

Manifestations of Populism in late 5th Century Athens*

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Abstract

In this chapter, by reference to modern research on populism, the manifestations of this phenomenon in fifth century Athens are analysed, while pointing to some legal responses to counter it. Despite the rigorous and comprehensive study of Athenian democracy, surprisingly enough no systematic application of the concept of populism (as defined by modern political theory) to classical Athens has taken place; this chapter aims to fill this gap. My conclusion is that modern political theory on populism can be legitimately applied to contexts other than Western liberal democracies, being particularly suitable for a closer analysis of ancient Athens, while in return, Athenian legal and extra-legal responses to populism could provide valuable guidance on how to tame this phenomenon.

Keywords: *Populism; Populist ideology; Rule of law; Athenian democracy; Athenian law.*

Introduction

The purpose of this chapter is twofold: i) to offer a definition of populism in classical Athens, the first and best attested direct democracy, by reference to its various manifestations, and ii) a comparison of the findings with those of modern political theory on the field. This inductive and progressive definition of the concept of Athenian populism and the original application of its main features to the evidence from the ancient sources, will support the arguable applicability of populism per se to contexts other than liberal representative democracies. Populism, if universally defined, can be seen as an integral part of authoritarian regimes, as well as of radical, direct democracies.

Classical Athenian democracy is the main paradigm used by those who (truthfully or hypocritically) exalt popular will as the main – and sometimes only – legitimate source of political power. Yet the Athenians, recognising the pathologies of their late fifth-century BCE (largely populist) regime, proceeded to a series of legal and extra-legal amendments to their constitution, promoting the rule of law at the expense of the unlimited and undiluted will of the people¹. Despite the rigorous and comprehensive study of Athenian democracy, surprisingly enough, no systematic application of

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¹ See, for example, Ostwald (1987).

the concept of populism (as defined by modern political theory) to classical Athens has taken place.

The analytical description, within the above context, of this transition from a ‘populist’, radical democracy to a demarcated democracy based on the rule of law is the second main objective of this chapter. A close examination of the means for this transition will take place, focusing on an indicative number of legal reforms, as well as on the ‘rhetoric of law’, mainly on the popular forensic fora, which strengthened the idea of the rule of law and allowed it to dominate the ideological arena of Athenian politics. This will be a concluding suggestion as to one possible way of combating populism in modern politics.

Populism is a widely used, catch-all term in modern political discourse, yet would it be appropriate to apply it to settings other than the modern Western, representative democracies? For example, would it be appropriate, and to what extent, to argue that the Athenian democracy of the fifth and fourth centuries BCE was dominated by populist ideology? In the course of this chapter it will become evident that some manifestations of Athenian populism coincide with and corroborate the findings of modern research on the field and that the latter offers the conceptual tools to better analyse and comprehend Athenian democracy.

Reference to the radical, direct democracy of classical Athens, will assist in the further conceptualisation of the ‘notoriously elusive, slippery and hard to pin down’² notion of ‘populism’. It will also be useful to explore the similarities and differences between its modern manifestations and the Athenian practice. The main problem is that the suppleness, chameleonic nature and alleged applicability of populism (sometimes at whim) in different political and cultural contexts have contributed both to its resilience in practical terms but also to a relativism and variation in its definition and theoretical conceptualisation. Nevertheless, this fact, from a methodological point of view, legitimises the current endeavour to apply this concept to a non-liberal, direct (or radical), pre-modern democracy. Additionally, it sanctions this study of Athenian populism as referring to a regime regularly appealed to by modern populists as the putative model for wider democracy, more power to the people and more direct relationship between citizen and governance. This endeavour could easily slip to anachronistic conclusions. Yet I strongly argue that it is worth the attempt. If this experiment proves valid and Athenian populism shares common features with its modern counterpart, this would contribute to the better definition of this elusive concept on a universal rather than an ad hoc basis. Also, the application of current research to Athens will enhance our understanding of the unconceptualized ideology of Athenian democracy.

Scholars usually approach populism on an inductive and sometimes comparative way, examining and analysing its different appearances, in an effort to extract generally applicable conclusions. In other words, the definition of populism rests on the identification of common practices

² Canovan (1984); Canovan (1999) esp. n.3; Stavrakakis & Katsambekis (2014).

employed by various and diverse political actors, operating in different regions, under disparate ideologies, in dissimilar contexts. Therefore, empirically figuring out what might unite under the multifaceted umbrella of populism authoritarian, hybrid socialist-populist regimes in Latin America, the democratically elected radical left and radical right Syriza-Anel coalition in Greece, and movements such as the Tea Party, Occupy Wall Street in the U.S.A. or the Indignados in Spain, as well as tracing the different connotations of the term in diverse historical and geographical settings, is seen as the best method to approach and to better understand the concept.³ If we add to this picture the application of the term to non-democratic political regimes, such as the Nazi Germany⁴, it becomes evident that the assemblage and analysis of such a large volume of data, has the epistemological risk of blunting the accuracy and analytical sharpness of the relevant terms and concepts⁵. As a result, the term ‘populism’ itself could be criticised as lacking a coherent definitional frame, heavily depending on the context it is applied.

Defining Populism in Modern Political Theory

Despite the apparent difficulties, some common ground has been found and progress has been made on, provisionally at least, agreeing on a set of practices, principles and characteristics that could be labelled as populist.⁶ As a preliminary note, it can be said that despite the fact that populism is ‘chameleonic, culture-bound and context-dependent’⁷, the concept per se is ‘relatively robust’⁸. A definition, with arguable reservations, is provided by Cas Mudde who views populism as ‘a thin-centred ideology that considers society to be ultimately separated into two homogenous and antagonistic groups, ‘the pure people’ versus ‘the corrupt elite,’ and which argues that politics should be an expression of the *volonté générale* (general will) of the

³ For the regional relativism of the term see Müller (2016); For the cultural relativism of the term see Canovan (1984), Canovan (2004), and Ochoa (2015). For the historical uses of the term, especially in the United States, see Kazin (1998). For the academic relativism see Ionescu & Gellner (1969), characterised as the “the definitive collection on populism” (Taggart (2000), in encapsulated by Wiles (1969) at 166), “To each his own definition of populism, according to the academic axe he grinds”; cf. Gidron & Bonikowski (2013).

⁴ Depending of course on how populism is defined, few would deny that the use of the ‘Volk’ by the Nazi discourse had no similarity to populist practices. For example, the slogan “One People. One Reich. One Fuhrer.” found in a 1938 poster, is essentially populist according to current approaches.

⁵ “[T]he mercurial nature of populism has often exasperated those attempting to take it seriously”, Stanley (2008).

⁶ Woods (2014): “[C]ontrary to the now somewhat clichéd assertion that populism is a vague concept and lacks a coherent definitional frame is that the concept, in fact, is relatively robust. Almost without exception those who have engaged in a critique of the concept have conceded that there are three or four elements that lie at its core.”

⁷ Arter (2010) at 490.

⁸ Woods (2014).

people'⁹. Scholars who perceive populism as an ideology¹⁰ generally agree with its characterisation as 'thin-centred', not existing in a 'pure' form, requiring a thick-centred ideology with a solid normative programme for political action (e.g. liberalism, socialism, or even communism and nationalism) as a vehicle for its utilisation and flourishing. As it will become evident later in this chapter, Athenian populism (in the sense that politics should be an expression of the popular will) differed in that respect; I argue that it was thick-centred, matching the needs and requirements of Athenian radical democracy, thus becoming the dominant, freestanding ideology.

On the other hand, populism can be defined as, primarily, a unique style, discourse, strategy, political logic or simply as an impulse, an outlook, an approach to or a way of doing politics¹¹. Those who see populism as a strategy have also attempted to offer a minimal definition, with Weyland's being popular among them, particularly applying to Latin American populism. Populism is thus defined as 'a political strategy through which a personalistic leader seeks or exercises government power based on direct, unmediated, uninstitutionalised support from large numbers of mostly unorganized followers'¹². The main focus of this approach is on the persona of the leader, the unmediated communication, directness, informality and plebiscitarian linkages with the 'People' and the expressed general frustration with institutionalism and intellectualism. Yet, and although there is no reason to believe that populism thrives only in instances of low institutionalism or organisation¹³, the specific tactics and rhetoric of this broader strategy for the ascendancy to and preservation of power might still be similar to those described by scholars who define populism as a style or discourse. This view asserts that populism is an appeal that pits the (often marginalised and discontented) 'people' against a loosely defined 'establishment', 'elite' or 'oligarchy'¹⁴. Here, the focus lies on the mode of political expression evident in text, speech, and performance¹⁵.

Finally, Laclau, focusing on structural considerations and following Carl Schmitt on viewing politics as an arena of antagonism and a friend / enemy conception, interprets populism as the inner logic of the political¹⁶. Laclau claimed that any political project is premised on the division between two competing antagonistic groups. The way in which these groups are formed stems from what he posits as the minimal unit of politico-social analysis: the

⁹ Mudde (2004) at 543.

¹⁰ For populism as an ideology see Abts & Rummens, (2007); Stanley (2008); Mudde & Rovira Kaltwasser (2012); Mudde & Rovira Kaltwasser (2013).

¹¹ Knight (1998). A useful compilation of the different views on populism is Moffitt (2016).

¹² Weyland (2001) at 14. Others who view populism as a strategy include Barr (2009), Ellner (2003), and Roberts (2003).

¹³ The European right-wing populism of Le Pen's 'Front National' and Wilder's 'Partij voor de Vrijheid' or the left-wing populism of Syriza might be enough to prove that party discipline and organisation is not an obstacle to the thriving of populist strategy.

¹⁴ Hawkins (2009); De La Torre (2010); Kazin (1998).

¹⁵ For populism as style, which takes in both the rhetorical and the aesthetic aspects of populist communication, rather than merely discourse, see Moffitt (2016).

¹⁶ Laclau (2005).

demand. To put it briefly, when a demand is unsatisfied within any system, and then meets other unsatisfied demands, they can form an equivalential chain with one another, as they share the common antagonism/enmity of the system. A frontier is thus created between this equivalential chain (the underdogs) and the establishment. From here, the loose equivalential chain between demands is interpellated and finds expression as ‘the people’ through a leader. ‘The people’ then demand change to, or of, the system. To put it in more concrete terms, Laclau’s formulation of populism acknowledges that populists do not speak to or for some pre-existing ‘people’ but arguably bring the subject known as ‘the people’ into being through the process of naming, performance or articulation.¹⁷

To recap, the primary common features among the different approaches to populism are:

- i) The ‘People’ as the nodal point (i.e. as a homogeneous, largely fictional, majority);
- ii) antagonism/division in different manifestations (usually against an ‘Establishment’ or a corrupt Elite).

Secondary features include:

- i) anti-pluralism;
- ii) bad manners and anti-intellectualism / anti-institutionalism;
- iii) charismatic leader;
- iv) unmediated communication between the leader and the People.

These primary and secondary features will be used in the next part of this chapter for a close examination and definition of Athenian populism.

Manifestations of Populism in Late 5th C. Athens

Athens of the late fifth century was a radical democracy, basing its decision-making on the decrees of the Assembly, i.e. almost exclusively on the will of the people. There was no hierarchy of laws and subsequent decrees could annul earlier ones. Appeals to the Demos (the people of Athens, all male citizens over the age of eighteen) were common since power rested with them. At the start of each Assembly meeting, curses were pronounced by the herald on any orator who attempted to mislead the people. Whoever wished to speak, delivered his speech directly to the people, in an unmediated way. Although the real addressee was only a minority, representative segment of the citizen body, speakers nevertheless addressed the Assembly as if the whole citizen body was present. The people were unaccountable and penalties against illegal or inexpedient proposals were solely directed against the orators¹⁸. Extremely severe penalties were provided by law for anyone who misled or did harm to the people of Athens¹⁹. The Demos was emerging as the single most important

¹⁷ Laclau (2005); Moffitt (2016).

¹⁸ Landauer (2014). cf. Thucydides 3.43.4-5.

¹⁹ E.g. the decree of Cannonus in *Xenophon. Hell.* 1.7.20.

and overwhelming unit of Athenian politics, as the nodal point of the political discourse.

The interpellation of the Demos (or, the Athenian People)²⁰, namely the formation of a group sharing a common, distinct identity (and, as a result, having common interests and demands), formally emerged (and through time advanced) by the legal measure introduced by Pericles in 451/0 BCE, the so-called Pericles' Citizenship law²¹. This law provided that citizenship would be conferred only on *gnesioi*, namely children whose mother and father were both Athenians, while previously the offspring of Athenian men who married non-Athenian women was granted citizenship²². Modern scholars interpret this measure as embracing the common people, against the aristocratic practice of inter-marriage with rich non-Athenian *oikoi*, enhancing the status of Athenian mothers and making Athenian citizenship a more exclusive category, thus definitively setting Athenians off from all others.

The formulation of the Demos' group distinct identity went a step further six years later, when in 445/4 BCE Psammetichus, the king of Egypt, sent a present to the people of Athens of forty thousand measures of grain, and this had to be divided up among the citizens. This triggered a *diapsephismos* (a check on the registers of citizens) and a series of prosecutions, resulting, according to Plutarch, to a little less than five thousand convictions by the popular courts²³. The Athenians as a distinct group were beginning to consciously act for the defence of their common interests, deriving from their exclusive rights of now formally and well-defined citizenship.

The interpellation of this group emerged and developed not in a bottom-up way like the one Laclau envisages (i.e. as a front equivalential chain of unsatisfied 'demands' of the marginalised people) but primarily from top-down initiatives by people like Pericles (the 'leader') who strengthened a specific group's identity (not necessarily or exclusively the 'underdogs', who supported and voted for the Citizenship law in the Assembly), and could rely on this group to advance and preserve their political dominance. Supposedly, it is not a coincidence that a few years after the introduction of measures such as the jurors' pay and the citizenship law, especially after the 'clearing up' of the registers from *nothoi* (non-*gnesioi*) and the coming of age of those benefited by the law of 451/0, Pericles succeeded in formulating an electorate which would keep him in the forefront of Athenian politics until his death in 429 BCE.

²⁰ I use the 'People' and the 'Demos' interchangeably, although the latter might be seen as a more clearly and restrictively delineated group. In modern discourse, the 'People' refers to a homogeneous, almost transcendent, group which might include people with no right to vote, such as minors and immigrants (although the latter are usually – in Right wing populist rhetoric - presented as outsiders who assist in the binary definition of the 'People'). The 'Demos' on the other hand was a group clearly defined by law and, thus, its interpellation was easier. Yet, appeals to the 'Demos' in Athens shared many common features with appeals to the 'People' in modern populist discourse.

²¹ Plutarch, *Life of Pericles*, 37.3. Patterson (1981).

²² Dmitriev (2017). Carawan (2008); Ogden (1996).

²³ Plutarch, *Life of Pericles*, 37.4.

The division between the *gnesioi* citizens and the non-citizens sharpened and was now demarcated by law. The first group shared common advantages, such as jury pay²⁴, and – at the issue of who should qualify as citizen – a common demand, deriving from their exclusive citizen status. It seems that while Cimon, Pericles' main political opponent in the 460s, focused on the people of his deme as the main target group of supporters²⁵, Pericles (successfully, as proven by his subsequent career) expanded his perspective and promoted policies to first interpellate and then to appeal to the Demos as a whole, as a distinct and increasingly venerated group²⁶. Pericles cultivated a magisterial image of a charismatic leader, being the opposite of a modern populist persona, making rare public appearances and usually relying on his network of friends and supporters to introduce and propose measures he endorsed²⁷. Yet, the aforementioned strategy, which assisted in the interpellation of the People as a group, can be described as populist.

Old fashioned, mainly aristocratic, politicians operated through (more or less) institutionalised networks (family ties, friends, *gene*, *hetaireiai*). Plutarch in the *Life of Pericles* (11-14), despite somewhat anachronistically referring to the presence of political parties²⁸, describes Thucydides' (son of Melesias) tactics, as the leader of the conservative group and main opponent of Pericles in the 440s. Plutarch says that Thucydides:

'would not suffer the party of the "Good and Noble," as they called themselves, to be scattered up and down and blended with the populace, as heretofore, the weight of their character being thus obscured by numbers, but by culling them out and assembling them into one body, he made their collective influence, thus become weighty, as it were a counterpoise in the balance'.

²⁴ Ca. mid-450s BCE: Pericles' law on pay for jury service was introduced soon after the 'democratic faction', under the leadership of Ephialtes, managed to take power away from the (aristocratic) council of the Areopagus, creating more popular courts and manning them with ordinary citizens. Initially, pay for jury service was 2 obols per day, increased to 3 obols by the 'demagogue' Cleon in 420s. Pay for participation in the Assembly was introduced c. 410-407 BCE (Aristotle, *Ath. Pol.* 28.3): Cleophon the lyre-maker first introduced the (daily) two-obol dole; he went on distributing this for a time, but afterwards Callicrates of the Paeanian deme abolished it, being the first person to promise to add to the two obols another obol. It is not a coincidence that this pay for participation was seen as a democratic measure, abolished by the oligarchs in the coup of 411 BCE.

²⁵ Aristotle, *Ath. Pol.* 27.3: 'For as Cimon had an estate large enough for a tyrant, in the first place he discharged the general public services in a brilliant manner, and moreover he supplied maintenance to a number of the members of his deme; for anyone of the Laciadae who liked could come to his house every day and have a moderate supply, and also all his farms were unfenced, to enable anyone who liked to avail himself of the harvest.'

²⁶ Plutarch, *Life of Nicias*, 3, claims that Nicias surpassed all his predecessors and contemporaries in extravagance and favour, the recipients of his generosity being the people as a whole. Nicias' great wealth allowed for this but the effect of the already, by Nicias' time, interpellated group of the Demos as a whole should not be underestimated.

²⁷ Azoulay (2010) at 40; Connor (1971).

²⁸ See Hansen (2014).

This visualisation of the distinct group in the Assembly, possibly had the unpredicted result of the further interpellation of the common people through the deepening of the division and the antagonism between the “Good and Noble” and the masses (which, of course, is the second main feature of populism)²⁹. Thucydides, in 444/3 BCE, was eventually ostracised and Pericles dominated Athenian politics until his death in 429 BCE³⁰. Roughly at this period, the Pseudo-Xenophon (also known as the ‘Old Oligarch’), proving the now conscious division of the Athenian society, wrote in his ‘Constitution of the Athenians’:

‘the poor and the Demos generally are right to have more than the highborn and wealthy, for the reason that it is the people who man the ships and impart strength to the city.’

This observation describes the now opposing interests and demands of the distinct, more or less antagonistic, groups in Athens. This conflict would eventually escalate with the war, as usually happens during crises. The emergence of the Demos as the nodal point of Athenian politics continued after the death of Pericles, with new politicians (the so-called demagogues), of a different style and manners, taking advantage of this new structural development in Athenian politics, hence becoming prominent particularly during the Peloponnesian War³¹. Cleon, the most typical example of them, established uninstitutionalised and unmediated communication with the People as a whole. He was both a real strategist and tactician as far as populism is concerned. To embrace the People as a whole, in a symbolic gesture, Cleon repudiated his friends, thus liberating himself from their influence³². He was not a member of an *hetaireia* (an upper-class political club), as was the case for other politicians too of this new style³³, thus enabling themselves to legitimately represent the underdogs and rely on the

²⁹ Cf. Plutarch, *Life of Pericles*, 11 and Connor (1971) at 63 n. 54.

³⁰ Plutarch, *Life of Pericles*, 16.

³¹ Humphreys (2004) at 233 claims that: “Conditions in the Peloponnesian war increased the need for state employment in military service, since many Athenians were cut off from their land, and made it easy for Kleon to play openly on the *demos*’ economic interest in assembly decisions [...]. It was easy enough thereafter to turn the accusation of importing private interests into public business against Kleon, by accusing him of appealing to the (metaphorical) pockets of the *demos*. This became a stock accusation against demagogues and, in time, the basis of the oligarchic political theory that *banauoi* [low-grade workers] could not be trusted with political power”. On the demagogues see Finley (1962) and Rhodes (2016).

³² Plutarch, *Moralia*, 806 F: “Cleon, when he first decided to take up political life, brought his friends together and renounced his friendship with them as something which often weakens and perverts the right and just choice of policy in political life”. Cf. Aristophanes, *Knights*. The ideological hegemony of populism and the success of populist tactics persisted until the end of the 5th century. In the ‘Trial of the Generals’ after the naval battle of Arginusae, Euryptolemus, speaking in defence of the generals and in accordance with the law, nevertheless he thought it necessary to clarify that his kinsman Pericles should be tried too, for he ‘should be ashamed to put Pericles’ interests before those of the city as a whole’ (Xenophon, *Hell.* 1.7.21)

³³ Connor (1971) at 29 n. 47.

following and support of the unorganised masses. *Hetaireiai*, solely confined to upper classes, contributed to the marginalisation of poor citizens who gradually saw them with suspicion, and divided the citizen body in classes and factions³⁴.

Many of the features of modern populists are concentrated in the persona of Cleon: a charismatic leader who appeals to the People in an unmediated way, a proponent of anti-institutionalism and anti-intellectualism, exhibiting a populist style characterised by divisive rhetoric and bad manners. Cleon is described by Thucydides (3.36.6; cf. 4.21.3) as “the most violent man at Athens, and at that time by far the most powerful with the demos”. He had carried a motion of putting all Mytilenians to death after their revolt against Athenian rule in 427 BCE, but the demos changed their mind and a further debate was called. During this second debate, Cleon demonstrates his leadership skills, though refrains from pandering the people. Nevertheless, his divisive rhetoric, through an affiliation with the ordinary people, who are presented as the real upholders of the laws, and a sheer anti-intellectualism, is evident:

‘[o]rdinary men usually manage public affairs better than their more gifted fellows. The latter are always wanting to appear wiser than the laws, and to overrule every proposition brought forward, thinking that they cannot show their wit in more important matters, and by such behaviour too often ruin their country; while those who mistrust their own cleverness are content to be less learned than the laws, and less able to pick holes in the speech of a good speaker; and being fair judges rather than rival athletes, generally conduct affairs successfully. These we ought to imitate, instead of being led on by cleverness and intellectual rivalry to advise your people against our real opinions.’ (Thucydides. 3.37.3-5)

To this argument, Diodotus, Cleon’s main adversary in the Mytilenean debate, replied along the following lines. Firstly, open debate and pluralism are integral features of good decision-making and anyone opposing this is senseless or interested. If such a person, “wishing to carry a disgraceful measure and doubting his ability to speak well in a bad cause, he thinks best to frighten opponents and hearers by well-aimed calumny” (Thucydides 3.42.2). Secondly, Cleon’s bad manners, accusations and, ultimately, anti-pluralism, might “deprive the city of its advisers” (Thucydides. 3.42.4). Antagonistic rhetoric and divisive accusations of conspiracy and corruption directed against his opponents, seem to be Cleon’s favourite discourse. Aristophanes in the *Knights* has Cleon crying out ‘Conspirators, conspirators!’ whenever he sees the chorus of upper-class members. Posing himself as an anti-establishment figure and using aggressive rhetorical tactics (*‘he was the first person to use bawling and abuse on the platform, and to gird up his cloak before making a public speech, all other persons*

³⁴ On the *hetaireiai*, see Connor (1971); Jones (1999); Roisman (2006).

speaking in orderly fashion' according to Aristotle, *Ath. Pol.* 28.3) Cleon was thought to have done the most to corrupt the people by such impetuous outbursts (cf. Aristophanes, *Knights* l. 137).

Cleon's unmediated affiliation with the Demos, allegedly acting as their champion, is evident in the following passage relating to the negotiations about truce with Spartan envoys (Thucydides 4.22.1-2):

'[the] envoys made no reply but asked that commissioners might be chosen with whom they might confer on each point, and quietly talk the matter over and try to come to some agreement. Hereupon Cleon violently assailed them, saying that he knew from the first that they had no right intentions, and that it was clear enough now by their refusing to speak before the people, and wanting to confer in secret with a committee of two or three. No! if they meant anything honest let them say it out before all.'

As happens in most crises, the Peloponnesian war raised passions and led to divisions among the people. Extreme voices and manners, such as Cleophon's, who according to Aristotle, *Ath. Pol.* (34.1) prevented the conclusion of peace by completely deceiving the demos, 'coming into the assembly, drunk and wearing a corset, and protesting that he would not allow it unless the Lacedaemonians surrendered all the cities', escalated the tensions between the different groups. The moderate Nicias, during the heated debate on the Athenian expedition to Syracuse in 415 BCE, endorsed and fuelled this multilevel division while attacking the ambitious Alcibiades and his followers:

'And if there be any man here, overjoyed at being chosen to command, who urges you to make the expedition, merely for ends of his own [...] do not allow such an one to maintain his private splendour at his country's risk [...] this is a matter of importance, and not for a young man to decide or hastily to take in hand. When I see such persons now sitting here at the side of that same individual and summoned by him, alarm seizes me; and I, in my turn, summon any of the older men that may have such a person sitting next him, not to let himself be shamed down, for fear of being thought a coward if he do not vote for war.' (Thucydides 6.12.2-13.1)

The gradual consolidation of new, divergent demands due to the ongoing war, interpellated antagonistic groups (mainly a pro-war and an anti-war one) with the result that emotions and tensions were heightened and the ground for populist tactics was paved. The nature of Athenian politics which provided for power to ultimately lie with the *demos* could provoke irresponsible leadership and populist manipulation. This was acknowledged in the so-called 'constitutional debate' in the *Histories* of Herodotus (3.81.1-2):

'Nothing is more foolish and violent than a useless mob; for men fleeing the insolence of a tyrant to fall victim to the insolence of the unguided populace is by no means to be tolerated. Whatever the one does, he does with knowledge, but for the other knowledge is impossible; how can they have knowledge who have not learned or seen for themselves what is best, but always rush headlong and drive blindly onward, like a river in flood?'

In Euripides' *Suppliants* (423 BCE), in the debate between Theseus and the Theban herald, the latter, critical of the ignorant masses who can be easily swayed, observes that:

'the city from which I come is ruled by one man only, not by the mob; no one there puffs up the citizens with specious words, and for his own advantage twists them this way or that [...]. Besides, how would the people, if it cannot form true judgments, be able rightly to direct the state?'

This is part and parcel of the observation in Euripides' *Orestes* (408 BCE) that 'whenever a man with a pleasing trick of speech, but of unsound principles, persuades the mob, it is a serious evil to the state'" (line 910). The exemplary case of Athenian populism and, I would suggest, its culmination as ideology per se, comes from the aftermath of the Battle of Arginusae (406 BCE) and the euphemistically called 'Trial of the Generals'³⁵. In that event, the Athenian Assembly, following a series of neglects of the normal institutional legal procedures, decided with a single vote to execute all the winning generals without trial (unconstitutionally, according to Athenian perceptions, notwithstanding the anachronism of the term), for failing to collect the bodies of the dead (and, possibly, of the survivors of the shipwrecks) from the sea due to a storm (Xenophon, *Hell.* 1.6.35; Diodorus Siculus 13.100.1-6). The generals' speeches, in the first debate which was convened in order for them to give account to the Athenian people in the Assembly, were shorter than what the law provided (Xenophon, *Hell.* 1.7.5)³⁶. The Council (*Boule*) was then instructed to bring a proposal as to what sort of trial the generals should have.

Xenophon and the subsequent developments leave no doubt as to the illegality of the Council's proposal and the motives of its initiators. Callixenus, being bribed by the people who wanted the generals executed, introduced a motion whereby the fate of all generals would be tried by a single vote, collectively, and since they had already spoken before the Assembly at the earlier debate, the requirement of having a speech in their

³⁵ Andrewes (1974).

³⁶ One can speculate that the cause for this was the uproar (*thorubos*) caused by - and against - their speeches by the masses. The mere endorsement of *thorubos* as a legitimate way for the people of expressing their opinion and silencing the speaker is a counter-productive, anti-pluralist and ultimately, I would argue, populist phenomenon. *Contra* Tacon (2001).

defence has putatively been fulfilled. Voices in the Assembly against the legality of this measure were silenced by the threat of applying the same measure (execution without trial) to any disagreeing parties. The response was a monument to undiluted populism:

*'And some of the people applauded this act, but the greater number cried out that it was monstrous if the people were to be prevented from doing whatever they wished' (τὸ δὲ πλῆθος ἐβόα δεινὸν εἶναι εἰ μὴ τις ἐάσει τὸν δῆμον πράττειν ὃ ἂν βούληται.). (Xenophon, *Hell.*1.7.12)*

Some of the orators endorsed this view, pandering the people, escalating and capitalising the people's fury:

*'Indeed, when Lyciscus thereupon moved that these men should be judged by the very same vote as the generals, unless they withdrew the summons, the mob broke out again with shouts of approval (ἐπεθορύβησε πάλιν ὁ ὄχλος), and they were compelled to withdraw the summonses'. (Xenophon, *Hell.* 1.7.12-14)*

Socrates happened to be the official responsible for putting the measure to the vote on that day³⁷. He refused to do so declaring that he would do nothing that was contrary to the law. The atmosphere of this debate is clearly described in the *Apology* (32b-c):

'I, men of Athens, never held any other office in the state, but I was a bouleutes; and it happened that my tribe held the presidency when you wished to judge collectively, not severally, the ten generals who had failed to gather up the slain after the naval battle; this was illegal, as you all agreed afterwards. At that time I was the only one of the prytaneis who opposed doing anything contrary to the laws, and although the orators were ready to impeach and arrest me, and though you urged them with shouts to do so, I thought I must run the risk to the end with law and justice on my side, rather than join with you when your wishes were unjust, through fear of imprisonment or death.'

The aforementioned incidents from the 'Trial of the Generals' did not emerge accidentally. Instead, there was a well-thought, coordinated plan to arouse the people's emotions, mobilise them, and unite them under a common demand: the punishment of those responsible. A critical mass of followers was gathered by Theramenes, the leader of those who demanded the execution of the generals. They were instructed to dress in black and shave their heads as if they were the grieving kinsmen of those lost after the battle. People's fury was escalating, and the only thing now required was its capitalisation. Even a man got up in the Assembly, claiming that he was a

³⁷ Cf. Plato, *Gorgias*. 473e-474a; Xenophon, *Memorabilia*. 1.1.18, 4.4.2.

survivor of the shipwrecks and was instructed by those who were drowning, if he got away safely, to report to the people of Athens that the generals did nothing to rescue the men who had fought bravely for the country (Xenophon, *Hell.* 1.7.11). The cynical exploitation of dramatic events aiming at the utilisation of people's emotions is often linked to populism, since it is the channelling of the will of the people which eventually decides the course of events³⁸.

Legal and Extra-Legal Responses to Athenian Populism

If the ideology of populism - namely the belief that the People could unrestrictedly and unaccountably, with complete impunity, pass any measures whatsoever, despite their inexpediency or, even worse, illegality - was close to degenerate the Athenian democracy, the two oligarchic coups (411/0 BCE and 404/3 BCE) and the Athenian defeat in the Peloponnesian war, revealed the necessity of countering this phenomenon. The Athenian responses were multifarious, ranging from the political and legal arenas to the ideological battlefield. Some of the measures were introduced throughout the course of Athenian democracy and only further evolved, matured, or directed against the phenomenon of undiluted populism. Others were probably designed and implemented on purpose after the restoration of democracy in 403 BCE. While references will be made to the collective outcome of such measures, the main focus of this chapter will be on the rhetorical efforts, especially in the popular courts, which would allow success in this ideological *brade de fer*.

One of the features which makes an audience more susceptible to populism is their marginalisation, the belief that they belong to an 'underdog culture' which differentiates them from and pits them against the establishment or the elite³⁹. This is the main reason of the populists' divisive and antagonistic rhetoric, in an effort to create a common, visible enemy for the 'underdogs', display to them their common demands and, thus, interpellate them as a group with a shared identity and set of beliefs. This is also the main reason as to why populism, being a protest movement, rarely becomes the 'Establishment'; however, when this happens, populists tend to behave similarly to the 'professional politicians' they once reprimanded. The seed of Athenian populism, growing in the fertile ground of Athenian democracy, gradually emancipated and mobilised (mainly politically) quasi-marginalised groups, brought them to the forefront and became the dominant ideology.

³⁸ It is not uncommon for populist propaganda, especially in times of crisis, to use graphic images to interpellate a group feeling the same emotions of anger and indignation and direct it against a common enemy-perpetrator. In the years of the Greek economic crisis, it is not rare for such tactics to be employed, with many examples (of sometimes 'fake' news) referring to instances and inflated numbers of suicides due to destitution or to 'fake news'.

³⁹ Spruyt, Keppens & Van Droogenbroeck (2016).

Despite the numerous and sophisticated procedures for holding officials into account (e.g. *dokimasiai*; *euthunai*; *graphe paranomon*; *graphe nomon me epitedion theinai*), the Demos, the ultimate decision-maker in the Assembly and judge in the popular Courts, remained unaccountable⁴⁰. The oaths, prayers and curses in the Assembly before its convocation and the Heliastic oath taken by all 6,000 judges (Athenian male citizens over the age of 30) in any given year, were proactive measures with uncertain reliability⁴¹. Yet, these measures contributed to the interpellation of the Athenian people under a noble objective: their adherence to the rule of law and their pride in its protection. A counter ideology was emerging to unite the, so far, (at times) reactionary people, under a common demand and objective: to make the Athenian system different from those of other city-states and link the democracy to the rule of law rather than the rule of the masses. This effort, though premature, was evident during the Trial of the Generals when Euryptolemus, arguing for a trial in accordance with the law, said:

'Let no such act be yours, men of Athens, but guard the laws, which are your own and above all else have made you supremely great, and do not try to do anything without their sanction.' (Xenophon, *Hell.* 1.2.29)

In an effort to place appropriate constitutional limits, the Athenians ordered a revision of the law-code (in the aftermath of the oligarchic coup in 411 BCE)⁴² which paved the way for the subsequent hierarchy of norms and distinction between laws (of general application and permanent nature) and decrees (temporary, of individual application). The law-making process in the fourth century was now initiated by the Assembly but was entrusted to the board of *Nomothetai* (law-givers)⁴³. Numerous law-court speeches survive from cases triggered by the legal procedures protecting the constitution and scrutinising the constitutionality and expediency of proposed laws and decrees. At a later date, showcasing how the Athenian democracy continued evolving into a regime based on the rule of law, there was the establishment of the board of *Nomofulakes* (guardians of the Laws) (c. 330s BCE) to overview the office-holders' conformity with the laws.

The emergence of the rule of law as ideology, culminating during the fourth century (contrary to what Athenians of the late fifth century had

⁴⁰ On the laws and procedures in Athenian law, see Harrison (1968-1971); MacDowell (1986).

⁴¹ The Heliastic oath, among other things, provided that: 'I will cast my vote in consonance with the laws and with the decrees passed by the Assembly and by the Council, but, if there is no law, in consonance with my sense of what is most just, without favour or enmity. I will vote only on the matters raised in the charge, and I will listen impartially to accusers and defenders alike.' On the Heliastic oath see Harris (2013) Ch. 3: 'The Judicial Oath'; Johnstone (1999) at 33-45; Adamidis (2016) at 92 n. 66; at 177 and 194 n/ 34.

⁴² See more on this issue in Adamidis (2016) at 50-51 n.92.

⁴³ For the difference between laws and decrees in the fourth century see Hansen (1978), Hansen (1979), and Hansen (1991) at 161-177; Rhodes (1987).

experienced) is also evident in the writings of the period. Aristotle straightforwardly provides that '[t]he rule of law is preferable to that of a single citizen.' (Aristotle, *Politics*. 1287a 16–20) while Hyperides in his funeral speech, linking democracy with the rule of law and contrasting it with authoritarianism, claims that 'For men to be happy they must be ruled by the voice of law, not the threats of a man' (Hyperides, *Epit.* 25). Aeschines also links democracy (against oligarchy) with the rule of law:

'You are well aware, men of Athens, that there are three kinds of constitution in the whole world, dictatorship (tyrannis), oligarchy, and democracy, and dictatorships and oligarchies are governed by the temperament of those in power, whereas democratic cities are governed by the established laws.' (Aeschines 3.6)

The lawbreaker is now perceived as an enemy of the law and, as a result, an enemy of the state democracy (and the People). Demosthenes, as the accuser of a person who putatively committed the offence of hubris, calls the numerous jurors in session to rescue themselves and the laws:

'If I prove that the insults of Meidias touch, not me only, but you and the laws and the whole body of citizens, to come at once to my rescue and to your own.' (βοηθῆσαι καὶ ἐμοὶ καὶ ὑμῶν αὐτοῖς.) (Demosthenes 21.7)

People are now united under a noble objective. Their real strength, and the strength of the democratic constitution, derive not from the unlimited power of decision-making afforded to the Demos but to the power of the people to uphold and protect the rule of law:

'Oligarchs and all who run a constitution based on inequality must be on guard against people who attempt to overthrow the constitution by force; but you, and all who have a constitution based on equality and law, must watch out for people whose words and way of life contravene the laws. For your real strength is when you are ruled by law and are not subverted by men who break them.' (Aeschines 1.4-5)

Everyone is equal before the law and this is the basic premise of this new ideology. Ordinary people and office-holders are equally ruled by law:

'For where we have laws expressly drafted for the case, surely punishment should fall alike on those who disobey them and on those who order an infringement of them.' (Lysias 22.10)

Yet, there is a crucial point which needs to be stressed. The 'People' apply the law, they are the guardians of the law, they are not identified with it, they are not representing the law themselves:

'laws were laid down by you before the particular offences were committed, when the future wrongdoer and his victim were equally unknown. What is the effect of these laws? They ensure for every citizen the opportunity of obtaining redress if he is wronged. Therefore, when you punish a man who breaks the laws, you are not delivering him over to his accusers; you are strengthening the arm of the law in your own interests.' (Demosthenes 21.30-1)⁴⁴

The hegemonic position of the 'rule of law' ideology in the law-court speeches is primarily evident in the rhetoric of litigants. Regardless of the revision stages before their publication, forensic speeches had to be appealing to the minds and values of the Athenian laymen jurors⁴⁵. Hence, we may safely assume that references to the dominance of the 'rule of law' ideology were positively accepted by the audience. The 'participant personality' of the ancient Athenians⁴⁶ - meaning that their ideas and values were largely shared with the community they found themselves in and they had strong incentives to show adherence to these norms - combined with the endorsement and respect they show for the rule of law in their speeches, prove that this principle was now advancing to become the guiding one in regulating their behaviour. The character evidence which litigants generously provide in their speeches corroborates the above point. The alignment of ethical norms with state laws allowed litigants to point to their adherence to both, with their rule, finally, being indisputable⁴⁷.

Conclusions

This chapter has offered a description of populism as an ideology. This is the first time that populism is seen as a freestanding, rather than a 'thin' ideology. Populist ideology in Athens of the late fifth century, inductively approached, offered the main set of ideas which ultimately supported the democratic regime. Its various manifestations (as a style, discourse, strategy and political logic) corroborate and advance the findings of modern political theory. Whether or not originally being a movement of the 'underdogs', the (mainly) top-down interpellation of the demos as a unique group with a distinct identity, made it the ruling class of the city. Crisis, in the form of the Peloponnesian war, contributed to the emergence of a new type of leaders, developing innovative tactics and techniques to approach and sometimes manipulate the people.

⁴⁴ Contrast this approach of the People as 'guardians of the law' with the modern populist 'identification' of themselves with the law so as to become inviolable: "The 'People' deserve only respect [...] This government can only be the voice of the 'People' [...] We are flesh of the flesh of the 'People' [...] We are every word of this country's Constitution." Alexis Tsipras in a speech in the Hellenic Parliament (Feb 8, 2015).

⁴⁵ For more on the revision of speeches see Adamidis (2016) at 14 and 19 n. 52.

⁴⁶ Adamidis (2016) Ch. 5; Gill (1998).

⁴⁷ Adamidis (2017).

The populist ideology of the new ruling class, namely the mass of Athenian citizens, which provided for the largely unaccountable and unlimited power of the demos, proved to be dangerous for the running of the Athenian city state. The response was an emerging ideology of the rule of law, providing for safeguarding structures and rules to secure a smooth implementation of democracy, preventing its degeneration into mob rule. The introduction of new legal procedures and provisions was part of this ideological reform and actually paved the way for the gradual dominance of the 'rule of law' ideology. This could be a lesson to be learnt by the history of Athenian laws regarding modern day populism; building a legal and extra-legal bulwark against it in the form of a strong counter ideology, capable of uniting the people under a noble objective, could be a solution. Nevertheless, the least that this chapter has achieved, through the application of populism to the Athenian setting, is a further proof of the resilient and chameleonic nature of the concept of populism. More research needs to be done on the field, yet classical Athens is definitely worth looking at for this purpose.

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