even though there are cases when the rule of the many can fail, since it has a superior capacity of self-correcting than that of the other systems.

The public sphere thus acquires a primary importance over the private individual, since the wisdom of the crowds is not something possessed by citizens that these latter can exercise privately when needed, but something that can be achieved only as a result of group

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<sup>25</sup> This means that voters’ probability to be correct must be better than 0.5. Further developments (Estlund & Goodin 2004) have tried to demonstrate that it works also if only the median voter is better than random.

cooperation. Moreover, if average citizens on the whole outperform small committees of experts, then democratic rule is instrumentally the best political option available. This regime relies on a large spectrum of qualitative differences among the populace, so the group of deciders will be more cognitively diverse and therefore smarter than a little group, even if this latter is made by experts. In short, the more diversity, the more knowledge, the better outcomes.

Even if focused on instrumental features rather than procedural ones, epistemic literature can then be considered a defence of an ideal of democracy as self-government as it is the case for deliberative democracy, since it focuses on enhancing the people's authorial participation in politics. In this regard, Estlund argues that the boundaries between deliberative and epistemic literatures may not be so sharp, since democratic legitimacy requires both the procedures to be held in terms acceptable to all qualified points of view and to be epistemically the best among those that are better than random. That is, political choices can be made well or badly, but the justification of political institutions must rest also on the way decisions are taken and not only on their substantive qualities (Estlund 2008; 66-76).

Estlund's thesis is thus a proceduralist view, since he maintains that democratic outcomes are legitimate and authoritative in a purely procedural way. However, unlike many proceduralists, he does also rely on the epistemic value of the procedure rather than on some non-epistemic virtue of a procedure, such as its fairness to participants. Democracy is then the best regime not because its citizens are given strong reasons to believe its results are correct, but because individuals are given moral reasons to comply with the democratic rule and to enforce its results even when they think they are mistaken (Estlund 2008; 115-116).

In this regard, it is interesting that increasing the people's authorial participation has been suggested not only as a way to solve narrow political issues, but it has also been suggested as a way to fix the economic problems affecting our societies. That is, the third justification of democracy as self-government argues that increasing the people's participation in the economy is mandatory if they are to properly defend their liberty from oligarchic power.

#### **2.4. The people's participation as a challenge to oligarchic power**

As noted, Ober focused on Athenian epistemic features to explain why this republic performed better than its rivals. However, he also stressed that a focus on participatory democracy, lotteries and strict accountability procedures contributed to Athenian success because they secured the political processes from oligarchic domination, thus creating a mass/elite

equilibrium that benefitted both parts. Even though elites continued to be favoured in the economic sphere, at the political level Athens thus managed to rebalance – at least partially – their privileges (Ober 2008; 250-252).

This economic redistribution was achieved by means of a taxation system that addressed rich citizens only, but also thanks to the role played by cultural norms, since elites knew they had to contribute to Athens's wellbeing in order for the whole community to maintain its power in the Greek political framework. Moreover, thanks to this redistribution, Athenians were afforded a form of what we call today social welfare, namely institutional measures to care about orphans, older citizens and injured citizens. (Ober 2008; 252-255).

Fostering the people's self-government may thus not only be considered as a way to enhance the citizens' liberty and equality in the political sphere, but in the economic one as well. The economic dimension has been more recently stressed by Rawls (2001), who maintained that our economic systems are unable to grant justice as fairness and we thus need an economic system framed on a "Property-owning democracy" (POD). For the purpose of my research, this argument is important because it describes that according to some scholars (O'Neill 2009; Williamson 2009; Alperovitz 2004; O'Neill and Thad Williamson 2012), increasing the people's direct participation may also be the solution to the economic inequalities, in particular to oligarchic power.

Oligarchic interference is a problem because it sways governments towards favouring oligarchic interests rather than focusing on counteracting the externalities produced by our capitalist economies (Schweickart 2012; 201-203). Among the most important externalities, there is the fact that capitalism promotes an unjust distribution of resources, it uses unemployment to exploit workers, it generates a system of irrational needs, it gives workers no control of the workplace, it does not give citizens the chance to properly enhance their human capital and, finally, its need to grow leads to harmful outcomes for the environment and renders this system inherently unstable and prone to recession.

In short, capitalism restricts the people's liberties rather than enhancing them, since economic and political life are primarily in the hands of the oligarchs. Furthermore, the problem is that the welfare system we developed to counteract capitalism's externalities is not working properly, since it does not grant an adequate social minimum that favours the wellbeing of least well off (O'Neill 2009; 380-381). For this reason, Rawls maintains that we need an alternative

economic system, namely a “Property-owning Democracy”. Overall, this system includes several liberal features (Rawls 2001; 235-244).

First, Rawls argues that a market economy efficiently decentralizes economic power and gives citizens equal liberties to develop their own human capital. Second, mixed forms of private economy with the public sector combine liberty of choice and occupation with public goods and control over economy’s externalities. Finally, a constitution is required to provide a system of equal basic liberties. Yet, in contrast to capitalist systems, Rawls stresses that we must have forms of dispersed ownership of capital to limit inequality and grant equal opportunities. That is, we must avoid that some own property and that others are subjected to this power, so we must set a cap on maximum property holding so that all citizens have enough resources to exercise their personal liberties and to avoid others’ domination (Williamson 2009; 435-437).

To achieve these goals, democratic institutions need to implement three main policies (O’Neill 2009; 382): dispersing the ownership of the means of production; heavily taxing the intergenerational transmission of wealth and finally, developing safeguards against corruption to block wealth influence on politics. The implementation of these policies would require certain structural features, such as granting access to a high level of education to all citizens regardless differences in class, gender, etc.; access to a living wage to all families; access to stock holdings, investments cash savings and to a universal social insurance and finally, well-established rules to grant an equal dispersal of resources (Williamson 2009; 440-448).

In a context where inequality in economic power is the main cause of unfairness, a POD system would thus focus on granting an *ex ante* redistribution - the capital that individuals bring to the market - rather than an *ex-post* re-balancing as done by “Welfare-state capitalism” (WSC). An *ex-post* redistribution also damages the people’s self-respect, since individuals see themselves only as passive beneficiary of compassion gifts rather than free and equal citizens with their own plan of life. Hence, an excessive inequality in capital and wealth between the better off and the worst off undermines the latter’s self-respect, since citizens see themselves as those that have lost the economic game and that can only accept the winners’ domination. Governments would thus play a pivotal role in a POD system, since they would be the agent charged to disperse the ownership of wealth and capital.

Schweickart thus argues that we ought to directly empower workers of the firm with the opportunity to direct the firm in a democratic fashion. That is, as we ought to increase the

people's participation to political government, so we should enhance workers' participation in the firms. This increase in the workers' participation in the economic sphere could be achieved by means of workers' councils to take the managerial decisions, by giving workers a share of enterprises' profits rather than a salary; by framing enterprises as communities where workers are actively engaged and finally, by having a public management over social investments of the firm. Moreover, these attempts to implement democracy in the economic system could fix some deficiencies of capitalism (Schweickart 2012; 206-208).

First, they would decrease in-firm or inter-firm inequalities, since differences in salaries would be reduced and there would be more safeties for workers if their firm does not perform well in the market. Second, capitalism conceives labour as a cost of production and thus minimizes this cost by using unemployment to intimidate employees with the threat of replacing them with unemployed workers ready to accept worse working conditions. Conversely, POD focuses on creating a better working environment where labour is not only a cost of production. Third, capitalism does not care about developing individuals' human capital, since profit is set as main goal regardless the consequences that this obsession has for the people's quality of life, for society's environment and for future generations' wellbeing. Conversely, POD sets enhancing the people's capabilities as a goal of the firm (Schweickart 2012; 208-215).

If these justifications of the self-government ideal proved to be effective, they could claim to be the right solution to the democratic dilemma. Yet, while I agree with the goals set by these participatory ideals, I argue that empirical problems connected to the people's biases compromise the likelihood of all these three justifications to effectively produce the expected theoretical outcomes. Before explaining how the people's biases compromise the empirical feasibility of these justifications of democracy as self-government, I must describe why the people's lack of knowledge and irrationality are unlikely to be defeated by an improvement in education or by the usage of informational shortcuts.

## **2.5. The inefficiency of knowledge heuristics**

The first argument against the unavoidability of the people's biases is that these irrationalities are due to a lack of knowledge, so solving these biases would just be a matter of guaranteeing everyone a sufficient level of education (Dewey 1963). Yet, this may not be sufficient, since despite the general increase in knowledge and information available, a significant level of ignorance has persisted over the last century on two sides (Somin 2013; 171-173). First, we are



more knowledgeable than our ancestors, but our societies are more complicated, so we have to face new problems that require more and recent information that we may not possess. A certain level of ignorance thus persists because the increase of the people's knowledge has not been sufficient to respond to the economic, technological and social development of our societies.<sup>26</sup>

Second, "rational ignorance" is still a strong incentive not to gather the knowledge required to take good political decisions. Citizens have access to more information than the one they can consume in the time they have, so to decide which information is useful, citizens perform a cost-benefit analysis, seeking out information only insofar as its benefits outweigh its costs of access. It is in this regard that the biases arise. Rather than focusing on acquiring precise and reliable information, citizens tend to focus more on information that is entertaining and that does not question their beliefs. Moreover, even though individuals wanted to acquire good information, they would struggle to evaluate at first the quality of the information, since citizens usually know the actual value of the information only after they consume it and sometimes they cannot be sure about it even afterwards (Roberts 2018; 26-28).

Nowadays we can then gather more information than ever before in history, but we know as well that our individual vote and our political participation counts close to zero in directing the final outcome, so saving energies not looking for any information is still an appealing option (Somin 2013; 16-20). Eventually, only a small political elite has incentives to be informed about politics, so citizens decide to be rationally ignorant because acquiring information about politics is unlikely to benefit them.<sup>27</sup> Therefore, the problem is that regardless how much we improve the quantity and quality of the supply of information, citizens will continue to prefer to be rationally ignorant because they favour information that is easy to access, confirms their beliefs and that they have reason to trust (Roberts 2018; 30-31).

A counterargument to this view is that individuals can cope with their ignorance using heuristics, namely information shortcuts (Matsusaka 2004). People may thus not need to be experts to make a good choice, because they use tricks to simplify decisions when the task is too difficult (Oppenheimer 2012; 177-198). Yet, these knowledge shortcuts may not be as effective as theorized by their proponents (Somin 2013; 70-89):

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<sup>26</sup> For an overview of these studies see Delli Carpini and Keeter (1996: 62-134); Smith (1989); Bennett (1988); Nie (1996; 111-66).

<sup>27</sup> Roberts (2018; 31-32) stresses that this is true for democracies, but even more significant in non-democratic regimes. In the latter, the costs of looking for diverse and in-depth information are superior than in democracies and since there are few opportunities to participate in politics, the benefits of collecting information in autocracies are well inferior to those that would result from doing so in a democratic regime.

- *Daily life experience*: people might use information acquired during ordinary daily life interactions to balance their personal lack of knowledge. Yet, there is no guarantee that that information is not mistaken as well. As noted, individuals may rationally prefer to interact with someone that shares their same biases rather than with someone who challenges their view of the world (Popkin 1991). Hence, citizens' daily life experience is more likely to confirm and strengthen personal biases rather than diminishing them.
- *Affect heuristic*: people may forget about the details of some political issue after some time, but our emotional reaction persists longer than our memory. Yet, relying on emotions is more likely to produce political errors than fixing them, since third parties may find it easier to manipulate the people's personal feelings to sway them towards their interests. Moreover, emotions are connected to qualities other than the candidates' competence and this increases the individuals' likelihood to fall into the aforementioned electoral mechanism bias (Gilovich 1991; 76-89).
- *Political parties and opinion leaders*: voters can infer candidates' policy stances from their partisan affiliations or from political activists with orientations similar to their-owns. However, if one lacks the ability to judge the operation of a party or of a representative, it will be difficult for her to address which is better and whether or not replacing the incumbent is needed. That is, a lack of political knowledge will affect individuals' capability to rationally assess the competence of individual candidates or parties as well, not only of politics on the whole (Lau and Redlawsk 2006; 75-83).
- *Specialization*: even if voters are unable to keep track of all the policies, they might pay special attention to particular policies or issues. The problem is that being interested in one issue does not mean necessarily understanding the likely effects of opposing policies on it and vice versa (Iyengar 1990).

The problem is then that the usage of heuristics by ill-informed people does not necessarily help them express policy preferences similar to those of well-informed ones (Althaus 2010; 143). It is true that these shortcuts may be effective, yet the problem is that individuals may find it more rational to stick with their biases. Human beings' comfort zone is the framework where individuals can follow their emotions, think according to their first impressions and avoid questioning their beliefs, so we must take into consideration the eventuality that exiting their comfort zone is an effort that not everyone is willing to undertake.

Citizens choose to avoid those who create doubts in them and to prefer those that think similarly is then a rational decision, since it allows them to behave naturally without having to deal with

external challenges to their inner self. Therefore, a certain level of political ignorance is unavoidable and poses significant questions to participatory democratic systems. As I explain in what follows, whereas I do not think that the first side of the dilemma makes the case for alternative non-democratic solution, the people's biases significantly undermine all three justifications of democracy as self-government.

## **2.6. The consequences of the first side of the dilemma**

### **2.6.1. The empirical challenges to deliberation**

The first problem for a deliberative view, but overall for any attempt to foster a modern participatory democracy, is that the economic and political structures of our societies are no longer compatible with an integral Greek ideal of democracy. Nowadays, citizens have to deal with long hours of work, they care more about their private lives and our societies are just too large in size to give to each of its members the chance to have a direct say in the management of the public life. In a nutshell, there are unavoidable structural hindrances that hinder the attempt to enhance modern forms of democracy as self-government.

As noted, deliberative philosophers maintain that this problem does not imply that we must abandon any attempt to implement the Athenian ideal. Eventually, deliberative projects are an attempt to recreate an Athenian model that could fit modern societies and if the people were not affected by any bias, I would agree that this attempt could enhance the citizens' liberty. Yet, the problem is that to realize the self-government ideal, there must be a certain threshold of political knowledge and political will among the citizenry. That is, to meaningfully participate to politics, citizens must know the existence of the issues debated, be informed about them and they also must want to do something about it (Brennan 2016; 62-63).

Modern governments are yet too large in size and scope for the citizen to be fully aware of what they do and to have an informed opinion on it, so individuals may not want to participate directly and even if they did, they may not be able to achieve something valuable. The problem of this ancient ideal is then that it does not consider some questions that are raised by aforementioned individuals' biases and that may unavoidably weaken that view: How can an individual govern herself if she does not know what she wants, and even if she does so, she lacks the ability to choose the best option to obtain it? How can we sustain the Athenian ideal if citizens are shown not to have the knowledge and willingness necessary to do so?

With regard to the deliberative view, the problem is that if the people are swayed by rhetoric, charisma, etc. rather than the force of the better argument, Habermas's ideal of an "ideal speech situation", in which rational people discuss together following common rules, could prove to be too difficult to be empirically approximated (Brennan 2016; 58-67). That is, when we analyse how individuals behave in the empirical world, we notice that conflict and disruptive behaviour are two constant features of people's interactions. There are also other problems that affect the efficiency of deliberative committees, such as that (Mendelberg 2002):

- Deliberation may exacerbate conflict among groups rather than mediating it (Bettencourt & Dorr 1998). This is related to the sociological dynamics of group behaviour, namely that more cohesive in-group mechanisms may lead to a closure towards outsiders, thus fostering a sort of "hooligan politics" (Brennan 2016; 9-11).
- Deliberation aims to make individuals more aware of other's interests, but if groups take decisions without any discussion, the results are often the same (Gaertner 1999).
- Equality within the deliberative group is not always perfectly respected, since high-status individuals often have a disproportionate influence over decisions taken by deliberative bodies (Turner 1991). This is a problem that affected the Athenian republic as well, since wealthy families had at their disposal more power than others in the public assembly and the *isegoria* ideal was thus not perfectly respected.
- Deliberation may not be affected by open conflict and disruptive behaviour only, since there is also the problem that individuals may use language in subtle and manipulative ways to sway others' decisions. As a result, deliberation could tend to move participants toward positions that are contrary to their personal wellbeing, or even towards more extreme versions of their previous ideology rather than moderating individuals to accommodate the different views present in the political arena (Sanders 1997).
- Deliberation requires different views to face each other to produce a decision that is deemed satisfactory by all the participants, but citizens may withdraw from this attempt even before facing the others, since they do not like to interact with those that think differently and prefer avoiding the bother of entering in a deliberation. Hence, consensus often occurs not due to a positive exchange of opinions, but because interacting with someone that challenges our *weltanschauung* is uncomfortable and we thus tend to avoid it (Mutz 2006).
- Finally, those with unpopular reasons can do more research than the others in order to use their information to be more influential during the debate. This is just one of many strategies that individuals may use to sway the debate in favour of their interests. The idea

supporting this critique is that deliberative scholars always assume that members of the deliberation discuss with the purpose of finding a decision that enhances the groups' common good. However, we must always consider that some participants' goal may be to privilege their personal wellbeing over the public one and they may use these techniques to sway the others towards their own purposes (Giles 1987).<sup>28</sup>

In sum, the problem of deliberative democrats is that they just assume that the people are likely to cooperate, and they do so because they underestimate the political aspect of the debate, namely the fact that it is unlikely that we will ever be completely able to leave aside all our particular interests in order to coincide with our universal rational self (Mouffe 2000; 47-49). On the contrary, our society does not work as an ideal meeting in which individuals have identified a problem and are commonly trying to solve it. This problem not only affects the procedural justification of democracy, but it jeopardizes also the likelihood that the epistemic properties of democracy will produce the expected instrumental outcomes.

### **2.6.2. The insufficiency of the Epistemic view**

The problem for the epistemic literature is that if individuals are biased, the required conditions for the application of the main mechanisms on which epistemic scholars rely to maintain that majority takes better decisions than few experts will be compromised on several regards. First, if citizens are systematically biased, there is no miracle of aggregation. For this mechanism to operate properly, errors must be randomly distributed. Yet, if citizens are systematically biased, this assumption is damaged: errors will not cancel each other out and they will actually make a difference, since they affect fundamental political outcomes as the resources' allocation and which politicians are eventually elected (Caplan 2007).

Second, if errors are not randomly distributed, both the Condorcet and the Hong-Page theorems are affected as well. With systematic errors, individuals are less likely than a random procedure to take the correct decisions ( $< 0.5$ ), so the first theorem may demonstrate the contrary of what it should, namely that the many are less likely to reach the correct decision. Similarly, for the second one to work properly, individuals must possess a wide range of cognitive diversity, but if they are affected by systematic biases they are more likely to share and agree on their mistakes rather than correcting them when confronting the others (Brennan 2016; 172-203; Althaus 2010; 29-58). In this way, both the overall level of cognitive diversity and the

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<sup>28</sup> In this regard, it is possible to find more positive views suggesting that reasoning as a social activity may be more powerful than suggested by this critique. See (Mercier & Sperber 2018).

likelihood that citizens will produce a wisdom of the crowds will be negatively affected, since individuals dislike interacting with those that think differently from them and personal biases may also strengthen when we realize that others think similarly to us<sup>29</sup>.

Furthermore, a problem that affects both these first two justifications is that the dynamics of politics are more likely to resemble Schmitt's duality "Friend/Enemy" (Schmitt 2007 (1932)) rather than Landemore's "maze cooperation" (Landemore 2013; 18-38). Landemore uses the maze similitude to expose the power of the epistemic cognitive diversity. In her opinion, if a group of people get lost in a maze where different clues to find the exit are drawn on the walls, a democratic discussion between the members of the group for each decision – each turn or each time they find a new clue - would be the best way to have a positive outcome, due to the aforementioned properties of cognitive diversity<sup>30</sup> (Mouffe 2000; 50-51).

However, Landemore assumes that the members of the group care about each other and that they have the same common goal, whereas individuals may not want to cooperate with others or they may care only about themselves. That is, political consensus is open to contestation and it is more likely to be the materialization of power relations rather than the result of a rational process. Recognising conflict and power relations in democracies does not imply that there can be no cooperation among citizens. Rather, the conflictual component present in any political interaction implies that we cannot assume that individuals will always be disposed to positively engage in deliberative debates with their fellow citizens. If we are to prove that democratic regimes are better than non-democratic ones, we must then do so without assuming that the people are always likely to cooperate (Landemore 2013; 3-4).

In other words, for deliberation and cognitive diversity to work as supposed by its proponents, conflict must eventually be defeated thanks to the cooperation among the members of the discussion. Yet, this is not possible, since the conflictual component of political debates is a permanent feature that cannot be completely eliminated by these discussions. On the contrary, it is more likely that the opposite situation will emerge, where people's conflicts and biases hinder the alleged positive outcomes of deliberation and of the epistemic mechanisms. This conflictual component would not only weaken the implementation of deliberative projects, but

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<sup>29</sup> This problem is connected to the *Argumentum ad populum* issue in the argumentation theory, namely the fact that a proposition is not necessarily true just because it is believed to be such by many (Somin 2013; 110- 116).

<sup>30</sup> In her example, this shows that democracy is preferable to non-democratic regimes (Landemore 2013; 4-6).

it also challenges the third and last justification of self-government, namely the attempt to disperse economic power among citizens as argued for by POD models.

### **2.6.3. Who manages a POD?**

A complete economic analysis of the feasibility of a POD system and the results that this system is likely to produce exceeds the purpose of this thesis.<sup>31</sup> Regardless, I think that the people's biases pose a conundrum for POD models similar to the one that affects deliberative and epistemic views. That is, as biases compromise individuals' ability to enhance forms of political self-government, so would it be difficult for them to equally manage capital ownership, both at the individual and group level. If surveys question the people's ability to perform rationally even the basic democratic requirements, it is difficult that the same individuals possess the knowledge required to direct firms in the complicated maze of market economy.

Our societies develop and change at an astonishing pace and market and economic trends are so unpredictable that even experts often commit mistakes in picturing the direction that economic cycles would pursue. Hence, being able to successfully direct a firm is something that may well exceed the abilities of most of the citizenry. It is important to underline here that I am criticizing a certain kind of direct popular participation; not denying the importance of popular participation overall. Both in politics and in the economic system, citizens must participate and have a say for these systems to be democratically acceptable. Yet, I argue that popular authorial participation is too demanding, so citizens ought to change the kind of participation towards controlling and contesting legislatures and firms rather than being themselves the agents directing these agencies.

POD scholars rely on enhancing a high-level educational system to sustain the knowledge challenge, but I noted that education can only partially solve this problem. Individuals are naturally different, so not everyone will be able to achieve the high-levels of knowledge required to make meaningful use of the capital and even if they could, education can only improve the problems related to the supply side of political information. On the contrary, education cannot improve the problems related to the demand side, so we cannot neglect that a certain part of the population will always be resilient to put the effort in gaining more education and will always find it easier to stick with their rational irrationality.

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<sup>31</sup> For a more detailed analysis see (Schemmel 2015; Jackson 2012; Schuppert 2013; Narveson 2013).

Another problem is that scholars too often just assume that citizens deem as essential to participate directly to politics – and in the economic sphere in this case - thus neglecting that most individuals may simply do not want to do so. Owning firms, having to deal with market demands, salary requests, paying taxes, etc. is a stressful activity and many employees would stress that they are glad that they do not have to deal with these problems. In many cases, capital management could thus be a stressful curse to which most employees would happily renounce. In this case, we cannot force individuals to take part in the management of capital and wealth if they do not want to. Hence, the problem is that POD aims to improve the political agency of the least worse off, but the latter may not be able and/or willing to use capital ownership to redress the economic inequalities allowed by a capitalist system.

For what concerns the group sphere, the criticism is similar to the one I posed to deliberative philosophers, since I think that citizens may not only find it difficult to take decisions valuable for the firms, but they may also struggle to agree with their fellow owners on what sort of economic avenue it would be better to pursue. As for political deliberation, the community management of firms would affect the people's main interests (salary, leisure, objectives, etc.) and individuals are likely to disagree and to conflict about how to solve the problems concerning these issues rather than to agree on a common solution.

This problem would affect the internal operation of the firms but, above all, it would compromise the inter-firm relationships, since these will continue to compete one against the other to dominate the market rather than working together for a common purpose. That is, POD has to face a social ethos conundrum, since (Roemer 2013; 58): “as long as there is greed, there will always be people who will be able to succeed in designing a way around the rules and enriching themselves”. Even though we dispersed the ownership of a company, each single firm will be more likely to ask for policies that favour their own property, so large companies would tend to exert a distorting influence on politics irrespective of their ownership structure.

POD is thus challenged by the fact that there will always be a minority that will find a way to exploit loopholes in the legislation to avoid taxes and/or to get a competitive advantage over the others. Ergo, it is true that by spreading the ownership of capital among the people there would be less individuals that own an excessive amount of capital, but corporations would still possess a significant power that they could use to sway political process and there will still be firms doing bad that would be subjected to those performing better (Thomas 2012; 121-122).



If we are to protect the people's liberty, we must then primarily centre our attention on preventing that wealth power sways the impartiality of democratic institutions, regardless whether this wealth power is exercised by few individuals or dispersed among many citizens (Scheczyck 2013; 208-209). Due to the fact that Oligarchic power and democratic participation can co-exist, focusing merely on enhancing the people's participation to politics or even in the economic sphere is not sufficient to contrast the oligarchic threat. Rather, we need something more – or different - at the institutional level aimed at targeting and taming this problem, namely the republican editorial democracy that I discuss in the second part of the thesis.

In sum, I am not here directly objecting to a POD system, since to do so I ought to develop an economic analysis that is not the focus of this thesis. Nevertheless, as I explained in this section, I think that the people's biases would hinder the likelihood that a democratic dispersal of wealth and capital would efficiently counteract the oligarchic threat. Hence, an editorial democracy would be necessary to counteract oligarchic power both in a capitalist and in a POD system.

## **2. Conclusion**

In this chapter, I described that the features on which the ideal of democracy as self-government relies to claim that democracy is more likely to realize the people's freedom than other regimes are more questionable than theorized by them. Adopting an all or nothing approach for which citizens can realize their freedom only by means of a direct public participation, the risk is that we may overburden individuals with too many requests that they are not able or willing to sustain. Hence, I argue that the ideal of democracy as self-government is not able to properly protect the people's liberty in two regards.

First, modern citizens are both unable and unwilling to govern themselves as their ancestors did in Athens, since they lack the political knowledge to do so and private life has become much more important than in the past. Second, the political and economic structures that gave citizens the opportunity to realize their inner dominant self in the public arena – and there only - have changed. Our societies are too large for everyone to have a direct say in their political management and an economy based on commerce requires too much time and effort, which distracts individuals from engaging in public arenas. If we are to demonstrate that democracy is the best regime to protect and realize the people's freedom, we must then do so acknowledging that instead of being the rational and involved citizens the positive scholars theorized, citizens are more likely to be biased and affected by diverse irrationalities.

In other words, my point is that we must find a way to win the freedom and democratic game with the biased players we have; not thinking that we have at our disposal a group of perfect champions or that our team on the whole is the best performing one. Some of the views explained in this chapter, as it is the case with deliberative scholars, partially acknowledge that an ideal form of self-government is no longer achievable. Inasmuch, they maintain that certain forms of indirect politics may nowadays be necessary, since those who take political decisions must have the time, opportunity and knowledge necessary to deal with the complicated features of modern societies. Acknowledging the necessity of some sort of representation is fundamental because it moves the discussion towards what kind of limits to the people's power are required, thus opening the gates to representative democracy.

This is a complicated debate, since it requires a delicate balance between which restrictions can be considered normatively democratically acceptable. That is, whereas many scholars acknowledge that modern societies must limit the people's participation by some degree to produce good empirical outcomes - thus leaving political tasks in the hands of representatives - there remain questions about the correct extent of these tasks and which limitations are legitimate. Hence, scholars agree that modern societies must encompass certain forms of representation, but they have different opinions when they answer the question: "How much power do we have to give to the representatives rather than to the whole populace?". This question complicates the democratic debate even further on two regards.

On the one side, it poses a liberty problem: whereas it is simple to agree with the ancient claim for which an individual that governs herself is free, it is more difficult to assess at what point the same individual loses her liberty when someone else decides for her. When representatives are appointed with the task of deciding for their fellow citizens, a threshold debate is automatically created, namely a discussion regarding at which point the former decisional power becomes a hindrance to the people's freedom rather than a positive contribution to it.

On the other side, representation may be even more subjected to the second side of the dilemma than self-government views. Whereas oligarchies must use complex strategies to sway the populace towards their interests, it is easier for them to influence and lobby small bodies of politicians. In the following chapter, I deal with this threshold debate and I maintain that regardless the participatory threshold representative scholars deem as optimal, any representative attempt that does not include any editorial institutions is unable to properly defend the people's liberty due to the problems raised by the oligarchic side of the dilemma.

### **3. THE SECOND HALF OF THE DILEMMA: A TENDENCY TO OLIGARCHY**

#### **3. Introduction**

In explaining the ancient ideal of democracy as self-government, I maintained that the main problem of this view is that modern social and economic conditions make full self-government difficult, due to the division of labour, the large size of our societies and the lack of time citizens can devote to the political rule of society. For this reason, I argued that we ought to restrict in some way our demands towards the people's participation. However, this raises the important question of whether or not it is possible to do so democratically and if so, by how much we could limit the people's self-government without infringing at the same time on their liberty.

In this chapter, I deal with this threshold issue, explaining the main justifications of representative democracy and describing why I think that these views are affected by the oligarchic side of the dilemma. Representative views are not necessarily connected to a specific view of liberty, but most of them aim to establish a compatible threshold between government's operation and the people's private freedom, so they draw on what Constant called a modern view of freedom. Hence, I start this chapter (3.1.) explaining Constant's division between a liberty of the ancients – the one connected to the self-government ideal described in chapter two - and a freedom of the moderns (Constant 2011 (1816)), afterwards briefly reviewing what representation actually entails (Manin 1997).

As in previous chapter I maintained that we can find several justifications for democracy as self-government, so I think it is possible to find two main defences of representative democracy as a system that respects and protects the people's liberty. First, there is the Pluralist school of thought (3.2.) (Dryzek and Dunleavy 2009; 35-56). These scholars' main argument is that representation does not infringe the people's liberty, since democracies guarantee a balance of the different interests present in our societies and are thus the best regime at our disposal.

Second (3.3), I present the Elitist democracy literature (Schumpeter 1947), on which more recent views such as the Pragmatist (Fung 2007) and the Minimalist one (Przeworski 2010) premise their ideas. These scholars argue that rather than focusing primarily on guaranteeing the citizens' balance of interests, we ought to adopt a procedural approach for which the people limit themselves to select the right representatives and to make sure that there is a safe circulation of the elites, namely that power handover after the elections occurs with no

bloodshed. Scholars supporting representative democracy thus argue that lowering the popular participatory threshold renders democracies compatible with the people's biases.

These views thus remain within the democratic framework, while other sceptical views, such as the epistocratic one (3.4.1) (Brennan 2016; Somin 2013), question democracy itself, maintaining that if alternative systems proved to function better, we should opt for them. In their opinion, the people's biases are the main threat to a well-functioning political system, so we ought to limit political participation to those knowledgeable enough to positively contribute to the instrumental performance of society. This is not the only view I consider, since I complete the analysis of these non-democratic views (3.4.2) by explaining that we could also – as done by the Neo-liberal view (Hayek 2006; Nozick 1974) - argue that politics itself must be limited in order to favour liberal systems where economy is not hindered by politics.

However, I criticize these views, arguing that not only is it not legitimate to exclude individuals *a priori* from having a political say, but also that these views neglect that the oligarchic threat is a problem even more critical than the one raised by the people's biases (3.5). That is, recent political and economic events have underlined that knowledgeable and wealthy elites may not be the solution to the democratic problems theorized by epistocrats, but they may rather be a threat to citizens' liberty due to the fact that they pursue their own personal interests at the expenses of those of the rest of the society (Stiglitz 2012; Krugman 2007).

In analysing what these problems are, I explain more in detail my thesis that political systems, and in particular the premises on which democracy lies, are under threat due to a lack of control on oligarchic interests. The goal of this third chapter is then to explain that the oligarchic threat implies that even representative forms of democracy are unable to properly protect the people's liberty because they focus primarily, and only, on the authorial side of democracy. In this way, the conundrum raised by the democratic dilemma will be clear: insofar as we consider only an authorial form of democracy, we fall in either of the two sides of the dilemma. This argument opens the question to how we could face this dilemma and to how we could implement an editorial democracy. In the fourth chapter, I then explain why the republican ideal of freedom as non-domination is the solution to this authorial conundrum.

### **3.1. The modern and representative conception of democracy**

While ancient communities (Greece, Roman, Chinese, etc.) focused only on the people's public freedom and any discussion about private liberty was almost absent, modern societies are more

focused on a private concept of liberty. This change already affected societies that developed after the renaissance period, such that Constant (2011 (1816)) framed on this difference his division between a liberty of the ancient and that of the moderns. That is, the practical conditions that rendered ancient liberty no longer achievable in the 19<sup>th</sup> century are the same as the ones that compromise the fulfilment of democracy as self-government nowadays.

I already noted that the small dimensions of Athenian and ancient republics favoured a self-government ideal. Ancient communities were so small in size that each individual's political participation managed to have a real and effective impact – if he wanted to - so citizens found pleasure in taking part in the public fora and this increased the people's overall willingness to have an active say in how the republic had to be directed. However, the development in size of our societies, the abolition of slavery and the change in economic behaviour from war to commerce caused such a change to the structure of our societies that rendered the ancient ideal of self-government no longer attainable. That is, this development caused two main changes that decreased the political importance given to the single individual (Held 2006; 23-27).

First, citizens are less incentivised to participate in politics in larger societies, since they perceive that the influence they exercise is only an imperceptible part of the large social will impressed on the government. Second, in an economic system based on commerce and where slavery is banned, citizens must work long hours in their private jobs and they have to put a lot of effort in what they do if they want to succeed, which entails that they cannot spend most of their time in the public square discussing politics. Not only modern individuals can no longer enjoy the freedom of the ancients, but they also do not want to (Constant 2011 (1816); 10).

Constant thus argued that in a modern economic system, citizens are too busy with their private lives to be bothered with a constant participation in the public life and individual independence has become so important that excessive interference from the government in individuals' private life is no longer acceptable. Whereas the ancients conceived liberty as the sharing of social power among citizens of the republic, for moderns it has become the enjoyment of security in private pleasures such as being subjected only to the laws so as not to be abused by the arbitrary will of anyone, being able to express freely one's own opinion, to dispose of property and, finally, also that of expressing some influence on governments either by elections, petitions or other demands. In modern societies, it is then unlimited authority that it is likely to destroy freedom, since (Constant 2011 (1816); 312): "it is not against the arm that one must rail, but against the weapon. Some weights are too heavy for the human hand".

These changes compromised the feasibility of a self-government and rendered more appealing representative systems where only few individuals are charged to do what citizens do not have the time, resources and will to do by themselves. Yet, with these changes came also a threshold problem: we must have forms of representation, while making sure to protect individuals' personal sphere by limiting the representatives' power. The answers to this problem have varied significantly over the last two centuries but overall, all philosophers have agreed on the importance of respecting one main liberal premise, namely that there must be no absolute power that trespasses individuals' personal frontiers (Berlin 2002; 210-211).

The amount and intensity of power at the disposal of whoever governs must then be limited to protect the people's individual rights. These rights are absolute and must be protected at all costs, which entails that laws must define the boundaries to government's interference and these rules must be so widely accepted that all individuals should consider their violation as inhuman. These laws must possess an inner moral validity as the one possessed by individual rights, since the overall level of freedom in society is connected to how strong these barriers are and to the number of choices they offer to individuals to realize their personal liberty.

This premise underlines two important shifts in the scholars' main focus. First, it moves the centre of the discussion from public self-government to finding the right balance between the right area of control at the disposal of those in power and the respect of personal freedom of choice. Second, it acknowledges that modern liberty requires a different political organization from the one which suited the ancient city-republics, namely indirect forms of democracy that respect the people's private sphere.

In the 17<sup>th</sup> and 18<sup>th</sup> centuries, even though scholars such as Harrington (1689), Montesquieu (1748) and Rousseau (1762) still acknowledged that lottery was clearly connected to democracy, whereas elections to aristocracy, an ideological shift that rendered the latter favourable over the former occurred. That is, consent became the pivotal political value, since the only legitimate power became the one the people had consented to (Manin 1997; 67-79). The problem is then that lotteries imply impartiality, but do not encompass any direct consent; at most only an indirect one to the procedure. Elections then became the main and only procedure because *equality to consent* to power became more important than *equality to hold* power and this is still the way we conceive of representation nowadays (Manin 1997; 75-79).

However, it is not mostly the consent aspect that rendered elections aristocratic, but rather the "principle of distinction", namely the belief that representatives had to be superior to those that

elected them both in absolute and relative terms. The question is then whether there are intrinsic elements to elections that render them aristocratic. To answer, there are three aspects that promote the electoral aristocratic effect (Manin 1997; 134-148).

First, there is an unequal treatment of candidates by voters. Elections are open to diverse interpretations, so we cannot be sure that the criterion individuals use to decide is meritocratic, namely that the outcome is related to the candidates' efforts rather than to their innate qualities. Second, the candidate has to distinguish herself from her opponents to win the electoral competition, so elections lead to the selection of candidates who are deemed superior and to the exclusion of those who resemble others (Manin 1997; 142). Finally, the candidates must prove that they possess salient qualities, but this requires great resources, which favours wealthy candidates or connects them to wealthy interests that they will privilege once elected.

The important aspect of representation is then that elections have a twofold character, since they are simultaneously aristocratic and democratic. On the one hand, elections are aristocratic because they do not produce similarity between rulers and ruled, rather the opposite: they tend to create aristocracies, since elections select candidates that prove to have the politically relevant qualities and that are deemed superior by the dominant values in the culture (Manin 1997; 156-160). Yet, on the other hand, elections are also democratic: even if there is inequality regarding who can be selected, citizens possess an equal power in deciding who is worth assuming a certain position.

In sum, modern representative systems do not necessarily question democracy itself, but they set as essential different values and ideals than the ancient view. Whereas in a self-government framework it is fundamental to grant citizens an equal chance to be eligible, modern systems focus on guaranteeing citizens an equal chance to elect candidates that they deem fit to rule. To understand why even this representative tradition falls short of the democratic dilemma, I must now describe which are the main representative views. I start from the pluralist view, since it is the one that shares many features with the positive ideal and I thus think that it could be the best theoretical bridge between the two ideals of democracy.

### **3.2. The first justification: democracy as an equilibrium of competing interests**

In modern representative systems where self-government is no longer fully achievable, the conundrum becomes how to best balance the need to politically direct society with the respect of the people's liberty. According to the Pluralist scholars (Dryzek and Dunleavy 2009; 35-56), if elected representatives manage to represent equally the different interests present in our

societies, their rule could be both democratic and respect the people's liberty. Pluralism developed after the end of the Second World War and reached its height during the 50s and 60s, a period of economic and political development for the western societies characterized by low social conflict (Dryzek and Dunleavy 2009; 34).<sup>32</sup> Over this interval, scholars stressed the beneficial consequences of social diversity for politics and they advocated for constitutional ways of accommodating different perspectives on public policy issues.

Pluralist scholars maintained that respecting individual diversity was directly connected to guaranteeing the people's individual freedom, since they thought that only by comparing their personal interests and opinions with those of the people with different ideas, individuals can make societies flourishing and developing (Mill 1989). This comparison of opinions and interests among the populace is so important because it allows citizens to understand better their personal self-interest and those of the groups to which they belong. For this reason, they also refused every form of totalitarianism, since these regimes atomize society destroying every intermediate association and the fundamentals of the "Open society" (Popper 1994).

Pluralist scholars argue that societies ought to help creating reflective and capable individuals and that diversity and discussion are fundamental features to reach this goal. Yet, pluralists do not deem as necessary enhancing forms of direct self-government to do so. On the one hand, they argue that well-structured electoral system can respect the people's interests, since elections may not directly empower citizens as single private individuals, but they do so with the diverse factions composing our social tissue. On the other hand, pluralists do not deem as essential giving citizens an equal chance of being elected and they also do not consider politics as being the direct expression of the common will (Dryzek and Dunleavy 2009; 47-48).

Pluralists deem group interest as the building block of politics, since this helps citizens to develop their political skills and to understand how democracy necessitates bargaining and compromise (Truman 1951). For this framework to work properly, no group must yet be blocked from competing on equal terms with another one and any category of people who share an interest must have the chance to form a group (Dryzek and Dunleavy 2009; 45). Conceiving politics as the result of the mediation between the requests of competing groups, these theorists argued that we should focus primarily on how to have representative procedures ensuring the

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<sup>32</sup> I refer primarily to the political framework of the western societies of that time. Many conflicts persisted around the world and this view faced a crisis when the social conflicts at the end of the 60s and the economic crisis - such as the oil crisis of the 70s - demonstrated that our societies were pervaded by inequalities and conflicts and that a balance of interest was not the empirical reality of daily political operation.



representation of a large number of influential groups and avoiding the concentration of power in the hands of few individuals, which Elitist scholars considered inevitable.<sup>33</sup>

Pluralists accepted elitists' idea that democracy must rely on electoral procedures to choose the right representatives. In this regard, they did not think that the people's hostility was a problem, since they maintained that citizens can gather in many ways and thus a certain degree of passivity by the populace was acceptable, because it meant that citizens were satisfied by government's operation (Almond and Verba 1989). As in Madison's classic claim (1788), Pluralists considered positively the fact that factions were pursuing their interests, since the existence of diverse interests competing one with another created a democratic equilibrium where a single group did not have sufficient strength to ensure for itself a disproportionate quantity of power. Hence, elections distributed power effectively<sup>34</sup>, since groups cannot pursue their self-interest only, but they must confront their own views with those of the others accommodating them accordingly (Dahl 1956; 130).

Pluralists acknowledged that the empirical world's balance of interests is not as perfect as theorized by them since, apart from the vote, within our democratic regimes political resources are not equally distributed and decisions are influenced by a small and wealthy part of the population. For example, pluralists acknowledged that a group's power is a function of its size, since this influences the extent to which the group is essential, and both its members' willingness to undertake political actions and the intensity of their preferences.

Yet, at the same time, pluralists maintained that this inequality does not create major problems, since power is not cumulative but rather effectively spread among the different groups, such that: "virtually no one, and certainly no group of more than a few individuals, is entirely lacking some influence resources" (Dahl 1956; 130). Competition among the different minority interests is democracy's safeguard, since this feature connects politicians' fate - primarily their re-election - to the people's support. This balance of power created a Polyarchy, namely a government of minorities where elections are competitive, all the diverse groups have the opportunity to make themselves heard effectively in the political system and politicians have to rely on the electorate support for their re-election.

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<sup>33</sup> Among others, important elitists are Mosca (1939), Pareto (1935), Michels (1915) and C.W. Mills (1999).

<sup>34</sup> Dahl defines power as: "the capacity to reach one's goals despite opposition" (1956; 129), but also other pluralist scholars - see Nagal (1975) or Lukes (1974) - conceive power as the control on the immediate events.

In this system, citizens do not have major powers, but they nonetheless maintain political control, since regular elections and power competition between groups and single individuals limit and control the representatives' actions. Rather than creating a tyranny of the majority (J.S. Mill 1989 (1859); I.5), elections thus respect the people's interests, since those in power cannot impose their own decisions on the rest and they thus have to accommodate their decisions with the demands of the different minorities they have to deal with in their political operation. In this way, pluralists argue that we can simultaneously respect the people's freedom and two of the main requirements of the Athenian democracy (Dahl 1956; 130-135).

First, even though in large-scale societies it is no longer possible to respect this integrally, the fact that minorities' voices must always be taken into consideration entails that each view is given a sufficient power to affect the final outcome as demanded by the *isegoria* assumption. Equally, the tight connection between politicians' actions and citizens' interests implies that the *isonomia* assumption of the people's equal participation will be respected, since citizens can use democratic procedures to control those in power, reserving for themselves the opportunity to change representatives if these are deemed unable to respect their will.

There are then similarities between Pluralist and Deliberative scholars, but there is also a difference between the two on the confidence in the effectiveness of democratic procedures. Both views aim to accommodate diversity, but they differ on how to do so. Pluralists were confident that existent democratic procedures respected the people's will, whereas deliberative scholars maintain that we must make sure that democratic procedures do so and if that is not the case, we should remedy these problems by means of deliberative procedures.

The difference is then that deliberative scholars and pluralist ones focus on different features. Deliberative scholars focus on enhancing the people's discussion over political matters, while pluralists focus on making sure that citizens have equal power to select and to thus be equally represented by the political system. Hence, whereas pluralist scholars think that self-interest is positive and that we can rely on elected politicians to find a balance among the people's interests, deliberative scholars think that will and interest is not independent of deliberation, but it is rather endogenous to it, so only deliberating can the people set aside their personal interest in order to have the common one coming first.

In sum, Pluralism maintains that Polyarchy is the best regime among the different options because it spreads power among the different social factions and thus better respects the people's freedom and equality. On the contrary, some philosophers – called elitist democrats

(Schumpeter 1947) or minimalist (Shapiro & Cordon 1999; 21-70) – were more sceptical about the fact that factions guaranteed an equilibrium of interests to society and thus maintained that we should limit even further the demands we pose to the people’s political participation.

### 3.3. The second justification: The Minimalist view

The first feature to consider in analysing the Minimalist view is that this school of thought assumes that democracy *is* the representative system. That is, the minimalist view is based on Schumpeter’s elitism (1947), but this elitism does not refer to a claim that those who govern are superior; rather they are elitist in the sense that they argue against what the ancient participatory ideal of democracy meant. As noted, representation has both a democratic and an aristocratic character and Schumpeter’s view, maintaining that citizens must only focus on selecting rulers, centres only on the aristocratic dimension, leaving aside the democratic one.

If we do not primarily care about the people’s equality of being elected, we will not conceive democracy as an indirect government by the people, and we will thus adopt an elitist rather than democratic ideal of representation (Manin 1997; 163-167). Representation always encompasses a non-democratic feature, since it implies a certain degree of independence for the representatives over their electorate: modern systems do not encompass either *imperative mandates* – specific actions given by the populace to politicians that the latter must comply with – or *discretionary revocability of representatives* – the chance to remove a politician from power before the following election if deemed unfit<sup>35</sup>.

However, the fact that individuals can still form a public opinion outside the control of the government democratically counteracts this non-democratic dimension, since public opinion prevents representatives from being entirely independent. If politicians want to be re-elected they must listen, at least to a certain degree, to the voice of the electorate (Manin 1997; 167-178). Representative views thus do not adopt Plato’s epistocratic ideal of a “Philosopher King”, according to which a wise ruler could produce better results than a democratic regime (Reeve 1988). However, contrary to the Athenian’s view, elitist scholars maintain that politics is not pertinent to amateurs, since most citizens may be irrational, emotional and their desires are unlikely to be in line with what they really need (Meyer 1974; 196-202).

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<sup>35</sup> An interesting question here is if the democratic dilemma would still be present if we were to re-establish these institutions. As I analyse in chapter seven, I think that giving modern tribunates forms of imperative mandates could produce good outcomes, while I reject the revocability of representatives. This latter would be too subject to emotional politics and I also think that this institution could easily backfire, since “smart” politicians could picture themselves as martyrs, thus exploiting the punishment to obtain even more popularity.

The Minimalist or Pragmatist (Fung 2007) criticize democracy from within, since they argue that this regime is the best option if we restrict our demands towards the people's direct participation and focus more on granting the equality to select who has to rule. That is, we should delegate power to professionals with a specific knowledge to rule our societies, yet granting the respect of the citizens' liberty to choose who they want to elect, and re-elect, as representative. Citizens have different preferences and since the notion that all people could be represented simultaneously by anyone is no more tenable in a large size society, some must accept living "at least some time under laws they do not like" (Przeworski 2010; 13).

Minimalists aim to make sure that the mechanisms by which representatives direct our societies do not infringe important democratic features such as the people's equality, basic human rights and having a free political framework. The aggregative mechanisms by which preferences are incorporated into political decisions - elections - are then considered the fundamental procedure on which we ought to focus, such that minimalists define democracy by a set of minimum requirements as: "That institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote" (Schumpeter 1947; 269). Yet, to be considered legitimate, elections have to respect five main conditions (Dahl 1989; 221):<sup>36</sup>

1. Citizens must be effectively able to take part in the democratic procedures: individuals must be free to vote, must have the right information to do that properly and there must be a real competition from which to choose.<sup>37</sup>
2. Voting equality: each participant in the political game should be given equal influence over the electoral outcome regardless her income, status, etc.
3. Each citizen should have equal opportunities for discovering and validating the choice on the matter to be decided that would best serve her interest.
4. Citizens must be able to decide how matters are placed in the political agenda.
5. The *demos* must include all adult members of the association that are mentally effective.

We could summarize these requirements by saying that focusing on procedures entails that only insofar as elections are free and fair the people's freedom will be respected. These are requirements theorized by Dahl, the father of the pluralist view, so it may seem contradictory citing him here. Yet, it is not the case, since both these views share the certainty of the essential

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<sup>36</sup> It is the idea sustained by scholars such as J.S. Mill (1889 (1859)), Madison (1982 (1788)) and Kelsen (1949).

<sup>37</sup> For example, in a dictatorship where citizens have at their disposal only one option, there could still be elections, but these would not be democratic.

role played by elections and representation. Instead, the difference between the two views is that while pluralists think that all the aforementioned five features must be respected, minimalists maintain that democracy does not necessarily entail all of them, since it could function properly even if we make sure to respect only fewer of those points.

Minimalists acknowledge that electoral procedures must be free and fair (first 3 points), but they maintain that it is afterwards representatives' task to deal with political decisions, not the citizens' (point 4 above). These two views then primarily differ regarding what they consider the best degree of representation that our political systems ought to have and also for what concerns who ought to be the main focus of our political debate. Pluralist scholars maintained that the pivotal political feature is how well the people's interests are represented by who governs, so their focus is mainly on the people's side.

Instead, Elitist democrats focus more on the representatives' side, since they stress that there is a difference between elites that *propose* themselves – the option we ought to foster - and those who *impose* themselves – the eventuality we must prevent (Bobbio 1987; 157). In non-democratic regimes, ruling elites do not face any institutional threat to their power and they can thus impose their will on the populace. In this way, rulers are likely to remain in power even though they hinder the people's will and freedom. On the contrary, if politicians have to propose themselves, individuals can render rulers accountable for their actions during the electoral process, thus allowing for the circulation of the elites to take place. That is, incumbents are aware that they can be thrown out of power if they do not respect the will of the many, so to avoid this threat they will try to accommodate constituents' will and they will not impose their own interest on them.

The *sine qua non* condition for democracy is then “the institutionalized competition for power in which losers accept the defeat in return for peace and the possibility to win in the future” (Shapiro & Cordon 1999; 4). Minimalists do still consider democracy the best option available, but it is considered such in minimalist terms, namely because it is the regime that best allows for a periodic circulation of the elites in government whereby politicians are rendered accountable and losers accept defeat without bloodshed. Hence, it is not sufficient to make sure that elections are free and fair, but elections must be periodically repeated, since only in this way those in power will care about public opinion (Przeworski 2010; 101-109).

This view developed in the so called “Retrospective voting theory”, according to which voters can control politicians because they have the power to remove leaders whose performance they deem unsatisfactory, voting for the opposition (Fiorina 1981). In order to be re-elected, politicians will care more about their constituency, because they are aware that their votes will be essential in the following elections. They will also treat better the opposition party, since they know that in case of defeat, they will be in that position in the following mandate.<sup>38</sup>

For what concerns my focus on the people’s freedom, this view lowers the participatory threshold required for a system to be democratic, but it maintains that this is not a problem, since an intensive popular participation in public life is not necessary to defend the people’s modern freedom. If political procedures make sure that citizens can render politicians accountable by means of the threat of not re-electing them and that there is a safe handover of power, we would both obtain better political outcomes from our governments and respect the people’s private sphere. That is, until individuals’ private liberty is not damaged, the fact that citizens do not decide directly on each public issue would have compromised the liberty of the ancients, but it does not necessarily hinder that of the moderns (Constant 2011 (1816)).

Minimalist scholars acknowledge that there will always be the normative risk of an arbitrary usage of institutional power over law making. Yet, they argue that there is no empirical evidence that institutional systems that give power to majorities are more abusive than those who impede governments from acting by checks and balances. Hence, minimalists maintain that even though representatives have a certain independence – the non-democratic aspect of representation – they do not hinder the people’s liberty because recurrent elections make sure that representatives do not forget about public opinion and that they work to realise the people’s liberty over their mandate (Przeworski 2010; 149-154).

Representative systems have thus a dual character. On the one hand, elections are non-democratic: they do not give anyone who wants the same opportunity to be elected and the fact that there are no imperative mandates and no discretionary revocability of representatives implies that representatives will always have a certain independence from popular rule. Yet, on the other hand, there is also a democratic dimension. Re-elections give citizens an equal power to select and dismiss their rulers and public opinion prevents representatives from being completely independent, since incumbents will be punished if they do not respect the people’s

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<sup>38</sup> The problem is also whether or not people care about having a choice (Harding 2009). For an analysis of the importance of party democracy see Muirhead (2014); Rosenblum (2008); Manin (1997; 206-208).

will. Representative systems are then not an indirect form of government by the people, but a system where citizens are judges of governments: elections inevitably select elites, but it is citizens themselves that select those who are elites or not (Manin 1997; 199).

Minimalists thus maintain that their criticism from within can resolve the problems raised by the people's biases, but I argue that this is not the case. Pluralist and minimalist scholars' defence of democracy relies primarily – and I would suggest only – on a rational popular participation, but this entails some problems: if critiques demonstrate that elections, party system, etc. work worse than suggested by these literatures, the defence of democracy as the best regime to protect the people's liberty would be significantly undermined. That is, if electoral procedures are disconnected from the people's will and unable to render politicians accountable, pluralist and minimalist scholars have no means to argue that democracy is still the best regime to defend the people's freedom.

In this regard, I think that the people's lack of knowledge and biases compromise on two sides the reliability of a "simple" representative democracy.<sup>39</sup> On the one side, pluralist scholars rely on the fact that democratic procedures respect the people's interests, but if citizens misjudge or do not know what their real interests are and also lack the ability to choose and vote rationally among the diverse electoral options, the thesis that democracy is a polyarchy where there is a tight connection between politicians' actions and groups' interests is seriously undermined. Moreover, even though voters do not vote selfishly, but want to promote the common good, it does not mean that they can accomplish it, since they could make mistakes about what they think will serve best the common interest (Brennan 2016; 48-53).<sup>40</sup>

On the other side, the minimalists' theory acknowledges that self-government's demands on the population are too demanding and that we should thus limit the people's participation. Yet, the problem is that individuals may be unable to perform even the tasks of the less demanding theories, since the biases that affect elections would compromise the reliability even of the accountability procedures (Gilens 2012; 12-48). That is, citizens must have at least some knowledge to decide which candidate is better, to hold politicians accountable for their actions

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<sup>39</sup> As noted in the first chapter, the adjective *simple* is important because I do not criticize representative democracy itself. Rather, I underline that without an editorial democracy, this system is not sufficient to protect the people's liberty

<sup>40</sup> We can think about the vaccine debate. It is a complicated issue that would need a specific paper for itself, but it is interesting to notice that a part of the population is not vaccinating their children because they want to protect them and because of what they deem being the best for the common good. However, by doing so, they are actually causing great hazards both to their children and also to the entire community.

and to know whether or not alternative policies are better (Achen & Bartels 2016; 90-111). Otherwise, they will not be able to render incumbents accountable and if politicians also use emotional strategies for their political campaigns to be re-elected, elections' reliability is seriously undermined (Cox & Katz 1992; Bartels 2008; 104-120).

The problem of these views is then that individuals must have a certain threshold of knowledge in order to meaningfully use democratic procedures. As noted, representative systems change the focus from equality of being selected to equality to select, but even the latter requires citizens to possess a certain level of knowledge. That is, even though elitist democrats limit the degree of the demands posed on the populace, their solution is grounded on the same biased basis of the direct democracy solution, namely the people's capability to have their interest represented in political matters and to render politicians accountable for their actions using electoral procedures. Hence, if rulers' actions do not follow the people's interests – the pluralist view – or they do not render political elites accountable – the minimalist argument – both literatures are unable to prove that democracy is the best regime to respect citizens' liberty.

These difficulties have caused different reactions in the literature. Some, as the epistocrats, the liberals and the neoliberals, have taken the clue from these problems to criticize democracy, whereas these problems have not stopped many scholars from maintaining that, after all, democracy is still the best regime available (Oppenheimer 2012; Sen 2010). In my opinion, it is true that the people's biases negatively affect the functioning of democratic procedures. Yet, I do not think that we should look for alternative avenues to democracy, since critiques neglect that exiting the democratic boundaries would entail being affected by even stronger problems, namely those brought by the oligarchic threat. Hence, I conclude this chapter by explaining why these alternative views do not resolve the democratic dilemma.

### **3.4. The Non-democratic alternatives**

#### **3.4.1 The Epistocratic view**

The epistocratic view adopts an instrumental approach for which a political system's outcomes are more important than the fairness of its procedures: if an alternative system to democracy proved to produce better outcomes, we ought to opt for it. Their thesis is thus interesting because they not only criticize democracy, but they maintain that it is possible to better defend the people's freedom outside the democratic framework. Conversely from epistemic scholars, epistocrats deem democracy as being extrinsically and not intrinsically just, which entails that



we must prove that this system guarantees the best common good in the long run; we cannot just assume it (Arneson 2004). This does not imply that democracy always performs worse than other regimes, but that other systems *may* perform better. However, according to the epistocrats, the problem is precisely that both the self-government and the representative views of democracy fail in demonstrating that this regime is the best functioning one.

Epistocrats argue that most forms of political engagement fail in many respects to reach their goals (Brennan 2016; 54-57): they do not empower individuals; they do not increase their autonomy; they do not educate individuals as advanced by Mill's "education argument" (J.S. Mill 1989; 196-197) and they do not develop a sense of the good life and justice. Popular self-government is thus not only unlikely to be fulfilled, since the probability that the average citizen succeeds in running for public office is low and tightly related to her social status, but the people's lack of knowledge and biases also unavoidably compromise the efficiency of democratic procedures. If citizens do not have the knowledge to decide rationally among the options they are given, their final decisions might lead to irrational decisions that hinder both societies' common good and the people's own individual freedom (Brennan 2016; 58-61).

The epistocratic critique thus maintains that if the people proved to be unable to perform the task required by the participatory literatures, we should look for a way to limit the power of the *demos* rather than to empower them. These scholars thus agree with Schumpeter that (1947; 262): "The typical citizen drops down to a level of mental performance as soon as he enters the political field. He argues and analyses in a way which he would readily recognize as infantile within the sphere of his real interests. He becomes a primitive again. His thinking becomes associative and affective".

Brennan argues that a political choice is not choosing for oneself only, but it is choosing for everyone, so we ought to prevent those lacking political knowledge from participating in politics. This scholar thus argues that individuals do not have the right to an equal say in politics just for being born, but only if they can positively contribute to the wellbeing of the whole society. Posing limits to the people's participation would thus be both acceptable and beneficial, since if a voter acts foolishly, the consequences do not reflect only on herself, but they affect also other members of the community (Brennan 2016; 187-195).

Universal suffrage might then incentivise voters to make political decisions in an irrational way rather than positively empowering them. Hence, epistocrats maintain that we should not be worried, but be glad that there is a low turnout in the elections, and that we thus ought to limit

or prevent citizens from being politically involved by means of epistocratic alternatives to democracy. *Inter alia*, the most important of these alternatives are (Brennan 2016; 204-229):

- *Restricted suffrage*: citizens acquire the right to vote only if they are sufficiently informed. They have to pass a voter qualification exam, open to everyone, which excludes those who lack basic political knowledge from voting (as a driving licence) (Brennan 2011).
- *Plural voting*: everyone votes, but those deemed more knowledgeable have more votes (J.S. Mill 1989 (1859)). A variation of this is the weighted vote: to vote, a citizen has to take a quiz concerning basic political knowledge and then the vote is weighted according to the results (Mulligan 2017).
- *Values-only voting*: a division of political labour in which citizens decide the aims, and politicians the means to obtain them (Christiano 2008).
- *Enfranchisement lottery*: pre-voting selections where one can acquire the right to vote only if she participates in competence-building exercises (Lopez-Guerra 2011).
- *Epistocratic Veto*: a small group has the power to veto government's laws, as for example judicial review (Somin 2013; 114-123). The membership to this council is open to everyone but to be part of it one should pass an exam. This council has no legislative power, but it can unmake laws if considered incompetent.<sup>41</sup>
- *Foot voting*: in a federalist system, people could choose where it is better to live according to the information they have (Warren 2011). According to Somin (2013; 90-113), foot voting benefits would make the case not only for federalism over centralization, but also for the market and civil society as an alternative to government. Overall, his argument is that even though it is impossible to reduce the government's activities to a level in which people are perfectly rational, reducing its amount could surely ease their task.

Epistocrats may seem authoritarian, since they privilege few individuals over the populace, thus hindering one of the most important democratic fundamentals, the people's equality. Yet, these philosophers defend themselves stating that political inequality is not inherently unjust, since innocent people have a right not to be subject to incompetently made political decisions that result from poor electoral choices. In a political system where the ultimate holders of power are voters, if these latter are incompetent the consequences can be dire, so stopping them would be for the society's wellbeing. Hence, epistocrats argue that they are not authoritarian, since

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<sup>41</sup> This is particularly important for my thesis, since in the second part of the thesis I argue that we should give modern tribunates a veto power to empower the populace and not to limit or control them.

they do not claim that “smart ones should be the bosses, but that unreasonable ones should not be imposed on others as bosses” (Brennan 2016; 151).

In a nutshell, epistocrats maintain that we must make sure that those governing possess the sufficient level of episteme<sup>42</sup>, since when experts and laypeople disagree on political issues, the former are more likely to be right and thus to lead towards better outcomes (Brennan 2016; 156-171). Therefore, epistocrats’ main concern regards the people’s biases and not the sphere of politics on the whole. On the contrary, the second non-democratic alternative I consider, the neo-liberal view (Parry 2006), argues that politics itself is affected by unsolvable problems that imply that we should look for non-political solutions to have our societies functioning better from the instrumental point of view.

### **3.4.2. The Liberal and Neoliberal critique**

The non-political criticism to democracy can be summarized in two main views. The first criticism was raised by scholars of the “Social Choice Theory” (Rowley 1993), who relying on the procedural problems raised by Arrow’s impossibility theorem (1951)<sup>43</sup>, argue that representative procedures may be unable to aggregate individual wills into a common will, thereby making elections meaningful as an expression of the general will of the population. That is, if no aggregative procedure can rationally respect the people’s equality to select their representatives and to change them in case they do respect their will, democracy could be meaningless. Riker (1982), the most representative author of this Social choice literature, stated that there are four problems that compromise representative procedures.

First, there is strategic voting: we always assume that individuals vote for the option that better respects their interests, but they could rather decide to use their vote to defeat the candidates they dislike (Mackie 2003; 160-162). Second, logrolling reduces the welfare of the whole system, opening the gates to power games and corruption. That is, if certain agents use their wealth or political power to sway the electoral results, this will compromise significantly the people’s equal power to select who has to govern. Third, there is the agenda control issue, which is present both when leaders want to control it and when non-leaders aim to introduce new alternatives to consideration only to distort the decisional process. Finally, in an election collective opinion can be expressed only with reference to a very limited menu of alternative

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<sup>42</sup> The etymology of epistocracy refers to the Greek terms *episteme* – knowledge – and *kratos* – power.

<sup>43</sup> For more information on this theorem see Mackie (2003) or Gerlein & Fishburn (1976).

platforms<sup>44</sup> and because of the unknowability of the outcomes, it is impossible to distinguish a manipulated result from an unmanipulated one (Mackie 2003; 163-171).

The problem is then that it may not be possible to amalgamate accurately the rational position of the individuals and politicians could generate cycles to oppose the winner's decisions and to create political disorder. The "populist view" of democracy based on a connection between the will of the citizens and public policy could then be arbitrary and meaningless and this led Riker to maintain that due to the obscurity of preferences and to the fact that we can never know for sure whether any outcome was manipulated or not, representative democracy is arbitrary and its outcomes are meaningless (Riker 1982; 234-238).

In this research, I will not focus further on these procedural problems since, as suggested by Mackie, to determine whether or not Arrow's cycles are an actual problem, one has to find the empirical frequency of social intransitivities and studies have demonstrated that such cycles are instead very rare (Mackie 2003; 158-172). This does not mean that cycles are entirely unknown, since in some cases they may exist and affect important decisions (Kurrild-Klitgaard 2017), but that they are unlikely to be a frequent problem.

First, single voters know that that they have almost zero chances to influence the elections. They are thus more likely to vote for what they believe is the common good rather than their own welfare unlike what is suggested by rational choice theory. Second, democratic procedures rely on rules that bring finality to the voting procedure and thanks to such rules we often empirically observe political stability and not a state of perpetual political instability as it should be according to Arrow's theorem. For this reason, the fact that cycles may affect elections in certain specific cases is not sufficient to support social choice's claim that democracy is meaningless (Mackie 2003; 378-408).

On the contrary, I consider more interesting the second critique I analyse here, namely the neo-liberal thesis that politics itself is a harmful interference to the people's private lives, interests and liberty of action, so we ought to limit the government's interference as much as possible to favour instead the free market (Hayek 2006; Nozick 1974). There is significant variety within the neoliberal framework, but overall, we can find three main views (Biebricher 2015).

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<sup>44</sup> As stated by Schattschneider (1942; 52): "The electorate is a sovereign whose vocabulary is restricted to two words, yes and no".

First, the neoliberalism rooted in the German Ordoliberalism with scholars such as Eucken, Rustow or Ropke (Friedrich 1955). These scholars maintained that masses, formed by the processes of industrialization and urbanization, are epistemically inferior and thus tend towards the irrational. Interestingly, the main problem they aim to avoid, *rent-seeking*, namely letting interest groups sway the operation of the governments towards their interests, is similar to the oligarchic threat I analyse. Yet, contrary to what I argue for, ordoliberalism maintains that the best way to isolate governments from external interferences is an authoritarian and technocratic avenue. Governments would still follow democratic rules, but when economic experts deem necessary to avoid doing so, the latter must prevail and impose their will over the former.

Ordoliberals believed that a scientific truth was achievable, so they argued that experts – those likely to reach this truth - had the legitimacy to overrule representative democracy when they deemed necessary to do so (Biebricher 2015; 258). A modern version of this view is Friedman's monetarism (Friedman 1953), who maintains that interest groups are dangerous because governments will take policy decisions thinking in electoral terms rather than towards increasing economic welfare. To favour the latter, we thus ought to rely on self-binding rules to constrain and control governments at different levels.

A first option is to set these rules at the broadest level by applying a general rule that minimizes the space for discretionary governmental decision-making in the economy (Hayek 2003; 99-119). In other words, we could put specific sectors – in Friedman's case monetary public policy (Friedman 2002) - out the public control to have them following a specific rule only, thus being impartial and objective. Finally, we could control governments by setting specific budget amendments (Buchanan 1980). Hence, this first view maintains that we ought to restrict governments by means of a technocracy or by self-binding rules. Yet, these scholars underestimate the complexity of both markets and sovereignty: the former are too complex to be easily regulated by specific rules and democracies are not the leviathan that can direct every aspect of society as suggested by these scholars' pessimistic scenario.

The second neoliberal view argues that we should replace democracy with markets to control the rent-seeking problem. Democratic systems are pictured here as hostages of interest groups and as regimes where the need to satisfy the majority leads to neglecting minority interests and to force the latter to conformity with the majority. Ergo, party democracy only partially satisfies citizens, since individuals can only accept the whole party program and this latter may include specific parts that citizens do not like. On the contrary, consumers can satisfy precisely their

will in the market, regardless the opinions and will of others (Friedman 1980). However, these scholars neglect that individuals are unlikely to satisfactorily fulfil their will in markets, since there is a high inequality in purchasing power among individuals and citizens are very easily influenced by sellers towards preferring certain items rather than others (Biebricher 2015; 259).

Finally, not all neoliberals have argued for replacement of democracy, since other scholars have investigated if more direct democratic means, such as specific referenda (Frey 1994) or tax revolts (Vanberg & Buchanan 1989) could prevent the “leviathan problem”. These direct procedures – as referenda – rather than indirect representative ones could constrain the absolute power of governments, since only the former can properly help citizens expressing a direct preference rather than accepting generic party programs (Biebricher 2015; 260). Yet, this last view neglects that options are always limited even in referenda, so this procedure will not resemble the neoliberal stereotype of free markets. This latter ideal is then more democratic than the previous two, but it still shares the neoliberal conception of the citizenry as a dangerous irrational mass and it thus remains contrary to democracy (Biebricher 2015; 261-263).

Neoliberals maintain that politicians are too connected to group interests for their political survival. Thus, they argue that democracy worsens the rent-seeking problems and that we should prefer instead markets and technocratic governments. Yet, I argue that this avenue is not going to solve the problem, but to worsen it. Assuming an idealistic view of markets, neoliberals neglect that if we do not pose political boundaries to markets, these latter are pervaded by inequalities that will favour the power of the wealthiest ones over the populace.

In sum, I acknowledge that if either of the critiques to democracy explained in this section were right, the solution to the democratic dilemma would be straightforward, since we ought to discuss primarily about which kind of technocracy would better protect the people’s freedom. However, I maintain that this is not the case, since focusing too narrowly on democratic deficiencies, these critiques neglect that their thesis are compromised by the second side of the democratic dilemma. I thus conclude the chapter by explaining more in detail how the Oligarchic Threat compromises the views I analysed in this chapter.

### **3.5. The consequences of the Oligarchic Threat**

#### **3.5.1. The Oligarchic Threat on Pluralist and Minimalist views**

By means of my second side of the dilemma I aim to stress the problems raised by oligarchic influence over governments, but I want to specify that this does not entail that I want to adopt

a Marxist view for which the state is “nothing but a committee for managing the common affairs of the whole bourgeoisie” (Marx 2002 (1848); 15). That is, I am not maintaining a radical position for which the people have no say whatsoever and they are entirely submitted and disempowered to oligarchic power. Rather, I agree with the claim that the people still retain some power and that “despite itself” (Oppenheimer 2012) democracy is still the best regime available if we are to protect the people’s liberty and equality.

However, if oligarchies hinder democracies’ functioning, it becomes essential to understand how to limit their influence on who governs. Throughout history, there have been cases where oligarchies tamed themselves to prevent the horizontal threats to their wealth - those raised by other oligarchies<sup>45</sup> - but the most effective way to reach this goal has often been an external institutionalization of the control of their political influence. We can thus empower citizens by means of deliberative institutions, better electoral procedures or epistemic mechanisms, but only insofar as we tame oligarchies we can resolve the inequality problems affecting our democracies. These goals are not mutually exclusive, since we can pursue both, but my point is that we must do so being conscious of three aspects (Winters 2011; 277-280):

- *There is no inherent conflict between democracy and oligarchy*: democracy does not exclude oligarchy and the two can coexist as long as the many poor do not threaten directly the few rich.
- *Oligarchs can distort the law*: the rule of law exists when the majority of the populace submit to the legal system, but achieving this state entails a tough battle against the oligarchs in order to tame and overpower them.
- *A representative system is not a direct solution to the oligarchic issue*: who makes decisions or how the decisions are made for a society is not the source of oligarchy. Ergo, ending oligarchy is impossible unless the power resource that defines oligarchs - concentrated wealth - is dispersed.

In a nutshell, increasing the people’ participation does not necessarily affect oligarchic power. To set boundaries to the latter, we must then target it specifically and not assume that it will happen just as a result of an increase in participatory policies. Historically, this has always been the case, but this necessity has become the more and more pressing over the last decades, since the political control over oligarchies has decreased to the point that we are now facing what

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<sup>45</sup> Winters gives the examples of the Mafia general committees in the United States and of the oligarchic alliances in Athens, Rome and in some of the medieval Italian cities, as Venice or Florence (Winters 2011; 66-133).

Crouch calls an “Ellipse of power”, namely a situation in which political management has opened its boundaries to the external elites, and these are now shaping governments to have their interests pursued first (Crouch 2004; 81-83). According to Crouch, this influence has transformed our political regimes, such that we now live in what Crouch calls a “Post-democracy”: a political system in which individuals are passive agents and where only the show of the electoral challenge is public, while the important decisions are taken privately by politicians and economic elites. More in detail, oligarchies compromise the correct operation of several political procedures in three regards (Crouch 2004; 92-141).

First, oligarchies use their wealth to influence electoral outcomes and party representation – especially where, as in the United States, electoral campaigns are privately funded – and this hinders the efficiency of the representative procedures. Second, oligarchies convince governments to adopt the recipes given by neoliberalism, thus leading to the privatization of many important sectors of the welfare state. This latter ought to focus primarily on granting the people’s equality rather than producing profits, so if elites sway the welfare state towards the latter purpose, the result is an increase in the gap between the interests of the oligarchies and those of other social classes (Crouch 2004; 118-136). Finally, oligarchies use globalization processes and finance markets to escape governments’ control (Crouch 2004; 97-102). Hence, oligarchies’ focus on maintaining their wealth resources poses several problems, such as:

- *Foster economic inequality*: focusing on defending their wealth, oligarchies prevent an equal and fair distribution of economic resources, which should be one of the pillars to guarantee the respect of the people’s liberty and equality (Krugman 2002).
- *Hinder the people’s political equality*: swaying governments towards defending oligarchic wealth and not towards fostering society’s wellbeing, oligarchies violate citizens’ political equality, since their effective power is well superior to what it should be given them according to their numerical size. The case of the 2008 financial crisis is a perfect example in this regard. Not only financial oligarchies caused an economic crisis that had an enormous social and economic impact – only in the U.S., it costed an estimated \$648 billion and 5.5 million American jobs were lost (Schwagel 2010) – but oligarchies managed to use their wealth power to escape “unpunished” the consequences of their actions (Stiglitz 2012)
- *Compromise society’s ethical framework*: contemporary, democratic societies are under scrutiny of many watchdogs – media, newspapers, internet, etc. - and this entails that oligarchies are forced to use subtle ways to have their interests privileged. That is, they are



likely to resort to corruption, manipulation, etc. and this damages the healthy ethical framework necessary for societies to operate at their best. Lasch called this the “Revolt of the elites”, since he underlines that oligarchies have now assumed those traits that the few used to blame the common people for (Ortega 1994 (1929)), such as disinterest for the common good, selfishness and contempt for what is different (Lasch 1995; 28-32).

- *Damage the people’s perception of the government:* the people’s perception of the overall fairness of their government is fundamental to guarantee citizens’ positive participation to the common wellbeing. Even if individuals are affected by many biases, citizens are not completely blind, so they notice if governments clearly privilege elites’ interests over those of the populace, the risk is that citizens would stop caring about the common good, thus decreasing even more the quality of the political system. As I explain below in section 3.5.2., democracy works well because we think it does, so if citizens stopped caring about our political systems, the consequences would be negative.
- *Elites’ behaviour increases the “Shadow of Unfairness”* (Green 2016). Citizens acknowledge that individual’s socioeconomic status determines opportunities for civic engagement and career advancement and this increases their political distrust.<sup>46</sup> Citizens think that the arrangements of liberal democracy: “However just, are not wholly so, since conversely from problems such as corruption or discrimination, that are in principle solvable, the shadow of unfairness is a permanent part of the nature of liberal democracies” (Green 2016; 3). Moreover, three fundamental structures are transforming citizenship in a second-class membership. First, the majority of the populace realizes that they do not hold an effective political power and that it is extremely unlikely that they ever will. Second, citizens know that individually they have no power and that they can empower themselves only if they affix to a larger mass of like-minded others. Third, citizens know that societies are dominated by a plutocratic aspect for which one’s own economic resources determines her political power (Green 2016; 30-66).

The fact that there is insufficient control over the behaviour of elected politicians, and to the inequalities of influence among different social groups, is then a significant problem for a system in which no individual or group ought to be favoured because of some traits they have

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<sup>46</sup> According to Green, every kind of political regime would be affected by this shadow; not only contemporary regimes, so he maintains that we must look for an apolitical avenue in which citizens are equal and happy. I think that this concept well underlines which social effects the oligarchic behaviour has, but I do not agree with the implications he draws from this concept, since I do not think that this shadow would affect equally any regime and, above all, that an “epicurean escape” would be the solution we need to solve this shadow.

(Przeworski 2010; 66). Hence, even though representative views limit their demands towards the populace to avoid the consequences of the people's biases, the defence of democracy of each of the views described in this chapter falls short of the oligarchic side of the dilemma.

For what concerns the pluralist view, the problem is that citizens have different interests and wealthy social groups manage to have their own interests favoured over those of the rest. These social inequalities compromise the balance of interests at the basis of the pluralist theory, since they make it unrealistic to expect equal influence over policy making and they also make governments coming closer to equal representation of incomes rather than to equal representation of citizens (Bartels 2008; 1-28; Gilens 2012). This social inequality of influence is so deeply-rooted in the operation of our political systems, that it also affects the reliability of the party system. Over the last decades, there has been a significant difference in the fortunes of rich and poor citizens under the different party administrations, as for example in the United States, where Democrats focused more on policies that have a major impact on the lower classes (unemployment and GDP), than Republicans (Bartels 2008; 29-126).

For what concerns the minimalist view, the problem is that if oligarchies manage to have their interests favoured over those of the common citizenry, all the procedures supposed to render politicians accountable would be far less effective than expected. That is, if representatives primarily follow oligarchic interests regardless of electoral results, citizens are left with no means to render politicians accountable for their operate. As I analyse more in detail in the following chapters, I think that this is rendered even more problematic by the fact that most of the fundamental political decisions are taken in the period in between the elections, namely a time frame in which the populace misses effective means to control representatives if these latter do not fulfil their electoral promises.

In a context dominated by oligarchies, even the circulation of the elites would then be far less meaningful than theorized by elitist democrats. Politics would continue to respect first the interests of the most powerful oligarchies despite whether elite A or elite B is ruling, so a changing from one government to the other would not produce significant improvements in the people's freedom. Hence, until democratic procedures do not focus primarily on targeting oligarchic wealth power, this latter will be used by elites to direct the representatives' actions regardless the electoral decisions of the whole populace (Guerrero 2014; 136-150). In a nutshell, the system promoted by elitist democrats will not defend properly the people's liberty as long as oligarchies are not tamed and their influence over governments is not blocked.

### 3.5.2. The problems of the Epistocratic view

In my opinion, an epistocratic government would be hindered by the oligarchic threat even more than a democratic regime. In theory, an enlightened elite could use its superior moral qualities or technical knowledge to counteract the oligarchic threat, to foster instead the wellbeing of the whole populace. Yet, we must consider the empirical possibility to implement an ideal when deciding whether or not a certain view should structure our political societies. In this regard, democracy is preferable to epistocracy because political power produces better results when it is institutionally limited and controlled by a form of popular power.

First, history has taught us that regardless their level of knowledge, individuals that are granted special powers are always exposed to the temptations of power and corruption (Highley 2006). This is not to say that all individuals in power are corrupted and do not care about the common good, but it is rather to stress that human beings are corruptible regardless of their level of *episteme*. In democratic regimes, no specific group should impose their will over others without a legitimate reason, since all interests must be given equal consideration and all factions must be respected equally. In this regard, democracies offer reliable safeties.

Even though I noted that this ideal is not always perfectly respected, popular control constrains at least to a certain degree the influence oligarchies have on governments. That is, oligarchies cannot access unimpeded democratic governments, since democracies encompass a system of watchdogs – journals, public opinion, civic groups, etc. – that are supposed to check and prevent any hazard to democratic values. Oligarchies have to circumvent the control of these bodies to influence government's institutions, which means that they have to undertake illegitimate actions to have their interests privileged by parliamentary policies. Hence, despite the fact that democratic defences and public watchdogs do not work perfectly, at least they manage to render oligarchic interference over governments more difficult to pursue.

On the contrary, in an epistocratic system, oligarchs would face less obstacles, since their decisions would no longer have to be justified in terms of fairness, equality, liberty and democratic values. Instead, the focus on the government's instrumental efficiency could legitimize an infringement of important democratic values. For example, in the name of efficiency, a government could decide to sacrifice some basic liberties (welfare system, investments in education, etc.) to enact an economic policy considered pivotal to increase the country's GDP. In this framework, oligarchies could use their wealth influence to frame

policies that favour their interests as necessary for the country's efficiency, thus achieving their oligarchic goals – wealth defence – more easily and legitimately than in a democratic regime.

This problem would also be increased by the fact that rather than having to consider and balance different interests, rulers could easily discard any opposition to their decision as ignorant and thus not valuable enough to be considered. A lack of consideration towards opposing views is thus an autocratic feature that would hinder the people's liberty: citizens would struggle to oppose policies they dislike; civic groups would have less opportunities to be influential and any voice that is not appreciated by rulers could be officially silenced as ignorant. In short, in a government of the knowledgeable, no one would care about what the obtuse has to say about the matters taken into consideration.

This problem is rendered even more pressing by the fact that the *episteme* claimed by Epistocrats and the main feature structuring oligarchies, wealth, are strictly connected. Our social systems are permeated by inequalities and there is no such thing as equal opportunities among social groups, since wealth determines most of the opportunities at the disposal of the individuals. Ergo, the problem is that an epistocratic system would only increase the likelihood that wealthy dominate political institutions, since oligarchic wealth is unlikely to be effectively tamed in a system where those directing common institutions are the ones we should control.

Focusing too narrowly on the defects of the many, epistocrats thus commit the mistake to just assume that the experts, at the opposite, possess – or are more likely to possess - the right answers to political problems. In this way, these philosophers neglect that the hazards for our societies are coming not only from the bottom, but also from the upper part of society. If we assume that there are substantive standards of the quality of outcomes, then individuals with superior knowledge could theoretically promote the best outcomes. Yet, these standards are empirically difficult to find, so it is not guaranteed that experts are more likely to make better decisions. As noted by Estlund's demographic objection, it *may* be the case, but this has to be proven, since it is possible to know what is better and yet not do it, and "experts may disproportionately have epistemically damaging features that countervail the admitted epistemic benefits of their superior wisdom" (Estlund 2008; 215).

To prove that their system is better than democracy, epistocrats must then demonstrate, and not just assume, that the fact that there is a small number of citizens that are wiser than the majority implies that the firsts should have the authority to rule. Estlund calls this problem the "expert/boss fallacy", for which citizens could rightly pose the question: "You might be right,

but who made you my boss?" (Estlund 2008; 40). Throughout history, scholars have often answered using the Platonic argument for which "best ones" should rule, but they have often omitted to explain why they ought to do so. In this way, they neglected that some individuals might be considered superior to others only in circumstantial terms, not in absolute ones.

To prove their argument that we ought to replace democracy, epistocrats not only have to define the meaning of best individual, but also if a difference in political knowledge is sufficient to legitimize the claim that inferior individuals should be excluded from politics (Pareto 1974 (1902); 336-338). In other words, when considering: "Who are the best individuals?", we cannot assume that they are just the individuals that perform better a certain task, since this would be a tautological answer, and as such not acceptable. Rather, we must focus on rulers' qualities such as wealth, education, etc., but this does not give a proper solution to why they should rule. Hence, the aristocratic argument for which superior individuals should rule is not logically sustainable in two regards (Pareto 1974 (1902): 340-356):

- *Personal interest*: it is possible to take wrong decision due to ignorance, but also for self-interest. Technical knowledge can avoid the first, but not the second. Some groups tend to lobby to have their interests pursued first rather than the common good, so in many circumstances the individual's likelihood to pursue the public good rather than the personal one is more important than technical competence (Pareto 1974 (1902); 340-342).
- *There are different kinds of competence*: often, the quality required to perform a task is different from the one owned by the individual that has to do it, so we need people with multiple competences<sup>47</sup>. In politics, this implies that we need different branches of government, a separation of powers, etc., but also that there are many types of useful knowledge that would be excluded if we used epistocratic means to restrict the people's participation. A prosaic example would be that of a farmer that does not know where the capital of a famous country is, but that has a significant knowledge regarding agriculture, farming, etc. Hence, since it is too difficult to specify which qualities are required to perform a certain task, we cannot use a single specific feature as pivotal to exclude some citizens from participating to politics (Pareto 1974 (1902); 343-347).

Epistocrats thus neglect that we cannot decide *a priori* who has to govern and who has to submit to power. It is relatively easy to support the claim that more knowledge entails better decisions,

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<sup>47</sup> Note that the difficulty of finding a precise ability required to rule is the argument against technocracy maintained by Ober when analysing the epistemic qualities of the Athenian system (Ober 2008; 91-93).

whereas it is instead extremely complicated defining properly which is the exact competence required for each task. This not only implies that it is almost impossible to legitimately exclude *a priori* a certain part of the populace from participating in the political direction of our societies, but also that epistocrats underestimate a fundamental sociological feature that is fostered in democratic systems, but that would unavoidably compromise the ability of an epistocratic government to produce better outcomes. That is, epistocratic governments would be negatively affected by the consequences of the “Thomas theorem”, for which “If men define situations as real, they are real in their consequences” (Merton 1995).

As stated by Oppenheimer (2012; 223), a fundamental aspect of democracy too often neglected is that democracy works well because citizens think it does and this has two main consequences. First, individuals want to have the right to participate to politics even if afterwards they do not use their power. Second, if they are excluded from participating to the government, or even only *feel* excluded, our democracies would perform worse than if people feel a part of society. It is in this regard that Thomas’s theorem helps explaining my argument.

To explain the consequences that this theorem could have, scholars usually use the famous metaphor of the failure of the bank. If wrong information that a bank is failing spreads among the population, individuals will hurry to the bank to withdraw their savings before they disappear. Yet, doing so, they create themselves the conditions for the failure of the bank, since it cannot afford a withdrawal of all its clients’ savings at the same time, even if it was the healthiest bank on the planet. In this way, wrong information - the bank is failing - has become real - the bank will actually fail - because people believed the news to be true and withdrawing their savings they created the failure.

This example describes our democracies, since these regimes operate well because citizens think that their political systems work reasonably well, even if not perfectly. Using Thomas’s metaphor, they think that the bank (democracy) operates well and they also deem as essential the fact that they play a part in it. In this way, they are both more likely to contribute directly to the enhancing of the common good and to accept the decisions taken by their representatives, since they deem this latter fair and democratic. On the contrary, if individuals are prohibited *a priori* the right to participate to politics or if they even just feel that they are unfairly limited from participating or that someone is unjustly privileged, citizens will stop caring about their political system, which is the democratic version of the withdrawal of all the bank savings.

The problem of epistocracy is that even in the ideal case of a government made of efficient experts, the fact that common citizens would be excluded from politics would compromise the likelihood that citizens continue taking part to the actions performed by civic society that positively contribute to democracies' social fabric. For example, a council can efficiently organise garbage collection, but this procedure will be effective only if citizens care about keeping clean their community. Hence, what I aim to stress with Thomas's theorem is that regardless citizens' biases and level of knowledge, only insofar as common people feel included in the political management of our societies, our societies will perform well. Otherwise, excluded citizens would develop a resentment towards politics that could not only lead to neglecting society's civic needs – safety, health, environment, etc. - but also to an increase in participation to harmful non-political movements.<sup>48</sup>

Democracy is then preferable to epistocracy on several regards, such as efficiency, equality, etc. Yet, it is above all on liberty, that epistocracy is inferior to democracy. The problem of defining what is the necessary knowledge to rule entails that this is not a quality on which we could rely to legitimately exclude *a priori* some individuals from participating to politics. If we did so, we would unavoidably hinder the liberty of those excluded. For this reason, I argue that all aforementioned epistocratic projects would perform worse than democracies. Overall, any system that suggests a restriction of the suffrage (Brennan 2011), plural voting in which knowledgeable people have more votes (Mulligan 2017) or an enfranchisement lottery (Lopez-Guerra 2011) would only accentuate the problems I just described.

First, the fact that it is difficult to define what kind of knowledge is fundamental to participate to politics implies that it would be impossible to legitimately give more power to a part of the population rather than another. Second, these measures would clearly categorize a part of the population as second-class citizens. Those excluded would feel marginal, disenfranchised and would be thus more likely to stop caring about the common good and to undertake dangerous non-political avenues. Creating categories of "B-series" citizens is then a serious hazard, since marginalizing certain groups not only hinders these individuals' liberty, but it could foster forms of social resentment that are always likely to lead to negative social behaviours.<sup>49</sup>

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<sup>48</sup> As I specify in other parts of the thesis, examples of these movements could be those connected to conspiracy theories or that could connect the official and formal decision to evil intentions, such as "No-vax" supporters.

<sup>49</sup> I do not have the space to analyse this topic here, but the negative effects of the ghettoization of marginal groups – ethnic (Brown and Vigil 2002), migrants (Maxwell 2009), gender (Griffin 2017), mental illness (Stewart 2019), etc. - has always been an important matter of study in social sciences.

Third, epistocratic measures would reduce even further the control of the populace over the oligarchic interference on the government and they would also legitimize even further the political power possessed by the elites. Being the selected ones, rulers would feel more legitimated in pursuing their views only, thus restricting the positive outcomes produced by a healthy democratic opposition. Hence, marginalizing certain individuals relying on knowledge would only create a class of resentful citizens that would be more likely to engage in negative social and political behaviour.

Fourth, for what concerns the idea of framing a federalist system with foot voting (Warren 2011), this project would be even more harmful than previous ones, since it would only favour citizens that have the means to move according to the place that suits better their needs – namely the wealthiest ones. This measure would thus increase inequalities among the populace, since they would allow wealthy ones to find the place better suited to their needs, while leaving the poorer ones stuck with no real opportunity to change their situation.

Finally, the epistocratic veto suggested by Somin (2013, 123-144) is an interesting issue, since it could seem similar to my thesis that we need contestatory institutions to control the operation of the governments. Yet, this is not the case, since there is a fundamental difference between my proposal and the epistocratic one: I will maintain that these institutions must be *popular* in character to empower the population against the oligarchic threat and not *vice-versa*. If we empowered the elites with contestatory bodies, oligarchs would not only still be able to affect the policies enacted by governments in their favour, but they would also have at their disposal a legitimate institution to block any measure aimed at restricting their wealth resources.

In sum, focusing too narrowly on the problems brought by the people's lack of knowledge and biases, epistocracy considerably neglects that we also ought to pay attention to whose interests are pursuing those with political power. In other words, if rulers were to privilege the interests of a few elites over those of the populace, we should first contain this aristocratic threat rather than the problems raised by the people's biases.

### **3. Conclusion**

This chapter aimed to sustain two main arguments related to the oligarchic side of the dilemma. First, that only insofar as we find an institutional way to tame the oligarchies/elites we can protect the people's liberty. Second, that none of the views I exposed in the second and third chapter is able to effectively contrast the democratic dilemma. Having explained why the



Oligarchic Threat compromises the defence of liberty from the authorial representative forms of democracy, it follows that I have to explain why I maintain that supplementing the authorial dimension with an editorial democracy could instead offer a solution.

In doing so, I must recall that my criticism to the authorial mechanisms of democracy does not mean that I argue that these procedures are useless. Rather, I claim that the authorial dimension is not sufficient to protect the people's liberty and that we thus need something different, namely something more that focuses on changing the people's participation in ways more compatible with citizens' biases and, above all, towards challenging and taming oligarchies. Therefore, the question becomes towards what kind of purpose should we re-direct the people's participation and whether or not there is a way to defend democracy despite the two sides of the democratic dilemma. In my opinion, the answer to this question is positive and it can be found focusing on the republican ideal of freedom as non-domination (Pettit 1997).

## 4. FREEDOM AS NON-DOMINATION AS A SOLUTION TO THE DEMOCRATIC DILEMMA

### 4. Introduction

I concluded the last chapter saying that the aforementioned views about democracy are unable to defend the people's liberty due to the democratic dilemma. We should thus look for a different ideal. The aim of this fourth chapter is to explain the view I think we should pursue instead - Pettit's view of freedom as non-domination (Pettit 1997) - and the reasons why we ought to do so. The argument I develop in the following chapters is that we should look for a supplementary institutional way to prevent citizens from being dominated in our societies, and that these institutions should be contestatory in character.

Stressing the importance of what Pettit calls the editorial component of democracy (Pettit 2000) will allow me to conceptualize the democratic dilemma as being formed by two different kinds of domination that must be prevented: first of all, we must block oligarchies from dominating the population; and secondly, we must also take care that the citizenry, due to their biases, could end up dominating themselves if their political participation is not channelled properly. In this regard, the threat does not concern only the people as collective dominating people as individuals, but also the problem that taking bad political decisions, the people as community could eventually end up hindering society's overall level of liberty.

Having described Pettit's republicanism in the first chapter, I start this chapter analysing how this ideal is connected to the contestatory and editorial dimension of democracy (4.1). As noted, republicanism does not consider all interference dominating, but only those that pose an arbitrary interference over the people's lives. Hence, conversely from other liberal views that are sceptical regarding state's intervention in public life, Pettit specifies that freedom as non-domination requires the intervention of the state to protect the people's basic liberties. Yet, at the same time, he argues that we must also make sure that the state's institutions do not become dominating. To do so, we must *supplement* authorial democracy with an editorial dimension, namely creating bodies by means of which the citizenry could control institutional power, thus making sure that this latter does not become a dominating *imperium*.

I will then be able to explain how the republican ideal can face the democratic dilemma better than the ideals of democracy previously introduced (4.2.). On the one side, it can challenge the oligarchic threat by framing interference by the wealthy on governments as a dominating

interference that must be institutionally prevented (4.2.1.). On the other side, the focus on preventing domination is a kind of political effort more compatible with the people's biases than the authorial focus on direct participation or on meaningful elections (4.2.2.).

Republicanism's popularity has increased over the last few years and together with this increase, numerous criticisms have raised, both within and outside the republican framework. To prove that non-domination can challenge the democratic dilemma, I thus analyse the main points of this debate over republicanism (4.3). I explain the main criticisms, yet arguing that the critiques are not sufficient to compromise the non-domination ideal and that I thus believe that this latter is still the best view on which to found our democracies.

I then conclude this chapter by explaining that arguing in favour of an editorial and contestatory democracy entails reconsidering the kind of behaviour we deem as acceptable in a democratic system (4.4). That is, as described by agonist scholars such as Mouffe (2000) Laclau (2001) and Rosanvallon (2011), disagreement and conflictual debate must be reconsidered as a legitimate and democratic political interaction and not as an avoidable bad. In this way, I will consider the first part of the thesis to be concluded, since I will have explained what the problem is, why the main conceptions of democracy do not resolve it and finally, why I think that pursuing the republican ideal of freedom resolves the democratic dilemma. This will give me the theoretical tools to start the second part of the thesis, where I deal with the institutional debate on how to best implement the people's editorial contestation.

#### **4.1. Pettit's editorial democracy**

The republican ideal of freedom is closely connected to Sen's capability approach, since enhancing the people's capabilities is the same goal as enhancing freedom as non-domination. That is, granting individuals the capabilities that are pivotal in determining the quality of their lives is the same goal as focusing on giving the individual a personal power over what happens in her life that is independent from external conditions such as the preferences of the powerful (Pettit 2001; 16). Hence, considering freedom as a power entails conceiving it as a good that citizens have and that must be promoted and protected if we want to avoid domination from occurring at the social level (Sen 2001).

This conception of freedom could seem similar to the positive liberty one, but maintaining that individuals must have the resources to achieve the kind of life they deem valuable is different from the claim that only insofar as citizens realize their self-mastery they can be free. Drawing

on the first entails that an individual must not suffer domination when she tries to satisfy her will, but this purpose does not have to be directly related to political self-government. Positive liberty scholars' main question – “Who governs?” - is not essential to prevent domination, since I may not be interested in who made the policies that regulates the framework in which I act, as long as I have the opportunity – the resources and the absence of obstacles – to achieve the kind of life I deem valuable.

For this reason, not only self-government might not be necessary, but also opposite to republican freedom. For example, if I deem an epicurean escape from society as a fundamental functioning to realize my capability, I will not take part in any political decision, but as long as the societal framework allows me to realize my will without suffering any domination I will be a *liber* and not a *servus*. In short, the pivotal feature of a republican framework is that I must not find any domination when I want to satisfy my will and if governments guarantee this, who produced the conditions for this to happen will become secondary, as long as I also possess the anti-power to act if I feel that there has been a dominating change in these conditions.

The question then becomes how individuals can use this anti-power and Pettit's answer is that we ought to add a supplementary component to our authorial democracy, namely an editorial democracy by means of which citizens can analyse and contest government's policies.<sup>50</sup> As maintained by Skinner (1998; 5), in contrast to liberals who adopt a conception of liberty as “non-interference” thinking that “where law ends, liberty begins”, republicans hold that a proper law is constitutive of liberty, since as the laws create the authority that rulers enjoy, so they create the freedom that citizens share. In more in detail, there are four reasons why laws and institutions are the best agents to maximize liberty as non-domination (Pettit 1997; 92-97):

- Conceiving the pursuit of non-domination as a private effort only leads to a very unequal distribution of non-domination, since the weakest citizens could be unable to achieve their goals relying on their own efforts only and they could thus turn up at the mercy of the strongest ones to do so. That is, a framework without laws is more likely to produce domination and to render those with social or economic difficulties slaves of the strongest.

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<sup>50</sup> This does not entail that no existing democracy already encompasses a form of editorial democracy. There are some institutional mechanisms in some constitutions that may be conceived as editorial, such as the popular initiative for the abrogation of the laws, present, for example, in the Constitution of Uruguay (Altman 2002).

- The state's institutions are well suited to pursue the goal of non-domination: governmental institutions can be designed to maximize the expected general non-domination among those who live under the system, thus increasing the common good.
- If the state removes domination in one area, that will not make it more difficult to fight domination in other fields: laws can protect citizens against the resources of those who would have power over them, while at the same time avoiding introducing any new domination. Power is not a constant sum, so if institutions get rid of certain forms of domination without putting any new forms of domination in their place, then they promote anti-power (Pettit 1996; 588).
- Finally, law does not necessarily *compromise* freedom, but it *conditions* it: the state's interference may not be dominating if it respects individuals' common interest.

In an ideal republican political system, the state's institutions are necessary to promote non-domination, up to the point that they constitute the very non-domination which citizens enjoy under the rule of law: institutions interfere in the life of the citizens, but at the same time they inhibit other external agents – those that may produce domination - from interfering (Pettit 1997; 95). The ideal relationship between institutions and non-domination is thus that the first are the inhibitors present in our society that prevent arbitrary interference in individuals' lives.

The state should be granted sufficient power to protect the citizenry, but at the same time, we should also be cautious in giving power to institutions, since governments, due to the power they need to contest domination, could become a greater threat to liberty than any threat they seek to remove. As stated by Price (1991; 30) "there is nothing that requires more to be watched than power", so even though institutions are fundamental to promote non-domination, we must always be aware that those in power may not be corrupt, but they are always corruptible.

According to Pettit, republicans' task is then to organize the state so that its interference involves little arbitrariness, namely with a high range of responsibilities, but not a large range of independent powers. To do so, three features must be respected (Pettit 1997; 160-171). First, the instruments used by the state should be *non-manipulable*: no individual or social group should have discretion in how the public instruments are used. Second, there should be a space for *contestability*, since no citizen can be unjustly silenced and each one must be able to contest if another agent has interfered with her interests (Bohman 2015). Finally, since in a republican framework everyone is considered to be corruptible, there ought to be a system of checks and balances which guarantees that representatives pursue the republican goal of non-domination.

The threat for the people's liberty is then that governments could become an *imperium*, namely a dominating presence itself, so laws have to make the rulers constrained by some rule as well and government's outcomes must be egalitarian (Pettit 1997; 171-230). To do so, we ought to determine up to which point the state ought to be allowed to interfere in people's lives to guarantee the overall satisfaction of the basic liberties necessary to avoid domination. Pettit's solution is to use an "eyeball test" to establish whether each individual is granted the power to "look others in the eye without reason for the fear or deference that a power of interference may inspire; they can walk tall and assume the public status, objective and subjective, of being equal in this regard with the best" (Pettit 2012; 84).

For this test to be satisfied, citizens must have the same level of private freedom in the same choices, they must be granted the basic liberties to do so and two requirements must be respected. The first is "*co-exercisability*": the choices to be defended ought to be capable of being exercised by each and by all and those that are inaccessible to particular people and that people cannot exercise together should be outlawed (Pettit 2012; 87-88).

At the individual level, this implies that each individual must be able to determine how she wants to act – I must be free to make up my mind as I want – and that this must not be determined by anyone else. However, an individual's will is contingent on some constraints that cannot be regulated by the state and that are thus not subjected to this condition. For example, freedom of movement within a country must be granted to everyone - even those with a special handicap - but this does not mean that the state should grant everyone the resources to climb the highest mountain in the country.

For what concerns the social level, the state ought not necessarily to regulate the decisions that depend on the others – it does not have to provide me with a team if I decide that today I want to play a football game – but it must regulate the resources that allow people to do so if they all want to. Hence, co-exercisability implies that even though not all resources can be accessible at once by all – we cannot decide to leave the room all together because the door would be too narrow – everyone "must enjoy the basic liberty in exercising the corresponding rule-dependent choice" (Pettit 2012; 97).

The second condition is "*co-satisfaction*", according to which the choices ought to be capable of satisfying each and all. That is, the state must guarantee that individuals enjoy at the private level the anti-power discussed before, both at the individual and social level. The former entails

that personal choices that promote welfare of those who make them ought to be considered as basic rights and as such promoted and defended by the state. Yet, governments' laws must balance this individual aspect with the social component, since the fact that some are enjoying these choices must not imply that others are ceasing to enjoy them as well.

The general rule is that "if the expected cost of setting effective precautions to an agent in the exercise of some choice is less than the expected cost to others of the harm associated with the choice taken without precautions, then the choice should only be allowed when relevant precautions are in place" (Pettit 2012; 99).<sup>51</sup> In this way, the state will be able to guarantee the conditions for citizens to look others in the eye, since individuals will be able to realize the choices that are individually and collectively equally exercisable and satisfying. That is, each individual will not be subject to any other individuals' will, so she will be able to fulfil her liberty free from any master's interference.

The "co-satisfaction" condition makes sure that private liberty is defended, but the role of a republican state is also to grant that no one is dominated at the social and political level. As noted, we ought to do so aware of the fact that also at this level the state could become itself a dominating presence. It is in this regard that we must have two dimensions of democracy (Pettit 2000; 114-117). To fulfil the *authorial* side for which we should give citizens the collective authorship of public decisions, Pettit argues that governments must have assemblies able to channel the people's influence and these institutions can be divided in three categories, with the third one being, according to Pettit, is the one we ought to adopt (Pettit 2012; 187-238):

- *Plenary assembly*: it requires individuals to gather together to enact laws directly. According to Pettit, its problem is that it is subject to the discursive dilemma<sup>52</sup> and that it is unfeasible with a large population. Hence, we must look for a representative model.
- *Indicative assembly*: it is a "microcosm of society", composed of a randomly selected sample of the community. Representatives are proxies of their voters and are immune from constituents' pressures thanks to lottery selection and periodical changes (Pettit 2012; 196; Guerrero 2014). This assembly leaves a lot of freedom to the representatives, since these latter do not have to care excessively about the pressures coming from their electorate. This

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<sup>51</sup> For example, following just the individual assumption, stealing would not be blocked, but this second condition makes sure that such action is outlawed.

<sup>52</sup> The discursive dilemma is a paradox for which aggregating judgements with majority voting can result in self-contradictory judgments. According to Pettit, this paradox makes it impossible to make simple statements about the beliefs of a group (Pettit 2002).

immunization could have positive outcomes, since representatives may solve problems without having to deal with accommodating different interests or having to deal with the people's biases. However, this would be nonetheless unacceptable, since concentrating too much power in the hands of the selected rulers, it would leave those subjected to the formers' decisions no chances to object in case the choices taken entailed domination.

- *Responsive assembly*: the causal connection between representatives and constituents is different from the connection in the indicative case. In the previous one, representatives vote to reflect how citizens would have done if they could have gathered all together, whereas here votes are consequences of what the representatives believe to be the dispositions of the constituents (Pettit 2012; 197-202). This latter has three main advantages: it is more likely to enhance the basic freedoms necessary for people to be politically active; it has a greater capacity to generate and test alternative policies and it is also less likely to violate the principle of non-domination, since it lacks the concentration of powers of the indicative one (Silva 2015; 13-15).

As noted, Republicans acknowledge that responsive assemblies are necessary, since they force individuals to exercise their authorial power. Yet, they maintain that relying on elections only – a procedure that does not grant sufficient influence over governments' decisions - they are not sufficient to protect citizens from domination. In each election, there will always be a losing minority, so it is important that those who are bound to be on the losing side are not identified by their disposition to vote in a certain way (Pettit 2012; 210-214). To protect the people's liberty, democracy thus needs institutional contestatory remedies in case elections fail to give citizens an equal chance of influencing governmental decisions (Pettit 2012; 238).

Republicanism argues that there is a supplementary dimension to consider, since citizens should not only have the right to vote and stand for office, but also the right to oppose the law, saying no to fix something already created by governments. This editorship is connected to the legitimacy of the system, since Pettit argues that a democratic regime is legitimate only as long as it is able to sustain citizens' contestation, assumed that opposition occurs in ways allowed by the system. Legitimacy is then connected to the people's editorial power, namely to how far can people control those in power on an equally shared basis. According to Pettit, we should decide this level of control by means of a "tough-luck test" (Pettit 2012; 175): if you had enough power to express your say over a decision, then you would think that if the final outcome is different from your will, it is a matter of bad luck, and not of domination.



This editorial test ensures that each citizen is not subject to an alien controlling will and this will be satisfied if individuals have good grounds to think that any unwelcome result of public decision-making is just though luck. With an editorial democracy, citizens would not only know that they played a part in the authorial decision, but also that they had the chance to contest and express their objections to the enactment of a certain law. If the law is enacted despite this editorial effort, the individual will still be a loser of this political game. Nonetheless, the loser citizen will be more likely to accept the decision as just tough luck and not as a form of domination by external interests, since she knows that she has had the opportunity to challenge and contest the approval of that specific law.

Therefore, the “eyeball test” measures *private* liberty and aims at protecting individual liberty for the system to be just<sup>53</sup>, while this second dimension determines whether the guards against *public* domination are efficient and must thus be respected if the political system wants to be considered legitimate. Hence, it is by means of an editorial democracy that non-domination can challenge the problems raised by both sides of the democratic dilemma.

## **4.2. The republican answer to the democratic dilemma**

### **4.2.1. Challenging oligarchic domination**

I previously explained that the political power enjoyed by oligarchies is a significant threat for the overall level of freedom enjoyed by the citizenry, since wealthy elites use their wealth resources to shape the political operation of our societies in order to make sure that their personal interests are privileged over those of the many others. However, this is contrary to society’s freedom as non-domination. In a republican framework, individuals are *libers* only insofar as they can use the resources necessary for them to realize the life they deem valuable.

This does not imply that governments are required to provide all these resources, since some of these can be cultural and thus outside state’s direct control, other could be social or economic and thus provided by markets, etc. Rather, government’s institutions must make sure to guarantee that no individual or group prevent others from accessing the resources they need. In other words, democratic institutions must protect the people’s access to the functionings they need to foster their capabilities, since if institutions fail in doing so, domination will occur.

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<sup>53</sup> An in-depth analysis of the debate about social justice exceeds the purpose of this thesis. Some focus on how society’s major institutions manage to protect need, desert and justice to consider them as just (Rawls 1999; Miller 1999; 93-96); whereas others - as Nozick (1974) - maintain instead a more procedural approach focused on the outcomes generated by society’s institutions. However, despite the differences, there is a certain agreement that well operating institutions are fundamental to guarantee a certain amount of social justice.

This does not imply that we have a dichotomic situation in which the citizenry is either dominated or free, but that there is a continuum where the better the state defends citizens' access to the functionings they need, the less citizens are dominated and the freer they are.

It is in this regard that elite interference may be dominating, since if oligarchies sway the operation of common political institutions to have them working for their own interests rather than for the common good<sup>54</sup>, they will affect and restrict what primary resources the people can access. For example, I previously mentioned that a failure of the state to protect citizens' *basic* freedom of movement within the country will result in a certain level of domination. If we consider public transport, this means that anyone must be able to access the primary resources to be able to move from point A to B – if it is for a reason that can be considered basic - if they so wish and regardless of their social and economic status.

Citizens must then be able to access buses, trains, etc. and if some individuals are too poor or unable to use them, a state must intervene to fix this problem. Eventually, this is the concept at the basis of most universal welfare systems. In this example, an economic elite that swayed the public transport system to focus mainly on producing profits, deeming as economic losses the special needs of some minorities, would cause domination in the latter's lives. In this regard, Crouch's example of how neo-liberal policies are swaying welfare systems towards focusing more on profits rather than on being equally accessible to the populace is the best example of how oligarchies could produce a dominating hindrance over the populace.

The problem is not only that oligarchic domination hinders governments' likelihood to enhance policies that focus on the wellbeing of the many, but also that citizens will miss an institutional chance to stop these policies from causing problems once enacted. The *a priori* and *ex-post* lack of control of the populace over oligarchic interferences in the operation of the public institutions favours the domination of elites over the many. We thus ought to limit the abuse of power by oligarchs in two ways. First, we have to ensure that the sources of wealth owned by an individual do not determine the political outcomes of our political systems. Second, we must make sure that oligarchic interference does not damage the efficiency of this latter in granting the people access to the basic liberties they require.

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<sup>54</sup> Maintaining that citizens must possess the basic liberties required to fulfil their interests implies that we can conceive the common good as the level of basic liberties that citizens enjoy in fulfilling their functionings. Hence, the more resources individuals have to fulfil their will, the freer and the less dominated they are.

I acknowledge that achieving this goal on the whole may be utopian, since Winters's and Higley's historical analysis explained that the wealthy few, directly or indirectly, have always been one of the main factors determining the political shape of our social systems. Moreover, the consistent presence of oligarchies in different places, social systems and historical periods entails that this oligarchic threat would be present in any form of economic system and it is not necessarily related to a capitalist organization of the economic system as maintained by some Marxist scholars (Thompson 2018). Yet, I do not think that this constant presence entails that we are doomed to live in political systems where few wealthy master the many slaves, since we do not need to eliminate entirely the source of the oligarchs' power to limit their domination, but it could be sufficient to find a way to circumscribe and tame their power.

Therefore, the republican answer to the oligarchic threat is that non-domination gives the people *supplementary* institutions contestatory in character aimed at empowering the people's attempt to defend their freedom. A focus on preventing domination does not challenge the oligarchic threat only, since it could also counteract the problems raised by the people's biases.

#### **4.2.2. The people's lack of knowledge, irrationalities, and domination**

Many of the aforementioned views maintain that to be legitimate, democratic procedures must be tightly connected to the will of the citizens. The republican literature shares this concern, since it considers this connection pivotal for state's interference to be acceptable and not dominating. Hence, when the people's biases compromise the correspondence between the people's interests and political procedures, the risk is that both the operation of democracy and people's liberty could be compromised. However, whereas I think that this is true for aforementioned views, I maintain that republicanism is able to counter this objection.

I maintained that the problem of both direct and representative democrats is that they overestimate the individual's ability to perform the basic democratic tasks required of them, while at the same time underestimating the conflictual component of politics. Furthermore, in the contemporary democratic literature it is often underestimated how difficult politics is and also how complicated the life of the average citizen is. When we discuss politics, we are confronted an endless array of issues that is extremely complex and time consuming to deal with. Due to these problems, it is no surprise that many citizens restrict the time and effort they spend on dealing with the political management of their political communities as well as on being informed regarding its operation.

The fact that individuals are unavoidably affected by irrationalities or lack of knowledge does not imply that all citizens are necessarily unreliable and that they do not care about the common good. Rather, it implies that it is unlikely that the people could be sufficiently knowledgeable to master politics on the whole or to use meaningfully the procedures to select their representatives. Hence, we must find a way to make use of the good in them while at the same time limiting the hazards that citizens could inflict on themselves due to their lack of knowledge or biases. In my opinion, republicanism allows us to do so better than these views thanks to its distinction between three political dimensions in which citizens can find themselves, where each of these categories has both an individual and a social level:

- *Master*: at the individual level, the citizen has the knowledge and capacities necessary to deal with the political environment in which she is situated. At the social level instead, it refers to the fact that that person has a certain dominating power over someone else.
- *Slave*: the individual does not have the knowledge to deal with politics at the individual level and she is also subjugated to an external arbitrary will at the social one.
- *Liber*: the citizen may or may not master politics, but in the second case her lack of knowledge does not imply a subjugation to someone else's will. That is, regardless her political knowledge, to enjoy this condition, the individual must not be dominated at the social level.

In a republican framework, to be a free citizen, one does not necessarily have to be a *master*, but it is sufficient for her to avoid being a *slave*. In my opinion, the republican ideal achieves this goal because it does not restrict its demands towards limiting the people's political participation. Rather, it focuses primarily on requiring a different *kind* of political behaviour from the citizenry, focusing on transforming slaves into *liber*. To be a *liber*, the individual does not necessarily have to be the rational individual involved directly in most of the political decision as required by positive scholars or to be able to perform the tasks required by the minimalist paradigm. These are efforts necessary to *master* politics, whereas for a *liber* it is sufficient to be free from any social dominating will that could enslave her. Hence, the individual's political knowledge must have no effects on her liberty at the social level.

Even though citizens do not possess the level of knowledge necessary to fully fulfil the authorial tasks required them by participatory and minimalist literatures politics, they can nonetheless perform the editorial effort necessary to avoid domination. Citizens can do so because they must be granted the basic liberties necessary to achieve the kind of life they deem valuable, but this does not imply that they are the ones supposed to create the conditions for

these resources to be available. In contemporary societies, representative governments are the bodies that are supposed to fulfil this task. The problem is that due to oligarchic interference governments are not doing so, so we need to pose a popular editorial control over governments to make sure that these institutions operate for society's wellbeing rather than to satisfy oligarchic interference only. This editorial control does not necessarily require a high level of political knowledge, since the State must grant the basic liberties and individuals only have to decide whether and how to use these resources to realize their will.

An editorial democracy then requires an easier task than the authorial one, since individuals "just" have to focus on the hindrances that prevent them from realizing their will and then use their republican anti-power accordingly to challenge them. Ergo, an editorial democracy can deal with the people's biases because it channels the people's participation towards a kind of behaviour that they are able to sustain. While an authorial democracy is too demanding because it asks citizens to create the structural conditions for the people to be free, an editorial democracy asks citizens to control that the conditions required for them to be free are not hindered by oligarchic interests, which is an effort more compatible with the people's biases.

For example, a citizen may lack the knowledge required to select which representative or party will better realize her interests, but this does not entail that she does not know why she is voting for either one or the other. A citizen votes for a certain party because she thinks that the party will afterwards better realize the conditions for her to fulfil the kind of life she deems valuable. In doing so, she may fail and her liberty may be restricted, since she may choose representatives that do not act towards such goal. Yet, while this compromises the defence of liberty offered by political systems framed on authorial institutions only, it does not necessarily hinder citizens' republican freedom in a system that encompasses editorial institutions. If after the elections the betrayed citizen is still unable to realize her will, it will be easier for her to look for the reasons why she is unable to do so, since it will become clearer to her what the hindrances to her capabilities are and which basic liberties politicians are failing to grant her.

The editorial democracy will thus play a pivotal role at this stage, giving the individual the means to block the hindrances that are preventing her from doing so. I acknowledge that citizens may possess neither the knowledge necessary to create the framework in which realizing their freedom, nor the ability to select representatives that do so, but I nonetheless maintain that they possess a sufficient knowledge to know what kind of life they want to live and to determine if there are oligarchic interferences that prevent them from obtaining it.

This aspect stresses also a less obvious feature related to the people's biases. That is, there is a risk that the people could enslave themselves – as noted, both for what concerns the people as a collective agent towards single individuals and the *Popolo* as community that damages their interests against *Grandi's* interests - without the arbitrary interference of an external will. Pettit primarily focuses on the invasive hindrances of an external arbitrary will on ours, but this is not sufficient to counteract the first side of the dilemma. If my lack of knowledge drives me either to take bad decisions for myself or to cause damages to others' freedom, I will not be a *liber* in either case. In the first one, I will be a *slave* of my own lack of knowledge, whereas in the second one my biases will produce arbitrary interference on others' freedom and as such I will be a *slave* at the individual level and a *master* at the social one.<sup>55</sup>

Changing the kind of popular political participation – the negative effort – non-domination can thus offer a democratic ideal that can be pursued also by irrational human beings. Previous views focused on how the populace could become the democratic *master*, but they all fail in this respect because mastery and individual lack of knowledge and biases are mutually exclusive. It is unlikely that individuals will possess the qualities necessary to *master* politics, since they differ in physical, mental and spiritual characteristics, and the influences from the social environment are so strong that we cannot entirely escape them.

On the contrary, adding a further dimension to democracy – the contestatory one - republicanism focuses on avoiding the possibility that dominating interferences convert *libers* into *slaves* and on giving the latter the functionings necessary for them to free themselves. To fulfil this effort, the citizen must not necessarily be a perfect and rational agent, since she only has to make sure that she is not a slave of the invasive hindrances, including the ones she could pose to herself due to her lack of knowledge. Hence, it is easier for citizens to control and challenge the dominating hindrances that prevent them from realizing the kind of life they deem valuable than to create the conditions they need to realize their freedom.

An objection to this statement is that since it is difficult to understand what hindrances are affecting your liberty, citizens may find it difficult to target domination. I acknowledge that this is a challenging issue, but I think that we can resolve this problem by connecting the filtering procedure of an editorial democracy with a target on oligarchic power. By means of modern tribunates, citizens could not only control government's policies, but they could also

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<sup>55</sup> An example is the aforementioned vaccine issue. If I do not vaccinate my children, I will not be a *liber*, but a dominating master, because I am causing a domination at the social level on someone else's freedom.

restrict the target of their editorship, since they could control whether or not policies encompass oligarchic features. That is, the answer to why would an editorial democracy be more compatible with the people's biases is that modern tribunates would narrow down two times the kind of participation required to the citizenry.

First, I underlined that citizens' editorship would be easier because *controlling* that external hindrances are not dominating is easier than *creating* the conditions to be free. Second, an editorship would give citizens a specific target, namely oligarchic power. When we vote, we have to consider many different features and the extent of the choice may result overwhelming even for an expert in political sciences. On the contrary, a specific target would give citizens a clear framework where they would only have to decide whether or not certain policies clearly favour oligarchies over them. This effort is more compatible with the people's biases and this is why I argue in the last chapter that it is essential to specialize the role of modern tribunates.

Avoiding domination is then connected to developing the right institutional framework, since to do so we must look for an institutional way to guarantee that citizens do not become slaves of their biases, that because of them they do not impose a form of slavery on others and finally, that they have the means to challenge the dominating hindrances that affect the basic liberties they require to realize their will. The main question then becomes what kind of institutions do we need to enhance the republican ideal, which is the debate I analyse in the second part of the thesis. Before doing so, I consider the criticisms towards non-domination, since not everyone in political literature agrees that we ought to frame our democracies on Pettit's view.

#### **4.3. Is non-domination the right ideal to pursue?**

Pettit's ideal has been challenged from two perspectives, namely both within and outside the republican framework. For what concerns the first, the most famous objection has been raised by Quentin Skinner (1998; 80-85), according to whom republican freedom is not only about domination, but it regards both non-domination *and* non-interference. The difference between him and Pettit is not a radical one, since they both see as the best-case scenario the one where there is neither dominance or interference and as the worst one that with both.

However, they conceive differently the scenarios between the two extremes, since Pettit thinks that domination without interference is worse than interference without domination, whereas Skinner considers them as equally bad. This difference is important, since if we followed Skinner's version, we would neglect that even though domination and interference-minus-

domination do both restrict choice, domination is a worse way of restricting choices than a mere interference, both at the individual and social level (Pettit 2002; 346-348).

At the individual level, if you are subject to a master, this latter always has the power to eventually restrict your liberty, so you end up planning your life accordingly. Without proper safeties and defences against possible domination, you will then not be able to freely plan your life as you wanted to, since you will always avoid those choices that may upset your master. At the social level, domination causes an asymmetry of status among the populace, since it is a matter of common knowledge that that someone is dominated by the will of another.

As noted by Sen, liberty implies being able to live without shame amongst your fellow citizens. If it is common knowledge that you are dominated, you will not be able to do so and it will be rather more likely that you restrict your choices to avoid the shame that result from this situation. Despite the differences, Skinner's challenge to non-domination is not structural and it can be reconciled with Pettit's theory. By contrast, there are some critiques to non-domination that contest the validity itself of this concept. Overall, I think we can find three main criticisms:

*A) Potential or actual domination*

According to Simpson, non-domination may involve a conundrum that renders the concept itself of non-domination impossible. In a republican framework, to be free from *imperium* – the domination of public power – citizens must have the power to resist the state, but at the same time their power must be limited to prevent *dominium* – the abuse of personal power. That is, citizens must be powerful, but they must also not be so, so the problem is that they may end up being dominated by either the state or by the people (Simpson 2017; 28-29).

To understand this problem, the concept of control is essential. As noted, republicans argue that state interference is not dominating if it occurs on terms imposed by the citizenry. The state can thus protect citizens from *dominion*. Yet, at the same time, we must control the state from becoming an *imperium* by granting citizens the power to resist government's possible abuse of power. According to Simpson, the problem is that individuals do not act as single agents, but rather as groups, so the fact itself of living in a society exposes you to arbitrary interference, since there will always be a citizen, or a group of them, that coordinating acquires the power to eventually arbitrarily interfere in your life (Simpson 2017; 34-36).

A solution to this problem is to conceive non-domination as a power owned by the people as a group and not by single individuals. Yet, this would only solve the *imperium* problem leaving



aside the *dominium* one, namely that it is the people with whom that individual might control the state who eventually may dominate her. The impossibility of non-domination is then determined by the fact that since we cannot remove the chance that someone could *potentially* dominate you, there will always be a master – either an individual, a group, or an institution – that could potentially dominate you (Simpson 2017, 37).

Simpson yet specifies that the fact that there will always be a potential master does not entail that you are always dominated. Rather, “potential domination” and “actual domination” are different: the damage comes when potential domination’s occurrence becomes probable, whereas its mere possibility is irrelevant. The problem for republicanism is that non-domination differentiates itself from non-interference for its focus on potential domination, but if there will always be someone who possesses the power to eventually dominate you, republicanism may be impossible to obtain. The republican conundrum lies in the connection between control, imperium and domination: to prevent imperium, we must give private citizens a form of power that would open the gates to dominium and vice versa (Simpson 2017; 37-40).

According to Simpson, the solution is to reject the externally controlled will requirement to focus instead on the people’s *civic virtue*, since even if they potentially could, individuals with sufficient civic virtue do not actually threaten my liberty. Pettit maintains that one enjoys republican liberty only insofar as there are institutional arrangements that ensure that one is not vulnerable to someone else’s interference. Yet, Simpson argues that this is not possible, since we must rely on other citizens’ civic virtue to be free: when you live in society, there is no institutional structure that always ensures that no group has the potential power to invade your will. Hence, rejecting the externally controlled will requirement we could get rid of the potential conundrum that compromises liberty as non-domination (Simpson 2017; 48-53).

Simpson thus argues that non-domination is impossible because, living in society, individuals face a conundrum for which the power needed to counteract *dominium* will favour the state’s *imperium* and vice versa. In this way, non-domination is impossible because there will always be someone that possesses the potential ability to eventually dominate you. However, I think that Simpson focuses too narrowly on only one agent of the dominating relationship, since he considers as the main character of the relationship the master A, whereas in a non-domination framework, it is mostly on B that we ought to focus.

In this way, Simpson neglects that non-domination is a form of power owned by B and not only a reduction of A’s power. That is, non-domination does not maintain that we must

completely eliminate A's potential power to dominate, but rather to give B the power – this is the importance of defining it as *anti-power* – to contest this domination if it were to actually occur. Republicans acknowledge that the idea of getting rid of all potential domination would be naïve. Nevertheless, this does not imply that non-domination is impossible, since giving B the anti-power to counteract domination, we can make sure that the master will be eventually be unable to realize her domination.

Non-domination is thus a defensive power given to citizens that allows them to plan their life freely. Individuals know that there will always be potential threats to their liberty. Yet, they will be confident that they can preserve their liberty if they know that they have the means to face these threats and if they can be sure that the context where they act encompasses institutions aimed at defending them from domination even in case individual means failed. Moreover, the fact that we must not only contest the state's *imperium*, but individuals' *dominium* as well, does not necessarily imprison individuals in a domination conundrum.

Republicanism stresses the hazards brought by potential domination, but it does not do so with the purpose of eliminating this potential hazard. Rather, it aims to give those that may be subjected to it an institutional anti-power to prevent this possible domination. In a nutshell, non-domination is not a naïve ideal that focuses on preventing masters any power to *potentially* attack, since it acknowledges that there will always be classes and groups more powerful than others. Rather, republicanism centres on finding a way to give B a power to *always* counteract any dominating interference. It is in this regard that editorial political institutions analysed in the next chapters become essential, since they are the only instruments by means of which we can create a free context where the people's freedom will be respected.

### *B) Republicanism is non-democratic*

The second criticism concerns the fact that even though the non-domination ideal was feasible, it would still not be acceptable because it hinders democracy. According to Urbinati (2012; 610), while democracy entails fostering the people's direct participation to make sure that we obey the laws we make, Pettit's republicanism is more focused on containing power and it thus does not conceive self-government or political equality as fundamental. Moreover, considering the tyranny of the majority as one of the main threats to democracy, Pettit shares Cicero's aristocratic view that politics is an expression of virtue and not of liberty, which leads him to sustain the non-democratic argument that institutions have to moderate and not cancel inequalities of status and honours (McCormick 2013; 113-115).

Urbinati thus criticizes Pettit's "Popular/populist" conception of democracy – the Roman one – since this conception is opposite to the "Athenian" view for which democracy is a complex institution where minorities and majorities can cooperate. In the Roman system, voters acted not as individuals as in Athens, but rather as members of a specific social group, so whereas in Athens the people were associated with equal liberty to contribute to the making of the law, in Rome social differences determined political participation and thus precluded the *isonomia* assumption fundamental for a system to protect the people's liberty (Urbinati 2012; 611-612).

In a nutshell, Urbinati criticizes republicans' argument that "liberty under law had nothing to do with their having a voice in the government" (Pocock 1981; 357). That is, republicans do not believe that self-government can produce good outcomes, since they argue that this system gives preference to quantities rather than competence and equality. However, the problem is that in this way they justify inequality rather than promoting the people's equality, which has always been a characteristic of non-democratic governments (Urbinati 2012; 613-616).

Maintaining that only a non-arbitrary law can be a guarantee against the action of the master, republicans thus neglect that liberty is tightly connected to equal political participation and that the question of political legitimacy is a precondition of secure liberty. Hence, Urbinati argues that democrats cannot dissociate political equality from liberty, so only defending an equal relationship of power among citizens and an effective right to express one own's opinion, law can make sure to respect the people's liberty (Urbinati 2012; 618-619).

This second criticism stresses that there is a tension between non-domination and democracy. However, I think that republican liberty is compatible with democracy, since Urbinati does not criticize the republican ideal of liberty, but Pettit's way of framing an editorial democracy. As noted, this latter is a contestatory dimension designed to supplement the authorial side of democracy; not to replace it. Citizens would not lose their authorial power and their ability to be involved in the making of the laws to which they will be subjected, but they would rather acquire a supplementary means to defend their liberty if those laws turn out to entail domination. Hence, republicanism is not antithetic to the Athenian ideal of democracy, but it rather maintains that in modern societies this ideal is unlikely to be fulfilled and that we thus need to empower citizens with further editorial means if we are to protect them.

The question regarding how we ought to structure an editorial democracy is the topic I analyse in depth in the next chapter, but it is here sufficient to specify that Urbinati's criticism is focused narrowly on Pettit's non-political bodies only (Pettit 2000) and not all forms of editorship. As

I describe later, I agree with Urbinati that Pettit's decision to frame the editorship on small committees of experts is non-democratic. However, this does not imply that a roman republican tradition is non-democratic, since Pettit's is only one of the different ways of structuring the editorship and there are other avenues that are compatible with democratic fundamentals.<sup>56</sup>

### *C) Republicanism against economic equality*

Finally, non-domination has been criticized because rather than reducing economic inequalities, this ideal may eventually increase them. Reconsidering Polanyi's economic approach (Polanyi 2001), Klein stresses that economic processes cannot be separated from political struggles between social groups and that the state must constantly intervene to regulate this relationship (Klein 2017; 853). The problem is that Pettit's republicanism considers instead the market as an anonymous order where economic outcomes are the result of a nature-like background condition for individual decisions (Brennan and Pettit 1993; 191-193). In this way, Pettit neglects that power control is an intrinsic part of markets and this latter will only continue to empower the powerful if we do not control it by means of common political institutions.

For this reason, Klein argues that we ought to rely on a Polanyian approach rather than focusing on market outcomes and how these latter dominate individuals as done now by republicans (Casassas & De Wispelaere 2016; Lovett 2010). The former considers economic inequalities as effects of dominating oligarchic power and it thus makes it easier to target economic inequalities and to use the power of the state to reduce them. Moreover, focusing on oligarchic domination could help empowering workers and weaker agents in the market, thus protecting their liberty from oligarchic interests (Klein 2017; 860-862). In this regard, even though it may seem that some republicans favour an uncontrolled free market (Pettit 2006), I do not think that non-domination is contrary to a Polanyian economic approach. Rather, making sure that political institutions prevent powerful masters from dominating the citizenry – as required by a Polanyian approach - is fundamental to defend the people's liberty as non-domination.

The oligarchic side of the dilemma concerns the fact that elites use their wealth power to increase their domination and I argued that only insofar as we find a way to tame their actions we can defend the people's liberty. For this reason, not only non-domination is perfectly compatible with an economic approach that focuses on using politics to control economic

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<sup>56</sup> In the next chapters, I argue against Pettit's editorial bodies and I maintain that we ought to prefer McCormick's "tribune of the plebs" (2011).

inequalities, but it rather requires this control. That is, economic inequalities and political domination are tightly connected, so we cannot limit the latter without addressing the former.

Oligarchies' main interest is to defend their wealth resources (Winters 2011; 10-19) and to do so, they influence politics so as to sway them towards their own interests. For example, privatizations of social-welfare, tax inequalities, lack of control over capital, etc., are political measures that are the result of oligarchic lobbying and that hinder the people's liberty. In this regard, it is true that non-domination is primarily focused on political arbitrary-domination. Yet, economic and political power are inextricably connected, so non-domination is unachievable in a context where there are no obstacles to oligarchic economic power. Hence, conversely from what argued by Klein, non-domination requires an institutional control over oligarchic economic behaviour and it is thus compatible with a Polanyian approach.

In sum, liberty as non-domination has been criticised in several regards, but I think that the republican view can overcome these criticisms, thus proving to be the best ideal to pursue if we are to protect the people's liberty. However, conceiving non-domination as a form of anti-power implies that individuals have to take an active part in preventing their own domination, thus being ready to contest any dominating hindrance to their liberty. Hence, we ought to reconsider the role of contestation as a legitimate and democratic means of expression available to the populace and not as a pathology that we should avoid.

#### **4.4. The legitimacy of political conflict and contestation**

Both Pettit and Sen maintain that freedom is a form of power. To understand better how this form of power should be distributed, I think that we ought to reconsider, as suggested by Agonistic scholars, the role of political contestation and the importance of legitimizing political conflict. This is important because it is unlikely that the interaction between a master and a slave may entail a cooperating relationship as the one pictured by proponents of deliberative assemblies. That is, certain types of conflicts cannot be solved just by gathering people together and have them discuss their problems. The slave's struggle for freedom is more likely to imply a conflictual relationship and the two sides are more likely to be adversarial divided as in Schmitt's "friend/enemy" paradigm (Schmitt 2007).

The master may leave some freedoms to the slave, so the relationship between them may not be necessarily conflictual. Yet, it will unavoidably become such as soon as the slave attempts to free herself, since the only way for the slave to free herself is by acting directly on the sources

of domination and not, for example, by means of a passive “epicurean escape” (Green 2016; 130-163).<sup>57</sup> The master benefits from her dominion, so if she is given no reason to stop and if she is not blocked directly by the slave or by an external agent, it is unlikely that the master will give up their privilege. If channelled in a proper way, popular contestation may be legitimate, so if one individual wants to put an end to her condition of slavery, she must have at her disposal the power to contest and stop the dominating interference directly.

To do so, we must acknowledge “the political” component of our societies, namely that since conflict is a constitutive component of politics, societies will always be pervaded by antagonism and social conflicts. Hence, we must accept that conflict must be legitimized, that we should have both consensus and dissent in our political systems and that we have to abandon the deliberative ideal of a complete reabsorption of heterogeneity into harmony, since alterity cannot be completely domesticated (Mouffe 2005; 37-39). If we accept power as constitutive of the social, the main question becomes not how to eliminate it, but how to constitute forms of power compatible with the democratic values.

Modern democracies are systems characterized by a pluralism of values and a disenchantment of the world (Weber 1993), where there is an agonistic confrontation that does not encompass any form of final consensus and where each agreement is temporary, and it always entails some forms of exclusion towards those who did not agree with the decisions taken (Mouffe 2000; 98-105). In this framework, each political order is the result of one choice among many other ones and it is always a configuration of some power relations, so other options must always have the chance to replace or contest the ones that have been previously chosen. Otherwise, if we do not recognize the importance of confrontation, we leave the door open to political disaffection and to the chances that violent antagonisms eventually spread (Laclau 2001).

Conflict should thus be included and valorised in the democratic forum and not stigmatized, since it does not necessarily indicate that democracy has a problem, but rather that it is alive. That is, if democracy fostered institutions in which conflict can manifest itself, this regime could offer the framework through which conflicts take the form of an *agonistic* confrontation among adversaries instead of an *antagonistic* struggle between enemies. In this way, democracy can manage conflict in a way that the others are not conceived as enemies to

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<sup>57</sup> Epicurus theorized that a good life consists in freedom from anxiety (ataraxia), the maximum increase of pleasure and reduction of pain (aponia) and bliss (makaria). These are all secure better in friendship and far from politics, which is considered as a kind of prison (Epicurus 2010).

destroy, but as adversaries whose ideas we combat but whose right to defend those ideas we respect, and we do not put into question (Mouffe 2000; 95-107).

We have to find a democratic space for conflict and contestation to take place and agonistic scholars stress that this space, in a context where community bargaining has lost power in favour of an individualized one, can only be granted through institutions and laws, rather than group discussion and deliberation (Rosanvallon 2011; 69-71). In sum, we should not focus on eliminating conflict, but rather on finding an institutional way to deal with it, since channelling institutionally the people's heterogeneity, we could obtain better democratic outcomes. My thesis is that republicanism is the best ideal to structure democratic institutions able to deal with the conflict and disagreement resulting from political interactions. In the next chapter, I describe the institutional debate on how we ought to structure these editorial and contestatory institutions to defend the people's liberty as non-domination.

#### **4. Conclusion**

As noted, a tamed and stable political climate among oligarchies, both for what concerns the horizontal relationships among them and especially the vertical one between them and the populace, has always entailed more peaceful and better-operating societies. Self-government and representative views fail in resolving the oligarchic threat because they rely on classic forms of democratic participation and they thus neglect to specifically target oligarchies. On the contrary, the republican ideal acknowledges that the more tamed oligarchies are in a society, the higher the degree of non-domination enjoyed by the whole populace.

In the first part of this thesis, my goal was to analyse how the democratic dilemma affects the defence of liberty offered by the main ideals of democracy. For this reason, I maintained that we ought to look for an alternative ideal, namely the republican ideal of freedom as non-domination. In this chapter, I explained that the republican ideal can defend the people's freedom because both sides of the democratic dilemma are forms of domination that can be challenged by means of contestatory institutions. In this way, I consider the first part of the thesis concluded. However, this first section opens the challenge for the second and most important part of the research, since I must now explain *how* it is possible to enhance this contestatory democracy, namely what shape republican institutions should take to contrast domination in our societies and to institutionally enhance the republican ideal.

This challenge is less plain than one might think, since whereas Pettit's ideal of freedom as non-domination is generally accepted and widely shared within the republican framework, there is a strong debate on which are the best institutional means to fulfil freedom as non-domination. I thus have to describe the different republican solutions to find the answer I am looking for, which will be the main goal of the second part of the thesis.



**Part Two: A Modern “Tribune of the  
plebs” to defend the people’s “Non-  
domination”**

## **5. THE OLIGARCHIC THREAT OVER PETTIT'S EDITORIAL BODIES**

### **5. Introduction**

I argued that we should implement an editorial democracy to pursue the republican ideal of freedom as non-domination. Yet, I did not explain which institutions could better enhance this ideal. As noted, republican philosophers agree that we should prevent domination, but they differ significantly on the best means to do so. In particular, the debate arises from the fact that Pettit's editorial bodies may be unable to protect the people's liberty as non-domination. Whereas I argue that non-domination is the ideal to pursue, in the first section of the chapter I describe that editorial solutions based on small committees of experts, such as Pettit's editorial model (Pettit 2004) (section 5.1.) or Rosanvallon's theory (2011) (section 5.2.), are only likely to increase oligarchic domination rather than to protect the people's liberty.

This first editorial model is considered to be the institutional reference point for other republican scholars, but their decision to rely on depoliticized and independent committees has been criticized from different sides, both within and outside the republican framework. In the second section (5.2.), I explain the criticisms of Pettit's editorial bodies. Pettit argues for contestation in small and independent committees and this has raised diverse objections from scholars such as Urbinati (2010), Waldron (2006) and Bellamy (2007), who all maintain that contestatory institutions are not elected and thus not democratically acceptable. Usually, these scholars go even further, since not only do they criticize Pettit's thesis, but reject as non-democratic the idea of enhancing the editorial component of democracy itself.

However, in the third section (5.3) I argue that they do so because they identify the editorial component of democracy with Pettit's answer *only*. That is, they neglect that Pettit's way of conceiving of editorial democracy is not the only one available, since other contestatory avenues are compatible with both republicanism and democracy. As such, in this chapter I explain that the second side of the democratic dilemma renders unacceptable any editorial solution based on small committees of experts, since these are too likely to pursue oligarchic interests rather than protecting citizens from domination.

### **5.1. Pettit's editorial solution**

In a republican framework, the state's interference is not dominating if it is controlled by those subject to it, but the problem then becomes how much and what kind of control the people

ought to have towards a government's decision. To solve this conundrum, Pettit maintains that we must respect four assumptions (Pettit 2000; 107). First, citizens must have certain interests in common that render a government desirable for everyone. Second, the people must recognize these common interests as such: individuals are not only characterized by self-interest, since they can also perceive the others' needs and feel that they share something with them. Third, governments ought to be orientated toward the satisfaction of that good that citizens have in common. Finally, they should follow no other guidance but that of the populace and no one should be privileged over the others.<sup>58</sup>

These four presumptions are necessary, since if we want to enhance a contestatory democracy, we must first settle the basis of contestation, namely what we are contesting for and what we ought to defend. According to Pettit, the citizens' main aim is to protect their common interest, so we must determine which procedures allow us to select which interests are such. His answer is that common interests are those that are agreed upon by citizens in a deliberative process, since different views can come to an agreement if individuals debate respecting the rules of a proper deliberation (Pettit 2000; 114). Contestation should thus be connected to deliberation, since if individuals respect the requirements of the latter, the norms that are likely to emerge will respect individual freedom and be acceptable to everyone.

These considerations are similar to those of deliberative scholars, but Pettit specifies that there is an important difference between his view and deliberative democracy: the latter considers dissent as a second best, while Pettit claims that disagreement is always acceptable, since it helps individuals to understand better the others' requests and to analyse whether their own interests and needs are either more or less pressing than those of the others. Within the proper framework, the final outcome of a deliberation that includes dissent would thus not necessarily be a negative fight in which the parties come into conflict and only power resources would lead to a solution. Rather, dissent helps the different sides to identify common policy-making norms.

Pettit thus argues that editorial democracy is not contrary, but rather necessary for a proper deliberation, since it permits to respect the deliberative presumptions necessary to stick to the common interests of the populace. The question then becomes how we could make sure to preserve these important connections between contestation, deliberation and the common

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<sup>58</sup> This is the isegoria principle mentioned in the first chapter, summarized later by Bentham and J.S. Mill as "Everybody to count for one, nobody for more than one" (J.S. Mill 1991 (1861); 257).

interest (Pettit 2012; 269-275). It is in this regard that Pettit's answer raises several criticisms, since he claims that we should *depoliticize* certain institutions to neutralise the main threat for this connection: politicians' self-interest. Representatives may be a threat to the common good because they are only interested in being re-elected and they may exploit three deceptive passions to enhance their self-interest rather than the common one (Pettit 2004; 52-58):

1. They might invest in *popular passions*, calling into existence Montesquieu's "tyranny of the avengers" (1995 [1748]; 202-205). They may accuse their rivals of not being concerned about the destiny of the populace, so as to look like they are the only ones who really care about the many. This is a situation where politics is pervaded by passions and that it is possible to see it arising today in many demagogic parties throughout Europe and other western societies.<sup>59</sup> The hazard of this strategy is that it creates a rule of "knee-jerk emotional politics" that could favour non-democratic deviations (Pettit 2004; 54).
2. They could exploit the people's *aspirational morality* by presenting a problem in a dichotomous light - even when it is not – using impressive examples to elicit sentiments of shame in the citizenry and accusing governments to accept this phenomenon rather than contrasting it. Yet, this is a problem, since we ought to favour good government - do the right thing – and not good politics - saying what is politically convenient.<sup>60</sup>
3. The problem of *sectional interests*. If a policy advantages many by a small amount, while at the same time penalising few by much, the latter could organize themselves into an effective lobby (Olson 1965). In this way, these particular interests could make democracies come to a standstill, thus damaging the common good.

Pettit thus argues that there are two main threats for our political systems: politicians' self-interest and a "populist-amateur" politics, namely a situation in which politicians use demagogic politics to exploit the people's biases to sway the many towards political goals that favour the elites rather than the whole citizenry. For example, European demagogic parties are focusing on challenging migrants' invasions, stressing the costs and hazards that receiving these foreigners entail. This is proving to be very effective, since rather than using their knowledge to analyse what the costs of dealing with this situation really are, citizens let their fears drive their reactions, thus overestimating the externalities related to migrants, which leads

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<sup>59</sup> A couple of examples are demagogic parties as Le Pen's "National Front" in France, the "Lega Nord" in Italy, Farage's UKIP in Great Britain and Trump's election in the United States.

<sup>60</sup> Pettit gives the examples of prostitution and of the fight on drugs.

to harmful outcomes such as an increase in racism, the worsening of interracial relationships, an increase of the usage of violence within society, etc.

Our primary concern ought then to be contesting these threats and it is in this regard that Pettit's solution becomes problematic, since he maintains that the best way to do so is by establishing contestation in independent and non-political commissions - called Ombudsmen - to which the people can appeal to investigate and report on government maladministration such as abuse of power, corruption, etc. (Pettit 2000; 172). According to Pettit, these offices would be democratic even though they would take away from representatives some control over political outcomes, since they would serve the cause of deliberative democracy by using strict guidelines and by making considerations according to the common good, thus representing both public opinion and professional expertise (Pettit 2004; 53).

Pettit acknowledges that enhancing contestability could bring a chronic inability to get things done, so he maintains that we have to find a proper balance between the effectiveness of the government and the powers of the editorial bodies by dividing the contestatory power among different moments of the legislative procedure. That is, we ought to have diverse contestatory institutions that operate both before and after a policy is enacted. In what follows, I analyse Pettit's editorial bodies, but it is first essential to stress that these contestatory institution may differ significantly one from another, since these bodies entail posing an editorial control over governmental decisions, but the way this editorship is posed may change according to which powers are considered essential by diverse scholars.

For example, editorial bodies may resemble different judicial reviews according to the functions on which we structure these bodies' editorship and to the legislative phase in which they intervene. Ergo, in what follows I will not describe different editorial bodies, but I will analyse to which powers these bodies ought to be entitled so as to better defend the people's republican liberty. According to Pettit, these institutions could come in different varieties, but depoliticization ought to be an inherent part of all, since it is essential that the bodies responsible for hearing the people's contestations are different from the elected forums that give raise to the laws. Among the diverse editorial functions, Pettit argues that three powers would more effective (Pettit 2004; 62-64):

1. *Constitutional constraints*: sanctions against contestable governmental behaviour that would certainly be contested, were it to materialize. In order to be effective, these law

constraints must be enhanced by an independent and impartial constitutional court that guarantees the chance of having *ex-post* control on government's policies.

2. *Consultative procedures*: these require governments to put out their proposals for public discussion and feedback before putting them out for a vote. The problem is that citizens have limited consultative resources, since many political decisions are taken where no parliamentary control is available. We thus need to implement democracy with (Pettit 2000; 131): “Advisory, community-based bodies that administrative agencies have to consult; for the setting up of public hearings and inquiries relevant to this or that proposed venture of government; for the publication of proposals [...] and the eliciting of responses from members of the public”. In this way, democracy would include *ex-ante* contestation to raise questions about the laws. As for the constitutional constraints, Pettit argues that only a depoliticized non-governmental committee could guarantee that governments act impartially, since citizens may find it instead difficult to find the information needed and thus opt for the “free-rider option” (Pettit 2000; 136).
3. *Arm's length appointments from elected representatives*: editorial bodies could also assume the form of institutions to which people are appointed by a certain procedure – such as a specific election<sup>61</sup> - and that care about issues that would be dangerous to leave in the hands of the representatives without further controls. That is, politicians are in a privileged position where they may let external temptations – corruption, lobbying, etc. - sway their decisions, so we need independent bodies to control their behaviour and offer a scientific check over their claims. These bodies would then strengthen even further the *ex-post* control over policies (Pettit 2004; 64).

Overall then, Pettit maintains that our democracies should be de-politicized by means of both *ex-ante* and *ex-post* contestation in independent bodies. The former bodies are required to review parliamentary legislative proposals before the final version of the laws is enacted. Their purpose is thus preventive, since they aim to impede governments from pursuing policies that afterwards turn out to be dominating hindrances towards the whole populace or even just a specific minority. Respecting deliberative assumptions, these bodies would be democratic, but this would not cancel entirely the chance that governments enact dominating laws, so Pettit

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<sup>61</sup>Vermeule (2007) maintains that democracy should include small-scale institutions to promote impartial and deliberative government. For example, laws that deprive officials of the information they need to act in their interests only would improve impartiality, while legislative rules could render deliberation more transparent. Moreover, small-scale voting rules could also improve the accountability for political officials and judges.

maintains that we ought to have also *ex-post* institutions to control, analyse and block political decisions that do not respect the common good.

To do so, these bodies should also respect two further features. First, the editorship should *not* rely on a veto power. Eventually, every political decision is bound to favour some over others, so there will always be a minority negatively affected. If individuals had a veto power at their disposal, they could use it to block a policy each time they found themselves in a minority position, trying to push the costs onto other groups (Pettit 2000; 118). In this way, they could freeze the political operation of our regimes, thus damaging the pursuit of the common good in favour of some sectorial interest.

Second, Pettit rejects the usage of citizen-initiated referenda, since these procedures allow voting on the basis of majority goals and passions, leaving little space to minorities. Referenda may be problematic because they are likely to be subject to the influence of wealth, they make inconsistent public decisions possible and citizens could vote without considering the consequences of their choices (Pettit 2000; 134). Hence, according to Pettit the only way to ensure that these bodies remain impartial – in any of the three forms just described - is to free them from their connection with the electorate, since only if its members are not elected they will not have to act according to the interests of those who voted them but following their conception of the common interest (Pettit 2000; 119-120).

In sum, Pettit's aims to enhance the editorial dimension of democracy by means of *depoliticized* and *non-elected* institutions with the task of ensuring that only policies corresponding to the people's common interests would be pursued (Pettit 2000; 127-133). This editorship should encompass both *ex-ante* and *ex-post* contestation. Whereas the first, consisting in deliberative polls, assemblies, etc., has not been put into question regarding its democratic properties, there has been a wider debate on the *ex-post* checks on the government's operation.

For this reason, it is helpful to integrate the exposition of Pettit's thesis with Rosanvallon's defence of the importance of enhancing *ex-post* independent committees to control the government's operation. In this way, I can clarify that maintaining the importance of having *ex-post* contestation – as I do – is not the same as saying that *all forms* of it are the same and thus equally acceptable. That is, my thesis differs from Pettit's not on the first aspect, but rather on the kind of contestation I aim to enhance, since I will argue for a *popular* contestatory body and not small independent committees as done by this first answer.

## 5.2. Rosanvallon's "Counterdemocracy"

According to Rosanvallon, even though individuals may want to increase their participation, citizens know that they are the governed and not the rulers. This awareness, together with a lack of trust towards politicians, entails that rather than aiming to be the actual promulgators of policies, individuals want to increase their power to control the operation of representatives. In this context, governments' task is not only to rule, but they also have to interact with the many to justify their decisions and to let the many know that policies were primarily developed in the people's interests. Hence, Rosanvallon argues that we ought to establish a "Counterdemocratic participatory model" of surveillance, veto and judgment to correct the distance between leaders and the people in a way that the latter can control the government by means other than the ballot; namely, constitutional courts (Rosanvallon 2011; 171-175).

Overall, the most analysed empirical example of *ex-post* independent committees is represented by the constitutional courts that exercise a judicial review power over legislation. Put simply, judicial review means having a process for which the actions of a government are subjected to a review by the judiciary branch. Usually, the review exercised by these courts is deemed legitimate because it is founded on the respect of the constitution of that country and it aims at making sure that the principles inscribed in this pivotal document are respected by governmental branches. My purpose here is not to give an empirical review of the operation of these systems - there is not a single and specific way to implement this institutional structure, so the empirical examples vary across the world<sup>62</sup> - but to stress that these are examples of the institutions promoted by both Pettit and Rosanvallon (Rosanvallon 2011; 219-222).

Rosanvallon stresses that over the last two decades, many countries have simultaneously started to increase their reliance on independent administrative bodies charged with oversight functions, and to decrease the role of the legislative ones. Essential for this development has been the fact that in our societies, over the same period, popular distrust has increased towards the ethical behaviour of politicians and administrative committees (Rosanvallon 2011; 84).<sup>63</sup> Citizens are thus frustrated by continuous centralization of power in governmental bodies whose functioning is excessively secretive, so they have been giving more importance to the degree of impartiality of the outcomes in evaluating the legitimacy of any governmental action.

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<sup>62</sup> The most famous example is represented by the United States' system, but other countries such as South Africa, New Zealand, Denmark, Canada, Malaysia, etc. also adopt a judicial review system.

<sup>63</sup> Rosanvallon cites the example of the United States, The United Kingdom and France.



Independent committees and nongovernmental organizations – especially an independent judiciary – have increasingly started to be considered as necessary to control governments, to contest corruption and to offer more popular input from conflicting points of view. The review provided by these independent bodies may be democratic and compatible with the people’s scepticism towards their government for several reasons (Rosanvallon 2011; 130-153):

- A. By focusing specifically on the claims of different minorities, independent bodies could help regulate the threats of the tyranny of majority rule, namely that any regime based on universal suffrage may mistake the majority of the voters for the whole populace.
- B. By means of this review, the people would not lose their power to elect their representatives, but they would have at their disposal constitutional judges to control them and to correct electoral mistakes (Rosanvallon 2011; 137-138).
- C. An independent review could restore the correct temporal dimension of democracy. Whereas the decisions emanating from the executive and legislative branches are oriented towards voters’ short-term satisfaction due to the pressures of re-election, constitutional law is not linked to the electoral process and could thus more freely focus on the long-term benefits for democracy.
- D. Constitutional courts’ internal operation may integrate political deliberation with the techniques of legal reasoning, thus combining the positive contributions of both features and reducing the increased uncertainty and political distrust in the populace (Rosanvallon 2011; 139-142).

Rosanvallon recognizes that with no popular control over judicial review there could be no one “guarding the guardians”, so he maintains that it is important to avoid a life tenure of the seats to make sure that no judge will eventually become too powerful to be rendered accountable for her decisions. Moreover, Rosanvallon argues that if courts demonstrate their positive qualities, they could obtain an instrumental legitimacy, since they would improve the quality of democracies’ political outcomes (Rosanvallon 2011; 164-167).

Like Pettit, Rosanvallon thus maintains that the best way to have these bodies produce good outcomes is by reducing their politicization by changing the way in which its members are chosen. That is, the appointment of judges may confer a legitimacy as great as elections if the procedures used are clear and there is unanimity in the decision among those in charge of appointing judges. Yet, this is not sufficient, since only insofar as courts’ decisional process is impartial and there is a periodical change of members in order to avoid life ownership of the

seats will these bodies produce positive outcomes. Hence, Rosanvallon argues that if these features are respected, courts' decisions would be legitimate and democratic.

Outcomes will not be unavoidably final and with a periodic change of members, no one could dominate for a long period the operation of such bodies. In this way, judges would be subordinated to their function, citizens would recognize the courts' intellectual reputation, thus accepting the importance of their role, and the proximity between institutions and the people that has been lost over the last decades would be re-established (Rosanvallon 2011; 169-171). Therefore, Rosanvallon's theory integrates Pettit's regarding why depoliticized contestatory committees might be the solution to domination. Yet, this answer has raised many objections both within and outside the republican framework.

### **5.3. The democratic problems of Pettit's editorial bodies**

Even though they criticize contemporary political regimes, Pettit and Rosanvallon do not want to replace democracy with another system, since their intent is instead to criticize democracy from within, so as to defend it from its weaknesses (Urbinati 2010; 64-65). However, their claim that small depoliticized courts would both increase the quality of governments' policies and reduce the people's distrust toward politics has been criticized by scholars on two grounds:

#### *A) Depoliticized bodies do not perform instrumentally better than legislatures*

Pettit acknowledges that respecting the people's equal participation is fundamental if we are to follow the common will. Yet, adopting an instrumental point of view rather than a procedural one, Pettit maintains that the threats posed by the tyranny of the majority are more dangerous, so we should first make sure that governments produce good quality policies and only afterwards focus on whether or not this is compatible with free and fair elections. If we did not respect perfectly the latter, we could still have governments that produce good outcomes, whereas the tyranny of the majority compromises government's operation even if those governing are selected by means of equal and fair procedures.

Our goal should then not be to increase the citizens' direct participation in the legislative process, but since "liberty under law has nothing to do with their (the people) having a voice in the government" (Pocock 1981; 356), we ought first to enhance a "republic of reason" to make sure that popular complaints are heard properly in the political debate (Bellamy 2009). Elections could thus not be necessary for democracy if other ways proved to be better in giving citizens equal influence and control over governments.

In this regard, Urbinati criticizes Pettit because the latter argues that contestation provided by judges in courts is preferable to parliamentary institutions. Pettit maintains that courts understand better than parliaments by themselves the values included in the constitution. Moreover, thanks to their superior political knowledge, expert judges can analyse properly the claims of rights, they deal better with the threats of populist politics, they remain impartial where the population is divided, they know better how to respect their constituents' will and finally, they do not take decisions according to their own advantage, since their behaviour is driven by their will to get the approval of the citizenry (Urbinati 2010; 80-81).

By contrast, Pettit pictures citizens as being driven by an aspirational morality that leads them to a collective unreason and that thus should be limited to being only indirect authors of public policy. That is, citizens should tell representatives what the common good is by means of electoral procedures, but afterwards they should rely on the representatives' work, since the second know better how to pursue and respect the common will (Urbinati 2010; 82-83). The problem with Pettit's argument is that he neglects how the "political" component of political discussions compromises the chance of reaching a single interpretation of constitutional values, so judges will disagree on them as much as the people do.

I previously described the people's biases, such as the fact that individuals may not understand the key political issues and that they may be affected by availability and/or consensus biases (Brennan 2016; 43-47). Whereas it is true that judges possess a high educational level and they may be thus not be as affected by the lack of knowledge as citizens are, more education cannot resolve by itself the social component of these biases. Judges may be affected by several other biases as well: judges may overestimate how much others agree with their ideas (the false consensus bias); they could tend to conform their behaviour so as to result popular to the citizenry or the media; they may be susceptible to the opinion of the more influential judges in the court (peer pressure bias) and finally, they may put the effort in trying to prove that they are right rather than in deliberating to find a common solution (the confirmation bias).

In other words, even though more education can resolve some individual biases, it cannot resolve the problems arising from the circumstances of politics, namely the fact that individuals will always have different views regarding what are the best political outcomes, and this will create a certain amount of disagreement and conflict. This does not imply that it is impossible to reach any sort of agreement, but rather that the people's views of rights cannot be combined into a final and absolute position (Waldron 2001; 107-113).

It is always someone who decides what is reasonable or not, so a perfect reason does not exist and it is not guaranteed that judges will remain impartial, wise and seek what is convenient for the whole community rather than focusing only on defending a partial interest. Being independent and focused on impartiality rather than generality, judges may thus not be interested in the cause they are judging, and they may find it easier to pursue their own interests rather than the general ones. Taking important issues away from the many, courts may thus remove a fruitful way for society to focus on the issues at stake when citizens disagree about rights (Waldron 2006; 1347-1348).

If we were sure that the depoliticized bodies are always right, then we could point to their better efficiency, since democracies are fallible human institutions. That is, we could consider sacrificing some equality features of democracy if this meant favouring the operation of an infallible elite body. Yet, this perfection cannot be guaranteed on two regards. First, judges do not always take undisputable decisions, since they must balance their decisions with an old constitution, previous cases and they are affected by the political component of political debate (Urbinati 2010; 83). Second, it is likely that the only reputation judges will be looking for is that of their fellow colleagues, since their actions are primarily connected to what other judges think rather than to the people's interests. This does not entail that judges do not care at all about their popular reputation, but that the people's interests would be deemed secondary to those of other judges (McCormick 2013; 105-106).

In short, this first criticism argues that the outcome-related reasons for supporting judicial courts are inappropriate and at best inconclusive so it is not sufficient to maintain that elite bodies *may* be more often right than parliaments to argue that we ought to favour the former over the latter. Hence, the problem is that the domination produced by elite bodies when wrong would exceed the benefits produced by the same bodies when right (Urbinati 2010; 84-85).

*B) Depoliticized bodies would not be sufficiently democratically legitimate*

Pettit argues that depoliticized bodies would be democratic, since using deliberative procedures they would act as if the whole people gathered together. That is, respecting these constitutional values and deliberative procedures is the same as following the people's will, so when judges decide according to the laws and the constitution, they act as a democratic agent that respects the people's will. Yet, Bellamy argues that this position underestimates the threats that depoliticization entails. Being independent, judges would have a weaker connection with the people's equality and will than the one guaranteed by elections (Bellamy 2016; 10).

According to Bellamy, judges' actions are not sufficiently controlled and the fact that they rely on precedent cases does not balance this criticism, since the use of precedent is by definition more likely to privilege the *status quo* of some individuals over the wellbeing of the citizenry. Pettit thus neglects that a certain amount of tyranny is inevitable in each political decision, since these always produce a winner and a loser and the latter are likely to deem as tyranny the former's decisions if they do not result from a process considered legitimate by the losers. This latter is an important feature, since elections always create winner and losers, but for a political system to function well, the defeat must be accepted by the latter (Bellamy 2013; 188-189).

Whereas being in the winner side is easy, losers are numerous in any election<sup>64</sup> and they are likely to dislike the outcomes of the political process. Moreover, losers may find themselves in the losing position more than one time, since there is no guarantee that those who lose now will not lose also in the following elections and so on. Losers must thus be given incentives to consider as legitimate both their defeat and the procedure that produced this result for the political system to endure. That is, for the political regime to function, losers must be convinced to continue playing the political game within the rules rather than quitting the game and undertaking non-political and/or violent actions (Anderson et al. 2005; 3-6).

Electoral outcomes produce a social conflict that must find a peaceful resolution and it is in this regard that democracy performs better than other regimes. Losers in a democratic regime are more likely to accept the defeat<sup>65</sup>, whereas non-democratic countries have experienced more harmful reactions. These reactions may vary from a withdrawal from a political process not considered legitimate – as the boycott of some religious parties in Pakistan or Northern Ireland – to more violent reactions, as the civic war that spread in Spain in 1936 (Anderson 2005; 5). Democratic institutions thus play a pivotal role in directing the losers towards peaceful and positive reactions, since losers in a certain election may have a history of winning not too far in the past and they may also expect to win in the following competition.

Losers in democratic regimes are more likely to accept the political outcomes than in a system where they know that they have no chances to be in the victory side at some stage. In this latter

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<sup>64</sup> Anderson et al. underline that in democratic systems, majorities are more likely to be in the losers' side rather than in the victorious one. In less than half of all elections held in the twenty-one more stable democracies around the world between 1950 and 1995 did the parties that formed the government after the elections obtain more than 50% of the vote and this shrinks even more if we consider the turnout in each country (Anderson 2005; 9).

<sup>65</sup> Among the many, Anderson et al. mention the cases of the American elections in 1960 and 2000, where Nixon and Al Gore respectively accepted the defeat despite the fact they lost by a very small margin, but also of other non-western countries such as Senegal in 2000 where Abdou Diouf accepted defeat despite having been in power for 19 consecutive years (Anderson 2005; 6).

case, dissatisfaction is more likely to lead to a withdrawal from the political systems, either in non-participatory forms or in violent revolts (Anderson 2005; 10-13). Therefore, according to Bellamy, the problem is that depoliticized bodies' review would not be considered legitimate by the losers' side, since citizens would not take part in the decisional process and they would have no chances to find themselves in the winning position (Bellamy 2007; 202-203).

This second criticism thus maintains that the fact that even judges can reasonably disagree not only compromises the perfection of the depoliticized bodies' outcomes – the first criticism – but it also implies that their review is not sufficiently “right” to overrule a parliamentary decision. If judges cannot be modern philosopher kings who thanks to their supreme truth never fail in representing the people's will, then not only is there no single account of constitutional values and thus no way to unavoidably respect the common will, but judges' interpretations of these values, even if deemed superior to that of the citizenry, are always a partial imposition of few individuals over that of the whole populace (Waldron 2006; 1346-1347).

In any political confrontation, individuals will always reasonably disagree, so decisions should not be imposed from above by a few unelected judges, but rather implemented by means of procedures of dispute settlement that respect the disputers' voices. Hence, Waldron argues that if editorial contestation is not at the same level of legitimacy of the parliaments that enacted the laws, their decisions are a hindrance and not a defence of democracy, since editorial bodies may become tools that elites use to legitimate their policies, to bypass electoral accountability and to render the many even more passive (Waldron 2006; 1373).

In this way, citizens would perceive that their equality is not respected, that they are only spectators whose participation is irrelevant and undesirable, that there is a difference of status between them and those taking the important decisions and they would thus perceive governments as an aristocratic imposition and not as something at their disposal (Ackermann 1991; 180-183). These criticisms raise questions over Pettit's argument, yet I reject his contestatory model mostly because his thesis encompasses a third further problem, namely that it is paradoxically contrary to the republican ideal as well.

#### **5.4. Is a depoliticized editorship republican?**

Pettit's editorship does not only raise criticisms from scholars close to the Athenian ideal, but it may also be less - and not more - likely to protect the people's freedom from domination. Pettit wants to depoliticize contestatory bodies so as to have real experts controlling the

people's biases, but he does so without offering at the same time sufficient guarantees that judges will not usurp their power and that they will decide better when the people are misguided. This is a significant issue in a republican framework, since if courts' decisions are not legitimate enough to contest government decisions, then their actions could be considered an arbitrary interference on the will expressed by the populace, and as such dominating.

First, McCormick (2013; 113-114) argues that Pettit's thesis contrasts with the democratic republican tradition - the Machiavellian one - and it is instead connected to the oligarchic side of the republican tradition, the one that Machiavelli called the "writers' view". The latter performed poorly in challenging the elites' domination, since its scholars were committed to a form of government dominated by oligarchies. By contrast, the Machiavellian tradition recognized citizens' biases, but it avoided oligarchic arguments, since it specified that when formally empowered, citizens can overcome their biases. Hence, McCormick's critique is that choosing the wrong connection, Pettit marginalizes popular participation and he confers elites prerogatives over policy making, thus facilitating their dominion. Besides this tradition issue, there are several further reasons why Pettit's editorship hinders the people's liberty as non-domination (McCormick 2011; 143-151):

- 1) *Does not have sufficient power:* Pettit rightly notes that our political systems give to the people limited contestatory resources. Yet, he does not fix this problem, since his contestatory bodies do not offer citizens robust means to defend themselves. Pettit's editorship would only be a "voice power" against parliaments, thus not being able to effectively block their policies if deemed dominating. As I explain later, this problem is connected to the fact that Pettit rejects any form of veto power.
- 2) *Does not have a group-specific character:* Pettit rejects sortition and refuses the idea of excluding *a priori* oligarchies from being part of the editorial bodies. I analyse these two features in more detail in the last chapter, but it is sufficient to mention here that their refusal is problematic because not being from the same social group they try to defend, representatives may not care about their constituency. That is, oligarchs are always likely to find a way to dominate the others, so with some of them being part of the committee, there would be no safety against aristocratic dominion (McCormick 2011; 165-169).<sup>66</sup>

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<sup>66</sup> For example, reserved seats for specific minorities seldom offers a positive solution, since majorities can easily continue to operate not considering their voice.

3) *It is an external favourable intervention and as such dominating*: As noted, republicanism maintains that some form of interference on the people's lives are acceptable if they respect the latter's interests. This entails that to avoid dominating hindrances that compromise their lives, citizens must have at their disposal a specific anti-power to defend themselves. That is, they must have a direct control over their destiny and this power must not be dependent on any external contingencies or any "external favourable event" (Pettit 1996; 588-589). Only insofar as individuals take an active part in preventing their own domination, thus not relying on the good will of a master to have their freedom respected, they will be *liber* citizens and not *slaves*.<sup>67</sup> Hence, to be free, a citizen must not depend on anyone's grace and she must have the personal power to challenge directly any dominating force that threatens her personal liberty (Pettit 2012; 90-92).

In my opinion, it is primarily in this last regard that Pettit's editorship fails to fulfil the purpose of freedom as non-domination. Even if depoliticized bodies proved to operate well, they would nonetheless remain an external favourable event that compromises the people's liberty, since preventing citizens from taking an active part in defending themselves from domination, it would render them *slaves* rather than *libers*. The latter can actively and directly contest dominating interference, whereas the former can only wait for judges' decisions and hope that these will not hinder their interests. This aspect entails a domination in any case, even in a positive scenario where judges' decisions manage to respect the people's will, since this would still not be a form of personal power that individuals can use when in need.

In Pettit's editorship, citizens would be able to bring cases before depoliticized bodies, but they would be afterwards entirely dependent on the latter's decisions and thus not sufficiently empowered to defend their liberty at any time against dominating hindrances. Individuals could only try to ingratiate the judges to have them being benevolent to them, but this is not compatible with the status of *liber*, since a change in the master's will could compromise the people's freedom and the latter could do nothing about it. To be *libers*, individuals must exercise directly their republican powers and they must be able to use them at any time, so it is not something that can be delegated to some external body as a small independent court.

If the slave happens to enjoy some freedoms thanks to a series of fortunate events it does not mean that she is not dominated, since due to external pressures the circumstances may change causing the master to change her mind. Hence, only insofar as citizens are powerful enough to

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<sup>67</sup> It is important to recall here my distinction between master, slave and liber exposed in chapter three.



respond to these changes they can defend their freedom. If they delegate completely their anti-power to a committee of experts, they would be at the mercy at the latter's will and as such not free. Therefore, my point is that individuals in Pettit's model would at best be well-treated slaves, but never sufficiently powerful to be proper *libers*.

Even if Pettit proved to be right about the qualities of his editorial bodies, the fact that these bodies take away from the people the power to decide on important matters regarding their own lives, giving it instead to a few judges, will always imply a mastering interference of the latter on the former's lives. Pettit's contestation is not an anti-power that the people<sup>68</sup> could use to block a master's domination, since this power – that would also be weak and ineffective – would be in the hands of a body that could only contest on behalf of common citizens as a whole. At best, the master will be benevolent, but still unavoidably dominating and thus not acceptable from a republican point of view.

The fact that I reject Pettit's argument does not imply that I argue that there is no legitimate way to enhance an editorial contestation. Rather, this problem implies only that a *specific* form of editorship, namely that enhanced by depoliticized courts of few judges, has no connection with democracy nor with republicanism. On the contrary, there are other republican avenues – in my opinion McCormick's "Machiavellian democracy" (2011) – that manage to enhance editorial contestation while respecting both democratic essentials and the people's liberty.

## 5. Conclusion

In a nutshell, the problem of Pettit's model is that independent and depoliticized courts are elite institutions that are not acceptable from a republican point of view, since instead of protecting the people, they would only facilitate the wholesale co-optation of important government organs and institutions by oligarchic power. That is, Pettit's depoliticized bodies: "privatize the issue of domination by the few over the many and doing so, they put informal obstacles in the path of popular attempts at ameliorating such power asymmetries" (McCormick 2013; 104).

In this way, Pettit frames a paradox between his own ideal of non-domination and the form of editorship he deems preferable: rather than protecting citizens from domination, his editorship

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<sup>68</sup> In this regard, I acknowledge that it is essential to specify who "the people" are, since it may be argued that this objection works differently if we consider individuals' cases, or minorities against majorities or the people as a whole. In the next chapter, I answer in detail this question, explaining that I consider essential for an editorial democracy to adopt a divided conception of the populace that clearly distinguishes between a class of "oligarchs" and the "people" – or the *Popolo* as I will define the latter following Machiavelli's view of the populace. Hence, in what follows I explain that the problem with Pettit's editorship is that it would not defend the *Popolo*'s interests.

– together with any attempt to foster judicial independent bodies composed by few experts - end up favouring and not contesting elites' domination over the populace. Ergo, I reject Pettit's model, but at the same time this does not imply that I reject the editorial argument itself either, since I think that many critiques neglect that there is not an identity between editorial democracy and small depoliticized committees. That is, many scholars reject an editorial democracy because they conceive it only in Pettit's terms, but they thus neglect that we could pose a simple, but revolutionary question that changes the whole discussion about editorship, namely "What about the many?" (McCormick 2011; 150).

As I explain in detail in the following chapter, this question opens the gates for another way of interpreting editorial powers, namely the *popular* contestation of the Roman "Tribune of the Plebs" and of the Machiavellian provosts. Being in the hands of the many, these bodies may resolve the democratic dilemma because they better respect the people's will and they could also be free from the aristocratic biases that affect Pettit's and Rosanvallon's courts. Therefore, in the following final two chapters I aim to answer some specific questions, as: What if instead than being a means in the hands of an external master will, editorial bodies remain in those of the *libers*? How could the people use these bodies to defend themselves both from oligarchic domination and from the domination resulting from their own biases? What problems would they face in using these bodies?

## 6. A “MACHIAVELLIAN DEMOCRACY TO PROTECT THE PEOPLE’S LIBERTY AS NON-DOMINATION

### 6. Introduction

In this chapter, I analyse what kind of editorial democracy I think we ought to pursue. To do so, I start by analysing another important republican suggestion, namely Bellamy’s “Political Constitutionalism” (Bellamy 2007) (6.1.). This view is important because it partially contradicts what I previously stated, namely that republicans think that the best way to pursue non-domination is by enhancing an editorial democracy. On the contrary, Bellamy maintains that already existing democratic institutions are sufficient to prevent domination, and we thus ought to limit ourselves to select among them the models that better guarantee this goal.

However, my thesis is that we cannot resolve the democratic dilemma within the authorial framework only, which contrasts with Bellamy’s claim that existing democratic institutions are sufficient to protect the people’s liberty. In section 6.2, I argue that he neglects that there is also a popular way of enhancing an editorial democracy, such as the one suggested by McCormick’s “Machiavellian democracy” (2011). McCormick agrees with Pettit that we need supplementary institutions to enhance a contestatory democracy, but he rejects as non-republican the latter’s idea of relying on depoliticized committees of experts.

The pivotal move made by McCormick is to argue that it is not sufficient to promote an editorial democracy, since we must also make sure that these bodies remain in the hands of the people and not in those of a few experts that decide over the rest. To do so, McCormick’s “Machiavellian Democracy” suggests reconsidering the operation of past editorial tribunates that were used in Rome or in some Italian medieval cities. These republics were not framed on an Athenian unitary conception of the populace, but on a formal differentiation between what Machiavelli called the *Grandi* - the elites - and the *Popolo* – the people (McCormick 2011; 54).

In section 6.3, I describe this divided conception of the populace and I argue that reconsidering it is essential to protect the people’s liberty as non-domination. That is, I argue that only insofar as we explicitly – namely institutionally - recognize the natural and social differences existing in our societies will we be able to give the *Popolo* the editorial power to rebalance politically the inequalities raised by different personal abilities. In section 6.4, I will thus be able to explain why I reject Bellamy’s model and why I claim that we must pursue instead the path of a “Machiavellian Democracy” (6.4). Hence, the thesis I defend in this chapter is that:

We not only have to enhance an editorial democracy, but we also have to make sure that its contestatory operation remains democratic in character.

This is not my final purpose, since in the final chapter I explain that McCormick's model raises some issues that must be solved if we are to fulfil the republican goal. In doing so, I differentiate my proposal from McCormick's regarding *how* modern tribunates ought to work, not with respect to the importance of reconsidering the positive contribution they could offer nowadays.

### **6.1. Bellamy's Political Constitutionalism**

In contrast to other republican answers considered here, Bellamy critiques Pettit's position, since he argues that an editorial democracy would not be the best solution to promote the citizens' freedom from domination. Though his answer may not seem "republican", it is Bellamy himself who claims that he esteems the republican concept of freedom more than the liberal one. Even though the two ideals both rely on a strong concept of independence, Bellamy criticizes non-interference in two regards (Silva 2015; 16-17).

On the one hand, proper social regulation will not come as the result of natural interactions. Ergo, we cannot presume the existence of a natural liberty before the law, but some fundamental rights precede politics and must thus be isolated from it. On the other hand, there will always be "reasonable disagreement" about the composition and use of these fundamental rights (Rawls 1999). This disagreement will produce social conflicts that cannot find a natural solution by themselves, so we need political institutions to deal with them at the public level and to guarantee the respect of the people's rights at the private one. The right's claim of one individual affects those of the others and this might create social conflicts, so we need a rule of law to reach an agreement on those rights (Bellamy 2013; 268-269).

Bellamy thus prefers the republican view because it deals better with these issues in three regards (Bellamy 2013; 268-269). First, it specifies that only an illegitimate interference is dominating. Second, if governments' interference respects the people's equality, it can be considered legitimate. Third, it permits one to defend the people's rights against elite interests better than the liberal view, since it offers citizens the opportunity to single out oligarchic interference as domination (Bellamy 2013; 270-271).

Bellamy agrees with Pettit and Rosanvallon on the importance of both constitutions and the rule of law, since the former offer the basis to understand how to respect the people's equality, while laws are necessary to avoid arbitrariness and domination in our societies, thus promoting

equality at the same time. Yet, Bellamy maintains that these two features are not sufficient to render a regime democratic. For example, many dictatorships establish a certain rule of law that theoretically respects the people's liberty, but where dictators can practically reserve for themselves the chance to freely infringe this rule of law when they want to. Ergo, dictators' actions can render the rule of law meaningless, since laws cannot prevent the dictator from dominating the citizenry and offer no defence to specific minorities (Bellamy 2007; 52-53).

No legal system is perfect, and we need instead a rule of law "flexible enough to make morally or pragmatically justified distinctions, without becoming so flexible that even a tyrant can use it" (Bellamy 2007; 65). According to Bellamy, two main positions structure such a rule of law: "legal constitutionalism" and "political constitutionalism". His thesis is that we ought to reject the first in order to promote the second.

#### *A) Legal constitutionalism*

This view maintains that democracy and human rights are best protected by judges and formal constitutions rather than by the ordinary legislatures. Laws are needed to resolve disputes about what is fair, but it is not always guaranteed that rules will be right, so there is a need for a third party that possesses a higher law to solve these disputes. Courts could come closer than legislative bodies to this right position, since they operate according to constitutional rights and, not being elected, do not have to take into account electoral interests. Hence, courts' control over parliaments may not be an illegitimate limit to democracy, but rather a necessary means to solve problems such as the people's distrust of the political system or the fact that representatives may utilize demagogic politics to be re-elected (Bellamy 2016; 11-12).

Yet, Bellamy specifies that the "circumstances of politics" (Waldron 2001; 107-113), namely the fact that it is not possible to establish with certainty which truths reign in our societies, imply that disagreement will also affect courts' judges. Ergo, courts' outcomes are biased as well, so one can only maintain, at best, that the procedures used by judges to reach these outcomes are better than legislatures procedures. Yet, we thus move away from an instrumental focus towards a procedural one; a frame where Bellamy thinks that a democratic legislature outperforms judicial courts, since they offer citizens better procedures for the many to resolve their disputes and come to collective decisions where individuals' equality is respected.

Political procedures must be fair, clear, not be arbitrarily imposed by some on others and they must centre on the common good rather than a private good. Only if laws respect these features

will they be accessible to all members of the public and will produce decisions that all members of the community find acceptable. Hence, Bellamy maintains that only by treating the people equally regarding the inputs of the political process will we have equal outcomes. In this regard, democracy outperforms courts in many respects (Bellamy 2007; 27- 48):

1. *Courts do not treat individual rights better:* the cases tried by courts relate to individuals but create public policy, since their choices concern the society's common good. Moreover, experts in courts are biased individuals, so they may fail in defending individuals' rights. Legislatures are thus preferable because they represent better the people and they are more likely to assess the impact of a policy on the community.
2. *A difference of views is positive:* In a political context where it is difficult to predict the outcomes of political decisions, political decisions are likely to be taken in a context that resembles Rawls's veil of ignorance. Yet, this entails that decision-makers – so judges as well - will pursue what seems fair and right as they see it and not in an objective way. Hence, behind the veil legislatures are preferable because they stick to the electorate's preferences, whereas judges are independent and rely only on their impressions, so they are more likely to follow their own interests rather than common ones (Bellamy 2007; 35).
3. *Courts may not consider the people's requests:* courts are supposed to be bound by law, but they may instead infringe constitutions, since oligarchies may compromise courts' superior ability to take correct decisions. On the contrary, representing many interests, legislatures better respect the general will and diminish the power of elites.

Bellamy thus rejects Pettit's model because depoliticized bodies are connected to legal constitutionalism and they thus lack the democratic legitimacy to overrule parliaments. Yet, Bellamy thinks that there is a further problem, namely that an editorial democracy is not acceptable. There are inequalities regarding how diverse social groups can access contestatory institutions, so these institutions may be used by elites to empower their particular interests at the expense of those of common citizens (Bellamy 2007; 160-168).

This would increase the domination suffered by certain minorities rather than decreasing it, so a court can be democratic only insofar as citizens feel that their views are considered as right as those of the elites and that no difference of status exists between them and the decision-makers. Bellamy's point is thus that depoliticized courts infringe the democratic requirement that the final say must always rest with the people themselves, so rather than pursuing the republican ideal, they are oligarchic institutions (Bellamy 2016; 8-9).

### B) Political constitutionalism

According to Bellamy, democratic processes are to be preferred because universal suffrage grants each citizen the opportunity to have her view equally taken into consideration, even though the final outcome may not follow her own. That is, even if the final outcome is contrary to an individual's will, it is the fact that she had the opportunity to have her view considered equally among the others – since her vote counts as much as anyone else's - that render democratic procedures superior to depoliticized bodies. For this reason, Bellamy maintains that courts should not be given the power to override legislative decisions founded on an electoral legitimacy, since this power risks allowing an elite legitimate means to go against democratically agreed decisions (Bellamy 2007; 175).

Yet, Bellamy acknowledges that some minorities may find it difficult – due to economic and social inequalities - to have their voices considered. Hence, Bellamy argues that we could allow weaker forms of judicial review – as done in the United Kingdom or in countries like Finland, Norway or New Zealand (Bellamy 2013; 266) - to stress whether or not the decisions taken by legislation are compatible with the fairness and equality basis of democracy. In this way, real democracy would maintain its authorial foundation for rights, while review courts would just offer a supplementary function as an editorial alarm bell (Bellamy 2013; 267).

Bellamy argues that the best way to defend the people's non-domination is by enhancing institutionally what he calls the *ars rhetorica* of "hearing the other side" (Silva 2015; 20). This view does not consider society as composed by separate social groups to each of which we should give an independent institutional power. Instead, Bellamy argues that groups are interconnected and they must all deal with each other's requests to reach final decisions as a single unit and not as a sum of diverse parts. For this reason, the best way to obtain a balance of power compatible with the reasonable disagreement is by means of transparent authorial democratic procedures that are not hindered by editorial bodies (Silva 2015; 21-22).

Bellamy thus argues that only the horizontal *division* of power - that of the balancing of the executive and legislative powers between competing groups as suggested by pluralist scholars (chapter three) - can foster the goal of "hearing the other side". By balancing the diverse powers, we can recognise the peculiar qualities of each group in society and make sure that they contribute to the common good. On the contrary, if we focused on a vertical *separation* of powers – "the allocation of various competences between either different governmental

functions as in the separation of powers, or levels of government as in most versions of federalism” (Bellamy 2007; 196) – we would only foster a conflictual situation where each group contests others’ decisions and where powerful interests dominate weaker ones.

According to Bellamy, rather than opting in favour of a separation of powers where independent bodies control each other, we ought to rely on three constitutive procedures of existing democracies to institutionalize a balance of power that equally considers all diverse groups. First, *universal suffrage* is the best way to give everyone the same political weight in collective decision-making (Bellamy 2007; 223-225). Second, decisions must be taken according to *majority rule*, since its being a mechanical process guarantees legitimacy to the winning part without infringing voters’ equal respect (Bellamy 2007; 225-233). Third, contestation must be institutionalized with *party competition*, so as to promote inclusion and incentivize incumbents to address a wide range of concerns (Bellamy 2007; 233-239).

Focusing on “hearing the other side” thus prevents better than legal constitutionalism *ad hoc* rules that advantage oligarchies, since relying only on their interpretation of constitutions, judicial courts cannot be connected to the interests of all citizenry, whereas rulers accept the need to make their rule more predictable and equitable when their power depends on the voluntary compliance of diverse groups of citizens. However, Bellamy also specifies that not all democratic procedures work equally well, since certain democratic models are better than others in preventing domination (Bellamy 2007; 204-206):

- A. Parliamentary over Presidential systems (Linz 1994; 3-90);
- B. Unitary over Federal system (Tsebelis 1995).
- C. PR over Plurality systems (Foweraker and Landman 2002).

Bellamy maintains that there are three reasons to explain this (Bellamy 2007; 240-243). First, the election of a single candidate, as in the presidential system, is more likely to be subjected to the problems of majority rule, as being elected with a plurality of support that is less than the actual majority of voters. Second, presidential and federal systems are subjected to the all three aforementioned problem of vertical division of power, so there could be an inefficient competition between the parts. Finally, parliamentary and unitary systems guarantee a more direct link between the executive and legislative programme chosen by the electorate.

Overall then, Bellamy pictures a political system that resembles the Westminster model or the model used in some Scandinavian countries where authorial institutions are the political



decisional centre, but where legislatures or parliamentary committees may be appointed special powers to make sure that the people's interests are pursued (Bellamy 2007; 208). An in-depth analysis of which of these authorial features work better exceeds the purpose of this thesis, since I am here focusing more on the connection between the authorial and editorial dimensions of democracy. In this regard, the important point stressed by Bellamy is not that democracies are perfect, since there are occasions in which they fail to fulfil their tasks and others where a judicial review could help. Rather, Bellamy's claim is that courts cannot fix democracy's imperfections when legislatures fail to fulfil their tasks.

Constitutional courts compromise public reasoning, so only fair elections grant that decisions were rightfully made and respected the people's equality and their competing conceptions of political values. Any reviews of parliamentary legislation by independent bodies thus produce several problems: citizens are not included in the discussion on their rights; a separation of powers where judges are empowered over other fields of government limits the chances for compromise between the different views and, above all, judicial courts deprive the people of having a say on important matters (Bellamy 2013; 259-262).

As noted, while I agree with Bellamy's criticism to Pettit's model, I reject his solution on two regards. First, I think that he adopts the wrong conception of the populace, since he relies only on a unitary vision of the people, thus neglecting the republican focus on a divided conception of the populace. Second, I think that he mistakenly identifies the editorial power with Pettit's editorial bodies. In this way, he neglects that his critiques are effective against depoliticized judicial courts only, but this is not the only way of contesting a government's decisions. To explain my criticism towards Bellamy, I start by describing the alternative view I am arguing for, namely McCormick's "Machiavellian democracy" (2011), afterwards explaining the importance of framing this debate on a divided conception of the populace.

## **6.2. A popular editorship: McCormick's "Machiavellian Democracy"**

At the basis of McCormick's argument lies the belief that the problems raised by what I called the oligarchic threat compromise the democratic expectation that government will be equally accessible and responsive to all citizens, since the institutional arrangements of modern republics may be swayed by elites to better realize the policy preferences of the few than those of the many (McCormick 2017; 879). Focusing on finding a solution to the threats produced by wealth inequalities and from a lack of control over oligarchies' behaviour, McCormick's

thesis goes in the opposite direction than scholars - such as the epistocrats - who believe that the main threat is the tyranny of the masses over minorities.

This goal is challenged in several ways. First, many republican scholars misunderstand their historical tradition, since they focus only on those scholars who argued that our societies ought to be ruled by few experts rather than the whole populace. Among these historical misunderstandings, the most important one regards Machiavelli's writings, since contrary to what is argued by scholars such as Pocock (1975) or Skinner (1990), this philosopher focused on how to include more broadly the whole population and not on how to exclude them.

Machiavelli was critical towards many of the early republican scholars – which he called the “writers” - such as Cicero or Bruni (Machiavelli 1950 (1531); 58). Cicero maintained that the common good is best served when the republic's most virtuous men deliberate and decide over policy, so it is better to restrict the people's participation to the election of their rulers and to give the senate a monopoly over policy making (Cicero 1991 (44 BC)). Bruni recognized the importance of popular participation, but similarly stated that all the most important political decisions were to be taken by small committees of experts (Griffiths 1987).

The “writers' problem” is that they claimed that the main hazards come from the bottom of our society and not from the wealthy top, thus neglecting that they favoured oligarchic domination rather than protecting the people's freedom (McCormick 2003; 616). Relying on Machiavelli's writings, McCormick criticizes modern republicans – the “Cambridge School” (McCormick 2011; 1-3) - accusing them of attempting to justify oligarchic power rather than looking for a solution to the oligarchic problem. Rather than following the oligarchic path of the “writers”, we should then implement a “Machiavellian Democracy”, namely a political system in which our main concern should be the inevitable social conflict between a wealthy side – the *Grandi* - and the people – the *Popolo* (Machiavelli 1950 (1531); I.4; I.7).

Machiavelli argued that the *Grandi's* political behaviour has always been driven by an unquenchable appetite for oppression. Rather than sharing power for society's wellbeing, the *Grandi* have historically focused on making others act in accord with their own personal interest and on dominating internally rather than looking for glory externally, which entails that they are also unable to defend the liberty of the republic itself, whose guardianship must be given to the second side, the *Popolo* (McCormick 2011; 56). The *Popolo's* political behaviour is driven by an opposed will, namely that of just not being oppressed by the few. This will

make them more reliable, since they only look for protection, whereas the *Grandi* aim to exploit governments to pursue domination and they would thus let the ruler down as soon as she fails to fulfil their will to oppress (Machiavelli 2005 (1532); 15-19).

I previously argued that the people's biases unavoidably affect the people's ability to participate directly in politics. On the contrary, Machiavelli argued that the few and the many are affected by the same biases, but "the people, within the appropriate institutional parameters, make wiser decisions than do oligarchs or princes [...], even though their judgment is imperfect" (McCormick 2011; 80). According to Machiavelli, the people's desire not to be oppressed is achievable and respects the people's equality, while the appetite of the few to dominate entails hurting the others and it is also insatiable and morally wrong (McCormick 2017; 210-211).<sup>69</sup>

The "writers" argued that we cannot rely on the *Popolo*, but Machiavelli argued that they do so because they neglect that there is a difference between the people's opinion and their political judgment, namely that when citizens are given the opportunity to reflect and deliberate, thus enhancing the latter and avoiding the former, they can make good political decisions (Machiavelli 1950 (1531); III.34). Hence, even though protecting the *Popolo* could be difficult, due to the people's biases and to the fact that their focus on not being dominated inclines them toward inaction, this does not mean that it is impossible, since the people's *onestà* (honesty) guarantees that the many can govern better than the few for several reasons:

1. Machiavelli maintains that the many may be affected by biases when they vote, but they are not so ignorant as to be incapable of recognizing a man worthy of trust (McCormick 2011; 75). In this way, Machiavelli neglects what I noted in the first chapter, namely that voters are more likely to rely on characteristics other than competence to judge politicians, as the candidates' height, perspiration, name, etc. (Oppenheimer & Edwards 2012; 39-44).
2. Citizens do not usually think of accusing the *Grandi* because they feel powerless and they fear retaliation. Nonetheless, as I describe later, Machiavelli argues that if empowered with the right institutional means, citizens can react with enough spirit to punish those that threaten them. This will not cause popular domination of the *Grandi*, since the people do not tend to dominate the others when they are free to do so. That is, those inclined to live free of oppression respect the laws that protect them (Machiavelli 1950 (1531); D I. 58).

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<sup>69</sup> I am here discussing only the theoretical consequences of what maintained by Machiavelli, but it is important to specify that all his arguments rely on many historical examples, both regarding Rome's and Florence's history.

3. If individuals are formally empowered by laws, they can collectively overcome their individual biases and reach better results than a few magistrates. The right comparison is then not between a populace without laws against an idealized and law bounded prince, but rather that between citizens regulated by laws and a bridled prince (McCormick 2006; 153). As I analyse in more detail in the next sections, I consider Machiavelli's confidence on the people's epistemic abilities too optimistic. Nonetheless, I think that the Florentine philosopher underlines three important points. First, oligarchs are biased as well, so they would not avoid the first side of the dilemma. Second, if the many are completely disempowered, or if they can only act through intermediaries, they may succumb to political confusion and pursue harmful behaviours to find a way to have their voice heard, so we must empower them. Third, the fact that oligarchies are the main hazard to the people's liberty does not imply that the *Grandi* must be entirely disempowered, since if we tried to exclude them completely, the few could become even more threatening in an authoritarian system (Machiavelli 1950 (1531); D I.35).

Elites have always had great agenda-setting power, so the question becomes how citizens can protect themselves from the *Grandi*'s domination. According to the Machiavelli, the answer is that our societies ought to be structured as "two-polities-in-one" in which the two sides, the poor and the wealthy, have both at their disposal their own representative assembly and in which the populace controls the oppressive behaviour of the elites. That is, we should give the *Popolo* class-specific assemblies to patrol, contest and eventually block oligarchic attempts to dominate our societies (Machiavelli 1950 (1531); D III.8).

The *Grandi* themselves may help to obtain this goal, since they may realize that their appetite for dominion could lead to the end of the republic and they thus need larger control over their actions. In what follows, I analyse two main historical examples presented by McCormick to represent how these institutions could work, namely the roman "Tribune of the Plebs" and the "Provost" theorized by Machiavelli (McCormick 2011; 101-102). Before doing so, there is a terminological aspect to specify in the following parts of the thesis:

- I refer to the contestatory institution itself using the terms "Tribunate" or "Provost";
- The institution's representatives will be referred to as "Tribune/Tribunes";

#### A) *The Roman "Tribune of the plebs"*

McCormick maintains that Rome was a republic formed by two polities in one, with a noble and a plebeian side divided according to the wealth owned. The nobles monopolised the major

magistracies, since the Senate and the Consuls were primarily from aristocratic families. Yet, even though the republic was economically inegalitarian in many ways, the Roman political system was not exclusively an oligarchy, since there was also a democratic component. Roman citizens enjoyed opportunities for upward socio-economic mobility and, above all, they had at their disposal an institution that produced a balance of power between themselves and the wealthy: The *Tribune of the Plebs* (McCormick 2013; 882).

This body was a representative assembly of the people exclusively that controlled the operation of the senate and promoted initiatives that were in the interest of the plebs only. The number of tribunes differed over time, but tribunates were usually constituted by between 2 and 12 members – of plebeian origins - that were elected in the *concilium plebis*, namely popular assemblies from which patricians were excluded. Those who were elected, the *tribunes*, hold the position for a year term, they had to remain in Rome for the entire duration of their office – except during the *feriae latinae* period - and over this period, their house had to stand open day and night to anyone who sought their assistance.

Tribunates' role was more of response against that of the nobles rather than of popular direct legislative initiation, since their main power – the power of *intercessio* - consisted of controlling the senate by vetoing those laws that hindered plebeians' interests. Once a tribune vetoed a law, the senate could not deliberate further and it also could not hold official sessions in that regard. To counteract senate's power effectively, tribunes were sacrosanct: patricians could not touch them physically and the plebs had the right to kill those who tried to do so. This sacrosanctity was important, because it meant that magistrates could not veto the order of a tribune and that only a dictator was not subject to a tribune's veto (Taylor 1990; 60-64).

Tribunates were not limited to vetoing laws, since they had other important powers. First, they functioned as mediators between the nobles and the people and also among the nobles themselves, since they had the power – called *coercitio* - to redress an insult from any individual through the use of penalties. These measures ranged from simple fines, to imprisonment, up to the death penalty. Second, they had the power to deliberate over the senate's decrees and to bring proposals on private and public law - called *plebiscita* - to vote. Third, tribunates disposed of the right of *provocation ad populum*, by means of which a citizen could appeal the actions of a magistrate to the tribunate. After this first step, tribunes could

initiate public prosecutions before the assembly – *iudicia populi* - to punish those of the senate who were accused of bribery – *ambitus* – or treason - *perduellio* (McCormick 2011; 92-97).<sup>70</sup>

These popular assemblies were not perfectly impartial, since the most notable members of the plebs were still more likely to be chosen and tribunes had the opportunity to enter in the senate after having served as tribunes. Yet, this did not compromise the plebs' class representation: the most famous plebeians were still much less wealthy than their patrician counter-parts; there was a continuous rotation in power, since selected representatives had to serve as tribunes for a short one-year term and, finally, re-election occurred only when tribunes proved to be very helpful in containing the dominion of the wealthy (McCormick 2015; 253-254).

Machiavelli acknowledged that tribunates were not a panacea for every political problem, since a tribunate cure could not completely fix by itself all the problems of corruption and the social and economic inequalities that affect every society. Nonetheless, he argued that if tribunates work well, they can help a society last longer and perform better. For example, Machiavelli claimed that tribunates helped the Roman republic collapse later, since they prevented the senate from ruining the republic faster than they actually did. However, they did not stop it eventually, since they did not have sufficient means to stop the inevitable ill-fated consequences of the nobles' appetite for dominion (McCormick 2013; 884-885).

I acknowledge that this latter point is speculative and that claiming that the Roman republic collapsed later mainly due to the role played by the "Tribune of the plebs" is probably overstating these bodies' contribution. The factors behind the development and collapse of such a large political system are numerous and tightly interconnected, so it is almost impossible to find a single specific cause. Yet, even though undertaking a historical analysis of the development and collapse of the Roman republic exceeds the purpose of this thesis, we can still focus on what kind of positive contributions were offered by a system structured on class-specific institutions. According to Machiavelli, tribunates positively contributed in three regards to the Roman political system (McCormick 2015; 253-258).

First, the Roman senate still favoured the rich, but the tribunates and a certain economic social mobility ensured – at least partially - that the same families did not dominate the republic over time. Second, selecting tribunes from their own ranks, the *plebs* minimized the threat of having nobles dominating these institutions. Third, thanks to the internal opposition they posed,

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<sup>70</sup> Instances of these cases can be found in (Livi 2012 [27-9 BC], Libri.III.56, IV.44, V 11).

tribunates led nobles to satisfy their appetite of dominion externally by increasing continuously the empire, and not internally by dominating the plebs (McCormick 2015; 255-256).<sup>71</sup>

Machiavelli analysed the operation of these tribunates because he thought that Florence's rulers could have used a renewed version of these tribunates to improve the political problems Florence had at that time. To understand properly Machiavelli's proposal, it is important to consider also another Florentine scholar, Guicciardini, since his analysis shows that enhancing a contestatory tribunate does not necessarily imply by itself better protection from domination. Rather, a Tribune of the plebs protects the people's liberty only insofar it is popular. Hence, I analyse first Machiavelli's *Provosts* and then I turn to Guicciardini's *Quarantia*.

### *B) Florentine Provosts*

Machiavelli and Guicciardini stressed a similar problem, namely that the *Ottimati*<sup>72</sup> exploited their freedom to hinder the liberty of others and that this created numerous rivalries among social factions that rendered Florence's political climate unsustainable. Both scholars thus argued that Florence needed to find a way to legally channel these clashes by means of institutions of public accusation. Yet, the two scholars differed regarding how these latter should operate and it is in this regard that McCormick maintains that Machiavelli's solution better protects the people's liberty than Guicciardini's (McCormick 2011; 115-138).

#### *B1) Machiavelli's provosts*

Florence had a social structure similar to the Roman one, since it was divided between the *Ottimati* and the *Popolo*. The former monopolised the most important legislative and executive institutions - the "Council of the Commune" and the "Podestà" - in the same way that nobles dominated the Roman senate. However, in contrast with Rome, the body to which citizens belonged - the "Councils of the Popolo" - was not of the people only and it was thus unable to defend the many from the *Grandi*'s domination (Martines 1979). Hence, while in Rome the plebs had a class-specific tribunate to compete with the senate in determining the outcomes

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<sup>71</sup> Whether or not this latter point is effectively positive is surely disputable. Yet, we should consider this statement within Machiavelli's historical period. That is, scholars in the 16<sup>th</sup> century had a different perspective on external politics than ours, so they considered more positively than we would do nowadays the military expansion of the empire. Regardless, the important feature here is that Tribunates helped diminish the nobles' internal domination.

<sup>72</sup> The *Ottimati* were for Guicciardini what Machiavelli called the *Grandi*.

chosen by the consuls, the problem in Florence was that the *Popolo* did not have a similar body to balance the power of the *Ottimati* in determining the outcomes of the *Signoria*.<sup>73</sup>

Machiavelli acknowledged that the *Grandi* must have a prominent political role, so he suggested to satisfy the elites' appetite for dominion by establishing the legislative power in an exclusive class of 65 life-tenured citizens in the *Signoria*, together with a 200 member senate to satisfy the middle-class. However, he further specified that these two bodies had to be balanced by a *Provost*, namely a popular institution, the goal of which was to control and challenge the aristocratic institutions. Members of the provosts had to be selected by lot drawn from the populace only, even though it was also important to make sure that members of all the diverse guilds present in Florence at that time were included in the final selection. Once elected, to avoid the risk of corruption and intimidation by wealthy interests, representatives had to serve for a short and non-renewable term, they had to operate according to deliberative procedures and they had to be numerous and diverse (Gilbert 1958).

According to Machiavelli, the imperative of efficiency was not an argument for recourse to small, elite-dominated bodies. He maintained that there were three main reasons to establish a specific "counter-signoria" popular power instead of a *Signoria* open to everyone. First, the wealthy few possess superior economic resources and a better education that they can use to find a way to eventually monopolize the latter institution. Second, a *Provost* would give citizens their own institution to which they are all equally eligible, so common citizens would stop complaining because they are not elected in offices where they thought they could have had a chance. Third, the people would have at their disposal two direct means to block the domination of the nobles' magistracies (Machiavelli 1998; 110-115).

On the one hand, the *Popolo* would have the power to compel the members of the *Signoria* to be heard in an assembly where the latter would be rendered accountable for their actions. On the other hand, these committees would have the power to veto the magistrates' proposals, so they would be able to block a policy considered dominating. As I note in the last chapter, whereas I agree with the second point, I reject Machiavelli's argument that citizens can wisely use a trial power. Machiavelli argued that thanks to their *onestà*, citizens can discern between accusations and calumnies. Moreover, it was possible to avoid random accusations because

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<sup>73</sup> The Signoria was the governing council of Florence. It consisted of nine men, led by the "Gonfaloniere", that were chosen by lottery among the republic's seven main guilds (Strathern 2009).



accusers knew that they would have faced the same punishment they were advocating for others in case the entire citizenry considered their accusation false (Machiavelli 1950 (1531); I.29).

However, as I analyse in the last chapter, I think that we ought to avoid using trial power because it would face two main problems. First, I do not think that citizens can overcome their biases so as to use this power wisely. Instead, I argue that citizens are more likely to be driven by sentimental biases and resentment towards punishing those they do not agree with or that may have had more success than them. Second, there would be a demagogic problem, since accused politicians could use the process as a way to picture themselves as martyrs, thus paradoxically gaining from being trialled rather than being punished by the accusation.

Machiavelli argued that his *Provosts* would have performed better than the Roman tribunes in two regards (McCormick 2011; 106-108). First, whereas the nobles had at their disposal means to threaten the tribunes, the combination of short terms and lottery selection guarantees that the provost's members can serve as free as possible of the influence of the *Grandi*. Second, possibly involving any citizen, and not only the most prominent members of the plebs, serving in the *Provosts* would educate citizens in the operation of political duties as it was the case with democratic institutions in Athens. Hence, provosts were necessary for a free republic, since "popular government requires both the participation and loyalty of the *Grandi* and the establishment of an institution that they inherently detest" (McCormick 2011; 113).

## *B2) Guicciardini's Quarantia*

Like Machiavelli, Guicciardini maintained that Florence needed an institution – the *Quarantia* – where the citizenry had equally the opportunity to initiate a procedure of accusation of political crimes against someone else and in which the accused could have found a fair and proper judgment. For this body to produce equal and impartial judgments, it was fundamental to make sure that the *Grandi* did not dominate the opportunity to accuse the others and that they did not have the chance to avoid being judged themselves. The *Quarantia* could produce good outcomes only if they functioned impartially and only insofar as the *Grandi* were punished when it was necessary to do so (Guicciardini 1970 (1509); 123-129).

To achieve this, Guicciardini argued that it was necessary to select its members using a two-step procedure that mixed sortition and selection (Guicciardini 1970 (1509); 129-132). First, a large group of nominators had to be chosen from among the citizens collected in the Great Council by means of sortition. This first step guaranteed a certain amount of impartiality in the

selection procedure and also an equal consideration to all the different social groups. After this first randomized procedure, the final members of the “Great Council” had yet to be elected to make sure that the best ones were favoured over the others. That is, the nominators selected by lottery chose a group of deserving citizens and those who received the majority of votes in the Great Council filled the final position in the *Quarantia* (McCormick 2011; 109)

In this way, the *Quarantia* would have empowered the populace, since they would have given the many the opportunity to trial wealthy citizens and to receive a fair judgment (Silvano 1990). Yet, Guicciardini maintained that the final selection must still favour the *Grandi*, since we must make sure that political offices end up in the hands of the more noble and knowledgeable individuals. Yet, according to McCormick, this is the reason why we ought to prefer Machiavelli’s proposal over Guicciardini’s: the *Quarantia* would have given the Popolo more powers, but since final decisions remained in the hands of the *Ottimati*, the Popolo would not have the opportunity to effectively counteract the *Ottimati*’s decisions. Hence, according to McCormick (2011; 122-124), Machiavelli’s proposal is superior in two regards:

1. *It respects better the people’s equality*: whereas Machiavelli believed in the people’s judgments and thus maintained the importance of using integrally the lottery selection to guarantee impartiality in the selection of the provost’s members, Guicciardini did so only partially. That is, the latter recognized that lotteries decrease elections’ aristocratic bias, but he specified that the people’s ignorance is a bigger threat and we thus need a selection system to make sure that the best members are still advantaged over the *Popolo* in the distribution of offices (McCormick 2011; 110).
2. *It is more democratic*: Guicciardini’s proposal is as aristocratic as those of the “writers” (Livy 1988 (27-9 BC); chaps 34-39), since his *Quarantia* is a small jury of great men, namely an *Ottimati*-dominated magistracy. On the contrary, Machiavelli disapproved the exclusion of the citizenry from the censure and removal of suspected public officials and prominent citizens, since he considered leaving these matters in the hands of the elites only a great invitation to corruption.

Machiavelli recognized that “the few always behave in the mode of the few” (Machiavelli 1997; I.7; I.49) and he is thus to be preferred because he “offers a model for punishing prominent citizens and public magistrates that is both grounded in the rule of law and inclusive of common citizens” (McCormick 2011; 138). Machiavelli’s view is thus essential, since he explains that we must make sure to keep these bodies popular to render them compatible with democratic values. In this way, Machiavelli proves that the editorial dimension of democracy

is not necessarily oligarchic. Moreover, it is in this regard that structuring the debate on a divided conception of the populace becomes fundamental.

### **6.3. The divided conception of the people: A Paretian view of the populace**

Pettit argues that his editorial bodies would be legitimate because they would act according to the shared conception of the common good formed in deliberative assemblies. He does so because he maintains that citizens have certain interests in common that render a government desirable for everyone and that individuals can perceive others' needs and feel that they share something with them. That is, Pettit argues that deliberation would be efficient because there is a common interest on which citizens can agree if they discuss it in well-functioning deliberations (Pettit 2000; 119-120). As noted, Bellamy objects that Pettit's editorship would not possess the legitimacy required to overrule parliaments, since deliberation is not sufficient *by itself* to legitimize these bodies' contestation.

This criticism does not yet entail that Bellamy adopts a different conception of the populace than Pettit's, since they both adopt a view of the people as a single unity composed by equal individuals. On the contrary, I argue that the editorial dimension of democracy can function properly only insofar as it relies on a divided conception of the populace such as Machiavelli's. This divided conception of the populace concerns the unavoidability of group inequalities and the fact that as a result of human beings' natural differences, there has always been a group of few *Grandi* with superior economic and social resources to those of the *Popolo*.<sup>74</sup> Yet, personal differences are not stigmas that force some to be slaves and that cancel any intragenerational and, above all, intergenerational social mobility. Rather, *Grandi* and *Popolo* are categories that have always existed, but individuals – in some historical phases more and in others less – have always moved upwards or downwards in the social ladder.

I thus favour a Paretian view of society for which social heterogeneity and elites' circulation are tightly connected. To understand Pareto's conception of the populace, it is important to describe the curve of income distribution from which he drew his conclusions. Before doing so, it is important to stress that Pareto himself specified that the data he used to determine the shape of the curve referred mainly to the 19<sup>th</sup> century, so the conclusions drawn from these data do not hold beyond the societies he studied. Nevertheless, from his data Pareto maintained that

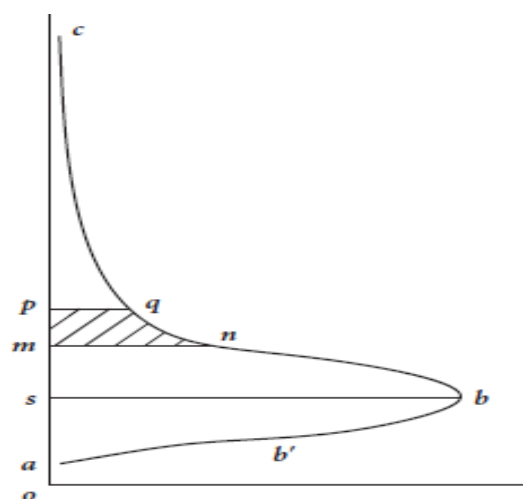
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<sup>74</sup> Once again, for the empirical historical analysis of the constancy of the elites, among the many others I refer to Winter's (2011) and Higley's (2006) books.

it might have been inferred that in other times and with other peoples, the curve might have a similar shape to the one he found (Pareto 2014 (1906); 196).

I do not have the space here to exhaustively present a mathematical and empirical analysis of how representative this curve is for contemporary society.<sup>75</sup> Rather, since I aim to explain why we ought to rely on a divided conception of the populace, I am here more interested in the view of the populace he draws from his results. Pareto argued that three features affect wealth distribution (Pareto 1949 (1896); 333-334): a) Human nature, b) Social organization or c) Random Factors. If wealth distribution changed randomly over history, the main cause would be c); if it followed the economic phases, it would be b) and finally, if wealth distribution did not change significantly over different places and times, it would be due to a).

Analysing the unequal distribution of wealth in some 19<sup>th</sup> century societies<sup>76</sup>, Pareto found that the lines representing these distributions were all similar one to another, which implied that there had to be a common cause at the basis of these distributions. This does not mean that wealth distribution did not change between the diverse cases, but only that the line describing how wealth was spread among the populace was similar from one case to another. From these lines, Pareto drew his curve of wealth distribution (Pareto 2014 (1906); 194):



a) Pareto's curve of wealth distribution

In this illustration, the axis  $y$  represents the amount of wealth and the axis  $x$  the number of individuals whose wealth is superior to that amount. For example, if  $mo$  equals to an income  $X$  and  $mp$  equals to 1, the area  $(m n q p)$  is the number of individuals whose income is between

<sup>75</sup> I studied this curve in a previous work (Tonello 2013). The debate on this curve is interesting, since diverse scholars argue that it still applies well to modern societies. For an overview of these studies see Cirillo (1979).

<sup>76</sup> For more details regarding Pareto's analysis see (Pareto 1949 (1896); 333-346).

$X$  and  $X + 1$ . Pareto did not have sufficient data for the lower incomes, so he specified that only the part ( $c q b$ ) was known, while he argued through induction that the inferior part of the distribution was flattened. In this case, the ( $s b$ ) line is the “survival threshold”<sup>77</sup>. It is in this regard that Pareto maintained that: “We often discuss a social pyramid where poor compose the base and wealthy the top. Yet, there is no such pyramid, but a figure shaped as the tip of an arrow or, if you prefer, the tip of a top” (Pareto 1949 (1896); 346).<sup>78</sup>

Having proven that the curve he found was neither the Gaussian curve nor due to chance, Pareto argued that the curve was determined by social heterogeneity. If social mobility was perfect, this distribution would be due to the redistribution of individuals’ genetic qualities that allow them to gain wealth. Yet, social mobility has never been perfect, so Pareto claimed that this law of distribution is due to both individuals’ qualities and social obstacles that hinder the realization of these qualities. Hence, the pivotal feature found by Pareto was that despite the fact that the *parameters* of wealth distribution changed, the *form* of the curve representing this distribution was similar in all the cases studied.

Whereas the ( $b q c$ ) curve slightly changed its shape in certain cases, due to variation of income inequality, its form thus remained the same. Pareto argued that this was due to the fact that: “an increase in the minimum income and a decline in the inequality of relative incomes cannot take place, either separately or jointly, unless aggregate income increases faster than population” (Pareto 2014 (1906); 198).<sup>79</sup> This is important from the economic point of view, since it implies that a redistribution of the resources from the richer part of the populace to the poor part does not necessarily improve the condition of the latter. If this money is not used to improve overall economic productivity, when the slope re-establishes itself to the original shape shortly afterwards the redistribution, the only result produced would be a waste of wealth and a lower economic condition for the whole society (Pareto 1949 (1896); 397).

As noted, I am not primarily interested in the economic consequences of this curve, but rather on the view of the populace connected to it. In this regard, it is important to stress that Pareto’s curve constancy only concerns the external shape of the curve, namely the overall distribution. On the contrary, the particles forming the distribution – the people - were not stable, but they

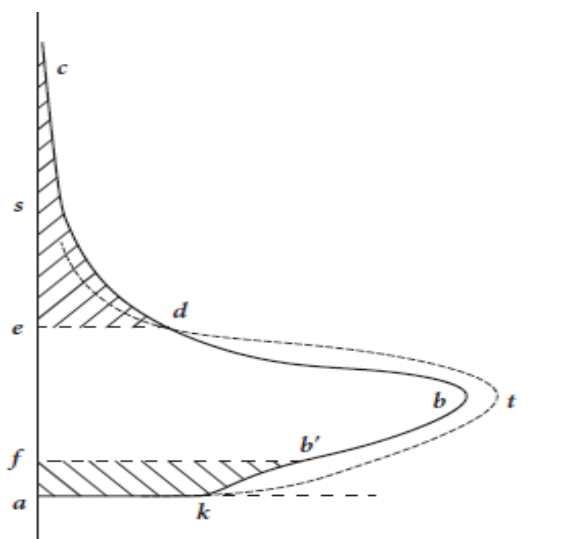
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<sup>77</sup> According to Pareto, the bottom part is flat because those who reach ( $a s$ ) are destroyed and disappear. Human beings cannot survive below such threshold, so the part ( $a b' b$ ) is theoretical rather than drawn from specific data.

<sup>78</sup> This is my translation of the Italian original quote (Pareto 1949; 346): “Si discorre spesso della piramide sociale di cui i poveri costituiscono la base, i ricchi la cima. A dire il vero, non è già di una piramide che si tratta, ma invece di un corpo che ha la forma della punta di una freccia o, se si preferisce, della punta di una trottola”.

<sup>79</sup> For the mathematical analysis of this part see Pareto (1896; 322-325).

rather moved upwards and downwards, with some individuals getting richer and others vice versa (Pareto 1972 (1902); 363-374). The fact that the external shape of the slope tends to reach an equilibrium implies that any modifications of some parts of the income curve have repercussions on other parts until, finally, society resumes the usual pattern. That is, we can modify the external form of the curve over the short term, but the curve will tend to re-establish itself in the original form.<sup>80</sup> This point can be better described by considering how previous figure does – or better does not – change (Pareto 2014 (1906); 199):



In this second figure<sup>81</sup>, if one were to deprive the wealthiest citizens of all their incomes, thus removing the  $(e d c)$  part in the figure above, the result would not be a new  $(a b d e)$  curve, since sooner or later the curve would regain its form  $(a t s)$  similar to the original one. Likewise, if some sort of disaster were to take off the lower stratum  $(a k b' f)$  of the population, the figure would not assume the form  $(f b' b d c)$ , but it would take again the form  $(a t s)$  similar to the original one (Pareto 2014 (1906); 199-200).

Pareto thus argued that the constancy of the wealth distribution implies that - despite the fact that societies differ one from another and that individuals composing them are diverse - human beings are not born equal and differences among them are *not* only due to education. More education can improve the absolute level of the people's knowledge, especially if it focuses on enhancing the knowledge of the lower strata of society. Yet, relative differences will

<sup>80</sup> Once again, it is important to stress here that the curve will regain its original shape, not that the parameters will be the same. Only the former tends to be constant, whereas the parameters continuously change.

<sup>81</sup> As noted, Pareto argues that the bottom part is flat because those who reach  $ah$  are destroyed and disappear.

nonetheless persist since, as explained by one of Pareto's examples, not everyone can become Newton even if she is given a good education (Pareto 1896; 398).

This claim may sound aristocratic, but this is not the case since - as noted in my criticism of epistocrats - maintaining that some individuals possess superior qualities than others is not the same as claiming that these individuals are better in absolute terms. An aristocratic argument is then not acceptable, since there is no way to legitimately claim that some superior groups – based on race, culture religion, etc. - should rule or impose themselves on others: one can only be better in circumstantial terms and not in absolute ones (Pareto 1974 (1902); 336-351).<sup>82</sup>

The constancy of the wealth distribution also implies that there has always been a small part of the populace that owns resources well superior to those of the others. According to Pareto, human beings possess different natural qualities, so it is possible to find a group of individuals that perform better than others in each field of competence. That is, if we composed a ranking where each single competence owned by the individual is given a grade – as from 1 to 10 – and we formed a class of those that obtained the higher score considering all the diverse fields of knowledge, we would find two social levels: the lower level of the “non-elected” class and the “elected” class, those with the higher scores (Pareto 1935; 529-532).

This is an essential aspect of the whole thesis, since it is the reason why I argue that we ought to structure the editorial democracy *primarily* on wealth rather than on other characteristics. First of all, it is important to underline that I am writing *primarily* and not *only*, since I am not saying that gender, ethnicity, religion, etc., are qualities that can be neglected. Each country has a specific social tissue and if we are to frame effectively an editorial democracy, modern tribunates must be tailored according to which are the salient differences and inequalities in that society. For example, in a country such as New Zealand, ethnicity and Maori rights are an important part of the political debate that cannot be neglected, while Italy is quite homogeneous from that point of view, so ethnicity would not be as salient as in New Zealand.

That said, my answer to the essential question: “Why wealth rather than something else?” is that, following a Paretian view of the populace, wealth inequalities are related to human beings' nature and thus unavoidable, whereas other inequalities are related to society's social organization. I already explained both in chapter one and in this section why I argue that

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<sup>82</sup> To explain this aspect, we can use animals as an example. We cannot determine in absolute terms whether a horse is better than a cow. Rather, we can do so only in circumstantial terms. If I need a means of transport, the first is better, whereas if I need an animal to sustain a family nutritional needs, the latter is preferable.

oligarchies have always been a permanent feature of our society's social structure, so I am not analysing this aspect further. On the contrary, I am sure that the statement that gender and ethnic inequalities are related to society's social organization would raise more than one eyebrow. For example, one could say that gender inequalities have always existed.

I agree that women have suffered male domination for most of our history and still nowadays equality is far from being reached. Nonetheless, there has been a significant improvement in women's condition over the last decades. This improvement is connected to the fact that only after the 2<sup>nd</sup> world war our economies and societies have developed sufficiently for women to free themselves from the sole role of breeding children (Kitch 2000). Ergo, if breeding children has been the – or at least one of the main - feature in society at the roots of gender inequalities, even though gender equality is far from being achieved, I can picture a future society in X years where gender equality will be achieved because we will have defeated cultural and social barriers to gender equality and children care will have been better managed.<sup>83</sup>

In the same way, ethnic inequalities have been a significant problem for many of our societies' history. Yet, social organization can explain these differences, since many of current ethnic inequalities are the result of colonial period or even precedent phases, where more developed societies exploited their economic power to dominate others (Dickens 2020). As for gender inequalities, there have yet been improvements in this regard in many countries, even though the situation is critical in many states and ethnic equality is even further to be achieved than gender one. Nonetheless, being related to social organization, I can also picture a future society in Y years where there will be no ethnic inequalities.

Instead, due to what I explained in this section, I cannot picture a future society where there will be no wealth inequalities among the citizenry. My decision to focus on wealth is thus due to the fact that wealth inequalities are, and will always be, unavoidable, so we must focus first and foremost on taming oligarchies so as to reduce as much as possible the domination resulting from oligarchic power. As noted by Pareto, while inequalities are unavoidable, the extent of these inequalities is related to how our societies are organized, so the better we tame oligarchic power, the less domination the *Popolo* will suffer. That is, in any field there will always be a division between an elite and the remainders. Yet, even though creating an absolute ranking -

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<sup>83</sup> Breeding children still has a significant negative impact on gender equality in the job market (Kleven, Landais & Soogard 2019)



one that includes all fields of knowledge - is theoretically possible, it is impossible to do so empirically due to the lack of empirical reliable standards to establish these absolute levels.

Societies have thus always had to rely on imperfect features to form social classes, such as descent, religion and, above all, wealth. This division between elected and non-elected classes has always been imperfect, and as such it has always created social classes with different and contrasting interests. This difference has usually produced two forms of social competition (Pareto 1974 (1902); 430-431). The first is economic competition, which is positive when properly regulated, since every class is directly or indirectly useful to other ones. The second is class warfare, where each class tries to sway governments so as to advantage themselves over the others. This is negative, since ruling classes use public institutions to advantage themselves over their opponents, thus harming both the latter's liberty. From these forms of social confrontation, Pareto draws two main conclusions (Pareto 1935; 153-157).

First, governments reflect how social conflict is framed: if human beings were perfect, the most honest and virtuous means would be the most effective ones. Yet, since human beings are imperfect, there will always be the risk that factions compromise society's functioning by looking for a way to be favoured by governments at the expenses of other. Second, that due to human beings' nature, a group of few people – the elites – have always ruled our societies, even in democratic systems. Yet, this does not imply that the same elite will always persist in power and that their rule will always be absolute, since the way social confrontation is structured determines the qualities of governments' political outcomes and the circulation of the elites (Pareto 1935; 158-160).

Pareto agrees with Marxists' claim that social confrontation is a pivotal social phenomenon. Yet, at the same time he does not think that this confrontation does necessarily have to take the form of a social revolution or class warfare. On the contrary, well performing societies must make sure that a positive social circulation occurs. That is, we must guarantee that "High score individuals" can achieve higher positions in society regardless of their social origin and, above all, that "Low score individuals" do not persist for too long in ruling positions only because they possess certain social features (descent, race, etc.) (Pareto 1935; 160-164).

A Paretian conception of the populace thus stresses that there will always be a natural division in society between an elite and the remainder non-elite, but that individuals forming these categories change continuously. Other philosophers previously considered agree on the fact that groups of few powerful individuals have always structured the economic and political

operation of our societies, even though they have used different labels – Pareto used the label “Elites”, Machiavelli “Grandi”, Guicciardini “Ottimati”, Winters “Oligarchies”, etc. Once again, this does not entail that these scholars maintain that there can be no social mobility and that we are doomed to accept an undisputed oligarchic domination on our political systems. Some elites are more sociologically closed than others, but eventually “Oligarchy”, “Elite”, etc., are empty boxes, since individuals composing them have always changed continuously.

Some societies have experienced more social mobility, whereas some elites have managed to reduce at minimum this threat in other societies, but eventually there is no such thing as a natural aristocracy that is unavoidably destined to rule. As noted, even the Roman system allowed for a certain social mobility and in modern systems, the easier social mobility is, the better the social system operates and the better non-domination is granted. Hence, this Paretian conception of the people is not only contrary to Pettit’s and Bellamy’s unitary view of the people, but also to the agonist scholars’ view (Mouffe 2000; Laclau 2001).

This may seem at first contradictory, since I previously claimed (4.4.) that I support the agonists’ claim to reconsider conflict as a positive social relationship if structured in agonist terms and not in antagonist ones. However, there is no contradiction. I agree with agonist scholars that a social confrontation between classes does not necessarily imply a destructive class-warfare, since it could rather be positive if properly institutionalized. Yet, a Paretian view of the populace for which the division between *Grandi* and *Popolo* is connected to human beings’ natural differences entails that these categories are not entirely socially constructed. Social cleavages change, so it is true that social classes can always be reframed – as argued by the agonist scholars. Yet, at the same time human beings’ natural differences imply that these categories cannot be entirely eliminated by reconsidering the way society is framed.

According to how we institutionally frame our societies, the social confrontation between classes will produce better or worse outcomes, but I think that there will never be a final society where we entirely resolve class differentiation as the communist society pictured by Marxists. Hence, I maintain that an editorial democracy requires a Machiavellian and Paretian conception of the people because they move the purpose of legitimizing conflict from trying to *eliminate* social differences to *taming* the negative consequences of the social class division. Whereas a unitary conception is unachievable because it neglects human beings’ natural differences, a divided view helps pursuing the goal of defending non-domination, since it makes sure to

guarantee that individuals find no domination in pursuing the kind of life they deem valuable, regardless which social class they were born in.

In sum, I argue that we must institutionally recognize social class differences because protecting the people's "non-domination" requires giving the *Popolo* the power to be able to counteract the *Grandi*'s domination. The purpose of formally recognizing class differences is then not to create an epistocratic government to exclude the *Popolo* from participating to politics, but to make sure that the *Grandi* do not use common institutions to dominate others. In a context where individuals' natural differences produce unavoidable social and economic inequalities among the whole populace, only insofar as we *rebalance* politically these inequalities will we be able to grant the conditions required to maintain the *Popolo*'s liberty.

This divided conception of the people has been criticized by scholars close to the Athenian ideal of democracy, since these philosophers maintain that only a definition of citizenship based on a strict notion of equality can be considered democratic. That is, if the respect of *normative* formal eligibility for offices and assemblies for any member of the populace is the pivotal feature, then only a Greek tradition that does not create second class citizens is democratic, whereas a Roman one that formally distinguishes between two classes – nobles and citizens – violates the foundations of a democratic society (Urbinati 2014; 81-127).

In my opinion, this criticism neglects that while it is possible to theorize a populace made of equal individuals where each should be given the same chance to be elected in parliaments, this is just not what happens in the empirical world. Rather, societies are pervaded by socio-economic inequalities that compromise the realization of a unitary conception of the populace. If wealth and social inequalities cannot be completely eradicated, we thus ought to care less about equal eligibility or equal voting power and more instead about preventing oligarchies from using their power to sway the functioning of democratic institutions. A formal social class differentiation is then the natural consequence of acknowledging that classes are basic social facts that cannot be denied, ignored or transcended (O'Leary 2011; 144).

As noted by Pareto, this social division unavoidably creates classes with different interests that are likely to clash one with another. The class-warfare threat will thus always be present, since this problem will always be a *possible* outcome of a class-divided society. Yet, class warfare is not an *unavoidable* outcome of a divided society, since this threat will only be such if social class differences are not properly channelled institutionally. Ergo, supplementary institutions would respect also an Athenian ideal and not only a republican one.

Even though Athenians did not have at their disposal specific institutions to protect themselves as in Rome, they were not completely disempowered. Both the *ekklesia* – legislative assembly – and the political courts were open to every citizen and gave the latter an effective control over those in power, since offices were selected by lottery, citizens had the power to ostracise dominating citizens if deemed too influential on the assembly and they could also put on trial those deemed dangerous for the common good (McCormick 2013; 883-884).<sup>84</sup>

A criticism posed by Green (2011; 191-192) is that framing the debate in a binary way could entail socio-psychological repercussions, since it could classify most of the populace as a second-class citizenry and individuals would always feel the burden of being dominated. Whereas it is easy for a common citizen to imagine herself as co-legislator in an equal political system, non-elites would find it difficult to explicitly acknowledge the inescapability of certain economic inequalities and to accept that these inequalities overlap with inequalities in education and political influence. In my opinion, Green's criticism is not a significant problem, since in this regard a divided conception of the populace is more suited than a unitary one.

First, I noted that for a democratic system to function well, losers must consider as legitimate the procedures that led to their defeat (Anderson et al. 2005). Yet, if a political system supposed to give equal political power to the people regardless of the wealth owned eventually favours oligarchs, a unitary hypocrisy that pretends that citizens are equal could worsen the negative impact of the defeat. That is, if some players clearly cheat their way through victory, not only losers will consider their defeat unacceptable, but if we told them that everyone played equally, there is the risk that losers could become more resentful because they would notice that the procedure that determined the outcome clearly infringed their alleged equality.

Second, the purpose of a Paretian conception of the populace is not to classify the majority of the populace as second-class, but contrary to formally classify a part of the people as oligarchs. That is, I argue that there is the case for formally singling out oligarchs as a specific class that could represent a threat to the *Popolo*.<sup>85</sup> This does not mean that I argue for a witch hunt to punish all those who possess large wealth. Rather, since large wealth always entails the power – and has often been used to - to sway political institutions for oligarchic purposes, I argue that we have good grounds for setting a democratic ostracism in two regards.

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<sup>84</sup> This argument is affected by the elitist aspect of citizenship in Athens. Yet, this does not affect this argument: if one maintains that the citizens' direct participation in Athens is the model to follow, then she cannot reject this thesis saying that it is affected by the citizenship problem. If she did so, she would reject her own point as well.

<sup>85</sup> For a similar perspective see Green (2011).

On the one hand, it is necessary to point out who the oligarchs are so as to tame any oligarchic attempt to use authorial institutions to foster their domination. On the other hand, oligarchs use their wealth to dominate the institutions where they take part, so we have good reasons to single out oligarchs so as to exclude them from the opportunity to be part of the modern editorial institutions – the modern Tribune of the plebs – I propose in this second part of the thesis. In case some citizens still felt as second-class despite these two points, giving them an institutional avenue to effectively express their resentment, we could tame the resentment for the defeat – and for being a second-class citizen - towards an attempt to institutionally challenge oligarchic domination and to reframe second class as a socially acceptable condition.

By formally acknowledging societies' social differences, we would not cancel the fact that political outcomes would still produce winners and losers and that no one likes the feeling of being a loser or a second-class citizen. Yet, empowering citizens by means of editorial institutions, we could restore the legitimacy pivotal for a democracy to function well that is now hindered by the oligarchic threat. My claim is that the best way to achieve non-domination is by structuring an editorial dimension of democracy with institutions that formally divide the populace according to social and economic cleavages. This system would not completely disempower wealthy individuals, but it would increase weaker citizens' political power by means of specific "elite accountability institutions" (Saxonhouse 2011; 172). As I explain in the next section, it is now clearer why I reject not only Pettit's thesis, but Bellamy's as well.

#### **6.4. Why we need a supplementary editorial democracy**

If we asked Bellamy the question that structures McCormick's reply to Pettit, namely "What about the many?", Bellamy's criticisms to the editorial dimension would lose value on three regards. First, being a means in the hands of the whole populace and not in those of a few experts, popular contestation could find the democratic legitimacy to contest governments' decisions. Second, being popular bodies only, tribunates would be specifically designed to overcome the aristocratic biases of Pettit's editorship. Third, Bellamy's thesis (2007; 190-210) that the best way to protect the people's liberty is by relying on authorial procedures only is contrary to my argument that these procedures are hindered by the oligarchic threat.

For these reasons, I think that Bellamy underestimates the difference between how democratic procedures ought to work in theory and how they actually work in practice, since wealthy individuals are more likely to be elected, governments are more responsive to affluent interests

rather than popular ones and party representatives enjoy many advantages (resources, information, etc.) that they use to sway elections in their favour, regardless of whether this respects the people's will or not (McCormick 2006; 149-150). Hence, I argue that we ought to reject Bellamy's criticism to follow instead McCormick's "Machiavellian democracy".

Machiavelli suggested institutions similar to the Roman "Tribune of the plebs" centuries ago, when analysing Florence's social problems. He suggested balancing the power relationship between the *Grandi* and the *Popolo* by means of bodies – provosts – similar to the tribunates used in Rome to rebalance the inequalities between the nobles and the plebs (Machiavelli 1998; 110-115). McCormick suggests something similar for contemporary societies, since he criticizes the operation of our democracies, claiming that elections do not render elites accountable and do not properly protect the people's liberty. In this way, McCormick acknowledges that we need supplementary contestatory bodies in support of the existing authorial ones and he thus avoids the criticisms I posed to Pettit (McCormick 2011; 177).

First, modern tribunates would be democratically legitimate, since they would be means in the hands of the populace and not in those of few judges. Knowing depoliticized bodies would have faced objections regarding their democratic legitimacy, Pettit maintained that the fact that their representatives use deliberative procedures entails that their decisions are democratic. Yet, if deliberative procedures are not sufficient by themselves to democratically legitimize these bodies, these latter lose the legitimacy required to contest the decisions of elected parliaments. On the contrary, popular tribunates would not have to rely on deliberation only to justify their editorship, since being a popular power, tribunates' decisions would be at the same level of legitimacy of the legislatures.

Second, modern tribunates would obtain the necessary proximity to the populace, since tribunes would facilitate the interaction between governed and government and they would also actually intervene, showing that they can remedy the *Popolo's* problems and not only apply mechanical rules in general (Rosanvallon 2011; 168-171). The importance of respecting the proximity to the populace is that citizens always feel stronger if they understand what is happening and they think that they can deal with it. On the contrary, if they feel distant, ignorant and with no control over governments' procedures, citizens will be likely to look for dangerous unpolitical ways to express their discontent (Rosanvallon 2011; 204-205).

Republicans acknowledge this argument, but they point out that many still neglect that if a government has won the majority of the seats in the elections, it does not imply automatically

that it is felt as proximate by citizens. This problem can thus make a further case for setting supplementary institutions that help citizens to control the representatives' actions and to feel less distant and excluded from politics. These two points are important to specify why McCormick's solutions is to be preferred, but they would be insufficient without the third and most important one, namely that only insofar as these bodies remain *popular* in character they can defend the people's freedom from domination.

This is a feature that McCormick draws directly from Machiavelli, since the latter maintained that it was important to satisfy the *Grandi's* appetite for dominion giving them much of the legislative power, but he also underlined the importance of having institutions for the *Popolo*. "Tribune of the plebs" were thus not simply contestatory bodies, but *class-specific* contestatory bodies from which wealthy were excluded (McCormick 2011; 145-148). In Rome, only individuals of plebeian origins had the opportunity to become tribunes – even though I noted that this mechanism did not work perfectly due to the opportunity for some representatives to step up in the senate after having concluded their mandate – and the *provosts* were designed by Machiavelli to empower politically those citizens that, being disempowered, created many tumults and problems for the republic.

Whereas Pettit's editorial bodies do not have a group-specific character, since its members are not necessarily of the group whose interests they try to preserve, modern tribunates would guarantee that representatives act accordingly to their constituents' will because they would not only be popular in character, but they would be popular *only*. If the *Grandi* are excluded *a priori* from the opportunity to be selected as tribune, it would be more difficult for them to do so (McCormick 2006; 150).<sup>86</sup> In small and depoliticized bodies oligarchs could easily find a way to use their resources to be either selected themselves as representatives or to have those that are selected pursue their interests. On the contrary, it would be difficult for oligarchs to determine the outcomes of the whole body because they would not take part in it and the tribunate would include specific defences against oligarchic corruption.

One of the features I criticized about Pettit's editorship is that it would not be effective against the oligarchic threat, since not including a veto power it would only increase minorities' voice in parliament and this latter could be easily ignored by the majority in parliamentary procedures

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<sup>86</sup> More difficult does not mean impossible. Oligarchs can still use media and other external means to achieve their goals. Hence, one of the main points of the debate on modern tribunates is how to structure these bodies so as to reduce as much possible the oligarchic threat over their functioning.

(Pettit 2000; 118-120). On the contrary, modern tribunates would be effective because tribunes would have the power to propose some legislative changes, to veto governments' policies and they could also press charges against members of the oligarchy accused to have damaged someone else's freedom (McCormick 2011; 146-147).

Modern tribunates would also not be an external favourable event over the people's lives, since being popular in character, modern tribunates would be a means in the hands of the *Popolo* that they could use to counteract those arbitrary interferences that damage their freedom. In this way, citizens would not need to hope that few judges protect them, since they would have the power to directly defend themselves. Hence, modern tribunates could resolve the deficiencies that affect Pettit's editorial bodies. On the one hand, they could be the supplementary bodies necessary to fix the problems authorial democratic procedures are unable to remedy by themselves. On the other hand, empowering the many and not a few judges, modern tribunates would be democratically legitimate and effective.

## **6. Conclusion**

I concluded the first part of the thesis maintaining that the best way to deal with the democratic dilemma is by setting liberty as non-domination at the basis of the democratic debate. I afterwards started the second part analysing the criticisms to Pettit's argument, explaining that his editorship goes against his own ideal of liberty, since rather than preventing domination by giving the people the means by which defending themselves, depoliticized bodies would empower the few with the opportunity to increase their domination over the people's lives.

In this chapter, after having demonstrated that Bellamy's solution is also unlikely to solve the democratic dilemma, I maintained that McCormick's "Machiavellian democracy" could resolve the democratic dilemma. In my opinion, the game changing feature offered by McCormick's model is that if we make sure that the editorial and contestatory bodies remain in the hands of the citizenry, we can both respect democracy and protect the people's liberty. Up until this point, I have restricted my analysis to arguing why tribunates would be legitimate and how they worked in the past. Now, I turn to the challenging task of explaining how these bodies could work today. My argument is that we ought to develop a system of ministerial specialized tribunates so as to connect the positive features of the editorial dimension of democracy with the people's specialized knowledge.



## 7. THE SOLUTION TO THE DEMOCRATIC DILEMMA

### 7. Introduction

In this last chapter, I describe how modern tribunates could work in practice. In doing so, I must stress that the idea of enhancing a *popular* contestatory institution is something that has not yet found any empirical implementation. The features I am going to discuss are then ideas regarding why framing tribunates in a certain way would or would not better respect the people's republican liberty. To analyse this final topic, I start by describing the main features of McCormick's "thought experiment" (7.1.) regarding how a modern tribunates ought to work.

In this regard, if making sure that modern tribunates remain democratic in character, namely instruments in the hands of the *Popolo* and not in those of the *Grandi*, is the main feature to respect, we must consider in detail how to structure the selection phase of modern tribunates. In section 7.2., I explain that there are three main features to analyse to make sure that tribunates remain popular in character. First (7.2.1.), we have to determine how to select the tribunes, since if elections are affected by oligarchic biases, we must opt for alternative procedures. McCormick relies on lottery selection, but I will also analyse criticisms to his view, since other scholars question lottery's capability to guarantee the popular character of the tribunate.

Second (7.2.2.), I discuss who ought to be excluded from the selection. That is, if we are to prevent oligarchic domination, we must set a certain threshold – economic, social, political, etc. - that divides those who can be part of modern tribunates from those who cannot. Finally (7.2.3.), there is the issue concerning what is the right number of tribunes and what would be the best time frame of their mandate to combine the need to have an effective body with that of avoiding modern tribunates becoming a small elitist body.

In this way, I will be able to debate whether there are better ways of selecting representatives than McCormick's (7.3.), as for example trying to connect the interests of diverse social classes (7.3.1.) or specializing the tribunates' operation (7.3.2.). Having determined how we ought to select the tribunes to keep this body popular in character, I analyse how these institutions ought to operate, namely which contestatory powers these institutions ought to be given (7.4.). According to McCormick, modern tribunates ought to have three main powers.

First (7.4.1.), he reconsiders Machiavelli's suggestion to give the tribunes a power to put on trial those oligarchs suspected of creating dominating hindrances towards the populace. Second (7.4.2.), tribunes ought to be given an effective power of veto over those parliamentary policies

that entail domination towards the populace. Finally (7.4.3), I consider the debate regarding the authorial powers that tribunes ought to have, such as the daily deliberation regarding parliamentary decisions and the powers to initiate referenda.

To conclude, in section 7.5. I present my “thought experiment” on how we could improve McCormick’s idea. In my opinion, we should specialize the tribunes’ operation by creating a system of multiple tribunes connected to government ministries to better challenge the democratic dilemma. On the one hand, tribunes’ editorship would be more specific and would not require tribunes to analyse the operation of governments on a too broad spectrum, thus reducing the problems of the people’s biases. On the other hand, tribunes’ operation could be primarily connected to detecting oligarchic features in the policies enacted by single ministries, thus challenging more precisely any oligarchic influence over governments.

### **7.1. McCormick’s “Thought Experiment”**

Having explained why McCormick’s model is the best one to pursue non-domination, I now describe how we should frame these modern tribunes to achieve this goal. This purpose entails a difficult conundrum, since there are no empirical examples in the modern world that resemble the operation of roman tribunes and that could prove if this theory may be respected in practice. That is, the fact that there are no real-world examples of modern tribune of the plebs implies that the debate can only be structured at the theoretical and hypothetical level.

McCormick acknowledged this historical and theoretical conundrum and he thus framed his proposal as a “thought experiment”, namely a heuristic model of an institutional reform of how to structure a modern tribune of the plebs (McCormick 2006). McCormick frames his heuristic proposal within the American constitutional framework, so the reader may find some American biases his model. Yet, these biases concern small details and are not structural, so they do not hinder the overall generalization of the following features (McCormick 2006; 160-161):

- The tribune assembly would be composed of 51 private citizens;
- Tribunes would be chosen among common citizens who are at least 25 years old by means of sortition;
- Tribunes would work for a one year term, non-repeatable and non-renewable. Over this period, members would be granted a salary, some economic incentive such as free college tuition for their children and/or a full year’s tax immunity and they would be guaranteed the return to their previous jobs at the end of the mandate;

- Political and economic elites would not be selected as tribunes. Anyone that has held a major elected office for two consecutive terms at any time of their life or whose net household worth equal or exceeds \$345,000 would be prevented the chance to be selected in the lottery. In this way, McCormick would exclude powerful politicians and the 10% wealthiest families in the United States.
- Lotteries should be adjusted according to the needs of some specific minorities, namely taking into consideration whether there is social discrimination based on ethnicity, gender, etc. For example, McCormick mentions adjusting the selection to consider the historical discrimination suffered by Native Americans and Afro-Americans in the United States, but he specifies that this selection should be used sparingly, since we must primarily focus on not altering the benefits brought by random selection;
- Regarding the tribunes' operation, tribunes should deliberate over the government's actions at least five days per week, six hours per day. Experts – but not sitting magistrates – may be invited to help the tribune's deliberations;
- Tribunes would have the power, with a majority vote, to veto one piece of congressional legislation, one executive order and one Supreme Court decision over their one year-term. After having received the veto, the originating institution cannot reconsider such a law for at least a year after the end of the tribune term during which the veto was invoked;
- Tribunes could call one national referendum, with a majority vote, on any issue they prefer. This referendum ought to be preceded by a controlled television debate where diverse options are discussed as objectively as possible. Afterwards, if the referendum is ratified by a majority of the electorate, this law will take on the force of a federal statute. The only way to block this enactment would be by a unanimous vote of the Supreme Court.
- With a supermajority vote, the tribune could initiate impeachment proceedings against one federal official during her term in office. If convicted, the magistrate may appeal the sentence in a national referendum;
- Tribunes may be indicted for official misbehaviour by another tribune, in which case the decision would be up to a commission of 500 individuals selected by lot.

According to McCormick, these features would allow tribunes to recreate the citizenry writ small, to present it in micro-functional forms and to represent it, giving tribunes the chance to deliberate effectively regarding policies enacted by governments (McCormick 2006; 162). To achieve these goals, he relies on some main features. First, he argues that sortition is preferable to an electoral procedure for selecting tribunes at two levels (McCormick 2011; 173).

At a *negative* level, lotteries keep elites from monopolizing the seats, since they prevent wealth resources from determining electoral outcomes and they are statistically less likely to elect elite members.<sup>87</sup> At the *positive* level, they are more constant and verifiable, since they rely on a statistical method that guarantees an impartial selection. Choosing randomly within the populace, they also realize the principle of equal participation among citizens, realizing Aristotle's ideal of "ruling and being ruled in turn". McCormick acknowledges that this procedure is not perfect – it may include some drawbacks as leading to political amateurism - and that some of the positive effects that scholars attribute to elections are true. Inasmuch, he maintains that the solution could be to select the best way of mixing the two mechanisms among the different options, of which the main ones are (McCormick 2011; 174-178):

- A. *Democracy*: who will assume an open magistracy is determined by means of sortition among the whole citizenry. Guaranteeing equal participation and impartiality, it fits closely to the Athenian ideal of democracy.
- B. *Democratic Republic*: lotteries could be used in two ways to mitigate elections' aristocratic bias: *b1) Random nominator*: a similar procedure to A), but here the nominator is empowered with discretion over the choice of the candidates between the two sortitions. To guarantee a sufficient indeterminacy in the outcome and to ensure that any kind of citizen might hold office, the nominator is determined by lottery; *b2) Elected nominator*: as b1), but here nominators are elected, even though not individually: a group of people is elected and then the actual ones are randomly selected from this group. It would partially mitigate the aristocratic bias, but it would still be less democratic than A).
- C. *Republic*: this system is a mix of aristocracy and democracy where lot determines the first group of candidates, but the final selection over office holding is made by means of elections. In this way, citizens still have an equal theoretical chance to be elected, but wealthy individuals within the selected group can still be confident to be chosen over the poorer ones. It will thus be aristocratically skewed, but still better than the modern election system where oligarchs are almost sure to determine the electoral outcome.
- D. *Oligarchic Republic*: the people elect the members of the magistracies and a group of nominators, who will then select a slate of candidates that become the people's representatives. This system is "popular", since universal suffrage still plays an important

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<sup>87</sup> Put it simply, if oligarchs are 1% of the whole populace, the chances that one of them is randomly selected is significantly lower than that of the remainder 99% of the citizenry.

role, but not “democratic”, since there is no control for the aristocratic effect at any level and wealthy can take advantage of the situation as they please.

- E. *Oligarchy*: this system might also include a form of popular decision, but oligarchs ensure that only those in their ranks are elected, thus monopolizing government by means of an “upper assembly or a senate”.

McCormick acknowledges that today the attempt to implement an integral lottery system could face many hindrances, but he also maintains that this does not mean that it is impossible, since there are many ways to combine sortition to elections to at least mitigate the latter’s aristocratic effects. A key point is then that McCormick’s goal is not the utopian ambition to guarantee each citizen a rotating term in office, but only to have a system that gives more chances to those who actually want to be elected and do not have the resources to do so. This might not realize the self-government ideal, but it would satisfy the republican one of keeping the wealthy from dominating government’s institutions (McCormick 2011; 178).

A second feature on which McCormick relies is the positive effect granted by deliberative procedures. Yet, McCormick specifies that deliberation can respect the people’s liberty only insofar as the interaction among deliberators is equitable and fair. Otherwise, discussions would be dominated by powerful individuals, while weak individuals would struggle to be considered. This issue is not mainly connected to individuals’ rhetorical skills – these are not directly connected to social class – but to the fact that tribunes’ main focus would be to contest oligarchic domination, so only members of the *Popolo* would be willing to pursue this goal.

On the contrary, we must exclude oligarchs because it would be in their interest to use their wealth power to corrupt the tribunes, to lobby the decision-making towards oligarchic interests, to influence the media debate over topics debated, etc., so as to “hijack” tribunes’ operation. A divided conception of the populace is thus essential because rather than granting everyone equal eligibility, we should set thresholds to prevent the *Grandi* the opportunity to become tribunes. Once selected, McCormick stresses that tribunes ought to be given effective powers, among which two are of particular importance.

On the one hand, citizens from the *Popolo* – from now on I will call them *Popolani* - should have the opportunity to indict politicians in popular trials. In this way, citizens would find it easier to have their will respected and to foster their control over elites. As I show in the next sections, I disagree with McCormick on this point. McCormick acknowledges that citizens are affected by biases, but relying on a Machiavellian view of the populace, he argues that when

politically empowered, citizens can act responsibly. Instead, I think that citizens cannot easily overcome their biases, so judging is not the sort of behaviour we should incentivize: citizens would let resentment driving their decisions, thus being likely to abuse their trial power.

On the other hand, I agree with McCormick's argument for empowering tribunates with a veto power. McCormick acknowledges the risk that vetoes could hold majorities hostage to minorities as maintained by Pettit, but McCormick stresses that this would not happen if we made sure to exclude socioeconomic elites from this institution. That is, vetoes' "freezing threat" is a problem when applied to single citizens or small groups. Yet, if we kept the veto power in the hands of the populace, modern tribunates could block those policies enacted by parliaments that favour oligarchic interests only. Due to their disproportionate influence over government's policies, oligarchs already possess a *de facto* veto power in favour of their interests over what the populace wants to be enacted. Hence, giving the people a similar power would balance this inequality and not create a new one (McCormick 2011; 154-156).

This is McCormick's idea about how to structure modern tribunates. In what follows, I analyse whether following these features is the best way to structure modern tribunates or if there are some points that could be improved. First, I analyse the selection features – section 7.2 and 7.3. - and then I move to the powers tribunates ought to be given (7.4).

## **7.2. The selection phase: Who ought to be chosen as tribune?**

McCormick relies on three features to select tribunes while keeping the tribunate popular. First, he draws on Machiavelli's idea of relying on lotteries. Second, McCormick maintains that we must prevent oligarchs from being selected as tribunes. Third, he argues that we must enlarge the size of the tribunate, since small bodies are more likely to be dominated by oligarchs.

### **7.2.1. Is lottery selection a good means to select tribunes?**

In McCormick's proposal, the divided conception of the populace I argued for in previous chapters is central. If we focus on making sure that contestatory bodies are means in the hands of the *Popolo* only, our primary aim is not to realize a unitary conception of the citizenry, but rather to stress the social and economic divisions present in the society (Saxonhouse 2011; 179-180). According to McCormick this does not yet imply going against democracy, since lotteries would make sure that the two fundamental dimensions of democracy are respected.

On the one side, distributing offices in an egalitarian way, lotteries would respect the *isonomia* ideal. On the other side, being the best way to grant common citizens the chance to rule and be ruled in turn, they fulfil the *isegoria* requirement (McCormick 2006; 164). Furthermore, even though he acknowledges that a randomized selection entails that those selected could not be rendered accountable by means of the threat of not re-electing them in case they do not pursue the people's interests, McCormick argues that lotteries would nonetheless grant more accountability in three regards.

First, modern tribunates would be accountability creators by their own nature, since being supplementary bodies to parliamentary institutions, their main goal would be to control, oppose and veto any dominating policy enacted by governments. Second, short-term mandates, together with the chance of being trialled while being a tribune, would mean that tribunes are under sufficient popular control that they do not end up dominating for too long their seats (Saxonhouse 2011; 182). Third, lotteries would be more effective than elections against the oligarchic threat, since randomization is more likely to give offices to the *Popolo*. That is, whether we decide that oligarchs are the wealthiest 1% or 10% of the populace, this would imply that oligarchs would have 1 in 10 or 1 in 100 chances of being elected, which is much lower than the likelihood of being elected that they would have in an electoral system.

I agree with McCormick's claims that lotteries may democratize the selecting process and that using lotteries would not imply abandoning the accountability features granted by elections (Schwartzberg 2011; 218). Being supplementary and contestatory in purpose, modern tribunates would create sufficient accountability by offering means to the populace to control both politicians and tribunes. Yet, at the same time I think that sortition can do so only insofar as we resolve some of the problems that may compromise the effectiveness of this procedure.

First, even though it is true that lotteries would not be an instrument in the hands of the oligarchs, neither would they be in those of the populace. Avoiding elections' oligarchic bias cannot be our only concern: if modern tribunates are to rebalance the economic and political power inequality in favour of the *Popolo*, they must not only grant citizens an equal political power of changing the rules under which they live, but they must make sure that citizens possess an equal "Non-zero power" to do so (Rehfeld 2011; 230). Citizens want an equal chance to decide regarding their lives, so if we prevent them from having this right using sortition, citizens would complain that they have no power over the outcomes of the selection and they could thus conceive the tribunate as something external and not as something theirs

that they can rely on to block domination. Hence, only if the people decided to be ruled by lottery, would this selection procedure become democratically acceptable; we cannot assume that it would be such by itself (Rehfeld 2011; 231).

Second, I think that McCormick does not consider sufficiently what elitist scholars called the “Iron Law of Oligarchy” (Michels 1915; Weber 1978). In every organization there is the need to perform a task and to do so we have to instruct some of its members on how to direct the performance of the task. This process renders the instructed ones more knowledgeable, but it also isolates them from the original context and the people become dependent on them, since they have to take care of things that are not accessible to others. It is then the principle itself of the organization that creates an elite, independently from the social class of the individuals we choose from and of the selecting procedure we adopt to choose them (Michels 1915; 85-90).

This Iron law of oligarchy entails that it is the fact of being selected itself that transforms one individual from being one of many to one of the few, so we cannot be too confident of the positive consequences of lottery selection. That is, if - thanks to the properties of sortition - we select the right proportion of non-wealthy citizens to represent their social group, we will not automatically avoid domination: we must not take for granted that an individual that is chosen as tribune will act in the best interest of her social class just because she comes from that group.

If we think, as republicans, that all human beings are corruptible, we cannot be sure that only because it is one of them, a member of the poorer class will act in the interest of her social group once elected. Moreover, this problem cannot be solved by means of setting non-renewable terms for tribunes. Short-term positions are effective in making sure that one individual does not dominate her position for too long or that she plans her current behaviour according to the personal gains that she could achieve in a following mandate. Yet, non-renewable terms do not isolate tribunes from oligarchic power while tribunes are serving their mandate. Hence, the problem is that the influence of the elites is difficult to control, but also to resist, so they could corrupt a member of the lowest group as easily as one of the wealthy.

I am not suggesting that any individual will surrender to the temptations of power, but that in creating the institutions to prevent domination, we must be cynics and consider all the worst-case scenarios. It is in this regard that I find the third problem: McCormick maintains that when empowered, common citizens can overcome their biases, but this argument is empirically too fragile. Being too confident on the people’s nobility, McCormick neglects that not all individuals selected by lottery may be willing and/or capable of serving as tribunes.



With no further checks, lotteries could select individuals that do not have sufficient knowledge to perform their task and that could use their mandate as a chance to foster their own interest only. We must not take for granted that throughout their mandate, tribunes' interests remain the same as those of the social group they try to defend, since those who serve the mandate could see being selected as a chance to fulfil their ambitions. For example, tribunes could be skewed towards an overrepresentation by younger citizens, since older people could find it more difficult to move and change their life for just a 1-year term. This could create problems, since young tribunes may be more likely to use the tribunate period as a way to improve their social condition rather than focusing on improving the *Popolo's* liberty (Rehfeld 2011; 232).

In sum, lotteries are useful to avoid the oligarchic bias of elections and to render the selection process more impartial, but sortition is not sufficient by itself to prevent domination. To do so, we must make sure that tribunes act in the *Popolo's* best interest and that they do not exploit tribunes to enhance their own interests only. Hence, I do not reject sortition, but I argue that lotteries would be ineffective if citizens do not consider them legitimate and if they are not supported by mechanisms that keep those selected popular while they perform their mandate.

### **7.2.2. Exclusion of the oligarchs by means of specific thresholds**

Randomization makes sure that oligarchs do not sway – directly or indirectly – the outcomes of the selection process for the tribunes. Yet, if we selected among the whole populace, there could still be the chance for oligarchs to be part of the tribunate, and this is a problem if we are to keep institutions popular in character. This would not entail depriving oligarchs from all their political power, since they would still vote and be eligible for parliamentary institutions. Rather, the idea is to rebalance socio-economic inequalities by giving supplementary political powers to the *Popolo*. In this way, common citizens would have the power to oppose those policies that, being enhanced by electoral institutions open to everyone, are more likely to resemble the interests of the *Grandi* rather than those of the *Popolo*.

In this regard, it is essential to specify that oligarchic power could be exercised in two ways and that a threshold exclusion counteracts only one of the two forms of power. That is, oligarchs could sway the tribunes' functioning from within but, above all, even from outside this editorial body. Ergo, the problem is that wealth thresholds contest only the former form of domination. As noted, oligarchic interests are contrary to tribunes' functioning, so if oligarchs were allowed to be selected as tribunes, the risk is that they would primarily use their wealth power to hijack the tribunate's functioning rather than to promote its efficiency.

It is for this reason that McCormick decides to set a wealth threshold above which individuals are excluded from the chance to be selected as tribunes. Yet, this threshold would not cancel the fact that oligarchs would still have a wide array of ways to dominate tribunes from outside. Oligarchs could still use their wealth resources or their “wealth defence industry” to corrupt tribunes (Winters 2011; 22-24), they could still influence media to sway the information framework in which tribunes function, etc. These external powers do not imply that wealth thresholds are not efficient, but that they resolve only partially the oligarchic problem. The main issue to debate would still be how to isolate these tribunes’ functioning from oligarchic external pressures. In the final section, I engage in more detail with this problem, but external oligarchic domination is only one of the criticisms that according to other scholars compromise the reliability of this threshold exclusion.

First, each threshold that defines the difference between the *Popolo* and oligarchs will involve a certain amount of arbitrariness and as such it will be contestable. Oligarchs will always use this arbitrariness to contest as tyrannical any decision that excludes them from power, so we must make sure that the *Popolo* is ready to defend the democratic nature of the choice to rebalance politically social and economic inequalities. Hence, Green maintains that if common citizens want to protect their liberty, they must be ready to endure an ethical battle to defend the democratic character of rebalancing political power (Green 2011; 193-194).

Second, relying on Machiavelli’s “wisdom of the crowds”, McCormick is confident that citizens would be able to use the tribunes well. Yet, if tribunes failed to contest oligarchic domination or if they proved to hinder our democracies’ operation, the risk is that this failure could justify and foster oligarchic domination (Rehfeld 2011; 228). According to McCormick, this criticism is not a problem: this is a matter that can only find a solution empirically, so only a real-world example could demonstrate whether or not common citizens are really able to make modern provosts perform well. Hence, the fact that there is a risk of failure is not a sufficient reason not to try experimenting an editorial democracy (McCormick 2012; 110-113).

I consider the people’s biases an actual cause for concern, but at the same time this problem implies that we must develop the editorial institutions accordingly; not to reject entirely the tribune idea. That is, we must make sure that tribunes perform a task compatible with their level of knowledge, without overburdening them with excessive requirements. As I describe in the next section, it is due to this problem that I argue for specializing the tribunes’ operation.

Third, some scholars argue that McCormick's proposal may not differentiate citizenship in a meaningful way, since there are many differences among the population other than social class that the law must recognize. In other words, there is a *difference line* issue (Smith 2011; 242):

“The continuing challenge of deciding when extending to some groups particular legal rights and obligations that are not assigned to all represents a way of promoting rough civic equality in the face of actually differing resources, opportunities, and aspirations, and when doing so instead imposes on some groups inappropriately subordinated or marginalized civic statuses”.

In a nutshell, Smith acknowledges that social class is important, but he questions whether it is the only social identity on which we should structure modern tribunates. Social class is the aspect that has historically caused more domination from a certain group – the *Grandi* – over the others – the *Popolo* – and that it is less likely to impose a permanent stigma on the latter: thanks to social mobility, class does not unavoidably represent the same individuals forever, whereas other identities – such as race or ethnicity – are immutable and as such they could lead to more resentment and group conflict (Smith 2011; 243). However, in some cases class representation could fail to represent some groups' interests and it is thus not automatic that empowering poorer citizens would work in favour of some other minorities.

An example of this is the case of Afro American community during the reconstruction period in the United States, when poorer whites were the ones the most against giving rights to the black community. In this case, a tribunate based on social class would have probably hindered rather than protected black Americans from white oppression. The problem is then that it would not be automatic that empowering poorer citizens would work in favour of some other minority including women (Smith 2011; 243-244). Hence, Smith argues that we should consider the diverse national cleavages when deciding how to select the tribunes, since there could be forms of social subordination associated with religious, LGBT and ethnic discrimination that could be neglected if we were to focus only on social class. Furthermore, this aspect is connected to the other aspect I must analyse, namely the right number of representatives that ought to be included in the tribunate so as to keep this latter popular in character.

### **7.2.3. How should tribunates be composed?**

I maintained that judicial review bodies such those theorized by Pettit would not be acceptable because being elitist, they would remain bodies in the hands of a few *Grandi*. To keep tribunates popular in character, we must then enlarge their size to make sure that the *Popolo* have the opportunity to enhance their editorial power. Yet, the problem is that this enlargement

may entail an efficiency conundrum: tribunates that are small and elitist are not democratically acceptable, but at the same time tribunates too large in size would miss the efficiency required to function properly or they would become merely referendums. The question that raises is thus: “Which is the right number to keep the tribunate both effective and democratic?”.

McCormick’s suggestion is to have the tribunates composed by 51 members, since in his opinion this would be a sufficiently large number to have the institution working effectively while maintaining its popular character. However, this has raised several doubts in the literature, since many scholars question whether this number is large enough to keep the contestatory institution popular in character. For example, O’Leary theorized a body – called “People’s House” – similar to the modern tribunates described here, since he suggested to create in the United States a national network of citizen assemblies with constitutional authority that would be formally connected to the House of the representatives (O’Leary 2006).

O’Leary maintains that his model is similar to McCormick’s, but that there is a significant difference between the two for what concerns the scale of popular participation envisaged, since the former’s assemblies would be composed by 100 citizens each and this would made up a national assembly of 43,500 “super citizens” (O’Leary 2011; 148). O’Leary acknowledges that these big numbers would render his proposal more expensive and logistically more difficult to realize in practice than McCormick’s, but he maintains nonetheless that a large number of citizens that participate in a full national system would be necessary to make modern tribunates immune to the oligarchic threat.

As stressed by Ackermann and Fishkin (2004), investing money in this regard is worthwhile, since the more citizens participate to political matters, the more informed, engaged and civically minded they become. These two scholars provocatively argue that fostering the people’s political participation is so important that we ought to create a two-day national holiday where citizens would be paid to meet with their fellow citizens to deliberate over critical political issues. This “Deliberation Day” would be expensive, but its costs would outweigh its high price, since it would allow citizens to fulfil their responsibilities and engage more in democratic government. Hence, both these examples describe that we always have to balance the costs of certain political measures with the democratic outcomes that they would produce. If the latter prove to be worthwhile, then we have a good case for investing money in political projects aimed at enhancing the people’s political participation.

In a similar way, Rehfeld maintains that we need a larger number of representatives than 51 to properly include different interests and minority groups. However, in contrast to O'Leary who is confident on the possibility of creating such a system, Rehfeld maintains that the need to have large numbers would create a conundrum difficult to solve. Modern tribunates ought to include at least 500 to 1000 tribunes to take advantage of the representativeness of random selection, but this would not automatically guarantee the democratic character of a tribunate selected by sortition, whereas it would surely raise the cost of the institution and decrease the quality of the group's deliberation (Rehfeld 2011; 227).

This challenge underlines that the Achilles' heel of McCormick's proposal is the empirical feasibility of creating a contestatory tribunate as framed by him. In this regard, Rehfeld poses another significant objection to the tribunates' feasibility, namely that it would be very difficult to relocate individuals with their families around the country for one year only. Citizens would find it difficult to leave their jobs; their children would have to change schools; their partners would have to change their life plans and there would be other family/community commitments that would not be easy to balance with the tribunes' need to be relocated (Rehfeld 2011; 231).

Large numbers would thus require a considerable amount of money and personal effort. In his reply to these critiques (McCormick 2012; 91-92), McCormick acknowledged that 51 members would probably be too few people to avoid the risk of corruption and co-optation and that we thus have to understand how to enlarge these tribunates to more than 51 members while keeping them effective in contesting domination. Hence, McCormick indirectly acknowledges that other selection procedures may be required to enlarge the size of the tribunates. In this regard, I think that two ideas ought to be considered. The first is Rehfeld's idea of connecting the fate of political and economic elites to the wellbeing of the *Popolo*. The second is to study how specialization could be used to compose the tribunates. In the next section, I describe why I think that the second option would deal better with the democratic dilemma.

### **7.3. The alternative selecting methods**

#### **7.3.1. Connecting Elites' interests to popular wellbeing**

According to Rehfeld, rather than using tribunates to punish oligarchies, we should change approach, focusing instead on incentivizing all groups to work together for a common goal. That is, we ought to ensure that oligarchs care about the destiny of the rest, since: "We do not need more democracy; we need less economic and political poverty. We do not need to vilify

the evil rich nor romanticize the noble poor; we need to motivate everyone to serve the common good through incentives that give each of us benefits for doing so." (Rehfeld 2011; 237).

For example, Rehfeld suggests giving a monetary bonus – such as \$100,000 - to each politician if they managed to achieve a .1% reduction in the rate of poverty or a decrease of unemployment of .5% in any given year, or an annual increase in the median income that beats the cost of living by .5%, etc. (Rehfeld 2011; 236). In the same way, he maintains that we could connect the wealthy's political behaviour to the wellbeing of the populace by linking the former's tax rates to a Gini index or another measure of inequality: when the latter decreases, so does the tax percentage on their income, etc. According to Rehfeld, these mechanisms would not be more expensive than those needed to create a tribunate and they would also be more effective in creating benefits for the poor than contestatory bodies, since they would tightly connect the elite's actions to real, observable and comparable results.

In my opinion, Rehfeld is right in saying that we must incentivize elites towards caring more about the others and that politicians should be well-paid. Cases as Singapore (Quah 2016) indicate that offering politicians a good income is both likely to attract better qualified candidates and to significantly reduce corruption (Gagliarducci & Nannicini 2013; Ferraz & Finan 2009). Yet, at the same time I think that Rehfeld's mechanisms would be less effective than theorized by him, since he underestimates how powerful oligarchies can be when trying to defend their wealth. Hence, Rehfeld's measures could be effective against the problems of direct corruption, but this latter interference is only a part of the Oligarchic threat.

In other words, I am not arguing that politicians should not be well-paid, but that monetary incentives are unlikely to resolve the oligarchic threat. In many developed countries, politicians are too rich to be incentivized by offering them further money prizes and even if they were interested, these incentives would still be too small compared to what politicians could get from campaign contributions gained by pursuing policies that favour the affluent (Bartels 2008; 115-120). This not only implies that the rewards needed to render economic incentives sufficiently appealing would be far superior to what theorized by Rehfeld, but also that a marginal increase in politicians' salary would not necessarily bring about better results (McCormick 2012; 99).

Rehfeld's measures would also be more difficult to implement than suggested by him. First, as noted by Winters's research (2011; 137-139), thanks to their disproportionate wealth power, oligarchies' ability to oppose and overcome any economic attack related to their wealth

resources is very high. This is due to the fact that oligarchies are able to use very effectively their “wealth defence industry” to skew the relevant data so as to enjoy tax benefits regardless the objective changes in economic inequality. In this way, oligarchies can use their political influence, lobbying and legal power to hide their wealth resources, thus swaying the connection between economic performance and politicians’ incentives (Roemer 1999).

Second, Rehfeld’s measures would be hindered by the paradox for which poorer citizens do not favour aggressive redistributive policies; even in regimes with a high level of economic inequality (Bartels 2008; 26-27). That is, many countries are already facing a high level of popular discontent regarding politicians’ salary – regardless whether or not this discontent is justified – so any measure aimed at giving more economic incentives to politicians would be significantly hindered by a strong popular contestation. This does not imply that it is impossible to increase politicians’ salary, but that doing so while overcoming popular contestation would be very challenging, especially in countries where demagogic politics are increasing.<sup>88</sup>

Third, it would be more difficult than suggested by Rehfeld to determine which is the level of monetary incentive required or to decide at which level of the Gini index, GDP, etc., we should give these contributions. That is, deciding which index would be right is difficult because citizens always debate on the means and ends of policies. Citizens do so not only because they have conflicting ends, but also because they have different views on how to achieve these ends (Hanson 2013).<sup>89</sup> Hence, these decisions are likely to arise a significant debate and they require a democratic process to be afterwards considered acceptable by the citizenry. Otherwise, both citizens and politicians could easily contest the level at which we decide to set these measures.

Therefore, the problem is not that governments would not have sufficient funds to enhance Rehfeld’s measures. Rather, my criticism concerns the fact that implementing these economic incentives would be more difficult than theorized by this scholar and that even if we managed to do so, oligarchies would nonetheless be more influential than the rest. Eventually, oligarchs could still use their wealth to have their favourite candidates elected and to afterwards sway representatives’ decisions to favour oligarchic interests.

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<sup>88</sup> In many countries – for example Italy’s Five Star Movement or Farage’s UKIP in the United Kingdom - reducing the privileges and salary of politicians has been one of the features on which demagogic parties have focused to increase their popular support.

<sup>89</sup> Hanson suggests to “vote on values, but to bet on beliefs” (Hanson 2013; 152), namely to let the people vote on what they believe being the right ends, but to let speculative markets deciding how to achieve these goals.

I am not arguing that Rehfeld's idea should be abandoned, since I agree that it is important to focus not only on fostering citizens' contestation against oligarchies, but also on incentivizing the latter to work for the common wellbeing rather than damaging it to increase their own wealth only. Rather, my point is that non-domination requires to give the *Popolo* the means to free themselves directly from dominating hindrances, so if Rehfeld's measures were not supported by an editorial democracy, they would not stop oligarchic domination.

On the one hand, oligarchies would find it more difficult to corrupt politicians, but I stressed that corruption is only one of the ways in which oligarchs dominate politics. On the other hand, even if these measures worked well most of time, the *Popolo* would have no anti-power to directly defend their liberty when needed. Rehfeld's measures would at best be a positive external interference, but as such they would be an external gift and not an anti-power that the *Popolo* can use to contest the *Grandi's* domination when needed. Rehfeld's measures could then partially contest oligarchic domination, but if these economic or political incentives to politicians were not supplemented by an editorial democracy, the oligarchic threat would persist. For this reason, I argue that we have to look for an alternative solution, namely connecting the editorial democracy to the people's specialized capabilities.

### 7.3.2. Specialization

As noted, aforementioned surveys on the people's biases (Chapter 1.5.) illustrate that the citizenry *on the whole*<sup>90</sup> may not possess the political knowledge required to run a modern tribunate and this may unavoidably affect the decision to rely on social class only to select the tribunes. That is, the problem is: If common citizens are affected by biases, are we sure that the best way to select tribunates would be to rely on a social-class criterion only? In my opinion, the answer is that if we used social-class only as selection criterion, the tribunates' operation would be less effective than theorized by McCormick.

For this reason, I think that we should reframe the way we conceive the people's biases, since the fact that individuals do not possess a sufficient level of political knowledge does not necessarily imply that they have no knowledge at all. In other words, I do not think that aforementioned biases imply that individuals are too ignorant to perform any political action,

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<sup>90</sup> I am stressing "on the whole" because there is a difference between asking the whole populace to perform an editorial effort and asking a part of the populace to do so. That is, there might be a middle ground between an editorship run by a small elite and an editorship run by the whole citizenry that it is both effective and democratic.



but that we are demanding too much from their political behaviour and we are underestimating how difficult politics is. Pareto's view of the populace is pivotal to understand this suggestion.

Pareto maintained that human beings are naturally different one from another and that as a result of these differences, we could find a theoretical scale – as from 1 to 10 – for each individual's competences in each field of knowledge. In his opinion, elites' unavoidability is connected to this aspect, since eventually there will always be a group of only few people that possess a high score in more than one field. At first, this thesis seems to narrowly lead towards technocratic solutions where only those few individuals that score well overall should rule our societies. However, there is also a democratic alternative, since rather than simply dividing the people's participation according to their wealth resources as suggested by McCormick, we could give extra editorial powers to citizens in those fields where they are specialized.

Over the last centuries, societies have developed at an astonishing pace and it is now complicated to understand entirely how societies operate. Yet, if we look at what and how much the people know, rather than on what they do not know, most citizens perform sufficiently well at least in some regards. All fields of knowledge – from economics, to technology, etc. - have understood this development and they have specialized to produce better results. For example, an engineer that works in a factory producing a certain machine may be an expert in how the engine of this machine works, but at the same time she may not have a clue regarding how to sell this machine in the economic market – as a business man/woman - or how to render its design appealing for the customers – as an advertisement expert.

As single parts, despite their knowledge, all these workers would then be ineffective, whereas combined together they can operate at best for their enterprise. Factories have thus had to specialize their production to produce better outcomes, using engineers, market experts, etc., to exploit individuals' diverse knowledge. In the same way, parliaments have had to specialize their operation creating diverse ministries for each macro-category (economics, health, etc.), so as to be able to deal with the management of complex societies. However, I think that a narrow focus on the people's positive action – mainly on voting - has hindered any attempt to do something similar for the people's political participation. This focus on voting creates a difficult conundrum for democratic theory: for a modern representative system to be democratic, citizens must vote, but if studies demonstrate that individuals do not have the knowledge to so do rationally, our democracies could become meaningless.

As a consequence, I noted that the epistocratic view maintains that we should restrict the people's biased participation, in order to allow experts to rule our systems without any popular hindrance. Yet, epistocracy is not the only alternative, since we could instead focus on the benefits that we could obtain by specializing the people's political participation. In the electoral period, political parties publicize their plans for each field of future government, so citizens must perform a holistic effort to decide which of the diverse proposals will better respect their interests. This is an extremely difficult decision and it is unlikely that any citizen will have the knowledge necessary for this task. Reconsidering previous example, it is the same as asking a single employee of an enterprise to decide what is the best way to create the engine of the machine and then how we ought to paint it, sell it, etc. This individual would simply admit that there is no way that she could perform all these tasks well.

A voter faces the same conundrum as this employee, since it is difficult for a citizen to evaluate rationally the plan of many different parties and to judge them accordingly in the following elections. My argument is that citizens are not too biased, but that authorial forms of democracy require citizens to perform an effort too difficult for their level of knowledge. At the same time, this does not entail that citizens do not possess any knowledge whatsoever. Each of us performs a job, has a specific interest and it is in these specific fields of knowledge that citizens are sufficiently expert to control authorial policies. Hence, an editorial democracy could avoid the knowledge issues that affect representative literatures because the *Popolo* may not possess the level of knowledge required to direct our societies, but at the same time citizens are sufficiently able to identify forms of oligarchic domination in those policies that concern those fields of knowledge that citizens deem as fundamental to fulfil the kind of life they deem valuable.

This argument is different than the epistemic claim that groups of citizens can overcome individuals' private biases thanks to the properties of the epistemic mechanisms. I described that if individuals are biased, epistemic mechanisms are unlikely to work properly. Connecting this criticism with specialization, my point is that epistemic scholars do not try to extract from the individuals what they know best, but they still try to find a way to maintain that citizens have the required knowledge on the whole to participate to politics. That is, I agree that groups of individuals can overcome some of the individuals' biases. Yet, epistemic scholars move a step too far, since the epistemic mechanisms cannot render citizens sufficiently knowledgeable to sustain an authorial self-government.

Due to the “circumstances of politics”, groups of biased citizens will still be unable to cooperate and deliberate properly to govern themselves directly and elections will still be affected by biases such as first impression voting, sentimental biases, etc. Ergo, within the authorial boundaries only, the first side of the dilemma will always hinder the citizens’ ability to perform properly the authorial task. This is something that Pettit himself has recognized, even if he has not sufficiently examined it. In saying that democratic life has to have an agonistic character, he claimed that this ideal would be romantic if it required citizens to control everything. On the contrary, a division of labour in the exercise of civic vigilance would make it possible to have governments more effectively invigilated, since it would recruit people to the exercise of civic vigilance according to their passions and concerns (Pettit 2012; 226-228).

Changing the demands on the *Popolo* can resolve this conundrum: citizens cannot become knowledgeable enough to perform the authorial self-government task, but they can be sufficiently good to perform a *specialized editorial* control over oligarchic power. I argued that the editorial effort is compatible with the people’s biases because it requires them only to judge whether or not policies entail oligarchic domination rather than asking them to be the master that form the policies. For what concerns specialization, it would narrow down even further the requests posed on the *Popolo*. I explain in the next section how my idea of structuring ministerial specialized tribunates would work in this regard, but the important feature to stress here is that citizens would not be required to overcome all their biases, since a specialized editorship would be more compatible with the people’s biases in two regards.

First, tribunes would work only on the fields of knowledge that match their best capabilities. Second, tribunes would have a specific target, since we could not only specialize the field in which tribunes act, but also the sort of domination they aim to counteract. That is, rather than controlling policies on the whole, tribunes could specifically look for oligarchic interferences, namely control if policies entail parts that favour oligarchic interests. Tribunes’ editorship would thus be similar to a filtering procedure aimed at making sure that policies enacted by legislatures do not favour oligarchs at the expenses of the *popolo*.

In this way, the effort asked of the populace would be compatible with their biases. That is, citizens possess the sufficient knowledge to judge and contest policies enacted by government in the field of knowledge that best matches their capabilities, and having a specific target would make it easier for tribunates to assess whether or not these policies encompass elements of oligarchic power. Hence, whereas the epistemic view cannot escape the democratic dilemma

because it frames its solution within the authorial and self-government boundaries, a specialized editorial tribunate would not be limited by these boundaries and would thus ask citizens to perform a task compatible with their capabilities.

In sum, specialization has been too often connected to elite proposals, since *episteme* has always been seen as a feature that only few experts possess. Yet, this is not necessarily the case, since reframing the way we conceive political knowledge, moving away from a focus on what common citizens do not know - or how much less they know compared to experts - towards a focus on how we could use positively what single individuals do know, we could protect rather than hindering the people's republican freedom. For this reason, we could find fruitful alternative solutions if we focused more in detail on the question of: "How should we divide political labour among different groups of citizens to have them operating effectively?" Before answering this question describing my "thought experiment", I complete the analysis of modern tribunates' features by explaining more in detail how tribunates should be empowered.

#### **7.4. The operation phase: Which powers should the tribunates have?**

In his thought experiment, McCormick mentions three main powers, namely: the power to put politicians on trial, the power to veto government policies and finally, the power to initiate referenda regarding specific topics. I analyse separately these three main points.

##### **7.4.1. Public trials**

According to McCormick, modern tribunates could initiate impeachment proceedings against one federal official during their term in office and if convicted, the magistrate may appeal the sentence in a national trial where a popular committee will judge her (McCormick 2011; 161). McCormick structures his proposal on two main claims. On the one hand, he supports two claims made by Machiavelli. First, that when politically empowered, citizens use the trial power wisely. Second, that trials would challenge oligarchic power, since the possibility of being put on trial would make oligarchs wary of accusations and they would thus be more likely to act in the people's interest (McCormick 2011; 162-163).

On the other hand, McCormick argues that trials would be the best way to vent the social resentment that arises when the *Popolo* see that the *Grandi* not only abuse their wealth to dominate the many, but also that in doing so they receive society's honours and celebrity. This point is of particular interest, since there is a debate regarding whether or not trials could actually achieve this goal. For example, Green supports McCormick's thesis, but he specifies

that empowering modern tribunates with only one chance to hold public trials would be insufficient to vent the people's "ill-humours". Rather, there ought to be no limits to the number of public trials the tribunate could pursue so that individuals could use this means any time they feel that first-class citizens are trying to dominate them (Green 2011; 197).

Other scholars are instead more sceptical and maintain that giving the people the power to put people on trial could produce perversity and extremism, due to the fact that individuals would let passions dominate their actions. According to Schwartzberg, the risk is that citizens could use trials to eliminate their political opponents and they may also punish magistrates just for having different ideas than their own rather than because representatives actually did something bad. Moreover, even though it is true that the people could be able to discern tricky cases from honest ones, trials may nonetheless increase problems rather than contesting elite domination, since they foster unattractively spectacular forms of democracy. Rather than rendering political actors more accountable, the threat of a trial is that it may just increase the likelihood of oligarchs acting secretly beyond the public's eye (Schwartzberg 2011; 217-219).

McCormick argues that these problems would be solved by the fact that accusers would face charges of calumny when their accusation is proven wrong, whereas he acknowledges that the secrecy issue is a difficult conundrum, since the chance of being put on trial could render representatives too anxious and it could drive them to share the least they could with the people. Nonetheless, he maintains that this would not be a major problem, since there is always a trade-off between the *representatives' insulation* – when criminal prosecution of magistrates is left to public officials and the people can only refuse to re-elect a certain office-holder – and *elite vulnerability* – when the people command the ability to indict and punish public-holders directly – and we should move towards the latter rather than framing forms of insulation to save representatives from the people's judgments (McCormick 2012; 96-97).

In my opinion, popular trials could pose several problems. Surveys mentioned in the first chapter (section 1.2) stressed that empowering individuals with an instrument that they do not know how to use, or that they could use in a wrong way, could bring about pernicious results, so we must always be careful that trial power is a double-edged sword: *popolani* could use it to prevent the domination of the few, but they could also misuse it harming both themselves and others. Over the last few years, politics has become more polarized and public debate has been too often dominated by emotional discussions on politicians' figure rather than on their

actual policies. Ergo, we ought to direct the *Popolo's* contestation towards governmental decisions and policies rather than on publicly blaming and punishing politicians themselves.

A divided conception of the populace stresses the differences between social classes, but it does so to better protect the *Popolo's* liberty, not to create class warfare. The problem is that *popolani* could let resentment and jealousy dominate their actions and they could use public trials as a sort of social revenge towards higher classes. If institutions want to avoid class warfare, they must not give individuals the means to act badly and to impose their own will over their opponents, but they should positively channel the people's passions. I thus reject the idea of enhancing public trials because we must not create a system where people behave well because of fear of repercussions and where citizens' resentments become an arbitrary interference in the lives of the others.

Moreover, rather than limiting demagogues, public trials could favour them, since smart politicians could use the trial to picture themselves as martyrs in the public eye. Using a narrative of "strong powers", "enemies of the people", etc., certain politicians could shed a bad light on those judging them to delegitimize their decision and to raise popular support, thus exploiting the people's distrust towards politics for their own purposes. In this way, demagogues could paradoxically result as winners from a process that should have punished them. Therefore, judging, putting on trial, and punishing would foster an antagonist system where *enemies* fight each other – what we ought to avoid – and not an agonist one where *adversaries* debate to look for common solutions – what we should pursue (Mouffe 2000). For this reason, we should empower tribunes with alternative means, such as giving them the power to veto policies enacted by governments.

#### **7.4.2. The debate regarding veto power**

According to McCormick, the second contestatory means we ought to give to tribunes is a veto power: the opportunity to veto one piece of congressional legislation, one executive order and one supreme court decision over their one year-term (McCormick 2011; 161).<sup>91</sup> The rationale supporting this power is plain, since the most immediate way to protect the people's republican liberty is to stop bad policies from dominating the people. Yet, others stress that this power is more problematic than suggested by McCormick. As noted, Pettit maintained that vetoes would only end up holding institutions hostage of some sectorial interests (Pettit 2000;

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<sup>91</sup> It is important to recall here that McCormick's idea regards the United States, whereas my analysis is theoretical.

118), while Rehfeld acknowledges that the veto mechanism could provide some accountability, but at the same time he maintains that there are two main reasons why vetoes would introduce political instability rather than being effective (Rehfeld 2011; 234-235).

First, vetoes could hinder the pursue of healthy long-term planning – economic issues, climate change, etc. – since representatives that serve a short-term mandate and interest groups could use vetoes only to block those policies that they deem pernicious for their immediate interests. That is, tribunes may care only about short-term policies that fulfil the people’s immediate interests, but not the long-term wellbeing of the whole society (Rehfeld 2011; 234). Second, without a temporal limit a veto power would not have a checking power over governments, since interest groups could reserve for themselves the option to block undesired policies at any point in the future. Rather, vetoes would just favour occasional overturning of decisions, since those who enact the policies could see the block posed by vetoes as: “a random event that could be undone by remaking the same decision at a later date” (Schwartzberg 2011; 220).

McCormick does not consider problematic this second objection, since in his “thought experiment” a year must pass before parliaments can reconsider the vetoed law and at that stage, tribunes could veto it again. Plus, in an ideal political system with perfect information, the *prospect* itself of the exercise of the veto would be sufficient, since no government would enact a policy that they know will be vetoed. However, his reply is not too convincing. The information distribution of our societies is not perfect, so a “one shot” veto system only would have a limited prospective power, since politicians could find several creative ways to escape the veto, such as changing slightly the format of the policy so as to present the same issue in a different way until they manage to escape the tribunes’ veto (Schwartzberg 2011; 222).

McCormick’s veto proposal may thus not be developing the tribunate idea as it could, since according to scholars such as O’Leary (2011; 147-148), only with an unlimited number of vetoes would tribunes be able to effectively defend the *Popolo’s* liberty. At the same time, an unlimited number of vetoes could harm government effectiveness, since tribunes could use with no limits their veto power to oppose a certain policy they dislike until they freeze the political change that would have damaged them. The debate is then on if veto power should be given in an unlimited number or if it would be more efficient in a limited amount.

According to McCormick, it is true that one veto could be too few to be effective. Yet, he maintains that this would not be a problem, since tribunes would have the power to initiate

constitutional expansion of their own power over time in case they saw that only “one shot” was ineffective (McCormick 2012; 98). I agree with McCormick that the veto power could protect the people’s republican liberty. On the one side, this means would allow modern tribunates to deal with the oligarchic threat, since common citizens would have in their hands the power to stop directly dominating policy from being enacted. Moreover, it would have a preventive effect, since oligarchs would be discouraged from swaying governments towards enacting policies that are afterwards likely to be vetoed from tribunates. On the other side, vetoes would also help to deal with the problems raised by the popular side of the dilemma.

As noted, a lack of trust towards politics is driving individuals towards dangerous non-political means to unload their frustration. Usual political procedures that amplify the people’s voice, but that do not force representatives to follow these requests, are unable to solve this distrust problem, since citizens feel as discouraged slaves with no power to have real political impact. On the contrary, tribunates with veto power would directly block dominating policies, thus proving that they are the effective institutional means by which citizens can positively channel their discontent. In this way, the *Popolo* would be *libers* that have an anti-power in their hands that they could use to defend their liberty.

The main problem concerning this anti-power is that it would work only insofar as *popolani* identify with their tribunes. That is, there is a legitimacy issue concerning the tribunate, especially if we decide to rely on a sortition selection and not on elections to choose tribunes. If we relied on elections, legitimacy would come from citizens’ vote, but in a lottery system we must find some other feature that legitimizes these bodies. In my opinion, the popular component of the tribunate would be the answer to this problem.

Pettit’s editorship cannot claim this legitimacy because these bodies are composed by a few judges and they are thus felt as external institutions by *popolani*. Ergo, any interference from an external body will be considered as domination by the *Popolo*. On the contrary, only *popolani* can become tribunes, so all those *popolani* that are not selected as tribunes would find it easier to identify with this editorial institution. It is then due to the fact that they would be a body of the *Popolo* only that modern tribunates would acquire a social class legitimacy. At the same time, I acknowledge that this first feature would not be sufficient for the tribunate to be considered as an effective anti-power. Even though I conceive tribunates as an anti-power owned by the *Popolo* – so not by each single individual – we must discuss regarding how to open these tribunates’ functioning to all those *popolani* that are not selected.



As for the discussion related to how to insulate tribunates from external oligarchic pressures, the solution to this problem is complex and it requires further specific debate within the republican literature to be addressed properly. Nevertheless, I think that a way to open tribunates' functioning to all *popolani* is to make sure that each citizen can bring a case that she considers as domination to the attention of the tribunate. In this case, tribunates would analyse the case brought by the individual and would afterwards try to resolve it. In this way, each *popolani* would perceive this body as something theirs that they can use any time they perceive a dominating interference is hindering their liberty.

If tribunates achieved this double legitimacy, then they could properly distinguish themselves from other institutions empowered with a veto power – as an upper chamber or parliaments. Even though existing authorial institutions used forms of veto power, they would at best be a positive external arbitrary interference and not an anti-power in the hands of the *Popolo*. In the former institutions, *popolani* could only hope that parliaments continue to operate well and that the *Grandi* do not sway the operation of those bodies. Citizens would thus lack a direct power that they could use if they feel that domination occurs towards their lives. Hence, editorial bodies can defend the *Popolo's* republican liberty only insofar as they allow citizens to directly contest those hindrances that would prevent them to achieve the kind of life they deem valuable.

At the same time, we must not assume a naïve conception of the populace, since we must also acknowledge that any social group could use these means to favour their interests at the expense of the common interest. That is, tribunates must be given more than one chance to veto government's policies, but in a system already debilitated by bureaucratic problems and political games, an unlimited veto power could create more problems than offer solutions, since diverse minority groups could stubbornly use their veto power to stop any policy that damages their interests regardless the effect that this policy would have on the whole society.

I acknowledge that maintaining that we must set a number of vetoes in between 1 and  $\infty$  is too generic, but I think that fostering the research on which would be the most effective threshold is important. One option could be to create a dialogue system between tribunates and parliaments, where the former can veto specific parts of the policies that the latter is willing to enact – as in the case of a line-item or partial veto<sup>92</sup> - yet giving suggestions regarding what

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<sup>92</sup> The line-item veto is: “The power to veto part of a budget whilst approving the rest. In the USA, forty-three governors can veto parts of state budgets but the US president has no such power over the federal budget.” (Routledge 2013).

should be changed. Parliaments could then revisit the original policy, afterwards presenting the new one to the tribunate and so on.

The debate can be structured on the right threshold for this dialogue, since we could either set a number of reviews the tribunates could use or we could prefer to set a certain time limit within which the tribunate can act and after which a final decision must be made.<sup>93</sup> This latter option could be very effective if connected to the level of importance of the policy enacted, since a problem categorized as an emergency would have a very short deadline, whereas long-term debates could require a more detailed dialogue and thus in need of a longer time frame.

### **7.4.3. The power to initiate referenda**

Finally, whereas other scholars agree with McCormick that referenda would produce good outcomes because they are an active rather than reactive means of voicing the people's interests (Schwartzberg 2011; 220-221), I do not think that we ought to empower tribunates with this political means because it suffers from numerous defects:

1. It facilitates voting on the basis of majority goals and passions that may not sufficiently consider if minority groups would be damaged by these decisions (Brennan 2011).
2. Referenda involve delicate issues – ethical decisions, climate change issues, etc. – that may be excessively subject to emotional biases. These biases should be avoided, since they are more likely to frame political confrontation in noxious antagonistic ways rather than promoting agonistic debates between adversaries that respect each other (Pettit 2000; 134).
3. Referenda suffer from problems of inconsistent public decision making – voters cannot be subjected to a discipline of intertemporal consistency – and they also make decisions possible regardless of their empirical feasibility, since in a large-scale selection individuals often vote expressively rather than pragmatically, thus achieving a third-best instead of a first-best (Brennan & Lomasky 1993).<sup>94</sup>
4. As it happened with the Brexit referendum, where many voters interpreted a referendum about the relationship between their nation and the EU as a protest against illegal immigration, individuals may misunderstand what the referendum is about, thus producing bad outcomes (De Zavala, Guerra, Simao; 2017).

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<sup>93</sup> For more information regarding the literature on executive vetoes see Tsebelis (1995; 2002); Cameron & McCarty (2004); McCarty (2000); Indridason (2011).

<sup>94</sup> For example, citizens might vote for banning brothels without thinking at the consequences that would result from driving prostitution underground (Pettit 2000; 134).

5. Finally, referenda are likely to suffer from oligarchic threats, since wealthy interest groups could invest their resources to sway the vote of the people towards oligarchies' favoured line (Lupia & Johnston 2001).

Therefore, I think that editorial referenda are too likely to be compromised by both sides of the democratic dilemma, so we should not empower tribunates with this political power. However, this entails that we should reconsider authorial referenda too, since if we just prevented tribunates from using this power, oligarchs would have at their disposal a powerful tool that they could use to enhance their interests. The solution to this problem could be twofold. First, we could simply rule out even authorial referenda, maintaining that they are too likely to favour oligarchic power. Second, we could still allow authorial referenda, but we could use tribunates to control both *a priori* and *ex-post* if that referenda encompasses oligarchic domination. In this way, tribunates would act as filters to grant the respect of the Popolo's liberty.

### **7.5. A system of "Ministerial Specialized Tribunates"**

I maintained that specialization is the main feature structuring my "thought experiment". Democratic regimes already include forms of specialization, since governments have different ministries, namely governmental organisations that manage a specific sector of public administration. Different governments have various kinds and numbers of ministries but overall, we always find a ministry of justice, foreign affairs, health, defence, education, internal affairs and finance. The structure changes according to the context we analyse, but all contemporary governments acknowledge that society is so complex that we must have some division of labour in its management. Hence, as we specialized the authorial dimension of democracy, we should specialize its editorial dimension.

McCormick suggests a single tribunate to contest government's policies and it is for this reason that he incurs in the criticisms of effectiveness and limited size of its tribunates. One tribunate would have to judge the operation of the whole government, so this could both overburden the functioning of the tribunate and would still be open to the first side of the dilemma. That is, a single tribunate would incur in two main difficulties. First, regardless their level of knowledge, tribunes would find it difficult to address policies that vary from health to justice, etc. Second, the means at their disposal would be too limited to contest dominating policies. For example, governments may try to enhance in a short period of time a policy that favours oligarchic interests in the health sector and another that favour oligarchies in the financial one.

A single tribunate would find it difficult to follow at the same time all the different policies enacted by governments and with only one veto, it would be difficult for this editorial body to counteract oligarchic domination. For this reason, I think that creating a system of *Ministerial tribunates* is necessary to frame an effective editorial democracy. That is, rather than having a single tribunate for the whole government, each Ministry should have its equivalent tribunate: the ministry of health would have to deal with the editorship of the tribunate of health, the minister of defence with the tribunate of defence and so on.

For example, the Italian government comprises 18 ministries, which means that it would have a system of 18 specialized tribunates. This specialization would help tribunates to resolve the problems faced by McCormick's model, since tribunes would analyse policies on a single topic. Even though each ministry involves a significant amount of knowledge, with this division of labour tribunates could more effectively check and counteract the functioning of the government. To explain this model, I need to specify who ought to be part of each single tribunate and what powers should these specialized bodies ought to be given.

### **7.5.1. Connecting Education and Social Class in the selection phase**

Maintaining that a system of ministerial tribunates would better deal with the first side of the dilemma is speculative until I explain who ought to be selected as tribune. I noted that this is a problematic decision in two regards. First, we ought to determine who can be selected as tribune and who ought to be excluded, since tribunates must remain effective and popular in character. In my opinion, we can find a solution by slightly modifying McCormick's proposal. That is, rather than using social class only as selection criterion, we can combine education requirements with social class and/or other important social cleavages.

First of all, tribunes would still be selected by sortition among the whole population, but there would be a pre-selection to determine to which tribunates citizens want to participate. That is, citizens would have to decide for which and for how many of the ministerial tribunates they would like to be eligible. In this way, specialization would reduce from the beginning the problems caused by the first side of the dilemma, since we would direct the people's contestation towards those fields of knowledge where citizens feel more comfortable and where they are more willing to have a say. In this regard, there is a risk connected to the Dunning-Kruger effect (1999), namely that individuals overestimate their capabilities and they may thus decide to be eligible for tribunates for which they do not possess the capabilities required.

However, I do not think that this would be a problem, since the people's decision to select to which tribunes they want to be eligible for is a *pre-selection*, so it would be a first generic measure to reduce the effects of the people's biases; not the only one. In this regard, the Dunning-Kruger effect is a risk, but this does not imply that a pre-selection is not efficient. Rather, it means that this pre-selection is not sufficient by itself to defeat the first side of the dilemma and we thus need further measures – described in what follows - in the following phases of the tribunes' selection.

For what concerns the feasibility of this procedure, modern societies have at their disposal numerous technological devices, so framing this pre-selection would not be too complicated. For example, the percentage of the populace using smartphones is very high among all social groups<sup>95</sup>, so citizens could select the tribunes where they want to be considered as eligible via an *ad hoc* smartphone app. Some could decide that they care more about environmental issues, others economic ones, others both or more and so on. Once the pre-selection is completed, we could move on with the actual selection

Assuming that X is the number of tribunes – the exact number of tribunes is the second feature I discuss in this section – I argue that the selection should follow three main criteria. First, the selection ought to include an income threshold so as to exclude oligarchs from the selection. Second, 40% of the tribunes ought to be selected by lottery from a macro-group determined according to an education criterion. Third, the other 60% according to a macro-group composed considering other important social cleavages.<sup>96</sup> Let me explain this more in detail:

#### A) *Income threshold exclusion*

An income threshold would be necessary to avoid the risk that the *Grandi* would eventually sway the tribunes' operation in favour of oligarchic interests. Determining which part of the populace ought to be excluded would be an easier task than recognizing all the social cleavages differentiating the lower strata of the population. Whereas the *Popolo* is divided by diverse social cleavages, the *Grandi* side is more homogeneous (Stiglitz 2011; 6-55), since oligarchs possess a significant amount of wealth compared to the rest of the population.

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<sup>95</sup> For example, 77% of Americans use a smartphone: <http://www.pewinternet.org/fact-sheet/mobile/>. Moreover, the percentage of older Americans (+ 65) using smartphones has been increasing over the last couple of years. [http://www.pewinternet.org/2017/05/17/tech-adoption-climbs-among-older-adults/pi\\_2017-05-17\\_older-americans-tech\\_0-01/](http://www.pewinternet.org/2017/05/17/tech-adoption-climbs-among-older-adults/pi_2017-05-17_older-americans-tech_0-01/)

<sup>96</sup> This number is not chosen by chance, but it is to make sure that when tribunes take decisions according to a majority criteria, the “Educated side” interacts and works with the “Non-educated” side.

The amount of wealth we set as threshold is likely to be highly disputed and to be criticized as arbitrary. Yet, any threshold leads to this sort of debate and as noted by Green, democracies must be ready to sustain the ethical challenge of formally differentiating among social classes. Supporting a tribunate model implies having to defend the importance of framing our institutions according to a divided conception of the populace. Moreover, finding the exact income where we ought to set the threshold would be complicated in two regards.

First, the threshold would be highly dependent on the level of economic inequality of the nation. For example, McCormick would exclude a consistent part of the American population, since his threshold would exclude the 10% wealthiest families. Following other views, we could either set the threshold higher, maintaining that only the wealthiest 1% of the populace is likely to hinder the operation of the tribunate, or we could set it lower than McCormick, underlining that the top 20-30% is still too wealthy to sufficiently care about protecting the *popolo's* liberty. Hence, there is no magic number that can be used for any context, but this threshold ought to be established according to the economic and social situation of the country.

Second, it is difficult to determine precisely who is an oligarch, since oligarchs have always been very good at hiding their wealth. As showed by recent problems such as the Panama papers issue (Obermayer & Obermaier 2016), oligarchs have created an efficient network of banks, fiscal paradises, connections with politicians, etc., that makes it very difficult to know precisely the amount of fortunes these oligarchs have. Hence, if we are to set a wealth threshold, we first have to challenge the system that allows oligarchies to hide their wealth resources. Only after having done so, will we be able to determine exactly who is part of the *Grandi* and thus ought to be excluded from tribunates' selection.

Once defined who ought to be excluded, we ought to frame the selection on two main groups. I already discussed in section 7.2. why I agree with McCormick on the importance of setting this threshold, so it is sufficient to recall here that the pivotal feature framing the exclusion of oligarchs is that if we included the *Grandi* in the selection of the tribunate, they could eventually end up dominating these bodies. Hence, if we are to keep the tribunates popular in character, we must set thresholds to exclude this eventuality.

#### *B) 40% Educated Tribunes*

I maintained that tribunates must not only focus on the oligarchic threat, but they must also be aware that the people's biases may compromise the effectiveness of these bodies. The decision

to specialize the editorial democracy is then based on the idea that we must make sure that the tribunate possesses the knowledge required to counteract government's decisions. To do so, 40% of the tribunes should be selected among those individuals of the *Popolo* who possess at least a degree in the relative subject. For example, all *popolani* with a medical degree would be eligible to be selected as tribunes in the tribunate that poses the editorship to the ministry of health, all those with a degree in economics to the economic one, and so on. All the names of those who meet these requirements would be part of the group from which we would afterwards use sortition to determine who the actual tribunes are.

A problem of this selection system is that it could be deemed epistocratic. Yet, I think that this is not the case, since the educated group would form only the 40% of the tribunate, so any *popolani* would be eligible for the remainder 60% of the positions in any tribunate she desires. Moreover, it is essential not to forget that this educated side would already be popular. Regardless whether or not they have a degree, those citizens with an income above the X threshold would not be eligible for any tribunate. Nonetheless, it is true that the group from which those with a degree are chosen would be smaller than the remainder and individuals thus be more likely to be selected here than from the other macro-group.

However, this difference would be minimal and it would not affect the democratic character of the tribunate. In politics, any line we draw to divide among social groups will unavoidably raise some concerns. In this regard, a decision drawn upon a degree measure will unavoidably create criticisms from those who do not possess this requirement. For example, in any field there is a wide range of technical certificates that one could claim count as well as a degree. Those possessing this technical certificate may thus protest that the degree measure discriminates against them and that their view is not considered. These forms of exclusion would thus be highly disputed, but at the same time I think that we can resolve this problem in two ways.

On the one side, I mentioned here a degree line because I am describing a general project, but this does not mean that we cannot debate on whether there would be a better criterion to consider. That is, we could debate whether this divisive line should include other forms of knowledge, certificates, etc., so as to render the tribunate as inclusive as possible. On the other side, there is a difference between being excluded and having a lesser chance to be selected. In this "thought experiment", individuals that do not possess a degree are not prevented the opportunity to be part of the tribunate; they would just have a smaller statistical likelihood of being selected in the sortition.

### C) 60% Social Cleavages Tribunes

In order to keep the tribunate popular in character, we must make sure not only that citizens are included regardless their level of education, but also that these latter constitute the majority of the tribunate. Ergo, 60% of the tribunes should be selected from the *Popolo* regardless the level of education. Yet, this may not be sufficient, since there may be specific forms of domination that we ought to consider. For this reason, the criteria regarding how we select among this 60% should also adapt to the different social contexts.

I previously argued that since wealth has always been the main factor dividing social classes, priority has to be given to those from the lower strata of the income scale. However, modern societies encompass diverse social cleavages that must be considered. For example, some ethnicities in the American judicial system suffer from significant discrimination<sup>97</sup>, so in this system we should also consider the ethnic cleavages. How we divide this 60% varies according to the different contexts, but it is pivotal that the majority of the tribunate must be composed by individuals from those social cleavages that are likely to be neglected by the authorial process. Nonetheless, this selection is likely to be challenged in two regards.

On the one hand, the more educated side could impose itself over the non-educated one, since those citizens that are already underrepresented in formal political institutions – women; racial minorities, poorer people - are likely to be disadvantaged in a group discussion that includes more privileged social groups (Sanders 1997; 349-368). That is, studies on small groups' deliberation demonstrate that individuals possessing certain characteristics – white, men, high-education – are more likely to be viewed as more persuasive than others, to participate more and to thus impose their views on others (Marder 1987). This would be a challenging issue, but I think that the editorial nature of the tribunate would counteract this threat in three regards.

First, I mentioned that the selection for the tribunes must consider the social cleavages affecting that specific social system. By specifically considering these cleavages, an editorial tribunate would by its own nature be aimed at empowering – and not discriminating - the voices of those social groups that are likely to be disadvantaged in the authorial institutions. Second, the “non-educated” side would have a numerical advantage over the educated, since they would be the majority of the tribunate. This would not cancel the risk that the latter may dominate the

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<sup>97</sup> The literature on this topic is large and even the American public debate on the racial injustice has continuously increased over the last years. This article from the Washington Post summarises well the debate: [https://www.washingtonpost.com/news/opinions/wp/2018/09/18/theres-overwhelming-evidence-that-the-criminal-justice-system-is-racist-heres-the-proof/?noredirect=on&utm\\_term=.c1a5cdd6ebad](https://www.washingtonpost.com/news/opinions/wp/2018/09/18/theres-overwhelming-evidence-that-the-criminal-justice-system-is-racist-heres-the-proof/?noredirect=on&utm_term=.c1a5cdd6ebad).



debate, but the numerical disadvantage would render it more difficult for the educated to do so. Third, even though we excluded oligarchs, the complexity of modern society would render it difficult to have a homogeneous group of tribunes with the same interests. Even within the *Popolo* there are diverse social cleavages that may contrast one with another. Nonetheless, I think that tribunates could resolve this problem in two ways.

On the one hand, the goal of excluding oligarchs from the tribunate is exactly to make sure that certain tribunes do not possess wealth or social resources in excess of others that they can use to sway the functioning of the tribunate in their favour. Hence, tribunates would not include individuals whose interests are clearly opposite to this body's purpose. On the other hand, tribunes would have the same goal – contesting oligarchic domination – and this would favour the cooperative functioning of these tribunates. As noted by studies on deliberation (Larmore 1996; Pitkin and Schumer 1982; Guttman and Thompson 1996), a communal orientation helps participants to overcome their personal differences. Ergo, tribunes would be conscious that “the enemy of my enemy is my friend”, so contesting oligarchic domination would be the goal that gathers tribunes together despite their differences.

This problem is connected to Lukes's second face of power, namely the agenda setting power (Lukes 1974). In short, this power concerns the fact that who sets the agenda in the debate can render certain topics or points of view illegitimate, thus favouring her own view over those of others. This power is related to the identification problem, since too often demagogues use media and social media to create fictitious enemies with the purpose of swaying the *popolo* from challenging oligarchic power. For example, many demagogue parties in Europe have been fear mongering the population exaggerating the threats created by migration flows, while problems such as aforementioned panama papers did not get the public salience they should have had. In this way, not only oligarchs manage to defend their wealth resources more easily, but they also render it more difficult for the *Popolo* to identify as such.

Modern tribunates could counteract this problem by creating the class consciousness necessary for tribunes to identify as a single group with the common goal of challenging oligarchic domination. Using a sport simile, other deliberative groups include supporters of different teams and some groups may want to privilege their team over others'. On the contrary, being framed on a divided conception of the populace, an editorial body would include supporters of the same team who would primarily focus on how to defeat their external adversary rather than on the internal differences among them. Once again, I use the term adversary and not enemy

to stress that the goal of an editorial democracy is not to create a poisonous class warfare, but to frame a positive social confrontation among the *Grandi* and the *Popolo*.

The connection between education and social cleavages could thus be resolve the conundrum between avoiding the people's biases while remaining popular and I do not think that the division I envisage here would cause further domination. Tribunates would be a supplementary power that the *Popolo* use against the *Grandi*'s domination, so even if a *popolani* is not selected directly, she can still be confident that the tribunate will work to defend her liberty from the oligarchic threat and not against her. This idea is not new, since I noted in the second chapter that this connection was one of the main epistemic properties of the Athenian democracy.

Athenian institutions encompassed citizens with diverse levels of knowledge, with some individuals that were from educated tribes, whereas others were inexperienced. Yet, it was thanks to the chance to serve in the main institutions and to the learning process inexperienced citizens went through in the meanwhile that Athenians as a whole improved over time and performed better than their rivals (Ober 2008; 118-167). By connecting the two sides in a single tribunate, we would thus recreate this system, thereby exploiting the people's capabilities while giving extra consideration to those interests that are likely to be neglected in the authorial phase of the political process. Once again, this would be different both from the epistemic scholars' view and from the epistocratic one.

On the one hand, citizens' effort would be simpler, since they would develop the knowledge required to contest authorial policies only in a certain field of knowledge and not on the whole government. On the other hand, a specialized system would be different from any epistocratic solution, since citizens from lower social classes would significantly contribute to the functioning of the tribunate regardless their initial level of knowledge. Tribunates would strongly rely on the input offered by the *popolani*, since these latter can better stress problems suffered by those individuals that would be likely to be dominated by oligarchic policies.

To complete the debate regarding how ministerial tribunates ought to be composed, I must now answer the questions regarding how large each single tribunate ought to be and how long should tribunes remain in office.

### **7.5.2 The size and duration of the tribunates**

Choosing the right size of the tribunate is difficult, since each solution seems to get stuck in a zero sum game: Too few tribunes open the gates to oligarchic domination, while tribunates too

large incur in problems of costs and feasibility. In this regard, I think that a system of ministerial tribunates would perform better than a single tribunate as pictured by McCormick. As for previous features, the number of tribunes should be adapted to the national context, so it cannot be a fixed one. Yet, a Ministerial Tribunate system would have more tribunes than McCormick's and it would get closer to the 500-1000 number considered optimal by Rehfeld (2011; 227). I explain how this selection could be structured in the following diagram.

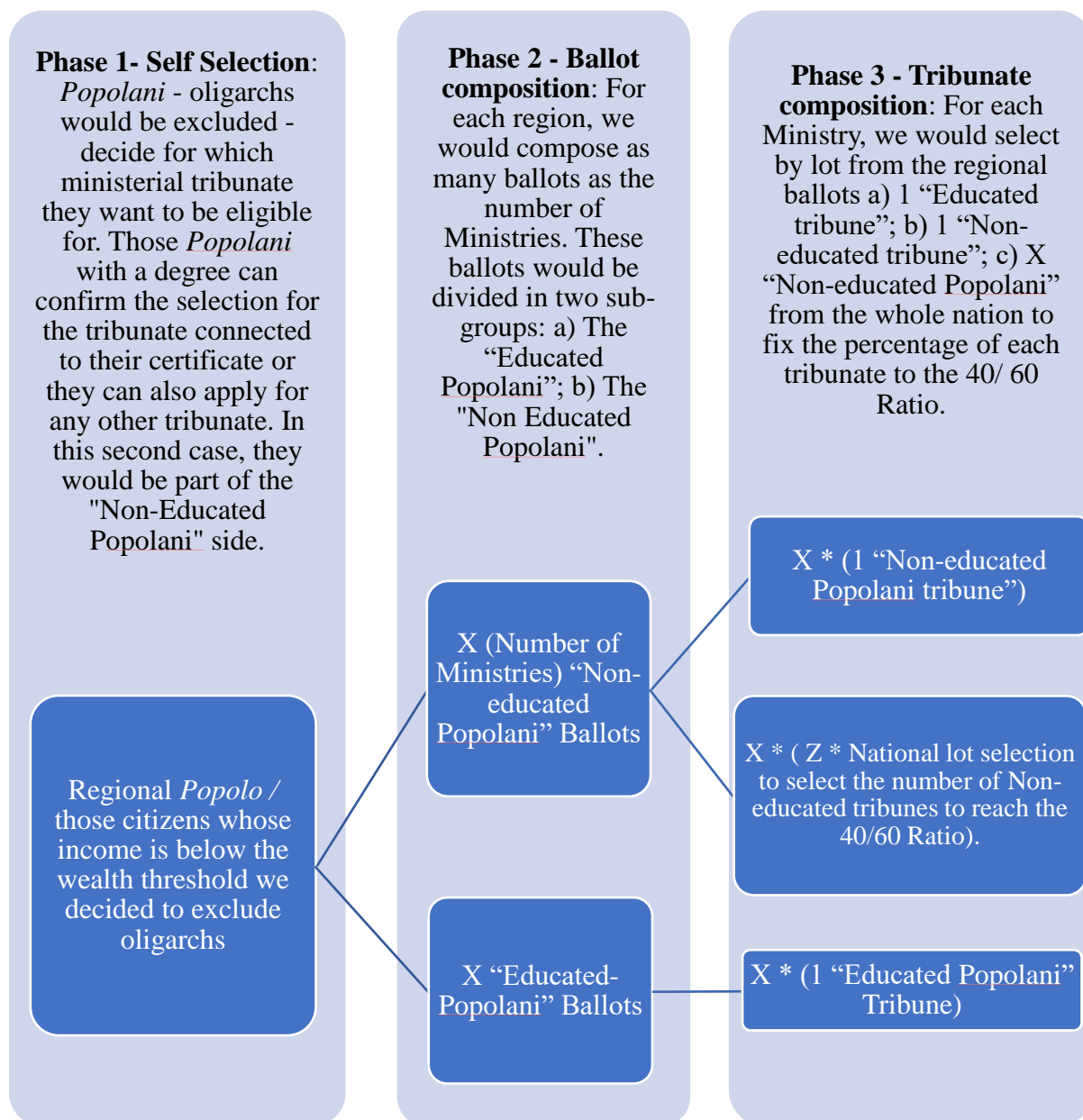
In my example, I divide the selection according to a regional basis, but this criterion may not be important in other states. Italy has had a long history of differences and inequalities between the northern and southern part of the country, so selecting according to this state's 20 administrative regions would be both more efficient from a bureaucratic point of view and it would also make sure that there would be no popular complain regarding possible favouritisms towards certain parts of the country. Following a same criterion, in the United States we could divide the selection on this country's 50 States. However, in other countries where regional divisions are not important, or where there are no regional divisions such as Israel, the tribunes' selection would not need to consider this regional aspect and could be structured on a single national basis. That said, the selection could be framed on three phases:

1. First, the pre-selection phase. Each *Popolani* would decide (as I described above) for which tribunates she wants to be eligible. In each state, we would have as many tribunates as ministries<sup>98</sup> - in the Italian case, we have 18 Ministries. I indicate this number as X in the following diagram.
2. Second, the regional – or national - ballots from which tribunes would be selected would be formed. These ballots would include two sub-groups: a) The “Educated-Popolani”; b) The “Non-educated Popolani”. In this regard, it is important to stress two aspects. First, this division educated/non-educated would exist only in the selection phase, since all tribunes would afterwards be part of the same tribunate, thus working all together and not as separate branches of the same body. Second, the diagram represents the selection phase for a single region only, so the total amount of regions – Y in the diagram - should be adapted to the structure of the country.
3. Third, there would be the actual selection of the tribunes: 1 “Educated-Popolani Tribune” and 1 “Non-Educated Popolani Tribune” per region would be selected by lot per each

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<sup>98</sup> Note that the number of ministries changes among different countries, but also from one government to another, even though in the latter the number is likely to remain quite similar.

tribunate. Yet, we would also have to select a number of randomly selected “Non-educated Popolani” from the whole nation - indicated as Z in the diagram - to fix the percentage of each tribunate to the 40% (Educated-Popolani) / 60% (Non-educated-Popolani) Ratio.



For the Italian case, the Ministerial Tribunal system I am suggesting would thus encompass 18 (X) tribunates, each of which would be formed of: a) 20 (Y) "Educated Popolani" + b) 20 (Y) "Non-Educated Popolani" + c) 10 (Z) "Non-Educated Popolani" tribunes.<sup>99</sup> Each tribunate would be thus composed by 50 tribunes, which means that in Italy we would have a total of 18

<sup>99</sup> C) is the number of tribunes we need to move the ratio of the tribunes from 50/50 to 40/60.

$(X) * 50$  (Each tribunate's number of tribunes) = 900 Tribunes. For example, in a larger system as the United States, each tribunate would be composed of: a) 50 + b) 50 + c) 25 = 125 Tribunes. In this case, we would then have a total of  $15 (X) * 125$  Tribunes = 1, 875 tribunes.

Being significantly larger than the system suggested by McCormick, this system would resolve some of McCormick's deficiencies, but at the same time it would also raise some criticisms. For what concerns the pros, the resources oligarchs need to lobby or corrupt a large specialized system would be far superior than the ones needed to capture a single tribunate. Yet, this would render the oligarchic domination more difficult; it would not completely eliminate the problems of the oligarchic threat. Any ministry would deal with powerful oligarchies from a specific sector and considered singularly, each tribunate would still be too small to avoid the risk of oligarchic corruption.

That said, I do not think that these criticisms would necessarily compromise the operation of the tribunates, but we must not be naïve thinking that larger numbers automatically avoid the oligarchic threat. We will never be able to eliminate entirely this hazard, but at the same time we can try to render the capture of the tribunates by oligarchs as difficult as possible. In other words, a Ministerial tribunate system would still be susceptible to the oligarchic interference, but a large number of tribunes, a wealth threshold exclusion and a popular class representation would be effective obstacles against this problem. These last three features would be the main defences against the oligarchic threat, but tribunates ought to encompass two more measures.

The first is that tribunes must not maintain their offices for too long. In this regard, I think that McCormick's idea to frame a single year time frame would raise too many problems for such a large project. It would be too difficult to move 900 individuals and families for one year only, both economically and logistically. Hence, I think that we could draw from the U.S. senate example and stagger the tribunates' offices across electoral cycles to avoid the confusion of having to select new governments and tribunates at the same time. For example, if governments change every 4 years and they have a term from 2020 to 2024, we could set the tribunates' selection so that terms overlap, namely 2 years after the elections (2022 to 2026 and so on).

In this way, tribunes would have enough time to become a proper functioning group and to make use of the epistemic features of the composition of the group – the connection between *Popolo* and degree ones – without having to face the risk that they would exploit the opportunities given by remaining in power for too long. To avoid this latter risk, the office of

tribune must also be non-renewable. However, to reduce the oligarchic threat we also need to discuss a second delicate measure, namely the economic incentives for tribunes.

On the one hand, to avoid the problems of corruption and to render the office of tribune attractive, we must make sure that tribunes are offered a good salary – once again, what “good” means would change according to the different nation – and that there are safeties and incentives for the tribunes and their families, such as favouring their return to their jobs once they served their mandate. This is a challenging feature, since I acknowledge that a short-term mandate would make it easier for tribunes to go back to their jobs than longer terms such as 3 years. However, I this challenge would not be insurmountable.

On the one hand, politicians’ salary is just a small part of any country’s budget and the costs required to develop forms of specific social welfare for around 1000 citizens is a minimal expense compared to the ones framed for the whole nation, so the system I am suggesting would be economically feasible in most of the actual regimes. On the other hand, the tribune mandate would be an opportunity for many *Popolani* to improve their social condition, since tribunes would significantly improve their capabilities throughout their mandate and the mandate itself would be a significant experience in their *Curriculum Vitae*. Hence, tribunes would not only have the safety to go back to their previous job, but they would have the opportunity to exploit their mandate as a chance to afterwards improve their social condition.<sup>100</sup>

On the other hand, both tribunes and common citizens must not see the tribune experience only as a chance to pursue one own’s self-interest. As noted in the analysis of Rehfeld’s idea, the popular perception of the expenses for the tribunate is a significant challenge. Politicians’ privileges and salaries are already the target of demagogic campaigns in many countries, so a proposal that would require 900 more well-paid politicians is likely to raise strong popular opposition. The problem would thus be to convince the citizenry that the expenses required to implement this system would be beneficial for - and not contrary to - their interests.

This task would be complicated, but at the same time by stressing the popular character of the tribunates, these bodies could obtain the legitimacy needed to function. Tribunates would be framed exactly as the political tools the *Popolo* can use to contest oligarchies, so citizens would be more likely to accept the economic expenses required to enhance this editorial project. Yet,

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<sup>100</sup> I acknowledge that these points may at times seem speculative, but my goal is to set the basis for the feasibility of the project. A system as the one I am suggesting would be a significant change to our political systems, so each single feature ought to be discussed and evaluated much more in detail than I am doing here now.

much of this acceptance would be dependent on how the ministerial tribunate system functions, the aspect I now turn to analyse.

### **7.5.3. The powers of the Ministerial Tribunates**

For what concerns the powers that tribunates ought to have, I noted that I reject two of the powers suggested by McCormick, namely public trials and referenda. On the contrary, I argue that the tribunates' editorship is to be primarily structured on two main features:

#### *A) Specialized Veto Power*

First each tribunate ought to be given a veto power to prevent oligarchic policies from being enacted. Yet, I explained as well that veto powers encompass a difficult conundrum, since we must find a balance between effectively empowering the tribunates and making sure that their editorship does not become a harmful tool that freezes the functioning of our political systems. To resolve this conundrum, I suggested that we could frame a dialogue system based on a line-item veto. Tribunates would have the power to reject part of the policies enacted by parliaments, giving suggestions regarding what ought to be changed. Parliaments could then revisit the original policy, afterwards presenting the new one to the tribunate and so on.

To avoid the freezing problem, we could set a limit of reviews or we could also set a specific time frame within which the editorial power can function. Finally, these time or number boundaries could be connected to the level of importance of the policy enacted, since a problem categorized as an emergency would have a very short deadline, whereas long-term debates could require a more detailed dialogue and thus in need of a longer time frame. In this regard, specialization could resolve the freezing problem, since we can not only specialize the field in which the tribunate functions, but also its powers. I noted that oligarchic influence over governments is the main threat we ought to avoid, so we could specialize the tribunates' editorship to make sure that any policy enacted by the government does not privilege the interests of certain oligarchies.

Before being approved, a certain law ought thus to go through the revision of the pertinent tribunate. Tribunes would study and evaluate the specific law, checking for features that would favour oligarchs over the Popolo. If the law is accepted, it receives the tribunates' approval to be finally enacted. Otherwise, the law is vetoed and goes back to parliaments with specific comments and indications on what parts of the policy are deemed to favour oligarchies. Parliaments would then review the parts that have been rejected, afterwards submitting again

the revised policy to the tribunate. This latter would then analyse whether the indications have been followed and decide if the law can be enacted or if it needs further review. The time frame and the number of vetoes would depend on urgency and importance of the issue.

These measures could thus reduce the freezing problem because vetoes ought to be justified in terms of oligarchic threats and tribunes could not simply reject policies to follow factional interests. Moreover, this veto would narrow down even more the knowledge requirements on the tribunes. These latter would not only be specialized in only a certain sector, but they would also target a specific feature – the oligarchic threat - of the policies that governments want to enact. Yet, in order for tribunates' decisions to be consistent and not arbitrary, we must set a rule of law to determine what is oligarchic. Otherwise, if we just relied on tribunes' personal decisions, there would be too much space for contestation and it would be easier for opponents to delegitimize tribunes' decision, framing them as arbitrary and partial. From this, the need of a rule of law on which tribunes could rely to make their decisions.

This debate is complicated, since we would face again the problem of setting thresholds and each boundary would imply debates such as “if X, why not Y that is almost identical to X and so on”. Moreover, we would have to create a law that would fit well different fields of knowledge, since it should work equally well in determining oligarchic domination in health issues as it does in economy, infrastructure, etc. However, the fact that it would be difficult does not mean that it would be impossible, since the goal would be the same, namely discerning whether or not a certain policy favours a few oligarchs over the liberty of the *Popolo*.

To do so, we could create a declaration similar to the one we have for human rights, or we could create a popular constitution and so on. It is in this regard that further debate is thus required. Yet, rather than showing a weakness of this thesis, this legal aspect shows the large potential of the tribunate's idea. Were we to implement it empirically, this project could not be limited to political scientist only, but it should involve all different sectors of social science, from political scientist, to lawyers, to sociologist and economists.

### *B) Inequality admonitions*

Tribunates should not only be limited to veto governments, since they could also be given the power to force parliaments to consider certain specific and significant inequality problems. Tribunates' main purpose is to defend the people's liberty, but this latter is not hindered only by oligarchic policies. Rather, the *Popolo* could be dominated even if specific inequalities



occurring in society are neglected by authorial institutions. Reconsidering the example of some ethnicities discriminated by the American judicial system, these social groups will not only be dominated if certain policies clearly favour certain oligarchic interests, but they will also suffer domination if none of the inequalities they suffer are considered in the parliamentary debate. For this reason, tribunates should be given the positive power to force parliaments to legislate on a specific problem that creates inequalities among the populace.

As for previous features, this power ought to be balanced with the effectiveness of the governments, so we could empower tribunates with 1 or 2 “inequality admonitions” per year to force governments to consider the inequality problem considered important by the tribunate. Tribunes would have to develop a specific report on why the issue considered is important and why it is creating significant inequalities in society, including also indications on what governments must include in the legislation aimed at fixing this problem. For example, there is a clear racial disparity in the incarceration rate in the United States (Western & Pettit 2010), so the judicial tribunate could create a report on this regard, outlining the major issues and possible solutions, forcing parliaments to consider and to legislate to reduce this problem.

One essential feature I mentioned in previous sections is that *popolani* must feel tribunates as something theirs if these bodies want to be perceived as popular anti-powers. Ergo, each citizen – or civic group – must also be given the opportunity to bring cases to the tribunates. *Popolani* would bring their case of perceived domination and tribunates would have to assess these cases, giving an answer within a certain time frame and starting an admonition procedure in case they found any domination. These “Popolani admonitions” would count as extra-admonitions that the tribunate could use. In this way, tribunates would not only contest oligarchic domination, but *popolani* would feel closer to these bodies, thus increasing their democratic legitimacy.

Once the inequality admonition is sent through to parliaments, we could establish a procedure similar to the veto one. That is, we would have a dialogue system where governments are given a certain amount of time to assess the admonition and to legislate about it, afterwards submitting the policy to the tribunate for the review and so on. The quality of this mechanisms is that it would empower the populace as a referenda should theoretically do, since citizens could target a specific issue affecting their lives. Yet, being framed on a “parliament-tribunate” debate, it would avoid the problems of referenda, since oligarchs would struggle to interfere in the process, diverse interests would be balanced and having proposals to go through the tribunates’ revision, there would be more checks on the problems of emotional decisions.

A tribunate system would thus possess features that ameliorate the democratic quality of their functioning. First, it would improve the tribunes' discussion and deliberation. On the one hand, the fact that oligarchs are excluded from this body would, if not avoid, at least diminish the threat that individuals who are too powerful end up dominating the debate and decisional phase. On the other hand, being focused on contesting specific policies, it would be easier for tribunes to analyse the pros and cons of each parliamentary decision and to reach an agreement on whether or not it should be vetoed.

Second, being popular, tribunes could obtain a good level of popular trust. As noted, we cannot focus on contesting the oligarchic threat only, but we also have to face the fact that a high level of political distrust among the populace is producing dangerous political outcomes. Common citizens are looking for information and political solutions outside the political framework because they do not trust governments, but the people's biases may prevent individuals from realizing that these unofficial avenues may entail harmful outcomes.<sup>101</sup>

Forming explicitly popular only tribunes tasked and with the purpose of contesting oligarchic domination, could thus obtain a level of popular trust higher than the one possessed by authorial institutions. In this way, we could re-establish the legitimacy in the system given by the losers of the political game that is so important to a well-functioning democracy. Political decisions would continue to produce winners and losers, but a tribunate system would offer the *Popolo* the opportunity to constantly defend their liberty, since they would have at their disposal tribunes that are not related to a certain party or a certain side of the political spectrum.

In this way, tribunes' would have a *Popolo* class legitimacy. At the same time, offering *popolani* the opportunity to bring their domination cases to the tribunate, tribunes would also prove that they can be the anti-power needed by the *popolani*, since these latter would feel that their interests are taken into consideration and they would consider the political system as legitimate even though they lost the electoral game in the authorial dimension.

## 7. Conclusion

These are the features on which I think we could structure a system of Ministerial Specialized Tribunes. In this chapter, I described McCormick's "thought experiment", afterwards

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<sup>101</sup> There is no space to analyse in depth this issue, but for example the "No-vax" movement is exactly the alternative non-political deviation we must prevent. Eventually, this movement is based on the people's distrust towards who possesses decisional power – medical experts in this case - and on the belief that politics is so corrupted by elites that parliaments would even let pharmaceutical oligarchs harming the lives of the people's children so as to keep increasing the profits of their multinational corporations.

stressing the features that structure the debate regarding these editorial bodies. I explained that scholars have different views about which features ought to work and, finally, I described my idea of how we could better enhance the republican ideal of liberty as non-domination. From my analysis, it results that modern tribunates would have to sustain two main challenges if they are to defend the people's liberty. It is in this regard that further research is needed and that this thesis could find future developments.

The first challenge concerns the fact that even though tribunates are popular only, it does not imply that oligarchs are unable to dominate these bodies' functioning. Wealth thresholds are meant to prevent oligarchs the opportunity to be selected as tribunes, so as to avoid the threat that oligarchs could hinder the tribunates' internal operation. However, oligarchies would still retain most of their power that they could use to influence both politics and the tribunates functioning from outside. As noted, oligarchies would still be able to affect the media and the information framework surrounding tribunates; they could still try to corrupt tribunes and if this resulted too difficult, they could still use what Winters called the Oligarchies' "wealth defence industry" to lobby tribunates in more subtle ways.

For this reason, if we are to implement an editorial democracy as the one described in this thesis, the first challenge we have to resolve is how to insulate tribunates from oligarchic external influence. This is a difficult challenge, since it would not only require to develop economic safeties for tribunes, but it would include also a challenge regarding tribunes' ethics, values and perception. Finding the right way to structure all these challenges would thus be essential to make sure that tribunates defend the people's liberty as non-domination. In short, we cannot assume that we can resolve the oligarchic threat only by excluding oligarchs from tribunates, since we must debate also on how to develop popular safeties to insulate tribunates from oligarchic external pressure.

The second challenge is connected to the first one and it concerns whether or not tribunates are able to obtain the popular and democratic legitimacy to be considered as a proper anti-power by the *Popolo*. I criticised Pettit's ombudsman bodies stressing that these bodies can be at best a positive external interference and as such not able to properly defend the people's liberty as non-domination. However, if both the *Popolo* as a social class and each *popolani* as individual citizens do not perceive modern tribunates as something theirs, modern tribunates would not be able to represent the popular anti-power needed to defend the *Popolo's* liberty. I suggested that two features would help in this regard.

First, tribunates would possess a social class legitimacy, since all those *popolani* that are not elected would still know that tribunes are from the *Popolo* and not part of the *Grandi*. Second, the fact that each *popolani* would have the opportunity to bring cases to the tribunate would help citizens to feel tribunates as something theirs that they can use to contest oligarchic domination. Nevertheless, I acknowledge that these two features may not be sufficient to convince about the tribunates' legitimacy the most sceptical critiques, so these two points can only be the starting point of the legitimacy debate. Hence, as the first challenge concerns how to close tribunates from external oligarchic pressures, so this second challenge regards how to open tribunates to the *popolani*.

In sum, I think that further discussion in the political literature is needed to find efficient ways to resolve and overcome these challenges. Moreover, I acknowledge that the model I described in this chapter may result too generic and at times too speculative, since if we are to properly implement an editorial democracy there would be numerous empirical challenges that are here neglected. Nonetheless, I think that this model is only the basis to structure the republican debate on the editorial democracy and it is not an unachievable utopia. Hence, I think that this "thought experiment" offers a fruitful frame for the discussion on how to structure an editorial democracy able to sustain the challenge posed by the democratic dilemma.

## CONCLUSION

I structured this thesis on two main ideas. First, that a twofold democratic dilemma is compromising our democracies. On the one side, the people's biases hinder the defence of liberty offered by the ideal of democracy as self-government. The problem is not only that the people may lack the political knowledge and/or will to govern themselves properly, but that in continuing to pursue the Athenian ideal, we may end up favouring rather than contesting those sceptical views that question democracy itself. That is, if we require citizens to perform a political effort that it is too difficult for them to fulfil, this could strengthen the thesis of those anti-democrats who maintain that the people's participation is a threat to democracy, since the people's failure would support the argument of the sceptics.

For this reason, I argued that in modern societies, namely political systems too large and complex to allow citizens a continuous direct participation in politics, we must acknowledge that the people's political participation must be restricted to a certain degree. Ergo, I described the views regarding how we ought to restrict this participation, moving from representative views of democracy - such as the pluralist and minimalist views - to epistocratic and neoliberal criticism to democracy. I maintained that even these views fall short of the democratic dilemma, since they are likely to be compromised by the oligarchic threat.

In more detail, the main argument I presented is that representative views of democracy that rely on authorial institutions only may limit the demands on the people's participation, but as long as they do not include an editorial democracy, these views will not be able to challenge the oligarchic threat affecting our current societies. In short, the problem stressed by the democratic dilemma is that insofar as we continue looking for a solution within the framework offered by classical authorial ideals of democracy, we will not be able to find an effective way to defend the people's freedom.

In this regard, the problem I am analysing is not new. Economic and social inequalities have shaped our societies since the first community of human beings was formed, so the substratum of the problems faced by our political systems is the same one of the problems that affected past societies. Yet, the manifestations of this substratum have changed continuously with the historical development of our societies and I think that actual democratic views are still too entrenched in the past to solve the democratic dilemma. That is, views presented in the first part cannot properly defend the people's freedom because they try to solve contemporary

problems – the democratic dilemma - with theoretical means (the two authorial ideals of democracy) that are no longer sufficient nowadays.

This does not entail that the authorial side of democracy is no longer important and that we thus ought to abandon or limit it significantly as maintained by epistocrats or by neoliberal criticisms, since I argued that democratic institutions are still essential to defend the people's liberty. I rather argue that we need an alternative solution because, by itself, an authorial democracy cannot resolve the democratic dilemma. The alternative avenue I argued for is represented by a third dimension of democracy, namely a contestatory democracy framed on the republican conception of liberty. Pettit's ideal of freedom allows to frame the democratic dilemma as a twofold form of domination that must – and can - be blocked.

On the one side, being framed on a negative contestation, non-domination changes the sort of political participation required for the people to defend their liberty. That is, citizens are not asked to continuously govern themselves directly, but they can perform an easier task, since they only have to target and contest those oligarchic dominating hindrances that prevent them from living the kind of life they deem valuable. On the other side, a republican view allows to conceive the oligarchic threat as a form of domination that must be challenged. More specifically, the people's non domination could be enhanced by giving citizens a proper anti-power by which they could directly contest and tame oligarchic domination.

Explaining the reasons why I argue in favour of an editorial democracy structured on republican conception of liberty as non-domination, I concluded the first part of the thesis. However, I started the second part of the thesis describing another conundrum, namely that whereas republican scholars mostly agree that Pettit's conception of liberty ought to be set at the basis of our democracies, there is a larger debate regarding which is the best way to politically promote this ideal. More in detail, I criticised Pettit's editorial model, since I argued that relying on a few experts, his bodies are elitist and would at best be a favourable external intervention by a Master. As such, Pettit's editorial bodies would always be a dominating interference and not an anti-power in the hands of the *Popolo*.

I described the criticisms scholars raised against Pettit's model, but I also explained that these critiques neglect that Pettit's Ombudsman model is not the only way to structure an editorial democracy. One of the main critiques of Pettit's editorship is Bellamy, but in the sixth chapter I maintained that while I agree with his criticisms, I reject his solution to this problem. Bellamy

agrees that liberty as non-domination is the ideal to pursue, but he rejects the idea of promoting an editorial democracy to do so, since he thinks that reframing actually existent authorial institutions is sufficient to achieve non-domination. Yet, by rejecting the editorial component of democracy, this scholar falls short of the democratic dilemma and his solution is thus insufficient to properly protect the people's liberty as non-domination.

In my opinion, the solution could come from following McCormick's idea to reconsider Machiavelli's suggestion to structure the people's contestation on popular contestatory bodies similar to the Roman "Tribune of the Plebs". Moreover, I explained that in order for this form of editorship to work properly, we must reframe the way we conceive the populace. Whereas an Athenian ideal relies on a unitary view of the populace, I argued that an editorial democracy must be framed on a divided view of the people. As explained by Pareto, natural differences among the populace imply that while social mobility has always occurred. Individuals can move upwards or downwards in the social ladder, but society will always be divided between a small elite and the remainder part of the population, since in any field there will always be a small part of the population that performs better than the remainder.

I stressed that it is essential to stress the differences among the populace not to discriminate the lower classes, but in order to single out a specific class of oligarchs – or *Grandi* using Machiavelli's terminology - that represents a threat toward the liberty of the remainder part of the population – the *Popolo*. Ergo, this divided conception of the people is necessary to create class specific bodies – a modern version of the Roman "Tribune of the Plebs – that can be used by the *Popolo* to specifically target oligarchic domination. Hence, my thesis is that we can resolve the democratic dilemma by means of modern tribunates of the plebs.

In the last chapter of the thesis, I explained that scholars have offered several interpretations of what would be the best way to frame these tribunates in modern societies. I analysed this debate and I also offered my view regarding how to improve the operation of modern tribunates. In doing so, my purpose is to prove that a popular editorial democracy is an alternative avenue to classical conceptions of democracy that could – and should – legitimately be pursued to solve those problems that our democracies are struggling to face.

The idea of reconsidering ancient tribunates is then exactly the sort of alternative I argued for, since modern tribunates are an oxymoron, namely an "old new" that looks at the past to solve modern conundrums. Yet, it is in this way that they manage to effectively divide the analysis

between the substratum of the problem and its manifestations. Put simply, the fact that oligarchies have structured all societies in history is rooted in the fact that human beings are inherently different and the fact that some manage to exploit natural and social opportunities better than others leads to different sorts of inequalities.

However, whereas the roots of the problem are unavoidable, this does not imply that high levels of inequality are unescapable, since the way societies managed to deal with social inequalities and how they managed to tame oligarchic wealth power has always determined how socially noxious were the manifestation of wealth power. That is, the better societies limited politically the harmful effect of social inequalities, the higher the overall level of liberty enjoyed by the populace. For this reason, even though I agree that an ideal democracy with ideal human beings would be similar to the stereotype we have of Athens<sup>102</sup>, I maintain that we must acknowledge that our societies are simply not made of equal human beings and, above all, that there is an affluent elite that dominates the rest.

The attempt to render explicit social and economic differences among the populace and to distribute political power unequally must then be considered democratically legitimate. This does not entail that I argue for class warfare, but that if we are to protect the liberty of the *popolo*, we must accept the people's diversity and structure our political institutions accordingly. Only insofar as we accept that there is constant risk that a few masters may dominate many slaves will we be able to discuss which means are best to transform the latter into free libers.

To conclude, my main goal was not to argue that my version of the tribunates is the *only* right one to pursue, but rather that alternative avenues such as the one I analysed are feasible; that they are not utopias and that if the democratic literature discussed more these features, we could obtain fruitful results. That is, I acknowledge that this thesis is framed on some troublesome features, especially for what concerns my defence of a divided view of the populace. Moreover, the editorial models described in the last chapter may seem as a political utopia to many. In this regard, I acknowledge that sceptical scholars may find several good reasons why an editorial democracy structured on modern tribunates would not work.

However, rather than putting the effort in finding any possible way in which an editorial democracy would not work and in demonstrating that it would not be legitimate, I think that if

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<sup>102</sup> Note that I use the word stereotype because I noted that Athens's empirical manifestation was not the same as the ideal version of it.



we reversed the question, asking if these models are actually impossible and discussing how an editorial democracy could manage to defeat the challenges, I suggest that we could obtain interesting results. Therefore, rather than stubbornly continue to attempt to resurrect dimensions of democracy that are in an unsolvable crisis, let us legitimize a divided conception of the populace and let us discuss more on how to structure an editorial democracy so as to have a political debate where adversarial conflict is not stigmatized but it is rather structural and acceptable.

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