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EPILOGUE: THE NEED FOR A NEW AND CRITICAL DEMOCRACY

William J. NOVAK and Stephen W. SAWYER*

The old adage that an object is best defined by its critics rings especially true for neoliberalism. If we agree generally that we are living in a “neoliberal” age (despite confusion and contest over the exact meaning of that term), it is largely thanks to the sophistication of neoliberalism’s adversaries. Wendy Brown has usefully arranged that opposition into two primary critical accounts—a “composite Left” account and a “neo-Marxist” account – to which we can now also add her own “Foucauldian” interpretation.¹ All three critiques have been indispensable in delineating the key practices, debilitating effects and hidden rationalities of our neoliberal era. But in this overabundance of critical reflections on neoliberalism, one key perspective has been conspicuously quiet. *Democratic* critiques of neoliberalism have been comparatively rare and positive *democratic* rejoinders to the social and political ruins of neoliberalism have been rarer. The question thus presents itself—what would an overtly democratic critique of neoliberalism look like and, beyond critique, what would a constructive democratic response to neoliberalism entail?

* This is an expanded version of our previous blog post on the *Law and Political Economy* blog and *Tocqueville21* entitled “The Need for Neodemocracy.” We thank our many colleagues and critics who responded to the post and helped us develop these ideas further for this forum.

While the neoliberal attack on democracy has lately come into clearer focus, this dossier shows that historically speaking the democratic challenge to neoliberalism is of even more recent origin.² Indeed, from the post-war era to the beginning of the 1990s, the opposition between neoliberalism and *democracy* was less salient than the antagonism between neoliberalism and *socialism*. In its earliest instantiations, neoliberalism overtly targeted socialism and central planning rather than democracy as public enemy number one. Indeed, Ludwig von Mises, Milton Friedman, James Buchanan, as well as lesser known neoliberals such as Paul Samuelson, Charles Tiebout, and Vincent Ostrom, explicitly argued that their approach was a means to a new, more promising mode of democratic life.³ Similarly, while many theorists of socialism from Nicos Poulantzas to Louis Althusser remained critical of liberal and other existing forms of democratic practice, they too claimed that, properly understood, the ultimate goal of a renewed socialism was the establishment of a more meaningful form of democratic life beyond liberalism.⁴

Such radically opposed views of democracy yielded an increase in the rhetorical authority of “democracy” amid a further splintering of its meanings and significations. And yet, it would appear that in recent years neither neoliberalism nor socialism has successfully staked their claim over democracy. To the contrary, a new wave of democratic critiques of neoliberalism have been formulated as historians, social scientists and political theorists have sought to rethink democracy outside the historical confines of either liberalism, neoliberalism, or socialism. As Daniel Zamora highlights in his introduction to this forum, a growing number of critics have suggested that at the very least neoliberalism has turned its back on the political and toward an overinvestment in the socio-economic as a sphere of human emancipation. The same, as Axel Honneth has argued, may be argued for twentieth-century socialism as well.⁵ As a result, the question that has emerged in this context is: Is it possible to rebuild a contemporary democracy that does not collapse into the etiolated forms offered by neoliberalism and at the same time upholds the egalitarian ideals cherished by socialism without evacuating the political?

Such a new and critical democratic project necessarily requires a historical diagnosis of the road to neoliberalism.

For ideological reasons bound up in the epic struggle against totalitarianisms both left and right, a bold experiment in hyper-liberalism took root in the wake of the Cold War. Allowing the democratic achievements and aspirations of liberal and social democracy to atrophy, intellectuals and policymakers began an audacious celebration of the unmitigated benefits of economic liberty and private power. A new politics and policy consensus emphasized market expansion and economic growth over social welfare and public well-being, personal rights over collective responsibilities, private interests over public goods, and individual aggrandizement over social equality. So much have neoliberal assumptions captured policymaking and public imagination across the political spectrum of late, that it has become difficult to think beyond its tightly patrolled borders towards a programmatic, philosophically-grounded alternative. Indeed, for many, neoliberalism has grown synonymous with a sacrosanct – natural, neutral, and necessary—twenty-first century capitalism.

The consequences of this neoliberal turn are now everywhere around us. And substantive assessments of deregulation, privatization, and the return of market and constitutional fundamentalism are quickly moving from mixed to dire. Long gone are bumptious celebrations of the end of history. In retrospect, the end of the Cold War looms larger as a historic missed opportunity. Today, intellectual critics are documenting the rampant socio-economic debris left in the wake of neoliberal consensus: climate change; poverty and economic inequality; corporate concentration; big tech surveillance; election manipulation and voter repression; fake news; the aggrandizement of executive and war powers; the revival of virulent forms of racism, group hate, and xenophobia; the return of populist and authoritarian nationalism; mass incarceration; an opioid epidemic; and the rise of new global oligarchy and kleptocracy.

The egregious failures and transparent limitations of neoliberalism have now generated a host of provocative assessments and blueprints for moving on, beyond, and forward. Talented social theorists like David Harvey, Bernarde Harcourt, Wolfgang Streek, and Wendy Brown have skewered the pretensions and exposed the contradictions of neoliberal political economy and mapped some attractive alternatives.⁶ The Law and Political Economy movement has moved some of these concerns from the abstract realm of social theory to

legal action.⁷ On the ground, grassroots protests and social movements like Occupy, Black Lives Matter, the Indignados, and the Umbrella Movement urgently and divergently capture widespread popular aspiration for a post-neoliberal future. And even mainstream political candidates battle furiously to present themselves as the most radical antidote to the neoliberal status quo.

At the heart of this diagnosis then is a social and political problem that awaits a democratic response. But while critiques have been voiced by many, the political and social alternatives to neoliberalism struggle for recognition amid a cacophony of divergent options, from centrist calls for a return to Cold War liberalism to technocratic revivals of Third Way social democracy to defanged, post-totalitarian versions of “socialism light.” To date, a host of new terms have been deployed to capture a democratic critique and to outline a democracy that could exist beyond the ruins of neoliberalism: “post-democracy,” “slow democracy,” “disfigured democracy,” and “anti-democracy,” among others. Such neologisms have gone a long way in highlighting neoliberalism’s destructive force on democracy and proposing alternatives for a new democratic future. While an overinvestment in semantics is neither productive nor inspiring, the task is nonetheless clear: it is insufficient to merely decry neoliberalism’s siege on democracy, there is a need for a concept that captures the ambitions of a new and robust democracy on the other side of neoliberalism.

One starting point in a longer and larger conversation about a democratic future beyond neoliberalism may be found in a deceptively simple term.

NEODEMOCRACY

In coining this phrase—or using it in a new way—we are again not motivated by an over investment in terminology per se. Rather, the goal is to illuminate a path forward, strengthening the collective project of building a comprehensive, thorough-going, philosophical and historical rebuttal and alternative to neoliberalism. In the wake of the celebration and hyperinflation of the exclusively liberal elements in our political-economic inheritance, this novel approach must retrieve the lost promise of the democratic, broadly construed. At the same time, however, the new democracy to be built on the ruins of neoliberalism cannot be the same as the democracy of the twentieth century. It must mobilize new lessons on racial, gender,

environmental, and socio-economic injustice learned through the popular experiments, experiences and engagements of the twenty-first century. Neodemocracy—again as a general concept more than as a specific word—would therefore signify a rejection of the inheritance of neoliberalism and a commitment to re-inventing and re-envisioning a new, critical democratic tradition. Obviously, the full scale and scope of the work-in-progress greatly exceeds the capacities of an epilogue. But it is possible to sketch some of the key ingredients in and implications of a shift away from neoliberalism and toward a neodemocracy.

1. *Substantive Democracy.* First and foremost, neodemocracy involves so much more than the political techniques of suffrage, representation, and elections. No doubt such democratic means and mechanics are important processes in the functioning of modern democracies, but as John Dewey argued long ago “The problem of democracy was seen to be not solved, hardly more than externally touched, by the establishment of universal suffrage and representative government.”⁸ Rather, Deweyan progressives advocated a more substantive and ends-oriented “new” democracy that turned not just on democratic inputs but on substantive democratic policy outputs—the achievement of democratic ends that equitably and effectively secured the people’s actual health, safety, and well-being. No mere paper democracy here—no mere formal or fugitive or phantom democracy. Rather, the proof was in the record of public provisioning and public accomplishments that lifted all people in securing a substantively democratic “way of life.” neodemocracy embraces this progressive vision of democracy as a substantive rather than merely procedural agenda. neodemocracy is fundamentally about the solving of pressing public problems by the public itself, ensuring relative equality as a substantive condition. Political theorist Josh Ober comes close to this positive vision when he defines democracy as involving a substantive ability to control the disposition of things—*i.e.*, the actual capacity to effect change in the public realm for the public good. As opposed to the more conventional conflation of democracy with things like majority rule, this more substantive and capacious democratic vision was intimately bound up with social welfare and equitable governance in all aspects of a collective life democratic. And as W. E. B. Du Bois wisely noted, this kind of substantive democracy

“has not been tried in precisely those activities of life where it is most important.”⁹

2. *Equalitarian Democracy*. Modern democracy was born in revolution against an old regime of monarchy, aristocracy, and baseline social inequality. Consequently, neodemocracy is relentlessly anti-aristocratic, anti-oligarchic, and equalitarian. Contemporary neo-aristocratic ideologies leave many outside the commonwealth, squandering human potential. The new democratic movement, in contrast, must include every human personality in accordance with the ideal of equality through which substantive democracy lives and grows. Neodemocracy is built upon a broad ethic of socio-economic inclusion, anti-discrimination, and non-domination, insisting upon the removal of all barriers to diverse human interaction. Anything less is treason to a truly democratic way of life. Neoliberalism has been far too willing to sacrifice democratic and egalitarian values to formalistic and individualistic renderings of legal and market freedom. The result is unprecedented wealth inequality, divisive social stratification, and the aggrandizement of a new global aristocracy of wealth seemingly bent on eliminating the last historic safeguards of democratic aspiration and popular self-governance. Neodemocracy involves a renewal of the basic democratic commitments to equality over aristocracy and the many over the few. Hannah Arendt understood the collective nature of those commitments, arguing that “we are not born equal,” rather, we only “become equal as members of a group on the strength of our decision to guarantee ourselves mutually equal rights.” neodemocracy renews this fundamental commitment to the ongoing social struggle to make each other more equal.

3. *Critical Democracy*. True to its roots in revolution, neodemocracy must always remain a critical rather than a mere celebratory democracy. No more of the paltry and apologetic formalisms that use the rhetoric of “democracy” to occlude the decidedly undemocratic outcomes of the current neoliberal status quo. Neodemocracy is rooted in the kind of critical and realist anti-formalism that has skewered rhetorics of reaction since the dawn of the modern democratic age. “Cynical acid,” legal realists called it —the need for the ever vigilant and persistent critiques of remarkably resilient and subversive forms of anti-democratic thinking. Neoliberalism is

quintessentially formalist and anti-democratic. Betraying the substantive emancipatory ideals of democratic revolution, neoliberalism has grown too negative (emphasizing a formal, legalistic liberty instead of a positive, substantive commitment to human freedom); too economic (defining freedom in a hedonistic and actuarial calculus and ignoring competing socio-cultural values); too individualistic (failing to recognize the inextricably social, interconnected, and collective nature of modern life); and too static (defending an increasingly unsatisfactory status quo). In the late 19th century, classical liberalism first transformed itself into a reactionary form of *laissez-faire*, liberty-of-contract apologetics. Today, neoliberalism has accomplished something similar. Corporations are “rights-bearing persons,” government and regulation are “the problem not the solution,” the 1% are natural products of increasingly free and competitive global markets, freedom of speech and religion are weaponized defenses for wealth and power, and political oligarchy is but the popular reflection of democratic electoral processes. Neodemocracy calls for a new revolt against such formalistic fictions and a critical assault on virulent forms of anti-democracy.

4. *Public Democracy*. Finally, neodemocracy insists upon the priority of democracy to economy and the triumph of public welfare over private interests. Neodemocracy is rooted in a substantive critique of a neo-classical and neoliberal political economy that has eviscerated the aspiration to democratic regulation in the public interest. In place of the great inversion that has subsumed democratic politics to the priorities of theories of individual right, private efficiency, and economic growth, neodemocracy calls for the reassertion of public priorities, democratic politics, and socio-economic provisioning. Neodemocracy asserts and defends a substantive conception of the democratic public—the *demos*—that is not reducible to atomism or random assemblages of self-aggrandizing interest groups. And it gives this public *demos* priority over private sector privilege. Consequently, neodemocracy both analytically and normatively engages the state as an important appurtenance of democratic possibility. Critical of the idea of “stateless” democracy as well as other forms of facile “anti-statism,” neodemocracy contends that for democratic aspirations to be truly realized in a modern economy and mass society, a certain state capacity is necessary and inevitable. A democratic state

consisting of democratic administration, open magistrature, and popular regulatory power is a key mechanism of a substantive and equalitarian democracy. Neodemocracy inheres in no mere “governmental contrivance,” but democratic statecraft is indispensable to the ultimate purpose of securing the equal well-being of the people—all the people. As Karl Marx once prophesied, “Democracy relates to all other forms of state as its Old Testament.”¹⁰

As the essays in this dossier suggest, neoliberalism has both undermined and run up against the resiliency of the democratic. In this context, it would seem there are two roads forward through our contemporary crises. We can continue down an essentially neoliberal path. There we can expect to find the exacerbation of already staggering wealth inequalities, a dangerous increase in cultural divisions and national, racial and group animosity and the threatening cultivation of a new generation of authoritarian global oligarchs and free market aristocrats. The fracturing of democratic social bonds and the re-emergence of neo-feudal private power will continue to drive an unpredictable and relentless winner-take-all Darwinian struggle for survival and domination in a new Gilded Age.

Or we can turn toward the substantive, equalitarian, critical, and public foundations of the democratic. This new democracy draws on the revolutionary critiques of monarchy, aristocracy, oligarchy and fascism that fashioned the history of democracy over the last three centuries. But it is also vigilant against and critical of the emergence of contemporary sources of oligarchic and aristocratic power whereby the few set themselves above and against the many—special, private, familial interests poised against the people. As the demos only thrives in a spirit of relative socio-economic equality, this neodemocracy must continue to develop the substantive programs and public policies that generate and sustain a vision of a free, equal, tolerant and prosperous body politic. And as historical democracy was born in the revolutionary struggle of the people to constitute themselves as self-governing political agents, neodemocracy must find ways to remove the substantial new obstacles that currently circumscribe the democratic project of self-rule—whereby we all are supposed to have a participatory role in making the rules by which we are all together governed. Democracy, after all, is a history not a concept. And it is far past time for the people as a whole—not a party, not a president,

not a billionaire, not an authoritarian personality—to take charge in the writing of its next all-important chapter. As Jane Addams never hesitated to remind us¹¹, the cure for the current ills of Democracy is more Democracy . . . in a word, we propose, a neodemocracy.

NOTES

- [1] Wendy Brown, *In the Ruins of Neoliberalism: The Rise of Antidemocratic Politics in the West* (New York: Columbia University Press, 2019).
- [2] See the articles by Daniel Zamora, Niklas Olsen, Jacob Jensen and Jenny Andersson, in this issue. For other recent examples, see also Stephen W. Sawyer, “Neoliberalism and the Crisis of Democratic Theory,” *In Search of the Liberal Moment*, Stephen W. Sawyer and Iain Stewart, eds. (New York: Palgrave, 2016); Thomas Biebricher, “Neoliberalism and Democracy,” *Constellations* 22 (2015): 255–266; Sean Irving, “Limiting Democracy and Framing the Economy: Hayek, Schmitt and Ordoliberalism,” *History of European Ideas* 44, 1 (2018): 213–227; Lars Cornelissen, “How Can the People Be Restricted? The Mont Pèlerin Society and the Problem of Democracy, 1947–1998,” *History of European Ideas* 43, 5 (2017).
- [3] For examples of the neoliberal investment in democracy, see Ludwig von Mises chapter on Economic Democracy in *Socialism: An Economic and Sociological Analysis* (Ludwig von Mises Institute: 1981 [1951]). In his new 1982 preface for *Capital and Freedom*, Milton Friedman highlighted that the “call for contributions to the symposium “Capitalism, Socialism and Democracy” issued by the editors of *Commentary* in 1978, which went in part: “The idea that there may be an inescapable connection between capitalism and democracy has recently begun to seem plausible to a number of intellectuals.””(xii); See also James M. Buchanan, *Democracy in Deficit: The Political Legacy of Lord Keynes* (Liberty Fund, 2001) and (with Gordon Tullock) *The Calculus of Consent: Logical Foundations of Constitutional Democracy* (Ann Arbor: University of Michigan Press, 1965).
- [4] Nicos Poulantzas provided a characteristically poignant summary of this problem when he asked: “*how is it possible radically to transform the State in such a manner that the extension and deepening of political freedoms and the institutions of representative democracy (which were also a conquest of the popular masses) are combined with the unfurling of forms of direct democracy and the mushrooming of self-management bodies?*” *State, Power, Socialism*, Patrick Camiller, trans. (Verso: 2014 [1978], 256).
- [5] This is, for example, the ambition of Axel Honneth’s “renewal” of socialism as outlined in his *The Idea of Socialism: Towards a Renewal* (Wiley: 2016). For a democratic response to Honneth, see William Novak, Stephen W. Sawyer and James Sparrow, “Social Freedom, Democracy and the Political: Three Reflections on Axel Honneth’s Idea of Socialism” *The Tocqueville Review/La Revue Tocqueville*, Spring 2019.

- [6] David Harvey, *A Brief History of Neoliberalism* (New York: Oxford University Press, 2005); Axel Honneth, *The Idea of Socialism* (Cambridge: Polity Press, 2017); Wendy Brown, *Undoing the Demos: Neoliberalism's Stealth Revolution* (Brooklyn: Zone Books, 2015).
- [7] David Singh Grewal and Jedediah Purdy, "Law and Neoliberalism," *Law and Contemporary Problems*, 77 (2016): 1-23; Jedediah Purdy, David Singh Grewal, Amy Kapczynski, and K. Sabeel Rahman, "Building a Law-and-Political-Economy Framework: Beyond the Twentieth-Century Synthesis," *Yale Law Journal*, 129 (2020): 1784-1835.
- [8] John Dewey, "Liberalism and Social Action," in Jo Ann Boydston, ed., *John Dewey: The Later Works, 1925- 1953*, vol.11 (Carbondale: University of Southern Illinois Press, 1987), 1-65, 25.
- [9] W. E. B. Du Bois, "Letter to Harry W. Laidler, December 9, 1925," W. E. B. Du Bois Papers, University of Massachusetts, Amherst.
- [10] Karl Marx, "Critique of Hegel's Doctrine of State," in *Karl Marx: Early Writings*, trans. Rodney Livingstone and Gregor Benton (New York: Vintage, 1975), 86-88.
- [11] Jane Addams, "Problems of Municipal Administration," *American Journal of Sociology*, 10 (1905), 425-444, 444.

ABSTRACT

Democratic critiques of neoliberalism have been comparatively rare, and positive *democratic* rejoinders to the social and political ruins of neoliberalism have been rarer. The question thus presents itself – what would an overtly democratic critique of neoliberalism look like and, beyond critique, what would a constructive democratic response to neoliberalism entail?