

The authoritarian approach of megaprojects versus democracy: the international people's court defends the right of participation

Alessandra Algostino

Dipartimento di Giurisprudenza, Università degli studi di Torino, Italy

Abstract. This paper proposes a reflection on the current model used to conduct infrastructural Megaprojects, which is recurrently applied at global level and – in the name of economic interests that are private, although purporting to be general – clashes with the proper horizon of Democracy. The key elements of this model deal with the defence of fundamental human rights in the design and construction of Megaprojects, which are highlighted by analyzing the sentence of the Permanent People's Tribunal (PPT), emitted on November 2015, in reply to the appeal promoted by the popular movement opposing the construction of a high-speed rail in Valsusa (Piedmont – Italy). Two issues emerge in particular: the denial of public spaces for participation and the criminalization of protest..

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Corresponding Author: Alessandra Algostino, Italy.

E.mail: alessandra.algostino@unito.it

“People protesting against the high-speed trains in Valsusa, as against the *Notre Dame Des Landes* airport or other projects, should be considered like “sentinels sounding the alarm” observing rights violations that could greatly affect society and environment”.

“All that has been highlighted, seems to demonstrate the existence of a consolidated behaviour model in the management of the territory and social dynamics each time one finds himself in a scenery of approval and realization of infrastructural Megaprojects: governments are at the service of great financial, national and transnational economic interests”.

These are two key passages of the sentence emitted by the International People’s Court (TPP), in the recent session devoted to the “Fundamental rights to participate of local communities and Mega Projects. From TAV to global reality”, held in Turin and Almese (Northern Italy) on November 5-8th 2015.^{1,2}

The TPP is a judgement tribunal, connected with the Lelio Basso International Foundation for the rights and freedom of people, heir of Russell I and Russell II tribunals (the first instituted in relation with the USA crimes committed during the Vietnam War; the second, on repression in South America). It is not an empowered jurisdictional agency, but its moral authority along with the authoritativeness of its members makes its sentences highly noteworthy.

The aim of the Tribunal is to intervene in case of systematic violations of human and people’s rights, which do not receive appropriate institutional answers from the single countries or from the international community, thereby granting a space for denouncing, documenting and judging, giving voice to a community that risks not being listened to, and visibility to

contexts and situations that are hidden.

Through its activities, as the TPP itself points out, more and more frequently the Tribunal has to confront with the impact of economics, or rather with “the implications of the inverted hierarchy between human and economic rights”. Among many cases dealt with, we can recall the previous TPP sessions on transnational enterprises and the rights of the populations in Colombia (2001-2008), on the politics of the European Union in Latin America (2006-2010) or on the impact of the *North American Free Trade Agreement* (NAFTA) in Mexico (2011-2014).

This session on Megaprojects originates from the appeal of the *Valsusa Counter-observatory* (*Controsservatorio Valsusa*) supported by numerous mayors in the Valsusa territory, but more largely it concerns the connection between Megaprojects and fundamental rights, as well as between Democracy, rights and economy. The Court hears testimonies of academics, experts, activists and public administrators, and collects documents relating with the local movement (No-Tav) against high-speed trains. Furthermore, it extends the investigation to other cases related with Megaprojects, which encounter increasing opposition from the involved populations. Most of these cases take place in Italy: the *Mose* (*Experimental Electromechanical Module*) barrier in Venice; the No-Tav movement again in Florence; the invasive MUOS (*Mobile User Objective System*), a military radar station in Niscemi-Sicily; the solar power thermodynamic plant in Basilicata; the oil drilling projects spread over the Italian territory; the bridge over the Channel of Sicily; the Orte-Mestre motorway; the marble quarries in the Apuan Alps. The cases heard can also be European, like the *Notre Dame des Landes* airport in France, the opposition to high-speed trains in France, Pays Basques, United Kingdom and Germany and the mine of Rosia Montana in Romania. The final analysis includes a general overview and report on the strategies of Megaprojects at a global level (with particular attention to Mexico and Latin America).

The TPP identifies an “anti-model” in the elaboration and management of Megaprojects, involving the question of the connection between general interest and particular interest together with the effectiveness of Democracy.

Megaprojects are characterised by a typical scheme of reference for the way they proceed, because the interests are the same and pretend

¹ The Acts of the Session and the sentence have been collected in Livio Pepino (ed.), *Il Tribunale permanente dei popoli. Le grandi opere e la Valsusa*, Intra Moenia, Napoli, 2016. They are also available on the website of the Controsservatorio Valsusa, <http://controsservatoriovalsusa.org/>, where one can also find the videos of all the speeches, witnesses, and the sentence pronouncement (the latter is also available on the website of the TPP, <http://tribunalepermanentedepopoli.fondazionebaso.it/>).

² See also the website of *Useless Imposed Mega-Projects*, <http://www.presidioeuropa.net/>

that they can advocate to themselves the democratic procedures, closing spaces for political participation and limiting the exercise of rights: in short, profit against people through the manipulation of democracy.

The case of opposition to high-speed trains (No-Tav) in Valsusa can be taken as an example, emblematic of the “diffused method of intervention towards the big question of territorial and environmental impacts”³. This is founded on the “authoritarian and centralized character of the decisions”, the “exclusion of people and local administrations” or their only apparent involvement, the “insufficient and (sometimes) evident incongruity of information and data provided to support the project”, the “transformation of the political questions inherent to the works into problems of public order demanded to police and magistracy (also using expressed legislative and administrative measures of general character)”. “Police and judiciary interventions excessively severe are interpreted by many as methodologies aimed at disincentive and/or block from the beginning opposition and protest” (quotations from the sentence of TPP, 2015).

For twenty years in Valsusa a pluralist and transversal movement has been growing, which asks that attention be given to its reasons, based on the opinions of experts and scientific studies. The meetings held within the territory have been in the order of hundreds and thousands. The tens of demonstrations periodically held have been crowded and intensely participated (from a thousand to tens of thousands of people). Thousands of citizens have signed public petitions to the European Parliament. The pleas to tribunals have been numerous and the deliberations of local administrative councils recurrent. Yet the answer has always been an attempt to propose a fake dialogue, in the ancient Roman tradition of *Divide et Impera*, creating an Observatory substantially biased in its composition and brief, a massive denigratory campaign by the controlled media, a particular attention towards the participants in the movement by the judiciary apparatus and a militarized territory^{4,5}.

³ Guido Rizzi, Angelo Tartaglia (Eds.), *Il Tav Torino-Lione. Le Bugie e La Realtà*, Intra Moenia, Napoli 2015

⁴ Livio Pepino (Ed.), *Come si reprime un movimento: il caso Tav, analisi e materiali giudiziari*, Intra Moenia, Napoli 2014

⁵ Paolo Mattone (Ed.), *Tav E Valsusa. Diritti Alla Ricerca Di Tutela*, Intra Moenia, Napoli 2014

In the words of the Tribunal, the “trust with citizens is broken”, and so the relationship between politics and society is changed: “the equilibrium between economic reasons and society needs is sacrificed in favour of the first”. The market appears as the undiscussed – and undiscussable – parameter of reference and its needs become *by default* general interest, marginalizing democratic needs, aspirations and rights.

This state of affairs corresponds neither to the original intention of the Italian Constitution nor to constitutional theory, which places people and their rights at the centre of the social order. Thus, as the TPP observes, there is “more respect of general interest in the instances coming from local communities than in the instances coming from politics and private companies”.

This is a “contrast of values: on one side societal values and reasons are posed..., on the other side, values and reasons of economics”.

The construction of Megaprojects creates a challenge for Democracy, in terms of the capacity to grant effective and open participation by everybody (art. 3, Italian Constitution), and the capacity to resist hegemonic tendencies of economic power.

The pluralistic, conflictual but discursive horizon of Democracy does not offer sufficient evidence of resistance and so political-economic *élites* impose their will.

The imposition, in the first place, implies the denial of the right to real participation by citizens and communities, a denial that originates from serious lacks and/or manipulations made by institutions of information available to citizens, and which effectively results in their exclusion from decision-making processes.

Moreover, the enforcement disposition implies the use of various forms of repression of dissent. These are applied through the creation of exceptional conditions, for example, by putting under police control the area involved by the projects, and even worse by the militarization of the territory accompanied by it being put “off limits” to citizens. As a specific example, the worksite near Chiomonte in Valsusa, where a secondary tunnel is being excavated under the Alps, has been defined as a “strategic area of national interest”, its access is forbidden and protected by the army. Likewise, the numerous Prefect ordinances in Valsusa, the huge recourse to penal instruments and security procedures, and a media and press denigratory campaign

(the TPP describes how “media are converted into agents of disinformation, and frequently of contamination”), are “functional” to the interests of the promoters and beneficiaries of the Megaprojects.

The refusal to listen to the voice of the people is accompanied by the criminalization of protest, producing a violation of fundamental civil and political rights such as freedom of opinion, speech, demonstration and movement” (See [1] TPP sentence, 2015).

The Inter-American Court of Human Rights, in a recent sentence about Mapuche population (*Caso Norín Catrimán y otros vs. Chile*, 29 Mayo 2014), ruled that protests and social assertion should not find on the institutional side law enforcements that produce «*un temor razonable en otros miembros de... pueblo involucrados en acciones relacionadas con la protesta social y la reivindicación de sus derechos territoriales o que eventualmente desearan participar en estas*»⁶.

The global strategy followed for the realization of Megaprojects is the same – the TPP claims – that nowadays presides over the conduct of the global crisis, and – I would add – it is emblematic of the *global economic governance*, structured on the basis of a meta-principle: the achievement of profit (of the few, *ça va sans dire*). State institutions remain, but are rendered functional and bent to economic interests.

The effectiveness of Democracy is challenged, which means that its real significance is endangered under the guise of a merely formal Democracy, whose existence is entrenched in institutions more and more distant from the pluralism and conflicts that occur in society. A Democracy without involvement is no more than a simulacrum of true Democracy, as in relation to the independence of democratic political process from economic powers.

The motor roads and the pathways forbidden to free circulation in Val Susa resemble the symbol of a suspended Democracy. The fences protecting the tunnel worksite create the physical counterpart of the closure of the political space for participation in political decision, as well as for the expression of dissent. The TPP, in recognizing the violation of

fundamental right of citizens, asserts that “States have the constitutional duty to protect the rights of their citizens” and must “assure this protection against economic and financial national and transnational lobbies, examining each project according to criteria defined by various international treaties, in particular the Aarhus Convention signed on June 25th 1998. The Aarhus Convention prescribes appropriate and adequate efficient information, effective participation of citizens through all the decisional process and the obligation for competent institutions of taking into account appropriately results deriving from people participation”. In addition, it entrusts to social movements the task of claiming that the right of the voice of the people to be taken into account is granted, “exercising their own rights with the necessary vigour”. In the movements against the Megaprojects, there are citizens who, as single free people, but also within a collective dimension, think, study and act, reminding everybody that alternative ways are possible and trying to construct them, transversally and pluralistically, discussing about Democracy and exercising Democracy. A community of people that make politics, and look ahead *onwards*.^{7,8}

⁶ Translation: “A reasonable fear in the other members of... the people’s movement involved with actions related with social protest and the vindication of their territorial rights or who, in the end, desires to be part of them”.

⁷ Jeremy Brecher, Tim Costello, and Brendan Smith, *Globalization from Below: The Power of Solidarity*, South End Press, Cambridge–Mass. 2000

⁸ Santos Boaventura de Sousa (Ed.), *Democratizing Democracy. Beyond the Liberal Democratic Canon*, Verso, London 2005