The People vs. the Elite: Italian Dialectics and the European Malaise

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28.05.2018 doi: 10.17176/20180529-113220-0

Stormy times are ahead: there is no respite from crisis in our little so-called civilised world. Once again, Italy is at the epicentre of a constitutional and political turmoil that may have serious repercussions for the whole European continent. However, at each turn the stakes look higher, as if we were trapped in a never-ending role-play simulation testing the basic tenets of representative democracy. As a matter of fact, much more than classic authoritarian governments in central and Eastern Europe, Italy has been a laboratory of populism and a case study for the decline of the liberal model for the last 30 years. The current situation is only the tip of the iceberg, with clear (albeit fictional) dialectics. "The people" suggest a simple, quick way out of complexity. "The elite", instead, appear aloof and untrustworthy. Democracy, according to this dialectics, can only be protected by pleasing the former – never mind that "the people" is often a smokescreen, hiding concrete plans and targets identified by concrete individuals. What follows is an attempt to sketch the main issues and events of the past weeks.

As well known, the Italian elections in March were won by the Five Star Movement and the League. The former is an anti-establishment group and led by Luigi Di Maio. The latter is a Northern Italy separatist party, which has however recently turned into a national party, with some degree of support even in Southern Italy. The elections have confirmed the rise of both parties. However, unlike in other Western European countries, their programmes and actions do not always comply with constitutional conventions, and sometimes clash with a few important provisions of the Constitution.

For a start, their decision to make use of an instrument of private law (a contract) to regulate their political relationship (only superficially resembling the German *Koalitionsvertrag*) has raised some doubts. For example, if coupled with their announced plan to eliminate the clause forbidding parliamentary mandate (Article 67), this is a clear attempt to radically modify the liberal democratic premises of the Italian Constitution. Various versions of "parliamentary mandate" only exist in a few countries in the world, and even in these cases the legal-historical context should be carefully considered. For example, although Portugal has an "anti-defection clause", each MP may simply decide not to register in any other party, after leaving his/her own, thus circumventing the clause itself and act as "independent MP". Moreover, there exist clear rules ensuring democratic participation, whereas the Italian Constitution vaguely calls on citizens to contribute "democratically" (though political parties) to determining national politics (Article 49). In other words, eliminating the clause without providing for additional provisions aimed at ensuring that the MPs' will is not coerced is not recommendable.

Moreover, the recent events leading to the designation of Giuseppe Conte as candidate Prime Minister and Paolo Savona as Finance Minister have spurred controversies from different perspectives. Italian President Mattarella has refused to appoint Savona, due to his public statements in favour of Italy's exit from the Eurozone. As a result, Giuseppe Conte has stepped down. The most delicate issue concerned the question whether the President of the Italian Republic has a power of veto over the choice of the ministers of the government. Some scholars and opinion makers, within and outside Italy, have argued that Mattarella's decision may strengthen Euroscepticism. This is a political observation, which may or may not be right and will not be analysed here. Much more importantly,

they have also argued that the Constitution did not allow Mattarella to go against the indications of the winning parties. He should respect the will of the majority of the electorate, and should abstain from interfering with the political choices of the future Prime Minister.

These considerations are not correct and follow from a superficial reading of the Constitution. First of all, according to Article 92, the President of the Italian Republic has the power to appoint both the Prime Minister and, upon the latter's proposal, the Ministers. He does so through a Presidential Decree, which he himself signs. As a result, he may also choose not to appoint a minister, at least in principle. In ordinary circumstances, he is bound to follow the Prime Minister's indications. However, in exceptional circumstances, threatening national unity or the interests of the Italian people, he, as *Hüter der Verfassung*, may veto such indications. In this particular case, Mattarella's personal suggestions have also been rejected and no other name has been suggested by the political leaders.

Second, as pointed out by the Italian President, had the minister been chosen, the position of Italy as regards the Eurozone would have been unclear. This is a sufficient reason to refuse to appoint the minister – bear in mind, not the Prime Minister, but only one of his ministers. Neither the Five-Star Movement nor the League has clearly won an electoral mandate to leave the euro, following a public debate in which all pros and contras have been carefully examined. On the contrary, especially in the case of the Five Star Movement, their political objectives in this context have been rather ambiguous. The experience of the Brexit referendum, after which, once more information have spread, many Brexiteers have regretted their choice, should caution against quick, unreflective decisions.

To be sure, it is not the first time that the President of the Italian Republic refuses to appoint a minister suggested by the Prime Minister. It has happened even recently, with other Presidents and other Prime Ministers (including Renzi and Berlusconi), and in much less exceptional circumstances. Although one may discuss, more generally, on the extent to which the President of the Republic may interfere in the government's political decisions, the current events should not raise doubts as to the correctness of Mattarella's decision. Any proposal to impeach the Italian President is pure nonsense.

Finally, the Italian case prompts us to reflect on the relationship between people and elite, on the one hand, and on the effectiveness of constitutional settlements, on the other. Those who agree with the Five Star Movement and the League tend to promote direct democracy and popular decisionism at all costs. They disregard some fundamental features of representative democracy, as well as the commitments of the Italian Republic to the security of the European project, as enshrined in the Constitution itself. This does not mean that participation in the Eurozone or in the EU cannot be questioned. It only means that form and substance should always go hand in hand.

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SUGGESTED CITATION

Fichera, Massimo: The People vs. the Elite: Italian Dialectics and the European Malaise, Verfassungsblog, 28.05.2018, doi: 10.17176/20180529-113220-0.

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