Protagoras on Democracy and the Rule of Law

Giovanni Giorgini
University of Bologna

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Summary
The sophist Protagoras is famous for being the first consistent relativist who argued that there is no objective truth and every perception is valid for those who experience it. He extended this relativism to morality and politics and maintained that the law is "the opinion of the city", thus disjoining justice from any metaphysical foundation. However, if we read Protagoras' "Great Speech" in Plato's *Protagoras* we find that his argument to the effect that all men possess the two political virtues leads to the conclusion that democracy is the best form of government. The paper argues that Protagoras was not inconsistent. His relativism is confined to his theory of knowledge. In practical matters, human beings devise their values and political institutions through a dialogic process. This is the all-important role of *logos* in the public sphere according to Protagoras: through their interactions, human beings exchange information which enables them to shape the most just institutions and make the best decisions. Democracy is thus the best form of government because it best allows citizens to have a public discourse on an equal footing. This is the value of *isegoria* and *parrhêsia* which, together with *isonomia*, are the foundation of democracy. Protagoras' position, thus interpreted, can serve as a "liberal" foundation of democracy. Indeed, his view about democracy and knowledge is very similar to the theoretical foundation of liberalism in contemporary authors such as Friedrich von Hayek and Michael Oakeshott.

The setting

When the sophist Protagoras (485–415 BCE ca) arrived in Athens in the 450s, the city was reaching the peak of its power. After the assassination of Ephialtes in 462 BCE, Pericles had been firmly in command for a decade and in a few years would succeed in having his starkest opponent, Thucydides the son of Melesias, ostracized (442 BCE). Pericles engaged Athens in an imperialistic policy which would result in the establishment of Athenian *archê* in the Aegean Sea, making it one of the most powerful cities in the Mediterranean area. In 431 BCE, two years before dying of plague, he delivered the famous Funeral Speech reported by Thucydides, in which he praised Athens

as “the school of Greece” and extolled the merits of its constitution and of the Athenian way of life. He famously concluded his discourse by stating that

> To show that this is no empty boasting for the present occasion, but the actual truth (*alêtheia*), you have only to consider the power (*dynamis*) which our city possesses and which has been won by those very qualities which I have mentioned (Thucydides, *Hist.* II,41).[1]

Something tangible and observable, the very power (*dynamis*) of the city, testified to the truth of Pericles' statements. The gist of Pericles' speech was, thus, that “democracy works”.

In the past two decades, the classicist and political scientist Josh Ober has elaborated a sophisticated argument to demonstrate that Pericles was correct, that democracy actually works, and democratic Athens was indeed the most powerful city of Greece. Ober has argued that the democratic institutions devised by Cleisthenes and refined by Ephialtes' and Pericles' reforms, which stripped the Areopagus of its powers, enabled a circulation of civic knowledge which made democracy so effective.[2] If we take a step back and look at the establishment of democracy in 508 BCE, we may note that the catchword used by Cleisthenes and his supporters was *isonomia*, namely equality before the law and implemented through the law. This word identifies an ideal, not a form of government, nor a “proto-democracy” or *Urdemokratie*.[3] It was first used by the aristocrats who fought Peisistratus' tyranny as a rally-word and the epitome of their political programme: against the arbitrary, capricious will of the tyrant, they advocated the certainty of law, of a *nomos* that was objective and therefore the same for everybody.

I wish to argue here that the ideal of *isonomia* identifies for the first time the notion of “rule of law”, namely the existence of a system of laws which are publicly promulgated and equally enforced; these laws apply to every citizen and do not make exceptions because no-one is above the laws. From its inception this ideal involves some corollary notions. First of all, *isonomia* is a *Kampfbegriff*, a “battle-concept” devised with a polemical target:[4] the tyrant, who transgresses equality before the law and rules without restraints.

1 Power (*dynamis*) is the standard by which Thucydides evaluates the quality of political arrangements: see G. Giorgini, *The Riddle of Pausanias. Unraveling Thucydides' Account*, in: *Rivista Storica dell'Antichità*, 34, 2004, pp. 181–206.

2 J. Ober, *Mass and Elite in Democratic Athens*, Princeton 1989; *id.*, *Democracy and Knowledge*, Princeton 2008; *id.*, *Demopolis*, Cambridge 2017.

3 Contra Ch. Meier, *The Greek Discovery of Politics*, Cambridge (Mass.) 1990. For a refined discussion of *isonomia* see K. Raaflaub, *The Discovery of Freedom in Ancient Greece*, Chicago 2004.

4 On the notion of “battle-concept” see C. Schmitt, *The Concept of the Political*, Chicago 2007; R. Koselleck, *Futures Past*, New York 2004.

The first occurrence of *isonomia* is in a *skolion*, a hymn, sung by aristocrats, which celebrates the tyrant-slayers Harmodius and Aristogeiton for making Athens "isonomical".[5] Equality before the law is by definition the opposite of tyranny because it contrasts the certainty of an objective law to the capricious decisions of the tyrant. It is also a means to prevent tyranny from emerging, just like in the case of the expression "rule of law", which appears in the context of the struggle for containing the ambitions of absolute monarchs.[6] Secondly, *isonomia* is connected with the idea of *euthyna*, of being accountable to the citizen body for one's actions while in office: all Athenian citizens elected to some magistracies were held accountable for their decisions and could be investigated at the end of their term; there existed specific procedures to enable any citizen to sue public officers and civil servants.[7] Thirdly, *isonomia* implies the notion of publicity: laws and decrees are presented to the public and then enacted by citizen bodies in which everyone can participate or to which everyone can be elected; they are made publicly known and are written down.[8] Fourthly, *isonomia* entails *isegoria* and *parrhêsia*, namely the possibility for everyone to speak their mind on an equal footing (for instance in assembly or in court, without restrictions or deference). As a result of all these features, we may conclude that *isonomia* had a more comprehensive meaning, namely that of "equality before the law and implemented through the law".[9]

Before continuing, I need to tackle one possible objection to my quick statements. One could argue that the idea of the "rule of law", simply interpreted as the existence of a system of laws which apply to aristocrats and commoners, wealthy and poor citizens alike, already existed before in Greek cities, and it existed in Athens at least from the time of Solon (640–560 BCE ca). It is well-known that Greek cities had systems of laws and even written law-codes before the establishment of democracy at Athens; what is com-

5 Athenaeus, *Deipn.* XV,695.

6 See the likely first occurrence of the expression in Samuel Rutherford's (1600–1661) *Lex, Rex: The Law and the Prince. A Dispute for the Just Prerogative of King and People* (London 1644, p. 237): "The prince remaineth, even being a prince, a sociall creature, a man, as well as a king; one who must buy, sell, promise, contract, dispose: ergo, he is not *Regula regulans*, but under rule of law…".

7 See D. McDowell, *The Law in Classical Athens*, Ithaca 1986; F. Abdel-Nour – B. L. Cook, *As If They Could Be Brought to Account: How Athenians Managed the Political Unaccountability of Citizens*, in: *History of Political Thought*, 35, 2014, pp. 436–457.

8 Herodotus uses in this context the visual metaphor of "putting it to the middle" (*es to meson*) or "making it common" (*es to koinon*). For the functioning of the Athenian assembly see M. H. Hansen, *The Athenian Democracy in the Age of Demosthenes*, Oxford 1991.

9 On *isonomia* and the foundational values of Athenian democracy I wish to refer to my *The Foundations of Democracy: Citizenship, Equality and the Common Good*, in: *Philosophy and Public Issues*, New Series, 9, 2019, pp. 143–162.

mon to these systems of laws is that they consistently place no one above the law and make everyone accountable to the law. As for Athens, there is a consistent strand of literature dating from the end of the 5th century BCE which interprets Solon as the creator of democracy in Athens and longs for a return to the "ancestral constitution" (*patrios politeia*) – Solon's allegedly more sober version of democracy.[10] We should, however, resist these partisan reconstructions which, in the heated years around 411 BCE, aimed at surreptitiously overthrowing Athenian democracy and replacing it with an oligarchy. Solon described his ideal political arrangement as *eunomia* and *eukosmia*: it is the vision of a regime where two entities – the aristocrats and the *dêmos*, the rich and the poor – conceived as morally, socially and politically unequal could harmoniously coexist thanks to good laws. Solon prided himself on having created a well-balanced constitution in Athens, avoiding the two extremes of anarchy and tyranny[11] and "giving to the *dêmos* as much privilege as is sufficient"; he added that "in this way the *dêmos* would best follow its leaders, if it is neither given too much freedom nor subjected to too much restraint".[12] Solon's political arrangement presupposes unequal citizens and attributes to them different roles and tasks: it is evident, for him, that the *dêmos* is not an active political agent, that it needs leaders; his constitution is certainly not a democracy.[13] It is however true, and to Solon's credit, that in his constitutional reform he "wrote laws for the lower and upper classes [lit: 'the bad and the good'] alike, providing a straight legal process for each person".[14] I consider this a lesser version of the rule of law, since it seems to regulate only the private matters of citizens of unequal status. And I find that the same is true regarding all Greek legal systems before Athenian democracy.[15] The notion of the rule of law applies to the relations between equal citizens, the institutions of the State and the government.

Finally, before examining Protagoras' political views we should bear in mind what Josh Ober has acutely observed: "In the Athenian case, democratic practices were established well *before* any (surviving) text discussed

10 See for instance Thucydides, *Hist.* VIII,76,6; Aristotle, *Ath. pol.* 29,3, 34,3; Isocrates, VII,20. Cf. M. Ostwald, *From Popular Sovereignty to the Sovereignty of the Law*, Berkeley – Los Angeles 1986.

11 We find the same ideal of moderation expressed in Aeschylus, *Eum.* 526–530, where the opposition is between an anarchical life and one under a master/despot (*despotoumenon*).

12 Aristotle, *Ath. pol.* 11,2–12,1.

13 For a different opinion see M. Stahl, *Solon F 3D. Die Geburtsstunde des demokratischen Gedankens*, in: *Gymnasium*, 99, 1992, pp. 385–408, and R. W. Wallace, *Revolutions and a New Order in Solonian Athens and Archaic Greece*, in: K. Raaflaub – J. Ober – R. Wallace (eds.), *Origins of Democracy in Ancient Greece*, Berkeley 2007, pp. 49–82.

14 Aristotle, *Ath. pol.* 12,3.

15 See E. M. Harris, *Law and Society in Ancient Athens*, Cambridge 2006, pp. 3–28. Harris, however, has a broader concept of "rule of law" and calls it "the spirit of the laws".

democracy in abstract terms".[16] The theory of democracy, including the discussion about the merits and demerits of this regime, came after the establishment of democratic institutions and practices at Athens. However, we can see those institutions and practices as the embodiment of certain political ideas, albeit without their being fully spelled out. For instance, the fact that the magistrates who sat in the Athenian courts of justice were not professionals or experts and were appointed by lot discloses the belief that *any* citizen was able to properly judge a case because he possessed the necessary wisdom: *gnômê*, political judgment, is not unique to aristocrats.

Enter Protagoras

Protagoras was famous for being the first consistent relativist who argued that there is no objective truth and that every perception is valid for those who experience it.[17] He expressed this concept in a grand statement that gave him incredible notoriety[18] and lasting fame:

> Man is the measure of all things; of things which are, that they are; of things which are not, that they are not (*DK* 80 B 1).[19]

He extended his relativism to morality and politics and maintained that the law is "the opinion of the city",[20] thus disjoining justice from any metaphysical foundation. This includes any relation with a divinely ordained cosmos. As he famously stated at the beginning of his work *On the Gods*:

> Concerning the gods, I cannot verify that they exist or that they do not exist nor what their shape is; for many are the obstacles that prevent our

16 J. Ober, *Political Dissent in Democratic Athens*, Princeton 1994, p. 32; italics in the original.

17 R. Bett, *The Sophists and Relativism*, in: *Phronesis*, 34, 1989, pp. 139–169, argues that the sophists were not, in general, relativists and convincingly demonstrates this for Thrasymachus, Gorgias and the author of the *Dissoi Logoi*. He considers Protagoras an exception, the only interesting and profound relativist, because of his man/measure doctrine.

18 It is hardly necessary to go beyond Plato's presentation in the *Protagoras*: the great sophist walks through Callias' house followed by an accolade of spellbound disciples who move disciplined in neat formation: Plato, *Prot.* 315a–c. Even Aristotle, who is very dismissive of Protagoras because he takes him as someone who denies the principle of non-contradiction, and therefore not worth wasting time with, admits that Protagoras' grand statement had an enormous impact on his contemporaries: *Met.* IV,4–6.

19 For an interesting interpretation of this fragment which rejects the traditional relativist reading see R. Zaborowski, *Revisiting Protagoras' Fr. DK B 1*, in: *Elenchos*, 38, 2017, pp. 23–43. For "things" Protagoras uses the word *chrêmata* (from *chraomai*, "to use") which implies a relation to an agent, a *metron.*

20 See Plato, *Tht.* 167c, 171a–b.

> knowledge: not only the obscurity [of the problem] but also the brevity of human life (*DK* 80 B 4).[21]

This is far from being the arrogant profession of atheism that many simplistic interpreters would expect from a sophist. In his humble statement, Protagoras maintains that God is an article of faith and God's existence cannot be argued for or against since no empirical evidence can be brought to the case.[22] As a consequence, any moral value or political action must rest on purely human knowledge: the gods cannot be taken as models for building any system of morality or any political arrangement.[23] In addition, religion does not make human beings any more sociable, as we learn from the "Great Speech" he delivers in Plato's *Protagoras.*[24]

It follows that politics is a human, all-too-human matter; a dimension where men act or refrain from acting according to purely human standards.[25] And since the law is "the opinion of the city"[26] and justice is therefore inevitably connected to a political arrangement, it seems to be impossible to weigh different political regimes and determine which is the best. However, if we consider the implications of the "Great Speech", we find that Protagoras' argument to the effect that all men possess (albeit only potentially) the two political virtues – respect (*aidôs*) and justice (*dikê*)[27] – leads to the con-

21 All translations of Protagoras are mine. I believe that the proper beginning for an investigation of Protagoras' thought is still M. Untersteiner, *I Sofisti*, Torino 1949; English translation by K. Freeman, *The Sophists*, Oxford 1954.

22 R. Bodéüs, *Réflexions sur un court propos de Protagoras*, in: *Les Etudes Classiques*, 55, 1987, pp. 241–257, argues that Protagoras was stating his inability to express an opinion on the gods since they do not manifest themselves and the absence of perceptions makes it impossible to make a judgment.

23 "The gods abandon the city", states E. Terray, *La politique dans la caverne*, Paris 1990, p 21. Or, we could say more mildly, "Man is the measure, and the gods are silent" as it is put by C. Farrar, *The Origins of Democratic Thinking*, Cambridge 1988, p. 51.

24 Plato, *Prot.* 320c–328d. From a political point of view this implies that soothsayers and priests have no necessary role in the city. On this myth see M. Vegetti, *Protagora autore della Repubblica (ovvero il "mito" del Protagora nel suo contesto)*, in: G. Casertano (ed.), *Il Protagora di Platone: strutture e problematiche*, Napoli 2004, pp. 145–157.

25 This statement is not contradicted by the fact that the Great Speech is populated by all sorts of gods, who in addition give human beings the gift of political art: Protagoras is narrating a myth there and conforms to the conventions of the genre.

26 Plato, *Tht.* 167c.

27 I take Protagoras to mean that all men potentially possess the two political virtues, which need to be actualized through education. This is the meaning of his statement that Zeus ordered Hermes to distribute respect and justice to everybody because "cities cannot be formed if only a few have a share of these as of other arts. And make thereto a law of my ordaining, that he who cannot partake of respect and justice shall die the death as a public pest" (Plato, *Prot.* 322c–d). Here Protagoras is simply admitting that there can be exceptions, people who do not possess these virtues: they are criminals and must be treated as such. Protagoras is in fact reiterating and reinforcing his view that all ordinary human beings possess these virtues.

clusion that democracy is the best and most natural form of government because every man possesses the political art (*politikê technê*) which enables him to be an active citizen.[28] Is this conclusion inconsistent with the statement that the law is the "opinion of the city" and that every city therefore has a different notion of justice and view of the best regime?

I think that Protagoras was not inconsistent. His relativism is confined to his theory of knowledge. In practical matters there is no truth, but this does not mean that all opinions have the same value: some are worse, some are better, although not truer. Although there is no Platonic-style objective standard by which one can evaluate political regimes in Protagoras' thought, we are not left without any guidance: the wise man's (i.e. the sophist's) experience provides the standard in practical matters. This is the lesson we learn from Plato's *Theaetetus*, where Protagoras is given the opportunity to explain his thought.[29] Consistently with his belief in the impossibility of knowing the gods, Protagoras maintains that our knowledge is limited to the phenomenal realm. The choice of words also reveals that "the things" (*chrêmata*) we human beings deal with are things with reference to us, concerning the world we live in. Protagoras then goes on to argue that "each of us – the single individual – is the measure both of what is and of what is not"; but he adds that "there are countless differences between men for just this very reason, that different things both are and appear to be to different subjects". Finally, he concludes, some of these semblances (*phantasmata*, representations) are "better" (*beltiô*) than others, although in no way "truer" (*alêthestera*) – as some maintain out of ignorance.[30] In practical matters, when we make our life choices or when we make political decisions, some opinions are better, namely more useful, than others: some "truths" work better than others. Protagoras, for instance, would not question the truth-content of the opinions of a male chauvinist: he knows that, for such a person, women are inferior to men. He would, instead, point out that political arrangements where women have the same rights as men flourish more than those where women are in a condition of subalternity because they can exploit the talents

28 It is worthwhile noting that Protagoras argues that *politikê technê*, to be interpreted as a civic art, the art of living and flourishing together, is the salvation of humanity: this is an art that all human beings possess. Plato, on the contrary, sees salvation for human beings in the *metrêtikê technê*, the art of measurement, possessed by few and ignored by the populace. F. Rosen, *Did Protagoras Justify Democracy?*, in: *Polis*, 13, 1994, pp. 12–30, argues that the Great Speech "is not set forth explicitly as a justification of democracy or any other constitution" (p. 24). Likewise, P. P. Nicholson, *Protagoras and the Justification of Athenian Democracy*, in: *Polis*, 1, 1980, pp. 14–24, argues that Protagoras is a relativist and therefore merely offers a value-neutral theory of politics.

29 Interesting observations in U. Zilioli, *Protagoras and the Challenge of Relativism*, Aldershot 2007.

30 Plato, *Tht.* 166d–167b.

of the female part of the population. Gender equality works in practice, and therefore is true.

It is at this level that we can appreciate the important role of the sophist, who is described as a "wise man" because he knows the ways of the world, has experience of human beings and political arrangements, and can therefore teach other people what is most advantageous for them. Protagoras argues that

> the man I call wise is the man who can change the appearances – the man who in any case where bad things both appear and are for one of us, works a change and makes good things appear and be for him (Plato, *Tht.* 166d).

The wise man, identified with the sophist, operates as a physician, turning bad states of mind (or the soul) into better states, which enables his listeners and students to have better perceptions, using words instead of drugs:[31] he cannot persuade people they are wrong (because there is no right or wrong as far as truth is concerned), but he can make them change attitude (*hexis*) and adopt behaviours which are more in line with the city's values, thus moulding good citizens. In addition, the sophist can steer statesmen towards a better political arrangement (one he has seen to work better in practice). This education works both at the individual and at the societal level: through his words and examples, the sophist can persuade a pupil that some of his life-choices are wrong and make him opt for better ones. When we face moral disagreement, we cannot say that someone is right and someone else is wrong, for their beliefs are true for them. Instead, we must effect a change from one condition (*hexis*) to another, because health is better than illness. This is why the sophist works like a physician, because he does not try to persuade the sick person that what he perceives as cold is in fact warm; instead, he tries to heal him, to change his condition, his bodily state.[32] The physician is no relativist about the presuppositions of his own art: he assumes that health is better than illness because he has practical experience of the consequences; likewise, the sophist assumes that education and wis-

31 This idea that words are like drugs, which affect the soul instead of the body, may be found also in Gorgias' *Encomium of Helen*: *DK* 82 B 11,8–11. Gorgias argues that "Speech is a powerful lord, which by means of the finest and most invisible body effects the divinest works"; and goes on to compare its power to that of witchcraft and incantations.

32 This is what the physician does according to [Hippocrates] *De ant. med.* 4–5; the physician, for instance, changes the diet of the patients in order to heal them. Interestingly, [Hippocrates] argues that regarding diet "no-one is a layman" (*idiotês*); Protagoras states that in the political art "no-one can act for himself" (*idioteuein*): Plato, *Prot.* 327a. On this see A. T. Cole, *The Relativism of Protagoras*, in: *Yale Classical Studies*, 22, 1972, pp. 19–45.

dom are better than ignorance and savagery because he has experience of the world. This is Protagoras' point:

> Whatever in any city is regarded as just (*dikaia)* and admirable (*kala*) is just and admirable, in that city and for so long as that convention maintains itself; but the wise man replaces each pernicious (*poneron*) convention by a wholesome (*chrêsta*) one, making this both be and seem just (Plato, *Tht.* 167c; cf. *Prot.* 313d).

For, judging from his experience, the sophist can suggest to a city the most convenient political arrangement suited to mould good citizens in the specific situation. Again, in so doing, the sophist acts as a physician, who studies the symptoms of an illness as well as the constitution of the patient and adapts the treatment to the circumstances: there is no general rule in these matters; rather the "judgement resides in perception" of the single case, as we read in [Hippocrates] *De antiqua medicina*, 9. The physician is guided by an unstated, obvious premise: health is better than disease. Likewise, to keep up the analogy, the sophist has seen that civil strife is like an ailment in the body politic and he will resort to his experience and technique to prevent its emergence inside a city. Harmony, *homonoia*, political friendship constitutes the natural, healthy condition of the city. *Stasis*, turmoil, faction, conflict disrupts this harmony and the sophist's task is to restore order, and therefore health, inside the community.

Relativism and democracy

Relativism reigns in the realm of knowledge, but has practical limits, determined by experience of what is advantageous for human beings. Protagoras' relativism is thus connected to a kind of "humanism": the human being is at the centre of the world; education, values, behaviours, institutions, political arrangements, they all revolve around human beings and what is advantageous to them. This is why Protagoras can state with assurance that he teaches how best to manage practical matters, making the right choices (*euboulia*):[33] he is at home when it comes to evaluating human actions and decisions and deciding what is the best course.

33 Plato, *Prot.* 319a. N. O'Sullivan, *Pericles and Protagoras*, in: *Greece & Rome*, 42, 1995, pp. 15–23, noticed that the way Protagoras explains his educational programme in this passage is very similar to an expression Thucydides uses to describe Pericles' political ability: see Thucydides, *Hist.* I,138,4.

We should also consider the democratic context of the sophists' teaching: sophists like Gorgias and Protagoras, coming from outside, were surely struck by the practices of Athenian democracy. They noticed that citizens attended the Assembly and sat in the courts listening to different, and conflicting, opinions being voiced on the same topic; citizens and jurors had to make a choice based on what argument was more persuasive and, therefore, true (or, rather, truer). Truth for these authors was the argument that emerged victorious from a battle of conflicting discourses (*antilogiai*). They were not frivolous but rather tragic in maintaining that "there are two arguments standing opposed to each other on every issue":[34] truth, and consequently the correct course of action, becomes a matter of human choice.

In Plato's *Theaetetus* Protagoras makes his political point in a passage full of nuances. He states that

> Whatever view a city takes on these matters [justice and religion] and establishes as its law or convention, is truth and fact for that city. In such matters neither any individual nor any city can claim superior wisdom. But when it is a question of laying down what is to the interest (*sympheronta*) of the city and what is not, the matter is different. … It is in those other questions I am talking about – just and unjust, religious and irreligious – that men are ready to insist that no one of these things has by nature any being of its own; in respect of these, they say, what seems to people collectively to be so is true (Plato, *Tht.* 172a–b).

"Truth" in politics consists in "what seems to people collectively to be so" (*to koinê doxan*). After an evocative digression on God's role in human life, Protagoras reiterates his political point:

> Whatever any community decides to be just and right, and establishes as such, actually is what is just and right for that community and for as long as it remains so established. On the other hand, when it is a question of what things are good (*tagatha*), we no longer find anyone so courageous that he will venture to contend that whatever a community thinks useful (*ôphelima*), and establishes, really is useful, so long as it is the established order (Plato, *Tht.* 177d).

It is in the realm of practical matters – what is just, good, holy, advantageous to a person and a city – that relativism finds its limit. Protagoras puts forth a pragmatic notion of truth: truth is what works in practice. Since there is

34 This is the way Protagoras phrased it in *DK* 80 A 1.

neither a divine standard nor truth in politics, each political regime decides what is right and good for itself. The city, each city, is the criterion of justice, of piety and of sanctity. However, the sophist, drawing on his own experience, may recommend to each polis what the most useful laws and institutions are according to the specific circumstances; for the sophist knows that different people are suited to different political regimes. Protagoras has thus demonstrated the importance of the sophist, conceived as a wise and educated man, in practical matters: there is a criterion to evaluate what is useful, namely conducive to the greatness of the city and the flourishing of the citizens, in a political community and the sophist is the measure. In the realm of practice, people should cease speaking of "truth" (*alêtheia*) and should instead speak of "correctness" (*orthotês*): what is the most correct course of action (or form of government) according to the circumstances?[35]

Protagoras therefore thought that the question of the best regime does not admit of one single, straight answer: it depends on the circumstances, on the human material at hand. However, in the *Protagoras* he elaborates an anthropological view designed to show that, since all human beings are potentially endowed with the political virtues which enable them to participate in politics, a healthy community should opt for democracy. An obvious objection to Protagoras' democratic stance would be that it is an unfounded opinion; or rather, that it is just one opinion of equal value to its opposite. Protagoras' next step must therefore consist in showing that democracy works, that it is the best form of government because it enables all citizens to flourish while making the city strong and powerful: a win-win situation.

Protagoras is prompted to deliver his "Great Speech" by Socrates' statement that he does not believe that virtue and political science are teachable. Among the reasons supporting his contention Socrates argues that the behaviour of the Athenian people, who are reputed wise, confirms his belief:

> I observe that when we convene in the Assembly and the city has to take some action on a building project, we send for builders to advise us; … This is how they proceed in matters which they consider technical. But when it is a matter of deliberating on city management, anyone can stand up and advise them, carpenter, blacksmith, shoemaker, merchant, ship-captain, rich man, poor man, well-born, low-born – it doesn't matter (Plato, *Prot.* 319b–d).

35 I believe that Aristotle gave his own answer to this Protagorean question through his doctrine of *phronêsis in Nicomachean Ethics* VI. See the interesting observations of P. Gottlieb, *Aristotle versus Protagoras on Relatives and the Objects of Perception*, in: *Oxford Studies in Ancient Philosophy*, 11, 1993, pp. 101–119; *id.*, *Aristotle's Nameless Virtues*, in: *Apeiron*, 27, 1994, pp. 1–15.

The Athenians' behaviour in politics seems to indicate that they do not think political science can be taught – anyone can possess it and no-one is considered an expert in this art more than anyone else. Protagoras' reply is both evocative and punctual. He first smoothly shows that *politikê technê* is the most important possession for human beings, who are also unique among living beings in possessing justice, although not originally: they need Zeus' gift, who is thus the benefactor of humanity.[36] After Epimetheus' ill-executed distribution, Prometheus steals fire from the gods and gives it to mankind; however, this gift enables men to shelter and defend themselves but not to create societies and flourish. Interestingly, Protagoras maintains that human beings' kinship with the gods prompted them to create religion, but this was not enough to bring justice into the cities.[37] He says:

> Since man thus shared in a divine gift, first of all through his kinship with the gods, he was the only creature to worship them, and he began to erect altars and images of the gods (Plato, *Prot.* 322a).

Man needed another gift from the gods.[38] Hence Zeus sent Hermes on earth to bring respect and justice to all mankind, excluding none.[39] These two virtues encapsulate the "political art" which is necessary to have a flourishing society because it brings friendship and justice into the city.[40] Protagoras is thus able to bring home the point that neither technical skill nor even religion are sufficient for mankind to flourish; mankind needs the political art, which exists in potentiality in any human being, being an equally distributed gift of Zeus, but needs education to be actualized. And, in Protagoras' view, the sophist fulfils this educational role.

36 Plato, *Prot.* 322b. Protagoras is thus in agreement with Hesiod, *Erg.* 276–280, who maintained that Zeus gave justice, which is the best gift of all, to human beings only.

37 S. Zeppi, *Studi sul pensiero etico-politico dei sofisti*, Roma 1971, p. 1, noticed that Protagoras was the first sophist who relinquished the soothing faith in the beneficial influence of the divine on human society. We may add that this low consideration of the role of religion in civic matters is consistent with Protagoras' stance on the impossibility of knowing the gods and therefore of deriving any teaching from them.

38 W. Nestle, *Bemerkungen zu den Vorsokratikern und Sophisten*, in: *Philologus*, 67, 1908, pp. 531–581, noticed the identity of the notion of *pronoia theou* that we find in Plato, *Prot.* 321b, and in Herodotus, *Hist.* III,108; and more generally the resemblance between the content of Protagoras' Great Speech and Herodotus' chapter on the providence of the Gods.

39 On the role of Hermes as a Protagorean promoter and distributor of political art see S. Yona, *What About Hermes? A Reconsideration of the Myth of Prometheus in Plato's Protagoras*, in: *Classical World*, 108, 2015, pp. 359–383.

40 A. R. Nathan, *Protagoras' Great Speech*, in: *Classical Quarterly*, 67, 2017, pp. 380–399, argues that Protagoras' virtue boils down to "a vague notion of civic duty". He finds much more interesting the form of the myth, which displays Protagoras' ability before his audience.

In addition, Protagoras smoothly pays a tribute to the Athenians and their practices: they are correct in accepting advice from anyone when it comes to political matters, because those matters involve justice (*dikaiosynê*) and moderation (*sôphrosynê*) and "it is incumbent on everyone to share in that sort of excellence (*aretê*), or else there can be no city at all".[41] Protagoras emphasizes how in a city, different educational actors – the nurse, the mother, the teacher, the father – try to instill civic virtue in the child; the same role is played by laws and punishments, which aim at correcting wrong behaviour in an educational perspective. The city – Protagoras maintains – "lays down laws, devised by good lawgivers of the past, for our guidance, and makes us rule and be ruled according to them, and punishes anyone who transgresses them".[42] Protagoras is not a political revolutionary: he deems that the sophist should work in a traditional legal and political context designed by the excellent people of the past.[43]

Now, being a consistent relativist, Protagoras knows all too well that when you cannot appeal to a divine or a human truth in politics, you are left with either persuasion or violence. The latter alternative is exemplified by tyranny, but it is also practiced in oligarchies, where a few alleged "best citizens" purport to possess political capacity (*gnômê*) thanks to their ancestry and exclude all others from politics. Protagoras evidently does not believe in aristocracy of blood, or lineage, nor in the primary importance of wealth. The exclusion of some citizens from political participation on these grounds is therefore illegitimate.

In democratic politics, on the contrary, human beings devise their values and political institutions through a dialogic process.[44] This is the all-important role of *logos* in the public sphere according to Protagoras: through their interactions, citizens exchange information which enables them to shape the most just institutions and make the best decisions. Democracy is thus the best form of government because it best allows citizens to have a public discourse on an equal footing, at least on principle. It does not matter that some citizens can contribute more than others to the deliberative process: every citizen has a specific expertise, and every contribution is therefore

41 Plato, *Prot.* 323a; cf. 325a.
42 *Ibid.*, 326d.
43 This conclusion had already been reached by the great historian George Grote in his *History of Greece*, I–XII, London 1846–1856, VIII, ch. 67.
44 See the refined treatment of Protagoras, depicted as a supporter of pluralism, by L. J. Apfel, *The Advent of Pluralism*, Oxford 2011, pp. 46–115. Apfel argues that Protagoras is not a relativist nor a subjectivist but rather a pluralist, for he maintained that the objects of knowledge do in fact exist; however, the fact that they are objective does not mean that they are unique.

useful and important.[45] This is the value of *isegoria* and *parrhêsia* which, together with *isonomia*, are the foundations of democracy.

Since all other political regimes besides democracy involve an element of violence, indeed of un-naturalness, due to the illegitimate exclusion of some citizens from the political process, we may conclude that for Protagoras democracy is the only form of government where there exists the rule of law. For the rule of law is by definition the opposite of violence, arbitrariness and secrecy; but it also stands against partisanship and civic conflict (*stasis*), which is inevitable when one part, and not the entire citizen body, rules in a city.

It is hardly necessary to point out the distance between Protagoras' elevated view of the rule of law, of good laws, inside a city and Thrasymachus' vision that every city is inevitably characterized by civil war, since "the just is the advantage of the stronger".[46] For Thrasymachus the laws are a fraud, devised by the constituted government to force citizens to pursue the interest of the rulers: "justice is someone else's good" shouts Thrasymachus in the face of Socrates and his other listeners.[47] Thrasymachus sees every political arrangement as inevitably divided into two factions – the rulers and the ruled. They have nothing in common because the rulers make laws to their own advantage and to the detriment of the ruled: democratic laws favour the poor, oligarchic laws the wealthy and the tyrant rules to the advantage of himself and his own family. From this comparison we can appreciate both the audacity and the originality of the singular sophists.

One final point may be useful to emphasize the significance of Protagoras' reliance on the rule of law and his defence of democracy. Democracy is the regime where equality before the law (and through the law) is implemented at its fullest because all citizens are politically equal. Protagoras surely knew that in 5th century Greece there existed forms of *oligarchia isonomôn*, as the Thebans call it in Thucydides: regimes where politics is managed by the aristocrats or the wealthy (who most often coincide) who consider themselves equal before the law.[48] Protagoras would consider this an unmotivated, self-

45 The point I am making here is that what is important about democracy is that it allows all citizens to voice their opinion; it does not matter that not all pieces of advice are of the same value nor that some, or even many citizens, have nothing to contribute: what is important is the principle. Contra, see G. B. Kerferd, *Protagoras' Doctrine of Justice and Virtue in the Protagoras of Plato*, in: *Journal of Hellenic Studies*, 73, 1953, pp. 42–45.

46 Plato, *Resp.* 338c.

47 *Ibid.*, 343c.

48 Thucydides, *Hist.* III,62. To defend themselves from the accusation of siding with the Persians, the Thebans blame their bad regime: "Our constitution then was not an oligarchy in which all the nobles enjoyed equal rights before the law (*oligarchian isonomôn*), nor was it a democracy: power was in the hands of a small group of powerful men (*dynasteia oligôn andrôn*), and this is

proclaimed and therefore arbitrary oligarchy which excludes part of the population from the political decisions; and he would add that such a regime is less efficient and thus less useful to the citizen body. Such a view is shared by Plato, who takes the point but argues that an intellectual aristocracy, an aristocracy of virtue, rules legitimately and is in fact the best form of government, superior to democracy and indeed above the rule of law. For Plato, especially in the *Politicus*, states clearly that the possession of political science enables the true statesman to rule and disregard the law, which is seen as an impediment for its fixity; "the best thing is not that the laws be in power, but that the man who is wise and of kingly nature be ruler" says the Eleatic Stranger.[49] In all Plato's works the rule of law is at the most a second best, inferior to philosophical rule. On the other hand, Aristotle, in his theory of the forms of government, says explicitly that if a political community is lucky enough to have a person whose virtue is incomparably superior to all others' so as to appear "like a god among men", everyone should obey him willingly and gladly. Such extraordinary people are not bound by the laws because they are themselves the law; and to think of ruling over people of such extraordinary virtue is as ridiculous as to think of ruling over Zeus.[50]

Protagoras: the forerunner of sceptical liberalism

I wish to conclude by arguing that Protagoras' position, thus interpreted, can serve as a proper foundation of contemporary liberal democracy. Indeed, his view about democracy and knowledge is very similar to the theoretical foundation of liberalism we find in such contemporary authors as Friedrich von Hayek and Michael Oakeshott. Of course, I am far from arguing that Protagoras was a liberal; the very idea is misconceived. My point is that a liberal foundation of democracy can use the kind of relativism and pragmatic notion of truth I attributed to Protagoras.

In my depiction, Protagoras argued that in politics one cannot invoke and import any notion of "the justice of Zeus" or cosmic justice, because our limitations as human beings prevent us from knowledge of these matters.

the form of government nearest to tyranny and farthest removed from law and the virtues of moderation."

49 See Plato, *Polit.* 294a: cf. 293c–d; at 297c the Eleatic Stranger says that a multitude of people will never be able to acquire political science and rule the city with wisdom: the rule of only one person is the best. Finally, at 300c the Eleatic Stranger states that the person who knows, the real statesman, will do many things with his art and will completely disregard written laws.

50 Aristotle, *Pol.* III,13,1284a4–11; cf. III,17,1288a5–30; VII,3,1325b10. For an interpretation of these statements I wish to refer to G. Giorgini, *Aristotle on the Best Form of Government*, in: S. Farrington (ed.), *Enthousiasmos. Essays in Ancient Philosophy, History and Literature*, Baden-Baden 2019, pp. 121–145.

We must rest content with purely human standards: human values are the result of opinions held, and decisions made, by citizens, which in turn establish political institutions and legal systems and thus create justice in a city. However, Protagoras does not leave the question at that; his legal positivism is tempered by his conviction that observation and experience teach what works best in practical matters, namely which arrangements are most conducive to human flourishing. What has proved to work in practice to secure human flourishing is superior (albeit not truer) to what does not work in this respect: human rights, gender equality, superiority of democracy may only be the opinion of a part of the world ("the West"), but they work in practice because states that adopt them have a better quality of life than those which don't; and people flee the latter and rush into the former. Protagoras believed in the capacity for excellence of every human being and in the educational role of good laws and institutions. These laws and institutions were the result of a collective effort to which the sophist gave his contribution through his peculiar expertise in practical matters.

Protagoras thought that, since it is impossible to agree on an objective truth in morality and politics, the sophist should persuade his audience of the superiority of certain values or of a specific political arrangement. Democracy was the political regime most conducive to that result, for democracy enables all citizens to speak their mind and thus gathers the richest variety of opinions;[51] in democratic assemblies and deliberations all sorts of opinions are voiced because all citizens can contribute, each with their own specific knowledge. Democracy enables this circulation of knowledge and proves superior to all other regimes in thus making effective decisions, because equal opportunity to speak exploits the partial knowledge of each citizen and allows for proper deliberation prior to decision-making. This is one feature that Pericles also singles out in his praise of Athenian democracy:

> We are all involved in either the proper formulation or at least the proper review of policy, thinking that what cripples action is not talk, but rather the failure to talk through the policy before proceeding to the required action (Thucydides, *Hist.* II,40, transl. M. Hammond, Oxford 2009).

I think that in contemporary times this position can be the foundation of a sceptical, liberal vision of democracy.[52] I call this view sceptical because

51 This is a point that even Plato acknowledges in *Resp.* VIII,557c: democracy contains "the greatest variety of individual character".

52 I am obviously not arguing that Protagoras (or Pericles for that matter) was a liberal or a forerunner of liberalism. I am making the opposite point: contemporary political liberalism could use a "tempered relativistic" foundation of its values such as the one provided by Protagoras.

it is founded on a pragmatic notion of truth: it eschews cultural relativism and the notion that the very word "truth" signals cultural imperialism; but, while acknowledging that "truth" in fact exists, it also maintains that "truth" is more of a goal than a once-and-for-all achievement; and that it is a human truth (namely neither divine nor self-evident but requiring a supporting argument). Truth is a progressive notion, in the sense that one truth can be superseded by a better truth, one that works better. For instance, Newton's law of universal gravitation is a truth; however, Einstein's theory of general relativity has improved on it by showing that it applies only to our universe.

I find that a similar position was put forth by two of the most original liberal authors of the 20th century – Michael Oakeshott and Friedrich von Hayek. They are an interesting counterpart to Protagoras – a sophist concerned both with the theoretical and the practical side of politics – because they both wrote during the Cold War and thus their works, though exploring the theoretical foundations of politics, had an inevitable practical import: they both starkly opposed the theory and practice of Soviet Communism. The British philosopher Michael Oakeshott (1901–1990) turned his attention to politics after World War 2 and especially during the years of Clement Attlee's Labour government. Oakeshott opposed the socialist effort to create a perfect society based on "social justice", which he considered an example of "rationalism in politics": the dream of using the mind in a technical manner, as an instrument, disregarding tradition and against authority and prejudice, to create the absolutely best society.[53] To achieve this result, the mind should start from a *tabula rasa*, should be purged of the biases of the era, and should thus design the blueprint of the perfect society. Government is then viewed as a reservoir of power which should be used to reach one target common to all citizens, mobilizing them in a common enterprise such as achieving social justice.[54] Oakeshott, who describes himself as a conservative and a sceptic (a very unusual combination), saps the theoretical foundations of such an enterprise. Through some fanciful examples (such as the attempt by Victorian designers to create a "rational dress" for cycling women), he showed that human reason can never completely abstract from the contingencies of a historical situation; therefore, abstract perfection in politics (as in any other department of human activity) can never be achieved: we should

53 Oakeshott considered the notion of "instrumental mind" the "relic of a belief in magic": M. Oakeshott, *Rational Conduct*, in: *Rationalism in Politics and Other Essays*, Indianapolis 1991, p. 113.

54 "The pursuit of perfection as the crow flies" becomes a lifelong task and human beings become the slaves of an ideal: M. Oakeshott, *The Tower of Babel*, in: *Rationalism in Politics and Other Essays*, pp. 465–487.

rest content with the best according to circumstances.[55] Oakeshott's political stance is based upon his view of the limitations of human reason.

Oakeshott finds that the best political arrangement human beings have so far devised is the rule of law. And, using a Latin expression derived from the Roman law, he calls *societas* every vision of the state based on respect for the rules of conduct agreed upon by the citizens: these consider themselves as *socii*, partners, in the acceptance of certain rules which do not prescribe what to do.[56] He finds this to be the most civilized and least demanding (in terms of constriction) of all conceptions of the state: it was not invented by theoreticians and was instead developed by the Romans and the Normans. Oakeshott emphasizes that a rule is not a command which requires obedience; it rather requires the acceptance of the conditions it prescribes. Historically, the rule of law in England is connected to the development of the common law and provides a traditional, not an abstract, liberty to British citizens. The opposite view of the state is identified as *universitas*, which is an enterprise association where all citizens have a common purpose. Oakeshott is mistrustful about this vision of the state for both theoretical and practical reasons. Theoretically, it relies on an ill-founded notion of reason and on the mistaken view that all knowledge is technical, namely can be expressed in rules and thus taught and learnt. This is the Rationalist's mistake, to neglect traditional or practical knowledge, which cannot be put down in a code and can be learnt only through use and practice. But these theoretical mistakes can have ominous consequences when they constitute the foundation of an actual state. For they imply the imposition of a single vision of the perfect society to all citizens: a private dream is turned into a public way of life. And, Oakeshott grimly adds, "the conjunction of dreaming and ruling generates tyranny".[57]

Perhaps even closer to Protagoras' intellectual and political position is the vision of politics put forth by the Austrian economist Friedrich A. von Hayek (1899–1992). Already when he was working in Vienna in the early 1920s, Hayek conceived of a model of the human mind whose functioning is explained through abstract, meta-conscious norms which are the result of past experiences. He then published these ideas in his *The Sensory Order* (1952), a work that investigates the relation between sensory perception and

55 See M. Oakeshott, *Rational Conduct*, pp. 99–131.

56 M. Oakeshott, *On Human Conduct*, Oxford 1975. A similar dichotomy is put forth in M. Oakeshott, *The Politics of Faith and the Politics of Scepticism*, ed. by T. Fuller, New York – London 1996; see also M. Oakeshott, *Morality and Politics in Modern Europe*, ed. by S. R. Letwin, New Haven – London 1993.

57 M. Oakeshott, *On Being Conservative*, in: *Rationalism in Politics and Other Essays*, pp. 407–437.

the activity of the mind.[58] Hayek argued that the order that the mind confers on sensory experience is due to norms which are not innate or natural but are the result of a long selection process. There exists a spontaneous order in our mind, which results from certain regularities in our behaviour. Our mind is the product of cultural evolution, of civilization, because our mind does not itself produce the norms. It follows that rational, conscious processes are only a minimal part of our mental activity, on which we cannot therefore exercise deliberate control. Consequently, human beings conform their behaviour to norms which are not explicit. We elaborate competing models of behaviour and we select those whose outcomes have proved to be positive. Our actions are guided by rules which are often not explicit and therefore – Hayek concludes – the central fact of our lives is our inevitable ignorance.

From this view of the human mind Hayek derives a political conclusion: no mind, no human being and therefore no deliberate activity can take into account all particular facts: knowledge is dispersed and individual. We may centralize power, but we cannot centralize knowledge. Hayek accordingly labels as "constructivism" the use, or rather "the abuse of reason", namely the belief that it is possible to have total control of a society: this has been "the fatal conceit" of both socialism and national-socialism.[59] This is the myth of social engineering, the belief that it is possible to design a perfect society from scratch using the human mind as a tool. Our inevitable ignorance prevents us from being able to achieve such a result. In addition, Hayek finds the notion of *homo oeconomicus* a caricature, because it presupposes that human beings behave rationally, whereas experience shows that they are lazy and improvident; only natural necessity forces them to evaluate means and ends. All dreams of central planning and totalitarian society are thus shattered.[60]

This is the reason why individual freedom is so important and to be cherished – it is essential to accommodate the unpredictable and the unfathomable.[61] Individual freedom rests on the inevitable ignorance of every one of us concerning the factors on which our happiness and the achievement of our goals rest. To collectivism and centrally planned economy Hayek opposed the vision of a society based on the free market and the rule of law. The superiority of the free market results from its being the closest approximation to the functioning of our mind. The free market exploits the dispersed knowl-

58 F. A. von Hayek, *The Sensory Order*, Chicago 1952.
59 F. A. von Hayek, *The Counter-Revolution of Science*, Glencoe 1952; see also *id.*, *The Fatal Conceit* ed. by W. W. Bartley, III, Chicago 1988.
60 See F. A. von Hayek, *The Constitution of Liberty*, Chicago 1960.
61 On this topic J. N. Gray, *Hayek on Liberty*, London 1984, is still very useful

edge in society and selects behaviours, rewarding useful ones and punishing the disadvantageous. There exists a spontaneous order in the free market, which results from the actions of individuals who did not deliberately pursue it. Similarly, Hayek argued that the emergence of certain formations such as the state, money, language is not the result of a deliberate design. The rule of law is also the result of a spontaneous order: it is a way of conceiving government as the enforcement of a set of rules agreed upon by citizens; it welcomes subsequent improvements to a traditional body of laws, drawing on new additions to the general knowledge of a society. In his later work *Law, Legislation, and Liberty* (1973–1979) Hayek elaborated two great antitheses, drawing on Greek political vocabulary. He called spontaneous order *kosmos*, and *nomocracy* any form of government based on respect for rules of conduct (*nomoi*) which are abstract and negative, without a substantial purpose but with underlying values; on the other hand, he labelled *taxis* a constituted order, and *teleocracy* a regime based on the pursuit of one common purpose (*telos*).[62]

Hayek was persuaded of the fundamental value of individual freedom in our human circumstances. Only if there existed omniscient beings, if we could know not only what affects the satisfaction of our current desires but also our future needs and aspirations, would we have little use of our freedom. The rationalist and the central planner want to use reason to achieve control and predictability; but the very progress of reason, and of society, is based on freedom and the unpredictability of human action. Hayek found in David Hume and Adam Smith his most congenial authors; I am inclined to think that he would have been intrigued by the political consequences of Protagoras' thought.

62 F. A. von Hayek, *Law, Legislation, and Liberty*, I–III, Chicago 1973–1979. On the opposition between *kosmos* and *taxis* and the origin of the dichotomy *nomocracy/teleocracy* see the excellent work by R. Cubeddu, *Leoni and Hayek on Nomos and Physis*, in: *Il Politico*, 85, 2020, pp. 58–95.