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THE “CLEAN HANDS” (*MANI PULITE*) INQUIRY ON CORRUPTION AND ITS EFFECTS ON THE ITALIAN POLITICAL SYSTEM

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Abstract: *The article offers a survey of the main effects of judicial inquiry on corruption in Italy (the “mani pulite” inquiry) and scandals on the political and party system. Some data on the evolution and achievements of the inquiry mani pulite are briefly offered, then focusing on the political consequences of the scandal in terms of delegitimization and consequent crisis of leading political figures, parties, and the political system as a whole. There is then a brief focus on the “lesson” of mani pulite – what did not work in political, institutional and societal mechanisms that should have provided a shelter against systemic corruption. Finally, the main long-term drawbacks of the judicial inquiry are analysed, e.g. the political career of the media tycoon Berlusconi, who was himself prosecuted for corruption crimes, with a dramatic increase of the institutional conflict between the political and the judicial power.*

Keywords: *Corruption; Parties, Italian Political System; “Mani Pulite” Inquiry; Scandal.*

Resumo: *O presente artigo apresenta um levantamento dos principais efeitos do inquérito judicial sobre a corrupção na Itália (especificamente a “Operação Mãos Limpas”) e os escândalos no sistema político e partidário do país. Alguns dados sobre a evolução e os alcances da Operação Mãos Limpas são brevemente expostos. Foca-se a atenção nas consequências políticas de tal escândalo em termos de deslegitimação e a consequente crise de liderança das figuras políticas, dos partidos e do sistema político como um todo. Assim, é uma exposição breve sobre as “lições” da Operação Mãos Limpas – o que não funcionou nos mecanismos políticos, institucionais e sociais que deveriam ter evitado a instauração da corrupção sistêmica. Finalmente, são analisadas, no longo prazo, as principais desvantagens desta investigação judicial como, por exemplo, a carreira política do midiático Berlusconi, ele mesmo processado por crimes de corrupção, incrementando dramaticamente o conflito institucional entre o poder político e o poder judiciário.*

Palavras-chave: *Corrupção; Partidos; Sistema Político Italiano; Operação Mãos Limpas; Escândalos.*

1. The systemic nature of political corruption became the main issue in the public debate in Italy short afterwards 17 February 1992, when the arrest of the socialist manager of a public hospice Mario Chiesa while taking a bribe from a small cleaning company started the so called “clean hands” (*mani pulite*) judicial inquiry in Milan. After a couple of months of imprisonment Chiesa

started to cooperate with judges, generating a snowball effect which quickly expanded investigations into the whole country, spreading also the celebration of the leading prosecutor (Antonio Di Pietro) and the pool of magistrates who soon supported him as popular heroes . In the following three years, five former prime ministers, more than five hundred members of Parliament, several thousand local politicians, party leaders, bureaucrats, public manager, entrepreneurs, professionals, the customs service (responsible for investigating financial crimes in general), the main publicly-owned companies and even sectors of the magistracy itself, became involved in the *mani pulite* inquiry (TRAVAGLIO, BARBACETTO, GOMEZ, 2012). An idea of the size of the investigation can be gathered from the statistics for corruption accusations: between 1984 and 1991 in Italy the average ran at 252 cases a year involving 365 individuals; between 1992 and 1995 it increased to 1,095 cases involving 2,085 individuals. In the last of these years 1,065 accusations were made involving 2,731 persons. Only the Public Persecutor of Milan have, between 1992 and October 1996, produced 2,319 demands for formal charge related with corruption crimes (PROCURA DI MILANO, 1996; DELLA PORTA, VANNUCCI, 1999).

2. The “clean hands” investigation brought about the most serious political crisis in the history of the Italian Republic. In a matter of months, the magistracy had opened a breach on a scene of corruption and political illegality involving the entire political class of the country and broad sectors of its business community. The equilibrium that had long characterised Italian politics collapsed, bringing to a transition towards what has been disputably defined as a “second Republic”. In fact, after 45 years of uninterrupted government the country’s largest single party, the Cristian Democrats, was cancelled along with its leaders, accompanied by the other parties of the ruling coalition, the Socialist Party included. Most leading political figures were forced to resign or go into exile; the major parties disappeared or underwent

radical transformation; new parties emerged on the scene occupying the political space left by the old, and formerly marginalized parties (e.g. post-fascist Alleanza Nazionale, xenophobic Lega Nord; post-communist Rifondazione comunista) entered into competing coalitions (DELLA PORTA, VANNUCCI, 2007b; VANNUCCI, 2009).

The corruption scandal and the consequent delegitimization of the political elite provoked a crisis and a drastic transformation of the party system, with the emergence of effective alternation in government of competing coalitions, characterised also by an informal, almost-direct electoral investiture of the Prime Minister; the emergence of new primary political actors, mainly the entrepreneur and media tycoon Silvio Berlusconi and his Forza Italia party as undisputed leader of the centre-right coalition. Quite paradoxically, the issue that acted as detonator of the crisis – evidence of a systemic corruption – quickly faded as an issue on the public agenda (DELLA PORTA, VANNUCCI, 1999b): in the public opinion's disinterest, the first comprehensive anti-corruption law (n.190) passed only in 2012. Nor the involvement of the three-times Prime Minister, Silvio Berlusconi, in several corruption scandals since 1994 and his conviction for fiscal fraud in 2014 resulted in any significant discussion of reforms designed to combat corruption (DELLA PORTA, VANNUCCI, 2007a). On the contrary, Berlusconi's involvement in corruption inquiries has worsened since the beginning of his political career, in 1994, a condition of institutional friction between the political and judicial branches of the State. Since the entering of Berlusconi into the political arena, in fact, the asserted need for a profound reform of the administration of justice to reduce the allegedly arbitrary power of judges, who were claimed in Berlusconi's political discourse to be politically biased and without any electoral legitimation, has become a central issue on the political agenda. Since then, when judges and politicians started to compete in the public sphere, the first aiming at a general recognition and

legitimization of their role as guarantor of the “control of public virtue”, the latter worried for the risks of judicial prosecution due to the systemic nature of illegal activities in the political system, a cleavage emerged between political and judicial institutions that could not be easily mended (PIZZORNO, 1998).

3. Thanks to the evidence generated by judicial inquiries Italy can be taken as a paradigmatic case of the failure of institutional mechanisms, policies and countermeasures to limit the diffusion of systemic corruption in an advanced democracy. Political competition has proved to be largely ineffective. On the contrary, corruption has been often justified in the public debate as necessary means for parties and political actors to satisfy their need for financial resources (the alleged “cost of democracy”). Moreover, apart from the most acute phase of the scandal, effects of corruption revelations on electoral choices has been quite limited, in certain cases (Berlusconi, for instance) almost nil: in fact, bribe money is normally re-invested into political competition and in the operation of clientelistic machines, therefore neutralizing the potential loss of consent for politicians involved in judicial inquiries (SBERNA, VANNUCCI, 2013). Finally, in Italy corruption – as shown by *mani pulite* and confirmed in subsequent investigations – generally involves together a plurality of political actors belonging to both ruling and opposition parties, at both central and local levels, extending into this hidden arena consociational practices which cancelled the potential denounce of political opponents (PIZZORNO, 1993).

The rule of law and its framework of legal counterweights, administrative and judicial controls, has also proved to be ineffective – with the partial and momentary exception of the *mani pulite* inquiries themselves. Severe obstructions to judges’ activity were introduced in several “ad personam” laws, aimed at shielding Berlusconi from certain charges, but ultimately generating an increase of the potential impunity for all white-collar

criminals. Moreover, the over-regulated Italian administrative system has produced a parallel multiplication and overlap of formal monitoring mechanisms, which sometimes has merely increased the number and the size of bribes that have had to be paid in order to avoid controls.

Civil society did not act as an effective check on the spread of political and administrative illegality, as soon as the widespread popular support given to the judges' actions in the early years after 1992 vanished (DAVIGO, 1998). Nor did market competition offer a significant resilience against the practice of corruption: no denounce came from entrepreneurs and their associations, which on the contrary often exploited their political connections and protections to obtain contracts, concessions, privileges.

4. To conclude, the “*mani pulite*” inquiries can be considered as an extraordinary success in the short term, but a failure in the longer time horizon. Judicial inquiries - even when they are successful in the prosecution of crimes - can in fact expose and sanction illegal activities and white-collars crimes, but they cannot remove the deep-rooted causes of corruption. Lack of transparency and accountability in politics and bureaucracy, weak social and political control over the exercise of power, wrong and immoral mechanisms of selection of the political elite; a legacy of systemic corruption with its enduring, non-written rules: these and other well-established factors of corruption cannot be eradicated by judges. Judicial inquiries can only scratch the surface of illegality, they can hardly modify the invisible structure of non-written norms, expectations and values which rules in the realm of systemic corruption. When a significant quote of the members of the elite have developed a long-lasting belief that corruption is the “normal way things have to be done”, corrupt activities – in spite of their dramatic collective consequences – acquire a strong resilience to investigations and scandals. Paradoxically, they can even find some sort of “cultural” justification, since

bribes can be useful to one’s political party, enterprise, family or clan, and this becomes the ultimate self-excuse for the participation to illegal practices.

Even worse, in Italy corrupt politicians, public servants and entrepreneurs have learnt the lesson of *mani pulite*, developing more sophisticated skills and technics to practice corruption with higher probability of impunity, for instance dissimulating bribe payment, or multiplying conflicts of interests, i.e. a dangerous overlapping between public decision-makers and their private entrepreneurial interests (DELLA PORTA, VANNUCCI, 2012; VANNUCCI, 2012). The overemphasis on the role of magistrates, to whom civil society after 1992 delegated the task of renewing and “purifying” the political class, turned out to be a boomerang, generating an escalation of institutional tensions between political powers – especially the coalition headed by Silvio Berlusconi – and the judiciary (PIZZORNO, 1998). Its social legacy has been the delegitimization of public institutions and authorities and a deep-rooted pessimism concerning the integrity of political and economic elites; as well as a strengthening of the widespread public and political tolerance of illegal practices. Another drawback of *mani pulite* is the stronger “sense of impunity” among participants to illicit deals, due to the long-term ineffectiveness of prosecution when the change of political climate and specific measures – letting hundreds of defendants to get away thanks to a more favourable statute of limitations regime. The capability to assure convictions of those – especially the most powerful – whose involvement in corruption has been demonstrated is essential for at least a couple of reasons. Because it rises the perception of a penal risk in the practice of corruption among those involved, reducing the incentives to participate in it. And because it has a very strong symbolic effect, showing that “the law is equal for anyone”, therefore increasing a popular confidence towards public institutions otherwise hindered by corruption itself. In Italy such conditions were not met. The economic heritage has been a blurring of the boundaries between the

market and state activities: as an alleged (and ineffective) remedy against corruption in Italy the public sphere weakened by privatization, the emergence of mixed public/private arrangements in the delivery of public services, especially at local level; the intensive delegation to private actors of public functions: a multiplication of conflicts of interest due to the political careers of entrepreneurs, and the entrepreneurial vocations of politicians – factors which have made corruption more difficult to prevent, detect and punish.

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