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(eds.)

CONSTITUTIONAL  
DEMOCRACY  
AND THE  
CHALLENGES OF  
ANTI-LIBERALISM

*Lessons from Experience*



# Constitutional Democracy and the Challenges of Anti-Liberalism

*Lessons from Experience*

EDITED BY

MARTA POSTIGO – GABRIELLA SILVESTRINI – MAURO SIMONAZZI



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# POLIDEMOS

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# Introduction. Liberalism, Anti-Liberalism and Beyond

GABRIELLA SILVESTRINI, MARTA POSTIGO, MAURO SIMONAZZI<sup>1</sup>

[...] a theory is all the more empirical the more it is construed inductively, thereby incorporating what is learned from experience. Conversely, a theory is less and less empirical, and, ultimately, nonempirical, the more it disregards experience and is constructed deductively  
(Sartori, 1987, p. 17)

## *Liberalism and democracy: a mistaken marriage?*

One of the most important lessons from experience we have learned in the recent decades is the acceleration of changes in international politics, internal regimes and in academic research. Climate change, the COVID pandemic and Russia's

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invasion of Ukraine have completely overturned previous narratives of globalization and the world (dis)order.

In the second half of the 20<sup>th</sup> century, studies of the processes of democratization mainly focused on the transition from autocratic to democratic regimes. Even the most realist political scientist in this field, Samuel Huntington, despite his cautions and his warning about a likely “third reverse”, believed that “Time is on the side of democracy” (Huntington, 1991, p. 33; 1993, p. 316).

Today we are no longer reflecting on the end of history (Fukuyama, 1989), nor even on the crisis, the “malaise” of democracy, but on its end, its death. As it has been appropriately noted, a new strand of “thanatological” studies has emerged (De Luca, 2019; see also Levitsky and Ziblatt, 2018; Runciman, 2018).

Huntington’s definition of democracy heavily relied on Schumpeter’s definition, including the two main dimensions highlighted by Robert Dahl: contestation and participation (Huntington, 1993; Dahl, 1956). Consequently, Huntington did not even mention the possibility of an ‘illiberal’ democracy because of the intrinsic link between participation and contestation that characterizes “procedural” democracy. One of the most important factors in his theory of the waves and the trend toward democratization was the “experience” (or the lack thereof) of past practices of contestation and participation, even though the former, including political dissent and liberty of expression, remained the most crucial.

Contemporary research on democratization has undergone dramatic changes in the past two decades. The generally ‘optimistic’ view of waves and reversals has been replaced by a more skeptical assessment of bidirectional shifts between ‘autocracy’ and ‘democracy’, categorized into four categories: liberal democracy, electoral democracy, electoral autocracy

and closed autocracy. Time no longer unilaterally favors one side. Instead, we now only observe fluctuations and the figures do not provide reassurance for supporters of liberal democracy. According to the V-Dem dataset, democratizing countries numbered 43 in 2002 and 14 in 2022. There were 13 autocratizing countries in 2002 and 42 in 2022. In 2012, 46 percent of the world's population lived in autocratic regimes, and in 2022 the share increased to 72 percent (V-Dem Institute, Democracy Report 2023). Despite the changes and improvements in empirical research, the concepts of 'illiberal' and 'anti-liberal' remain outside the scope of empirical investigations, as they are not seen as relevant to the development and the decline of democracies (in Coppedge, Edgell, Knutsen, Lindberg, 2022: the concept of "illiberal democracy" is not mentioned, probably because it is not regarded as an operational concept).

The word and the concept of "illiberalism" and "illiberal democracy" have nonetheless entered the current political and academic language, redefining what Tocqueville described as the "tyranny of majority", or the "soft despotism". The illiberal facet of democracy and popular sovereignty has always been the somewhat concealed target of liberal and procedural democracy theorists when critiquing the "classical doctrine of democracy" (Schumpeter, 1942) or the "populist" theory of democracy (Dahl, 1956).

In the academic and political discourse, the concept of "illiberal democracy" was introduced by Faared Zakaria (Zakaria, 1997 and 2003)<sup>2</sup>. Zakaria also relied on the Schumpeterian concept of democracy, but he used it as a warning against the

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<sup>2</sup> For previous but less successful uses of this concept see Raniolo, 2020, p. 3899.

politics of exporting of democracy. As procedural democracy is a competition to win political leadership, the introduction of elections and political competition in highly divided societies is likely to exacerbate existing social, religious or ethnic cleavages, thus producing undemocratic outcomes or even endemic civil wars<sup>3</sup>. Russia, India, Islamic countries, and the United States are the main cases in Zakaria's analysis, which turned out to be very provocative when his article and book were published. He suggested that the establishment of stable democracies is a process that must follow the same historical path that he believed was at work in the history of Western democracy: first, liberal autocratic regimes, and then democratization with the extension of suffrage. Within this paradigm, the best example of a liberal autocracy was Great Britain as opposed to the French model. The latter is presented as an illiberal autocracy that evolved into a democracy unable to become completely liberal, even in the 20<sup>th</sup> century. Hence, seems fair to assume that Zakaria's concept of "illiberal democracy" corresponds to a domesticated version of the well-known "totalitarian democracy" as put forth by Jacob L. Talmon (Talmon, 1952), explicitly quoted in Zakaria's book (Zakaria, 2003, p. 55; see also Raniolo, 2020, pp. 3901-3902). It is possible to suggest that the concept of "illiberal democracy" is an updated version of the "totalitarian democracy", appearing after the decline of the communist specter.

Zakaria's political liberalism seems to be entirely in accordance with those authors who construed a liberal tradition on the opposition between the Anglo-American model and

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<sup>3</sup> These social and political outcomes seem to echo the effects of majoritarian democracy versus consensus democracy, as presented by Lijphart (1984).

the French one. As a result, his position cannot be assimilated to the right-wing anti-liberal tradition that nourished Western political thought, which strongly attacked liberal parliamentarism especially through the 1920s and 1930s.

One of the most important scholars who has criticized Zakaria's main thesis, Marc F. Plattner, argued that, on a theoretical level, the sharp opposition between liberalism and democracy is not well grounded. Liberalism and the theory of human rights imply a strong appeal to a democratic value: the universal equality of human beings. However, his empirical conclusion was later contradicted by experience: "the overall trend, nonetheless, is for more and more countries to become and remain democratic" (Plattner, 1998, p. 180; see also Plattner 1999).

Since Zakaria wrote his book, the rise of anti-liberal politics in constitutional democracies across the world, significantly in Europe, has changed the terms of academic and public debate on democracy and rights. In 2019, Plattner himself revised his argument recognizing that liberalism and democracy "are not inseparably linked" (Plattner, 2019, p. 7). In real-world politics, anti-liberal claims and practices are defended in the name of democracy and even of basic rights. Beyond electoral rhetoric, this challenge is not just theoretical. The rise of anti-liberalism is now a widespread reaction to what are rhetorically presented as the faults of weak democratic regimes that, as the cases of eastern European countries illustrate, were undergoing the various tests of consolidation, both civic and institutional. This has become a pervasive experience across the entire continent, affecting also the most venerable democracies that are not immune to decay. In this regard, questions multiply over the real capacity of the European Union to serve as a bulwark of constitutional and parliamentary democracy.

On the one hand, two significant turning points were represented by Victor Orbán's speeches in 2014 when he explicitly endorsed the construction of an "illiberal state" as a political goal, and in 2018, when he affirmed the possibility of an illiberal democracy. As has often been the case, even with the word and the concept of democracy, a derogatory term has been used in a positive sense by those who were at first intended to be the target of it. On the other hand, constitutional and parliamentary democracy is under pressure because of a variety of phenomena that contribute to the dismantling of the rule of law and the reinforcing of the governmental powers, thus producing a "disintermediation" effect and favoring charismatic leaders in search of a "syntonic" and affective relationship with the masses or the "people". Populism, permanent emergency, as well as, on the opposite side, a government led by economic and technocratic elites which places under tutelage democratically elected parliaments to impose disastrous economic measures, as in the case of Greece and, to a lesser degree, Ireland: these are the opposite trends that are threatening constitutional democracies.

In our book, we offer a contribution to critically rethink not only the illiberal wind blowing on contemporary democracies but also the illiberal and undemocratic side of those liberal theories that, equating democratic procedures with the market economy, prefer to defend inequality at the expense of rights. The complexity that we learn from experience is often at risk of being flattened, as observed in empirical research, on the horizon of the present, and at the same time cannot be captured by normative theories that are often blind to the facts (Rosales, 2014).

*The structure of the book*

This book is divided into two parts. The first one, “Anti-Liberalism: Lessons from Experience?”, illustrates how anti-liberal, illiberal and populist concepts are intertwined and critically discusses the lessons that can be drawn from past experiences. The chapters gathered in this section show that democracy has become a disputed and controversial concept in contemporary politics. A suitable example is the debate concerning the European Union’s (EU) political definition and regime. From different perspectives, the four chapters comprising the first part of the book illustrate how anti-liberalism, illiberalism, and populism could be better understood together as political practices and discursive tools recurring in contemporary consolidated democracies to claim a vision of democracy that undermines liberal-democratic institutions. A good example is the rhetorical exploitation of both man-made and natural catastrophes and disasters to limit parliamentary and liberal-democratic guarantees. This concept is discussed, albeit in different contexts and perspectives, in the first and fourth chapters of the book.

José María Rosales focuses on anti-liberalism as a kind of rhetoric and politics. The author critically reviews the main features of liberalism’s history, reminding us of its multifaceted tradition of legal, political, social and economic thought, and showing that representative government, parliamentary democracy and liberal democracy are interrelated political traditions. The birth of representative democracy reflects the fact that liberalism intermingles with other modern traditions, such as republicanism and parliamentarism, “to produce new institutions, and to generate new intellectual debates”.

Although examples of anti-liberal politics run parallel to the history of liberalism and the formation of liberal democracies through the nineteenth century, historical comparison provides just a limited knowledge to understand why and how anti-liberal policies flourish in today's consolidated European democracies. Although external conditions have changed, anti-liberalism retains similar features in its discourses and practices. As Rosales highlights, historical experience reminds us of the fragility of democracies and "their vital reliance on civic factors".

What could be viewed as a malaise of Eastern Europe has become a recurrent phenomenon throughout the continent. Anti-liberal policies and discourses are no longer exceptional cases to be found in Hungarian and Polish regressive legislations, but a kind of political rhetoric and style that can be detected in many other governments across Europe. Drawing on the emergency measures adopted in response to the COVID-19 pandemic, Rosales' chapter helps readers gain awareness of the fact that anti-liberal and anti-parliamentary practices can take place in consolidated democratic regimes, from within political parties of moderate backgrounds and the same political actors holding representative duties, thus instrumentalizing the constitutional rules.

The extent to which populist politicians and discourses justify illiberal policies is well documented by Tomás Pacheco-Bethencourt. The author ventures to offer a definition of populism that takes a distance from the paradigmatic "ideational perspective" held by authors such as Cas Mudde, Jean-Werner Müller, and Cristóbal Rovira Kaltwasser. Contrary to the so-called ideological approach, Pacheco stresses that "populism is not something a politician *is*, but rather something that a politician *does* that could damage the rule of law". Therefore, populism could be best viewed as a rhetoric and a

set of performative tools that allow politicians to capitalize and even intensify polarization and conflict, undermining liberal democratic institutions and the rule of law. In this sense, Pacheco argues that the demarcation of what a crisis can be, who “the people” and “the elite” might be, “and the varying communication techniques that the politician can use makes populism a kind of political *ethos*”.

Such a “conceptual fluidity allowed by populist rhetoric” proves useful for politicians to justify the necessity for a transition to a post-liberal political system. In Pacheco’s view, illiberal politics is a recourse among politicians using populist rhetoric to control the judiciary and democratic institutions. Such a political *ethos* suits politicians with illiberal agendas “justifying their claims on the need for constitutional or judicial reform by stating that the elitist liberal establishment does not represent the true people”. As a way of illustration, the author focuses on the Polish and the Hungarian rule of law backslidings, which have led to the European Commission’s sanctions backed by the Court of Justice of the European Union.

In the multipolar and globalized world, the European Union (EU) is bound to play a decisive role in the future of liberal democratic values and institutions. The Union’s multi-level political architecture raises, however, key questions for democratic theory. The EU could, indeed, be viewed as a political experiment to analyze how liberal-democratic concepts and institutions can be redefined and rethought to adapt to a multilevel polity.

Marta Postigo explores how the European integration project encourages the reappraisal and redefinition of basic democratic concepts – such as representation, parliamentarism, citizenship, sovereignty, *demos*-cracy – beyond, although not without, the nation-state framework. The author contrasts



three basic approaches to democracy that can be highlighted when dealing with the debates regarding the Union's democratization and political definition: the communitarian, the federal, and the cosmopolitan. These three perspectives reflect different rhetorical uses of democracy, highlighting the extent to which it has become a controversial concept in contemporary European politics. It is in this sense that the EU can be viewed, according to Postigo, as a political experiment and a conceptual laboratory in which democratic concepts are being redefined and reappraised to capture the singularity of the European regime.

Postigo discusses two main versions of what she calls the EU's communitarian approach: the moderate delegative model and the radical populist-nationalist rhetoric. Both have in common the basic role attributed to the *demos* in a democratic regime. Since the EU has not (yet) created a unitary supranational *demos*, there is allegedly no strictly supranational democracy, but a conferral system where Member States, the main sources of democratic sovereignty, legitimacy, and representation within the European political architecture, delegate limited temporal and revocable powers to the supranational institutions. In this regard, Postigo delves into the German Federal Constitutional Court's Lisbon Treaty Ruling and contrasts it with some of the European political groups' programs holding conferral or more radical nationalist populist views. The author concludes her chapter by outlining some of the characteristics of the so-called cosmopolitan approach to the EU, and to test these conceptual innovations that better capture the EU's political singularity as a nonnation-state polity.

The extent to which the EU is able to tackle and curb the anti-liberal forces and dynamics spreading throughout the continent proves decisive for the future of the Union and the

liberal democratic values it embodies. In this regard, the historical experience of the 20<sup>th</sup> century cannot be ignored.

Nevertheless, in a globalized and interdependent world, the rhetorical use of catastrophes and disasters makes it easier for illiberal and populist forces. Javier Gil's chapter explores how the rhetoric of catastrophism serves anti-liberal populist discourses and purposes. The author contrasts two main political strategies: the use of emergencies and catastrophes as rhetorical devices for blaming and discrediting the adversary, and as a complex discursive practice that may lead to radical changes in policies and even in society. It is the latter example that can be particularly pernicious in the hands of anti-liberal politicians who seek to undermine democratic institutions.

As political polarization and extremisms grow in Europe and other continents, catastrophes and emergencies might be exploited as rhetorical tools to undermine the core values and institutions of liberal-democracy. Gil discusses the conceptual history and uses of catastrophism. What appears most relevant are not "the scientific theories and their parallels with Marxist and Schumpeterian socioeconomic doctrines", nor "the global existential scenario after a disaster of extraterrestrial origin", but the political analogy. As the author illustrates, the distinction between natural and anthropogenic disasters has become increasingly blurred and problematized. In fact, natural disasters become both social and political issues.

The political and rhetorical dimensions of sanitary crises and other natural or man-made disasters are common concerns in Rosales' and Gil's chapters. The electoral impact of catastrophes cannot go unnoticed, particularly for those holding positions in government, but also for opponents. Drawing on a rich scholarly literature, Gil explores how disasters im-

pact election outcomes and can also lead to social, legal and political reforms in democratic regimes.

Stable democracies, although often more effective in reacting to disasters than authoritarian and totalitarian regimes, are frequently unprepared for impending catastrophes due to their “endemic short-termism that captures the minds and hearts of voters and politicians and is reinforced by the dynamics of electoral systems”. It should not be ignored that “politicized disasters can eventually become the catalyst for political transformation”, which may be driven by anti-liberal, illiberal and populist politics.

In summary, the chapters in this first section of the book offer insightful reflections that help readers be more aware of the challenges facing contemporary liberal democracies. From different perspectives, Rosales, Pacheco, Postigo and Gil show that anti-liberal, illiberal and populist concepts and politics can be better understood when also viewed as political practices and rhetorical tools – a kind of political *ethos* – available for politicians with illiberal agendas to justify authoritarian shifts and undermine liberal-democratic institutions. The future of liberal democracy appears to be at stake within the EU, where democracy has become a controversial concept, subject to ideologically disputes.

The crisis experienced by liberal democracies has multiple causes, partly stemming from the economic and political transformations brought about by globalization, as well as the new geopolitical configurations of the 21<sup>st</sup> century. However, the weaknesses of contemporary constitutional democracies might also find their origins within neoliberalism. Indeed, the distrust of an expanding electorate, often resulting in appeals for the development of technocratic democracies, and the suspicion that the radicalization of democratic practices could evolve in a populist and demagogic direction have led some

authors to look to conservative theories to limit the power of the people.

This is what the authors of the second part of the book, entitled “Between liberalism and anti-liberalism: which lessons from political theories?”, focus on.

Matilde Ciolli’s essay, for example, aims to uncover the authoritarian, anti-democratic and anti-egalitarian essence of Hayek’s neoliberalism, the most influential author behind the Anglo-American neoliberal turn of the 1980s, showing how the Austrian economist drew heavily upon the conservative tradition, despite his repeated denials. Beginning with an analysis of the postscript to *The Constitution of Liberty*, entitled “Why I am not a Conservative”, Ciolli convincingly shows that Hayek uses concepts from the conservative tradition, particularly those concerning family, property, tradition, religion and inequality, to defend his free-market doctrine against socialist-style economic planning theory. His argument in defense of the distinction between neoliberalism and conservatism relies on the two ideas characterizing neoliberal “true individualism”: the theory of spontaneous order and the distrust of reason, linked to the idea that history proceeds by trial and error rather than via the implementation of rational revolutionary projects. Hayekian anti-constructivism and anti-rationalism thus represent an attempt to limit the potential constitutive power of democracies.

The second essay is complementary to Ciolli’s because it shows how Keynes’ theories were also premised on a distrust of mass democracy and how they were not conceived by their author as an antithesis to neoliberalism. Timponelli notes an often overlooked aspect, namely that “Keynes does not see his policies as distorting markets, but as necessary conditions for the full development of a competitive order that ensures consumer sovereignty”. Keynes believed that the market needed

corrections because some social problems related to poverty, unemployment and inequality could not be solved by the dynamics between private individuals, but these corrections had to be introduced by an intellectual elite and not by the “vast mass of more or less illiterate voters”. One significant constraint of mass democracy was the necessity to align with the electorate’s views to secure their consent. Keynes shared Lippmann’s thesis that liberalism, understood as the doctrine of the limitation of power, also had to defend itself against the democratic power of the masses.

Francisco Bellido takes up the analyses of Schumpeter, probably one of the most important economists of the 20<sup>th</sup> century along with Keynes, who clearly distinguished economic liberalism from political liberalism. According to Schumpeter, capitalism is characterized by a force that is both creative and destructive. The creative aspect of innovation leads to the centralization of wealth and the destruction of previous economic organization, resulting in an ever-increasing number of disgruntled bourgeois. Capitalism will not be defeated by the proletariat, but by its own success, which will lead a large part of the population to adhere to ideologies with values hostile to the capitalist system. It will be mainly the intellectuals, excluded from the productive system because they lack the necessary skills and are envious of the success of entrepreneurs, who will develop the anti-bourgeois ideology that will lead to the gradual growth of anti-capitalism. Moreover, political liberalism encourages the crisis of economic liberalism because it helps to create those spaces of individual and collective freedom that allow organized groups to challenge capitalism. Schumpeter warns of another danger to liberal societies, i.e. nationalism. The crisis of the bourgeoisie and its values, especially those of the family, opens spaces for alternative ideologies, such as socialism and nationalism, which have

in common a critique of individual freedom. Bellido concludes his essay by arguing that Schumpeter identifies the antidotes to the crisis of liberal society in the recovery of traditional family ties, the elaboration of an anti-utilitarian morality in private life that can counter utilitarianism on the economic level, and the defense of political liberalism and individual freedoms with nonutilitarian arguments.

In the final chapter, Zolli offers an analysis of Sheldon Wolin's anti-liberal theory of democracy. The American political philosopher theorizes a radical form of democracy, the essence of which lies in the expansion of participation rather than the limitation of power. From this perspective, constitutionalism is an attempt to harness the power of the people and turn democracy into a mere administration of the present. Democracy is by its very nature "fugitive", reflecting the will of the demos, which is constantly in motion. Through an analysis of the birth of American democracy drawing on the *Federalist Papers*, Wolin argues that it is constituent power, or revolution, and not the constitution, that represents the true democratic moment. Instead, constitutionalism is the response to the revolutionary dimension inherent in democracy. It is the problem that Jefferson summed up in the formula: "every generation has the right to rewrite the constitution", to which Madison had responded with skepticism, believing that a loose constitution would not guarantee social and political order. In other words, Wolin contributed significantly to shaping contemporary democratic thought from an anti-liberal perspective, in the belief that neoliberalism has at its core an authoritarian component that threatens to turn democracy into a form of "inverted totalitarianism".

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**ANTI-LIBERALISM:  
LESSONS FROM EXPERIENCE?**



# Anti-Liberalism: Historical Comparison, Rhetoric, and Politics

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**Abstract.** Anti-liberalism is both a kind of rhetoric and of politics. This chapter presents some of their distinct features. Looking at recent cases in Europe invites a comparison with the past through the early decades of the twentieth century. Similarities and differences can be observed, but as an exploratory method, historical comparisons provide limited knowledge that needs to be enriched with insights into current examples of anti-liberal rhetoric and politics. They no longer come from young, unstable democratic regimes but from consolidated democracies. This significant difference suggests a revision of the standard or traditional view about anti-liberalism.

**Keywords:** anti-liberalism; political rhetoric; emergency rule; European democracies; parliamentarism; populism.

## 1. *Introduction*

For several decades after the end of World War II, European democracies were to a great extent immune to political extremism. In general elections, parties on the limits of the political spectrum received a negligible share of the vote. The tide began to change at the turn of the century, when far right and far left parties emerged as virtual candidates to se-

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cure parliamentary representation and enter governments. They competed on platforms critical of the status quo, which was identified with the institutions, politicians, and performance of representative democracies. Advocating a new type of politics that despised the procedures of representation, arguing that representation was not democracy (which disfigured a constitutional discussion started in eighteenth-century France, then exported to America), they endorsed anti-liberal and anti-parliamentary views and policies.

Some years later, those same features have become mainstream, distinguishing discourses and practices of moderate parties and governments as well. What for some time seemed a malaise of Hungarian and Polish governments, extensible in a lesser degree to the rest of Eastern Europe, has ended by leaving marks on the parliaments and governments of the whole continent, and so some similar effects are observed in countries such as Greece, Italy, France, the Netherlands, Portugal, Spain, Germany, or the Nordic countries.

A salient triggering factor for this move has been the generalized adoption of emergency rule in response to the COVID-19 pandemic. Its sharpest evidence, from March 2020 onward, is documented largely through the downsizing of the role of parliaments and a matching heightening of executives ruling by decree (see a comparative overview in the Covid-19 Civic Freedom Tracker website, <https://www.icnl.org/covid19tracker>). A pitfall such as that can be considered a democratic backsliding, as it deprives decision-making of elemental conditions for democratic deliberation. Furthermore, it tests the capacity of democratic regimes to keep their constitutional orders working and safe.

Against this backdrop, it may be of interest to underline how the upsurge of anti-liberal discourses and politics has run parallel to the history of liberalism since the formation of liberal democracies through the nineteenth century. In constit-

uent and other parliamentary debates held in America and Europe, the advancements and setbacks of liberal views were always produced in opposition to competing ideologies. The broadening of freedoms, one of liberalism's common threads, was seen with reservation by conservative intellectuals and political representatives and deemed a threat to tradition by reactionaries.

Interestingly, afterwards, during the 1920s and 1930s, the social and political consequences of the world financial and economic crisis were roughly interpreted – by scholars, politicians, and journalists – as linked to structural flaws of democratic regimes (a representative example is in part the European coverage of Hobsbawm 1994's praised account of the twentieth century, later persuasively revised by Judt 2005). For decades, this authoritative interpretation upheld the belief that the rise of fascist regimes was a sort of logical sequel to democracies' ungovernability troubles. Parliamentarism was regarded therefore as an ineffectual kind of politics unfit to provide stability and growth.

In this chapter, I will argue that, first, in spite of its interest, the comparison between former and current cases of anti-liberalism strengthens Reinhart Koselleck's skeptical view of the limited learning potential of the notion of *historia magistra vitae*; second, anti-liberalism adopts a rhetoric merging appeals to *true* democracy with anti-parliamentary claims, which places it next to populism and makes it reminiscent of the conceptual and institutional continuity that exists between liberalism, parliamentarism, and democracy; and third, anti-liberal politics is not an external reaction to constitutional democracies; rather, it comes from the same political actors who have representative duties and, in that sense, instrumentalize the constitutional rules of the game in democratic regimes.

Similarities between former and current patterns of anti-liberalism are undeniable, yet there are meaningful differences, since the present cases are found in consolidated democracies whose institutional buffers (sophisticated checks and balances contrasted with those of the past) suggest that they rely on sounder protective resources to withstand the effects of anti-liberalism. All in all, the political consequences of looming democratic backsliding look as uncertain as they appeared a century ago because of their negative impact on political culture, the running of institutions, and the constitutional order of democratic regimes. Before proceeding with the argument, a brief conceptual note is in order.

## *2. Liberalism's plurality*

Liberalism is a multifaceted tradition of legal, moral, political, social, and economic thought and practice. As such, through intellectual debates it develops into immaterial products as idea or concept, ideal, theory, and ideology. This theoretical repertoire in turn inspires experiments with institutions that take shape in constitutional designs discussed and carried out by political representatives. It also provides the grounds for noninstitutional actions, ranging from individual initiatives to collective strategies of social movements, to defend and promote liberal views.

Instead of a single heritage transmitted in terms of a canon, it makes sense to appreciate the historical diversity of a tradition whose intellectual origins date back to the seventeenth-century contributions in natural rights and social contract debates (Rosales, 2013). There were insightful discussions around freedom, but no liberals at that time, intellectuals or politicians, with a clear conscience that they were vindicating

cating liberal views, needless to say a liberal programme of government, against what hindered their growth (customs, norms, material conditions). Those controversies, however, created the appropriate circumstances to turn individual freedoms into enforceable rights, the transit that describes the historical passage from moral argumentation to politics or, more precisely, liberal politics.

Since the second half of the eighteenth century, being the Scottish Enlightenment arguably one of its most creative milieux, liberal ideas propagated in academic circles, such as the philosophical rationale and the legal protection of moral autonomy, rational enquiry to counter dogmatism, or the guarantor role of the state in the economy, spread to public discussions gaining then political relevance. By the end of the century, they crystallize in parliamentary settings into a new language of constitution-making – individual rights thereby providing the foundations for modern constitutional states.

Throughout the nineteenth century, the early liberal language of constitution-making, heralding a political culture rooted in individual rights, fuses with institutional blueprints from the republican and parliamentary traditions to be further tested in institutional experiments in American and European political regimes. Their achievements were successively conceptualized as representative government, parliamentary democracy, and liberal democracy. The three concepts and institutional arrangements are synonyms, each underscoring elements from their respective traditions that became central to the founding of representative democracy.

Thus, the first meant the recasting of government as a representative institution that ended a path of change beginning in the Middle Ages with the enactment of legal constraints on royal power, followed by other constitutionalist conquests in the course of the republican tradition. The second was an up-



shot of the parliamentarization of politics connecting the office of political representation with the principle of political responsibility, thus transforming representation into a politically consequential figure, which marked off modern parliamentarism from its former variants. The third signified the integration into the functioning of political institutions of the principle of publicity and the constitutional protection of civic rights.

The birth of representative democracy fairly illustrates how liberalism intermingles with other traditions (in this case republicanism and parliamentarism) to produce new institutions and to generate new intellectual debates. It was a century-long conflictual undertaking to accommodate tenets and institutional arrangements from the three traditions, and more than complementing each other, their merging resulted in novel institutional formulas in response to theoretical and practical challenges of modern politics. That openness to hybridity and innovation is but a feature of their conceptual malleability. In the case of liberalism, revealed through its plurality of versions, this was also a cause for its contested character. This explains that liberalism is interpreted not just in diverse ways but also in opposite ways. Anti-liberalism, its traits and historical forms, is here a case in point.

### *3. Historical comparisons and their limited learning potential*

Comparing the political atmosphere of European democracies in the early decades of the twentieth and the twenty-first centuries is a most interesting exploratory and historiographical exercise that reveals how tricky, albeit necessary, the uses of historical times become for political analysis. What separates them goes beyond the impression in certain moments

making the belief that a given time can be understood with the hermeneutic clues of another one. This affects both scholarly and nonacademic study and writing, although journalism and popular science enjoy a wider freedom. Arguably, the knowledge most people acquire about politics comes through the media.

Looking back and forth to examine political events and the fortunes of political ideas in the case of anti-liberalism is open to speculation. That is a legitimate license, but the range of speculative hints expands in particular when playing with a cyclical interpretation of history. The propensity to establish interpretive links is enticing, and it is necessary to introduce some rationality in the comparative exploration of the past. Nevertheless, beyond imagined or illusory resemblances and asymmetries (for example, those implying that recent anti-liberalism is simply an updated version of an old pattern), lies the appraising potential of comparisons.

We learn through them to discern the distinct features of events and, likewise, that dissimilar circumstances or conditions may produce similar results. What can be expected? Reasonably, a thoughtful enquiry of causes of political events and a prudent foresight of their consequences. The former belongs to historical research, a different practice from the politics of the past (which is a way of doing politics, not research), whereas the latter, with the interplay of information and prospects, characterizes the practice of economics and politics.

Recent unease about anti-liberal discourses and policies (e.g., because of growing government checks on freedom of expression or dissent, deeper scrutiny over the privacy of individuals, or the overuse of decrees at the expense of regular parliamentary legislation) endorsed by parties and governments of moderate backgrounds, the same ones that only of

late were wholeheartedly opposed to them, invites to compare the ongoing experience of European democracies with their past. A first guess is how difficult it was for those political regimes of the early twentieth century to react from comparatively ill-equipped institutional systems and a public opinion eager for urgent measures.

If currently a settled comparative awareness regarding anti-liberalism is that arbitrary constraints on basic freedoms and rights are not an exclusive policy of dictatorships, in the past, there was no previous knowledge or shared experience to learn to confront its advance. A century ago, the discrediting of parliamentary democracies when facing the challenge of anti-liberalism, staged largely under the guise of fascism and initially aired by revolutionary, anti-systemic parties, was slowly endorsed by moderate parties and governments as an inevitable outcome of or way out to their impotence to keep political stability at curbing the economic crisis and social unrest.

Even though the judgment was distorted, as the political regimes were not wholly responsible for the financial and economic depression nor by themselves, isolatedly, were they able to tackle a worldwide threat, from Italy to Germany, France and Spain, crossing indeed the whole continent, the therapy to such challenge, a promise of strong government, captured the attention of needy voters. It arrived, but at the price of undermining basic liberties and in the long run thwarting economic recovery. A foremost strategy, shortcutting the lengthy parliamentary procedures of democratic decision-making, was met in the 1920s and 1930s by the resistance of still very young and unsteady democratic regimes. The aftermath is widely known.

A century later most European democracies rely on robust constitutional safeguards, and yet, what was unthinkable only some decades ago is happening, apparently as an iteration of a bygone process. At this point Reinhart Koselleck's reserva-

tions about the enlightening capacity of history as “*magistra vitae*”, in Cicero’s words, are justified (Koselleck, 1979, pp. 38-66). Many lessons can be drawn from history, but none of them precludes that comparable or new problems arise, and none of them vaccinates intellectuals against misleading speculations and politicians against irrational engagements and decisions. Underlying either case there is conceivably a moralizing belief in the learning power of history.

In response to anti-liberalism, the design of institutions explains their own endurance up to a point, since by some means, they counterweigh the impact of anti-liberal moves, although not indefinitely. Representative institutions are arranged to fend off the costs of negligent politicians until new elections give electors the chance to replace them. Other factors such as socioeconomic conditions and the political culture play their part as well. Yet, since institutions are not self-regulatory systems, it is at the end the intervention of political actors that makes them work or breakdown.

Certainly, even if external conditions vary, the features of anti-liberalism in discourses and practices retain across time a family air, which makes it possible to recognize them as they share a contempt for what liberalism entails, namely, a bet on the advancement of freedoms that historically has followed a growingly egalitarian and universalist course. Those same features also belong to the ideal of parliamentary democracy in a quite indistinguishable way. Relatedly, Carl Schmitt’s criticism of parliamentary democracy in the Weimar Republic indeed scolded its liberal tenets as much as its parliamentary procedures (Schmitt [1926] 1985). His criticism furthermore conjectured, questioning historical evidence, that democracy and parliamentarism envisaged incompatible aims.

For analytic purposes, it is easy to detect his conceptual ‘confusion’ since his irony toward parliamentary practices

displayed rather deep animosity toward liberal politics. Overall, beneath his contempt for the Weimar Republic's performance in times of crisis was his grasp of the unity of liberal parliamentarism. Successful as his thesis became, dissecting the crisis as twofold, Schmitt's alternative, that is, a plebiscitary notion of democracy, was and is far from presenting a fitting response. Ever since then, the recurrent spawning of flaws in democratic regimes has spontaneously and quite thoughtlessly suggested new crises in sight (see e.g., Schmidt-Gleim, Smilova, and Wiesner, eds., 2022).

Take for instance, Yascha Mounk's book (2018) on the crisis of liberal democracy, where he diagnoses it by pointing to the growing divergence, observable in many constitutional democracies, between their liberal and their democratic components, which is a mechanistic way of approaching it that leaves out other parts of their architecture. It is true that liberal democracies rest on a tension between the liberal safeguard of constitutional protection of individual rights and the democratic decision-making method of majority rule, but the merging of tenets and institutional standards from republicanism, parliamentarism, and liberalism gave rise to a richer type of political regime than that presented as a fusion of elements from two traditions.

As liberalism and democracy are coming apart, argues Mounk, there could be rights and rule of law without democracy but also democracy without rights. Maybe, but not so much. The former has always been the case for constitutional states from the seventeenth until the nineteenth century. Not all of them have later become democratic, even if all acknowledged rights are supported by various rule of law arrangements (for example, England's Bill of Rights of 1689); in addition, rule of law is a condition for democracy, not democracy itself. The latter is a contradiction in terms. A politi-

cal regime that enforces no rights cannot be democratic, although it is possible to detect the downgrading or the loss of rights in democratic regimes.

In this regard, the comparative accounts of democratization, compiled and methodologically perfected since the 1980s by various scholars, research teams, and institutions, point out the many institutional differences that characterize democratic regimes across the world. Synchronically that diversity is perceived by any observer, although for reasons of language economy, or because of the influence of model thinking, mentions in the comparisons are usually made to liberal democracy or representative democracy in singular, as if there were a single model with numerous variants. The comparative knowledge suggests otherwise, even though democratic regimes, diverse as they are, share constitutional tenets and operate through analogous institutions and procedures.

Diachronically, those reports measure the ups and downs of each democratic regime with respect to the democratic benchmarks resulting from that comparative insight. And so, as, for example, the Economist Intelligence Unit's Democracy Indexes make plain, those metrics are dynamic. The classification of political regimes goes from full to flawed democracies, which in early 2023 comprised more than a third of the 167 states examined (almost equaling the entire world population), followed by two other categories, hybrid regimes and authoritarian regimes which together represent more than two-thirds of the world population (Economist Intelligence Unit 2023). Understandably, due to a confluence of evaluative factors, a political regime qualifying as full democracy a given year can remain stable or change its score or rating in the future.

If contrasted with the Economist Intelligence Unit's first Democracy Index (2007) drawn on data from 2006, by 2023 the first two groups, where democratic regimes are classed, have lost approximately ten percent of their members, whereas hybrid regimes have undergone a twenty percent increase and authoritarian regimes, almost a ten percent increase. On the other hand, although if compared with the data of 2021 there appear hopeful signs at the democratization overview, compared with the ranking of 2007, there are signs for concern. Both changes describe through 2022 a general democratic backsliding that is especially acute in countries from Africa, Asia, and Latin America most in need of democratizing improvements. The adoption of anti-liberal policies cracking down on freedoms partly explains this disquieting drift.

#### *4. Anti-liberalism and its rhetoric*

In those countries, anti-liberal policies and political measures are often wielded under the promise of delivering strong government. Democratic government is thus presented as weak (see Rachman, 2022, pp. 16-24). No wonder, young democracies face the endemic challenge of working in precarious conditions. Overcoming their fragility by strengthening their systems of institutions and creating a new political culture is the highest challenge in the path toward democracy. Anti-liberal moves are also imposed with the paradoxical excuse to restore law and order in the case of social unrest or, more frequently, of intolerance to political pluralism. Those reactions are served by a legitimizing rhetoric that plays with the resources of parliamentary democracy precisely to alter their

meaning and purpose, pretending with that theatrical performance some sort of public respectability.

What is more intriguing, is when anti-liberal measures are promoted by political actors of advanced democracies. In the example mentioned in the introduction to the chapter, emergency rule through the COVID-19 pandemic, their rhetoric was quite similar to that used by leaders of authoritarian regimes. The recourse to emergency rule was justified as the last best option left to tackle the spread of the pandemic. Underneath that move were mentions of public health and security.

Furthermore, the comparison also surfaces a significant parallel between the rhetorical styles of anti-liberalism and populism, regardless of the democratic character of the political regimes in question. As is well known, in the scholarly literature, it is frequent to speak of 'illiberalism', although the term falls short of the conceptual accuracy of the term 'anti-liberalism' even if assuming its complex semantics. Anti-liberalism reproduces a rhetoric appealing to genuine democracy, whatever it means, which, in anti-liberal eyes, turns out to be incompatible with representative, parliamentary practices. Populism, under its various forms covering the entire ideological spectrum, is an anti-pluralist reaction that precisely aims to subvert the representative mechanisms of liberal democracy.

Looking at the causes that hinder democratic change surveyed by the Index, one is the instrumentalization, for illegitimate purposes, that democratic politicians inflict on the representative institutions they should honor. There, constraints on freedoms are paradoxically justified in the name of democracy, that is, of a genuine understanding of democracy that aims to protect citizens, among other dangers, from traditional politicians and from representation's supposedly al-



ienating effects. Denying this contradiction (that curbs on freedoms protect them) has become a cliché among anti-liberal and populist leaders. Incidentally, such allergy to reality and zeal for lying is one of the symptoms of posttruth politics (on its antecedents in democratic politics, see Runciman, 2008, pp. 194-226).

Thus, the constitutionalist brakes that restrain the exercise of political power to make it comply with its legal limits, on which the institutions of representative democracy are built, are deemed obstacles to the very realization of the will of the people as the expression of popular sovereignty, which is best embodied by the will of alternative (anti-liberal or populist) leaders. The rhetorical operation is quite rudimentary. Here, the appeal to the will of the people is meant to stand for the *real* will of the *real* people, an essential capacity and an essential political subject that cannot be mediated by any representative device or actor but is addressed and directly personified by anti-liberal or populist politicians alone. Populism's anti-pluralist reactions press on by means of anti-representative rhetoric and politics that can also be fairly identified as anti-liberal.

Abolishing those representative procedures and legal safeguards, the rule of law decays and, with it, the constitutional protection of basic rights. The result, as Mounk further argues, is a controversial blend of what he calls illiberalism and democracy: 'What sets it apart from the kind of liberal democracy to which we are accustomed is not a lack of democracy; it is a lack of respect for independent institutions and individual rights' (Mounk, 2018, p. 10). The judgment's reasonableness remains after replacing the first term with anti-liberalism. As Jan-Werner Müller (2016) contends, choosing the expression 'illiberal democracy' turns misleading since its use allows authoritarian and populist leaders to present themselves as democratic, though not liberal politicians, but dem-

ocratic after all. The expression became popular after the 1990s in Eastern Europe to describe regimes that kept holding elections despite their continuous violations of rule of law tenets (e.g., separation of powers) and the resulting lack of checks and balances as institutional roadblocks.

Hence, not the term itself but what the term means is its most revealing feature (see Sajó, Uitz, and Holmes, eds., 2021). Dispensing with the expression, which is still in use, would make the analysis gain in conceptual accuracy. Underlying its meaning was the upsetting recognition that the many difficulties the new regimes had to face to consolidate their representative, liberal institutions soon became a serious barrier to their full democratization. Among other reasons, because political changes from authoritarian regimes have different timings from those of economic and social changes, even if they are concurrent groups of changes. They further demand of citizens different efforts and sacrifices. Since the political consolidation of democratic ruling proceeds very slowly, it is tempting, although wrong, to attribute to democracy the overall difficulties. Last, as underscored by Madeleine Albright (2018), some of those ‘illiberal’ reactions may display indeed new forms of fascism.

Coming from a former politician and diplomat, Albright’s ruminations are of interest. They focus their attention on the link between form and content in politics. Their detachment makes sense to help discern the real content of political decisions stripped off rhetorical adornments. Yet, the form is what becomes visible when arguing political actions and marks the content’s real tone. Anti-liberal rhetoric fulfils two major tasks in this sense. It creates the delusion of democratic politics without parliamentary procedures. It further presents as non-contradictory the assumption that peace and freedom are not compatible with each other, that a loss of freedom is a fair

price to pay for social peace, and in no lesser degree for economic growth.

However, if in the 1920s and 1930s anti-liberal rhetoric assumed fascist claims and, in many countries, these were brandished by paramilitary groups and political parties popularized by friendly press, that is not the case a century later in Europe. There are extremist groups, violent, but their presence is marginal in party systems. Fascism, indeed, has come to mean many things – Stanley Payne (2021) coined the phrase of ‘anti-fascism without fascism’ – and in some cases it denotes the political options considered detestable or that do not fit in the mold of political correctness.

The cases of Hungary’s and Poland’s governments and parliamentary majorities somehow evoked the pattern of Putin’s Russia, a nonliberal regime close to China’s authoritarian regime that rested on a successful market economy. It is to be seen whether a faulty economy would still help sustain that politics. Social peace, political stability, and economic growth were presented as the main, if not the sole, goals of ruling. Another difference with the past was the fact that in both cases rulers were challenging the European Union and what it represented as an economic club whose contractual relations are underpinned by democratic values.

### *5. Anti-liberalism as politics*

With their decisions, the Hungarian and Polish representatives introduced regressive legislation (Krasztev and Van Til, eds., 2015; Koczanowicz, 2016). So, there was much more than Eurosceptic rhetoric. It was anti-liberal rhetoric and politics. Amending laws and passing norms hindering basic rights proved their determination to roll back liberal reforms of the

previous decades, ranging from freedom of opinion and press freedom to judicial independence and women's rights. De-nounced by the opposition and independent media, they exploited the constitutional rules for the benefit of party anti-liberal interests. Even though the maneuver was largely contested, in successive elections, they kept receiving support – the political opposition increasingly intimidated and cornered. It was an added irony that the political leaders lived on respectable democratic credentials earned as dissidents and over the transition years.

Some months after the first major political changes took place in Eastern Europe since the spring of 1989, Ralf Dahrendorf (1990) published a reflection on the expectations they raised. His is a scholarly contribution, heterodox in the transitology literature, that has healthily stood the test of time keeping its evocative lucidity. Distilling accumulated knowledge from comparative democratization, in a letter written in the footsteps of Burke's 1790 on the French Revolution, he distinguished three groups of changes that would be involved in the transition process. Each one described its own timeline. A series of early legal changes to both repeal the ban on political pluralism and authorize the calling of elections leading to constituent parliaments were reachable in a matter of months. This first group of changes paved the way for the rest, which proceeded at a lengthier pace.

Overhauling the economic model, usually departing from centrally planned toward market economy, took longer, although the normative regulations needed should soon enter the agendas of transition parliaments and governments. The change would take years but looked reasonably feasible if the right policies were adopted and the new political regimes were not left alone in such a complex endeavour of economic restructuring. International cooperation was vital to grant the

new regimes external recognition, but this proved of little avail if the economic hardships were seen by citizens as a consequence of democratization. As illustrated by the Polish case (Balcerowicz, 1995, pp. 340-369), the imminent risk was that lessening civic support would lead to a legitimacy crisis. Therefore, political intelligence was crucial to explain to citizens how political and economic reforms, even if interconnected, relied on different causality chains.

The farthest-reaching goal concerned civic changes. Dahrendorf metaphorically said that those changes would take some sixty years. They would clearly engage several generations of citizens over several decades. What was at stake? Clearly, the cohesion of the changes into liberal regimes. Drawing on Dahrendorf's reasoning, it is possible to guess that, on the one hand, they had to assume the re-education of representatives, most of whom bore political responsibilities in the previous regimes, namely, in dictatorships. This was not an easy challenge, as it directly touched upon the new legality but one that infused political expectations with a dose of realism. On the other hand, long-term changes should rely on an intergenerational learning of democratic habits and a shared commitment to weave the fabric of a new political culture which was probably the most difficult achievement of the whole process.

Electoral victories of the Law and Justice party in Poland since 2005 and of the Fidesz–Hungarian Civic Alliance since 2010 have given both parties a wide support, legitimation, but their divisive methods and reactionary measures question their legitimacy. Poland's and Hungary's leaders went ahead with them, knowing the slowness and leniency of the European Commission's disciplinary procedures and their poor impact on national politics.

Seen in perspective, one of the lessons that can be drawn from their experience concerns the political timing of democratic consolidation: how lengthy it is and how complex it becomes because of the diversity of changes it comprises and by engaging political actors from various generations with dissimilar expectations about their democracy. All historical cases have described irregular paths, none of them linear, and this spells out, among other factors, that the temporalities of political changes, vertiginous in the early moments, stretch soon afterwards.

Another lesson to be considered is much older and common to all democracies. It has to do with their fragility if compared to authoritarian regimes. It shows the other side of democratic politics, where independently of the legitimacy conferred by pluralist elections, civic engagement becomes a fundamental resource to keep alive the political culture of democracy. As institutions are not self-regulatory instruments and in cases where political representatives in general and rulers in particular fall short of their political responsibilities, the political engagement of citizens turns in practice the final bulwark against democratic backsliding.

Even if that risk seemed to be circumscribed to far right and far left parties, incentives for anti-liberal moves became unexpectedly available to all parties when since 2020 European governments declared emergency rule. Argued with public health arguments, that is, with the hope to contain the spread of the pandemic until contagions could be under control, emergency rule gave them the chance of ruling by decree, in a disproportionate way. Surprisingly, in most if not all cases, the declaration received a parliamentary sanction, even though it meant a drastic decrease in parliamentary activity and, accordingly, the government's temporary freeing from constitutional checks and balances. Constraints on basic

rights were enforced and governments' legislative capacity extended beyond pandemic conditions, in some cases later declared unconstitutional by constitutional courts.

## *6. Concluding remarks*

That experience has been a reminder of the fragility of democracies and their vital reliance on civic factors. It has shown how tempting it becomes for respectable politicians to adopt anti-liberal measures as long as they give them the chance of governing almost with unrestricted capacity to legislate. Further, it has enlarged the focus of attention to cover the entire continent, acknowledging that anti-liberal moves are not a problem of young democracies alone but of any democratic regime.

This chapter has shown it, first, by enquiring into the learning effects of comparisons among historical cases of anti-liberalism, given the ease with which in scholarly and public debates current cases are addressed with interpretive clues from the past. That exploratory operation enriches the knowledge reservoir about political challenges of constitutional democracies but provides only a limited help to understand and face the different anti-liberal discourses and practices appreciable of late in European democracies. The study has then selected a number of distinct features of anti-liberal rhetoric. Compared to that of the 1920s and 1930s, it keeps resemblances, such as its anti-parliamentarism (see, e.g., Gijzenbergh, 2012), but it is now more sophisticated, and certainly more widespread in the era of internet politics. In its strategy to uphold the view that democracy is possible without parliamentary and liberal institutions, or with them reduced

to their minimum expression, it approaches the anti-pluralist views of populism.

In its last part, the study has paid attention to anti-liberalism's passage from rhetoric to politics. Some decades ago, it was observed in the young democracies of Eastern Europe, and it was deemed one more obstacle to democratic consolidation. Anti-liberal politics was solely attributed to extremist parties and politicians. No longer. Recent examples of mainstream parties from advanced democracies tell a different story implying that the obstacle is stronger than thought and suggesting that old therapies need to be revised.

A recurrent argument has resurfaced around the significance of civic factors in sustaining the political culture of democratic regimes. True, political participation is channeled through representative institutions, and political representatives assume the crucial condition of democratic politics. Yet, especially in dire straits of underperformance of institutions, the political responsibility of citizens becomes a valuable resource to make democratic regimes work better.

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# Populist Rhetoric as the *Ethos* of Illiberal Views of Democracy

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**Abstract.** This chapter aims to elucidate the relationship between populism and illiberalism through the rule of law backsliding some liberal democratic regimes seem to be undergoing according to part of the academic community. To that end, this piece engages with the issue of defining populism and briefly outlines some of the more prominent approaches to the matter. Nevertheless, the study treats the ideational approach defended by Cas Mudde and Cristóbal Rovira Kaltwasser as paradigmatic, given its regular presence in scientific literature. That thread leads to understanding populism as a political practice in a dual manner: as rhetoric and as performance. With that in mind, the chapter analyses the use of this practice to frame illiberal views on democracy and justify eroding the rule of law by reducing judicial independence. Here, the focus is on two European cases, namely, Hungary and Poland.

**Keywords:** populism, political rhetoric, illiberalism, judiciary reform, democracy.

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## 1. *Introduction*

Providing a working definition of what populism is or giving a thorough account of what it means to say “X is using populist rhetoric” is not an easy task, a fact proven by the many competing definitions and theories that have been raised, often in opposition with one another. Indeed, as Isaiah Berlin once said on defining populism, it is to address oneself to “the biting of the sour apple” (Berlin, 1968, p. 5). In his view, populism is apolitical because it is a medium for the state to pursue the populist politician’s goals.

There is, nonetheless, a general scholarly consensus on populism as an ever-growing phenomenon in European parliamentary politics and is commonly described as a threat to liberal democracy, mainly because of its anti-pluralism. The successful cases of “populist” bids for power in Hungary (2010) and Poland (2015), capitalizing on the 2008 economic crisis and the 2015 refugee crisis, respectively, are cited extensively as prime examples of this trend.

However, it is not a phenomenon exclusive to Europe. Certainly, it already had a dilated history in contemporary politics in other parts of the world, more prominently in South America. Some famous examples are the governments of Hugo Chávez in Venezuela (1998-2013), Luis Inácio Lula da Silva in Brazil (2003-2010) and Evo Morales in Bolivia (2006-2019). These are just some of many cases where there is academic agreement on the presence of populist politics, as the list goes further on.

This research focuses on European populism. It sheds light on how populist rhetoric works in a liberal environment with mostly consolidated democratic regimes to fabricate a narrative of justification for political decisions that could potentially hinder the rule of law. It also shows the dynamics between

these political actors and a supranational organization such as the European Union.

There are some pointers regarding the features that populist rhetoric might have, especially considering the distinction between “the people” and “the other” or “the elite”, both as axiologically charged categories. In this sense, one proposed attribute of populist rhetoric is the claim to exclusive and direct representation of the people by a populist party or leader. This representation is understood in light of “the people”, as defined by populists, holding legitimate political power – popular sovereignty.

It allows the politician, if needed, to defy political institutions that are deemed to be held by the elite and, consequentially, do not legitimately represent any interest but their own. Thus, any opposition can be presented as morally inferior and easily branded as the “enemies of the people”. This chapter will outline and engage with some of these ways of framing the concept and exploring it, parting from the idea that “populist” is not something a politician *is* but rather something that a politician *does* that could damage the rule of law.

Of course, this framework opens the door to the fact that populist rhetoric or, rather, the populist “act”, *could* be used to achieve political goals that do not undermine the rule of law. This study will not make strong axiological assertions on the use of such a political resource, however, given that the goal here is to add to the discussion on how populism works in liberal democratic settings and understands it as another – successful – tool in a vast political rhetorical repertoire.

Nevertheless, there are many senses of populism. Although one is prominent in this piece, some maintain that populism might work not as an eroding force for democracy but as its redeemer, using a quasireligious language, or at least as a counterbalance for populist actors that would be damaging to

the democratic regime. Indeed, authors such as Chantal Mouffe (2018) argue for this approach following similar lines to Ernesto Laclau's (1997, 2005).

At the core of the idea that populism supposes a threat to liberal democracies is the systematic attack on the rule of law in countries where populist rhetoric is thriving. This attack is translated into thorough reforms or severe attempts at reforming, among other things but more representatively, the judiciary, effectively undermining judges' independence. Where does illiberalism fit in such a context? Controlling the judiciary is justified as a staple to transcend liberal democracy. The conceptual fluidity allowed by populist rhetoric proves reasonably practical for politicians to justify the supposed necessity for a transition to a postliberal *status quo*.

In that sense, this chapter addresses the following question: What conceptual role does populist rhetoric have in this so-called attack on the independence judiciary? This study hypothesizes that it provides a narrative of justification that is malleable enough to adapt to rapidly changing political and cultural contexts to justify rule of law backsliding, sometimes under a democratic guise.

Hence, first, the analysis will provide a conceptual framework for populist rhetoric, giving an overview of the dominant approach in recent literature, the ideational or ideological approach, to then propose the idea of populist rhetoric as a political *ethos*, a suite of armor that politicians can put on and off to achieve their goals. Then, the outline ensues of what it is to be understood by "illiberalism". This will be key to analyzing the illiberal tendencies of politicians that are seen as using populist rhetoric regularly or called "populists", as well as their intention of controlling the judiciary and democratic institutions.

Given its scope, this study will focus first on the cases of Poland and Hungary, which have faced repercussions on accounts of perceived rule of law backsliding. This backlash has taken the form of authorizing the blocking of full access to the Next Generation EU funds by the European Court of Justice over compromising the Rule of Law Conditionality Regulation. It is a ruling that paves the way for the European Commission to apply this mechanism and request to freeze funds for countries deemed to be in violation of the rule of law. Finally, the chapter will recapitulate the steps followed in the argument to see if the hypothesis holds.

## 2. *A political ethos*

As stated in the introduction, finding definitive consensus on what populism is has proven, thus far, difficult at best. Indeed, as Ionescu and Gellner put it in the introduction to *Populism: Its Meaning and National Characteristics*, which is the result of a forty-three experts conference to define populism at the London School of Economics, “There can, at present, be no doubt about the importance of populism. However, no one is clear what it is” (Ionescu and Gellner, 1969, p. 1).

Since the 1990s, and especially over the past decade, literature on populism has surged, reigniting the debate on better defining the phenomenon. Several approaches have been proposed and discussed: discursive, strategic, and political logic and practice. The first one proposes that the identities of the “people” and “the elite” are fabricated discursively and are represented by authors such as Mouffe and Laclau. The second understands populism as a political strategy politicians use following a profit-maximizing rationale, argued by scholars such as Kurt Weyland (2001). The third, as a manner of



understanding and representing the political world, is defended by, for instance, Benjamin de Cleen (2019).

For this study, the focus will be mainly on the last one, ideological or ideational, which has become dominant in the social sciences given its applicability for empirical research, especially for cross-region analysis of political actors performing in sometimes very different political, historical and conceptual contexts.

## 2.1 Ideological approach

This approach, considering several nuances, has been argued by authors such as Cas Mudde (2004, 2017), Jan-Werner Müller (2016) and Cristóbal Rovira Kaltwasser (2017). These authors favor what has been called an ideational approach to populism, which focuses on populism as a set of ideas that can be combined with other ideological features that lie at the core of populist speech (Hawkins and Rovira Kaltwasser, 2017, p. 514).

Cas Mudde defines populism as a “thin-centered” ideology that “considers society to be ultimately separated into two homogeneous and antagonistic groups, ‘the pure people’ versus ‘the corrupt elite’, and which argues that politics should be an expression of the *volonté générale* (general will) of the people. Populism, so defined, has two opposites: elitism and pluralism” (Mudde, 2004, p. 543). This minimal definition of populism outlines what these authors see as its three core concepts: “the people”, “the elite” and the general will. Populism, so defined, is both anti-elitist and anti-pluralist.

For Müller, anti-elitism is insufficient; after all, not every anti-elitist rhetoric has to necessarily entail populism, which seems reasonable. It is, he argues, the axiological nature of the distinction between “the people” and “the elite”, since

politics entails, for populists, a moralistic – and ultimately fictional – imagination of the political world (Müller, 2018). The virtuous people can only be embodied then by the leader or the party: the claim to direct and exclusive representation (Müller, 2018).

This representation is understood in light of “the people”, as defined by populists, holding legitimate political power – popular sovereignty. It allows them, if needed, to defy political institutions that are deemed to be held by the elite and, consequentially, do not legitimately represent any interest but their own. Any opposition can then be presented as morally inferior and can be easily branded as “enemies of the people”. Populists, as Jan-Werner Müller eloquently puts it, are not saying “we are the 99 per cent” but “we are the 100 per cent” (Müller, 2016, p. 3).

Hence, it points to an interesting conceptual distinction that highlights the anti-pluralist dimension of populism in this view, between being part of “the people” or being a regular citizen. If the representatives in parliament are the elite, and one feels represented by them or actively supports a given party, then one can be part of the elite by proxy to populists. If one is of middle-high class and is excluded from “the common people”, one is also part of the elite, depending on the narrative. Finally, if one is, roughly, pro-refugee, is a second or third-generation immigrant or has distanced themselves from a nationalist movement, then one is also excluded from “the people”, albeit still being a citizen. It is not at all impossible to find a scenario where a citizen would be excluded from political decision-making if he or she is not accepted or deemed worthy of being included as a member of “the true people”.

The idea of “thin ideology” was drawn from Michael Freedman’s work (1996) on his morphological approach to

ideology, opposite to “thick ideologies” such as liberalism or socialism. The core of thin ideologies is much more restrictive and is limited to a few key concepts. In that sense, it does not provide an “ideational roadmap” for a comprehensive set of questions as a thick ideology would. It may indeed provide the tools to argue for the people’s sovereignty, but little else (Freeden, 2003, p. 98). Populism comprises a set of concepts that are always combined with thicker ideologies to provide meaning. This feature would also explain how it seemingly appears all over the political spectrum.

It is reasonable that this minimal definition has been so popular. It gives a clear description that can be used in comparative empirical research to give a topology of populist politicians and parties over a more extensive range of cases, even in cross-regional approaches. It has provided a semblance of consensus to the heated theoretical debate on populism.

However, this approach has several insufficiencies that are also worth mentioning. One of them is its broad usage of “ideology”, which seems to become a catch-all term that loses the clarity that makes the definition attractive in the first place. It also seems to fail at giving a nuanced account of populism, given that some confuse features of “host ideologies” with features of populism.

Furthermore, populism as a thin ideology tends to get thinner and not thicker, which questions the definition’s conceptual usefulness. Another proponent of the ideological-ideational approach, Ben Stanley, also recognizes this issue when he accounts that other ideologies leave record of themselves in institutions that transcend individual parties or leaders. Indeed, “there is no Populist International; no canon of key populist texts or calendar of significant moments; and the icons of populism are of local rather than universal appeal” (Stanley, 2008, p. 100).

This idea ties in nicely with this chapter's proposal; that is, populism is not an ideology or, rather, it is not better understood as an ideology but as a rhetorical tool. Both as a type of political rhetoric and as a performance that allows politicians to bridge political agents with their social basis (Ostiguy, 2017, pp. 73-74) in an identity creation process to achieve their political goals. It provides the rhetorical resources to justify criticism and action against the institutional *status quo* that provides checks on political power, oftentimes by those with alleged undemocratic pretensions.

## 2.2 An act in a play

Despite the mild consensus over a minimal definition of populism that allows further research on populist actors that meet the required standards, it is still tricky to group alleged populists with broad ideological, discursive, and strategic dissimilarities. Moreover, authors such as Mudde (2012), proponents of the ideational approach – which this chapter focuses on – though defining populism ideologically, jump to a discursive definition that describes different political phenomena and has different ontological claims.

What this study proposes is to approach populism as a political practice, a recourse to a plethora of argumentative tools that a populist politician can use to achieve his or her political goals, which is to gain access to the state institutions. It is paramount to understand that, in this view, populist rhetoric and practice work as a *medium* akin to contemporary massively mediated politics.

Populism as a political practice perhaps should be studied twofold: a) as rhetoric and b) as performance. Hence, this section will engage in outlining what defines *populism* as both. As will be seen, in themselves, these features are not populist but

packed together; they constitute populism as *ethos*, that is, as a bridge to adapt to changing and evolving cultural and political circumstances, which determine, for instance, how the categories of “the people” and “the elite” are to be constructed.

Several key features of populist rhetoric have already appeared here, as they vertebrate scholarly literature on populism, such as the appeal to “the people” versus the corrupt “elite”, for instance. After all, “the people” is their primary public. However, this audience is not always there but has to be created instead. The rhetorical forging of these concepts is essential to understand who holds and defines popular sovereignty, which is sacrosanct in a populist discursive context.

The idea of upholding what “the people” truly want is presented as an opportunity for modern politics to be redeemed, with liberal deliberative democracy transitioning to *real* democracy. As Ben Stanley puts it, “the world can be made a better place if the voice of the people is allowed to emerge; therefore, it should be allowed to emerge” (Stanley, 2008, p. 104). This idea of the will or voice of the people comes in hand with politicians who engage in this rhetoric’s endorsement of majoritarianism.

This aspect is particularly relevant now, when social networks are critical for disseminating political messages and slogans with the frontier between the gentle and the vulgar effectively dissolved in what some see as a democratizing process. Indeed, support for more direct forms of democracy is a common sight, assuming that the voice of the majority would then have a larger impact on decision-making and agenda-making. Representative democracy is then presented as a means for the elite to hold power and sustain its hegemony over “the oppressed”.

Hence, populist politicians and parties often have plebiscitarian views and are adamant about it, as plebiscitarianism

represents a way to appeal and be invested by the people as sole representatives of popular sovereignty. Many times, of course, those views are symbolic because they know that the given constitutional framework usually denies that possibility. This denial is also used as a rhetorical tool, as it is made to represent a way for the elite to deny popular sovereignty. It takes the idea of the popular will to its limits: “an unambiguous expression of the will of the people should always be decisive” (Lagerspetz, 1997, p. 101). Therefore, the best system would be, they claim, that which materializes this idea, namely, direct majoritarian democracy.

This view sheds light on what populist discourse looks like, as populists highlight that they represent the majority, even if it is silent – sometimes especially if it is silent – or without sufficient representation in parliament. This is part of what aims to give authenticity to their claims and point to those in government as illegitimate or the opposition if populists are the ones in government.

It is also at the core of the idea that liberal democracies are not *real* democracies, as the majority is allegedly being left out. On the other hand, being part of “the people” would qualify them to be their voice: they can speak for the oppressed because they supposedly know that oppression themselves.

It is relevant to see and further underscore that both concepts, “the people” and “the elite”, must be axiologically charged for populist rhetoric to be effective: the people must be celebrated as such, and the elite must be condemned, for those who practice this rhetoric also claim moral representation. It is built upon moral claims, and whether those claims are substantiated or not is unimportant; they need only be believed, and the proximity, albeit usually fictional, of the leader or the party to the people makes it plausible.

Nevertheless, this rhetoric must be accompanied by a performance, a delivery or *pronuntiatio*, in what has been labeled a gradational account of populism: a political style. After all, those who use populist rhetoric claim to uniquely know what the people truly think and act if they do not have to adhere to “political correctness”. The latter would, in their view, be pushed by elites. It has become a widely used rhetorical device for politicians who aim to place themselves as outsiders.

It is important to note that “political correctness” works as a two-way street, and some politicians conceptualize “the elite” as any who might seem to place themselves outside of that label. As an embodiment of “the people”, a populist politician *has* to act like “the people”, which usually means refusing to follow political protocol, a “tabloid” communication style (Canovan, 1999, p. 5) if you will. It includes overuse of slang, swearing, political incorrectness, and being overly demonstrative and “colorful”, as opposed to the “high” behaviors of rigidity, rationality, composure and use of technocratic language, such as earnestness or political *gravitas*.

Consider that these pointers will most likely vary depending on where they are taking place. Ostiguy rightly argues that “issues of accents, language level, body language, gestures, ways of dressing, etc. [...] link deeply with a society’s history, existing group differences, identities, and resentments” (Ostiguy, 2009, p. 6). The final part of the act is the crisis.

Populist rhetoric thrives on an ongoing crisis and the general perception of it, exacerbated by their political performance. This crisis can come from internal or external sources. It can be produced by the divide between ordinary citizens and so-called elites: politicians, bankers and judges; or because of immigration instigated by, for instance, “the elites” in Brussels, external “capitalist neo-liberal” economic

entities that feed on the country's resources, an economic crash and so forth.

A crisis sometimes requires swift political action. For politicians who lean toward illiberalism, constitutional constraints, rigorous review and parliamentary debate can get in the way of such swift action. This is, of course, not to say that sometimes exceptions for swift action are not necessary. Therefore, performing the role of never-ending crisis serves as a further justification and rhetorical framework for questioning instances that get in the way of decisive political action.

This thinness regarding what a crisis can be, who “the people” and “the elite” might be, and the varying communication techniques that the politician can use makes populism a kind of political *ethos*: as previously claimed, it provides a set of performative and argumentative tools to successfully navigate the political arena capitalizing on and often intensifying polarization and conflict.

### *3. Illiberalism and populist rhetoric*

The term “illiberal” is, by all accounts, ambiguous at best. Its widespread usage is relatively recent (from the 2015s onward), and it is no easy task to close its definition. Indeed, for authors such as Marlene Laruelle, “illiberalism is used as a fuzzy and inconsistent classification, an intuitive way to describe ideologies and practices that diverge from liberalism – understood in the same loose and innate way – without being entirely identifiable with authoritarianism or dictatorship” (Laruelle, 2022, p. 304).

In this light, it might mean “nonliberal”, or rather to describe the transitioning from a liberal democratic order to a nonliberal order that can also be nondemocratic. Laruelle



recognizes that one of the chief reasons for its fluidity is its value-laden nature; it works as a catch-all word to label those politicians or political tendencies that challenge liberalism and must thus be fought against (Laruelle, 2022, p. 306).

For this instance, illiberalism is understood as the alleged transition *from* liberal democracy *to* postliberal governance. It stems from a backlash against liberalism, as it considers it to have failed or be failing in its promises (economic, political and cultural). It has majoritarian tendencies, emphasizing national sovereignty to the detriment of an international order and is generally against liberal pluralism.

Furthermore, it is telling that “illiberal” has also been embraced by politicians that would otherwise be labeled as such by their rivals. Viktor Orbán is a distinctive example of this when in his 2014 Tusnádfürdő speech on July 24, he claimed that “the Hungarian nation is not a simple sum of individuals, but a community that needs to be organized strengthened and developed, and in this sense, the new state that we are building is an illiberal state, a nonliberal state” (Orbán, 2014).

Orbán’s view, as he frames it, is not a complete denial of fundamental liberal values, but it removes liberalism as “a central element of state organization”. It is, he claims, “a new state” that emerges *after* liberal democracy, one that respects “values of Christianity, freedom and human rights” (Orbán, 2014). Hence, what is being outlined is a postliberal *status quo* understanding liberal democracy as a prior state, challenging the view that considers the latter a “historical necessity”, the political *telos* or the end of political development.

This view arises from a critique of the alleged failings of liberal democracy. Orbán himself enumerates what he considers to be some of these: it forsook the community in virtue of individual interest, it did not protect public wealth or pub-

lic property or avoided amassing a large public debt, and it did not oblige governments to serve national interests; in contrast, it questions their very existence in favor of international interests (Orbán, 2014).

In this shortlist provided by a self-proclaimed illiberal, some features stand out: a backlash against liberal democracy and a transition to a postliberal state, a defense of national sovereignty (rooted in nationalism) against internationalism and a clear preference for local traditions and cultural values.

#### *4. Reforming the judiciary and rule of law backsliding: the cases of Hungary and Poland*

With a framework such as this, populism appears as a tool that suits politicians with “illiberal agendas”, justifying their claims on the need for constitutional or judicial reform by stating that the elitist liberal establishment does not represent the true people. Indeed, what Hungarian Prime Minister Viktor Orbán calls “Eastern winds” is the alleged key to avoiding the money-obsessed West’s decadence (The Economist, 2011).

This section argues that political actors who use a populist political style and rhetoric to create a narrative of justification to reform the judiciary effectively erode democratic institutions. In that sense, a context of rule of law backsliding is produced where power becomes centralized in the figure of the governing party.

##### 4.1 The Hungarian case

From the 2010s onward, Hungary has undergone a thorough revision of its constitutional and political order under the *Fidesz* (Magyar Polgári Szövetség – Hungarian Civic Alliance)

government. In that time, it has effectively passed from being a success story of transitioning from socialism to democracy into a semiauthoritarian regime “where the new constitutional structure vests so much power in the centralized executive that no real checks and balances exist to restrain this power” (Bugarič, 2019, p. 602). Indeed, Orbán made no secret of his intentions when, in Tusnádfürdő, he argued for creating an illiberal state, with a different constitutional order, far from liberal democratic principles (Edy, 2014).

The exceptionality of the Hungarian case is that it has been achieved by legal means due to *Fidesz*'s two-thirds majority in the *Diet* (unicameral parliament of Hungary), hence facing few obstacles for constitutional reform (Scheppele, 2014, p. 51) when the “rules of the game” were not suitable for the Hungarian government. After the fall of communism, constitutional courts became the prime custodians of the rule of law and naturally became targets. In centralized models of judicial review, it is the constitutional court's prerogative to review legislation, so if the goal is to centralize power, the so-called undemocratic rule of liberal judges would have to end.

Hence, the *Diet* amended the constitution so that *Fidesz* could use its two-thirds majority without multiparty backing, which the old constitution mandated, to nominate candidates for the Constitutional Court. It was a play to pack the Court with loyalists to the governing party. Then, a restriction of the Court's jurisdiction over fiscal matters came to allow the government to enact several economic measures, such as massive nationalizations, as was the case with private pensions. Finally, the number of judges was augmented from eight to fifteen, so the new positions would be *Fidesz*'s candidates (Bákuti et al., 2012, p. 140).

After this attack on the Court, the next targets were the regular courts, for instance, by lowering judicial retirement

age and replacing most of the presidents with sympathizers. Then, the election law was changed, and the election commission, charged with monitoring elections, gerrymandered districts in favor of *Fidesz*. This, coupled with media takeover, threw the shade of doubt over the general election of April 2018, which resulted in *Fidesz* preserving its two-thirds majority. The election campaign was built upon the idea of being overrun by massive immigration and foreign EU meddling in Hungarian affairs (Than and Szakacs, 2018).

Given that opposition is not morally legitimate, as challenging the voice of the *true people* can only be the work of the elite, agents of the elite or traitors, Orbán's regime has made autocratic legalism a common sight, not jailing opponents but firing members of the opposition from state-administered jobs and intimidating journalists with the threat of retaliation against their families (Bugarič, 2019, p. 607). Furthermore, *Fidesz's* ethnonationalist populist rhetoric allows them to justify legislation such as the dubbed "Stop-Soros laws" related to a supposed international conspiracy on immigration that would harden refugee-focused NGO activities in the region (Zalan, 2018).

The status of the judiciary in Hungary regarding its independence with the consequent erosion of the rule of law has not gone unnoticed by the European Union. Indeed, the European Parliament initiated article 7 (procedure to suspend certain rights from a member state) suspension proceedings in September 2018, although it has since been stalled because of the unanimous backing requirement, given that it is expected that Poland – which is also included in the proceedings – and Hungary veto each other's suspension (Kirst, 2021).

To find a way out of this conundrum, in May 2018, the European Commission proposed to tie disbursements from the

EU's budget to fulfilling rule of law standards (European Commission, 2018) and the European Parliament adopted a position in April 2019 without gaining much steam. This changed with the adoption of the 2021-2027 Multiannual Financial Framework and the Next Generation EU recovery package in the summer of 2020 during the July 2020 Summit. There, the European Council also agreed on a rule of law Conditionality Regulation that, unlike article 7 procedures, does not require unanimity but a qualified majority, that is, fifty-five percent of member states representing a sixty-five percent of the European population.

Hungary and Poland answered by blocking the Own Resources Decision and the Multiannual Financial Framework (required unanimity) until it was finally resolved at a key European Council Summit on 11 December 2020 where “comprehensive declaratory statements regarding the adoption, application, and interpretation of the Conditionality Regulation were agreed upon” (Kirst 2021, 104). On 16 February 2022, a landmark ruling was reached by the Court of Justice of the European Union to freeze funds (Next Generation EU) for countries in violation of the Conditionality Regulation in favor of the European Commission's position (Court of Justice of the European Union, 2022). Successfully linking access to the EU budget with adherence to the rule of law might prove a valuable tool in curbing, or at least externally counterbalancing, backsliding where internal checks and balances are weaker.

## 4.2 The Polish case

Poland underwent a similar process under the PiS (*Prawo i Sprawiedliwość* – Law and Justice) party since 2015, and Hungary seemed to be an inspiration for the reforms that would

take place. However, unlike *Fidesz*, the PiS did not have the means to amend the constitution to their liking, so they had to find a way around it by creating a new form of constitutional amendment that changed constitutional meaning through ordinary statutes.

Under prime minister Beata Szydło's administration, the Constitutional Tribunal was overrun by loyalists, extending the number of judges. Thus, rulings would now have to be approved by a two-thirds majority, effectively making annulling PiS legislation an uphill endeavor (Bugarič, 2019, p. 606). Indeed, the Repair Act on the Constitutional Tribunal was fabricated to paralyze the Court's possible actions for checking power, and it succeeded in its objective.

In the spirit of the Hungarian case, the next step was targeting the ordinary courts, for which the government issued three bills to hijack the Supreme Court and others (Sadurski, 2018, p. 35). Unlike Hungary, the Polish government has not been able to gain control over the media, and opposition remains strong, although popular support seems to still be quite high. Regarding electoral reforms, the government has also instilled several changes that would erode the integrity of the National Electoral Commission (Sadurski, 2018, p. 35).

Other laws target civil rights, such as the Lex GROSS, which criminalizes accusing the "Polish Nation", embodied by PiS, of complicity in the Holocaust or Nazi war crimes, punishable with jail time (Sadurski, 2018, p. 52). However, Poland has not gone – yet – all the way or almost all the way in their rule of law backsliding, and PiS does not have a parliamentary majority like *Fidesz* does, but the rule of law has been in their sights, and their attacks have been justified with claims of it being established by ruling elites subject to foreign powers with elusive intentions.

Their performance of crisis, especially economic and cultural crisis (a culture wars narrative), is seen in their appeal to those who “felt themselves to be marginalized and left behind by the bulldozer of economic liberalism” and those alienated by social liberalism on themes such as abortion, gender, feminism, multiculturalism and homosexuality (Ash, 2017). They supposedly know, after all, what the *true* people think and want, and so they need to act the part of political incorrectness. They also promised to nationalize and “polonize” their economy and create a “national champion” in the energy sector to compete abroad (Toplišek, 2019).

As detailed in the discussion on the Hungarian case, Poland figures along Viktor Orbán’s government in the debate over rule of law backsliding in the EU, as well as its link with budgetary policy. The country has also seen its Next generation EU funds frozen over failing to meet adherences to the rule of law standards. Furthermore, the Polish government faces a seventy million euro sanction, due for a first payment in January 2022, imposed by the ruling of the Court of Justice of the European Union after failing to dispose of a disciplinary regime for Polish judges that constituted, for the EU, a risk for the rule of law (Gera, 2022).

## 5. *Conclusion*

This chapter set off to answer the question of the role of populist rhetoric in the practices of some parties and politicians that result in rule of law backsliding justified through the need to achieve a postliberal state. To do that, the proposed hypothesis was that it provides a narrative of justification that is malleable enough to adapt to rapidly changing political and

cultural contexts to justify reforming the judiciary and undermining democratic institutions.

To that end, first, the study stressed the difficulties of finding a definition of populism, as several distinct approaches have been proposed, namely, ideological, discursive, strategic, and formal approaches. Because of length constraints, the analysis selected the preferred account in most of the literature, especially in the social sciences, the ideological approach defended by scholars such as Cas Mudde or Ben Stanley.

This previous section helped distinguish several features one might ascribe to populist rhetoric, such as its anti-elitist and anti-pluralist dimensions, as well as what Jan-Werner Müller signaled as its main pointer, the claim to sole representation. In addition, the chapter outlined why it has been so popular, as it facilitates comparative empirical research, even in cross-country analysis. It also had several insufficiencies, that is, its broad use of “ideology” and its tendency to become thinner instead of thicker as others described as thin-centered ideologies tend to do.

Therefore, another approach was proposed. The consideration of populism as political *ethos*, as a means for successfully adapting and navigating changing political contexts and for creating a framework to justify authoritarian lawmaking and actions in previously democratic settings successfully. To understand how populism operated, the chapter had to distinguish between two dimensions: a rhetorical dimension and a performative dimension, rhetoric and style. Populism is something a politician *does*, not something that a politician *is* like, for instance, a liberal, a conservative or a socialist.

With this framework in mind, two main cases were explored to see how populism operates in instances of institutional decay and rule of law backsliding. Those cases were Hungary, under the *Fidesz* government, and Poland, under



the PiS government. These cases showed how under this framework of justification created by populist rhetoric and performance, the constitution was repeatedly amended, court independence was undermined, and the state institutions were hijacked, although, for the moment, to a lesser degree in Poland. Finally, this research proposed that international courts and organizations might be a possible line of defense when illiberal or semiauthoritarian governments completely bypass internal checks and balances.

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# The EU and Democratic Theory: Communitarian, Federal and Cosmopolitan Perspectives

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**Abstract.** Democracy has become a disputed concept in contemporary European politics, particularly when addressing the EU's political definition. This chapter discusses three main approaches to democracy that inform current debates on the EU's political regime and democratization: communitarian, federal and cosmopolitan. The main thesis is that the EU represents a political novelty that requires a new democratic theory. The European organization could be best defined as a paradigmatic space in which to analyze the political categories and innovations of the cosmopolitan political constellation beyond, although not without, the nation-state framework.

**Keywords.** Conceptual constellation; conferral; cosmopolitanism; democracy; EU.

## 1. *Introduction*

The EU's political ontology and regime raise significant questions for democratic theory. The EU is neither a nation-state nor an international organization. Its decision-making architecture combines supranational and intergovernmental bod-

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ies in peculiar and unprecedented ways. Indeed, there is no consensus on what kind of political entity is embodied by the EU.

As a result, the European organization has become a paradigmatic space in which to rethink democratic concepts and categories beyond the traditional framework of the nation-state. According to Article 10.1 of the Treaty of the European Union (TEU), “the functioning of the Union shall be founded on representative democracy”<sup>2</sup>. Likewise, Article 2 states that the Union “is based on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights”. However, what kind of representative democracy occurs in a nonstate polity such as the EU?

This chapter aims to underline the challenges that the EU poses to democratic theory. *Democracy* has become a controversial and disputed concept in current European politics, particularly in debates on EU democratization. In this context, my main aim is to address the following questions: What challenges does the EU pose to democratic theory? What conceptions of democracy inform current debates on the democratization and regime of the EU? What theories and

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<sup>2</sup> Following the failed attempts to gain approval for a European Constitution in 2005, the Reform Treaty was signed, as the Treaty of Lisbon, on 13 December 2007 (in force since 1 December 2009), amending the Treaty on European Union and the Treaty Establishing the European Community. Along with the consolidated Treaty on the European Union (TEU), the Treaty on the Functioning of the European Union (TFEU) establishes the foundations of the EU. Both Treaties are referred to as EU Treaties. See Official Journal of the European Union, C 326/13 and C 326/47, 26/10/2012, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT> (31 March 2023). Hereinafter I will refer to the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU).

approaches to democracy are implied in the debates on EU democratization? What impact has the European project had on democratic theory and liberal democracy?

As Erik Eriksen and John Fossum pointed out, in the European context democratic conceptions “range from seeing EU democracy as squarely located in the member states, to seeing the EU as a fledgling federal democracy, and all the way to holding the EU up as a possible vanguard for, or experiment in, transnational or regional-cosmopolitan democracy” (2011, p. 156).

Accordingly, in the following pages, I highlight three main approaches to the European democratic system and democratization: *communitarian*, *federal*, and *cosmopolitan*.

Before proceeding with the argument, I must clarify that this classification is not intended to be exhaustive. I am aware that to group and label varied and disparate stances on the European democratic system risks falling into generalization and lack of accuracy. Therefore, to raise awareness of the impact of the European project on democratic theory, throughout the chapter I present the democratic perspectives contrasted and commented on simply as understandable summaries of the different approaches to democracy that inform current debates on the EU.

## *2. The communitarian perspective of democracy: conferral and populist views*

The EU’s multilevel architecture raises significant questions for democratic theory. My main hypothesis is that, in addressing the EU’s political definition, three main approaches to democracy can be highlighted: *communitarian*, *federal* and *cosmopolitan*. As indicated above, these perspectives range from



seeing EU democracy as mainly located in the member states through viewing the EU as a fledging federal democracy to conceiving of the EU as a vanguard for transnational or cosmopolitan democracy (Eriksen and Fossum, 2011, p. 156).

What I call a *communitarian* perspective stresses the collective dimension of democracy, that is, the basic role that *the people's* will plays in a democratic regime (Mouffe, 2005a; Mouffe, 2005b, pp. 15-27). In the modern era, the *demos* and the *volonté générale* are generally embodied in the nation-state (Gellner, 1989). Hence, since the EU is not a nation-state and there are no *European people* or *demos*, only the member states are the subjects of democratic legitimation and sovereignty.

In current debates on the political definition of the EU and its democratization, two main versions of such a communitarian perspective can be distinguished: the (moderate) *delegate* or *conferral* model and the (radical) populist version<sup>3</sup>. Over the following pages, I will try to describe their main rhetorical features.

According to the *conferral* democratic model, the most that can be attained at the European level from the democratic point of view is an association of sovereign states in which the member states are the main subjects of democratic sovereignty and legitimacy. The EU's representative system can be viewed as an association of sovereign states that have delegat-

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<sup>3</sup> My objective in this chapter is not to address the concept of populism, which has been developed in more detail by other authors in this volume. In this regard see Pacheco-Bethencourt's chapter in the present book. Indeed, scholarly literature on populist politics has increased in recent years; some illustrative examples in political philosophy and science are (Laclau 2005; Moffit 2016; Mouffe and Laclau 2001; Mouffe 2018; Mudde 2004, pp. 541-563; Mudde 2007; Mudde and Rovira Kaltwasser 2017; Mueller 2016; Rosanvallon 2020, Villacañas 2015).

ed limited and revocable powers to supranational institutions, according to the principles of *conferral*, *proportionality* and *subsidiarity*<sup>4</sup>.

A suitable example of such a view can be found in the Lisbon Treaty Ruling of the German Federal Constitutional Court<sup>5</sup>, in which the Court upheld that the European Treaties do not lead to a “new level of development of democracy”, insofar as the EU does not have competences “to create an independent people’s sovereignty for all Union citizens” (GFCC, 2009, pp. 75-76). In its view, Union citizenship is based on “the will of the member states”, but there is not a *people of the Union* “which could exercise self-determination as a legal entity giving itself a constitution” (GFCC, 2009, p. 96). As a result, within the European political architecture, twenty-seven sovereign states have delegated limited and revocable powers to the EU, but there is no supranational European political subject. In short, in the EU, only the member states are the subjects of democratic representation and legitimacy.

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<sup>4</sup> The principle of *conferral* implies that the Union can only act within the limits of the competences that have been conferred upon it by the member states in the Treaties. Meanwhile, according to the *subsidiarity* principle, the Union shall act “only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States” (Article 5.3 TEU). Finally, the principle of *proportionality* entails that Union’s actions shall not surpass what is necessary to achieve the objectives of the Treaties (Article 5 TEU).

<sup>5</sup> German Federal Constitutional Court’s Judgment (GFCC) (30 June 2009), 2 BvE 2/08 vom 30.6.2009, para 211, available at [http://www.bverfg.de/entscheidungen/es20090630\\_2bve000208en.html](http://www.bverfg.de/entscheidungen/es20090630_2bve000208en.html) (2 April 2023). Additionally, see Federal Constitutional Court’s Press office, Press Release No 72/2009 of 30 June 2009. From now on I will use the abbreviation GFCC to refer to the German Federal Constitutional Court.

The German Ruling acknowledged that Article 23 of the German Basic Law grants the German state powers to participate in the EU “designed as an association of sovereign states (*Staatenverbund*)”. However, the concept of *Verbund* refers to a long-term association of states that remain sovereign, “a treaty-based association which exercises public authority, but whose fundamental order is subject to the decision-making power of the member states and in which the peoples, i.e., the citizens, of the member states remain the subjects of democratic legitimation”<sup>6</sup>.

Thus, one of the basic reasons the Court gives for defining the EU as an association of states that remain sovereign is that there is no people of the Union, and the EU is not a “*democracy constituted as a state*” (GFCC, 2009, p. 76)<sup>7</sup>. It seems, therefore, according to Eriksen and Fossum, that in the Court’s view, “it is only the nation-state that can foster the type of trust and solidarity that is required to sustain a democratic polity”; this in fact is the stance that seems to be upheld by the Court throughout the Ruling (Eriksen and Fossum, 2011, pp. 156-157). For instance, according to the Court, within the European organization, public opinion and representation remain mainly connected “to patterns of identification related to the nation-state, language, history and culture” (GFCC, 2009, p. 67). Therefore, in the EU, democratic sovereignty and legitimacy rest exclusively within the member states, not within Union citizenship.

In addition, the Court considered that the basic democratic rule of *equal opportunity of success* (one man, one vote) is not

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<sup>6</sup> See the Ruling’s summary, [https://www.bverfg.de/entscheidungen/es20090630\\_2bve000208en.html](https://www.bverfg.de/entscheidungen/es20090630_2bve000208en.html) (2 April 2023).

<sup>7</sup> The emphasis has been added.

respected in the EU. At the European level, such a democratic rule only applies within a people, but not “within a supra-national representative body, which remains a representation of the peoples linked to each other by the treaties albeit *not with emphasis on citizenship of the Union*” (GFCC, 2009, p. 75)<sup>8</sup>. This is because the European system for allocating seats in the European Parliament, favoring the member states with smaller populations, reflects that “it is not the European people who is represented within the meaning of Article 10.1 Lisbon TEU, but the peoples of Europe organized in their states, with their respective distribution of power brought about by democratic elections taking into account the principle of equality and predetermined by party politics” (GFCC, 2009, p. 78)<sup>9</sup>.

In this sense, Article 14.2 (1) the fact that the TEU attributes more weight to the vote of a citizen from a Member State

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<sup>8</sup> The emphasis has been added.

<sup>9</sup> Article 10.1 TEU states that the “the functioning of the Union shall be based on representative democracy”. As is established in EU primary and secondary law, the maximum number of the European Parliament’s deputies shall be 750 and the President. No Member State shall be allocated more than 96 seats, and none shall be allocated less than 6 (Article 14.2 TEU). However, following the UK’s referendum on leaving the EU, the European Parliament voted on 7 February 2018 to reduce the number of its seats from 751 to 705, redistributing some of UK’s vacant seats among the member states that were slightly underrepresented. As a result, after the UK’s departure, on 1 February 2020, of the 73 seats vacated, 27 have been reallocated, according to the principle of degressive proportionality, to France (+5), Spain (+5), Italy (+3), Netherlands (+3), Ireland (+2), Sweden (+1), Austria (+1), Denmark (+1), Finland (+1), Slovakia (+1), Croatia (+1), Estonia (+1), Poland (+1), and Romania (+1). See European Parliament, The Treaty of Lisbon, <https://www.europarl.europa.eu/factsheets/en/sheet/5/the-treaty-of-lisbon%20> (31 March 2023).

with a small population (concretely, approximately twelve times the weight of the vote of a citizen from a Member State with a large population), contradicts the principle of electoral equality, that is, the equality of all citizens when making use of their right to vote. Accordingly, the Lisbon Treaty has adopted, in the Court's view, the model for a federal state "without being able to create its democratic basis in the form of the equal election of an appropriate representation of the people and of a parliamentary European government that is based *on the legitimizing power of the Union alone*" (GFCC, 2009, p. 81)<sup>10</sup>.

Two basic premises or conclusions about democracy can be drawn from the German Constitutional Court's Lisbon Treaty interpretation. First, only the nation-state can foster the type of allegiance and trust required to sustain a democratic polity (Eriksen and Fossum, 2011, pp. 156-157). Since the EU has not yet attained "the level of legitimation of a democracy constituted as a state", it lacks its own democratic legitimacy. The EU's democratic system should be viewed as an association of sovereign states, albeit "not with emphasis on citizenship of the Union".

Second, as a result of the above, the Court held that Union citizens cannot, *as per EU citizens*, confer legitimizing power. It is not European citizenship that is represented at the European Parliament within Article 10.1 Lisbon TEU, but the peoples of Europe, with their respective distribution of power according to national democratic elections and predetermined party systems (GFCC, 2009, p. 78). As underlined above, the principle of electoral equality only applies, in the judges' view, within a single people but not "within a supranational

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<sup>10</sup> The emphasis has been added.

representative body, which remains a representation of the peoples linked to each other by the treaties albeit no with emphasis on citizenship of the Union” (GFCC, 2009, p. 75).

Surprisingly, the German judges have not only limited the scope of representative democracy to political organizations constituted as states, but they have also contradicted some of the fundamental tenets of EU Treaties regarding the EU’s democratic functioning and citizenship. For example, they seem to deny the basic meaning of Article 10.2 TEU, establishing that “Union citizens are directly represented at Union level in the European Parliament”, and Article 14.2, which holds that the European Parliament is composed of representatives of the Union’s citizens (Article 14.2 TUE) (see Postigo, 2014, pp. 172-190; Postigo, 2015, pp. 201-220). Contrary to these legal provisions and the basic principles of the EU’s political regime, the German court refused to acknowledge the democratic representative reach of Union citizenship because it does not stem from a single nation or people. Instead, what is represented at the European level is the European *peoples* “in the respective national contingents of members” but not “as a representation of Union citizens in unity without differentiation” (GFCC, 2009, p. 76).

It is striking that the Constitutional Court of a federal state such as Germany advocates that only a nation-state can be considered a democratic polity, thereby rejecting not only the democratic reach of Union citizenship but also a plurinational democratic parliamentary system, such as the EU’s, made up of twenty-seven member states, based on a degressive proportional system for the allocation of parliamentary seats<sup>11</sup>.

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<sup>11</sup> As previously indicated, the European degressive representative system favors smaller member states, with smaller populations. The most populous

The great novelty and achievement of the EU is its peculiar decision-making architecture, combining intergovernmental and supranational dimensions. At the Union level, there are two different channels of political representation. On the one hand, “Union citizens are directly represented at the Union level in the European Parliament” (Article 10.2 TEU). On the other hand, the member states are represented in the European Council by their Heads of State or Government and in the Council by their governments, which are democratically accountable to their national parliaments and citizens (Article 10.2 TEU; Postigo, 2014, pp. 172-190; Postigo, 2015, pp. 201-220).

As observed, the German Court rejected the supranational dimension of the European decision-making system, underlining the purely intergovernmental and delegated character of the European decision-making system. Certainly, the way national and supranational powers are balanced in the EU reflects the political singularity and novelty of the European project. Indeed, the member states have delegated to the EU the competences enshrined in the treaties, according to the principles of *conferral*, *subsidiarity* and *proportionality* (Article 5 TEU; Articles 2-6 TFEU). However, it should be noted that the treaties have acquired quasiconstitutional force, and the EU is the only supranational organization with its own parliament directly elected by citizens. Although the EU is not a nation-state, neither is it merely an intergovernmental organization (Postigo, 2013, pp. 37-55; Postigo, 2018, pp. 161-181; Schmitter, 2000; Schmitter, 2001; Schmitter and Trechsel, 2007).

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member states correspond less parliamentary seats in relation to their population.

In its rulings over recent decades on the bases of direct recourse or preliminary reference procedures (Article 267 TFEU), the Court of Justice of the European Union (CJEU) has reinforced a so-called pluralistic constitutional regime in the EU (Postigo, 2013, p. 38). In addition, interacting with national courts, the Luxembourg Court has encouraged a multilayered and pluralistic judicial system (Stone Sweet, 2010, pp. 27, 31; Stone Sweet, 2012, pp. 53-90), whose net effect has been the gradual *constitutionalization* of EU law, transforming the EU “from an international regime founded on precepts of international law into a multitiered quasifederal polity founded on higher law constitutionalism” (Fabbrini, 2004, pp. 558-560). As a result, it could be argued that EU treaties have gradually evolved from a set of legal arrangements binding upon the states into a hierarchical legal order within the EU’s territory (Bankowski and Scott, 1996, pp. 81-89; Fabbrini, 2004, pp. 558-560; Postigo, 2013, p. 38)<sup>12</sup>.

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<sup>12</sup> It also should be noted that, although the Treaty of Lisbon does not formally enshrine the supremacy of Union law over national legislation, the Treaty includes a declaration to this effect (Declaration N0 17), that takes into account the Council’s Legal Service’s stance reiterating consistent CJEU’s case-law regarding the supremacy and direct effect of EU legislation. See European Parliament, the Lisbon Treaty, <https://www.europarl.europa.eu/factsheets/en/sheet/5/the-treaty-of-lisbon%20> (31 March 2023). For a summary of case-law regarding the primacy of EU legislation, see Euro-Lex, access to European Union law, “Primacy of EU law (precedence, supremacy)”: <https://eur-lex.europa.eu/EN/legal-content/glossary/primacy-of-eu-law-precedence-supremacy.html> (31 March 2023). In this regard, note also the European Commission’s statement of 7 October 2012, after the Polish Constitutional Tribunal’s ruling against the CJEU’s and EU law’s authority, “European Commission reaffirms the primacy of EU law”, [https://ec.europa.eu/commission/presscorner/detail/en/statement\\_21\\_5142](https://ec.europa.eu/commission/presscorner/detail/en/statement_21_5142) (2 April 2023).



Likewise, since the approval of the Maastricht Treaty in 1992, the EU has given rise to a supranational civic status, Union citizenship, that transcends and complements national membership and nationality without replacing the latter. According to Article 9 of the Lisbon TEU and Article 20 TFEU, “every national of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to national citizenship and shall not replace it”. Indeed, over the past decades, the CJEU has also highlighted that the derivative character of Union citizenship does not override its independent and autonomous status; that is, although EU citizenship derives from member states’ nationality, it creates a complementary and autonomous civic status that transcends that of the member states (see Breskaya, 2020)<sup>13</sup>.

It should be noted that EU citizenship entails rights additional to those enjoyed in the member states within the Euro-

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<sup>13</sup> The concept of fundamental rights consolidated by the EU citizenship status has been reaffirmed by the CJEU Judgment of 8 March 2011, *Gerardo Ruiz Zambrano v Office national de l’emploi*, C-34/09, EC: C:2011:124. Likewise, in *Rudy Grzelczyk v Centre public d’aide sociale d’Ottignies-Louvain-la Neuve*, of 20 September 2001, EU:C:2001:458, the CJEU defined EU citizenship as a fundamental legal status. As has been highlighted by Maryia Breskaya, “while the jurisprudence of the CJEU has indeed developed the derivative nature of Union citizenship, occasionally giving it a form of a semi-independent legal status, which creates a range of nonalienable rights and is considered to be a fundamental legal category, the question of the autonomy degree of the supranational rights becomes even more interesting when we start thinking about the concept of the loss of national citizenship, statelessness and the initially derivative character of EU supranational rights” (2020, p. 3). In this regard, see, for example, the CJEU cases C-135/08 *Janko Rottman v Freistaat Bayer*, C-86/12, *Adzo Domenyo Alokpa and Others v Ministre du Travail*, C-221/17 *Tjebbes and Others v Minister Van Buitenlandse Zaken*, and C-93/18 *Ermira Bajratari v Secretary of State for the Home*.

pean multilevel juridical architecture. The Chapter of Fundamental Rights of the European Union, of 7 December 2000, acquired a legally binding character through Article 6.1. TEU, which confers on the chapter the same legal value as the treaties. Moreover, EU citizens have widened their civic and democratic space for political representation and participation beyond their national borders. For example, Union citizens have acquired the right to move and reside freely in another member state, with no conditions imposed during the first three months of residence, and subsequently, they can remain there as long as they do not become an economic burden. After five years of legal residence, European citizens shall enjoy equal rights with the nationals of the Member State (Article 20 TFUE; Postigo, 2018, pp. 161-181). In addition, EU citizens can vote and stand as candidates in municipal elections in the member state where they reside and in supranational elections to the European Parliament. They can also propose a legislative initiative to the Commission under certain conditions<sup>14</sup>.

In this sense, contrary to what is held in the German Constitutional Court's Lisbon Treaty Ruling, the CJEU's case law and scholarly literature have over recent years underlined the autonomous reach and scope of Union citizenship; EU citizenship thus creates a new political sphere beyond the member states (Mass, 2014, pp. 797-820; Maas, 2016, p. 544;

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<sup>14</sup> As regulated in Article 11.4 TEU, no less of one million citizens who are nationals of a significant number of member states can invite the European Commission to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties. See Regulation (EU) no 211/2011 of the European Parliament and the Council, that regulates the Citizens' Legislative Initiative.

Kochenov, 2013, pp. 97-136; Kochenov, 2017; Kostakopoulou, 2005; Kostakopoulou, 2007, pp. 623-646; Postigo, 2018, p. 169; Shaw, 1998, pp. 293-317). Furthermore, it can be argued that Union citizenship has become “one of the most advanced forms of multilevel citizenship, anticipating future venues of regional integration” (Maas, 2016, p. 544; Postigo, 2018, p. 169).

What is interesting here is the democratic theory informing the debate on the EU’s democratic functioning. As was shown above, the German Constitutional Court held that only a political organization constituted as a state meets the required conditions for a political community to become a democracy. Since the EU is not strictly a (nation) state and there is not “a people for all Union citizens that could exercise self-determination as a legal entity”, the EU has not attained the level of legitimation of a democratic polity. In short, there is not “an independent personal subject of legitimation at European level” (GFCC, 2009, 97). Democracy in the EU rests exclusively with the sovereign power of the member states: there is no supranational democratic subject of representation of its own.

Somewhat similarly, the conferral model of EU democracy is present in some European political groups’ programs. One example is the European Conservatives and Reformists (ECR) political group, which advocates a new European institutional settlement recognizing that “the Union’s democratic legitimacy derives principally from its member states alone and that the concepts of subsidiarity, proportionality and conferral must be fully respected”<sup>15</sup>. Accordingly, the ECR calls for a

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<sup>15</sup> See the official web site of the European Conservatives and Reformists (ECR), “Respecting the Rights & Sovereignty of its Member States”:

reformed EU understood as “a community of nations cooperating in shared confederal institutions in areas where they have some common interest that can best be advanced by working together”<sup>16</sup>.

Clearly, both the German Constitutional Court and the ECR share the view that in the EU, democratic sovereignty and representation are (and should be) located within the member states, limiting the democratic reach of Union citizenship.

Another example is the Identity and Democracy European Parliament (ID) European political group, formed by nationalist and antiimmigration parties, such as Salvini’s Lega party in Italy, the National Rally in France and Germany’s AfD. The ID also advocates the sovereignty and identity of European nations and peoples. However, in line with its populist plebiscitarian traditions, along with greater powers for national Parliaments in the EU decision-making system, it demands “respect for the results of democratically held referendums”. The ID also argues that each nation should have the right to determine its own policies according to its own needs and that the EU should stop interfering in the international affairs of its member states<sup>17</sup>. Finally, it calls for the protection of national identities and opposes both uncontrolled mass immigration and the possible EU accession “of a non-European country like Turkey”<sup>18</sup>.

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[https://ecrgroup.eu/vision/Respecting\\_rights\\_sovereignty\\_member\\_states](https://ecrgroup.eu/vision/Respecting_rights_sovereignty_member_states) (04-06-21).

<sup>16</sup> Ibid.

<sup>17</sup> Identity and Democracy political group’s official webpage: <https://www.idgroup.eu> (04-06-21).

<sup>18</sup> Ibid.

From the opposite pole of the political spectrum, the radical left, highlighting the division between two antagonistic, homogeneous groups – the “pure people” and the “corrupt elite” (Mudde, 2007, p. 23; Villacañas, 2005) – argues that the EU should be conceived of as a “project of people” instead of a “project of the elites”, committed “to the voice of the streets in the European Parliament”<sup>19</sup>.

Arguably, despite their ambiguous, strategic rhetoric about the EU, radical nationalist parties and discourses tend largely to reject a federal view of the EU (a “United States of Europe”), although many support some form of confederal Europe. In short, they “want a more limited form of European cooperation than the current EU, involving only specific policy fields and no significant loss of sovereignty” (Mudde, 2007, pp. 166, 168)<sup>20</sup>.

We should note here the underlying democratic theory that informs the debate on the EU. As has been shown, the role of *the people* appears to be a basic feature of what I call the communitarian democratic perspective. Both of its versions,

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<sup>19</sup> See The Left – GUE/NGL European Political Group, <https://left.eu/about-the-group/> (31 March 2023).

<sup>20</sup> Although the EU multilevel legal system for the protection of basic rights is at odds with the *demos*-centric rhetoric of nationalist and populist parties, European elections have, indeed, become a strategic goal for European extremist political groups. For example, Catalan secessionist leaders who fled from Spanish justice after the illegal secessionist referendum held in Catalonia on 1 October 2017, have frequently asked the European Parliament and the supranational Courts for protection against the Spanish rule of law. On the other hand, as Cas Mudde has shown, European elections have become a strategic goal for radical right-wing parties and movements, helping them creating stronger factions within the European Parliament and ensuring crucial financial support, which they would otherwise lack due their weak representation at the national level (Mudde, 2007, pp. 161, 175).

the *delegate* and the *populist* plebiscitarian rhetoric, uphold – albeit with significant differences and nuances – a vision of the EU as an association of states in which basic democratic sovereignty and legitimacy are retained. However, while the delegate view advocates a conferral model of EU democracy that situates democratic sovereignty with the member states, populist nationalist parties and movements uphold a plebiscitarian rhetoric that can even justify illiberal violations of the rule of law<sup>21</sup>. In neither case does there seem to be room for a cosmopolitan or transnational democracy. The emphasis on the *demos* and the unitary people excludes the idea of a European *constitutional patriotism* that enhances Union citizens’ allegiances and loyalties toward the European project in spite of their national identities and belongings (Habermas, 1998; Habermas, 2001, pp. 5-26; Mueller, 2007; Rosales, 1998; Rosales, 2001, pp. 11-53; Sternberger, 2001).

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<sup>21</sup> The concept and features of antiliberalism are developed in detail in some other chapters of the present volume. See Palano’s, Rosales’, and, more indirectly, Wolin’s chapters. It can be argued that, “in the populist democracy, nothing is more important than the ‘general will’ of the people, not even human rights or constitutional guarantees” (Mudde, 2007, p. 23). According to Blokker, “from the populist view, legalism and the rule of law hinder the full realization of the rule of the people” (quoted in Mudde, 2007, p. 154). In this sense, “within the populist idea the ‘general will’ of the people is the basis of democracy and cannot be limited by anything” (Mudde, 2007, p. 156). Constitutional guarantees are valid only as long as they have majority support; in some countries, such as Austria, Croatia, Slovakia, this has led to serious attempts at violation of constitutionally protected liberal rights (Mudde, 2007, p. 156). Another example is the illegal secessionist referendum organized in Catalonia, 1 October 2017, by Catalan nationalist parties and movements (Wagner, Marin and Kroqi 2019, pp. 787-803; Olivás Osuna 2023). Regarding the basic tenets of populist politics see Pacheco-Bethécourt’s chapter in the present book.

In the next section, I will focus on the European federalist approach, which lies at the opposite pole from the communitarian perspective. I will argue that, albeit with significant differences and implications, the communitarian perspective and the federalist view have in common their reliance on the nation-state paradigm and their dependency on the “first age of Modernity”<sup>22</sup>.

### *3. The EU federalist perspective and its paradoxes*

Since its origins, the European integration project has been more than a market integration. Its founding fathers aspired, from the beginning, to advance toward a progressive federation of the European states as the best means to ensure lasting peace and prosperity in the continent (Burgess, 2000; Monnet, 1978; Postigo, 2013, pp. 44-46; Pasture, 2015).

For example, the Schuman Declaration of 9 May 1950, which gave rise to the European Coal and Steel Community (ECSC) one year later, defined the Community as “the first step toward a European federation”<sup>23</sup>. The ECSC included a

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<sup>22</sup> According to Ulrich Beck the basic feature of what he calls the “first age of Modernity” is the dichotomic differentiation “*either national or supranational*”. In contrast, in the “second age of Modernity” or “reflective Modernity”, such a “*either/or*” antagonism is replaced by a “*both national and supranational*” perspective, best embodied in the idea of a cosmopolitan Europe (Beck 1993; Beck 2000, pp. 79-106; Beck and Grande 2007).

<sup>23</sup> Robert Schuman was a Christian Democrat political thinker and statesman, Foreign Minister and twice Primer Minister of France, considered one of the founders of the European integration project, and of the Council of Europe and NATO. He was a key political actor in the reconstruction of Europe after World War II. His Declaration of 9 May 1950, proposing the creation of the European Coal and Steel Community (ECSC), can be seen

Parliamentary Assembly composed of delegates of the national parliaments, a High Authority, which was seen as the embryo of a future federal government, and a Court of Justice (Castaldi, 2007, p. 16; Castaldi, 2010, pp. 78-109). In the following decades, these bodies would evolve into the three basic institutions – the European Parliament, democratically elected by citizens since 1979, the European Commission and the CJEU – which reflect the supranational dimension of the European project.

Likewise, during the postwar years, the French diplomat Jean Monnet, one of the leading political actors in the European reconstruction and integration, emphasized that the European states were too small to prosper isolated, in conflict against each other. They should move toward a progressive federation as the best means of achieving mutual progress and stability (Monnet, 1978)<sup>24</sup>.

In general terms, a federation was regarded from the beginning as “the only institutional formula to create an efficient central government compatible with the greatest autonomy of the member states” (Postigo, 2013, p. 46). This was, in fact, stated by one of the central documents advocating the creation of a European federation, the so-called Ventotene Manifesto. Written in 1941 by Altiero Spinelli and Ernesto Rossi, two anti-fascist activists who were under house arrest on

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online at the EU’s official website: [https://european-union.europa.eu/principles-countries-history/history-eu/1945-59/schuman-declaration-may-1950\\_en](https://european-union.europa.eu/principles-countries-history/history-eu/1945-59/schuman-declaration-may-1950_en) (19 May 2023).

<sup>24</sup> Jean Omer Marie Gabriel Monnet was a French diplomat, influential commercial and public servant, who played a key role in the reconstruction of Europe after World War II and in the European integration project. See his autobiography, first published in France in 1976 (first English translation, Monnet, 1978).



the Island of Ventotene, the Manifesto called for free and united Europe against the divisive forces of nationalism and fascism (Castaldi, 2007, pp. 15-31; Postigo, 2013, p. 46).

Indeed, over succeeding decades, the civic and democratic dimensions of European integration have been enhanced through the reforms embodied in the treaties and the CJEU's case law (Castaldi, 2010, pp. 78-109; Stone Sweet, 2010; Stone Sweet, 2012). Six states – France, Italy, Belgium, Luxembourg, the Netherlands, and West Germany – signed the ECSC and then the Treaty of Rome, which in 1957 established the European Economic Community (EEC). Since then, European integration has given rise to a novel and singular polity, currently formed by twenty-seven member states (encompassing both Western and Eastern, former communist, countries), that have relinquished part of their sovereignty on behalf of their common interests and institutions<sup>25</sup>. As has been mentioned, the EU has its own supranational Parliament, directly elected by the citizens of the EU, who enjoy a dual form of citizenship (national and supranational). It also has an executive body (the European Commission), which promotes the general interests of the Union and ensures the correct application of Union law, subject to the CJEU (Article 17 TEU).

However, despite these steps toward further supranational integration and enlargements, a better definition of the European project would be a political experiment of the global era. In our intercommunicated, interdependent and multipolar globalized world, European states are more likely to succeed and protect liberal democratic values in a united Eu-

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<sup>25</sup> More information regarding EU enlargements can be found at EU's official website: [https://european-union.europa.eu/principles-countries-history/history-eu\\_en](https://european-union.europa.eu/principles-countries-history/history-eu_en) (21 March 2023).

rope. In this sense, the European project represents something new vis-à-vis the modern nation-state (Hellström, 2006; Postigo, 2013, p. 47; Postigo, 2014, pp. 172-190).

As Philippe Schmitter has pointed out, the Union could best be defined as a “nonnational”, “nonstate”, “multilevel”, or “polycentric” polity (Schmitter, 2001, pp. 2-8). The European project has encouraged the emergence of new concepts and definitions that try to capture its political idiosyncrasies and novelty. In this regard, European federalism might be considered somewhat anachronistic when it means exporting traditional (federal) political categories and institutions to the supranational level without effectively exploring, envisaging or reappraising new ones better adapted to the current European context<sup>26</sup>.

European federalists might display a sort of dependency on the nation-state paradigm similar to that seen in the communitarian rhetoric of democracy. However, the communitarian perspective reaffirms the role of the sovereignty of the European peoples and states within the EU political system. Conversely, the federalist approach seeks to encourage EU integration and democratization via reform of its decision-making institutions and procedures. The aim is that they come to resemble, as much as possible, federal parliamentary systems. Examples of moves in this direction are increasing the power of the European Parliament (Costa, 2017), creating

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<sup>26</sup> Generally, European federalism encompasses a wide variety of theories and political stances that seek to enhance European integration and reinforce supranational institutions with the intention of moving toward a federal system. It is not possible to present here all the variations of European federalists. For a general argumentative and historical outlook see, for instance (Burgess, 2000; Castaldi, 2007; Castaldi, 2010; Dosenrode, 2010; Fabbrini, 2010; Pasture, 2015; Postigo, 2013, pp. 37-55).

a European bicameral system (Palonen, 2012; Palonen, 2014), forming supranational European electoral candidatures and parties, and/or working to create a common European public opinion (Kröger and Friedrich, 2013; Lord, 2013; Praino, 2017).

While all these efforts serve to foster the EU's democratization and tackle the so-called EU democratic deficit, they seem to transfer national democratic categories and institutions to the supranational level without transforming or adapting them effectively to the nonstate polity that is the EU. The paradoxical consequence of this is that neither the federal nor the communitarian approaches depart effectively from the nation-state conceptual and political framework, the so-called "first age of Modernity" (Beck, 1993; Beck, 2000, 79-106; Beck and Grande, 2007). Nevertheless, while communitarians and nationalists focus on the European peoples as the main subjects of democratic sovereignty, so-called federalist movements and stances tend to transfer the source of sovereignty and representation from the member states to the supranational level. As a result, in neither case is there room for a more radical transformation of, or alternative to, the nation-state paradigm.

There exists, however, a third approach to the European system, which sees the EU as a political and conceptual experiment, an innovation in tune with the "second age" and "reflexive" modernity (Beck, 1993; Geulen, 2010, pp. 79-97; Geulen, 2012, pp. 118-128). In the next section, I will discuss the so-called European cosmopolitan perspective.

#### *4. Toward a new conceptual and political paradigm: the European cosmopolitan perspective*

One consequence of the European integration process is the emergence of new political categories and definitions that attempt to capture the EU's idiosyncrasy and singularity: *multi-level* system, *polycentric* polity, *nonstate* entity, *cosmopolitan* Europe, *postnational* constellation, *demoi-cratic* regime, *functional* integration, *subsidiarity*, and *conferral* notions. These examples might illustrate the conceptual innovation that the European project encourages<sup>27</sup>.

The European multilevel architecture represents something new, different from the nation-state. As we saw above, while the EU is not a (federal) state, neither is it a mere international organization. The EU is the only supranational organization with a supranational Parliament directly elected by citizens. Its dual decision-making system – supranational and intergovernmental – and its citizenship – national and supranational – differ significantly from those of other non-state international organizations.

As a result, the European polity has become a suitable space in which to explore and analyze the political categories

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<sup>27</sup> For the *demoi-cratic* theories see Bellamy, 2013; Cheneval and Schimmelfennig, 2013; Cheneval, Lavenex and Schimmelfennig, 2015; Lacey, 2016; Nicolaïdis, 2012; Nicolaïdis, 2013. For European cosmopolitan visions see Archibugi, Held and Kohler, eds., 1998; Beck, 2000; Beck and Grande, 2007. The idea of constitutional pluralism can be found in Stone Sweet, 2012, pp. 53-9; the multilevel and multicentric notions can be seen in Fabbrini, 2010 and Neegaard and Nielsen, eds., 2012; the postnational constellation is a Habermasian expression (Habermas, 1998); the idea of a new European empire can be read in Beck and Grande, 2007; Pasture, 2015; and functionalist approaches are better explained and addressed by Schmitter, 2000; Schmitter, 2001; Schmitter and Trechsel, 2007.

that have been envisaging what lies beyond, but not without, the nation-state framework (Beck, 1993; Beck and Grande, 2007). European integration could, indeed, be viewed most fruitfully as a conceptual laboratory of the new political constellation<sup>28</sup>.

Over recent decades, political theorists have heralded the emergence of *global* and *cosmopolitan* democracy (Archibugi and Held, 1995; Bankowski, 1996; Beck, 2000; Beck and Grande, 2007; Menon and Weatherill, 2007). The European context is a suitable one in which to explore how to adapt democratic categories and institutions to a plurinational polity. From different disciplinary backgrounds and perspectives, scholars such as Ulrich Beck, Edgar Grande, and Christian Geulen have provided interesting conceptual tools for rethinking political concepts beyond, although not without, the nation-state framework. In this, the EU can be interpreted as a paradigmatic example of the “second age of Modernity” insofar as it has gone beyond the traditional dichotomy “*either national or supranational*” and envisaged the logic of “*both national and supranational*” (Beck, 1993; Beck and Grande, 2007).

Arguably, therefore, in trying to understand the EU, we should be careful not to get stuck in the nation-state political and conceptual paradigm, as both communitarian-nationalist and federal perspectives of EU democracy seem to do from opposing poles. Rather, we should regard it as a political experiment, a conceptual laboratory of the second age of modernity.

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<sup>28</sup> For an insight into the idea and main features of the so-called Twentieth Century’s conceptual paradigm shift (*Sattelzeit*), within the framework of the conceptual history tradition, see Geulen, 2010, pp. 79-97 and Geulen, 2012, pp. 118-128.

## 5. *Concluding remarks*

The EU has become an unclassifiable political entity. Basic democratic concepts are being reappraised and rethought in the European context to the extent that it seems unclear “whether EU democracy requires a new theory of democracy, or whether the challenge is that of adapting existing theory to the particular distinctive character of the EU” (Eriksen and Fossum, 2011, p. 156).

Through these pages, I have underlined three basic approaches to democracy that inform the debate on the European system and democratization: communitarian, federal and cosmopolitan. To different degrees, the first sits in the *demos*-centric communitarian rhetoric that locates democratic sovereignty exclusively in the member states; the second aspires to a federal Europe that transfers greater sovereignty and the procedures of representative democracy to the supranational sphere; and the third ushers in a new political and conceptual paradigm.

The European project has thus become a paradigmatic framework to explore current disputes that revolve around the concept of democracy. At stake is, however, the future of liberal democracy that the European Union embodies, in the face of the antiliberal turns that can be witnessed in contemporary politics in many parts of Europe<sup>29</sup>.

My main thesis is that, rather than reproducing the nation-state conceptual framework and tradition, the European project is best viewed as a political experiment that requires a

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<sup>29</sup> Once again, I refer to the chapters of this book that develop in depth the concept and features of antiliberalism.

new democratic theory and a new conceptual constellation, that better captures its cosmopolitan dimension.

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# Beyond Anti-Liberal Political Catastrophism

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**Abstract.** In this chapter, two senses in which catastrophism is relevant to democratic politics are discussed. On the one hand, the adversarial attribution of impending catastrophes to political opponents is a usual practice in democracies and a common polarizing tool among extremist positions. On the other hand, actual disasters are often depicted as potential crucial factors for policy and eventually social transformations. Exploiting disasters as an opportunity for major shifts and substitutions also characterizes some illiberal, anti-liberal and authoritarian-leaning strategies to delegitimize democracies as we know them. Liberal democracies might partially tackle this destabilizing catastrophism insofar as they are able to invest in disaster preparedness policies while correcting democratic short-termism as much as possible. The social and political construction of coming catastrophes should thus evolve into a means to build the resilience of existing democracies and to counter internal and external challenges that contribute to their delegitimization.

**Keywords:** catastrophism; disasters; legitimacy; policy; populism; resilience; short-termism.

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## 1. *Introduction*

Disasters are extraordinary and complex phenomena with multiple dimensions of analysis. Disaster studies bring together a wide range of disciplines, including those from fields in the social sciences and humanities, and abound in specialized approaches with sophisticated problem analyses and case studies, forward-looking projections, and applications of human, material and technological resources.

This chapter will focus on a specific aspect whose relevance cannot go unnoticed in political theory and political philosophy: the implications of the political use of mass emergencies, disasters and catastrophes<sup>2</sup>. The point of departure will be a differentiation between two ways of understanding political catastrophism, one that sees it as a common rhetorical device for blaming and discrediting in adversarial politics and the other that approaches it as a complex discursive practice that turns disasters into drivers for changes in policy and eventually in society as a whole. While these two perspectives on catastrophism may appear together in certain contexts, it is the latter that foregrounds the potential political significance of disasters. In this respect, I will offer an overview of a set of theories that take them precisely as focal events that can frame sustained problems and dormant or unexplored solutions and help in this way to set off political dynamics of policymaking. While both types of political catastrophism are tools at the disposal of political actors in liberal democracies, even if

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<sup>2</sup> In the literature on disasters, the notions of mass emergency and catastrophe and even crisis are often used interchangeably with the term disaster. Although they are not synonymous and can be classified according to an intensifying scale of incidents (Birkland 2006; Tierney 2019), in this chapter they will be taken as equivalent.

often offensive and confrontational, I will suggest that they could become especially pernicious in the hands of some illiberal and anti-liberal agents, movements and governments that seek to undermine democratic institutions and ways of life<sup>3</sup>. Finally, I will speculate on whether democracies can make a virtue out of necessity (of having to both confront the disasters that will befall them and remedy the short-termism that is endemic to them) and ultimately be in a position of reinforcing their own legitimacy by leveraging the political construction of the disasters to come.

## *2. Political Catastrophism*

There are at least two senses in which catastrophism is relevant to politics. One of them can be seen as a typical rhetorical resource of adversarial politics, and the other as an articulated practice that takes advantage of disasters as a potential trigger for policy change and occasionally as unchaining transformational societal change.

The first sense comes to the fore in the denunciation of calamitous evils routinely wielded in partisan disputes, electoral contests, and debates between government and opposition. One camp attacks the proposals, policies and decisions of incumbent politicians (or, vice versa, the ruling side devalues the alternative claims and projects of the adversary) on the grounds that they lead to a situation tantamount to a disaster.

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<sup>3</sup> For the differences between illiberalism and anti-liberalism, see Freedman (2015, 34, 40) and Canihac (2022). In this chapter, such concepts apply to emerging and already functioning political systems and a variety of political agents, as well as to theoretical proposal and ideological views coming from very different fronts.



Accusative doom-laden rhetoric frequently extends to the ideologies and political principles of opponents as giving entrance to all sorts of grave, undesirable and threatening outcomes.

Certainly, overdramatization and overuse cannot but disfigure and trivialize the concepts of catastrophe, emergency and disaster. However, as the political struggle also fought on the terrain of ideas and the gaining of influence, it is not only leaders and the rank-and-file of political parties but also intellectuals with political affiliations, the mass media, interest groups and other stakeholders who take part in the imagery of social disasters as political byproducts. In a sense, this rhetorical device to garner public attention while denigrating the adversary can be found once and again throughout the Western history of political theory and practice. It dates back at least to Greek democracy debates, one of the classic passages being the allegory of the democratic city-state as a sinking ship of fools in Plato's *Republic* (Book VI, 488), and finds one of the critical points in ideological invectives across the world during the Cold War. However, catastrophism-oriented discourse is today a regular resource of politics as usual in Western democracies, largely due to the way in which partisanship and the pressure of electoral dynamics determine the political allocation of blame. As a versatile and recurrent piece of the argumentative kit of party politics, it may easily turn out to be a polarizing tool. Although it is to some extent a practice endemic to party democracies as they have evolved to the present day, it is not surprising that it is all the more toxic and more ingeniously employed as positions become more polarized and that it is skillfully exploited among extremist political actors.

There is another political understanding of catastrophism that, although often linked to the previous one, takes real dis-

asters as providing windows for change that otherwise would not have been opened. Arguably, this other understanding elaborates the idea of “creative destruction” by analogy to the scientific meaning of the term. Catastrophism is the theory according to which abrupt geological and biological changes in Earth history are due to massive natural catastrophic processes. After being popularized in the early 19<sup>th</sup> century by the French scientist Georges Cuvier (1769-1832) and enjoying prestige for a time, this theory fell out of favor, being displaced by an alternative theory with greater explanatory power. However, various versions of scientific catastrophism have emerged since the last third of the 20<sup>th</sup> century. A prominent one derives from the Stephen Jay Gould and Niles Eldredge model of evolution as punctuated equilibrium, which explains speciation and expansionary growth as the aftermath of a huge crisis and mass extinctions driven by major events in earth history. Think also in the “impact event hypothesis” that explains the end of the hegemony of the dinosaurs by the cataclysm caused by a celestial body as an asteroid. Needless to say, popular culture has exploited *ad nauseam* the imagery of the threats and destruction of human race, as the latest hegemonic species, caused by asteroids, meteoroids and comets entering the Earth’s atmosphere, striking the planet, and transforming its living conditions (Clube and Napier, 1990). However, it is neither these scientific hypotheses and their parallels with Marxist and Schumpeterian socioeconomic doctrines (Brooke, 2014) nor the global existential scenario after a disaster of extraterrestrial origin (Bostrom and Ćirković, 2008) that interests us here, but rather some intricacies of the political analogy.

At least two issues are of interest in relation to that analogy. First, many people currently think that humans are no longer an integral part of the natural world but an omnipres-

ent species that dominates it globally and consumes its non-renewable resources running on an unsustainable project of indefinite growth. Even if this is true, nature is not just a supplier of resources at the service of increasingly overpopulated societies. Rather, it also reveals itself as a destroyer of resources and infrastructures that forces human communities to adapt and resist. Notably, so-called “natural” disasters are unexpected, low-probability but high-consequence hazard events that cause major damage to communities and the disruption or alteration of the normal functioning of social structures and processes. Along with death, injuries, disease and other negative effects on human biological, mental and social well-being, their destructive action may include damage of different nature: physical, economic, environmental, etc.

However, the distinction between natural and anthropogenic disasters is becoming increasingly problematic. The distinguishing criterion revolves around the main causes of disasters, whether natural or man-made, resulting in a classification further subdivided into etiological descriptors: on the one hand, climatological, geophysical, hydrological, meteorological, biological, and extraterrestrial disasters are kinds of natural disasters; on the other hand, industrial and transport accidents, impacts of wars and armed conflicts are among the human and technological disasters. However, most disasters often involve both natural and human sources, while damage arising from natural hazards is often interwoven with technological interventions. Indeed, the demarcation between the two types is becoming blurred and even controversial in those “natural” cases when the causal complexity does not exclude decisive human factors and the alleged bad luck due to natural forces is not entirely unrelated to human capacities of control or to failures in these capacities. The normative implications of the indeterminacy of “natural” disasters and the

entanglement of natural and human aspects are remarkable, particularly for disaster preparedness. Among other things, they could reduce the gap with the responsibilities attributed to clearly anthropogenic cases and could mean a reassignment of retrospective responsibilities of prominent agents, such as states and large organizations, including the reparations that may be needed.

Second, disasters have become both social and political issues. Although I will expand on these ideas later, let me now illustrate this point by mentioning the earthquake and tsunami that, along with widespread fires, devastated the city of Lisbon in 1755, a destruction that shocked European societies at the time and sparked profound and influential debates among enlightened thinkers.

It is noteworthy that Rousseau's reply to Voltaire's "Poem on the Lisbon Disaster" already introduced what we now call social vulnerability, when he noted that the outcomes of the earthquake were all the more destructive and the fate of the victims all the more massively unfortunate depending on the ways in which the buildings were placed and constructed and the social behaviors and lifestyles were conducted (Dynes, 2000). Since then, the Western conception of disasters has become increasingly receptive to assessing the social and economic relations behind the exposure of communities and their capacity to resist and respond. Disaster risks are said to be the combination of the hazards that occur as a potential source of harm and the vulnerability levels of the affected communities. It is now widely accepted that particular contingencies and preexisting vulnerabilities of these communities strongly influence the devastating disaster situations and, in particular, that social and economic determinants exacerbate the impacts of disasters so that the latter strike the most disadvantaged the hardest. Those most affected by tragedies are

often those who were already the most vulnerable beforehand. Consequently, Western conception has learned to move from the observation of a misfortune to the reasoning of injustice, primarily regarding the preventable aspects of disasters (Shklar, 1990; Zack, 2009). As Amartya Sen (2009, p. 4) put it, “a calamity would be a case of injustice only if it could have been prevented, and particularly if those who could have taken action had failed to try”.

Indeed, the historical importance of the 1755 earthquake lies mainly in the political management of the social consequences and economic costs for Portugal, then a declining imperial power. In this disaster politics, political leadership was decisive (Jones 2018, Ferguson 2021). The king, Joseph I, who had survived by chance, developed claustrophobia and aversion to living in the city, so he moved the court to the Royal Barraca, a complex of tents and wooden pavilions on the outskirts of Lisbon. In contrast, his prime minister, Sebastião José de Carvalho e Melo, First Marquis of Pombal, leveraged the crisis to strengthen his authority and reshape the balance of forces within the country. He was noted for telling survivors “Bury the dead and feed the living”, the famous statement on which he first concentrated his plan of action. He also centralized power in his hands. Pombal not only organized the immediate response to the victims, restored social order heavily and implemented reconstruction measures for the city, introducing new urban planning as well as architectural improvements and restrictions on rebuilding, known as the Pombaline style. In addition to readily reacting with the humanitarian response and reducing the vulnerability to future disasters, he also took the opportunity to regulate news about the earthquake and curtail the influence of the Catholic Church, dismantling in particular the strategic, commercial and intellectual power of the Jesuits, and, above all, im-

posing a set of important institutional and economic reforms and public policies that reoriented the destiny of both the capital and the country (Maxwell, 1995).

This case can be seen as an exemplar for the way in which communities adapt in the aftermath or in anticipation of disasters is first and foremost political in nature. This is because political institutions are crucial in determining how vulnerable and resilient communities can be and how to distribute resources in them before, during and after disasters. It is also because many other implementations (such as legal, economic, and technological ones) for preparedness, response or recovery depend to a large extent on the capacity of these institutions and communities to rearrange their political instruments to reorganize themselves collectively. Finally, affected communities look to their political leaders to help decipher their future and also to find who to blame.

### *3. Liberal and nonliberal uses of catastrophism*

Disasters happen when human-made and naturally occurring hazards intersect with the social vulnerability of the affected communities and typically result in needs and demands that exceed the available resources of these communities. The shortage of provisions can be technical and temporary or rather structural and in the longer term. Certainly, disasters have become major concerns among states and societies as there has been a widespread awareness that their number, frequency, intensity, severity and socioeconomic cost have risen worldwide and will increase in the coming decades. However, presumably there is another reason fueling these concerns when we look at the electoral dynamics of attaining and retaining political power: many historical cases show that dis-

asters threatened past rulers and regimes and, more temporarily, electorates' retrospective assessments of democratic governments have often punished incumbent politicians for changes in their well-being due to calamities and disaster damages (Achen and Bartels, 2016, pp. 116-145).

In what follows, attention will be drawn to the fact that disasters that have truly occurred – and not those that are merely attributed to political opponents – can not only have an impact on election outcomes but also develop into a decisive catalyst for social, legal and political reforms in democratic regimes. Put otherwise, the exogenous shock of natural and man-made hazards on political processes may eventually lead to transforming effects in democratic societies if it first successfully evolves into a driver for policy change. Certainly, the relevance of disasters on social and policy change has been a prominent theme in disaster studies since Samuel Henry Prince argued in this sense in his pioneering dissertation on the 1917 explosion of a French munitions ship in Halifax harbor (Scanlon, 1988). Therefore, it is not at all surprising that this topic figures conspicuously in various theories of policy change in liberal democracies, such as John Kingdon's multiple streams approach (Kingdon, 1984), the punctuated equilibrium model (Baumgartner and Jones, 1991), the advocacy coalition framework (Sabatier and Jenkins-Smith, 1999), the public policy transfer approach (Dolowitz and Marsh, 2000), and Thomas Birkland's contributions on disasters as agenda-setting potential focusing events (Birkland, 1997, 1998).

These theoretical frameworks have spawned a rich literature on policy change that seeks to explain how disasters may come to activate, as it were, a sort of Overton window able to accommodate neglected and overdue issues and in turn open a short "window of opportunity" (Kingdon, 1984, pp. 173-

204) to push through reforms that might previously have been unfeasible or unthinkable. In reacting to some disasters, especially the large-scale ones, political agents and other stakeholders (interest groups, the media, experts, intellectuals) engaged in a competition to frame and define the unexpected events in ways that advance their political goals, be it to introduce reforms or rather to contain them on behalf of the status quo. In other words, they fight for problem definition and agenda setting (DeLeo, 2018, pp. 72-75; Nohrstedt 2022, pp. 432-435). Consequently, political actors and organized interests advocating substantial changes seek to capture the attention of other agents and ordinary people and direct it to new problems and previously dormant and unnoticed issues, to policy and management failures, and to solutions to those problems and alternatives to these policies. When disasters turn into potential focusing events entering and altering the media and policy agendas and citizens' discussions, the public thematization of disasters may come to nudge and expand criticisms of previous decision-making processes and the ineffectiveness of existing policies. It can also end up sparking and aggregating the demands from different sectors for more or less radical change of these public policies. Pro-change political actors politicize the exogenous impact by reframing and reappraising the flaws and problems in the existing policymaking and articulating the demands on the need for deep reforms. In this respect, disasters are social and political constructs.

Even if disasters reveal social injustices and policy failures, they may well not be conducive to significant changes. On the one hand, they may highlight unequal distributions of power and resources among affected populations but fail to move political agents and communities to address the long-lasting differential effects of inequality and launch initiatives to re-



duce risk and existing vulnerabilities. Instead of fostering community resilience, postdisaster interventions may intensify prior distributional inequalities. On the other hand, “rarely is policy change a forgone conclusion” and rather policy stability often prevails (DeLeo, 2018, p. 73). Despite narratives of “never again” and temporary awareness of collective lesson-drawing (Birkland, 2006), postdisaster scenarios may move away from the distribution of political responsibilities, policymakers may derive the wrong lessons or restore old recipes, and reformed policies may at times increase hazard risk and existing vulnerabilities.

A rather popular strand that maintains a distant affinity with the aforementioned literature tries to unmask how the capitalist system profits from dooms of various kinds, even if they were mainly caused by the system itself. According to Naomi Klein and other defenders of the “disaster capitalism” thesis (Klein, 2007; Žižek, 2011; Loewenstein, 2015), political powers and complex networks employed by corporations have repeatedly pounced the opportunity presented by certain man-made or supervening disasters to eliminate paralyzing social constraints and push forward a neoliberal agenda of economic policies that otherwise would have faced resistance. Predatory agents thus have imposed neoliberal measures as alleged solutions to disasters thanks to the political strategy known as the “shock doctrine”, consisting of guiding the reconstruction processes after the effects of military interventions and natural disasters by taking advantage of the disoriented populations. In fact, some crises are said to be deliberately unleashed and the shock purposely induced.

The exploitation of disasters as an opportunity to instigate political changes belongs to the repertoire of some illiberal, anti-liberal and authoritarian uses of political catastrophism. The constant performativity of crisis figures as a typical fea-

ture of populist actors (Moffitt 2016) and, in contrast to them, some discourses about environmental calamity and civilization collapse are willing to write off democracy.

In a sense, populists are not so different from the rest of democratic agents in this point: they learn their own lessons from past disasters, address the effects of recent and current ones, and decipher beforehand the sense of coming crises. As with other political agents, they assign blame and ask for accountability among the incumbent positions and other democratic players. However, in the current era of democratic regression worldwide (Diamond, 2021), anti-liberal populists do not hesitate to take advantage of extreme events and subsequent corrective measures to recreate and deepen sustained institutional crises, gather followers and political claimants among outraged and disenchanted populations, and offensively obtain nondemocratic ends beyond reformative interventions. When they are in power, crisis and disasters are occasions for gaining popular support for centralized leadership and decision-making.

Moreover, a varied arsenal of coercive measures is at their disposal. Depending on the political cultures and constellations of political forces, they may curtail fundamental rights and civil and political liberties, incriminate opponents and dissidents, hinder the vigilance of the press and, more than that, disable independent media's watchdog role, dismiss or suspend monitoring by autonomous agencies and interfere in the independence of the judiciary and especially in the nature of the constitutional courts and the process of judicial review. Whether it is claimed that liberal institutions do not respond to the urgent demands of the authentic people at risk or that they are not prepared to face the threats ahead and the real needs that national fellows will confront or, by raising the bet, that they are themselves generators and facili-

tators of past and future disasters, anti-liberal populist catastrophism can thus be deployed as a tool in the service of the broader aim of political backsliding and as an additional strategy to delegitimize democracies as we know them.

On the other hand, a number of authors who theorize around the view of the Anthropocene or who defend degrowth and postgrowth as an alternative or substitution for the capitalist economy also advocate for overcoming the central institutions of current democracies. Some argue from the projective view of a civilizational and environmental collapse due to the exhaustion of natural resources and the complexity of multiple, interdependent, and cascading threats or from the expectation of countless disasters that will be caused by climate change and that future generations will suffer. Even if they try to avoid millenarianism and defeatism by referring their epochal diagnosis to scientific evidence and reasonable predictions, many advocates of the more or less imminent collapse of the capitalist economy and our consumerist ways of life put the democratic institutions that have actively collaborated in the advent of said collapse on the bandwagon of the irremediable losses.

This way of thinking seems to conform to an instrumental justification of democracy, which makes the value of democratic practices and procedures dependent on their outcomes. As Elizabeth Anderson (2009, p. 225) put it, “if democratic elections regularly resulted in policies catastrophic to the electors – and worse than what alternative systems of governance would deliver – they would not be justified”. In this vein, there are renowned figures (Jørgen Randers and James Lovelock among them) that sooner or later declared to be willing to reorganize democracy on the basis of ecological priorities or even circumvent the fecklessness of democracy to solve the severe environmental crisis. It is well known that a

somewhat antidemocratic perspective was common to the eco-survivalists of the 1970s. William Ophuls, Robert Heilbroner and Garrett Hardin held the imposition of limits through coercive and authoritarian rule and prized expert knowledge for global environmental policy (Humphrey 2007). The authoritarian strand within environmentalism has not disappeared from view. A number of current thinkers, despairing at liberal democracies' impotence in effecting solutions to a range of protracted environmental problems, particularly climate change politics, call for more authoritarian but focused alternatives, including a severe government by experts (Westra, 1998; Shearman and Smith, 2007).

Finally, others recommend paying attention to authoritarian regimes that, as China does, claim and propagandize that they possess a superior and more successful governance model than decadent and dysfunctional Western democracies, including presumably not controversial standards and policies for short- and long-term disaster preparedness and the aspiring project of addressing environmental problems (Beeson 2010; Bell 2015, pp. 19, 53-54).

#### 4. *Reframing catastrophes*

To recapitulate what has been said thus far, political catastrophism can be understood – among others – both in terms of *politics as usual*, as when engagement in partisan fight drives certain parties and social agents to play with the connotations of alleged disasters, and in terms of *relatively unusual politics*, as when organized interests make sense of the nature and scope of disasters that have actually taken place. While the first understanding identifies a common practice of adversary politics that cheapens the symbolic meaning of disaster and catastro-

phes and performs it as something endogenous to political discourse, the second one gains larger political and policy implications, as framing and describing the social meaning of actual exogenous hazards turn them into a key element of the political process itself. The moment of the politically unusual is generally played out through the reassessment of a series of salience issues (for instance, needs and demands of public health or carelessness in infrastructure investments) and the devaluation of those public policy frameworks that unsuccessfully responded to the crisis.

Both uses have different but contingently concurring aims: the search for a polarizing effect may be integrated into the postdisaster cultural and political struggles to advance transformative effects, and the partisan rhetoric of blaming the adversary can develop into a literal and effective assignment of blame and responsibility when disasters materialize. Both uses practice the political construction of disasters in their own way, although the merely attributed disaster as a byproduct of wrong political ideas, positions and policies may come to be in fact reviewed as an inevitable outcome when the happened disaster finds a convincing narrative that frames the causes, the responses, and the consequences.

In a sense, both uses are inherent to the prevailing development of existing democracies. Obviously, they are also susceptible to being creatively and aggressively exploited by actors, movements, organizations, and governments claiming that liberal democracies themselves fail to satisfy the pressing demands of real people or that they are incapable of dealing with the coming threats and needs that future generations will further suffer. Given that such claims, rather than merely seeking to reform, may well aspire to transgress, erode or even replace democratic institutions, exploitations of political catastrophism may seek to contribute to the backsliding of po-

litical freedoms and legal guarantees and the delegitimization of our imperfect democracies in the medium and long run. Ultimately the aim would be to re-establish domestic polities and not only to reshape public policies. This kind of aspiration behind illiberal, anti-liberal and authoritarian-leaning performances of catastrophism may be possible and plausible because, to a large extent, established democracies are often insufficiently prepared for disasters to come. In turn, this inadequacy in preparedness may be partly explained by the fact that our democracies have a weak flank in a seemingly endemic short-termism that captures the minds and hearts of voters and politicians and is reinforced by the dynamics of electoral systems.

#### 4.1 Are democracies ill-equipped to prepare for disasters?

In principle, it would seem that democratic states are better equipped than other political systems to both anticipate and cope with the occurrence and recurrence of bursting disasters and mass emergencies and, therefore, to protect their citizens from such events. Famously, Amartya Sen argued that raging famines were caused by lethargic and unaccountable governments and market failures rather than by food supplies, that they could be prevented through state intervention on the situation of the most disadvantaged groups and on the dysfunctions of the economy, and that democracies proved to be superior to other forms of government because “democratic governments have to win elections and face public criticism, and have strong incentives to undertake measures to avert famines and other such catastrophes” (Sen, 1999, 16). Certainly, this kind of argument has been extended to other types of disasters, such as earthquakes and floods (Smith and Quiroz, 2010). As in the case of famines and mass crimes,

democracies have also tended to do better than dictatorships and autocratic regimes at limiting the damage occasioned by man-made and natural hazards, not least because political leaders need the support of voters to stay in office, and citizens and organizations are given the opportunity to monitor bad management and, if necessary, punish their leaders at the ballot box accordingly. Unlike autocratic and authoritarian rulers, democratic decision-makers are not always in a position to be insensitive to the victims and damage of disasters. In addition to providing relief if disasters occur, at times they have to bow to pressure from citizens, organizations and other political agents and take timely measures to prevent and mitigate them. Even if democracies were largely inhabited by ignorant and incompetent citizens, as an influential trend of contemporary political theory is keen to point out, voters are unlikely to be unaware of the consequences of large and visible disasters and to retrospectively overlook whether the impacts of these disasters were foreseeable or preventable (Somin 2013, pp. 103-104; but see against this view Achen and Bartels, 2016).

The working of democratic institutions and of political rights can give rise to better outcomes than totalitarian and authoritarian alternatives in reacting to disasters insofar as they have both a supervisory and critical public sphere that mobilizes open critical debates on government policies and actions, as well as other mechanisms that enable and institutionalize – horizontal and vertical – accountability. Precisely because of this institutional framework, politicized disasters can eventually become the catalyst for political transformation. As discussed above, substantial policy changes can be undertaken in the aftermath of a disaster only when a constellation of stakeholders succeed in reshaping the political agenda, building a counternarrative and launching a collec-

tive reaction to a sequence of decision-making and public policies that failed to prevent losses to the economy, properties, infrastructures, environment, etc., and often also losses of human life that are judged, in retrospect, to be unnecessary and intolerable.

However, challenging the sequences of public policies that have exposed citizens to high risk and have made inefficient use of resources does not always involve that the attention of communities and their political actors is effectively redirected toward disaster preparedness or that, in case that attention is indeed redirected in this sense, proper preparedness policies and practices are sustained over time. It has been argued that democracies do not always seem to be particularly poised to deal with the disasters that befall them: “democratic institutions by themselves are far from a sufficient safeguard against disasters of all kinds” (Ferguson, 2020, pp. 175-212, here 192). Very often, the latter are largely a consequence of shortcomings in preparedness and mitigation strategies and contingency plans for which administrations are primarily responsible, such as setting and reviewing building codes, revising critical infrastructure, prohibiting construction in high-risk areas, reinforcing vulnerable structures, and maintaining warning systems. Even though it is known that preparing for emerging hazards saves both lives and money, democracies stubbornly favor reactive responses to upcoming crises and systematically neglect many preparedness tasks that are proactively required to ensure. It is not uncommon that inadequate preparations for disasters that eventually occur prove remarkably ineffective in the long run, resulting in disproportionate cost overruns over the years compared to the estimated costs that good and timely preparedness would have incurred (Healy and Malhotra, 2009; Shreve and Kelman, 2014).



One of the main reasons why liberal democracies sometimes fail calamitously in preparedness to disasters lies in the prevalence of short-termism at different levels. Short-term bias and intertemporal myopia lead not only voters and interest groups but also politicians and decision-makers to subject themselves to a perverse dynamic of electoral politics that tends to devalue those policy domains that have an extended timeframe and typically require costly action in the present with benefits only to be expected in the long run (González-Ricoy and Gosseries, 2016). Public choices pertaining to preparedness to disasters are among these policy domains.

On the one hand, individuals' short-sighted preferences relegate or ignore future benefits or discount them for the sake of near-term benefits. According to a number of studies, citizens tend to overvalue politicians for reactive disaster relief and assistance policies and overlook their public policies of risk preparedness. Thus, voters also tend to reward spending on immediate disaster relief much more highly than spending on disaster prevention, even though the latter may be much more effective in minimizing the loss of life and property (Mulligan, Taylor, DeLeo, 2022). While spending on relief is far more visible to low-informed voters who realize the exogenous impact on the economic and local status quo, spending on prevention must often be done long before this shocking experience, perhaps at a time when few voters appreciate the potential salience of the issue and when the near-term costs may be highly unpopular given the margins of uncertainty and given other, more urgent needs and pressing demands.

On the other hand, policymakers and public officers who balance public budgets are more willing to invest in responding to existing crises than in spending on preparedness and prevention of emerging hazards. Electoral pressures provide politicians with perverse incentives. Serious efforts to pass

ambitious programs to plan, prevent or prepare for future threats may be far from being electorally beneficial. Rather, they can take a burdensome toll on incumbents. Due to the dynamics of electoral cycles, good politicians may fail to convey the relevance of those programs to voters who do not notice the importance of the problems to be solved in advance. Alternatively, they may be punished after quiet work without popularly recognizable results, while the success of these measures will only be reaped in the future and when these results are likely to increase the credibility of other government teams, which may well be those of political opponents. In contrast, bad decision-makers can claim credit for reacting in time and declaring a state of emergency. In addition, if things go wrong several decades from now, the government at the time will take most of the blame.

#### 4.2 Destabilizing catastrophism and the democratic construction of disasters

However, there is reason to believe that it is not a doomed enterprise for well-established democracies to be able to cope with current and future catastrophist attacks launched by agents of delegitimization in an anti-liberal vein. Whether this stabilizing defense is likely to succeed or not will depend to a large extent on the ability of these democracies to fight the short-termism and temporal myopia that function as a kind of latent cause of their delegitimization, while they politically rearrange the areas of public risk as societal priorities. At both levels – those of correcting the pervasiveness of democratic short-termism and guiding public policies for disaster preparedness – it should be assumed from the outset that the social and political construction of impending disasters and catas-

trophes entails reassessing the viability of our ways of life and the legitimacy of the democratic regime itself.

Regarding the first task, representatives and decision-makers, as well as political communities, must put long-term issues and concerns onto political and media agendas, put regulations for enduring resilience in place, design independent future-oriented institutions and discuss and approve tailored constitutional amendments. In addition to being democratic instruments to protect the long-term interests of society, these institutional measures might additionally function as a means to counter the aforementioned delegitimization that existing democratic regimes themselves feed. However, political alignment with long-termism is hardly feasible if democratic societies do not integrate the horizon of coming disasters and intergenerational coexistence into ordinary political concerns. This, in turn, implies promoting culturally effective ways of thinking collectively in the long term and fostering substantial changes among dominant social and political values. An indispensable component of these far-reaching transformations lies in the resilience building that communities themselves have to undertake. Therefore, all this goes far beyond regular voting and partisan shortcuts and embraces the real challenges of an evolving democratic culture and the coupling of “democratic resilience” (Merkel and Lührmann, 2021) on the patterns of social reproduction.

It is noteworthy that there is a worldwide trend to address disaster preparedness through the development of emergency plans and prevention measures that enable communities to be in a position to activate response procedures should a disaster materialize. Since the *Sendai Framework for Disaster Risk Reduction 2015-2030* was launched, an increasing number of countries and territories have adopted national and local risk reduction strategies. The *Sendai Framework* urges states and

societies to engage in coordinated efforts and multi-institutional and cross-sectoral approaches and to understand the duty to cooperate internationally as an integral part of states' responsibility for disaster risk reduction policies. The cooperation strategy is particularly stable and intense among European democracies (Widmalm, Parker and Persson, 2019). According therefore to the second task, the social and political construction of disasters to come requires that democratic states, both individually and collectively, invest in effective disaster preparedness and risk reduction policies and programs and coordinate their joint efforts through transnational cooperation, rather than blindly deferring to free-standing markets and technological solutionism or delivering to the defeatism in the face of irremediable hazardous futures.

Even if these are not sufficient conditions, it is reasonable to believe that further social democratization backed by far-sighted institutional designs and the internationalization of preparedness policies could be among the strengthening conditions of the resilience of democracies and their capacity to counteract and tackle the onslaughts of trending and potentially destabilizing catastrophism.

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BETWEEN LIBERALISM  
AND ANTI-LIBERALISM:  
WHICH LESSONS FROM POLITICAL  
THEORIES?



# The Conservative Core of Hayek's (Neo)liberal Doctrine. Evolution, Tradition, and Authority in the Market Society

MATILDE CIOLLI<sup>1</sup>

**Abstract.** This chapter aims to investigate the relationship between Friedrich von Hayek's (neo)liberal theory and conservative thought. Analyzing the concepts used by Hayek to distinguish his liberal doctrine from conservatism in the essay *Why I am not a Conservative* and contrasting them with their broader use in his most important works – *The Constitution of Liberty* (1960), *Law, Legislation and Liberty* (1982) and *The Fatal Conceit* (1988) – this chapter seeks to highlight the internal tensions and contradictions in the liberal principles defended by Hayek. The main hypothesis is that it is possible to find a conservative core within Hayek's thought that constitutes the fundamental ideological weapon employed in his "battle of ideas" against socialism. Conservative concepts, such as tradition, family, property, inequality, and religion, are therefore used to assert his market doctrine against the egalitarian and collectivist claim advanced by socialism. Following the antitheses drawn by Hayek to distinguish liberalism from conservatism, the chapter identifies the antirevolutionary conception of change, the authoritative role of tradition and religion, the disciplinary function of morals, the admission of the dictatorial exception, and the anti-democratic and anti-egalitarian stand as the conservative tools de-

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ployed by Hayek to think the conditions for the functioning and reproduction of the market order.

**Keywords:** market order; conservatism; evolution; tradition; dictatorship; morals; religion.

## 1. *Introduction*

In 1960, Friedrich A. Von Hayek added a postscript to one of his most important works, *The Constitution of Liberty*, titled *Why I am not a Conservative*. The short essay's stated intent – namely, distancing his doctrine from conservatism – might appear, at first glance, at once redundant and disorienting. On the one hand, in fact, it reiterated the plan initiated by Hayek in 1947 with the foundation of the Mont Pelerin Society (Kolev, Goldschmidt, Hesse, 2020) and pursued in all his works to theoretically and politically redefine and reaffirm liberalism. On the other hand, it identified a different polemical target: conservatism instead of socialism, which Hayek had been attacking since the 1930s (Caldwell, 1997). From his perspective, the advance of socialism, economic planning, and organized mass parties in the European context were drastically reducing the spaces of individual freedom and paving the way toward “totalitarianism” (Hayek, 1944). It was precisely the “battle of ideas” he engaged throughout his entire career against socialism that can explain both his engagement in the “intellectual revival of liberalism” (Hayek, 1948, p. 433) and his ambiguous relationship with conservatism. While Hayek disavowed the frequent association of his thinking with contemporary political or theoretical forms of conservatism, at the same time, this chapter argues that he employed in his works some conservative concepts to counter the egalitarian and collectivist claims of socialism and to affirm the incontestability of the market order.

In *The Road to Serfdom* (1944), assessing the Conservative Party's action in Britain between 1931 and 1939, that is, in the first period of his stay in London, Hayek had already stressed the need to distinguish liberalism from conservatism. After a sweeping electoral victory in 1931, the British Conservative Party had implemented a series of policies, such as the suspension of the gold standard and protectionist measures restricting free markets in various sectors and favoring goods produced within the British Empire, that Hayek felt the need to criticize (Webber, 1986). In these conservative policies, Hayek saw an "increasing veneration for the state, the admiration of power, [...] the enthusiasm for 'organization' of everything", which made them partly compatible with socialists and thus an obstacle in the spread of liberal thought (Hayek, 1944, p. 187). Indeed, in the 1960s postscript, Hayek defined conservatives as longstanding "advocates of the Middle Way", compromising with socialism and even "stealing its thunder" (p. 520).

The postscript, however, was published at the end of his decade-long stay in the United States, where the conservative doctrine had both a more complex and more ambiguous relationship with liberalism than in Britain. Arriving in Chicago in 1950 to teach Social Thought, Hayek witnessed the transformations brought about by the New Deal, denouncing President Roosevelt's "unlimited power in time of crisis" and the state's "paternalism" (Hayek, 1960) in guaranteeing infrastructure, employment, welfare and mediation with workers and unions (Gerstle, Fraser, 1989). It was precisely the new-dealers' appropriation and resignification of liberalism in an interventionist sense that prompted him to underline in the postscript the "liberticide" intentions of the "progressive movements" and social reformers, identifying support for

conservative parties as a mandatory and necessary choice to defend freedom (Hayek, 1960, p. 519).

In the United States, Hayek's works were soon classified as conservative, emerging as key textbooks among opponents of the New Deal (Donno, 2004). *The Road to Serfdom*, in particular, was interpreted by American conservatives as an unabashed condemnation of any state-regulated economic policy. Although his thought was not fully reflected in the different currents of American conservatism – traditionalists, libertarians and “fusionists”, who attempted to combine Burkean heritage, market economics and anti-communism (Nash, 1976; Rossiter, 1982) – it is possible to identify a connection in the shared persuasion that to face the transformations brought about by Rooseveltian liberalism, the defense of market and individual liberty required the use of conservative conceptual tools. In this respect, in the postscript Hayek recognized affinities between conservatism and the classical liberal tradition in US political history, in which, he believed, freedom and tradition were inseparable. Defending individual freedom thus necessarily implied preserving “long-established institutions” (Hayek, 1960, p. 521). The reluctance of US conservatives to define themselves as liberals was therefore “dated only from its abuse during the New Deal era” (Hayek, 1960, p. 519).

Nevertheless, despite Hayek's broad appreciation by conservatives and his own recognition of certain affinities, he considered the reduction of his doctrine to mere conservatism inappropriate, feeling the need to distance himself from it. While socialism was able to offer a “competitive picture of the future society at which they [socialists] were aiming” with “the very courage to indulge in Utopian thought” (Hayek, 1949, p. 428), conservatism could not, in his opinion, disclose “an alternative to the direction in which we are moving”

(Hayek, 1960, p. 520). It may “succeed by its resistance to current tendencies in slowing down undesirable developments”, but it “cannot prevent their continuance” (p. 520). Conservatism, therefore, lacked “imagination concerning anything except that which experience has already proved” and that deprived it of “the weapons needed in the struggle of ideas” (Hayek, 1960, p. 526). Indeed, on the eve of the 1960s, in the face of growing social turmoil, the appropriation of the conservative label risked hindering his ambition to offer a hegemonic alternative to current progressive and interventionist reformism. The postscript thus presented itself as a sort of manifesto for the liberalism he advocated, explicitly distinct from rationalistic liberalism – a “pacemakers of socialism” (p. 520) – and defined in opposition to the main concepts with which he identified conservatism.

The postscript was soon successful among neoliberal thinkers, who were, nevertheless, divided in their interpretation of it through either the liberal or conservative label. Two years later, Milton Friedman, inspired by it, clarified his liberal affiliation writing in *Capitalism and Freedom* (1962, p. 6):

Because of the corruption of the term liberalism, the views that formerly went under that name are now often labeled conservative. But, this is not a satisfactory alternative. The nineteenth century liberal was a radical, both in the etymological sense of going to the root of the matter and in the political sense of favoring major changes in social institutions. So too must be his modern heir.

Forty years later, James M. Buchanan, author of the public choice theory, making explicit reference to Hayek's postscript, entitled a collection of his essays *Why I, too, am not a conservative*. There, he referred his works to classical liberalism and attributed to conservatism “dirigisme and paternalism”



(Buchanan, 2005). On the other hand, while Margaret Thatcher, when questioned on the positions taken by Hayek in the postscript, stated that he would have agreed with her conservative political program, important neoliberal think tanks such as the American Enterprise Institute (2019) and the Adam Smith Institute (2020) cited Hayek's postscript to affirm the conservative nature of his thinking.

The divergent classifications, within the same neoliberal front, of Hayek's thought reflect an ambiguity of the postscript that this chapter seeks to clarify. The postscript has long been used by scholarship interested in investigating Hayek's belonging to the liberal tradition (Gray, 1982; Kukathas, 1991; Shearmur, 1996), but it also opened a debate about his relationship with conservatism. Paul B. Cliteur, in an article entitled 'Why Hayek is a Conservative' (1990), identified a conservative essence in Hayek's anthropological pessimism, traditionalism, empiricism, and constitutionalism, attributing them in Samuel P. Huntington's words to "situational conservatism" (1957). Paolo Ercolani, giving the same title as Cliteur to his article (2008), ascribed Hayek's closure to the democratic conquests of twentieth-century liberalism the conservative character of his doctrine. Hannes Gissurarson (1987) and Kenneth Dyson (2021) considered Hayek a "conservative liberal": Gissurarson defined "conservatism liberalism" as the intellectual tradition that, through Hume, Smith, Burke, Constant, Tocqueville, Lord Acton, Menger and Hayek, combined recognition of individual reason's limits with faith in the market's spontaneous order. Dyson, instead, used the term to distinguish the liberalism that claimed its Nineteenth century roots from that which advocated, in 1940s England, the emergence of the welfare state and social plans. Finally, Linda C. Reader (1997) and Claudio Martinelli

(2015) highlighted the legacy of Edmund Burke, father of conservatism, in Hayekian thought.

Taking part in this debate, this chapter argues that, despite what he declared in his postscript, it is possible to find a conservative core within his thought that constitutes the fundamental ideological weapon employed in his “battle of ideas” against socialism. The main hypothesis is, therefore, that Hayek, in making ideology the battleground to assert freedom against equality, the market against planning, and tradition against revolution, used conservative ideas – tradition, family, property, inequality and religion – as the ideological tools necessary to assert his market doctrine against the egalitarian and radically transformative claims advanced by socialism. This hypothesis will be tested by examining the concepts Hayek used in the postscript to show the differences between his own liberalism and conservatism and comparing them with their broader and more articulate use in *The Constitution of Liberty* but also in his two following works, *Law, Legislation and Liberty* (1982) and *The Fatal Conceit* (1988). Through this analysis, this chapter aims to shed light on the internal tensions and contradictions within the liberal principles defended by Hayek in the postscript and more generally throughout the entire body of his works.

## *2. Hayek's dichotomies on liberalism and conservatism*

The postscript of *The Constitution of Liberty* is structured around antitheses and schematically exposes the differences between conservatism and liberalism by contrasting the two doctrines around five antithetical concepts: immobilism – movement; authoritarian order – spontaneous order; coercive and arbitrary power – limitation of power; substantial and tel-

eological morals – formal morals; and fixed hierarchies – mobile inequalities.

Hayek identifies the most problematic element of conservatism in its attachment to inherited ideas that induce a “backward-looking” attitude, evident in “a fear of change, a timid distrust of the new as such” (Hayek, 1960, p. 521). This “distrust of the new and the strange” leads conservatives to use government powers to prevent transformations or reduce their scope, convinced that only authority can keep “the change orderly”. Authority is, thus, a pillar to be preserved at the cost of legitimizing its coercive and arbitrary exercise of power. The problem for conservatives, then, is not limiting the powers of the state but defining “who is in control”. According to Hayek, it is the “fondness for authority” and the resulting “lack of understanding of economic forces” that prevented conservatives from trusting, on the one hand, “abstract theories and general principles” and, on the other hand, the “spontaneous forces on which a policy of freedom relies”. Precisely this vertical conception of order was the cause, according to Hayek, of the conservatives’ lack of a theory of society as result of coordinated efforts and spontaneous economic mechanisms. Moreover, Hayek distances himself from the substantive and finalistic conception of conservative morality, which does not allow, in his view, cooperation with those who had different moral values. Finally, he criticizes the defense of fixed social hierarchies protected by authority and legitimized through the belief that in every society, there are people recognized as superior, “whose inherited standards and values and position ought to be protected and who should have a greater influence on public affairs than others” (p. 524).

Hayek’s definition of liberalism is precisely built around the opposition to this doctrine. First, liberalism is described as

a doctrine of movement: “it wants to go elsewhere, not to stand still” (p. 521), constantly improving institutions without hindering evolution and change. It must be thought of as “the party of life, which favors free growth and spontaneous evolution” through “caution and slow process”. For liberals, it is the self-regulated forces of the market, not authority nor a plan, that “will bring about the required adjustments to new conditions”. For this reason, the limitation of government intervention is crucial: when spontaneous development is stifled by public controls, “the obstacles to free growth must be swept away”. From this point of view, the chief evil for liberal thought is not democracy – which for Hayek is nothing more than “a means” and “a method of peaceful change” (p. 525) – but unlimited government. The distinctive element of liberalism is, however, in his perspective, the noncoercive character of moral beliefs concerning matters of conduct that do not directly interfere with other persons’ protected sphere. Finally, liberalism rejected egalitarianism but at the same time disallowed the defense, through the authority’s arbitrariness, of hierarchies.

Although the postscript is structured around the figure of antithesis, Hayek also identifies some points of convergence between liberalism and conservatism, which open up a fault line from which it is possible to question his sharp distinction between the two doctrines.

First, for Hayek, “conservatism proper is a *legitimate*, probably *necessary*, and certainly widespread attitude of opposition to drastic change” (p. 519). Therefore, if obstruction to an evolutionary process by conservatives remains a problem, opposition to radical transformations, on the other hand, is legitimate and shared. As the third paragraph will show, the theory of the spontaneous order, claimed by Hayek as a liberal *unicum*, was born from the very same critique of “drastic

change” introduced by the French Revolution and supported by the pretense to rationally know, understand, and therefore even overturn the whole social order. “A distrust of reason” and the skeptical acceptance of its cognitive and epistemic limitations are, in fact, acknowledged by Hayek, who therefore seeks “assistance from whatever nonrational institutions or habits have proved their worth”. Conservative thinkers such as Coleridge, de Bonald, de Maistre, Justus Möser or Donoso Cortès offered, according to Hayek, through “their loving and reverential study of the value of grown institutions” an important contribution to “our understanding of a free society”. Finally, in the postscript, Hayek claims the influence of Lord Acton, Smith, Macaulay, Tocqueville, and Burke, whom he defines as the “true liberals” despite being the same philosophers that conservatives use as fundamental sources.

Taking up what in 1948 he had defined “true individualism” – which referred to a tradition he “invented” (Hobsbawm, Ranger, 1983), combining figures such as Mandeville, Burke, Acton, Constant and Tocqueville – Hayek writes that, far from “any political movement that goes under that name today”, the “true” liberalism has its origins in the “ideals of the English Whigs” (Hayek, 1960, p. 530). The task of the true liberals is, therefore, to enfranchise the Whig tradition from the “crude and militant rationalism of the French Revolution” and from the “overrationalistic, nationalistic, and socialistic influences which have intruded into it”. That is why he concludes the postscript by calling himself “an unrepentant Old Whig” (p. 531), that is, using the very same attribute bestowed on Burke, later taken up in his autobiography, where he explicitly called himself “Burkean Whig” (Hayek, 1994, p. 12).

The elements just outlined – the anti-revolutionary thought, the theory of spontaneous and evolutionary formation of institutions, the fallible and limited conception of

reason, and the recourse to Anglo-Saxon and Scottish sources of the Seventeenth-Nineteenth centuries – allow us to bring to light the rift through which a conservative nucleus insinuates into Hayek's liberal thought. The simplistic categorization of the two doctrines used in the postscript ends up erasing the complexity and polysemy of the concepts on which he builds his liberal theory in his other works. Comparison of the concepts set forth here, employed to distinguish liberalism and conservatism, with their more articulate elaboration in the texts already mentioned – *The Constitution of Liberty*, *Law, Legislation and Liberty* and *The Fatal Conceit* – allows us to interrogate the internal coherence of the political categories employed, as well as the political function that conservative thought played in Hayek's doctrine.

### *3. Organicity of change: evolution and tradition*

The first difference Hayek identifies between liberalism and conservatism is that between a doctrine devoted to “movement” and one “fearing change”. The origins of conservatism, however, hardly allow it to be defined as a doctrine of stasis. It was born in the modern era and was therefore forced to confront Enlightenment and natural law thought, taking a dialectical posture in relation to the dynamic movement of modernity. Conservatism took shape, since the Eighteenth century, as a “countermovement” (Mannheim, 1986) in response to the proliferation of progressive elements in the historical experience and political thought. As Hayek acknowledges in the postscript, it depended “on the direction of existing tendencies”. Faced with the constant liberal quest for novelty and progress, conservatism therefore had to adapt to change while not endorsing radical transformations of the societal

structure. Russell Kirk, the father of American conservatism, whom Hayek refused access to the Mont Pelerin Society, in a text written precisely in response to Hayek, entitled “Why I am a Conservative”, stated:

The intelligent conservative does not set his face against reform. Prudent social change is the means for renewing society’s vitality, much as the human body is perpetually renewing itself and yet retains its identity. Without judicious change, we perish. But, change itself cannot be the end of existence: without permanence, we perish. Burke’s standard of statesmanship was the union in one man of a disposition to preserve and an ability to reform. In some ages, the task of reformation looms gigantic; in other times, the task of conservation takes precedence (Kirk, 1963, p. 129).

Reformism was, therefore, part of conservative thought since its very beginning. While it was characterized by the defense of existing institutions, this defense could imply partial and organic changes, conforming to the stage of consciousness and social evolution and preserving the general order of society (Huntington, 1957). According to the British conservative Michael Oakeshott, “the more closely an innovation resembles growth (that is, the more clearly it is intimated in and not merely imposed upon the situation) the less likely it is to result in a preponderance of loss” (Oakeshott, 1962, p. 172). Conservatism, therefore, was not simply an ideology of the *status quo* but accepted the modern thesis of a continuous development of humanity, however denying the historical autonomy of the individual in directing it. In the words of Michael Freedden, “it is an ideology that focuses above all on the problem of change: it does not propose to eliminate it, but to make it safe” (Freedden, 1998, p. 332). A fundamental conservative tool for controlling change was a specific diachronic

construct, tradition, whose observance over time granted that transformations in the present did not produce sudden breaks with the past.

The Hayekian “movement doctrine”, although defined as eminently liberal, rests on a conception of evolution that tends to coincide with the conservative idea of change. The Whig tradition to which Hayek refers conceived institutions not as the outcome of a human project but as the survival of those that proved to be most successful. This means that institutions evolved through a process of cumulative growth during which the human mind transformed and evolved, adjusting its habits. The mind, for Hayek, is thus not the presupposition but the product of the customs it inherits and therefore does not have the faculty to fully understand and control social development (Gray, 1980).

At any one stage of our evolution, the system of values into which we are born supplies the ends that our reason must serve. This givenness of the value framework implies that, although we must always strive to improve our institutions, we can never aim to remake them as a whole and that, in our efforts to improve them, we must take for granted much that we do not understand (Hayek, 1960, p. 124).

In this framework, progress does not coincide with the achievement of specific goals but with the evolutionary process and cumulative development guaranteed by adaptive intelligence, which transforms itself while preserving cultural traditions and heritages: “paradoxical as it may appear, it is probably true that a successful free society will always in a large measure be a tradition-bound society” (Hayek, 1960, p. 122). Thus, tradition acts as the testamentary bond of society during its evolution, making the past the perpetual guarantor of future development. It is a kind of “thread which safely



guided us through the vast realms of the past, but it is also the chain fettering each successive generation to a predetermined aspect of the past” (Arendt, 1961, p. 94). Evolution is, therefore, an “essentially conservative process” (Feser, 2003), in which the criterion to examine its reformed rules is the “consistency or compatibility with the rest of the system from the angle of their effectiveness in contributing to the formation of the same kind of overall order of actions which all the other rules serve” (Hayek, 1973).

For Hayek, law is a fundamental example of “conservative evolutionism” proceeding through organic changes. It “arises from customs and precedents” and, through them, guides the expectations of individual actions.

The experience embodied in the law that individuals utilize by observing rules is difficult to discuss since it is ordinarily not known to them or to any one person. Most of these rules have never been deliberately invented but have grown through a gradual process of trial and error in which the experience of successive generations has helped to make them what they are (Hayek, 1960, p. 225).

Later, in *Law, Legislation and Liberty*, Hayek distinguishes “*nomos*” – that is, the set of higher norms or “rules of just conduct”, not invented but simply “discovered” – from “*thesis*”, that is, the provision that establishes legislations or decrees. This juxtaposition reintroduces the traditional distinction between customary law and statutory law. Against legal positivism, which conceives law as a result of volitional acts and an instrument to design a concrete order, Hayek understands it as common law, that is, as the outcome of the spontaneous evolution of customs (Portinaro, 1982). Inspired by Burke’s notion of an “ancient constitution” (1790), which reactivated, through law, customs and traditions that had long been in

place, and Matthew Hale's (1739) conception of law as an ever-evolving institution that refers to precedent as an accumulated and stratified wisdom (Simonazzi, 2018), Hayek reactivates an "empirical and traditional way of thought" (Pocock, 1960, p. 133) that finds in common law its original core.

Overall, then, while on the one hand evolution by selective mechanisms requires the rules' continuous adaptation to changing circumstances, on the other hand the production of novelty is subordinated to a principle of consistency with traditions and customs, which become the governing instruments of change. If, therefore, as Hayek writes in the post-script, "liberalism wants to move", movement must result, just as with conservatism, in organic change, which, while defying "fixity", guarantees "stability" (Gray, 1984). Through "conservative evolutionism", then, Hayek opens conservation to the future, removing it from the exclusive domain of the past, thus being able to challenge socialism on an equivalent, but fundamentally different, promise of the future.

#### *4. The spontaneous order of the market and the regulatory authority of tradition*

The second antithesis Hayek uses to differentiate conservatism and liberalism contrasts an authority that governs, organizes and safeguards the social order on the one hand and a self-regulating and spontaneous order on the other hand.

The Hayekian theory of spontaneous order (Petsoulas, 2001; Horowitz, 2021; McNamara, Hunt, 2007) stands at the very core of his theoretical opposition to all forms of political constructivism. It has its intellectual roots in the "evolutionary rationalism" identified in the Scottish Enlightenment and in Burke's thought, moving from the assumption of the limits of

human knowledge, which, because of its fragmented nature, cannot realize economic and social planning. It is precisely the spontaneous order – that is, an anonymous and impersonal process of unintentional interactions among a multiplicity of individuals – the mechanism that allows us to overcome the limits of human reason by composing an overall knowledge that individuals alone would not be able to dispose of. To Hayek, while every society “must have its own order”, there are two fundamentally different forms of it: *taxis*, which is an “artificially constructed” order, dominated by a vertical authority that individuals obey, and *kosmos*, which is a spontaneous order, characterized by “endogenous equilibrium” (Hayek, 1973). Whereas *taxis* is a “simple”, “concrete” order, graspable by the human mind, *kosmos* is a “complex” and “abstract” order, over which less power and control can be exercised. Order, understood as *kosmos*, is an intangible system that regularizes the actions of individuals and makes them predictable because only those actions that allow individuals to survive are reproduced over time, while those that endanger order are progressively curbed as ineffective.

The paradigm of spontaneous order coincides, according to Hayek, with the market, which he deems superior to any other form of organization because of the absence of shared ends that preemptively direct its management, because it cannot be controlled from above, and because it guarantees, to a greater extent than other institutions, the possibility of achieving individual ends (Caldwell, 2022). Although embedded in a network of relationships and exchanges, each individual within the market order is paradoxically a social individual but split from any collective aggregate or project. The market rests on the mechanism of prices and competition revealing to consumers which goods and services are most convenient. These data are subject to continuous change and

thus require the continuous adaptation of all activities to shifting circumstances, systematically producing an increase in the wealth of some at the cost of a decrease in that of others. Indeed, the characteristic feature of the Hayekian order is that, presenting itself as a form of free coordination, it erases the power relations it presupposes to produce voluntary dependence that is both subjugation and exchange. The freedom that the market's spontaneous order is supposed to expand thus hinders "collective power over circumstances" (Hayek, 1960) and resolves itself in the acceptance of the asymmetries it constitutively produces and in the prior control of individual choices to the point of demanding obedience and loyalty (De Carolis, 2017; Whyte, 2019). If, thus, freedom becomes a mere function of the market order, this "discipline" (Ricciardi, 2019) is what prevents the imagination of a collective plan aimed at questioning its rules.

Although Hayek identifies the inability of conservatives to grasp spontaneous market forces as a relevant difference from liberalism, the alleged self-regulation of these forces in the Hayekian *kosmos* is contradicted by the need to govern that order through norms that presuppose the observance of specific principles, determining a very specific order. If the market's functioning needs "people acting within the rules of the law of property, tort and contract" (Hayek, 1973, vol. 2, p. 109), society as a whole needs, in order for its interactions not to result in anarchy, "norms of just conduct", i.e., an "inherited system of values" revolving, as it will be shown, around private property. Such norms constitute the presupposition of the *kosmos* that allows Hayek to legitimize the distinction between the ordering authority of conservatism and the spontaneous order of liberalism.

However, the concept of authority is not absent from Hayekian thought, but it has its own specific semantics. The au-

thority Hayek invokes does not rest, as in Weber, on the legitimacy of the exercise of power and force, and its agent is not a leader, a party, or the state. In contrast, it functions precisely when it does not need to resort to force or persuasion to be obeyed. What best embodies authority in the Hayekian order is tradition, which legitimizes specific practices and norms, giving them “the mantle of incontestability and symbolic truth”, serving at the same time as “a limit on the political” (Brown, 2019, p. 102). Because of tradition’s inherent reference to wisdom accumulated in the past, norms are voluntarily obeyed, avoiding the use of coercion: “freedom has never worked without deeply ingrained moral beliefs and coercion can be reduced to a minimum only where individuals can be expected as a rule to conform voluntarily to certain principles” (Hayek, 1960, p. 123).

Obedience to traditionally passed down norms is, in fact, allowed by their assumption as “common sense” and, therefore, as “unreasoned prejudices” and “unconscious habits” (Hayek, 1973) that indicate the conduct to be kept. The authoritative character of tradition lies in the undisputed paradigmatic value it assumes in the conduct of each individual. This value is justified by Hayek, first, through the evolutionist argument, i.e., as the outcome of selection due to the greater effectiveness of a specific set of norms and customs; second, through the civilizational argument, that is, through the identification of tradition with the backbone of Western civilization, whereby the questioning of one implies the challenge of the other. This implies that the fundamental rules that, according to Hayek, guided the development of Western civilization – respect for private property, contract, rule of law, customs associated with family – are those that anyone wishing to preserve the material well-being of modern society must uphold: “the development of the whole order of actions

on which modern civilization depends was made possible only by the institution of property” (Hayek, 1973, vol. 1, p. 121). Private property is thus the fundamental and irrevocable ideological object without which order is unthinkable: it constitutes the frame of reference of social action whose ends and forms of expression it determines (Ricciardi, 2017, p. 743). As much as Hayek presents norms and tradition as universal, nonprescriptive constructs pertaining to the “realm of impersonality”, the content of tradition is not neutral but is valid and authoritative to the extent that it conforms to market principles (Beddeleem, Colin-Jaeger, 2019).

Although authority is not treated in terms of the command and organization attributed to conservatism, Hayek thus retains the use of the traditional authority of proprietary logic to ensure the maintenance of the market order.

##### *5. Demarchy, dictatorship, and economic freedom*

The third antinomy concerns, on the one hand, the conservative legitimization of coercion and arbitrary power of the State, when exercised for just purposes, and, on the other hand, the liberal limitation of government powers.

Faced with the threat posed by socialist forms of government and state interventionism bent on popular demands, Hayek theorizes a “government of laws and not of men” (Hayek, 1960), providing for the limitation of state intervention through the rule of law. Hayek conceives laws as general, abstract, universal norms, established without regard to the differential effects of their application. The legislative assembly, which must represent “the opinion of the people about which sorts of government actions are just and which are not”, has to be clearly separated from the governmental as-

sembly, which has to be guided “by the will of the people on the particular measures to be taken within the frame of rules laid down by the first” (Hayek, 1973, vol. 3, p. 104). The Hayekian rule of law is a three-order system of representative bodies: the first oversees the semipermanent framework, namely, the constitution, and is to act only at long intervals; the second manages to gradually improve and adapt the general rules of just conduct; and the third is in charge of the daily administration of resources (Hayek, 1973). This system requires that “all laws conform to certain principles”, namely, freedom of contract, inviolability of property and payment for compensation, which are the “essential contents of any private law system” (Dardot, Laval, 2009).

Property, contract, and competition, thus, constitute for Hayek the infrastructure of individual freedom and the essential tools for avoiding coercion and preserving the “personal protected sphere” from interference. In this framework, the state does not have to rectify the effects of the market but, providing social services, must adopt the same proprietary and competitive rationale that informs the ultimate principles on which the Hayekian rule of law is based. That is why democracy must be prevented from allowing its mechanisms to interfere with those principles. Indeed, democracy, for Hayek, must be nothing more than “a convention that mainly serves to prevent harm”, that is, to protect individuals from despotism and tyranny, and a “method or procedure for certain political decisions”, but not for establishing their substantive quality or purpose (Hayek, 1973, vol. 3, p. 133). If democracy – such as peace, justice, and freedom – is a negative value, the actual democratic forms in place in both the United States and Europe have instead led to the superimposition of democracy on the idea of equality. In fact, the main problems posed by contemporary democracy and its socialist de-

generations are, for Hayek, popular sovereignty and the excessive power that comes to the majority.

Although Hayek defines the legislative and governmental assemblies as representative spaces of people's will, popular sovereignty is considered a "constructivist superstition" as "promoting the will of the people to the rank of the sole source of legitimacy for the action of the rulers" (Dardot, Laval, 2016). Indeed, the idea of governing society by following the majority opinion reverses, according to Hayek, "the principle through which civilization developed": progress was led by the few who then convinced the many, allowing the majority to learn from the example of the minority. For Hayek, representative democracy always runs the risk of turning into a "reactive democracy" (Biebricher, 2019) that responds to the pressures of different social groups, bowing to their demands for social justice and transforming itself into a "bureaucratic machine" aimed at correcting inequalities produced by the market. This "demophobia" (Dardot, Guéguen, Laval, Sauvetre, 2021, pp. 55-72) leads Hayek to fiercely criticize all those democratic forms that can establish political connections between individuals other than those created by the market, thus endangering the stability of the economic and social order. The true aim of Hayek's critique of popular sovereignty is therefore the attempt – which makes manifest the conservative core of his thought – to deny "that collective forms of action can modify the order of the system" (Ricciardi, 2020, p. 286).

The concept of "demarchy", which refers to "the ideal of an equal law for all" and provides for the limitation of people's will through the rules of private law, is conceived by Hayek to avoid involutions of democracy. Hayek envisions an "ideal model constitution" whose basic rule should be that "in normal times, and apart from certain clearly defined emer-



gency situations, men could be restrained from doing what they wished, or coerced to do particular things, only in accordance with the recognized rules of just conduct designed to define and protect the individual domain of each” (Hayek, 1973). The “clearly defined emergency situations” that legitimize the exception to the clause are spelled out by Hayek in these terms:

The basic principle of a free society, that the coercive powers of government are restricted to the enforcement of universal rules of just conduct and cannot be used for the achievement of particular purposes, although essential to the normal working of such a society, may yet have to be *temporarily suspended when the long-run preservation of that order is itself threatened*. Although individuals normally need to be concerned only with their own concrete aims and in pursuing them will best serve the common welfare, there may temporarily arise circumstances when the preservation of the overall order becomes the overruling common purpose and when the *spontaneous order, on a local or national scale, must for a time be converted into an organization*. When an external enemy threatens, when rebellion or lawless violence has broken out, or a natural catastrophe requires quick action by whatever means can be secured, powers of compulsory organization, which normally nobody possesses, must be granted to somebody. Like an animal in flight from mortal danger society may in such situations have to suspend temporarily even vital functions on which in the long run its existence depends if it is to escape destruction (Hayek, 1973, vol. 3, p. 124).

Thus, in the same text in which Hayek theorizes the constitutional arrangement to be given to a free society, he defines the exceptional conditions under which coercive powers, held by a dictator, are permitted. Therefore, although Hayek considers the support of authoritarian and coercive governments

a conservative tendency, even his rule of law yields exceptionalist authoritarianism when social and economic order are threatened.

Indeed, it was exactly this chapter of *Law, Legislation and Liberty* concerning the “model constitution”, including the justification of the state of exception, that Hayek delivered to General Augusto Pinochet when he was received in Santiago on November 18, 1977 (Chamayou, 2018). Interviewed soon after by the newspaper “El Mercurio”, Hayek said he was surprised by the development and liberalization of the Chilean economy, praising the government’s willingness to lead the country without falling prey to popular political demands (Filip, 2018). When confronted with questions regarding unemployment and the social costs of the monetarist reforms initiated between 1974 and 1975 (Stabili, 2021), Hayek replied that these were short-lived problems that nevertheless pointed in the right direction (Caldwell, Montes, 2015). The problem was not, in his view, the dictatorship per se but the economic policies it chose to adopt, which were the prerequisite for future freedom. In fact, the following year, in a letter written to “The Times”, Hayek supported Margaret Thatcher, stating that her conception of the market, rather than the ballot box, as a space for exercising freedom of choice, was nothing more than an obvious assumption of the inseparability of the former and not the latter from individual freedom. For this reason, according to Hayek, “free choice can exist under a dictatorship that can set limits on itself, but not under the government of an unlimited democracy” (*The Times*, 3/8/1978). Accused on “The Times” by William Wallace of supporting authoritarian regimes, Hayek replied that while he did not believe that authoritarian governments were generally more likely to secure individual liberty than democratic ones, “in some historical circumstances personal liberty may have been

better protected under an authoritarian than democratic government”. In this sense, in Chile, he stated, “personal freedom was much greater under Pinochet than it had been under Allende”. Although limited democracy was the best form of government, he continued, it “does not mean that we can have it everywhere, or even that it is itself a supreme value rather than the best means to secure peace”. Except in direct democracy, “a democracy can never create itself but must always be the product of the authoritarian decision of a few”. After all, he concluded, “some democracies have been made possible only by the military power of some generals” (*The Times*, 3/8/1978).

Invited again in 1981, Hayek reiterated that dictatorships can be “a necessary system for a transitional period”, which, as in the case of Chile, can act as a bridge from a dictatorial government to a liberal one.

As you will understand, it is possible for a dictator to govern in a liberal way. It is also possible for a democracy to govern with a total lack of liberalism. Personally, I prefer a liberal dictator to a democratic government lacking liberalism (*El Mercurio*, 12/4/1981).

Under Pinochet, not even the most basic civil liberties were guaranteed, so the only notion of freedom granted was economic freedom, which after all – as stated in relation to Thatcher’s neoliberalism – is, for Hayek, the fundamental one, preceding any other (Farrant, E. McPhail, S. Berger, 2012). The defense of economic freedom from the “political tyranny of rational organization” may then require the intervention of a military dictatorship that represses political and social freedoms to coercively reassert a liberal market order. The expedient of the transitional exception is hardly able to reckon with the contradictory conception of coercion, dele-

gitimized as an impediment to the exercise of political freedom but legitimized as a means of reaffirming economic freedom. Authoritarian exceptionalism thus reveals a real short circuit in the Hayekian discourse, which, to eradicate certain constructivist institutional forms, finds itself coercively prescribing freedom, making the latter an ideological product that changes over time.

Dictatorship suspends not only democracy and individual freedom – preserving it, at most, in its economic and proprietary form – but also the spontaneous, evolutionary, and traditionalist mechanisms on which Hayek had hitherto founded and distinguished his liberal theory. By entrusting the dictator with the mere task of suspending the constitution to reestablish a limited democracy (Iving, 2018), Hayek attempts to avoid Schmittian decisionism. However, he ends up yielding at the theoretical level to a “commissar dictatorship” (Schmitt, 1964) embedded in a constitutional framework but, as a matter of fact, at the historical level to “sovereign dictatorships”, which see “in the whole existing order a state to be removed” to impose a new authentic constitution (Portinaro, 2019). The admission of dictatorial rule, which involves the violation of legal form by executive practice (Galli, 1996), reveals the point of fracture and failure of the Hayekian “constitution of liberty”, the defense of which requires leveraging those elements of conservatism that he had always rejected: the verticality of command and authority, the government of men and not of laws, the dependence on an arbitrary will, and the total denial of freedom of choice.

## 6. *The morals and religion of property*

The fourth antinomy concerns conservatism and liberalism's conception of morals, defined by Hayek, in the former case, in essentialist terms, and in the latter, in formal, impersonal and ateleological terms. If for conservatives, according to Hayek, it is not possible to mediate with those whose moral values differ from their own, for liberals, moral or religious ideals cannot be the object of coercion. In *The Fatal Conceit*, Hayek's last major work, he analyzes the relationship between religion, tradition, and norms of just conduct, reaffirming the force and cogency of moral tradition beyond any contingent act of will. Here, Hayek shows an intimate conflict in human beings between two antithetical attitudes that have informed the "history of civilization". On the one hand, there are "archaic", "primitive" and "tribal" instincts of small groups that learned to pursue common goals, laying the foundation for early communism and social justice. On the other hand, there is an interaction among large numbers of people competitively engaged in cooperation, pursuing different ends while respecting institutions that evolved throughout history.

As he already argued in *Law, Legislation and Liberty*, the moral progress that allowed the "open society" to evolve was achieved by the abandonment of the pursuit of "the welfare of other members of the same group" and the assumption of impersonal justice based on formal norms, which allowed the emergence of "market morality" (Hayek, 1973). The preservation, in an "extended order", of this kind of norms, challenged by solidaristic instincts, was due not only to the evolutionary process selecting those groups best suited to them but also by "totems and taboos, or magical or religious beliefs" that facilitated their observance (Hayek, 1988, p. 136). Religion is, for Hayek, "an ideological force" (Henry, 2016) able

to instill values necessary to uphold civilization (Dekkar, 2014) and shield it against the rationalist and constructivist danger. It is envisaged as the “guardian of tradition”, proving their historical relationship by the fact that only those religions “that uphold property and family”, that is, principles and institutions that traditionally shaped our civilization, have survived. Hayek does not deepen the questions concerning the existence of God or the content of religion, but he “instrumentally” (Kley, 1994) conceives religious belief as another relevant ideological operator of spontaneous order, that is, as a “false reason influencing men to do what was required to maintain the order” (Hayek, 1988). Indeed, fideistic reverence predisposes individuals to submit to tradition and its moral norms. In this respect, in a 1979 interview, Hayek affirmed, “I have never publicly argued against religion because I agree that probably most people need it. It is probably the only way in which certain things, certain traditions, can be maintained which are essential” (Hayek, 1979). Therefore, while it is true that religion is not prescribed by Hayekian liberalism coercively and in substantive terms, it is nevertheless valued, as many conservatives do, as a disciplining tool to make obedience to moral norms effective.

However, although Hayek gives moral norms a formal character, tradition and religion are used to justify a specific “civilization” whose principles do not necessarily “allow one to work”, as Hayek argues in the postscript, “with those whose moral values differ from his own”. As already shown, the conflict between atavistic moral instincts and coordination through competition must be resolved to ensure the global functioning of society in favor of the latter: solidarity and altruism must be subordinated to the pursuit of self-interest and competition. The discipline of freedom is induced by norms that for Hayek are “abstract and impersonal” but none-

theless have the specific purpose of “enabling each individual to try to build for himself a protected domain with which nobody else is allowed to interfere and within which he can use his own knowledge for his own purposes” (Hayek, 1973, vol. 3, p. 163). Through the arguments of evolution, tradition, and civilization, a specific economic order and its related morals are, therefore, justified: the proprietary and market order. Tradition has, in fact, handed down a “traditional morality concerning sex and family” but also “specific moral traditions such as private property, saving, exchange, honesty, truthfulness, contract” (Hayek, 1988, p. 67). The market agent, as a moral subject, is:

The prudent man, the good husbandman and provider who looked after the future of his family and his business by building up capital, was guided less by the desire to be able to consume much than by the wish to be regarded as successful by his fellows who pursued similar aims (Hayek, 1973, vol. 3, p. 165).

Thus, in the spontaneous order, freedom is not an abstract concept or mere absence of coercion but coincides with individual ownership and responsibility. Therefore, what Hayek defends is not so much an order capable of bringing divergent beliefs together but rather a market order, with proprietary and individualist morals defended in the name of civilization against egalitarian atavism. The inseparability of liberty, property, and tradition in the Hayekian liberal morals, as in the conservative morals, is the main tool allowing us to counter the “fatal conceit” of collectivist and egalitarian principles. As Wendy Brown observes, in Hayek’s thought, “liberty, more than limited by moral tradition, is partly constituted by it. Conversely, moral freedom, more than challenged by politically imposed justice schemes, is destroyed by them” (Brown, 2019, p. 97).

### *7. Inheritance, hierarchies, and the market*

The last antithesis identified in the postscript revolves around the conception of hierarchy, which, according to Hayek, is conceived by conservatives as fixed and preserved through authority and by liberals as “mobile inequality” between individuals, which must not be transformed by the state into privilege. “The liberal”, Hayek acknowledges, “is not an egalitarian” because “freedom necessarily produces inequality” (Hayek, 1960, p. 524). The only meaning of equality accepted, as setting the conditions for freedom, is that of “equality before the law”.

Although Hayek is careful to condemn differences in status as positions resulting from privilege, he does not hesitate to deny “that all men are equal” because their position is determined by institutions such as the family, patrimonial inheritance, and education (Hayek, 1960). The family background is what grants benefits that “may operate cumulatively through several generations”, both as a form of material and cultural inheritance, that is, as a set of “morals, tastes and knowledge” through which individuals are asymmetrically placed in society. The family is, therefore, the conservative and patriarchal organ that reproduces differentiated forms of private wealth while ensuring, through transmission of cultural heritage, continuity with past generations. Indeed, the family, for Hayek, could hardly admit the sexual revolution (Feser, 2003) – that began to make its way when *The Constitution of Liberty* was published – since it completely overthrows practices and customs that informed both family and society. The family, as well as the community, are valued by Hayek as institutions that through “voluntary cooperation” can privately offer, without coercive and leveling effects, what is usually demanded to the state, namely, welfare (Cooper, 2018).



Inequalities produced by family inheritance, considered “inevitable” by Hayek (Hayek, 1973), are associated with ability, luck and specific circumstances that determine the different social positioning of each individual. In commercial and social transactions, the risk of loss must be assumed, knowing that the market works only if there are asymmetries to be continually valued. Consequently, a free society can function or preserve itself, Hayek points out, only if its members deem it right that each individual occupies the place consequent to his own action and accept it as such (Hayek, 1960). The position each person occupies is, therefore, not only personal responsibility but also the nonnegotiable outcome of the exercise of individual freedom.

Consequently, the claim to material equality ends up undermining legal equality, that is, as already mentioned, the only true form of equality: it is in this sense that, for Hayek, social justice threatens the “Great Society”, which is how Hayek calls the global market society, in which institutional arrangements allow individuals to pursue their own purposes (Hayek, 1973). In fact, equality prevents competition, leads to condemning the pursuit of individual interests as an antisocial attitude and leaves room for discretionary and discriminatory powers. The consequence of rewarding groups affected by particular difficulties is, on the one hand, the opening to the unlimited requests of all those who consider their position threatened, thus guaranteeing them privileges; on the other hand, the consolidation of the welfare state, potentially “totalitarian” and certainly “paternalistic” (Hayek, 1973).

The most dangerous threat to the rule of law is represented for Hayek by workers’ unions. As a collective subject, bearer of egalitarian demands and a claim to redistributive justice, the union is a strong threat to the market order and is in fact presented as an agent of “coercion against all principles of

freedom under the law". By setting wages above what would be determined by the market, the union would prevent all laborers who wish to work from doing so and impose wage increases exclusively for its members at the expense of others. By creating "monopoly effects in the supply of different types of labor, unions prevent competition from acting as an effective regulator of resource allocation" and reduce labor mobility and productivity, thus hindering the functioning of the market (Hayek, 1960, p. 391).

Overall, although Hayek does not theorize natural and fixed hierarchies and considers coordination and not subordination as the only possible relation in the market, his staunch anti-egalitarianism leads him to recognize, on the one hand, the inequalities produced by family and inheritance and, on the other hand, those produced by the "sovereignty of the law" and the "harsh discipline of the market". Inequalities are, in fact, both a condition and an ineradicable product of the market, which must not, therefore, be corrected. The crusade waged against the welfare state confirms that the political system is far from indifferent to societal processes, and even if the activity of government does not have to change the order of society, it confirms its dynamics, power positions and structures of domination (Ricciardi, 2020).

## 8. *Conclusions*

The comparison developed thus far between the liberalism defended in the postscript of *The Constitution of Liberty* and that elaborated in Hayek's three major works – the remainder of *The Constitution of Liberty*, *Law, Legislation and Liberty* and *The Fatal Conceit* – allowed us to bring out the internal contradictions of Hayek's doctrine that displace the dichotomous

use of the categories of liberalism and conservatism, highlighting their points of convergence and articulation.

More precisely, this comparison showed the presence of a conservative core in Hayek's theory of market society, ideologically used to set the political conditions of its order. This conservative nucleus, in fact, allows the same principles – first and foremost property – needed to ground and guarantee the market order against the regime of equality to be asserted as traditional values sedimented over time and proven by selection and civilization. In this sense, the reformist but anti-revolutionary evolutionism, the authority of tradition and religion, the centrality of the family, and the admission of authoritarian exceptionalism allow Hayek to affirm the unquestionable efficacy of the proprietary order. The spontaneous functioning of market order and the “voluntary obedience” to his mechanisms is, therefore, the result of the delimitation of the Great Society's evolution within the perimeter defined by specific traditional norms that guarantee its endurance over time. Thus, freedom must develop in compliance with property and responsibility, innovation with inheritance, evolution with stability, coordination with authority, and democracy with market principles.

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# Keynes and the Early Neoliberal Movement

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**Abstract:** This chapter will show how the positions of Keynes and of the early neoliberal movement, rather than opposites, rely on a shared goal of reinvigorating liberalism in the interwar period. An efficient market order that, rather than being a spontaneous product, is enforced by the State is seen by these authors as an adequate answer to the anti-liberal upsurge brought up by the consequences of the first World War and of the Great Depression. Against the standard interpretation, it will be shown that, on the one hand, Keynes, rather than seeing his policies as distorting the markets, conceives them as necessary conditions for the full deployment of a competitive order that ensures consumer sovereignty and that, on the other hand, the early neoliberal thinkers endorse forms of public intervention analogous to those called for by Keynes: reducing rents, progressive taxation, anti-cyclical policies, moderate redistribution of wealth and welfare measures. Moreover, these authors share a technocratic understanding of politics and a distrust toward the politicization of the masses, whose power must be restrained to prevent demagogues from arising.

**Keywords:** Keynes; neoliberalism; Hayek; Michael Polanyi; Lippmann.

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## 1. Introduction

John Maynard Keynes' political and economic thought and early neoliberalism have traditionally been seen as antagonistic (Harvey, 2005; Wapshott, 2011; Burgin, 2012; Stedman Jones, 2013): on the one hand, it is said that Keynes intends to subject the economic sphere to a political direction to correct the flaws produced by unfettered free markets with respect to efficiency and social justice; on the other hand, neoliberalism is viewed as skeptical toward any kind of public intervention and to have as its goal the reinstatement of a *laissez-faire* regime. Recent studies (Ban, 2016; Henry, 2018; Innset, 2020) have recognized a continuity between Keynes's perspective and early neoliberalism in their similar ways of viewing *laissez-faire* as a naive ideology, which ignores the importance of the State for the maintenance of a market order. These contributions, however, still contrast Keynes's social liberalism with the neoliberal defense of consumer sovereignty. According to them, for Keynes, the State should intervene to direct production toward specific goals, whereas the neoliberals condemn any state intervention as an unduly interference into the market mechanisms. This chapter will argue that the positions of Keynes and of the neoliberals can be better understood if interpreted as part of a *continuum*, rather than as opposites, on account of their both relying on a similar understanding of the relationship between the State and the market, which is opposed both to *laissez-faire* and to any form of planned economy.

In the first part of the chapter, I will show that Keynes does not see his policies as distorting or orienting the markets but conceives of them as necessary conditions for the full deployment of a competitive order that cannot spontaneously arise anymore in mature capitalism. Moreover, I will point out

that he endorses a technocratic interpretation of the economic problem, which is strongly skeptical both toward the existence of conflicting class interests and to any form of democratization of economic management, which should be entrusted to an intellectual *élite*. Then, I will address the endorsement both by Walter Lippmann, whose book *The Good Society* (1937) is seen as the first neoliberal manifesto, and by some of the most prominent participants in the *Colloque Walter Lippmann* (1938) and in the founding meeting of the Mont Pelerin Society (1947) of Keynesian demand management and of some forms of public intervention analogous to those called for by Keynes: reducing rents, progressive taxation, anti-cyclical policies, redistribution of wealth and welfare measures.

## 2. *Keynes' critique of laissez-faire*

As early as 1919, in the *Economic Consequences of the Peace*, Keynes acknowledged the end of a regime of accumulation that seemed to offer an endless improvement in living conditions. The high level of income inequality, which was an essential condition of *laissez-faire* capitalism, could be tolerated because high growth rates allowed gains in absolute terms to all social classes. The end of this regime of strong and persistent returns made capitalists less prone to save and reinvest their earnings instead to devote themselves to lascivious consumption, and the workers less prone to accept their subordination both in the workplace and in the distribution of wealth (Keynes, 2013a, pp. 11-13). Only the restoration of a climate of growth could restore confidence, on both classes' side, in the existing social hierarchy. At the time, Keynes interpreted the crisis in a Malthusian fashion, ascribing it to diminishing returns in agriculture that slowed down the pace

of accumulation relative to population growth, and invoked as a remedy, in a very traditional way, the removal of trade barriers and an ever-closer economic integration between the different areas of the world to lower the prices of agricultural products (Keynes, 2013a, p. 168).

Despite the significant evolution of Keynes's thought in the two following decades, he kept the persuasion that the legitimacy crisis capitalism was facing could be solved through a framework that could restore both the capitalists' and the workers' confidence in the current social order. In *A Tract on Monetary Reform* (1923), the willingness of the different social classes to take part in the accumulation process was being eroded by the end of the extraordinary period of price stability that characterized Europe between 1826 and 1896, which was followed first by a wave of inflation (further exacerbated by the Great War) and then by the deflation brought about by the attempt to restore the gold standard (Keynes, 2013b, p. 2). On the one hand, inflation curbed capital gains, thus discouraging financial capitalists from saving and lending their money to entrepreneurs. Moreover, by securing huge profits to the entrepreneurs that were due only to rise in prices, inflation jeopardized the legitimacy of their fortunes, which were no longer ascribed to their contribution to the production process, fostering the workers' allegiance to revolutionary movements (Keynes, 2013b, pp. 17-30). On the other hand, deflation eroded entrepreneurial profits, which were plummeting because prices were falling faster than the costs the entrepreneurs had to sustain, and wages, because of the widespread unemployment caused by the consequent fall of investments (Keynes, 2013b, pp. 35-36). The remedy was now found in stabilizing the value of money by controlling its quantity, augmenting it to counter deflation, and contracting it to counter inflation. Rather than target a fixed exchange

rate, as at the time of the gold standard, monetary authorities should secure stable prices and let the exchange rate float (Keynes, 2013b, pp. 116-77). Therefore, political control of the value of money could remove the risk connected with its instability and secure the working of capital accumulation.

According to Keynes's mature thought, as exposed in *The General Theory of Interest, Employment and Money* (1936), there are two tendencies that, respectively on the consumption and investment sides, result in a lack of effective demand, which hinders the accumulation process in the most mature economies. On the one hand, propensity to consume increases with income but at a slower pace (Keynes, 2013c, pp. 89-112). People who earn a low income will be forced to spend the most of it on essential goods. However, as they become richer, the necessity to spend any additional unit of income on consumption goods becomes progressively less compelling, and the share of income they will devote to consumption will decrease. On the other hand, the expected earnings from each unit of capital invested (which Keynes calls the marginal efficiency of capital) tend to decrease as the accumulation process unfolds (Keynes, 2013c, pp. 135-46). This happens because a greater abundance of capital increases the competition between producers, which in turn exerts a downward pressure upon prices. The more prices are lowered, the lower the rate of return that entrepreneurs can expect from further investments. However, this fall in the marginal efficiency of capital is not matched by an equal fall in the rate of interest, which instead tends to remain rigid over time. Since the incentive to devote additional resources to investment will persist only as long as the marginal efficiency of capital is higher than the interest rate (i.e., only as long as the entrepreneur is at least able to cover the cost of the capital he borrows), in a mature capitalist economy, the level of investment will come

to a standstill well before a situation of full utilization of resources (and hence of full employment) is achieved.

Moreover, mature economies also become more unstable because of the separation between the ownership and management of the investment. While in nineteenth-century capitalism investment was mainly undertaken by family-owned enterprises whose aim was to obtain a return from a specific long-term investment choice (i.e., they purchased a specific set of capital goods to produce goods in a specific sector), in mature capitalism, since capital is raised mainly by issuing shares, investment is incredibly more floating: capital can be moved in an incredibly quick fashion from one sector to another, and investors tend to be concerned less with the final return and more with the gains that can be made by buying and selling shares. Since speculators aim to anticipate the mood of their competitors, the stock market mechanism encourages a conformist behavior that engenders the alternation between phases of excitement and depression of the “animal spirits”. The expected returns become incredibly more unstable: the marginal efficiency of capital does not just tend to decrease over time, it becomes incredibly volatile – unlike, again, the tendency of the interest rate to remain fixed across time (Keynes, 2013c, pp. 147-64).

Since, according to Keynes, the interest rate remunerates the decision to hold savings in the form of interest-bearing securities that are less liquid than cash, a rapid depression of expectations will lead to a rise in the interest rate: savers, frightened about the solvency of their debtors, will try to convert their securities into cash and will abstain from granting further credit. Far from mobilizing new investments through the incentive to save, as the classical theory expected, a rise in the interest rate will further reduce the incentive to invest (Keynes, 2013c, p. 316).

As a consequence of the structural lack of effective demand and of the reliance of investment on highly volatile expectations, Keynes argues that the free play of market forces ends up producing suboptimal results by failing to stably achieve the full employment of available resources. The existence of involuntary unemployment, which is evident from the fact that many people would be willing to work for a lower wage than the one offered by the market, together with an extremely unequal distribution of wealth that is no longer justified by economic efficiency, ends up undermining confidence in the liberal capitalist order and creating consensus around totalitarian regimes (as in the cases of Italy, Germany, and Russia) in which individual initiative is suppressed. The “age of abundance” that characterized nineteenth century capitalism holds sway to the “age of stabilization”, in which the problem of full employment must be addressed to secure social stability (Keynes, 2013d, p. 304), either at the expense of economic efficiency (as in the case of totalitarian States) or by restoring it thanks to the policies Keynes is going to propose (Keynes, 2013c, p. 381).

The Keynesian response actually aims at the reproduction, through the use of economic policy, of those conditions that *laissez-faire* capitalism is no longer able to secure because of the prevalence, on the one hand, of the rentier over the entrepreneur, which is discouraged by a marginal efficiency of capital that does not keep pace with the interest rate and, on the other hand, of speculation over forward-looking investment, which amplifies uncertainty. In addressing the first issue, economic policy will lower the interest rate by increasing the amount of money in circulation (since the interest rate is the premium for giving up liquidity, the more money agents have at their disposal, the less they will demand to hold savings in less liquid forms), thus bringing the point of intersec-



tion between the marginal efficiency of capital and the interest rate at a higher level of employment (Keynes, 2013c, pp. 374-77). Expansionary fiscal policies will reinvigorate the depressed “animal spirits” by removing uncertainty concerning the future state of aggregate demand (Keynes, 2013c, pp. 377-79). Moreover, redistributive policies, by relocating income to the poorer segments of the population, can bolster the propensity to consume (Keynes, 2013c, pp. 372-74). By actively promoting the downward trend in the marginal efficiency of capital while correcting its effects in terms of a fall in aggregate demand through the control of the interest rate and the deployment of public spending, it will be possible to make the remuneration of capital exclusively proportional to individual talent, as well as to the risk undertaken. Once that remuneration is again proportional to the contribution of each factor to the production process savers will be remunerated proportionally to their abstention from consumption and workers according to their toils. The legitimacy of capitalism will therefore also be reestablished in the field of distribution (Keynes, 2013c, pp. 378-79).

Indeed, while reproaching marginalist economic theory for not seeing that an optimal order is not spontaneously achieved anymore, Keynes does not contest its definition of social optimum as an equilibrium point in which the remuneration of factors (wages and interest) is proportional to their relative productivity and to the sacrifices made by workers (who give up free time in order to work and get income) and savers (who give up consumption in view of a future income). Moreover, the equilibrium of full employment can be achieved only at the expense of the real wages: the increase in employment that follows from aggregate demand management, acting on the price level, would in fact erode the real wages of workers already employed (conversely, when the sys-

tem moves away from full employment, the fall in prices produces an increase in real wages for workers who remain employed). A compression of monetary wages to re-establish full employment (as proposed by marginalist economists in response to trade union interference in bargaining) is not ruled out in principle but for practical reasons (Keynes, 2013c, pp. 261-268): on the one hand, unlike an erosion of the real wage by inflation, it would meet a very strong resistance from organized workers. On the other hand, a reduction in money wages, outside of a dictatorial regime, could only be carried out progressively over time. This move would affect the expectations of the entrepreneurs: they will be afraid of a future decline of the aggregate demand and, consequently, would reduce their investments: the resulting fall in prices would outweigh the effect of the fall in monetary wages, re-establishing a higher real wage. In equilibrium, just like the wage remunerates the workers' sacrifice, the interest rate becomes again the remuneration for saving, i.e., for the renounce to present consumption to achieve a higher level of consumption in the future.

As we shall see, none of the policies advocated by Keynes, even a moderate redistribution of income, amounts to a break with a program that will also be endorsed by the early neoliberal authors. The fight against rent, which is pitted against productive capital, is a constitutive part of an approach that, exalting merit and individual talent, is opposed to the "hereditary principle in the transmission of wealth" (Keynes, 2013d, p. 299). State intervention is accepted not as a substitute for private enterprise but precisely for tasks that are acknowledged to lie beyond the latter's field of action: the maintenance of an aggregate demand level such as to ensure the full employment of available resources and a climate of confidence favorable to the incentive to invest. While having

the goal of securing a certain level of output that would otherwise not be achieved, State intervention must not interfere in its composition: the relative allocation of resources among different employments must be left to the interplay of demand and supply forces (Keynes, 2013c, p. 379).

In full agreement with the neoliberal critique of socialist planning, the efficiency of the markets in satisfying consumers' preference is exalted: "The advantage to efficiency of the decentralisation of decisions and of individual responsibility is even greater, perhaps, than the nineteenth century supposed; and the reaction against the appeal to self-interest may have gone too far" (Keynes, 2013c, p. 380). The pursuit of monetary profit is not only to be tolerated in order to channel "into comparatively harmless channels by the existence of opportunities for money-making and private wealth, which, if they cannot be satisfied in this way, may find their outlet in cruelty, the reckless pursuit of personal power and authority, and other forms of self-aggrandisement" (Keynes, 2013c, p. 374) but is essential for the creation of wealth, since "there are valuable human activities which require the motive of money-making and the environment of private wealth-ownership for their full fruition" (Keynes, 2013c, p. 374). Filling the gaps in classical theory, Keynes goes to conclude, does not mean "to dispose of the 'Manchester System', but to indicate the nature of the environment which the free play of economic forces requires if it is to realise the full potentialities of production" (Keynes, 2013c, p. 379). It is not the interplay of market forces that must be blamed for the inefficiencies in the accumulation process but the political reluctance to embrace reforms whose ultimate goal is to remove risks on the entrepreneur's side (Keynes, 2013b, p. xiv; 2013c, p. 380; see Cairncross 1978; Marcuzzo 2010). As Keynes says while praising Silvio Gesell's social utopia, his program is to be interpreted as "an unfetter-

ing of competition instead of its abolition” (Keynes, 2013c, p. 355). For Keynes, *laissez-faire* was an outdated method to secure a goal that he still held to be valid and that could be jeopardized no less by the obstinacy to persevere in old dogmas than by revolutionary fury. One should not therefore be surprised that, despite their different opinions on the role of fiscal and monetary policy, Keynes could write to Hayek about *The Road to Serfdom* that “morally and philosophically I find myself in agreement with virtually the whole of it; and not only in agreement with it, but in a deeply moved agreement” (Keynes, 2013i, p. 385; Skidelsky, 2000).

### 3. *Keynes and the masses*

If good policies can reestablish profitability together with social harmony, it should bear no surprise that Keynes not only disregards the role of opposite interests in defining the methods and scope of production and distribution but also holds that economic problems should be kept away from the democratic arena. The economic problem “is mainly an intellectual problem” (Keynes, 2013g, p. 295), whose solution “will involve intellectual and scientific elements which must be above the heads of the vast mass of more or less illiterate voters” (Keynes, 2013d, p. 295). The masses are seen as intrinsically passive, whose fate is either to be seduced by demagogues or to be led by an enlightened *élite*, “the bourgeois and the intelligentsia who, with whatever faults, are the quality in life and surely carry the seeds of all human advancement” (Keynes, 2013d, p. 258; Mann, 2017; Mattei, 2022). Civilization itself is “a thin and precarious crust erected by the personality and the will of a very few, and only maintained by rules and conventions skillfully put across and guilefully pre-

served” (Keynes, 2013e, p. 447). In mass democracy, where one cannot avoid the issue of gaining the confidence of “the mass of ill-understanding voters”, “movements in the direction of democratising the details of the party programme” should be prevented by preserving a “sufficiently autocratic” management of political parties: “With strong leadership the technique, as distinguished from the main principles, of policy could still be dictated above” (Keynes, 2013d, pp. 295-296). The politicization of the masses that was being promoted by the Labour Party is described in very harsh terms (Keynes, 2013f, p. 639). The dissatisfaction of the masses, unable to formulate any positive political goal and lacking self-organization and self-restraint finds expression only in violent opposition to the current state of affairs. The class antagonism fostered by its leaders to gain the appeal of the masses cannot bring but a destructive outcome:

However moderate its leaders may be at heart, the Labour Party will always depend for electoral success on making some slight appeal to the widespread passions and jealousies which find their full development in the Party of Catastrophe. I believe that this secret sympathy with the Policy of Catastrophe is the worm which gnaws at the seaworthiness of any constructive vessel which the Labour Party may launch. The passions of malignity, jealousy, hatred of those who have wealth and power (even in their own body), ill consort with ideals to build up a true social republic. Yet it is necessary for a successful Labour leader to be, or at least to appear, a little savage. It is not enough that he should love his fellow-men; he must hate them too (Keynes, 2013d, pp. 299-300).

No less contempt was held by Keynes toward trade-unions. As he wrote in 1925 to left-wing journalist H.N Brailsford: “When it comes to politics, I hate trade unions” (Carter, 2020, p. 148). In *Liberalism and Labour* he presented them as “once the

oppressed, now the tyrants, whose selfish and sectional pretensions need to be bravely opposed” (Keynes, 2013d, p. 309).

In accordance with the necessity to prevent mass politics from interfering with the economic problem, economic regulation should not be directly entrusted to government or parliaments but should be devolved and decentralized as much as possible to “semi-independent corporations and organs of administrations” (Keynes, 2013d, p. 302). Consequently, Keynes strongly defended the independence of the Bank of England, stating that its activity should be “utterly removed from popular controversy” and “be regarded as a kind of beneficent technique of scientific control such as electricity or other branches of sciences are” (Keynes, 2013g, p. 263; Skidelsky, 1992).

Social reforms that promote redistribution and social justice are endorsed by Keynes, but only once growth has been secured together with investor confidence. According to this framework, Keynes suggests that Roosevelt gives priority to recovery over reform, expressing the fear that prioritizing the latter over the former could “upsets the confidence of the business world and weakens their motives to action” (Keynes, 2013h, p. 298). Only once that output has been expanded, is there space for social reform and for a redistribution of wealth that will be accepted by every social class. In addressing Roosevelt in these terms, Keynes echoed Walter Lippmann’s worries that the administration, pressured by the masses’ expectations, was putting long-term reform programs over short-term recovery measures, aiming at rebuilding confidence and restoring full employment, thereby risking jeopardizing both. A friend and correspondent of Keynes (Goodwin, 2014), Walter Lippmann shared, as we are now going to see, both his enthusiasm for renovating liberal capitalism and his deep mistrust toward the masses’ participation in public life.

4. *At the root of neoliberalism: the crisis of laissez-faire in Walter Lippmann's The Good Society*

Walter Lippmann's book *The Good Society* (1937) presented many of the ideas that will become widespread after being taken up in Friedrich Hayek's *The Road to Serfdom* (1944). Lippmann proposed the slippery slope argument according to which the "gradual collectivism" proposed by democratic socialists and reformists in the West was bound to call for ever more control and to end up in a Soviet-style dictatorship: every regulation in favor of any sector of the population would have driven similar requests from all the social segments (Lippmann, 1937, pp. 116-118). Only the market could allocate resources without making recourse to arbitrary rationing. According to Lippmann, fascism and communism were akin phenomena, whose economy relied on the violent expropriation of wealth, either from other nations or from other social classes, rather than on its production, which was hindered by their attempts to overcome the market order (Lippmann, 1937, pp. 141-145). He described the market as a dynamic and emergent structure that resisted any attempt to establish any definitive form of legislation (Lippmann, 1937, pp. 165-167). Finally, he saw liberalism as lying at the core of Western civilization, always concerned since the times of Ancient Greece with the issue of limiting authority against the pressures of both tyrants and the masses (Lippmann, 1937, p. 361). Collectivism was a modern aberration, prompted by a misinterpretation of the nature of industrial production, which, instead of being traced to the deepening of the division of labor brought by the development of the market, was seen as a consequence of the increasing scale of monopolistic firms. In this way, socialists mistook a contingent phenomenon, which actually limited the deployment of a fully compet-

itive order and hindered innovation, for an essential feature of capitalism (Lippmann, 1937, pp. 12-18). The existence of monopolies, as well as of inequality and recurring crises, did not prove that the market was an irrational system for allocating resources but rather that it had not yet been completely established. Socialists were not alone in this mistake: even *laissez-faire* liberals could no longer distinguish the concrete social order of their time with market society in its full deployment. Consequently, these latter ended up with an apology of the status quo which provided legitimacy to the socialist critique (Lippmann, 1937, p. 234). Proponents of *laissez-faire* forgot that liberalism always requires the adaptation of social institutions to the requirements of the exchange economy: the competitive order in which factors of production are fully mobile and fully employed is “not a picture of the world as it is but a picture of the world as it needs to be remade” (Lippmann, 1937, p. 201). Reforms and state intervention are therefore necessary, but for the opposite reason for which they are advocated by collectivists:

The difference is that liberalism seeks to improve the exchange economy whereas collectivism would abolish it. Liberalism is radical in relation to the social order but conservative in relation to the division of labor in a market economy. In the liberal philosophy the ideal regulator of the labor of mankind is the perfect market; in the collectivist philosophy it is the perfect plan imposed by an omnipotent sovereign (Lippmann, 1937, p. 236).

Aiming at a critique of both socialism and *laissez-faire*, Lippmann opened its book with a praise both of Mises and Hayek, “whose critique of planned economy has brought a new understanding of the whole problem of collectivism” and of Keynes, “who has done so much to demonstrate to the free



peoples that the modern economy can be regulated without dictatorship” (Lippmann, 1937, pp. vii-viii). Lippmann accepted Keynes’s explanation of the weakening of the incentive to invest in mature economies due to the declining marginal efficiency of capital, as well as his theory of the business cycle as a consequence of the distinction between saving and investment. In modern society the economy produces “more wealth than those who enjoy a middle-class standard care to consume or can profitably invest” (Lippmann, 1937, p. 231). Therefore, Lippmann advocated “what is now called monetary management” (Lippmann, 1937, p. 220), a vast program of public investments and the introduction of “drastic inheritance and steeply graduated income taxes” (Lippmann, 1937, p. 227) to transfer resources from “unearned incomes” toward productive employment:

To divert excess savings from the hoards of the rich and to plough them back into the improvement of the quality of the people and of their estate is, therefore, required not only by the long view of the imponderable national interest, not only as an expedient to allay discontent, not only as a matter of social justice, but as a requisite for preserving the equilibrium of the exchange economy itself (Lippmann, 1937, p. 230).

Together with these policies of demand management, Lippmann invoked an anti-monopolistic legislation and a program of public investments (financed through taxation) to improve both the stock of available resources and the qualification of the workforce: a thriving market economy requires an adequate supply of factors of production which does not occur naturally, and which therefore must be secured by public intervention. On the one hand, the State must provide for health and education to increase the “adaptability, intelligence” and the “enlightened understanding of the reciprocal

rights and duties, benefits and opportunities” of the market society. On the other hand, it must ensure “the conservation of the land and of all natural resources, and their progressive improvement by clearing, reclamation, and fertilization” (Lippmann, 1937, p. 213). Infrastructure must be built in order to secure both transport and power supply: public works must “reclaim land, control floods and droughts, improve rivers and harbors and highways, develop water power, and establish the necessary facilities for transporting and exchanging goods and services” (Lippmann, 1937, p. 226). Moreover, to the State pertains the task of “providing the organization of markets by information, inspection, and other services”, together with the “insurance and indemnification against the risks and losses of technological and economic change” (Lippmann, 1937, p. 226). Even recreational services “which would not otherwise exist in specialized and congested communities” (Lippmann, 1937, p. 226) should not be neglected to secure a healthy workforce. The preservation and enhancement of the available stock of capital and labor entails therefore both public works in infrastructure and the institution of a wide net of social security, which Lippmann will strongly advocate also in the following decades, criticizing the Eisenhower administration for favoring private consumption over public investment and welfare:

For it is inconceivable, to cite a few examples, that a country which can spend what we spend on luxuries should tolerate much longer the shameful neglect and starvation of public education. It is inconceivable that this country will put up with inadequate medical care, with blighted areas in its big cities, with the pollution of the air and of water, with inadequate airports and failing railroads. The public facilities of this country are not keeping up with the growth of the population, the congestion of the cities, and the rising standards of

private life (Lippmann, 1959 [quoted in Goodwin, 2014, p. 329]).

Lippmann's harsh critique of socialism and even of some aspects of the New Deal, together with his deep mistrust of the masses, did not prevent him from envisaging a wide margin of public intervention, which he saw as necessary for the establishment of a working regime of competition. According to Lippmann, Keynesianism inaugurated a "post-Marxian age" in which the living conditions of the lower classes could rise without prejudicing the wealth and confidence of the "well-to-do" (Lippmann, 1964 [quoted in Goodwin, 2014, p. 346]). His approach was shared, as we are going to see, by most of the participants in the 1938 Paris meeting in which his book was discussed and which gave life to the *Comité international d'étude pour le renouveau du libéralisme* (CIERL), the forerunner of the Mont Pelerin Society.

##### 5. *Keynesians and not-so-anti-Keynesians at the Walter Lippmann Colloquium*

As shown by Reinhoudt and Audier (2018), the strongly anti-Keynesians among the participants in the Walter Lippmann Colloquium were a small minority. Among them, Ludwig von Mises and Jacques Roueff explicitly defended classical liberalism and claimed that there was no need for a renewal, thus distancing themselves from the neoliberal project. While rejecting Keynesianism as economically flawed, Friedrich von Hayek will not condemn it (at least, not at this time<sup>2</sup>) as lead-

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<sup>2</sup> A radicalization of Hayek's thought can be observed at least since the preface to the American edition of *The Road to Serfdom* (1956).

ing toward collectivism. In the *Road to Serfdom*, he will condemn *laissez-faire* (Hayek, 2007, pp. 85-86) and alert that “it is of the utmost importance to the argument of this book for the reader to keep in mind that the planning against which all our criticism is directed is solely the planning against competition – the planning which is to be substituted for competition” (Hayek, 2007, p. 90). As constituents of the “very necessary planning which is required to make competition as effective and beneficial as possible”, Hayek enlists (together with “an extensive system of social services”, Hayek, 2007, p. 87) monetary policy (“which would involve nothing incompatible even with nineteenth-century liberalism”) and “the skillful timing of public works undertaken on a very large scale”. The recourse to public expenditure, despite not being “the most promising way of meeting the gravest threat to economic security”, does “not lead to the kind of planning which constitutes such a threat to our freedom” (Hayek, 2007, pp. 148-149). Finally, the criterion he adopted for discriminating between the domain of public and private investment was the same that was endorsed by Keynes: the noninterference with the price system. Altering relative prices “deprives competition of its power of bringing about an effective co-ordination of individual efforts, because price changes then cease to register all the relevant changes in circumstances and no longer provide a reliable guide for the individual’s actions” (Hayek, 2007, p. 86).

Quite the opposite, Wilhelm Röpke, who had previously advocated deficit spending as a countercyclical measure (Röpke, 1932), held Keynes’ economics to be economically sound but politically dangerous since the enforcement of full employment would have led to strengthening the workers’ bargaining position and, therefore, to wage-push inflation, whose curbing by deflationary policy would have been pre-

vented by the workers' opposition (Röpke, 1958; Solchany, 2015).

Most of the participants acknowledged the limits of *laissez-faire* (a motto that, according to Louis Baudin, amounted to *laissez-souffrir*, “let suffer”, Reinhoudt & Audier, 2018, p. 111), and some of them staunchly adhered to Keynesianism. Michael Polanyi, whose account of the polycentric nature of science (Polanyi, 1946) strongly influenced Hayek's denunciation of any rationalistic social philosophy, directed *Unemployment and money* (1937), a documentary film screened at the Colloquium, which popularized Keynes' theory of money and of the business cycle. In *Free trade and full employment* (1948), he presented Keynesian policies as suitable to “regenerate free competition and re-establish capitalism on renewed foundations” (Polanyi, 1948, p. xii; Biró, 2019; Fenstré, 2021). According to Polanyi, “now that we are in possess of a correct theory of employment”, the fallacies of *laissez-faire* “must be energetically repudiated”, together with its apologetic stance (Polanyi, 1948, 145). Polanyi adopted Keynes's theory of the decline in the marginal efficiency of capital: the stabilization of aggregate demand is not confined to the correction of the business cycle but aims to correct the structural lack of investment that characterizes the most advanced economies (Polanyi, 1948, p. 24). The State must control the quantity of money in circulation, regulating its inflow also through budget deficits directly financed by the central bank. This activity must, however, strictly adhere to what he calls the “principle of neutrality”: the inflow of money must not in any way benefit or penalize specific categories of economic agents, which would amount to an undue interference with the allocation of resources, a task that must be strictly assigned to the market (Polanyi, 1948, p. 29). Consequently, he strongly criticized James Meade's proposal to confer additional purchasing

power on the poorer classes to stimulate aggregate demand. According to Polanyi, “a system which would have to distribute prizes in such an arbitrary fashion would be hardly less repulsive than the state of unemployment which it would replace” (Polanyi, 1948, p. 124). Keynesian policies should not be confused either with policies controlling the direction of investment or with reforms leading to the expansion of the welfare state. Indeed, full employment could also be achieved under the conditions of “a reduced share of public expenditure, an increased inequality of incomes and a relaxation of public responsibility for consumption” (Polanyi, 1948, p. 135).

Moreover, Polanyi emphasized that Keynesian policies could eliminate structural unemployment, produced by underinvestment, but not residual unemployment, which constantly stems from the failures of the least productive enterprises inside the competitive system (Polanyi, 1948, pp. 90-98). Only a reduction of costs and wages through inflation could ensure advantageous conditions even for the least competitive firms, ensuring their survival and thus a higher employment rate. As in Lippmann, such residual unemployment can be fought by promoting the mobility of factors of production through adequate infrastructure and housing. A moderate redistribution of wealth through taxation and the abolition of inheritance (Polanyi, 1948, p. 146) are endorsed to ensure full equality of opportunity, together with elements of financial regulation against the excesses of speculation (Polanyi, 1948, p. 87). For full employment to be feasible, Polanyi concludes, it is necessary for the masses both to trust the authority of government and to moderate their demands, which can undermine the stability of the system (Polanyi, 1948, p. 150).

Sociologist Raymond Aron also adhered to Keynesian theory. The following year, he will praise it as capable of dealing with the evolution of an economic system in time, a feature that the more abstract marginal equilibrium theory was forced to neglect: once that the monetary factor has been introduced, a lowering of monetary wages does not anymore necessarily entail a falling in real wages capable of restoring equilibrium (Aron, 1939). In the aftermath of the Second World War, Aron advocated a mixed economy, which rejected both “integral planning” and “integral liberalism” as stemming from an economic determinism that overlooked the role of politics in stabilizing the economy and securing the condition for individual action (Aron, 1948, p. 290).

Another Keynesian participant was international economist John Bell Condliffe. According to him, liberal philosophy was not to be confused with the “apologia for a bygone economic system”, which was fostering inequality and hindering growth because of fixed interest rates that “have been imposed by people who have not had to make sacrifices for them and it is consumers who will suffer the consequences of them” (Reinhoudt & Audier, 2018, p. 170). Jean Marjolin also endorsed Keynesian theory, defending Roosevelt’s New Deal while distancing himself from the economic program of the left-wing *Front Populaire* (Reinhoudt & Audier, 2018, pp. 64-65).

#### *6. A debate on full employment: Keynes’ reception at the first meeting of the Mont Pelerin Society*

Seven years after the Walter Lippmann Colloquium, a new, lasting attempt to create a society dedicated to the renewal of liberalism against the menace perceived in collectivist plan-

ning took place, chiefly under Hayek's organization, at the Swiss village of Mont-Pelerin. Starting in the 1960's, members of the thereby established Mont Pelerin Society will become some of the staunchest opponents of the Keynesian revolution (Burgin, 2012). At the time, however, no anti-Keynesian consensus had emerged. During the eleventh session of the meeting, Röpke criticized full employment policies on the ground of social philosophy: expansionary boosts to aggregate demand should be employed only "after the depression has run its course": in that case, the utility of "Keynesian measures" to prevent the "danger of secondary depression" was acknowledged (Caldwell, 2022, p. 200). He met opposition from Lionel Robbins, formerly a critique of Keynes, who had been advocating his theory since *Economic Planning and International Order* (1938). In this book, he had remarked that liberalism admits, since Adam Smith's time, forms of planning and state intervention in areas that cannot be covered by private investment (Robbins, 1938, pp. 225-226). To "persuade the peoples of the world that liberalism has something to offer them", full employment had to be ensured, and depression had to be prevented (Caldwell, 2022, p. 203). Moreover, Keynesian policies should not be confused with Beveridge's plan, which he deemed too radical: "Full employment in the General Theory permitted existence in British economy of perhaps  $\frac{3}{4}$  million, which is a figure far above that suggested by Beveridge. Keynes suggested a reasonably high level of aggregate demand" (Caldwell, 2022, p. 201). He remarked that to prevent inflation, demand management should go together with a maximum of labor flexibility, a point also underscored by Fritz Machlup (Caldwell, 2022, p. 213). Robbins would also be the author of the Society's Statement of Aims. Curiously enough, Hayek's plan for securing full employment through "voluntary labour service, at which anyone who can-



not find employment, can find employment at just under market rates” (Caldwell, 2022, p. 227) bears striking resemblance to the post-Keynesian proposal (Mitchell, Wray and Watts, 2019, pp. 295-310) for a Job Guarantee: state-provided jobs should not interfere with the real wage, driving it above its market value. It is only after the demise, in the 1950s, of any possibility to introduce collectivism in the West that the Society progressively turned against both Keynesianism and any form of welfare state, ending up advocating the same return to *laissez-faire* whose founders had blamed for eroding liberalism’s consensus.

## 7. Conclusion

The antagonism both to collectivism and to *laissez-faire*, as well as the attempt to curb social unrest and regain consent without empowering the masses and to employ state interventionism to foster the profitability of the private sector seem to be common traits of a shared enterprise for renovating liberalism in the 1930s and 1940s to which Keynes can be fully ascribed. An examination of the tenets of this early neoliberal movement, born in a context in which liberalism faced an existential threat, casts into doubt the traditional reconstruction of Keynesianism and neoliberalism as alternative options since their inception in the 1930s, as well as the idea of a contiguity between Keynes’s political thought and the masses’ aspiration for their empowerment, both in the public sphere and at the workplace in the aftermath of the Second World War.

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# Some Reflections on Joseph Schumpeter's View on Anti-Capitalism

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**Abstract:** This chapter points out that Schumpeter's sociological analysis of the anti-capitalist phenomenon in capitalist societies is both methodologically consistent and analytically valid from the perspectives of political philosophy and sociology. Schumpeter was aware of the difficulties in describing historical processes and sociological facts even when methodologies from history and sociology were combined (Arena, 2008, p. 72). The precapitalist, the bourgeois and the socialist mentalities – as defined by Schumpeter – are Weberian ideal types, helpful to distinguish how individual mentalities change over time in capitalist societies. When the latter of these mentalities prevails, a new sort of society emerges. That is the bedrock of his main thesis about the decay of capitalism.

**Keywords:** Schumpeter; capitalism; ideal types; history; sociology.

## 1. *Introduction*

Intricate and often counterintuitive, Schumpeter's insight into the phenomenon of anticapitalism can be found in two of his major works: *Capitalism, Socialism and Democracy* and *History of Economic Analysis*. He hypothesized that the decline of capi-

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talist societies is the foreseeable consequence of an endogenous process. That process comes about as a result of the internal contradictions of capitalist development over time. In summary, capitalism gradually shapes and stiffens a type of mentality that is hostile to its social and economic foundations.

Accordingly, the rise of anti-capitalist trends is a result of the tension between, on the one hand, a sort of bourgeois mentality indebted to classical virtues and individual freedom and, on the other hand, the gradual emergence of intensive bureaucracy pervading all aspects of economic, social and intellectual life. The consequent loss of mental habits would provoke mass mobilization, leading to the use of nationalist ideology to maintain or seize political power. Paradoxically the internal dynamics of capitalism tend to decline due to its success when affecting the social and economic institutions that make it possible.

According to Schumpeter, economic and political liberalism are to be distinguished from each other. Economic liberalism is related to policies that favor free markets, individual initiatives and minimum economic regulations imposed by government. Instead, political liberalism is a framework that entails parliamentary government and collaborative policies in the international realm to strengthen reciprocal relationships. Economic and political liberalism have historically come together, but that is not a perennial rule. Political liberalism can survive – at least theoretically – when economic policies are averse to economic liberalism and vice versa.

## 2. *A Scientific Approach to Social Phenomena*

Schumpeter's starting point is to find a scientific procedure of reasoning about both social and psychological phenomena that is also valid for political science and economic history. His aim is to describe from a scientific standpoint the processes of social, economic and political changes within capitalist societies. The ultimate goal of that attempt is to reach reliable conclusions about the dynamics of modern capitalist societies. When doing so, he regarded his contribution in that respect as an enquiry about the "sociopsychological structure" of modern societies (Schumpeter, [1942] 2003, p. 121).

A psychological inclination would provoke a social drift that erodes the baseline of capitalist societies to the extent of entirely transforming them. According to Schumpeter, this process can be unfolded in scientific terms. Describing a process of decline through empirically meaningful concepts is a contribution to social sciences. By using concepts that have at least a minimum stipulative meaning, it is possible to distinguish psychological, sociological, economic and political phenomena from each other. That is so as regards the mind-sets of men and women in capitalist societies.

Schumpeter identified the practicality of social concepts serving as both ideal types, highlighting some of their features to the detriment of others, and as intuitive definitions, excluding alternative features of the concept. It is not by chance that he uses the word 'type' more than 150 times in *Capitalism, Socialism and Democracy*. When describing social phenomena and concepts, each of these types he summarizes can be contrasted with each other. This methodological assumption rationalizes the conceptual framework that he blatantly assumed as valid from the perspective of social sciences.



Aiming to translate contested and polysemic concepts such as ‘capitalism’, ‘socialism’, ‘democracy’, ‘precapitalist society’, or ‘bourgeois mentality’ into scientifically valid ideas, Schumpeter takes some of their most accepted features to distinguish processes and events. This does not mean that he refuses to accept the inner complexity of these concepts. Instead, he ‘portrays’ abstract concepts, preserving a minimum semantic content to highlight one or two of their features over the rest in agreement with the logic of ideal types.

For instance, when Schumpeter draws attention to the precapitalist mentality he characterizes it as a feudal-like mentality shaped for centuries much before the industrialization processes of the eighteenth and nineteenth centuries. This mentality means that most people used to guide their lives through anti-utilitarian mental habits when approaching their familiar, political and religious life. For the precapitalist mentality calculating and pondering was almost always restricted to conditions for surviving, for example when farming or tending cattle (Schumpeter, [1942] 2003, pp. 121, 124, 140).

The precapitalist mentality survives after the arrival of capitalism. For instance, in rural areas, this mentality endures. Some individuals with this predominant ideal-type mentality still exist in the present. That fact is of the utmost relevance to make the concept scientifically useful. The precapitalist mentality has scientific value as a descriptive concept connected with other mentalities and social phenomena. Its validity as an ideal type of mentality lies in contrast with other mentalities. For that reason, the precapitalist frame of mind works as an ideal type that singles out both its distinctive and shared features when compared to the bourgeois and socialist mentalities.

Ideal types in a Weberian sense contribute to making that descriptive framework meaningful from a scientific point of

view and open to being refuted through experience. Schumpeter deals with qualitative concepts based on ideal types to bear out the congruence between the premises that he supports and the ensuing thesis. Otherwise, to uphold the decline of capitalist societies would be just audacity lacking scientific endorsement. In that sense, Schumpeter seeks to demonstrate *ceteris paribus* – in absence of disregarded relevant data – that the decline of capitalist societies to be replaced by socialist-like systems of organization is the most feasible scenario in the long run (Schumpeter, [1942] 2003, p. 84).

Despite being thought-provoking to any educated reader, Schumpeter's writing style for presenting his reasonings is highly abstract. His approach to human behavior heavily relies on early twentieth-century psychology and Darwinist biology. Schumpeter deemed pointless to disregard individual beliefs and desires when analyzing social matters as doing so would negate the scientific perspective of methodological individualism. Nevertheless, he showed contempt toward ahistorical contemplation or exclusive emphasis on individual inclinations, beliefs and desires. This was especially the case when such an approach omitted sociological and psychological concepts that provided complementary information about how these inclinations, beliefs and desires intermingled in complex social groups.

His methodology incorporates both general intuitions shared among people and irrational behavior as two essential features of human conduct, which are irreplaceable to adequately grasp human psychology. However, Schumpeter does not devise a comprehensive theory of human behavior. He rather deemed unconscious motivations and features of character decisive in understanding irrationality as an everlasting human feature. Because agents usually have a more accurate view of others' motivations than their own, Schumpeter infers

that our understanding of facts and events is only partial, when not simply misleading.

Impulses and wishes usually make rational behavior apparent, an *ex postfacto* product shaped by the ways in which we justify ourselves before others. Schumpeter interpreted rationality as a quality of mind to resolve or to answer problems, providing an outcome with a positive truth value “upon a given wish” of the individual (Schumpeter, [1942] 2003, pp. 254, 256, 258). In that sense, he was convinced that human rationality is limited, in many cases ineffective and open to all kinds of deviations from any ideal model of rational behavior portrayed by economists, psychologists and sociologists.

The gap between the average, decent human skills to solve simple, concrete tasks and our poor average performance to establish properly causal connections beyond correlated events, especially at more abstract levels where the performance tends to decline, was to him often-disregarded evidence in social sciences. Schumpeter firmly believed that this pessimistic assumption should be the starting point of any serious scientific attempt to understand human behavior.

The reasons why complex societies lead to their own pathologies – as all civilizations have experienced historically – are to be found in our human shortages to understand what practical solutions to socially complex problems are both valid from a logical perspective and feasible from a technical viewpoint. He thought that mistaken answers to both practical and theoretical problems were in many cases much more appealing and even apparently sounder than their better alternatives. In addition, the psychological mechanisms of political ideologies lead to either darkening valid anti-intuitive answers to phenomena of social sciences or to self-deception.

### *3. The Role of Ideologies Shaping Modern Mentalities*

In Schumpeter's view, ideologies work as guidelines for rationalizing the world. Following the sociological analyses of Karl Marx and Max Weber, Schumpeter notes that both of them employed the sociological structure and patterns of modern societies to successfully explain the phenomenon of ideology as a product of modernity. Rival groups collide with each other when trying to interpret the mechanisms of social change and their own features as a distinctive group or class. This rational feature cannot be found in ideologies. It would be a delusion to think so:

Social groups and classes and the ways in which these groups or classes explain to themselves their own existence, location and behaviour were of course what interested him [to Marx but also to Weber] most. He [Marx] poured the vials of his most bilious wrath on the historians who took those attitudes and their verbalizations (the ideologies or, as Pareto would have said, derivations) at their face value and who tried to interpret social reality by means of them (Schumpeter, [1942] 2003, p. 11).

Our limited rationality fails to give a definite answer to social, economic and political phenomena. Apparently, ideologies fill the gap (Schumpeter, [1942] 2003, p. 256-58). Ideologies consist of beliefs, sketches and impressions about the world fitting our intuitions and wishes. They are appealing to those individuals who seek certitude, not truth. It is not paradoxical that people who think ideology is less influential over their behavior are more prone to be driven by ideological biases.

Schumpeter deemed ideologies a byproduct of modernity, perhaps the foremost feature of modern societies. Accordingly, the North American and French revolutions were basically ideological movements. The rival sets of beliefs that we call

ideologies gradually overthrow religious creeds in secularized societies. Bourgeois liberal ideology would be a primal outcome of modernity. The socialist ideology is the necessary reaction to the bourgeois mindset (Schumpeter, [1942] 2003, p. 310). Only by understanding how ideologies penetrate human minds can we draw adequate pictures of social, economic and political institutions and of their changes over time.

Even though Schumpeter agrees with Karl Mannheim that ideology is an inescapable human trait, the former, unlike the latter, thought of the class of intellectuals as especially liable to believe itself as free from strong ideological biases (Schumpeter, [1954] 2006, p. 35). This constitutes one of the symptoms of arrogance that Schumpeter found detrimental to both science and society. Unlike him, Mannheim's insight into intellectuals as a group or class seems to be less pessimistic, at least when it comes to the performance and social consequences of their professional and public engagement (Mannheim, [1936] 1979, p. 233).

Schumpeter sets forth ideologies not just from the perspective of their consequences in capitalist societies. He intends to show that ideologies are one of the most prominent outcomes of the contemporary world and that they tend to annihilate institutions such as the family and entrepreneurship. The reason behind this is that average human rationality is very deficient when pondering political questions. The way people – but very especially intellectuals – reason favors the rising of anti-capitalist individuals and groups in capitalist societies. In contrast, the precapitalist and the bourgeois mentalities tend to wane while the socialist mentality garners more support.

If we take this prognosis literally, we can easily infer that Schumpeter was wrong. The number of supporters of social-

ism in the Marxist sense seems to be relatively stable when not decreasing when compared to past decades. However, Schumpeter did not have in mind just revolutionary socialists. He believed in the possibility of a socialist society without violent upheavals, as advocated by the so-called democratic socialists and liberal socialists. His prognosis seems compatible with the growth of moderate socialism willing to accept democratic and constitutional means (Schumpeter, [1942] 2003, p. 235).

Indeed, Schumpeter was quite disgusted about the lack of intellectual carefulness among scholars, almost blind to the basic distinction between scientific endeavors and limits of prognosis. His thesis about the end of capitalism in *Capitalism, Socialism and Democracy* is sound and conceptually robust, although he acknowledged that it could be simply incomplete and thus perhaps lead to incorrect conclusions:

What counts in any attempt at social prognosis is not the Yes or No that sums up the facts and arguments which lead up to it but those facts and arguments themselves. They contain all that is scientific in the final result. Everything else is not science but prophecy (Schumpeter, [1942] 2003, p. 61).

He repeats the same idea toward the end of *Capitalism, Socialism and Democracy*. For him, it was essential to differentiate scientific endeavors that analyze available data from clear-cut prognostication in order to avoid discrediting by some of his colleagues:

Any prediction is extra scientific prophecy that attempts to do more than to diagnose observable tendencies and to state what results would be, if these tendencies should work themselves out according to their logic. In itself, this does not amount to prognosis or prediction because factors external

to the chosen range of observation may intervene to prevent that consummation (Schumpeter, [1942] 2003, p. 422).

Schumpeter regarded ideologies as patterns of behavior assumed by individuals. Ideology is an ingredient of the modern world that is widely influential over both serious and dilettante approaches to political, social and economic matters. Since any worldview is impaired to certain beliefs and wishes to fulfil, all ideologies contain interpretative potential to produce valid knowledge and prognosis. However, knowledge is only produced when scientific aims prevail over our ideological tastes, be that balance more or less difficult to attain. For like the feudal man, the bourgeois and socialist minds are capable of making good science or flawed reasoning.

#### *4. The Pre-Capitalist, the Bourgeois and the Socialist Mentalities*

If ideologies are the flame of social antagonism, then anti-capitalism would be the reagent of social discontent against certain institutions, groups, classes and ideas. Anti-capitalist trends would represent historical factors contributing to economic and psychological transformations with immediate political effects. Following Schumpeter's theses, this movement or reaction is aimed at undermining individual freedoms by targeting their sociological foundations.

In his effort to fight against them, Schumpeter resorted to what he thought to be a precapitalist mentality. In other words, individual freedoms within familiar bounds and valuable social traditions should be promoted in capitalist societies. In his view, only this mentality efficiently counterweights the anti-capitalist alliance of bureaucratic growth and nationalist exaltation: "the mode of life that flows logically from the na-

ture of capitalism necessarily implies an anti-nationalist orientation in politics and culture” (Schumpeter, 1955, p. 95).

Schumpeter thought that the rise of anti-capitalist groups would denote a growing refusal among citizens to accept the complexities of the social sphere impacting upon individual actions, from asymmetrical knowledge of data to price mechanisms. The institutional system that leaves room for individual freedoms within liberal democracies paves the way for organized groups that actively oppose the institutions enabling their own freedom. The initial benefits for the bourgeoisie stemming from capitalist democracies and which permit it to become the predominant class lessen over time (Elliott, 1994, p. 282).

Anti-capitalism would be the inevitable result of the historical development of the bourgeois mentality in industrial societies, conducive to decline. In that sense, anti-bourgeois movements seemed to be one of the most evident symptoms of a sort of ‘disenchantment’ with the bourgeois world, which becomes increasingly hostile toward the institutions and ideas that make our lives more stable, longer and less awful than ever before in human history.

Individuals in prosperous societies would be inclined to become anti-capitalists insofar as they do not appropriately understand the advantages that a bourgeois society offers them in terms of freedoms and life chances. Individuals would be inclined to deem their personal uneasiness the product of the injustices provoked by capitalism. According to Schumpeter, this is the result of a hostile, strongly emotional backlash of an increasing number of individuals who live in capitalist societies.

Indeed, an emerging class of intellectuals from different social strata expands as a consequence of the excellent opportunities for public employment and general prosperity that



they benefit from. Hostility toward private initiative would increase insofar as prosperity does in capitalist societies. It is precisely in capitalist societies where most individuals enjoy life opportunities and have their basic needs secured that the hostility against both the bourgeois and the precapitalist mentality becomes more intensively pervading. Economic crises boost anti-capitalist attitudes among citizens.

People with different talents, many of whom are unqualified for handwork due to their efforts and specialized training in intellectual tasks, would need to be employed in activities outside the private sector. If markets do not demand these skills, the result is a growing class of disenchanting intellectuals whose main activity is to lambaste the sort of society that allows them to exist as a large group or class. Frustrated expectations and the incapacity to adequately ponder the advantages of individual freedoms would gradually erode the bourgeois and precapitalist mentalities that capitalist societies require. Schumpeter voiced his harsh insight into this point:

The man who has gone through a college or university easily becomes psychically unemployable in manual occupations without necessarily acquiring employability in, say, professional work. His failure to do so may be due either to lack of natural ability – perfectly compatible with passing academic tests – or to inadequate teaching; and both cases will, absolutely and relatively, occur more frequently as ever larger numbers are drafted into higher education and as the required amount of teaching increases irrespective of how many teachers and scholars nature chooses to turn out (Schumpeter, [1942] 2003, p. 152).

The bourgeois way of life, as the mental habits associated with it, gradually disappears. Personal discipline, thrifty attitude, entrepreneurial initiative, capacity to separate professional and private life, to have numerous descents, or to devote

one's own life to work and family is an exercise of 'self-denial' to give up other life choices. These features make sense of the bourgeois ideal type mentality. However, this behavior gradually becomes less appealing over time.

Consequently, anti-capitalism is a process that runs in parallel to the loss of emotional reward and meaning that family bonds historically provided with. Paradoxically, the social breakdown, gradual despite outbursts, is the necessary outcome of extending to the public sphere the rationalization of individual behavior that imitates consumers' behavior. Rationalizing the private sphere as a consumer does when confronted with markets becomes the rule instead of the oddity.

A sort of economic rationalization of our lives beyond the public sphere of businesses and institutional relationships becomes detrimental to the sociological baseline of liberal democracies when applied to the private sphere. In this regard, for instance, the social incentives and the emotional reward of raising a family become almost meaningless to an increasing number of individuals in liberal societies. It turns out to be regarded as expensive, time-consuming and clashing with other life choices. The expectations of the individual in a capitalist society are gradually far away from the concern of raising children. The rational utility that we obtain when satisfying our short-sighted goals disables individuals from investing resources in offspring (Blockland, 2006, p. 141).

Furthermore, the capitalist activity of the bourgeois class would progressively weaken existing social and political balances. Agrarian labor and handcraft are superseded by new economic activities bringing about new technological products. Technical development applied to economic activities swiftly affects prevailing social and political institutions in a negative manner. Consolidated groups and classes that belonged entirely to agrarian civil societies become almost obso-

lete as technological changes evolve. Thus, the network of relationships and interests of premodern guilds collapses as fast as new groups of interests arise:

Capitalist evolution eliminates not only the king *Dei Gratia* but also the political entrenchments that, had they proved tenable, would have been formed by the village and the craft guild. Of course, neither organization was tenable in the precise shape in which capitalism found it (Schumpeter, [1942] 2003, p. 139).

Once the capitalist process begins, the traditional moral mindsets of the farmer and the artisan differ from one generation to the next. Hard work, thrifty attitude, devotion to family and the hope for the improvement of the life conditions of one's own children play a more secondary role insofar as technological and economic changes transform all industrialized societies. These features were part of the mindset of the precapitalist ideal type, not necessarily at odds with the bourgeois ideal type.

Both the precapitalist and the bourgeois mentalities share several virtues and features of character. The former holds to a large extent an anti-utilitarian stance; the latter is partly utilitarian regarding public life but not private life. This does not mean that arranged marriages, sales or purchasing were not based on utility for the precapitalist individual. This means that the calculation of utility was limited to several social interactions without eroding or annulling the anti-utilitarian meaning of raising a family.

Beyond that, Schumpeter believed that moral pluralism was akin to commerce and the strengthening of the typical virtues of the bourgeois. The cost was an increasingly 'self-interested' proneness of individuals toward 'material' ends (Thomas, 2017, p. 535). The moral emancipation of individ-

uals from religious doctrines had beneficial consequences when part of the precapitalist mentality still stood in. However, the erosion of that mentality would unavoidably lead to impoverishing the 'spiritual' reward of familiar bonds.

### 5. *Political and Economic Liberalism under Threat*

Schumpeter's theses about the complexity of liberal ideology rest upon a crucial distinction between political and economic liberalism. On the one hand, political liberalism would be intertwined with the parliamentary organization of elected political agents. On the other hand, economic liberalism favors peaceful means, indispensable to commerce and civil freedom:

By Political Liberalism, which must be distinguished from economic liberalism [...] we mean sponsorship of parliamentary government, freedom to vote and extension of the right to vote, freedom of the press, divorce of secular from spiritual government, trial by jury, and so on, including retrenchment and pacific, though not necessarily pacifist, foreign policy (Schumpeter, [1954] 2006, p. 372).

As an answer to political liberalism, the very concept of *Socialpolitik* arises. This concept carries positive connotations that make some reformist liberals and nonrevolutionary socialists agree on social policies and measures. To consider mankind as a whole the first matter of political concern brings to the adoption of social policies in favor of the poorest. These policies arouse sympathies among a large part of electors and are often portrayed as a trend at odds with imperial, nationalist and mercantilist political tendencies:

It is this relation to future fundamental reconstruction which places Sozialpolitik in the counter current, even where it en-

joyed the support of the new species of reforming liberals as distinct from the support of radicals on the one hand and conservatives on the other (Schumpeter, [1954] 2006, p. 736).

To the Austrian economist, similar to many other prominent figures during the first half of the twentieth century, the most accomplished form of liberalism was Gladstonian liberalism (Schumpeter, [1942] 2003, p. 126). William Gladstone's policies favored individual initiative in markets, balanced budgets, low taxes, the defense of family bonds, deep concerns about moral rectitude, and the importance of all social classes contributing to the prosperity of the United Kingdom.

Schumpeter thought that nineteenth-century liberalism meant "social agency existing for the performance of a few limited functions to be financed by a minimum of revenue" (Schumpeter, [1942] 2003, p. 136). Limited government, as customarily acknowledged in the Constitution of the United Kingdom and endorsed by part of the public opinion, seemed strong enough during some decades. This was Schumpeter's view, who thought that period was a Golden Age or sociological peak of the capitalist civilization.

However, his praise of Gladstone's liberal policies was probably somewhat idealistic and evinced Schumpeter's reluctance to accept state institutions and governments accomplishing active policies of economic intervention. Together with it, Schumpeter always backed the existence of constitutional democracies across Europe (Medearis, 2001, p. 43). In his view, constitutions settle reliable rules to guide individual behavior and to limit governments' action.

According to the economist David McCord Wright, Schumpeter thought that all societies always "contain some element of coercive evil" (McCord Wright, 1951, p. 153). The

threat of an expanded bureaucratic administration that would gradually domain more aspects of the economic and social life of individuals was a sign of the growth of anti-capitalism. That trend was strengthened by the increasing size of the bureaucratic administration in highly developed countries. More complex and larger bureaucracies directly hinder economic initiative and the bourgeois mentality which makes it possible.

As a token of his idea of anti-capitalism, Schumpeter thought that economists such as Clément Colson and Émile Cheysson were anti-liberal intellectuals insofar as they were theorists who looked down on other economists and researchers. Their anti-liberalism was also a form of anti-capitalism that had to do with their mentalities. According to Schumpeter, both of them were incapable of evaluating scholarly contributions to economic studies in the appropriate way because their mindsets were not different from those Marxist intellectuals that disregarded non-Marxist studies as unscientific (Schumpeter, [1954] 2006, pp. 88-9).

To distinguish one's own ideological beliefs from our skills to produce scientific work means that social scientists should be aware of their unavoidable ideological biases. In Schumpeter's view the social scientist carries a heavy load that cannot be removed, but that should not be hidden. Scientific honesty entails not using ideology at the cost of serious scientific research. Scientific findings often collide with our political intuitions. The scientific mentality has to do with combining good reasoning and careful observation.

The potential of human beings to be active members of society contributing to prosperity in the economic realm does not apply equally to political issues. To Schumpeter, it is rather impossible to make consistent political decisions responding to the aggregate decisions of individuals. Majority

rule, as with any other method for selecting political leaders and policies, usually leads to suboptimal or simply inefficient economic policies with pervasive effects on society.

As Emilio Santoro suggests, Schumpeter's account of mankind is the one of a practicing liberal (Santoro, 1993, p. 123), pluralistic as regards to the diverse choices and ends that individuals might pursue. However, Schumpeter distrusted the capacity of human beings when confronted with political decisions such as voting or demanding government policies. He thought individuals were more skillful when they must make economic decisions in a supermarket or an office, where direct outcomes of their choices could be reasonably foreseeable.

For example, cognitive biases would explain why the size of the administration tends to grow in times of uncertainty or economic depression. The very logic of the public supply and demand for goods, be they jobs or economic subsidies, would be determined by the sort of short-cut reasonings that characterizes the political sphere. The tendency to increase government expenditure would keep an almost steady pace, thus diminishing the potential of the private sector to keep its prominence. Following Schumpeter's reasoning, there is a labor migration from the private to the public sector (Schumpeter, [1942] 2003, p. 423). This tendency grows when the private sector loses competitiveness or an economic crash paves the way for state intervention in the economy, as Franklin D. Roosevelt's policies made patent.

In summary, Schumpeter's democratic theory means tolerating individual preferences as a method for selecting among rival political leaders. Freedom of opinion is an axiom in liberal democracies, but with its costly consequences. To Schumpeter, only limited government and restrictions on the competences of political authorities to reach sensible eco-

conomic decisions are a suitable framework to allow prosperous societies. Only this institutional arrangement can safeguard liberal societies against the breakthrough of anti-capitalism.

The idea that only limited government intervention in individual decisions should be allowed is essential to his idea of individual rights. To Schumpeter, the concept of public good is confusing because individuals disagree about what is or should be worthwhile. Economic and social problems should remain open to “competing solutions”, rather than being subject to planned design by public officials in the administration (Thomas, 2017, p. 540). Schumpeter was convinced that government policies cannot appropriately regulate any range of human relationships and interests. At best, social and economic policies alleviate certain sufferings such as unemployment, by giving rise to others such as loss of competitiveness and public debt.

Furthermore, the adoption of enhanced or more sophisticated means by governments to implement social policies was not without unintended consequences. Undesirable political phenomena, such as nationalism and imperialism, emerged in capitalist democracies. Capitalist democracies are either eroded or torn apart when political leaders exalt nationalist ideology to increase their chances of success.

Capitalist societies that lack or have partly abandoned liberal moral standards are at the mercy of nationalism. Nationalist ideology undermines the liberal and traditional meaningful values that make it possible for societies to flourish. A capitalist society may decline when the cherished traditional values, associated with the family bonds of the precapitalist and the bourgeois mentality, have fallen apart.



## 6. *The Nationalist Evil*

According to Schumpeter, nationalism is an ideology that often supplants liberalism. In psychological terms, nationalism fills the loss of the mental habits associated with the standard bourgeois family. It seeks to evoke irrational responses of self-interest to address existing problems. The meaning of life for the bourgeois, much like that of precapitalist individuals, revolved around families. Nevertheless, the decay of this mentality creates opportunities for political ideologies, such as antidemocratic socialism as well as left-wing and right-wing nationalism, to harness the bureaucratic machinery of modern estates to reach power. These alliances pose major threats to individual freedom:

Driven out everywhere else, the irrational seeks refuge in nationalism – the irrational which consists of belligerence, the need to hate, a goodly quota of inchoate idealism, the most naive (and hence also the most unrestrained) egotism (Schumpeter, 1955, p. 12).

Although too vague, descriptive expressions such as ‘national spirit’ find intuitive use when depicting social phenomena comprising psychological features and mindsets with relevant economic, political and social consequences. If this expression is taken as a nonessential feature beyond its literal meaning, to speak of a national spirit would not be more accurate than to accept the validity of expressions such as ‘national pride’ or ‘national business’:

[The] term [national spirit] is to denote not only prevalent systems of ideas or beliefs, religious or other, but also prevalent attitudes, especially to such matters as parsimony, pecuniary gain, risk-bearing, physical and intellectual work, and the like (Schumpeter, 1947, p. 3).

One thing is to acknowledge the existence of entities we refer to as nations. We can intuitively distinguish prevailing social interests and life choices among peoples of different countries. Another matter entirely is to promote an ideology that enforces a language, specific character traits and traditions on any individual under the threat of exclusion from a group or country. Nationalism reveals itself as a modern phenomenon of the nineteenth century that reacts against existing institutions and individual freedoms.

Schumpeter's criticism of the sociological changes that unfolded from 1918 onward in developed countries becomes evident when we examine his economic and political works together. He saw the kind of intellectual and artistic freedom, economic growth and civilized morality akin to duty-based obligation in both private and public spheres were to him the features of a vanishing worldview (Swedberg, 1991, p. 146). While unavoidable, Schumpeter viewed the new standards of public and private behavior as detrimental to the civilized mindset that he thought to be the most positive sign of American and European elites, in contrast with nationalist ideology.

Relying on his own assessment of government cabinets' history from the beginning of the Victorian period to World War II in the United Kingdom, Schumpeter infers the existence of an anti-expansionist policy embraced by both liberals and conservative leaders (Schumpeter, 1955, pp. 11-4). As it was orthodox for his time, he equated William Gladstone with the kind of skilful politician who truly pursued liberal measures in both the economy and society without resorting to nationalism.

## 7. *Conclusions*

Schumpeter forecasted the vanishing of capitalism as a process to be replaced by another system of economic organization. Through his prognosis, be it accurate or not, he envisaged far-reaching relationships between political and economic phenomena. This chapter has sought to elucidate that Schumpeter's analysis is indebted to Weberian ideal types. His contribution in this regard consists of elaborating a multidisciplinary approach that integrates elements of economics, sociology, psychology and political philosophy, employing his own ideal types: the precapitalist, the bourgeois and the socialist. Concepts such as 'capitalism', 'political liberalism', 'economic liberalism', 'ideology', 'mentality', 'entrepreneurship', 'socialism', 'competition', 'bureaucracy' or 'intellectual' highlight their most salient features in shaping social and psychological habits.

There are some interesting conclusions that derive from the analysis of political and economic phenomena that this chapter has highlighted and that could respond to practical problems that contemporary societies face. (1) Traditional family bonds counterweight the decay of liberal capitalist societies. If families with numerous descents owed their existence to precapitalist and the bourgeois mentalities, their crisis is correlated with the rise of the socialist mentality. (2) To promote an anti-utilitarian morality in private life counterweights the utilitarian approach prevalent in economic matters. The greater the extent to which we apply economic calculations of benefits and costs to our private lives, the more likely we are to undermine the mental habits associated with precapitalist and bourgeois mentalities. (3) Individual freedoms should not be considered in utilitarian terms. To safeguard individual freedoms demands a widespread bourgeois-

like mentality among citizens. In the absence of such a mentality, there is a heightened risk of sociological support for a politics that undermines individual freedoms. (4) Political liberalism is the backbone of individual freedoms and rights. Nationalism, imperialism and socialism are reactions against the central tenets of classical liberalism. Capitalist societies that are based on political liberalism, as described by Schumpeter, are doomed to disappear.

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# A “Journey from Liberalism to Democracy”. Between past and present in Wolin’s thought

MARCO ZOLLI<sup>1</sup>

**Abstract:** Sheldon Wolin played a significant role in shaping contemporary democratic thought in an anti-liberal way. “[A] journey from liberalism to democracy” is the expression Wolin employs to describe his political and personal path from a liberal to a democratic approach. This biographical suggestion acts as an effective metaphor to navigate through Wolin’s works, moving from his criticism of constitutional liberalism to his reflection on democratic practices in modern times. What this paper would underline is the historical grounding of Wolin’s reflection, following his suggestion that democracy has always been defeated by different forms of anti-democratic ideas and powers. Wolin’s reflection on the *Federalist Papers*, the Bible of liberal constitutionalism, firmly underlines this defeat, investigating the anti-democratic convictions that moved the American Founding Fathers. Moreover, the Federalist’s case, according to Wolin, is particularly representative of the anti-democratic beliefs shared by the major protagonists of the history of philosophy. However, this theoretical refusal of democracy reveals something important about its “fugitive” nature: its indisposition to theory. Wolin’s rejection of what he defines as an “epic” notion of philosophy turns out to be a rejection of an anti-democratic practice of thought.

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**Keywords:** Wolin, Democracy, Liberalism, Federalist Papers, Political Theory, Political Philosophy.

## 1. *Introduction*

The purpose of this paper is to outline Wolin's understanding of democracy from its anti-liberal perspective. "[A] journey from liberalism to democracy" (Wolin, 2004, p. xxix) is the expression Wolin employs in the *Preface* to the second and extended version of his masterpiece, *Politics and Vision*, to describe his political and personal path from a liberal to a democratic approach. This biographical suggestion acts as an effective metaphor to navigate through Wolin's works, moving from his criticism of constitutional liberalism to his reflection on democratic practices in modern times. What this paper would underline is the historical grounding of Wolin's thought, mainly outlining its development around the *Federalist Papers*' reflection. The Bible of liberal constitutionalism, according to Wolin, is particularly representative of the anti-democratic nature of a great part of Western political tradition. Investigating some aspects of Wolin's reflection on the *Federalist Papers*, I will show how Wolin's insights can prove historically effective in clarifying some of the main differences between the Founding Fathers' perspective and that of thinkers such as Hume and Smith. Liberalism itself, according to Wolin, thanks to pivotal figures such as Alexander Hamilton and James Madison, drastically changed its nature. At the same time, Wolin's inquiry on the *Federalist Papers* reveals the "epic" attitude to theory of their authors and the incompatibility with a democratic one. Moreover, the theoretical refusal of democracy offered in the *Federalist Papers* reveals something important about its "fugitive" nature: its indisposition to theo-

ry. Wolin's rejection of what he defines as an "epic" notion of philosophy turns then out to be a rejection of an anti-democratic practice of thought and an attempt to conceive different ways of approaching political theory. As the example of Tocqueville outlines, the idea of democracy and democratic theory that emerge from Wolin's thought is directly connected to the practice and care of those spaces in which these practices can be conducted, in a process of self-education in advocacy and care for what is common.

## 2. *Wolin's Hamilton: The Constitution as The Fabric of The American Empire*

Wolin's writings and reflections on the *Federalist Papers* play a pivotal role in his understanding of liberalism. The U.S. Constitution of 1787 signed the beginning of an era and the appearance of a new political form on American soil (Wolin, 1989, p. 5). Constitutions, according to Wolin, are not simple instruments of limitation of power, as the same liberal theory pretends them to be, but foundational moments where new forms of power are established and regulated for the first time. In *Collective Identity and Constitutional Power*, Wolin clearly states that "although restraint on power was a crucial element of constitutionalism, it was not its essence. Rather, insofar as there was a constitutional essence, it was power itself" (Wolin, 1989, p. 11). This perspective is essentially connected with the relationship between Constitution and Revolution. Even though both can be democratic events, constitutional moments are understood as the opposite and termination of revolutionary ones. While constitutions are "the settled structure of politics and governmental authority", revolutions are, on the other hand, "unsettling political movements"; more



plainly, “constitution signifies the suppression of revolution; revolution, the destruction of constitution” (Wolin and Xenos, 2016, p. 247). The inspirer of this idea is of course Arendt’s *On Revolution*, where the theoretical importance of revolutions was recognized in their “confront[ing] us directly and inevitably with the problem of beginning” (Arendt, 1965, p. 21). However, where Arendt identified a positive and virtuous relation between the American Revolutionary moment and the establishment of the new constitution, Wolin’s opinion was far distant.

In fact, in Wolin’s understanding of the American Revolution, the constitutional moment of 1787 does not represent the natural consequence and outcome of the precedent revolution but its definitive end. The main concerns of the Founding Fathers were, according to Wolin, to put an end to the revolutionary forces and to do something new with the democratic source of power that the American Revolution had revealed: the people. What Arendt failed to recognize, according to Wolin, is “the drive for centralization, the determination to curb the power of the colonial legislatures, and the Hamiltonian vision of a national economy presided over by a strong state” (Wolin and Xenos, 2016, p. 244). All core elements of the Founding Fathers’ constitutional project. 1787’s Constitution had then to be a means to generate a new form of power out of the raw material of democratic legitimacy, not a ‘weak state’ but a strong one, that could run its affairs with “stability and energy” (Hamilton *et al.*, 2003, p. 170), able to cope with all the possible challenges of a global scenario.

Hamilton is the pivotal or “epic” protagonist of this moment. His figure plays a vital role in Wolin’s writings, where he is identified as the true founder of the American strong state and its most tenacious proponent. The Hamiltonian concern of creating a state able to deal with “finance, manu-

facturing, and the interpretation of the powers of the national government" (Wolin and Xenos, 2016, p. 381) leads Wolin's reconstruction of the *Federalist's* reflection. Hamilton's concern, according to Wolin, was to create something out of the power of the people, to "stream" and control it in precise and efficient ways. The image of the "stream of power" used by Hamilton in *Federalist 22* is here fundamentally important. The legitimate authority that the Constitution aims to establish is no longer the authority of the people but an instrument that uses that authority to create something new. The American constitution is, following Wolin's Hamilton, "the fabric of American Empire", the system that makes it possible for "the streams of national power" to flow from "the original fountain of all legitimate authority" (Hamilton *et al.*, 2003, p. 106), the consent of the people, to the apical institutions that will manage that power. As more clearly stated by Hamilton in *Federalist 35*, one of the main benefits of the representative model implemented by the new federal Constitution was to create a harmony of interests in favor of the new emerging economic industry. Contrasting those who argued for the impossibility of representing the too great plurality of "all classes of citizens" (Hamilton *et al.*, 2003, p. 160) in the new federal republic, creating then a lack of representation, Hamilton aimed to show how only three classes could indeed summarize the interest of the whole society. In a properly functioning republic, as the new American one, the desirable composition of the legislative body would be of "land-holders, merchants, and men of the learned professions" (Hamilton *et al.*, 2003, p. 160), who, according to Hamilton, would be able to represent the entirety of the interests of the people. According to Wolin, The *Federalist Papers'* constitutionalism has then the concrete aim of using power to facilitate the growth of industry and enable the building of a new form of Empire, mak-

ing possible the constant “enlargement of the orbit” (Hamilton *et al.*, 2003, p. 36) of its political influence. Moreover, in doing so, the U.S. Constitution also gives birth to a politic of principles. The new “science of politics” (Hamilton *et al.*, 2003, p. 36) that the *Federalist Papers* evoke is scientific in the strict sense that the scientific revolution made it possible to be. The Founding Fathers, defending the new U.S. Constitution founded a new understanding of liberalism, betraying its sceptical roots and transforming it into an affirmative political theory or, using Wolin’s ideas, into an epic one.

### *3. The ‘Epic’ Approach, or The Anti-Democratic Nature of Political Theory*

Before outlining the notion of an ‘epic’ approach to politics, as better defined in the essay *Hobbes and the epic tradition of political theory* (Wolin and Xenos, 2016, p. 118), it is then important to clarify Wolin’s insight into ‘classical’ liberalism to understand the notable change operated by the authors of *Federalist Papers*. Chapter 9 of the first edition of *Politics and Vision* (1960) is entirely dedicated to the analysis of liberalism and its consequences for political philosophy. Because of liberal theory and the growing importance of economic reflection at its core, political philosophy, conceived as the discipline aimed at outlining the desirable conditions of collective life, experienced a decline in favor of economics. However, the philosophical origins of liberals’ claims, argued Wolin, were far from assertive as the ones of the economic science that would almost entirely absorb liberal reflection over time and undoubtedly different from the spirit that American liberalism would embody. Today’s liberalism, Wolin writes, is unrecognizable if compared to its origins. As outlined in *Poli-*

*tics and Vision*, liberalism was, in its original appearance, a Philosophy of Sobrieties (Wolin, 2004, p. 263), not of principles, grounded on the sceptical conviction that good and evil were not scientific concepts and that accordance over them was impossible to find. Understanding this evolution of liberalism is radically important to grasp Wolin's criticism of the *Federalist Papers* and, more broadly, his general approach to political theory. Here is what Wolin writes in *Politics and Vision*:

In examining what the early liberals themselves had written I found myself compelled to abandon a whole set of preconceptions derived from recent commentaries. At the end I concluded that our present age has for a variety of reasons lost touch with the original temper and outlook of liberalism [...]. Liberalism has been repeatedly characterized as 'optimistic' to the point of naiveté; arrogant in its conviction that human reason ought to stand as the sole authority for knowledge and action; bewitched by a vision of history as an escalator endlessly moving upwards towards greater progress; and blasphemous in endowing the human mind and will with a godlike power of refashioning man and society in entirety. For the most part these criticisms have little or no support in the writings of the liberals. [...] It [Liberalism] leaned heavily on the political principles of Locke, yet most important to its development are the later stages in which it was filtered through classical economics and exposed to the philosophies of David Hume and Adam Smith, two thinkers distinguished by a profound respect for the limits of reason and the pervasiveness of irrational factors in man and society. One of our tasks in the following pages is to disentangle this second tradition from the first and to show that liberalism was a philosophy of sobriety, born in fear, nourished by disenchantment, and prone to believe that the human condition was and was likely to remain one of pain and anxiety (Wolin, 2004, p. 263).

The tradition from which original liberalism, the one of Hume and Smith, had to be disentangled was that of democratic radicalism, whose origins were indeed, according to Wolin, far more Lockean than the properly liberal ones. In classical liberalism, argues Wolin, the main reason to constrain authority, to divide it and to nourish a reasonable fear for any form of total political power was the impossibility of establishing, beyond any reasonable doubt, what precisely were the boundaries between good and evil. Scepticism, as the figure of Hume perfectly summarizes, was the core of this tradition. Good principles, on the other hand, as evident as the laws of nature were meant to be and theoretically grounded in that same nature, were the core of the other democratic radicalism that from Locke took its moves. Understanding this intricate relation between radicalism and liberalism, I argue, is important to comprehend Wolin's reconstruction of the evolution of liberal thought to the *Federalist Papers* and, more importantly, to reconstruct his understanding of democracy as significantly different, despite some superficial resonances, from that of XVIII century democratic radicals.

This radical tradition grounded on principles is, according to Wolin, epitomized by the figures of Thomas Paine and William Godwin (Wolin, 2004, p. 281). It is on Thomas Paine that I will concentrate here due to his role in the American Revolution. Publishing his book *Common Sense* in 1775, Paine undoubtedly changed the course of the American Revolution, shifting the popular opinion or at least the political elite of the New Continent to a far more confrontational attitude toward the English Crown. *Common Sense*, as made clear in its *Introduction*, aimed to subvert a perverted political system, monarchy, founded on all kinds of unfairness and forgiveness of natural justice, with a new one grounded "on the principles

of nature and common sense" (Paine, 1995, p. 21). Paine aimed, quoting Wolin's words, to create a new "national association acting on the principles of society" (Wolin, 2004, p. 281). As Jonathan Israel (Israel, 2017) and Eric Nelson (Nelson, 2014) have outlined, the political theory of the *Federalist Papers* is explicitly polemical with Paine's *Common Sense* and its praise of a democratic republic. Hamilton, Madison, and Jay were undoubtedly more sceptical than Paine toward the possibilities of democracy, and paradoxically aimed to establish, using John Adam's words, a "monarchical republic" (Adams, 1851, p. 428). However, despite these crucial dissimilarities in their aims, the centrality of principles and the idea that politics could be conceived as a science were strikingly common to the two parts. Both radicals and the Founding Fathers, referring to their will to establish a new "political science", were in many ways unfaithful to the original core of liberal theory as described by Wolin. Paine's reliance on a theory of principles to claim the necessity of democracy is, under this perspective, inherently similar to Hamilton's and Madison's reliance on an anti-democratic theory of principles. Both Hamilton and Madison, according to Wolin, believed that politics could be grounded on principles as evident and clear as laws of nature were meant to be, giving to power all the instruments required for its smooth and efficient exercise (Wolin, 1989, p. 91). As Madison outlines in *Federalist 37*, the new Constitution substituted with true principles the "fallacious" and "erroneous" ones of the old Confederation (Hamilton *et al.*, 2003, pp. 169-170). False principles are changed with true ones. "Science, reason and power" (Wolin, 1989, p. 114) are, in this perspective, inseparably merged in the image of politics that takes origin from the *Federalist Papers*. What the Bible of American constitutional liberalism then established was an inherently rationalistic and purpose-oriented form of power,

grounded on the solid roots of science and eventually able to constitute a uniform and ideal form of government (Wolin, 2004, p. 402); an increasingly “perfect union”. The *Federalist’s* approach is then perfectly conceivable as an ‘epic’ understanding of politics and political theory and, as such, an inherently and necessarily anti-democratic one.

The notion of an “epic” or “epical” approach to politics and political theory is radically important to understand Wolin’s identification of the American evolution of liberalism with an inherently anti-democratic practice and, at the same time, in the shaping of his singular approach to political theory. As defined by Wolin, an “epic” tradition of thought “refers to a type of political theory which is inspired mainly by the hope of achieving a great and memorable deed through the medium of thought” (Wolin and Xenos, 2016, p. 118). Epical traditions share the idea that knowledge grounded in truths (religious, scientific, economical, moral, etc.) can pursue epical aims, such as the total renewal of societies or the human beings inhabiting them and the construction of perfect and hopefully eternal forms of government. Even though at its best exemplified by the figure of Thomas Hobbes, the “epical” theory is by Wolin identified with the main tradition in Western political thought and with an approach to politics that theorists had to adopt to “compete for recognition” (Wolin and Xenos, 2016, p. 120) in the history of theory itself. Reflecting on “principles” on which to found “natural” or “good societies” means taking part in this “epic” understanding of political philosophy. The *Federalist’s* reflection perfectly suits this tradition and the new liberal thought, which emerged from the writings of the Founding Fathers, too. However, the attempt to pursue an “epic” aim and to create a united, homogeneous, perfect political body inevitably struggles with the nature of another and minoritarian tradition of

thought and politics: the democratic one. Moreover, in his perspective, democracy has been opposed by the overwhelming majority of Western political thinkers. As Wolin effectively writes in *Democracy in the Discourse of Postmodernism*, "Socrates, Plato, Aristotle, Aquinas, Descartes, Hobbes, Spinoza, Leibniz, Hume, Kant, Hegel, and Nietzsche: not a democrat among them" (Wolin and Xenos, 2016, p. 306). *Federalist Papers* are of course no exception to this trend.

The incompatibility of democracy with an epic approach to politics and the difference between the Founding Fathers' reflection and the early liberal one is best exemplified by the analysis of probably the most famous essay of the *Federalist Papers*, n.10, dedicated to the problem of factions. Once again, Wolin's insight can help to explain some central aspects of this text. Written by Madison, *Federalist 10* aims to underline the risks of popular factions in a republican government, arguing that a federal and large republic could better manage the consequences of factions than a small one. As Morton White (White and White, 1989, p. 68) underlined, the main source of Madison in investigating the nature of factions in *Federalist 10* is Hume's essay *On Parties in General*. Distinguishing among them, Hume argues that "factions may be divided into those from *interest*, from *principle*, and from *affection*" (Hume and Miller, 1987, p. 59). Principle factions were identified as the most dangerous ones due to the impossibility for people to find complete accordance around the best form of government (e.g., monarchy or republic) or general good and evil. The idea that people could easily and fundamentally diverge on 'principles,' as a consequence that there were not indeed such things as 'principles,' is a clear signal of Hume's scepticism applied to the investigation of political systems. In Madison's adaptation of Hume's inquiry on the nature of factions, political parties originated by the divergence of princi-



ples simply disappear. As Madison writes, a faction is “a number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common *impulse of passion*, or of *interest*, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community” (Hamilton *et al.*, 2003, p. 41). Not only does the possibility of divergence over principles disappear, but the reference to the “permanent and aggregate interests of the community” immediately moves Madison speech outside the realm of Hume’s scepticism. The interests and the good of a political society could precisely be defined, far beyond the limits of Hume’s theory of the state.

Moreover, going back to Wolin’s investigation of *Federalist 10*, one of the main goals of Madison in the essay was to establish a strong separation between Republic and Democracy. While the first one was desirable, the second one could only lead to uncertainty and revolts. While the purpose of the new federation was to establish unity and stability, democracy was inherently grounded in difference. Democracy, as the *Federalist* outlines, is essentially “turbulent” (Hamilton *et al.*, 2003, p. 60), because it is animated by multiple and irreducible factions. Factions were, at the same time, the inevitable consequence, as Wolin (Wolin, 1989, p. 38) and Madison identify, of the “diversity in the faculties of men” (Hamilton *et al.*, 2003, p. 41) that cannot be eliminated from society. However, if the real nature of the democratic and primitive activity of the people was one grounded on plurality and difference, the great merit of the 1787 Constitution was precisely to make this difference irrelevant and harmless to the exercise of governmental power. Factions could be neutralized under the proper understanding of the “permanent” interest of the community. As Madison clearly stated, one of the main advantages “which a Republic has over a Democracy” is precisely

the “controlling the effects of faction” (Hamilton *et al.*, 2003, p. 46), which could be reached by multiple and technical means. The most significant one was the large dimension of the new federal republic. With many people living in it and with the significant differences among its territories, it would be extremely difficult, according to Madison, to form a majoritarian faction. In a federal republic, people could have difficulty unifying, due to the divergences among them, in a number significantly dangerous to power.

#### 4. *Fugitive Democracy*

As Wolin’s reading of the *Federalist Papers* reveals, democracy is not only opposed to the form of government established by the U.S. Constitution, but it could be, within it, drastically neutralized. Moreover, what the problem of factions revealed was the antipathy of democracy for every homogeneous ending and, therefore, for every type of stable form. As Wolin outlines in one of his most famous writings, *Fugitive Democracy*, inherent to the nature of democracy is then to be “fugitive”. Real democracy is essentially “unstable, inclined toward anarchy and identified with revolution” (Wolin and Xenos, 2016, p. 83), and, as such, it poses itself as dangerous and opposite to any form of constitution. What democratic experiences represent are precisely the unwillingness and impossibility of the *demos* to fit within a form. As Wolin writes, “democratic freedom and equality signify the radical denial that social deference and hierarchy are ‘natural.’ Democracy permits all manner of dress, behavior, and belief: it is informal, indifferent to formalities” (Wolin and Xenos, 2016, p. 92). Democratic moments are then conceived by Wolin as moments of rupture and renewal, where the natural spontaneousness and

heterogeneity of the people expose the shaky foundations of any fixed political form. “Democracy is a political moment, perhaps the political moment, when the political is remembered and recreated” (Wolin and Xenos, 2016, p. 110). The only possible truth of democracy is in its being practiced.

This perspective makes clear that, being opposed to “constitution”, democracy is also opposed to that “epic” understanding of thought that made constitutionalism possible. Wolin’s idea of democracy is then completely different from that of the democratic radicals that opposed the American Founding Fathers. Paine defended democracy on the grounds of principles. It is precisely this attitude that Wolin aims to refute. The historical and concrete examples of this democratic rupture are, in Wolin’s writings, essentially three: the 1647 Putney Debates, the experience of the early American townships, and the Berkeley students’ revolt of 1964, which he directly experienced and supported (Lipset, Wolin and Solomonow, 1965). All three events were characterized by the participation of people who did not practice politics as a profession. As Wolin outlines in his foreword to *Fugitive Democracy*, if ordinary political activity is carried out by people who are free from material jobs and who have time to specifically dedicate to politics, democratic politics is the one of “leisureless” people. Real and democratic politics is the one made by people who do not deal with it professionally and who refer to it for concrete reasons. As Wolin writes, recovering from Aristotle’s definition, “democracy is the form of government exercised by those who work – in other words, by those who do not enjoy much, if any, leisure time” (Wolin and Xenos, 2016, p. x). Democratic moments are situations in which the political is reappropriated by those people who are ordinarily excluded from it. When these people reunite, they concretely act to solve a problem or to neutralize a situation

of injustice, they take care of the common, moving from a situation where from that common they were excluded.

In fact, the political activity of the *demos* is explicitly practical for Wolin. As he outlines in *Tending and Intending a Constitution*, whether ordinary political activity is always "intending", in the sense that it aims to establish a precise way of conducting life, democratic politics is a "tending" one. A "tending" politics, as Wolin defines it, is "one that centers politics around practices, that is, around the habits of competence or skill that are routinely required if things are to be taken care of" (Wolin, 1989, p. 89). The notion of 'care' plays a crucial role in Wolin's understanding of democratic politics. "Intending" politics is a political activity that "uses" reality to establish or create something new. The epic tradition of theory demands "intending" politics. Moreover, if undoubtedly "intending" politics have a long historical tradition (Fox, 1999), they have experienced an unprecedented acceleration in recent times. The turning point of this contemporary attitude begins, according to Wolin, in the late sixties and experiences its boom with Reagan's presidency. While old conservatism aimed to defend an ideal and supposed order of things from change, neo-one made of change its fundamental ideology. As Wolin writes, while "old-style conservatism longed to be Burkean; new style has more than a touch of Nietzsche" (Wolin and Xenos, 2016, p. 330). The notion of 'change' and 'transformation' became, according to Wolin, the main ideological core of American and global political elites. As he better outlines in *From Progress to Modernization*,

Two centuries ago the oracle of modern conservatism, Edmund Burke, portrayed the conservative as one who revered the ways of the past, looked upon all proposals for reform as initially suspect, and profoundly distrusted theoretical approaches to practical politics. Today it is self-

proclaimed conservatives such as Reagan and Thatcher who champion bold initiatives, take pride in innovation, flirt with untested theories, and promise an early return to high levels of economic growth (Wolin and Xenos, 2016, p. 350).

Again, Wolin outlines the bond between this new form of politics and “epic” political theory. What these neo-conservatives do is “flirt with untested theories”. They move from the assumption that thought could shape reality, radically transform, and control it. The ideal world can be conceived by the medium of thought and then practically implemented through deducted politics. “Intending” politics, he writes, “thinks in terms of obsolescence” and acts to remove the difficulties that are “hampering the exercise of power” and preventing “the realization of its objectives” (Wolin, 1989, p. 91). The most problematic consequence of this attitude, increased by the new neo-conservative impulse, is a far more effective neutralization of democracy and destruction of the spaces in which democracy itself can generate. As outlined in *Democracy Incorporated*, contemporary liberal states, and eminently the American one, are moving toward a form of inverted totalitarianism, where to guarantee the necessity of power and economics, increasingly intertwined, the possibilities of democratic intervention and change are growingly curbed (Wolin, 2008, pp. 63-64). Democracy itself, hypothetically the condition of the legitimacy of political power, becomes *managed*. Managed democracy, as Wolin defines it, is a “created world of images, sounds and scenarios that makes only occasional contact with everyday reality of most people. The rest of the time that world floats in dissociation, a realm wherein reference has been suspended” (Wolin and Xenos, 2016, p. 313). Using Wolin’s words again, “in a fundamental sense, our world has become as perhaps no previous world has, the

product of design, the product of theories about human structures deliberately created rather than historically articulated” (Wolin and Xenos, 2016, p. 31). Theory has created dissonance with reality.

### 5. *Another Tradition: Tocqueville, The Putney Debates, and Democratic Practices*

The notion of “care” at the core of “tending” and true democratic politics moves in a totally different direction. Democratic politics, as Wolin conceives it, preserves the common existence as a value in itself and acts to preserve the possibility of this common existence. If Wolin has been criticized with the charge of presenting an inconclusive (Holmes, 2013) or utopic theory of democracy (Wiley, 2006), it can be useful to underline how the same notion of democratic theory was problematic to him because of its connection with the form of politics that he aimed to neutralize. As a non-epic form of politics, democratic theory and practice, according to Wolin, cannot be conceived in the same terms as the traditional form of Western political thought. As democracy refuted to being fixed in any form, democratic thought refuted principle-based theory and conceived itself as inherently connected to practical activity. Additionally, under this perspective, Wolin’s references to thinkers who provided a separate way to understand political theory can prove effective in understanding what he has in mind. As it appears in *From Vocation to Invocation* (Wolin and Xenos, 2016, p. 33), two are the main models of Wolin: Max Weber and Alexis de Tocqueville. It is on Tocqueville that I will concentrate due to his major presence in Wolin’s writings. Moreover, in 2001, Wolin dedicated an entire work to Tocqueville. In the ‘Introduction’ of

*Tocqueville between two worlds*, to justify his choice of writing an entire book on the French liberal, Wolin outlined how “the abiding concern of Tocqueville’s thinking, the referent point by which he tried to define his life as well as the task before his generation, was the revival of the political: in his phrase, *la chose publique*” (Wolin, 2001, p. 5). Moreover, Tocqueville, while presenting a particular conception of political theory, also reflected on “how he experiences and practiced it, and how he tried to combine the theoretical life with the career of a politician” (Wolin, 2001, p. 3). Following these quotes, Wolin’s affection for and, perhaps, identification with Tocqueville appears clearer. Tocqueville exemplifies, with his life and thought, the possibility of connecting politics and political theory to experienced life.

In fact, as Wolin writes in *Archaism, Modernity, and ‘Democracy in America,’* “unlike some of his contemporaries who attributed their insights to possession of a method of inquiry that was, in principle, accessible to anyone, Tocqueville traced his to the accidents of biography” (Wolin, 1989, p. 66). The theory that springs out of Tocqueville’s *Democracy* was not a theory grounded on fixed principles but one born from subjective and lived experiences. The ‘Introduction’ to the first volume of *Democracy in America* (1835) clearly stated how the reflection contained in the following pages was a consequence of the concrete impact with facts and not a theory deducted from general ideas. These are the words of Tocqueville:

I do not know if I have succeeded in making known what I saw in America, but I am sure that I sincerely desired to do so, and that I never yielded, except unknowingly, to the need to adapt facts to ideas, instead of subjecting ideas to facts (Tocqueville, Nolla and Schleifer, 2010, p. 30).

Moreover, Tocqueville’s theory was not only an “experienced” one but was, and more importantly, “personal” to him. Tocqueville’s confrontation with his time was full of preoccupations for the future and charged with biographical traumas. If for Tocqueville those traumas were famously outlined in his letter to Henry Reeve, where he claimed of coming “in the world at the end of a long Revolution that, after destroying the old state, had created nothing lasting” (Tocqueville and Mayer, 1951, p. 37), for Wolin were the biographical experiences of being a “child during the Great Depression, a flier in World War II, a Jew during the era of the Holocaust, and an activist during the sixties – all, except the last, experiences dominated by loss” (Wolin and Xenos, 2016, p. 33). Experiences that required an answer in the field of the concrete renewal of that democratic source that, in his opinion, was going to extinguish and that could not be conceived under the traditional and principle-grounded form of theory.

Therefore, as stated in *Democracy Incorporated*, his last work, the sense of a democratic way to theory can only be connected to an individual and formative (Sokoloff, 2020, p. 27) dimension of the self. In fact, using Wolin’s words, “the survival of democracy depends, in the first instance, upon ‘the people’ changing themselves, sloughing off their political passivity and, instead, acquiring some of the characteristics of a demos” (Wolin, 2008, p. 289). Democracy, as Lucy Cane (Cane, 2020, p. 158) has outlined, is in Wolin strongly connected to the practice of self-education. As he writes, “while it cannot be emphasized too strongly that democracy requires supporting conditions [...] the democratization of politics remains merely formal without the democratization of the self. Democratization is not about being ‘left alone,’ but about becoming a self that sees the values of common involvements and endeavours and finds in them a source of self-fulfilment”



(Wolin, 2008, p. 289). Again, another historical example can prove effective in understanding what Wolin has in mind: the Putney Debates. What Cromwell's soldiers questioned when reunited in St. Mary's Church in London was precisely their role as members of the Commonwealth. The only way in which the most radical part of the Army could make sense of their involvement in the war was the recognition that they, as people, had a part in the Commonwealth, that the Commonwealth itself was something of their interest and of which they should take care. If they could not directly take part in the Commonwealth, by the instrument of vote, then fighting and the war made no sense. As Colonel Thomas Rainsborough, one of the most significant voices of the radical part of the Army, replied to General Ireton, who was trying to argue for a property-based right to vote (Taft, 2010, p. 175), it was impossible "to engage one way or other in the Army if we do not think of the people's liberties" (Army, 1986, p. 68) in the same way. If the right to vote was not for everyone, then the fighting of the vast majority of the soldiers would lose sense. Without it, argues Rainsborough, a soldier "hath fought to enslave himself, to give power to men of riches, men of estates, to make him a perpetual slave" (Army, 1986, p. 71). In Wolin's understanding, what the Putney Debates show, in their "demand for political membership", is a moment of struggle where, "by their own actions, people were struggling to become 'the people,' to create themselves as political actors" (Wolin, 2008, p. 251). It is precisely this attitude of self-entitlement to take part in what is common that should animate democracy. Democracy, in this perspective, begins with a claim that what is common is the interest of the people. To enhance the awareness of this and to extend this moment of political revindication is the purpose of the kind of democratic theory and practice that Wolin aims to propose. From this

perspective, Arendt, who was criticized by Wolin for her praise of the American Constitution, in her recognition of the importance of the early experience of American townships (Arendt, 1965, p. 235), becomes a positive reference. Her merit consists of outlining how "our common being is the natural foundation of democracy" (Wolin and Xenos, 2016, p. 248), a natural foundation grounded on the reality of differences and plurality that ordinary political practice and theory aim to suppress. The human being is, "as Hannah Arendt so often and eloquently reminded us, a being that is capable of expressing the most remarkable and glorious diversity. That diversity has important implications on how power is exercised democratically" (Wolin and Xenos, 2016, p. 248). Democracy, according to Wolin, precisely begins with the revindication of this diversity.

## 6. Conclusion

In conclusion, following Wolin's reading of the *Federalist Papers*, I aimed to outline the main characteristics of his democratic aversion to liberal constitutionalism. At the same time, I underlined the connections between modern politics and what Wolin defines as an "epic" approach to political theory, to understand the democratic indisposition to it. In doing so, I tried to establish a dialog between Wolin and the historical texts and thinkers he analyzed. What I suggested is that this approach can both provide key insights into central aspects of these classics and, at the same time, help to understand Wolin's thought in its concrete articulation. Moving from Wolin's reflection on the *Federalist Papers* and the type of theory they represent is a profitable way to better define, by contrast, Wolin's notion of democracy. Therefore, I briefly out-

lined the main feature of Wolin's understanding of democracy and offered a way to conceive his approach to democratic theory as a form of personal reflection and formation. Democratic practices, as Wolin conceives them, are attempts to claim and extend political spaces where to collectively take care of what is common.

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# POLIDEMOS

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One of the most important lessons from experience we learned in the past decades is the acceleration of changes in international politics, internal regimes as well as in academic research. Climate changes, Covid pandemic and Russia's invasion of Ukraine have completely overturned previous narratives of globalization and the world (dis)order. In the second half of the 20<sup>th</sup> century, studies on the processes of democratization mainly focused on the transition from autocratic to democratic regimes, but contemporary research on democratization has dramatically changed in the past two decades.

This book offers a contribution to critically rethink not only the illiberal wind blowing on contemporary democracies, but also the illiberal and undemocratic side of those liberal theories which, equating democratic procedure with market economy, prefer to defend inequality at the expenses of rights. Complexity is what we can learn from experience, an experience that, as we have seen in empirical research, risks too often to be flattened on the horizon of the present time, and at the same time cannot be captured by normative theories which are often blind to the facts.

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## Constitutional Democracy and the Challenges of Anti-Liberalism

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